

# CITY OF BILLINGS

**CITY OF BILLINGS MISSION STATEMENT:  
TO DELIVER COST EFFECTIVE PUBLIC SERVICES  
THAT ENHANCE OUR COMMUNITY'S QUALITY OF LIFE**

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## REVISED AGENDA

COUNCIL CHAMBERS

January 24, 2005

6:30 P.M.

CALL TO ORDER – Mayor Tooley  
PLEDGE OF ALLEGIANCE-- Mayor Tooley  
INVOCATION – Councilmember Dave Brown  
ROLL CALL  
MINUTES – January 3, 2005 and January 10, 2005  
COURTESIES – Police Dept  
PROCLAMATIONS – Mayor Tooley.  
BOARD & COMMISSION REPORTS – Animal Control Board  
ADMINISTRATOR REPORTS – Kristoff Bauer.  
LEGISLATIVE REPORT – Kristoff Bauer

**PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Item: #1, 2, 10, 11, 12 and 13 ONLY. Speaker sign-in required.** (Comments offered here are limited to 1 minute per speaker. Please sign up on the clipboard located at the podium. Comment on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item.)

*(NOTE: For Items not on this agenda, public comment will be taken at the end of the agenda. Please sign up on the clipboard located at the back of the room.)*

### **CONSENT AGENDA:**

1. A. **Bid Awards:**
  - (1) **Cellular Telephone Service.** (Opened 1/04/05). Recommend Verizon Wireless, \$90,859.00, 2-year contract with option to renew.  
[\(Corresponding Staff Memo A1\)](#)
  - (2) **Billings Wastewater Treatment Plant Headworks Replacement.** (Opened 1/11/05). Recommend delaying award to 2/14/05.  
[\(Corresponding Staff Memo A2\)](#)

**(3) Interior Terminal Painting for Billings Logan International Airport.** (Opened 1/11/05). Recommend Sayer Painting, \$39,597.00.  
[\(Corresponding Staff Memo A3\)](#)

**(4) One New Model (2005) 2WD Tractor with Front End Loader and Optional Attachments.** (Opened 1/11/05). Recommend Yellowstone County Implement, \$36,858.15.00.  
[\(Corresponding Staff Memo A4\)](#)

**B. W.O. 04-30: Signal Design and Construction Administration for West Wicks Lane & Governors Blvd.,** Contract for Professional Services, Marvin & Associates, \$54,000.00.  
[\(Corresponding Staff Memo B\)](#)

**C. W.O. 01-06: Arlene Corridor – Big Ditch Maintenance,** Operation & Ownership Agreement, Big Ditch Company.  
[\(Corresponding Staff Memo C\)](#)

**D. Recreational Trails Program Grant Agreement** with Fish, Wildlife and Parks for a portion of the Gabel Road Connector Trail, \$23,500.00.  
[\(Corresponding Staff Memo D\)](#)

**E. Subordination of Housing Rehab Loan,** Rochele Wilson, 325 Howard Ave., \$13,400, provided a \$6,600 payment is made to the City.  
[\(Corresponding Staff Memo E\)](#)

**F. Resolution** relating to Special Improvement Districts, establishing a policy relating thereto and amending Res 87-15592 (raw land SID policy).  
[\(Corresponding Staff Memo F\)](#)

**G. Resolution of Intent to Dispose of City Property** described as Lots 44-46, Block 7, Amended Westside Addition and setting a public hearing for 2/28/05.  
[\(Corresponding Staff Memo G\)](#)

**H. Resolution of Intent to De-Annex** a recently annexed parcel described as T1N-R26E-S27: S2N2SW4NE4NE4 located at 637 Lincoln Lane, Bill Dunlap, petitioner, and setting a public hearing for 2/28/05.  
[\(Corresponding Staff Memo H\)](#)

**I. Second/final reading ordinance** expanding Ward II to include recently annexed property. (Annexation #04-09): 1.6 acre parcel of land on the northeast corner of the intersection of Main Street and Airport Road described as Tract 3, C/S 90, Gauger Acres, Lamar Outdoor Advertising Montana, petitioner.  
[\(Corresponding Staff Memo I\)](#)

**J. Second/final reading ordinance** amending BMCC Section 11-102. changing ward district boundaries to reflect new census information and account for future growth. (Redistricting of the Ward boundaries.) Staff recommends Scenario 1 including placing Rehberg Ranch in Ward II.

[\(Corresponding Staff Memo J\)](#)

**K. Preliminary Plat** of Vintage Estates Subdivision, generally located at the southwest corner of 52<sup>nd</sup> St. West/Grand Ave. intersection; approving the requested variances and conditionally approving the plat based on the written findings of fact.

[\(Corresponding Staff Memo K\)](#)

**L. Bills and Payroll.**

(1) December 23, 2004

[\(Corresponding Staff Memo L1\)](#)

(2) December 30, 2004

[\(Corresponding Staff Memo L2\)](#)

**(Action:** approval or disapproval of Consent Agenda.)

**REGULAR AGENDA:**

**2. RESOLUTION OF INTENT TO ANNEX (#05-01) WHOLLY SURROUNDED PROPERTY** described as Tract 1, Popelka Industrial Tracts Subdivision, 1<sup>st</sup> filing; Tract A, C/S 289, Sugar Subdivision – Lot 20; Tract A, C/S 289, Sugar Subdivision – Lot 19; Tracts 19B-1 and 19B-2, C/S 289, Sugar Subdivision – Lot 19 and setting a public hearing date for 2/14/05. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)

[\(Corresponding Staff Memo 2\)](#)

**3. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #749:** a Planned Development zone change changing the underlying Residential Multi-Family zoning to Neighborhood Commercial in the Parkland West PUD, on a tract described as Lot 5, Block 10, Parkland West Subdivision, 6<sup>th</sup> Filing and located on the west side of 32<sup>nd</sup> St West. Central Capital LLC, owner, Engineering, Inc. agent. Zoning Commission recommends approval and adoption of the determinations of the 12 criteria. **(Action:** approval or disapproval of Zoning Commission recommendation.)

[\(Corresponding Staff Memo 3\)](#)

**4. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #750:** a zone change from Residential-7000 to Residential Multi-Family Restricted and Neighborhood Commercial on Tract B2-A of C/S 1056 Amended, generally located at the southeast corner of the intersection of Wicks Lane and Bench Boulevard in the proposed King Place Subdivision. King Place LLC, Richard Dorn, owner, Engineering, Inc., agent. Zoning Commission recommends approval and adoption of the determinations of the 12 criteria. **(Action:** approval or disapproval of Zoning Commission recommendation.)

[\(Corresponding Staff Memo 4\)](#)

5. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #751:** a zone change Residential-7000 to Residential-7000-Restricted on a 100-acre parcel described as Tract 3A, C/S 3217 Amended, generally located on the north side of Mary Street between Hawthorne Lane and Bitterroot Drive. BRV Development, LLC, owner. City of Billings, petitioner. Zoning Commission recommends approval and adoption of the determinations of the 12 criteria. **(Action:** approval or disapproval of Zoning Commission recommendation.)  
[\(Corresponding Staff Memo 5\)](#)
6. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #752:** a zone change amending the official Zoning Map to show the extent of the Shiloh Corridor Overlay District, generally located 500 feet east and west from the centerline of Shiloh Road north from King Ave West to Rimrock Road. City of Billings, petitioner. Zoning Commission recommends approval and adoption of the determinations of the 12 criteria. **(Action:** approval or disapproval of Zoning Commission recommendation.)  
[\(Corresponding Staff Memo 6\)](#)
7. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #753:** a zone change from Residential-7000 and Residential-6000 to Public zoning, described as Lot 1, Block 27, Lake Hills Subdivision, 6<sup>th</sup> filing. Rocky Mountain College & Billings Heights Water District, owners, Engineering, Inc. agent. Zoning Commission recommends approval and adoption of the determinations of the 12 criteria. **(Action:** approval or disapproval of Zoning Commission recommendation.)  
[\(Corresponding Staff Memo 7\)](#)
8. **PUBLIC HEARING CONTINUED AND RESOLUTION** creating SID 1369: Moore Lane improvements consisting of water, sanitary sewer, storm drain, curb and gutter, sidewalk, streetlights and street improvements to the Moore Lane frontage. (Continued from 11/22/04). Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)  
[\(Corresponding Staff Memo 8\)](#)
9. **PUBLIC HEARING AND FIRST READING ORDINANCE** expanding the boundaries of Ward V to include the recently annexed properties of Annex #04-13, described as a portion of the NW4 of Section 4, T1S, R25E, C/S 1877, Tracts 1 & 2. Jack and Robert Sukin, petitioners. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)  
[\(Corresponding Staff Memo 9\)](#)
10. **SECOND/FINAL READING ORDINANCE** amending BMCC: establishing a *Zoning Overlay District* to extend 500 feet from the center line of Shiloh Road from King Avenue West south to Interstate 90, including Zoo Drive; regulating development standards, landscaping standards, building design standards and other site development standards; and sign standards for commercial, industrial and multifamily developments. Zoning Commission recommended on 5/10/04 approval of the Shiloh Corridor Overlay District as a whole, excluding the portion along Zoo

Drive. Staff recommends approval of the South Shiloh Corridor Overlay District, as defined by the area 500 feet from the centerline of Shiloh Road, from King Avenue West south to Interstate 90, including Zoo Drive. **(Action:** approval or disapproval of Staff recommendation.)

[\(Corresponding Staff Memo 10\)](#)

11. **2005 TRANSPORTATION PLAN.** Staff recommends approval of the Transportation Plan project goals and both the short-range and long-range project lists and their priority ranking. **(Action:** approval or disapproval of Staff recommendation.)

[\(Corresponding Staff Memo 11\)](#)

12. **W.O. 04-14: WASTEWATER TREATMENT PLANT HEADWORKS BUILDING,** Contract Amendment #1 to Professional Services Agreement with HDR Engineering, Inc., \$398,841.00. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)

[\(Corresponding Staff Memo 12\)](#)

13. **2005 FEDERAL AFFAIRS PROGRAM.** Staff recommends approval of the proposed 2005 Federal Legislative Agenda presented at the 1/18/05 Work Session. **(Action:** approval or disapproval of Staff recommendation.)

[\(Corresponding Staff Memo 13\)](#)

14. **PUBLIC COMMENT on Non-Agenda Items -- Speaker sign-in required.** (Restricted to ONLY items not on the printed agenda; comments limited to 3 minutes per speaker. Please sign up on the clipboard located at the back of the Council Chambers.)

## COUNCIL INITIATIVES

## ADJOURN

## EXECUTIVE SESSION

AGENDA ITEM:



**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, January 24<sup>th</sup>, 2005**

TITLE: Cellular Telephone Service Bid Award  
DEPARTMENT: Administrative Services / Information Technology Division  
PRESENTED BY: Jim Guy, Information Technology Manager

**PROBLEM/ISSUE STATEMENT:** Our current contract for Cellular Service has expired. Most City cell phones are becoming outdated and are due to be replaced. The current month-to-month service does not allow for replacement of cell phones. A new contract with a cellular service provider will provide new cell phones to City users. Council delayed awarding the contract on January 10<sup>th</sup> to allow more time to evaluate the bids.

**ALTERNATIVES ANALYZED:**

1. Stay with current provider.
2. Select a new provider.

**FINANCIAL IMPACT:** Cellular Service charges are paid by the individual departments. The estimated costs are as follows:

<b>Service Provider</b>	<b>Two-Year Costs</b>	<b>Four-Year Costs</b>
Verizon Wireless	\$90,859	\$181,718
Airtel	\$90,264	\$180,528
Cellular One	\$87,543	\$183,045

**RECOMMENDATION**

Staff recommends that the City Council award the bid to Verizon Wireless in the amount of \$90,859 for a two year contract, plus a two year extension option.

Approved By: City Administrator \_\_\_\_ City Attorney \_\_\_\_

## **INTRODUCTION**

The City utilizes cellular phones to aid communication between city staff who work in the field or are frequently out of their offices. The city has had service with Verizon Wireless for approximately 10 years. The contract with Verizon has expired and there was no option to renew the contract so the Information Technology Division elected to advertise for bids for Cellular Service.

## **PROCEDURAL HISTORY**

- December 9<sup>th</sup>, 16<sup>th</sup> and 23<sup>rd</sup>, 2004 – Request for Bids advertisement
- January 4<sup>th</sup> 2005 – Bids received by Information Technology Division
- January 4<sup>th</sup> – January 13<sup>th</sup>, 2005 – Evaluate bids and interview firms.
- January 10<sup>th</sup> – Council delayed the contract award until January 24<sup>th</sup>
- January 24<sup>th</sup>, 2005 – Contract awarded.

## **BACKGROUND**

The City has been utilizing Verizon Wireless for cellular service for about 10 years. Initially, the Verizon service was provided through a reseller, (Cellular Plus), and the reseller provided much of the customer service. The last time the City went out for bids, Verizon Wireless bid direct service without going through a reseller and the City chose to continue with Verizon and utilize the Verizon customer service. One problem with cellular service providers is they operate on a two-year cycle so they generally want to sign two year contracts which results in a need to re-bid every two years. This go around, a clause was added to the bid document to allow for a two year contract with a two year extension. So, if the City is satisfied with the selected vendor, it may elect to renew the contract for an additional two years.

## **ALTERNATIVES ANALYSIS**

**Stay with current provider** – There are a number of benefits to staying with Verizon Wireless. The City has had great service from Verizon over the past ten years. Verizon was recently voted Billings Best Wireless Provider by the Billings Gazette. Verizon is a large and stable company that has proven its commitment to improve its coverage “footprint” in Montana. In the past year, Verizon installed 15 new towers in Montana alone and 4 of those were in the Billings and Yellowstone County area. Verizon offers the option to switch city staff to a national plan when they are traveling out of state so they can avoid roaming and long distance charges. After their trip is over, they are switched back to the local plan. This provides a savings over the other providers. The only thing that could be considered a drawback with Verizon has been a lack of local support. Verizon has remedied this deficiency by contracting again with Cellular Plus to provide local support for the City of Billings. The two year costs of staying with Verizon are slightly higher than Cellular One because Cellular One offered a two month credit. The actual cost of service with Cellular One is higher than Verizon. If the contract is renewed for a second two-year term, the four-year cost of service from Verizon is lower than the four-year cost of service from Cellular One. Verizon has five customer service representatives dedicated exclusively to the state and local government accounts in Montana.

**Switch to a new provider** – Two other providers submitted bids. Airtel is a local company that provides “walkie-talkie” style cellular service. Airtel could be considered a niche provider that meets the unique needs of people who need frequent back and forth communication between individual cell phones and groups of cell phones. One of the drawbacks to Airtel is they do not have as good of coverage as Verizon or Cellular One. In fact, Airtel only has coverage in major Montana cities and no coverage between cities. Cellular One is the other cellular provider to submit a bid. Cellular One has similar coverage in the state as Verizon. Cellular One is a smaller company and doesn’t have a nationwide coverage area like Verizon does. However, they do have agreements with other carriers so they are able to offer national plans. Cellular One has had a large turnover in sales and customer service representatives. Verizon has had the same customer service representatives for the past five years although they have had some turnover in their sales representatives. Cellular One has a much more complicated process for setting up a new phone than Verizon so a switch to Cellular One would create a larger work load for Information Technology support staff. If we switch to Cellular One, we could “port” our current Verizon phone numbers over to Cellular One but this is a difficult process and would create a large, but temporary, increase in workload for Information Technology support staff.

**RECOMMENDATION**

Staff recommends that the City Council award the bid to Verizon Wireless in the amount of \$90,859 for a two year contract, plus a two year extension.

**ATTACHMENTS**

Cellular Service Comparison.xls

[\(Back to Consent Agenda\)](#)

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
CITY OF BILLINGS, MONTANA  
Monday, January 24, 2005

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TITLE: W.O. 04-14 WWTP Headworks Building, Contract Award  
DEPARTMENT: Public Works Department – Engineering Division  
PRESENTED BY: David D. Mumford, Public Works Director

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**PROBLEM/ISSUE STATEMENT:** The bid opening for W.O. 04-14 WWTP Headworks Building, scheduled for January 11, 2005, does not allow adequate time to provide City Council with the necessary information to determine the lowest responsible bidder for the construction contract. However, City Council must perform some action at the council meeting immediately following the bid opening for the project.

**FINANCIAL IMPACT:** The contract award will be presented to Council on the February 14, 2005 Council Meeting. There is no financial impact associated with the delay of the award of the construction contract.

**RECOMMENDATION**

Staff recommends that Council delay award of W.O. 04-14 WWTP Headworks Building contracts until February 14, 2005.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

[\(Back to Consent Agenda\)](#)

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
CITY OF BILLINGS, MONTANA  
Monday, January 24, 2005

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TITLE: Award of the Interior Terminal Painting Contract  
DEPARTMENT: Aviation and Transit  
PRESENTED BY: J. Bruce Putnam, A.A.E., Director of Aviation and Transit

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**PROBLEM/ISSUE STATEMENT:** During 2001, the Airport staff began a multi-year project to paint the interior of the Airport Terminal Building. Given the size of the Airport Terminal Building, this project had to be budgeted over a number of years. We are now in the final phase of this project, which is included in the City's approved capital improvement program. The project will provide new paint in the ticketing lobby and mezzanine area. The contractor is required to paint these areas at night to minimize disruption of the ticketing area and the inconvenience to the passengers. We anticipate this project will be completed within thirty days after Notice to Proceed has been issued. We advertised this project in the *Billings Times* for three weeks, sent a copy of the plans to the Billings Builders Exchange, and contacted contractors to inform them of the project. Despite these efforts, we only received one bid on this project.

<u>CONTRACTOR</u>	<u>BID</u>
Sayer Painting	\$39,597
ESTIMATE	\$42,000

**FINANCIAL IMPACT:** The total cost of this contract is \$39,597. We have budgeted sufficient funds in our annual budget to cover the cost of this contract.

**RECOMMENDATION**

Staff recommends that Council award the Interior Terminal Painting to the sole bidder Sayer Painting for the amount of \$39,597.

Approved By: City Administrator \_\_\_\_ City Attorney \_\_\_\_

[\(Back to Consent Agenda\)](#)



**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, January 24, 2005**

TITLE: Equipment Bid Award – Tractor with Front-end Loader and Attachments  
 DEPARTMENT: Public Works  
 PRESENTED BY: Dave Mumford, Public Works Director

**PROBLEM/ISSUE STATEMENT:** The Water Treatment Division is replacing a tractor with a front-end loader and attachments in accordance with the approved Fiscal Year 2005 Equipment Replacement Plan. The tractor and attachments are used for reclamation of processing waste disposal areas and for maintenance of the 11 treatment, pumping, and storage complexes around the city covering approximately 150 acres.

**FINANCIAL IMPACT:** There is sufficient money in the approved FY 2005 budget in the Water Capital Replacement Fund (\$39,216) for purchase of this equipment. Bids were received on January 11, 2005. The bids were as follows:

Bidder	Tractor / Loader (\$)	Rotary Mower (\$)	Flail Mower (\$)	Trade-in (\$)	Total Bid (\$)
Tractor and Equipment Co.	\$46,250.00	\$5,200.00	\$6,200.00	\$3,500.00	\$54,150.00
Billings Equipment Co.	\$37,950.00	\$3,050.00	\$4,700.00	\$8,500.00	\$37,200.00
Yellowstone County Imp.	\$38,501.64	\$3,888.53	\$3,467.98	\$9,000.00	<b>\$36,858.15</b>

**RECOMMENDATION**

Staff recommends that Council award of the bid for the tractor, front-end loader and attachments package to Yellowstone County Implement for the price of \$36,858.15.

Approved By: City Administrator \_\_\_\_\_ City Attorney \_\_\_\_\_

[\(Back to Consent Agenda\)](#)

AGENDA ITEM:



**CITY COUNCIL AGENDA ITEM**  
CITY OF BILLINGS, MONTANA  
Monday, January 24, 2005

TITLE: Work Order 04-30 – Contract for Professional Services: West Wicks Lane & Governors Boulevard – Signal Design and Construction Administration  
DEPARTMENT: Public Works Department – Engineering Division  
PRESENTED BY: David D. Mumford, P.E., Public Works Director

**PROBLEM/ISSUE STATEMENT:** With the completion of an intersection design study in August 2004, the City Council selected a traffic signal as the traffic control alternative at the intersection of West Wicks Lane and Governors/Gleneagles Boulevard. This contract would be for design of the traffic signal and construction administration during its installation.

**ALTERNATIVES ANALYZED:**

- Award the Contract for Professional Services to Marvin & Associates (Estimated project completion date of September 2005)
- Delay the project until a later date.

**FINANCIAL IMPACT:** The information and cost for the professional engineering services is as follows:

<i>CIP Number</i>	<i>Eng P2</i>
<i>Budget Amount for Current Fiscal Year</i>	
Gas Tax Funds	\$ 57,000.00
<i>Previous Encumbrances</i>	\$ 0.00
<i>Encumbrances from this Council Memorandum</i>	\$ <u>54,000.00</u>
<i>Budget Fund Balance after this Council Memorandum</i>	\$ 3,000.00

**RECOMMENDATION**

Staff recommends that Council authorize the Mayor to execute a Contract for Professional Services with Marvin & Associates for time and materials not to exceed \$54,000.

Approved By:      City Administrator \_\_\_\_      City Attorney \_\_\_\_

**ATTACHMENTS**

- A. Basic Services of Engineer(6 Pages)

## **INTRODUCTION**

The intersection of West Wicks Lane and Governors Boulevard has been a source of traffic complaints and public concern since the opening of Skyview High School. In response to these complaints and concerns, it was necessary to evaluate potential traffic control alternatives for the intersection. An intersection design study has been completed and the City Council has selected a traffic signal as the traffic control alternative. Staff recommends that Council award a Contract for Professional Services for time and materials not to exceed \$54,000 to Marvin & Associates for the signal design and construction administration during its installation.

## **PROCEDURAL HISTORY**

- October 21, 28, and November 4, 2004 – Request for Proposals advertisement
- November 16, 2004 – Proposals for professional services received by Engineering Division
- December 10, 2004 – Selection committee meeting
- January 24, 2005 – Contract for Professional Services Award

## **BACKGROUND**

Up until 2001, the intersection of Wicks Lane & Governors Boulevard was a three-legged intersection with stop sign control on the northbound approach only. Traffic delays on the northbound approach were considerable, while the unconstrained east and westbound Wicks Lane approaches moved relatively unimpeded.

During this time, citizens in the City of Billings had sent a substantial amount of correspondence to the Billings City offices inquiring if something could be done (many inquiries alluded to a traffic signal) to improve conditions at the intersection. In November 2001, the construction of the north leg (southbound Gleneagles Blvd. approach) prompted a change from one-approach stop control to all-way stop traffic control.

Considerable study and review of the intersection has been performed to define the magnitude of problems and determine an appropriate course of action. In September 2003, the City of Billings retained Interstate Engineering, Inc. to conduct an intersection design study to provide some further clarity and insight into the issue and to develop concept-level plans and cost estimates of the preferred solution. The purpose of this study was to determine the appropriate and efficient combination of traffic controls and physical improvements to a) improve intersection operations by reducing vehicle delay and vehicle queues, b) improve intersection safety, and c) improve pedestrian safety. The study considered three basic forms of intersection traffic control; all-way stop control, traffic signal control, and use of a modern roundabout. At a meeting on August 9, 2004, the City Council approved a traffic signal as the selected alternative for traffic control at this intersection.

## **ALTERNATIVES ANALYSIS**

The Engineering Division prepared a request for proposals to provide design and construction administration services for the proposed traffic signal at West Wicks Lane and Governors/Gleneagles Boulevard. Proposals to provide the requested services were received from Interstate Engineering, Inc.; Kadrmas, Lee & Jackson; Marvin & Associates; and Morrison-Maierle, Inc. In selecting an engineering firm to provide the required services, a selection committee comprised of staff in Planning and Public Works - Engineering as well as a representative from the City Council was formed to review the proposals submitted by qualified

firms. Each of the proposals were reviewed by the selection committee members (five members total) and scored in the following categories: consultant location and business organization (5 points available), work plan (10 points available), project schedule (10 points available), qualifications and prior experience (30 points available), key personnel (10 points available), project management and past performance (30 points available), and quality and content of proposal (5 points available).

The scores from the evaluation categories were summed to determine an overall score for each firm. Based on their score, a ranking with each committee member was determined. The ranking from each committee member was then summed to determine a score for each firm. Based on each firm's score the members ranked the proposing firms from first to fourth place (the lowest score being ranked first).

Following that process, Marvin & Associates was selected by the committee to provide the engineering services for the West Wicks Lane and Governors/Gleneagles Boulevard – Signal Design and Construction Administration. Engineering Division staff then initiated negotiations with Marvin & Associates for a Contract for Professional Services. Because of the potential impacts to school related traffic, it is necessary to have all services completed by September 2005. Staff is recommending that Council approve the contract that has been prepared. If approved, it is anticipated that the project will meet the required deadline.

#### **RECOMMENDATION**

Staff recommends that Council authorize the Mayor to execute a Contract for Professional Services with Marvin & Associates for time and materials not to exceed \$54,000.

#### **ATTACHMENTS**

A. Basic Services of Engineer(6 Pages)

Basic Services of Engineer

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Section 1. Engineer's Rights and Duties.

- A. To furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete the Engineer's portion of the project as defined in the scope of work and to prepare and deliver to Billings all plans, specifications, bid documents, and other material as designated herein.
- B. Ascertain such information as may have a bearing on the work from local units of government, utility companies, and private organizations and shall be authorized to procure information from other authorities besides Billings, but shall keep Billings advised as to the extent of these contacts and the results thereof.
- C. Prepare and present such information as may be pertinent and necessary in order for Billings to pass critical judgment on the features of the work. The Engineer shall make changes, amendments or revisions in the detail of the work as may be required by Billings. When alternates are being considered, Billings shall have the right of selection.
- D. Engineer's work shall be in accordance with the standards of sound engineering and present City, State, and National standards and policies currently in use.
- E. Conform to the requirements of the Montana Code Annotated Title 18 "Public Contracts" and more particularly Sections 18-2-121 and 18-2-122, and all other codes of the State of Montana applicable to providing professional services including codes and standards nationally recognized.
- F. The Engineer shall certify with the submission of final plans that the plans are in conformance with applicable sections of Title 69, Chapter 4, Part 5, of the Montana Code Annotated as pertaining to existing utilities.
- G. To perform professional services in connection with the project and will serve as Billings' representative in those phases of the project to which this agreement applies.
- H. Where Federal funds are involved, the necessary provisions to meet all requirements will be complied with and documents secured and placed in the bidding documents.
- I. Submit an estimated progress schedule as to time and costs at the beginning of the work, and bi-weekly progress reports thereafter until complete. The reports will include any problems, potential problems, and delays as foreseen by the Engineer. Reports will be submitted in a timely manner to permit prompt resolution of problems.
- J. Name a Task Director who shall be the liaison between Billings and the Engineer. For this project, the Task Director designated for the Engineer is Robert R. Marvin, P.E., P.T.O.E.

Section 2. Billings Rights and Duties.

- A. To furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete Billings' portion of the project as designated in the scope of work.
- B. To prepare and cause to be published an advertisement for construction bids meeting the requirements of Sections 7-1-4127 and 7-5-4302 of the Montana Code Annotated.
- C. Name a Task Director who shall be the liaison between the Engineer and Billings. For this project, the Task Director designated is Tom Eastwood, Staff Engineer.

Section 3. Scope of Work.

The Engineer shall perform the work outlined within this agreement that includes the completion of design as well as construction administration and inspection services for installation of a traffic signal at the intersection of West Wicks Lane and Governors/Gleneagles Boulevard. Completion of said services shall include the following tasks:

- A. Preliminary Services (30% Design).
  1. Conduct Preliminary Field Review (PFR) to determine major design features, project-related issues, and any potential problems, insuring that the signal design considers all operational aspects relative to safety and efficiency throughout the signal's design life.
  2. Prepare and publicize a news release explaining the project, including points of contact for both the Engineer and Billings.
  3. Geotechnical evaluations are not included in the Scope of Work.
  4. Assemble existing data for the intersection, including as-builts and historic traffic counts.
  5. Collect traffic data for determination of 85th-percentile approach speeds, vehicle classifications, pedestrian/bicycle volumes, current turning movement volumes, and crash history. Conduct turning movement traffic and pedestrian/bicyclist counts at the design intersection for both A.M., midday, and P.M. peak periods (generally 2-hour periods).
  6. Complete a traffic analysis for 10 to 15-year projected traffic volumes at the intersection to be used in the design.
  7. Perform intersection capacity analysis of the intersection. Identify any existing or potential operational problems that may impact the operation of the intersection and recommend any changes to reduce those impacts.
  8. Intersection operational alternatives will include, at a minimum, evaluation of a northbound right-turn slip-lane and providing for two (2) westbound through traffic lanes.
  9. Prepare a formal traffic signal warrant study in Montana Department of Transportation (MDT) format. One (1) copy of the study shall be submitted to the MDT Traffic Section in Helena, Montana. Two (2) copies of the study shall be submitted to Billings.
  10. Provide surveying services for establishing project centerlines, extending topographic surveys to the south and west, updating utility locations, measuring

overhead utility clearances, and gathering additional survey information within the project limits as may be required.

11. Research property ownership within the project limits to update and supplement existing records.
  12. Prepare preliminary plan/profile sheets for the project. As appropriate for the project, the plan and profile sheets may include:
    - a. all topographical data from the field survey;
    - b. all relevant existing on-the-ground survey information;
    - c. plan views of underground utilities;
    - d. in profile view, crossing elevations of underground utilities;
    - e. existing centerline elevations; and
    - f. ADA curb ramp location and orientation as well as any other design features for disabled access.
  13. Prepare a Preliminary Engineering Report (PER) generally consisting of existing conditions and needs, proposed improvement, associated cost estimates, construction schedule, project funding, and design recommendations.
  14. Provide to Billings three (3) copies of the PER and three (3) complete copies of the preliminary plan/profile sheets for review and approval.
  15. Following receipt of written review comments from Billings, facilitate a 30% design review meeting, as required, with Billings staff to discuss review comments on these Preliminary Services.
- B. Preliminary Design Services (70% Design).
1. Prepare detailed road design plans that will include, at a minimum, the following:
    - a. the necessary details on the title sheet;
    - b. a traffic control plan that is sufficient to protect and perpetuate vehicular, bicycle, and pedestrian traffic flow through the construction site;
    - c. details for ADA curb ramp location and orientation as well as any other design features for disabled access; and
    - d. special provisions for road design items, as necessary.
  2. Prepare detailed traffic engineering design plans. These will include:
    - a. type of traffic controller;
    - b. traffic detectors;
    - c. signal hardware and placement;
    - d. detailed electrical design;
    - e. phasing and timing for the traffic signal operation;
    - f. detailed design for roadway lighting; and
    - g. selection and location of permanent signs and pavement markings.

3. Prepare specifications and cost estimate. The estimate will include a complete breakdown of work and quantities.
  4. Provide to Billings three (3) complete sets of a complete 70% Design Plans, Specifications, and Estimate (PS&E) package for review and approval.
  5. Following receipt of written review comments from Billings, facilitate a 70% design review meeting, as required, with Billings staff to discuss review comments on these Preliminary Design Services.
- C. Final Design Services (95% & Final Design).
1. Prepare and furnish to Billings three (3) copies of a complete 95% PS&E package for review and approval.
  2. Following receipt of written review comments from Billings, facilitate a 95% design review meeting, as required, with Billings staff to discuss review comments on the 95% review documents.
  3. Prepare and furnish to Billings three (3) hard copies accompanied by one (1) disk containing the appropriate computer files for the plan (AutoCAD format, \*.dwg) and specification (Microsoft Word format, \*.doc) information of a complete final PS&E package. Stamp and sign all plans and specifications with the seal of the Professional Engineer in responsible charge.
- D. Bidding Services.
1. Prepare and furnish full size (24x36-inch) plans and specifications in sufficient number for bidding purposes.
  2. Stamp and sign all plans and specifications with the seal of the Professional Engineer in responsible charge for the design.
  3. Schedule and hold a pre-bid conference.
  4. Prepare any required addenda to plans and specifications. Addenda shall be approved by Billings.
  5. Attend construction bid opening.
  6. Analyze bid proposals and make a recommendation on awarding a construction contract for the proposed work based upon the lowest responsive bid submitted by a responsible bidder as set forth in the specifications and final plans.
  7. Prepare and provide to Billings a bid tabulation and recommendation package that includes a recommendation on award, bid tabulation sheet, and bid proposal sheets.
- E. Construction Services.
1. Prepare and provide to Billings and the successful contractor for the project a notice of award and notice to proceed.
  2. Schedule and hold a pre-construction conference.
  3. Notify Billings before the work is started. The Engineer recognizes that all work is subject to Billings inspection and approval at any time.
  4. Construction Layout and Control.

- a. Provide personnel, equipment, and supplies for construction layout and control. Construction layout shall include, but not be limited to, measurements, lines, locations, and grades necessary for construction.
  - b. Reference and preserve all existing survey monuments and benchmarks. All monuments installed with the project shall be punched and elevations shown on as-built drawings.
5. Inspection and Testing.
- a. Coordinate appropriate testing of materials intended for incorporation into the project and require documentation of testing results.
  - b. Provide general review of construction to check the Contractor's work for compliance with the drawings, specifications, and other applicable documents, codes, or standards. Review of work shall be made on a full-time basis while any major item of work is in progress. Major items of work shall be subgrade preparation; gravel base course preparation; concrete pouring and finishing; paving; signalization, lighting, and striping. The Engineer shall provide a minimum of **48** hours notice for Billings personnel when specific inspections or testing require their presence on the project. Each daily review shall be documented in permanent reproducible form and kept in consecutive order with the project file. Copies of the daily review reports shall be furnished to Billings as requested during construction. Engineer will notify Billings immediately of contract problems or deviation from approved plans.
  - c. Provide the services of qualified inspectors to sample and test all materials incorporated into the project to insure they meet specification requirements. Provide direct coordination of laboratory and field quality assurance testing and geotechnical engineering between the project engineer, field inspector, and a project construction materials engineer. Geotechnical and materials engineering shall include interpretation and recommendations for the Engineer and Billings based upon field observation.
  - d. The Engineer shall record the location of all underground utilities (including, but not limited to, conduit for all street lighting, signalization, or flasher assemblies) installed under and on the surface within the public right-of-way and show these facilities, together with a representation of the general corridors in which other underground utilities are located, on the record drawings.
6. Submittal Review and Document Preparation.
- a. Review the construction operations and the traffic controls for construction, prior to the start of work. Engineer shall ascertain that the Contractor has all needed permits to accomplish his work during construction.
  - b. Check shop drawings, samples, equipment, asphaltic concrete mix design, concrete mix design, aggregate, and other data submitted by the Contractor for compliance with drawings and specifications.
  - c. Prepare change orders that do not require additional engineering design or inspection. The Engineer will obtain prior written approval from Billings

for all changes in specifications, addition of work, and significant changes in quantities.

- d. Prepare monthly pay estimates and final pay estimates for construction and prepare contract administration forms on a monthly basis. These will be submitted in Billings approved format. The pay estimates shall include the actual bid item quantities.
  - e. Issue notice to the Contractor to suspend work in whole or in part when, in the opinion of the Engineer, work is not being, or cannot be performed in accordance with the contract documents and specifications.
  - f. Contact Billings for any proposed plan or specification changes when required due to initial design and engineering deficiencies in order to complete the project in its original concept. Plan and specification changes shall be prepared by the design engineer. The Engineer will obtain prior written approval from Billings for all changes in design.
7. Prepare and recommend work change directives and change orders when necessary due to conditions encountered during construction. The Engineer is not authorized to order additional work without the approval of Billings' Task Director. Any work resulting in contract overages will be processed by approved change orders using Billings standard forms.
- F. Final Services.
1. Prepare record drawings and furnish Billings with one (1) paper set for review and comment.
  2. Following receipt of review comments from Billings, make necessary changes and furnish Billings with a sepia and two (2) paper prints of any sheet involving traffic control devices, signals, signing or striping, and utilities plans. Furnish Billings with one (1) set of reproducible mylars and one (1) electronic set of record drawings.
  3. Record drawings and traffic control submissions are due within 60 days of Contractor's final payment and before final payment to the Engineer.
  4. Provide one (1) bound copy each (may include multiple volumes) of a project manual through final completion to Billings within 90 days of final project acceptance. At a minimum, the project manual shall include: project specifications and contract documents, pay estimates, correspondence, any change orders, Contractor submittals, test reports, daily inspection reports, public involvement plan and documentation, and other appropriate project records and documentation as determined by Billings.
  5. Schedule and make final inspection with Billings and certify to Billings all construction items were constructed according to plans and specifications and are acceptable to the Engineer.
  6. Schedule and make an inspection with Billings prior to the expiration of the construction warranty period and provide a certification of final acceptance. If any problems are found, send a list of deficiencies to Billings and Contractor and continue until acceptable.
  7. For a period of three years after the certification of final acceptance furnished pursuant to the preceding paragraph, respond to requests and answer complaints

for information concerning engineering aspects of the project, and provide engineering designs and plans if necessary to correct any design deficiencies.

[\(Back to Consent Agenda\)](#)

AGENDA ITEM:



**CITY COUNCIL AGENDA ITEM**  
CITY OF BILLINGS, MONTANA  
Monday, January 24, 2005

TITLE: Work Order 01-06, Arlene Corridor - Big Ditch Maintenance, Operation and Ownership Agreement  
DEPARTMENT: Public Works/Engineering Division  
PRESENTED BY: David D. Mumford, PE, Public Works Director

**PROBLEM/ISSUE STATEMENT:** The Big Ditch Company owns and operates its irrigation canal over, upon and within City-owned public rights of way located between Colton Boulevard and the Poly Drive/Arlene Street intersection. The City wishes to construct a portion of the Arlene Corridor Arterial Street with a multi-use path and pedestrian walkway over the irrigation canal near Colton Boulevard. In order to do so, the Council must approve an Agreement with the Big Ditch Company, which grants the City permission to build and maintain these improvement over the irrigation canal owned by the Big Ditch Company.

**ALTERNATIVES ANALYZED:**

1. Approve the Agreement with the Big Ditch Company, which grants the City permission to install and maintain the above-referenced improvements; or
2. Do not approve the Agreement with the Big Ditch Company.

**FINANCIAL IMPACT:** The City has paid the sum of \$250 to the Big Ditch Company for permission to install and maintain its improvements across the Big Ditch at the site described above. No further payments to the Big Ditch Company will be required in conjunction with this Agreement.

**RECOMMENDATION**

Staff recommends Council approve the Agreement with the Big Ditch Company that grants the City permission to construct and maintain a portion of the Arlene Corridor Arterial Street and multi-use path and pedestrian walkway over the Big Ditch located within the Arlene Corridor Improvements Project area.

Approved By: City Administrator \_\_\_\_\_ City Attorney \_\_\_\_\_

ATTACHMENT

- A. Big Ditch Maintenance, Operation and Ownership Agreement (3 copies)

[\(Back to Consent Agenda\)](#)

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
CITY OF BILLINGS, MONTANA  
Monday, January 24, 2005

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TITLE: Recreational Trails Program Grant Agreement for a portion of the Gabel Road Connector Trail

DEPARTMENT: Planning and Community Services Department

PRESENTED BY: Darlene Tussing, Alternate Modes Coordinator

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**PROBLEM/ISSUE STATEMENT:** The City of Billings Planning Department applied for the Recreational Trails Program grant for the year 2005 for a portion of the trail development along the Bannister Drain from 29<sup>th</sup> St. to the east edge of the BBWA canal south of King Ave. behind Pierce Flooring. The grant was submitted in June of 2004 with the required approval of the Billings City Council at an April 26, 2004 meeting. Fish, Wildlife and Parks has awarded the City a 2005 Recreational Trails Grant for \$23,500 for a portion of the Gabel Road Connector Trail. The \$23,500 requires a 20% local match or \$5,875). At this time, Fish, Wildlife and Parks needs the City of Billings to review this agreement and if it is acceptable, have the Mayor sign both copies and return them to the State Trails Program in Helena for signature. Fish, Wildlife and Parks will date the agreement with their final signature and return a copy for the City's record.

**FINANCIAL IMPACT:** The Recreational Trails Program Grant was written to provide funding for a portion of the Gabel Road Connector Trail along the City-owned Bannister Drain from 29<sup>th</sup> St. to the east edge of the BBWA canal. This trail is in line with the trail corridor that was built by the Veeders and McRaes along their Midland subdivision behind or south of Best Buy and Home Depot. Eventually, it is hoped that these two trail segments will be connected. This grant provides reimbursement after monies have been expended. The 20% match or \$5,875 which was also part of the Council memo in April 2004, will come from the 1999 GO Bond.

**RECOMMENDATION**

Staff recommends that Council approve the acceptance of the grant and authorize the Mayor to sign the Recreational Trails Program agreement for \$23,500 reimbursement for the portion of the Gabel Road Connector Trail.

Approved By: City Administrator \_\_\_\_\_ City Attorney \_\_\_\_\_

[\(Back to Consent Agenda\)](#)



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, January 24, 2005**

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**SUBJECT:** Subordination of Housing Rehab Loan  
**DEPARTMENT:** Planning and Community Services  
**PRESENTED BY:** Presented by Ramona Mattix and John Walsh

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**PROBLEM/ISSUE STATEMENT:** Rochele Wilson qualified for and received a Housing Rehabilitation Deferred Loan for \$20,000 in June of 2004. The loan does not have to be repaid as long as Ms. Wilson remains the owner/occupant of the property. The loan is to be 100% repaid when the property is sold or when the owner no longer occupies the property. Ms. Wilson requested the City subordinate its lien to a new first mortgage in order to reduce the loan's current interest rate and to pay off debt. According to the subordination policy, Ms. Wilson would be required to pay off 33% of the existing deferred loan.

**ALTERNATIVES ANALYZED:** Not applicable.

**FINANCIAL IMPACT:** Staff recommends that the City subordinate \$13,400.00 of its interest to a new first mortgage which will include \$6,600 payoff for the existing Housing Rehabilitation Loan. The mortgage will be issued from Ames Home Loan for \$80,000.00 which will refinance existing debt on the property in addition to other consumer debt. The property is estimated to have a current value of \$100,000, as evidenced through a Uniform Residential Appraisal Report dated December 13, 2004. The appraisal was conducted for the purposes of refinancing the property. The City will retain its \$13,400.00 interest in the property in second position, and the City is still protected by the current value of the home.

**RECOMMENDATION**

Staff recommends that Council subordinate the City's lien securing a \$13,400.00 CDBG Housing Rehabilitation Deferred Loan to Rochele Wilson, 325 Howard Avenue, as long as \$6,600 is received in payment to lower the existing loan.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_



Notary Public for the State of Montana  
Residing at Billings, Montana  
My Commission Expires: \_\_\_\_\_

[\(Back to Consent Agenda\)](#)

F

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, January 24, 2005**

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**TITLE:** Amendment of Resolution 87-15592, Regarding the Creation of Special Improvement Districts

**DEPARTMENT:** Administration-Finance Division

**PRESENTED BY:** Patrick M. Weber, Financial Services Manager

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**PROBLEM/ISSUE STATEMENT:** The City established a policy and passed a resolution regarding the creation of special improvement districts in May 1987. The policy provided for orderly and economical construction and financing of public improvements and minimized the risks to the taxpayers as a result of possible unpaid or delinquent assessments. This resolution updates the language in 87-15592 and includes references from the Montana Code Annotated (M.C.A) and United States Treasury Regulations.

**RECOMMENDATION**

Staff recommends City Council approve the attached resolution.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

**ATTACHMENT**

A – Resolution

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BILLINGS  
RELATING TO SPECIAL IMPROVEMENT DISTRICTS; AMENDING  
RESOLUTION 87-15592

BE IT RESOLVED BY THE CITY COUNCIL (THE COUNCIL) OF THE CITY OF BILLINGS (THE CITY):

SECTION 1. Recitals.

1.01. Objectives of Policy.

It is the intent of the City of Billings, Montana, to establish a policy regarding the creation of special improvement districts within the City and the issuance of special improvement district bonds therefore so as to provide for the orderly and economical construction and financing of necessary public improvements within the City and to minimize the risks to the taxpayers in the City as a result of unpaid or delinquent assessments.

1.02. Findings. The Council hereby finds that:

(a) The use of special improvement districts is an important and necessary method of constructing Improvements in the City of Billings in existing developed neighborhoods and business districts as well as in new residential and commercial subdivisions; and

(b) Special improvement districts have been extensively used by real estate developers to finance the costs of water, sewer, curbs and gutters, streets, roads and park improvements associated with the development of residential and commercial subdivisions within the City; and

(c) Such use of special improvement districts and the issuance of special improvement district bond secured by the City's Revolving Fund have provided a significant economic benefit to the developers of such subdivisions; and

(d) The rate of delinquent special improvement assessments for special improvement districts on undeveloped land is significantly greater than that for special improvement districts on developed land; and

(e) The high incidence of the failure or inability of such developers to pay assessments levied against the property within such subdivisions while in their ownership has exposed the City's Revolving Fund and ultimately the City's general fund and taxpayers to risks that are not warranted under the circumstances; and

(f) In order to establish a policy that allows the use of special improvement districts, and of improvement district bonds by the developers of new residential and commercial subdivisions and at the same time provides protection for the City's Revolving Fund and its general taxpayers, it is necessary to establish a policy that distinguishes between and establishes different standards for special improvement districts created within existing developed neighborhoods and special improvement districts created for undeveloped residential and commercial subdivisions.

## SECTION 2. Definitions.

All capitalized terms used herein shall have the meanings given to them in this section, unless otherwise indicated or if not defined herein, the meanings given to them in Title 7, Chapter 12, Parts 41 and 42.

Code shall mean the Internal Revenue Code of 1986, and any regulations and rulings promulgated thereby.

Costs of Improvements shall mean those incidental expenses described in Section 7-12-4169, M.C.A. and those costs described in Section 7-12-4104, M.C.A.

Costs of Issuance shall mean all items of expense directly or indirectly payable by or reimbursable to the City and related to the authorization, sale and issue of the Bonds, including the City's fees, bond discount fees, costs of preparation and reproduction of documents, initial fees and charges of Trustee, if any, legal fees and charges, fees and charges for preparation, execution and safekeeping of the Bond.

Developed District shall mean a Special Improvement District in which 51% or more of the costs of the district will be assessed against lots, tracts or parcels which have occupied structures located thereon.

Developer shall mean an individual or a group of individuals, a corporation or a partnership requesting the creation of a special improvement district for an Undeveloped District.

Direct Service Facility Improvements shall mean those improvements that are designed to be part of an established system of city service or improvement facilities and which are necessary in order for the property within a proposed special improvement district to be directly served by the City service. Direct Service Facilities do not include off-site improvements or lateral collection or distribution facilities such as trunk sewer lines and trunk water mains.

Improvements shall mean public improvements authorized by Section 7-12-4102, M.C.A. to be constructed and financed through the creation of Special Improvement Districts.

On-Site Improvements shall mean those Improvements located within the boundaries of a Special Improvement District.

Off-Site Improvements shall mean those Improvements located outside the boundaries of a Special Improvement District, but of special benefit to the properties within the District.

Revolving Fund shall mean the fund established by the City pursuant to Section 7-12-4221 et seq.

Undeveloped District shall mean a Special Improvement District in which less than 51% of the costs of the district will be assessed against lots, tracts or parcels which have occupied structures located thereon.

Special Improvement Districts shall mean those districts established pursuant to Title 7, Chapter 12, Parts 41 and 42, M.C.A. for the purpose of constructing and installing improvements for the special benefit of properties located within such districts.

Special Improvement District Bonds shall mean bonds issued by the City pursuant to Title 7, Chapter 12 Parts 41 and 42, M.C.A. for the purpose of financing Improvements within Special Improvement Districts and paying incidental costs, as defined in Section 7-12-4101, M.C.A. related to the creation of the districts and the issuance of the Bonds.

SECTION 3. Creation of Special Improvement Districts and Issuance of Bonds Secured by the Revolving Fund.

3.01. Creation of Special Improvement Districts and Issuance of Bonds Secured by the Revolving Fund. In accordance with the provisions of Title 7, Chapter 12, Parts 41 and 42, the City will create special improvement districts for financing Improvements upon a determination that the creation of the District and the installation of the Improvements is in the public interest. The City will issue special improvement district bond for financing the costs of constructing and installing the Improvements and paying incidental costs relating thereto. The City will not pledge the Revolving Fund to such Bonds unless one of the following circumstances exist:

- a) The district is a Developed District.
- b) The District is being created and the Bonds are being issued for the purpose of financing required public improvements and the property in the District has previously been assessed the costs for a special improvement district which constructed direct service facilities to serve the property.
- c) The District is undeveloped and the Developer posts security in accordance with 3.02(d) hereof.
- d) The District is undeveloped and the Developer directly pays or otherwise finances 50 percent (50%) or more of the costs of the on-site improvements.

3.02. Standards Applicable to Undeveloped Districts.

a. Costs of Improvements. Any costs of the Improvements, including engineering, survey and legal work incurred prior to the issuance of the special improvement district bonds, including any City expenses, may be eligible for financing by the District as defined in M.C.A. 7-12-4169 (1) if the reimbursement is in compliance with United States Treasury Regulations, Section 1.150-2.

b. Amount of On-Site Improvements to be Financed. Special Improvement Districts will be created to finance the costs of no more than 50 percent of the On-Site Improvements proposed for an Undeveloped District except as otherwise provided in 3.01(b) and 3.02(d) herein. The determination of which of the On-Site Improvements to finance by Special Improvement District will be made by the City in consultation with the Developer, where appropriate. In making its determination the City will consider the nature of the Improvement and the ability to finance them on a tax-exempt basis.

c. Amount of Off-Site Improvements to be Financed. The total cost of Off-Site Improvements which are assessable against an Undeveloped District may be financed through a Special Improvement District only after a determination by the City Council that the proposed Off-Site Improvements are consistent with the City's public improvement goals and that installation of such improvements is necessary and timely. Notwithstanding the provisions of 3.02(a) the City may allow Costs of the Improvements for such Off-Site Improvements incurred prior to the creation of the District to be assessed against the District.

d. Posting Additional Security. Notwithstanding other provisions of this section, the City may in its discretion create Special Improvement Districts for Undeveloped Districts to finance more than 50% of the Cost of Improvements and issue bonds for financing such improvements secured by the Revolving Fund, if:

The Developer posts with the City at the time of the award of the sale of the bonds a letter of credit or some other form of credit acceptable to the City Finance Division as permitted by M.C.A. 7-12-4169 (4) in an amount sufficient to pay all principal and interest on the bonds for a period of five years (the Credit). The Credit will not be released until one of the following conditions is met: (i) 51% or more of the assessable area in the District becomes developed, or (ii) the District has a delinquency rate below 15 percent (15%) in each year for five consecutive years. The Credit provided for in this section which may be required to be posted by the Developer is in addition to other Credit that the Developer has posted for the development of the property

e. Delinquent Developers. It is the general policy of the City of Billings that any person, firm partnership, organization or corporation requesting the creation of an undeveloped district shall, as a condition of approval of said district, be current in the payment of all existing City special improvement district assessment for which said person, firm, corporation or partnership is responsible on all properties owned by said person firm, corporation or partnership.

1) Exceptions to this policy may be made upon a specific determination by the City Council that it is in the public interest to make such an exception in view of the total circumstances involved in the proposed district.

2) The property owners who are requesting creation of the district and who are delinquent in payment of existing special improvement district assessments must request, in writing, an exception from this section. Any written request for an exception must contain, at a minimum, a description of the properties having delinquent assessments, a statement explaining why the delinquencies have occurred an explanation of what measures are being taken to cure the delinquencies and an explanation as to why an exception should be granted to the general policy expressed in this section.

SECTION 4. Revolving Fund.

4.01. Deposit to the Revolving Fund. For Districts for which the City issues bonds secured by the Revolving Fund, the costs of the Improvement shall include a deposit to the Revolving Fund of 5% of the principal amount of the bonds to be issued. As allowed in Sec 7-12-4169 (3)(b) through (3)(e), the City may create a district reserve fund that is in excess to the minimum deposit of 5% to the Revolving Fund. This reserve fund will be accounted for separately from the revolving fund and will be designated for the district which it secures if, in the opinion of the Finance Division, such excess deposit is necessary to ensure payment of the bonds.

PASSED by the City Council and APPROVED this \_\_\_\_ day of \_\_\_\_\_, .

CITY OF BILLINGS

By \_\_\_\_\_  
Mayor

ATTEST:

By \_\_\_\_\_  
City Clerk

[\(Back to Consent Agenda\)](#)

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
CITY OF BILLINGS, MONTANA  
Monday, January 24, 2005

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**TITLE:** Resolution of Intent to Dispose of City Property – Lots 44-46, Block 7, Amended Westside Addition.

**DEPARTMENT:** Administrative Services - Parking

**PRESENTED BY:** Liz Kampa-Weatherwax, Parking Supervisor

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**PROBLEM/ISSUE STATEMENT:** There are at least three entities interested in purchasing City owned property on the southwest corner of 6<sup>th</sup> Avenue North and Division Street. One individual purchased the property adjacent to the site and is interested in purchasing the City property for a customer parking lot. Prior to consideration of the sale of this site, the City is required to approve a resolution of intent to dispose of the property and advise adjacent neighbors and the community of the proposed action. The City will advertise for competitive bids for the site.

**ALTERNATIVES ANALYZED:** The size (9,122 square feet after dedication of ROW) and the location of the parcel limits the property to be used as a small parking lot. The plat has dedicated the ROW, aggregated the remaining land, and limited vehicular access to the adjacent alley. The City has not pursued the option of acquiring adjacent properties to assemble land for a larger redevelopment site.

**FINANCIAL IMPACT:** The City land has been appraised and the sale would generate additional revenue for the Parking Division. The land was acquired to accommodate the curvature of the connector street improvement off of Grand Avenue onto Division. A ROW has been dedicated and the property is no longer needed.

**RECOMMENDATION**

Staff recommends that the Council approve the attached Resolution of Intent to Sell City-Owned Property on Lots 44-46, Block 7, Amended Westside Addition, and authorize staff to advertise for bids for sale of the property. The Resolution of Intent sets a public hearing date on the disposal of the property for February 28, 2005.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

**ATTACHMENT**

- A. Resolution of Intent to Sell City-Owned Property

B. Amended and approved plat of property





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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**MONDAY, JANUARY 24, 2005**

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**TITLE:** Resolution of Intent – Dunlap De-Annexation Petition #04-14  
**DEPARTMENT:** Planning and Community Services  
**PRESENTED BY:** Aura Lindstrand, Planner II through Ramona Mattix, AICP, Director

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**PROBLEM/ISSUE STATEMENT:** Owner and petitioner Bill Dunlap is requesting that the City Council adopt a Resolution of Intent to exclude an approximate 2-acre parcel legally described as the S $\frac{1}{2}$ N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 27, T1N, R26E from the City of Billings in accordance with Section 7-2-4803 of the Montana Code Annotated (MCA). The subject property is zoned Neighborhood Commercial, per a zone change (ZC #306) from R-7200 to NC, which was approved by the Board of County Commissioners on March 17, 1981 (the petitioner initiated the zone change request). The petitioner is requesting de-annexation, as the property taxes have greatly increased since the annexation of the property in 2001. The subject property was annexed into the City on August 13, 2001, (Resolution 01-17732) per the petitioner's request in order to obtain City utility services for proposed redevelopment of the property. The proposed redevelopment, which included the construction of seven (7) duplex structures for low income housing, was unable to be completed due to financing and the high cost of developing the land.

**ALTERNATIVES ANALYZED:** It is the City Council's discretion whether to approve a Resolution of Intent to exclude the subject property from the City Limits. This property is zoned Neighborhood Commercial and is located within the Sphere of Influence identified in the City's Annexation Policy. Additionally, the property is located within the City's short term annexation area identified in the City's Annexation Policy, which was adopted on November 22, 2004.

The property owner is paying for City services that are available to him, including police and fire protection, solid waste disposal, sanitary sewer and street improvements. However, at this time water to the property is provided by the Billings Heights Water District, which would be available to him if he were located within the county, and a septic system provides sanitary sewage disposal; the property is not currently assessed for these utilities.

Should the Council move to approve a Resolution of Intent to exclude the subject property, advertising for de-annexation and the allowance of a 20-day comment period shall occur prior to a public hearing for the request. Following the comment period, the City Council will conduct a public hearing on February 28, 2005, to consider a Resolution of Exclusion.

**FINANCIAL IMPACT:** The subject property is currently assessed for taxes at a higher rate due to the Neighborhood Commercial (NC) zoning district in which it is located. As assessed, \$885.24, is allocated to the City of Billings for property taxes; and \$1994.09, is allocated to the City for garbage (\$79.00), fire hydrant (\$13.70), street maintenance (\$520.54), storm sewer (\$662.98), and arterial fees for NC (\$717.87). A more detailed fiscal impact analysis will be provided for presentation at the public hearing on February 28, 2005.

**RECOMMENDATION**

Staff recommends that the City Council adopt a Resolution of Intent to exclude a property legally described as the S $\frac{1}{2}$ N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 27, T1N, R26E from the City of Billings as requested by the property owner, Bill Dunlap. This is not a recommendation of approval or denial by staff, but rather a request for a public hearing in order to examine all of the issues surrounding the submitted exclusion petition.

**Approved by:**                      **City Administrator** \_\_\_\_      **City Attorney** \_\_\_\_

**ATTACHMENTS**

- A. Petition for De-annexation (Exclusion)
- B. Petitioner's Letter
- C. Map of area to be Excluded
- D. Resolution of Intent

**ATTACHMENT A**

Petition for De-Annexation (Exclusion)

722

**PETITION  
FOR DE-ANNEXATION  
FROM THE CITY OF BILLINGS**



**NOTICE TO PETITIONER**

This is a Petition to the City of Billings requesting the DE-annexation of property from the City, pursuant to MCA Title 7, Chapter 2, Part 48. Procedures for de-annexation are governed by the Statutes of the State of Montana. This Petition requires the signatures of not less than 75% of the Resident Freeholder Electors to be considered for de-annexation.

**INSTRUCTIONS**

- All items must be completed or provided. Please type or print. You may attach additional pages if more space is needed.
- Prepare a map drawn to a scale adequate and legible to show the property requesting de-annexation and all other property within one-quarter (1/4) mile.  
The map must show:
  - The boundaries of the municipality;
  - The present streets, major trunk water mains and sewer mains;
  - The zoning of the property requesting de-annexation and the property immediately adjacent to it.
- The Petition should be submitted to the Planning Department, Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m., located on the 4<sup>th</sup> Floor of Parnly Billings Library at 510 North Broadway, Billings, Montana. Upon presentation, the Petition will be checked for completeness. Once accepted, the Petition will be routed to the following City Departments: Public Works, City-County Planning, Public Utilities, Fire Department, City Attorney, Police Department, Parks and Recreation Department, and the Finance Department. If the departments find no problems with the Petition, the City Clerk will schedule the Petition for City Council action.
- If the Council finds that the petition is signed by the required number of owners of the territory to be excluded, and that the granting of said petition will be to the best interest of the city and the inhabitants thereof and will not materially mar the symmetry of the city, they shall pass a resolution of intent to De-Annex the territory. Then the City Clerk shall publish in the newspaper for two successive notice of the Council's Resolution of Intent to De-annex, of a 20-day comment period, and of an upcoming public hearing on the question of de-annexation.
- A description of the territory to be de-annexed from the City is legally described on a document attached hereto.

**RESIDENT FREEHOLDER ELECTORS**

Date	Print Name	Name Signature	Address
12-21-04	Bill Dunlap	<i>Bill Dunlap</i>	P.O. Box 23104 Billings, MT 59104

(continued on separate page)



**ATTACHMENT B**  
**Petitioner's Letter**

December 21, 2004

City-County Planning Department

Property Description: S1/2, N1/2, SW1/4, NE1/4, NE1/4 S. 27, T1N, R26E  
Known as: 637 Lincoln Lane, Billings, MT

Owner: Bill Dunlap

Gentlemen:

In 2000, I was working with Joe Burst, the Home Program Coordinator of the Community Development Division of the City of Billings, and the Stockman Bank to develop low income housing on my property, which consists of two acres and an old farm house. To get funding, it was required that I have the property annexed into the City.

After spending my savings on the project, I hit many obstacles as the costs of developing the land was too great to support the amount I could get for the sale of the lots. The Stockman Bank refused to fund it and the project fell apart. The development of this area was obviously premature.

What I have is an old farm house and two acres of undeveloped land with no city services. I have Heights Water. I tried to obtain a loan on it and all it appraised for was \$34,000. The taxes have tripled to \$2,880.08. My only income is my social security of \$872/month and a small amount from my share of a ranch, which was minimal because of the drought.

I have tried to sell the property for over a year with no success. Businesses want to be located on Main Street, not Lincoln Lane. The taxes are so high, no one will buy it for a residence..

I respectfully request that this property be de-annexed.

Sincerely,



Bill Dunlap - Ph: 259-8990

P.O. Box 23104

Billings, MT 59104



**ATTACHMENT D**  
**Resolution of Intent**

RESOLUTION NO. 04 - \_\_\_\_\_

A RESOLUTION TO CONSIDER EXCLUDING TERRITORY UNDER THE PROVISIONS OF TITLE 7, CHAPTER 2, PART 48 OF THE MONTANA CODE ANNOTATED, AND FIXING A DATE FOR A PUBLIC HEARING ON THE QUESTION OF EXCLUSION.

WHEREAS, the City Council of the City of Billings has determined that a petition to exclude the territory now within the City of Billings was signed by the requisite number of qualified electors of the City, and that granting of the petition is in the best interest of the City of Billings and will not materially mar the symmetry of the City; and

WHEREAS, the Billings City Council intends to consider excluding said territory from the City of Billings pursuant to Title 7, Chapter 2, Part 48 of the Montana Code Annotated; and

WHEREAS, the boundaries of the territory that the Billings City Council intends to consider excluding is particularly described as follows:

S $\frac{1}{2}$ N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 27, T1N, R26E, Yellowstone  
County, Montana

AN04-14

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

1. The Billings City Council intends to consider excluding the above described contiguous territory.
2. All registered voters in the territory to be embraced are to be immediately notified, in writing.

3. Notice of the City Council's intent to exclude said territory shall be published as provided in Section 7-1-4127, MCA, with notice that for a period of twenty (20) days after first publication of the notice, the Billings City Clerk shall accept written comments approving or disapproving the proposed exclusion of the above described territory from the City of Billings from registered voters residing in the area proposed to be excluded.

4. The City Clerk shall forward all written communication received by the Clerk to the City Council for consideration.

5. A public hearing on the question of exclusion of said territory shall be held on February 28, 2005.

APPROVED AND PASSED by the City Council of the City of Billings this 24th day of January, 2005.

THE CITY OF BILLINGS

BY: \_\_\_\_\_

Charles F. Tooley, MAYOR

ATTEST:

BY: \_\_\_\_\_

Marita Herold, CMC

CITY CLERK  
(AN04-14)

[\(Back to Consent Agenda\)](#)

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, January 24, 2005**

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**TITLE:** Ordinance Expanding Ward II – Second Reading (Annexation 04-09)  
**DEPARTMENT:** Planning and Community Services  
**PRESENTED BY:** Wyeth Friday, Planner I through Ramona Mattix, Planning Director

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**PROBLEM/ISSUE STATEMENT:** On December 13, 2004 the City Council adopted Resolution No. 18229 annexing Tract 3, Certificate of Survey No. 90, Gauger Acres, including all contiguous right-of-way of Main Street (Annexation #04-09). This is 1.6 acre parcel of land on the northeast corner of the intersection of Main Street and Airport Road. The property must be added to one of the City's election wards. This ordinance will add the property to Ward II. Two readings are required for this action. The first reading and public hearing on the ordinance was held on January 10, 2005.

**FINANCIAL IMPACT:** There are no direct financial impacts if this ordinance is approved.

**RECOMMENDATION**

Staff recommends that the City Council approve the second reading of this ordinance that adds the property annexed by Resolution No. 18229 to City Ward II.

**Approved by:** City Administrator \_\_\_\_\_ City Attorney \_\_\_\_\_

**ATTACHMENTS**

A: Ward Ordinance

ATTACHMENT A

ORDINANCE NO. 05-\_\_\_\_\_

AN ORDINANCE OF THE CITY OF BILLINGS, AMENDING BILLINGS MUNICIPAL CODE, CHAPTER 11, ELECTIONS, IN PARTICULAR, SECTION 11-102(c), WARD BOUNDARIES; AND CHANGING THE WARD BOUNDARIES ESTABLISHED THEREIN BY ADDING CERTAIN NEWLY ANNEXED REAL PROPERTY TO WARD II PROVIDING FOR CERTIFICATION AND REPEALING OF ALL ORDINANCES AND RESOLUTIONS INCONSISTENT THEREWITH.

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:**

1. AMENDMENT. Pursuant to Billings Municipal Code, Section 11-102 (c) and the State Law, Billings Municipal Code, Section 11-102 (c) Ward Boundaries is hereby amended by adding to the following designated Ward the following described real property:

**Ward II:**

Tract 3, Certificate of Survey No. 90, situated in the NE1/4, NE1/4, SW1/4 of Section 27, T.1N., R.26E., P.M.M., recorded February March 18, 1948, Under Document No. 436284, Records of Yellowstone County, Montana; including all contiguous right-of-way of Main Street.

Containing 1.603 gross acres, and 0.887 net acres, more or less  
(Annexation #04-09)

2. CERTIFICATION. Pursuant to M.C.A. Section 13-3-103, the above change and alteration is hereby certified to the election administrator by the City Council, and the City Administrator or his designee is hereby directed to certify the changes and alterations and to deliver a map showing the boundaries of the ward, the streets, avenues and alleys by name and the ward by number, to the election administrator not more than ten (10) days after the effective date of this ordinance.
3. REPEALER. All other ordinances, sections of the Billings Municipal Code and ordinances inconsistent herewith are hereby repealed.

PASSED by the City Council on the first reading this 10th day of January, 2005.

PASSED by the City Council on the second reading this 24th day of January, 2005.

THE CITY OF BILLINGS:

\_\_\_\_\_  
Charles F. Tooley, MAYOR

ATTEST:

BY: \_\_\_\_\_  
Marita Herold, CMC CITY CLERK

[\(Back to Consent Agenda\)](#)

AGENDA ITEM:



**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, January 24<sup>th</sup>, 2005**

TITLE: Ward Redistricting, Second Reading  
DEPARTMENT: Planning and Community Services Department  
PRESENTED BY: Ramona Mattix, AICP, Director

**PROBLEM/ISSUE STATEMENT:** The state of Montana has completed the redistricting of its election precincts, based on the new population information from the 2000 Census. The City Council voted on redistricting Council Wards based on the new Census information on January 10th, 2005, and approved Scenario 1 which included placing the Rehberg Ranch development into Ward 2. The Council vote was 7 to 3 in favor of Scenario 1.

**ALTERNATIVES ANALYZED:**

- 1. Scenario – Southern expansion of Ward 1
- 2. Scenario – Southern expansion of Ward 3

**FINANCIAL IMPACT:** There is no financial impact related to Ward Redistricting.

**RECOMMENDATION**

Staff recommends that the City Council revise City Code and redistrict Ward boundaries based on Scenario 1, including placing Rehberg Ranch in Ward II.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

**ATTACHMENTS**

- 1. Ordinance
- 2. Scenario 1
- 3. Scenario 2

## **INTRODUCTION**

The purpose of the current redistricting is to update BMCC Section 11-102 to reflect new population numbers as reported by the 2000 Census. Current city ordinance states that city wards are to follow county election precincts. The Montana statute (Section 7-5-4401, MCA) addressing division of municipalities into wards requires that the city be divided “into wards for election and other purposes, having regard to population **so as to make them as nearly equal as possible.**” That is the same standard that was used for state districting until 2003 (please see the staff memo of November 22, 2004 for the discussion of legal requirements). Dwayne Winslow, Yellowstone County Election Administrator, requested that the City follow precinct boundaries as closely as possible for consistency in voting locations.

## **WARD CHANGES**

The 2000 Census showed the following changes from the 1990 Census:

### **Population Growth**

In 2000 three Wards were roughly equal in population (Wards 1, 4 & 5) and three experienced double digit growth rates within the last 10 years (Wards 2, 3 and 5). The city overall has averaged about 1% population growth per year, but the growth varied widely from Ward to Ward.

### **School Age Demographics**

Statistics for school age children 5 to 19 also vary greatly from Ward to Ward. Ward 2 had a very high jump in school age children – nearly 25%, and Wards 3 and 5 each had over an 11% increase. Ward 4 on the other hand only added seven (7) children over all in 10 years, less than one half of one percent increase.

### **Elderly Population**

From 1990 to 2000 the growth in people over 65 increased at double the growth in overall population (9.9% versus 18%), and the differences in growth rate among Wards were dramatic from a nearly 14% loss in Ward 1 to over 30% increases in Ward 2 and 5. These large increases were most likely due to the construction of senior retirement and assisted living facilities in those Wards.

The scenarios proposed were based on these items:

#### *Scenario 1*

- (1) Election precinct boundaries. No precincts are split in Scenario 1.
- (2) The current council members' addresses. Staff ensured that council members remained in the wards they represent. Two council members live close to a boundary, so the boundary was adjusted elsewhere so that the council members would remain in their ward.
- (3) Population including future growth.
- (4) Polling locations. City Council directed Rehberg Ranch be moved to Ward 2 with the nearest polling place at Alkali Creek School.

#### *Scenario 2*

- (5) Election precinct boundaries. Scenario B also closely follows election precincts, but precinct 38 is split. Precinct 43 was moved to Ward 1, and Briarwood was moved to Ward 3.

(6) The current council members' addresses. Council members still remain in the wards they represent. Two council members live close to a boundary, so the boundary was adjusted elsewhere so that the council members would remain in their ward.

(7) Population placement included a lesser amount future growth and more existing population for Ward 1. Ward 4 had the least population, and Wards 3 & 5 would both be areas of future growth.

(8) Income – adding a larger area north of Laurel Road and south of Central and Grand to Ward 1 placed some similar income areas in the same Ward. This was also the reason for adding Briarwood to Ward 3

(9) Polling locations. City Council directed Rehberg Ranch be moved to Ward 2 with the nearest polling place at Alkali Creek School. In Scenario B placing Briarwood in Ward 3 does puts the nearest polling place Casa Village on Monad for those residents.

## **PROCEDURAL HISTORY**

- The last major changes to Ward boundaries based on population occurred in 1993. All subsequent changes to Ward boundaries have occurred due to annexation actions by Council.
- Public Hearing on November 22, 2004, Council voted to place Rehberg Ranch in Ward 2.
- Public Hearing continued to January 10, 2005
- Council vote on January 10<sup>th</sup>, 2005 approving Scenario 1.

## **BACKGROUND**

The legal analysis in the previous staff memo indicates that consideration of future growth is a legitimate purpose in redistricting. Areas for residential growth in Billings based on both plat and building permit information and reinforced by the adopted annexation policy are Rehberg Ranch, Briarwood, the Heights, and the west end of Districts 4 & 5. Ward 3 which covers Central Billings and the commercial area of King to Shiloh is the least likely area that could experience residential growth.

Scenario 1 assigns a robust population to Ward 3 which balances out a lack of residential growth potential. Briarwood, adjacent to Ward 1, would be a growth area for Ward 1 which otherwise has no growth potential. Ward 5 has the least population, but also has the most near term growth potential. No precincts are split by Ward boundaries that are not also split by the City limits.

Scenario 2 assigns Briarwood to Ward 3, moves precinct 43 and 32 and a portion of 38 into Ward 1, making it the most populous Ward in the City. This scenario splits 1 precinct which would require a change in current city code.

Staff notes in both scenarios, placing Rehberg Ranch in Ward 2 shifts the closest polling place from about a mile away at Poly to nearly 4 miles at Alkali Creek Elementary, and gives Ward 2 the most future residential growth potential.

## **CONSISTENCY WITH ADOPTED POLICIES OR PLANS**

Ward boundaries are not addressed by any adopted policy or plan with the exception of current City Code.

**RECOMMENDATION**

Staff recommends that the City Council revise City Code and redistrict Ward boundaries based on Scenario 1, including placing Rehberg Ranch in Ward II.

**ORDINANCE NO. 05-\_\_\_\_\_**

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTION 11-102; CHANGING WARD DISTRICT BOUNDARIES TO REFLECT NEW CENSUS INFORMATION AND ACCOUNT FOR FUTURE GROWTH.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

Sec. 11-102. Ward boundaries.

(a) Pursuant to MCA 7-5-4401 and the Charter, the boundaries of the five (5) city wards are hereby changed and established. The wards are described by a map based on designated county election precincts.

(b) The city ward boundaries are illustrated on the city map marked Exhibit "A" on file in the clerk's office and by this reference made a part hereof.

(c) As the city boundaries change the ward boundaries will be changed by an ordinance amending this section and the city ward boundaries as established herein. Such change shall be certified to the election administrator as required by MCA 13-3-103(1) not more than ten (10) days after the change. The city ward boundaries will be changed to conform to MCA 7-5-4401 and other provisions of law as required by law. Such boundary changes shall be kept on file in the clerk's office.

(Ord. No. 83-4516, §§ 1(1.16.020, 1.16.030), 6-6-83; Ord. No. 86-4720, 12-22-86; Ord. No. 93-4935, § 1, 10-4-93; Ord. No. 94-4949, § 1, 1-24-93)

**Editor's note:** The city ward boundaries as established in § 11-102, have been amended by the adoption of the following ordinances: Ord. No. 84-4589, adopted May 21, 1984; Ord. No. 84-4590, adopted June 4, 1984; Ord. No. 85-4617, adopted Jan. 7, 1985; Ord. No. 85-4624, adopted Feb. 11, 1985; Ord. No. 85-4625, adopted Feb. 25, 1985; Ord. No. 85-4628, adopted March 4, 1985; Ord. No. 85-4637, adopted April 22, 1985; Ord. No. 85-4645, adopted June 3, 1985; Ord. No. 85-4646, adopted June 3, 1985; Ord. No. 85-4647, adopted May 20, 1985; Ord. No. 85-4652, adopted Aug. 5, 1985; Ord. No. 85-4659, adopted Aug. 19, 1985; Ord. No. 85-4660, adopted Aug. 19, 1985; Ord. No. 85-4666, adopted Sept. 23, 1985; Ord. No. 85-4674, adopted Nov. 18, 1985; Ord. No. 86-4681, adopted Jan. 17, 1986; Ord. No. 86-4708, adopted Dec. 22, 1986; Ord. No. 87-4722, adopted Jan. 26, 1987; Ord. No. 87-4723, adopted Jan. 26, 1987; Ord. No. 87-4741, adopted Aug. 3, 1987; Ord. No. 88-4759, adopted April 25, 1988; Ord. No. 88-4760, adopted April 25, 1988; Ord. No. 88-4763, adopted May 2, 1988; Ord. No. 88-4764, adopted May 23, 1988; Ord. No. 88-4765, adopted May 23, 1988; Ord. No. 88-4769, adopted Aug. 15, 1988; Ord. No. 88-4770, adopted Aug. 15, 1988; Ord. No. 88-4771, adopted Aug. 22, 1988; Ord. No. 88-4774, adopted Nov. 7, 1988; Ord. No. 88-4775, adopted Dec. 28, 1988; Ord. No. 89-4776, adopted Feb. 6, 1989; Ord. No. 89-4786, adopted June 5, 1989; Ord. No. 89-4794, adopted Aug. 7, 1989; Ord. No. 4795, adopted Aug. 7, 1989; Ord. No. 89-4796, adopted Aug. 7, 1989; Ord. No. 89-4797, adopted Aug. 7, 1989; Ord. No. 89-4799, adopted Aug. 21, 1989; Ord. No. 89-4800, adopted Aug. 21, 1989; Ord. No. 89-4803, adopted Sept. 25, 1989; Ord. No. 89-4804, adopted Sept. 25, 1989; Ord. No. 89-4805, adopted Oct. 16, 1989; Ord. No. 89-4806, adopted Oct. 16, 1989; Ord. No. 89-4810, adopted Nov. 13, 1989; Ord. No. 89-4812, adopted Nov. 20, 1989; Ord. No. 89-4815, adopted Dec. 4, 1989; Ord. No. 89-4816, adopted Dec. 4, 1989; Ord. No. 89-4817, adopted Dec. 4, 1989; Ord. No. 89-4818, adopted Dec. 4, 1989; Ord. No. 90-4819, adopted Jan. 8, 1990; Ord. No. 90-4828, adopted May 7, 1990; Ord. No. 90-4832,

adopted June 18, 1990; Ord. No. 90-4833, adopted June 18, 1990; Ord. No. 90-4835, adopted July 23, 1990; Ord. No. 90-4836, adopted July 23, 1990; Ord. No. 90-4837, adopted July 23, 1990; Ord. No. 90-4851, adopted Nov. 19, 1990; Ord. No. 90-4852, adopted Nov. 19, 1990; Ord. No. 90-4854, adopted Dec. 10, 1990; Ord. No. 91-4859, adopted Feb. 11, 1991; Ord. No. 91-4860, adopted Feb. 11, 1991; Ord. No. 91-4861, adopted Feb. 11, 1991; Ord. No. 91-4873, adopted June 24, 1991; Ord. No. 91-4874, adopted June 24, 1991; Ord. No. 91-4875, adopted June 24, 1991; Ord. No. 91-4878, adopted June 24, 1991; Ord. No. 91-4888, adopted Sept. 23, 1991; Ord. No. 91-4891, adopted Nov. 4, 1991; Ord. No. 94-4950, adopted Feb. 7, 1994; Ord. No. 94-4951, adopted Feb. 7, 1994; Ord. No. 94-4952, adopted Feb. 7, 1994; Ord. No. 94-4964, adopted June 27, 1994; Ord. No. 94-4974, adopted Nov. 14, 1994; Ord. No. 95-4979, adopted Feb. 27, 1995; Ord. No. 95-4989, adopted Aug. 14, 1995; Ord. No. 95-4991, adopted Aug. 28, 1995; Ord. No. 95-4992, adopted Aug. 28, 1995; Ord. No. 95-4994, adopted Oct. 10, 1995; Ord. No. 96-4999, adopted Mar. 18, 1996; Ord. No. 96-5000, adopted Mar. 18, 1996; Ord. No. 96-5010, adopted Aug. 26, 1996; Ord. No. 96-5011, adopted Sept. 23, 1996; Ord. No. 96-5012, adopted Oct. 15, 1996; Ord. No. 97-5014, adopted Jan. 13, 1997; Ord. No. 97-5020, adopted May 12, 1997; Ord. No. 97-5030, adopted June 23, 1997; Ord. No. 97-5031, adopted July 14, 1997; Ord. No. 97-5042, adopted Oct. 27, 1997; Ord. No. 97-5043, adopted Nov. 10, 1997; Ord. No. 97-5045, adopted Dec. 8, 1997; Ord. No. 98-5050, adopted Jan. 26, 1998; Ord. No. 98-5069, 9-28-98; Ord. No. 99-5086, 5-10-99; Ord. No. 99-5096; 8-9-99; Ord. No. 99-5100, 8-23-99; Ord. No. 99-5103, 9-27-99; Ord. No. 99-5104, 10-12-99; Ord. No. 99-5108, 12-13-99; Ord. No. 00-5109, 1-10-00; Ord. No. 00-5117, § 1, 5-8-00; Ord. No. 00-5124, 6-26-00; Ord. No. 00-5130, § 1, 9-11-00; Ord. No. 00-5132, § 1, 10-10-00; Ord. No. 01-5142, § 1, 3-12-01; Ord. No. 01-5144, § 1, 3-12-01; Ord. No. 01-5146, § 1, 3-26-01; Ord. No. 01-5147, § 1, 4-9-01; Ord. No. 01-5153, § 1, 5-29-01; Ord. No. 01-5154, § 1, 6-11-01; Ord. No. 01-5157, § 1, 6-25-01; Ord. No. 01-5158, § 1, 6-25-01; Ord. No. 01-5159, § 1, 6-25-01; Ord. No. 01-5160, § 1, 6-25-01; Ord. No. 01-5161, § 1, 6-25-01; Ord. No. 01-5170, § 1, 8-27-01; Ord. No. 01-5171, § 1, 8-27-01; Ord. No. 01-5172, § 1, 9-10-01; Ord. No. 01-5173, § 1, 9-10-01; Ord. No. 01-5177, § 1, 11-26-01; Ord. No. 01-5178, § 1, 11-26-01; Ord. No. 02-5180, § 1, 1-14-02; Ord. No. 02-5182, § 1, 2-11-02; Ord. No. 02-5183, § 1, 2-11-02; Ord. No. 02-5187, § 1, 3-25-02; Ord. No. 02-5188, § 1, 4-4-02; Ord. No. 02-5189, § 1, 4-8-02; Ord. No. 02-5190, § 1, 4-8-02; Ord. No. 02-5194, § 1, 4-22-02; Ord. No. 02-5195, § 1, 4-22-02; Ord. No. 02-5196, § 1, 4-22-02; Ord. No. 02-5203, § 1, 4-22-02; Ord. No. 02-5208, § 1, 6-10-02; Ord. No. 02-5209, § 1, 6-10-02; Ord. No. 02-5210, § 1, 6-10-02; Ord. No. 02-5211, § 1, 6-10-02; Ord. No. 02-5215, § 1, 7-8-02; Ord. No. 02-5216, § 1, 7-22-02; Ord. No. 02-5227, § 1, 11-25-02; Ord. No. 02-5228, § 1, 11-25-02; Ord. No. 02-5229, § 1, 11-25-02; Ord. No. 03-5233, § 1, 1-13-03; Ord. No. 03-5235, § 1, 2-10-03; Ord. No. 03-5238, § 1, 2-24-03; Ord. No. 03-5242, § 1, 4-14-03; Ord. No. 03-5244, § 1, 5-27-03; Ord. No. 03-5255, § 1, 9-22-03; Ord. No. 03-5260, § 1, 12-8-03; Ord. No. 04-5263, § 1, 1-26-04; Ord. No. 04-5264, § 1, 1-26-04; Ord. No. 04-5268, § 1, 3-8-04; Ord. No. 04-5269, § 1, 3-8-04; Ord. No. 04-5276, § 1, 5-10-04; Ord. No. 04-5277, § 1, 5-10-04; Ord. No. 04-5283, § 1, 5-24-04; Ord. No. 05\_\_\_\_\_.

[\(Back to Consent Agenda\)](#)

## AGENDA ITEM:




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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, January 24, 2005**

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TITLE: Vintage Estates Subdivision, Preliminary Plat  
DEPARTMENT: Planning and Community Services Department  
PRESENTED BY: Candi Beaudry, AICP, Planning Division Manager

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**PROBLEM/ISSUE STATEMENT:** The preliminary plat Vintage Estates Subdivision is being presented to the City Council for conditional approval. The review period ends on January 24, 2005. Beyond this date, the Council cannot act on the application unless they have granted the applicant's request to extend the review period.

**ALTERNATIVES ANALYZED:** The City Council has the authority to approve, conditionally approve or deny the preliminary plat application. The Planning Board is recommending conditional approval to bring the final plat into compliance with the City of Billings Subdivision Regulations and the Montana Subdivision and Platting Act.

**FINANCIAL IMPACT:** There are no direct City expenditures resulting from this project. All on-site and off-site improvements will be paid by the developer.

**RECOMMENDATION**

The Planning Board recommends that Council approve the requested variances from the City of Billings Subdivision Regulations and conditionally approve Vintage Estates Subdivision preliminary plat application based on the written findings of fact.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

**ATTACHMENTS**

- A. Site Photographs
- B. Preliminary Plat
- C. Findings of Fact
- D. Mayor's Letter of Approval

**INTRODUCTION**

Vintage Estates, LLC submitted a preliminary plat application for a 112-lot major, residential subdivision on November 1, 2004. After receiving comments from City Departments, the applicants revised and resubmitted their application on November 29, 2004. The property is generally located near the intersection of Grand Avenue and 52<sup>nd</sup> Street West in the Northwest Shiloh Neighborhood of Billings. The owners have also petitioned for annexation.

**PROCEDURAL HISTORY**

- Application for preliminary subdivision plat approval was submitted on November 1, 2004
- Property was annexed into the City on January 10, 2005
- County Planning Board held public hearing and forwarded recommendations to City Council on January 11, 2005.

**BACKGROUND**

The property is currently used for agricultural purposes, and is zoned Agricultural Suburban. Upon annexation, the 50 acre property will convert to Residential-9,600 zoning. The subdividers intend to develop the property in three phases. Phase I will include 42 lots and limit access to one approach onto Grand Avenue. Phase II will include 42 lots and will develop a second access connecting to 52<sup>nd</sup> Street West through the adjoining Grand Acres Subdivision. The final phase will contain 28 lots and will extend south to the Big Ditch. Future plans may include connecting to the property south of the ditch. Roadway connections are planned from the subdivision to properties south and west. These connections will be developed at the third phase.

**Plat Information**

GENERAL LOCATION:	Southwest corner of 52 <sup>nd</sup> Street West/Grand Avenue intersection
LEGAL DESCRIPTION:	Tracts 1 and 2 Certificate of Survey 1877, NW¼ Sec. 4, T. 1 S., R. 25 E.
SUBDIVIDER:	Vintage Estates, LLC
ENGINEER:	Engineering, Inc.
EXISTING ZONING	Agricultural Suburban
SURROUNDING ZONING	
NORTH	Agricultural - Open Space
SOUTH	Agricultural - Open Space
EAST	Agricultural Suburban
WEST	Agricultural – Open Space
EXISTING LAND USE	Vacant - Agricultural
PROPOSED LAND USE	Residential
GROSS AREA	49.89 acres

NET AREA	35.26 acres
LINEAL FEET OF STREETS	8,321 feet
NUMBER OF LOTS	112
MINIMUM LOT SIZE	11,475 square feet
MAXIMUM LOT SIZE	18,202 square feet
PARKLAND REQUIRED	3.88 acres
DEDICATED PARK/OPEN SPACE	2.06 acres
CASH-IN-LIEU OF PARKLAND	1.82 acres

### **ALTERNATIVES ANALYSIS**

The application was reviewed by City Planning, Engineering, Public Utilities, Police and Fire Departments, and private utility companies. The review process identified items of concern that can be resolved through conditions of preliminary plat approval.

The City Council has the authority to approve, conditionally approve or deny the preliminary plat application. The Planning Board recommends conditional approval to bring the final plat into compliance with the City of Billings Subdivision Regulations and the Montana Subdivision and Platting Act. The requested variances are also recommended for approval.

### **Variances**

1. Variance from Section 23-601(k) to allow a 50-foot right-of-way on Merlot, Chardonnay, Cabernet, Riesling, "A" Circle, and Vineyard Circle.
2. Variance from Section 23-605(d) to allow double frontage lots along Grand Avenue, a principal arterial.

Granting these variances to the City Subdivision Regulations will reduce the hardship on the subdivider imposed by restricting the ability to design for safe and efficient traffic circulation.

### **Conditions of Approval**

The following conditions of preliminary plat approval are recommended to be completed prior to the submittal of the final plat.

1. To minimize the effects on local services, the subdivider shall:
  - a. Specify the location and include a description of the proposed traffic circles in the SIA.
  - b. Install a temporary emergency access gate on Burlington Avenue and construct the remainder of Burlington Avenue and 52<sup>nd</sup> Street West to Grand Avenue to emergency access standards (20-foot graveled driving surface) as required by County Public Works and the City of Billings Fire Department. These improvements shall be noted in the SIA in accordance with the standard language provided by the Fire Department. The SIA shall also note that the emergency access is temporary until the lots east of 52<sup>nd</sup> Street are developed and 52<sup>nd</sup> Street West is constructed to half width standards.

- c. Secure 100% of the cost of constructing a westbound left-turn lane with a letter of credit or a letter of commitment at the time Phase I improvements are secured or contracted
  - d. Provide written permission from the Big Ditch Company to allow the discharge of stormwater to the Big Ditch.
  - e. Submit a master plan for the neighborhood park to the City Parks, Recreation and Public Lands Department for approval. The SIA should also specify that the park will be developed as part of the Phase III improvements.
2. To minimize the effects on the natural environment the subdivider shall:
    - a. Prepare a Flood Hazard Study, as required in Article 23-1200, BMCC, prior to final plat approval and incorporate the findings and recommendations of this study in the Stormwater Study.
    - b. Prepare a geotechnical study prior to final plat approval.
  3. To minimize the effects on local services, the natural environment, wildlife and wildlife habitat and public health and safety, the subdivider shall include in the SIA notice of the following requirements/conditions:
    - a. That lot owners will be required to install the required sidewalks along the lot frontage at time of lot development.
    - b. That lot owners will be required to participate in two Park Maintenance Districts to fund the maintenance of Cottonwood Park and the subdivision park.
    - c. That the subdivision is located within a flood hazard area.
    - d. That there is potential for wildlife damaging landscaping and gardens.
    - e. That the soil conditions may require special building foundation design and construction.
    - f. That lot owners are subject to the Waiver of Right to Protest the Creation of an SID.

The subdivider shall also include a table of contents that clearly identifies this section and other major sections.

1. To ensure that the final plat will comply with local subdivision regulations and state law:
  - a. Minor wording changes may be made in the Subdivision Improvements Agreement and final documents upon request of the Planning or Public Works Departments to clarify the documents and bring them into standard acceptable formats.
  - b. The final subdivision plat and supplementary documents shall comply with all requirements of the City of Billings Subdivision Regulations, Billings Municipal City Code, and rules, regulations, policies, and ordinances of the City of Billings, and the laws and administrative rules of the State of Montana.

### **STAKEHOLDERS**

The City/County Planning Board held a public hearing on January 11, 2005. After staff presented the application to the board, the engineer/agent for the subdivider presented clarification. No comments were received from the general public.

### **CONSISTENCY WITH ADOPTED POLICIES OR PLANS**

The consistency with the Growth Policy is discussed in the Findings of Fact.

**RECOMMENDATION**

The Planning Board recommends that Council approve the requested variances from the City of Billings Subdivision Regulations and conditionally approve Vintage Estates Subdivision preliminary plat application based on the written findings of fact.

**ATTACHMENTS**

- A. Site Photographs
- B. Preliminary Plat
- C. Findings of Fact
- D. Mayor's Letter of Approval



View from Grand Avenue looking south.



View from Grand Avenue looking southwest.



52<sup>nd</sup> Street West, looking south.



View of Big Ditch looking southwest.



**ATTACHMENT C  
FINDINGS OF FACT**

The Planning Board is forwarding the Recommended Findings of Fact for Vintage Estates Subdivision for review and approval by the City Council. These findings are based on the preliminary plat application and supplemental documents. The findings address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the City of Billings Subdivision Regulations (Sections 23-304(c), BMCC).

**A. Primary Review Criteria [Section 23-304(c)(1), BMCC; 76-3-608(3)(c), MCA]**

**1. Effect on Agriculture**

The land to be subdivided is currently used as irrigated cropland. The proposed subdivision will remove approximately 50 acres from production. By virtue of the subdivision being annexed into the City, the conversion of agricultural land to residential development is appropriate. There may be conflicts between the proposed residential subdivision and existing agricultural operations. At this time, the Planning Division has not received comments from the adjoining property owners.

**2. Effect on Agricultural Water Users Facilities**

A major irrigation ditch, the Big Ditch, is located along the south edge of the subdivision. Development of the subdivision may impact this facility in two ways. First, stormwater will be discharged into the irrigation facility. Second, the owner currently holds water rights to the water in the ditch. State law requires either transferring the water rights to a single entity for use by landowners within the subdivision or sever all water rights from the land (76-3-504(i), MCA). The subdivider has agreed to obtain permission from the Big Ditch Company prior to discharging stormwater into the ditch (SIA 3. A. 4). The subdivider has also agreed to sever all water rights from the property (SIA 3. B. 6).

**3. Effect on Local Services**

- **Public Streets and Roads.** The primary access to the subdivision will be from Grand Avenue. The entrance will be a 100-foot right-of-way divided into two 35-foot driving lanes separated by a 10-foot concrete median. The main interior street loops through all phases of the subdivision. This street, divided into Beringer Way and Vineyard Way will be constructed to 37 feet back of curb to back of curb within a 60-foot right-of-way. These streets also include five-foot curbswalks to be installed at the time of development.

The subdividers have chosen to locate the entrance approximately 350 feet east of the intersection of Grand and 54<sup>th</sup> Street West. The purpose for this location, instead of utilizing the existing intersection, is to allow the approach to function as a dedicated subdivision entrance rather than a potential throughway for external traffic. City Engineering has approved this proposed location because they prefer the subdivision streets to function as local streets. If the approach were located immediately opposite from 54<sup>th</sup> Street West, a principal arterial, it may encourage greater traffic volumes than the subdivision streets were designed to handle. Additionally, two T-intersections result in fewer conflict points resulting from opposing traffic movements than does one four-way intersection.

The remaining interior streets will also be constructed to 37-foot widths, however the rights-of-way will be reduced to 50 feet. An additional 5 foot easement on either side of

these streets will be granted to be used for utility placements, such as street lights and fire hydrants. Curbwalks will be constructed along these interior streets at the time of development.

The preliminary plat indicates there will be 10-foot diameter traffic circles installed at the intersection of Vineyard Way and Chardonnay Lane, and Beringer Way and Cabernet Lane. The traffic circles are designed to reduce traffic speeds along the longer street distances. The Subdivision Improvements Agreement does not specify the location or design of these traffic circles (Condition 1a).

Chardonnay Lane will continue east to connect with the existing Burlington Avenue section that intersects 52<sup>nd</sup> Street West. This access will provide emergency access only until the properties east of 52<sup>nd</sup> Street West is developed and 52<sup>nd</sup> Street West is brought to at least half-road standards. Fifty-second Street West is currently a 12-foot gravel road within a half street 30-foot right-of-way. The Billings Fire Department requires a minimum of 20 feet gravel surface for their purposes. The subdivider will be responsible for gating and signing Burlington Avenue for emergency purposes only and constructing the remainder of Burlington and 52<sup>nd</sup> Street West to Grand Avenue according to the Fire Department's emergency road standards (Condition 1b).

There are two additional connections planned to provide through traffic to future developments south and west. "A" Circle (as yet unnamed), is located at the southwest edge of the subdivision and will terminate at the property line. Because "A" Circle is only 157 feet long, a turnaround is not justified at this location. The other connection is the south extension of Beringer Way. This street terminates at the Big Ditch right-of-way. The subdividers have agreed to contribute half of the total cost of materials and construction for this future connection.

The Traffic Accessibility Study (TAS) estimates that on total buildout, the subdivision would contribute 1,258 vehicle trips to the existing transportation system. The intersections that would be most affected by this traffic include Grand and 54<sup>th</sup> St. West, Grand and 56<sup>th</sup> Street West and Rimrock and 54<sup>th</sup> Street West. These intersections currently operate at a level of service (LOS) of A or B. LOS C is the minimum acceptable LOS for design. With the additional traffic from Vintage Estates Subdivision and surrounding subdivisions, the southbound approach at Grand Avenue and 54<sup>th</sup> would drop to LOS E. To improve the level of service at this intersection, right and left-turn lanes are recommended. The subdivider will contribute 1.9% of the total cost to construct these improvements. The intersection at 54<sup>th</sup> Street West and Rimrock Road will also be negatively affected. This intersection is expected to drop to LOS F. The additional traffic volumes from this and other subdivision would require signalization of the intersection. The subdivider will contribute 1.2% of the total cost of the intersection improvements.

The subdivider will dedicate 60 feet of right-of-way to the City for street improvements along Grand Avenue. These improvements include curb and gutter and a 5-foot boulevard walk on the south side, and paving necessary to construct a westbound left turn-land at the Vintage Lane intersection. The Subdivision Improvements Agreement indicates that "a suitable financial guarantee... shall be submitted at the time of Phase II improvements". City Engineering has determined that a "suitable financial guarantee" is

100% of the cost of installing a westbound left-turn lane and that the guarantee should be submitted with the development of Phase I (Condition 1c).

- **Water and Sanitary Sewer Service.** An existing 20-inch water main is located adjacent to the subdivision in Grand Avenue. The subdivision will tie into that main for water service. Sanitary sewer service is also available. The subdivision will connect with the 27-inch main located in Grand Avenue. The interior sewer and water lines will be sized and installed in accordance with City standards. The subdivision will be subject to water and wastewater system development fees in effect at the time of obtaining these services.
- **Storm Drainage.** Storm drainage will be provided by a combination of surface drainage and curb and gutters. Stormwater will be detained on-site in the lot designated for a neighborhood park and any excess water will be discharged to the Big Ditch. The subdivider has agreed to obtain permission from the Big Ditch Company before discharging stormwater to the facility. If permission is not granted, an alternative for stormwater drainage must be approved. To ensure that there is sufficient notice of an alternative stormwater discharge plan, permission from the Big Ditch Company must be obtained prior to final plat approval (Condition 1d).
- **Parks.** According to the City Subdivision Regulations, the subdivider must dedicate 11% of the lot area for use as parkland or 3.88 acres. The subdivider has set aside 1.04 acres as a neighborhood park/stormwater detention area and 1.02 acres for the Heritage Trail corridor. The subdivider will substitute cash for parkland for the remaining 1.82 acres which will be a contribution to the Cottonwood Park fund.

The City imposed conditions on the annexation of this property that requires future parkland to be developed by the developer. To meet this condition, the subdivider must submit a master plan for the park prior to final plat approval. Prior to the development of Phase I, the subdivider must create a Park Maintenance District to cover the cost of maintaining both the park and the boulevard along Grand Avenue. The park shall be developed as part of the Phase III improvements (Condition 1e).

- **Fire and Police Protection.** The proposed subdivision will be served by City Police and Fire Departments. Fire Station #5 is the closest fire station and is located at 604 S. 24<sup>th</sup> Street West. The Fire Department has agreed to the street width variances and the proposed secondary access onto 52<sup>nd</sup> Street West.
- **Emergency Medical Service.** The subdivision is located within the ambulance service area of American Medical Response.
- **Solid Waste Disposal.** Solid waste disposal will be provided by the City of Billings. The City collection and disposal facility has the necessary capacity to accept solid waste from this subdivision.
- **Schools.** It is estimated that about 34 school-age children may eventually live in this subdivision. Students from this subdivision will attend Central Heights, Will James Middle School and West High School. School District #2 has not responded with any comments regarding this subdivision.

#### 4. Effects on the Natural Environment

Based on previous a flood hazard study, this area is located within a potential flood zone. The natural drainage for Cove Creek has been obliterated by agricultural development

south of Rimrock Road. Consequently, the flood waters tend to spread laterally along the topographic depressions as they head southward. While the subdivision is designed to handle additional runoff resulting from development, the detention facilities are not designed to handle the 100-year flood volumes from Cove Creek. The same problem exists throughout the west end where existing and proposed developments intersect the flood hazard zone. A comprehensive study and strategies to mitigate the flood hazards along the entire drainage length should be undertaken. Unfortunately, the mitigation strategies of a single subdivision will not resolve the issue, and may actually exacerbate the problem for downstream properties. The subdivider will prepare a Flood Hazard Study to identify the impact of potential flooding on the subdivision. The study must be done prior to final plat approval and the Stormwater Study conducted for the subdivision must incorporate the findings and recommendations of the Flood Hazard Study (Condition 2a).

The soil in this area has been as silty clay or clay from a depth of 0 to 42 inches, and fine sandy loam from a depth of 42 to 60 inches (Yellowstone County Soil Survey, 1972). The upper horizons contain high swelling clays which present engineering limitations. The subdivider has agreed to conduct a preliminary geotechnical analysis for the purposes of quantifying the extent of the problem. The geotechnical study must be done prior to final plat approval to ensure future landowners are aware this condition exists (Condition 2b).

#### **5. Effects on Wildlife and Wildlife Habitat**

Wildlife does exist on this subdivision, primarily attracted to the ditch and the crop remnants. The Montana Fish, Wildlife and Parks Department commented on the impacts of this subdivision on the wildlife as follows:

“This subdivision is being built in close proximity to good deer habitat. Existing subdivisions in similar habitat report considerable and on-going problems with deer damaging landscaped shrubs, flowers, and gardens. Potential homeowners should be made aware that they will likely have deer on their properties, and should be informed that unless they take steps to deter the animals (such as fencing their yards), they will likely have damage problems. They should be notified that Fish, Wildlife & Parks does not provide game damage assistance within these subdivisions, unless there is damage to commercial agricultural crops, or a threat to public health and safety such as in the case of nuisance mountain lions.”

This language should be included in the Subdivision Improvements Agreement to ensure that future landowners are made aware of these conditions (Condition 3).

#### **6. Effects on Public Health and Safety**

There are three conditions that exist on the proposed subdivision that may potentially create problems for future landowners: flood hazard, expandable clay soil, and wildlife. These conditions should be included in the Subdivision Improvements Agreement under the heading of “Conditions that Run with the Land”. The SIA should also include a table of contents that clearly identifies the major headings (Condition 3).

**B. Environmental Assessment [Section 23-304(c)(2), BMCC; 76-3-210(1),MCA]**

1. This subdivision is exempt from the requirement of an environmental assessment because it falls with an area that is zoned, has a capital improvements plan and a Growth Policy.

**C. Conformance with the Yellowstone County – City of Billings 2003 Growth Policy, Heritage Trail Plan, and the Billings Urban Area 2000 Transportation Plan [Section 23-304(c)(3) BMCC].**

**1. 2003 Growth Policy**

The Vintage Estates Subdivision is consistent with the following goals:

- Affordable housing for all income levels dispersed throughout the City and County (Land Use Element Goal, page 6).
- More housing and business choices within each neighborhood (Land Use Element Goal, page 6)
- A multi-purpose trail network integrated into the community infrastructure that emphasizes safety, environmental preservation, resource conservation and cost effectiveness (Open Space and Recreation Element Goal, page 8).
- Safe traffic speeds consistent with the surrounding uses (Transportation Element Goal, page 9).
- Visually appealing rights-of-way that serve the needs of all uses (Transportation Element Goal, page 10).

The subdivision is not consistent with these goals:

- New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites (Land Use Element Goal, page 6).
- Contiguous development focused in and around existing population centers separated by open space (Land Use Element Goal, page 6).

**2. Heritage Trail**

The Heritage Trail Plan identified the Big Ditch as a corridor for an off-street bicycle and pedestrian trail. The subdivider will dedicate a 20-foot right-of-way to the City for this purpose.

**3. Billings Urban Area 2000 Transportation Plan**

The proposed subdivision adheres to the goals and objectives of the 2000 Transportation Plan and preserves the street network and street hierarchy laid out in that plan.

**D. Compliance with the Montana Subdivision and Platting Act and local subdivision regulations [Chapter 23, BMCC].**

The preliminary subdivision plat application met all the requirements of the City Subdivision Regulations and the Montana Subdivision and Platting Act. The subdivider has complied with the procedures.

**E. Sanitary requirements. [Section 23-201, BMCC; Section 23-304(c)(5), BMCC].**

The subdivider must receive approval from the Montana Department of Quality to connect with the City sanitary sewer lines.

**F. Zoning requirements [Section 23-201, BMCC; Section 23-304(c)(6), BMCC].**

The lot sizes and dimensions comply with the requirements of the Residential 9,600 zoning district.

**G. Planned utilities [Section 23-304(c)(7), BMCC; 76-3-608(3)(c), MCA].**

Electricity, gas, telephone and cable TV can be extended from existing services adjacent to the proposed subdivision. Utility will be located within utility easement along rear lot lines as requested by the utility companies.

**H. Legal and physical access [Section 23-304(c)(7), BMCC; 76-3-608(3)(c), MCA].**

Legal and physical access to the subdivision is provided by Grand Avenue and 52<sup>nd</sup> Street West. Internal access is provided by six public streets.

**CONCLUSIONS OF THE FINDINGS OF FACT**

Review of the preliminary plat application and supplementary submittal documents indicated that Vintage Estates Subdivision, will have no significant impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and public safety if developed as proposed, with the recommended conditions of approval. Furthermore, the preliminary plat complies with requirements of the City Subdivision Regulations and the Montana Subdivision and Platting Act.

ATTACHMENT A  
AREA TO BE ANNEXED

January 25, 2005

Vintage Estates, LLC  
2680 Overland Drive, Ste. F  
Billings, MT 59102

Dear Sirs:

On January 24, 2005 the Billings City Council approved the requested variances and conditionally approved the Vintage Estates Subdivision preliminary plat. The following conditions must be completed prior to final plat approval:

1. To minimize the effects on local services, the subdivider shall:
  - a. Specify the location and include a description of the proposed traffic circles in the SIA.
  - b. Construct 52<sup>nd</sup> Street West to a 20-foot paved driving surface, as required by County Public Works and the City of Billings Fire Department.
  - c. Secure 100% of the cost of constructing a westbound left-turn lane with a letter of credit or a letter of commitment at the time Phase I improvements are secured or contracted
  - d. Provide written permission from the Big Ditch Company to allow the discharge of stormwater to the Big Ditch.
  - e. Submit a master plan for the neighborhood park to the City Parks, Recreation and Public Lands Department for approval. The SIA should also specify that the park will be developed as part of the Phase III improvements.
2. To minimize the effects on the natural environment the subdivider shall:
  - a. Prepare a Flood Hazard Study, as required in Article 23-1200, BMCC, prior to final plat approval and incorporate the findings and recommendations of this study in the Stormwater Study.
  - b. Prepare a geotechnical study prior to final plat approval.
3. To minimize the effects on local services, the natural environment, wildlife and wildlife habitat and public health and safety, the subdivider shall include in all future buy/sell agreements notice of the following requirements/conditions:
  - a. That lot owners will be required to install the required sidewalks along the lot frontage at time of lot development.
  - b. That lot owners will be required to participate in two Park Maintenance Districts to fund the maintenance of Cottonwood Park and the subdivision park.
  - c. That the subdivision is located within a flood hazard area.
  - d. That there is potential for wildlife damaging landscaping and gardens.
  - e. That the soil conditions may require special building foundation design and construction.

The subdivider shall also include a table of contents that clearly identifies this section and other major sections.

1. To ensure that the final plat will comply with local subdivision regulations and state law:
  - a. Minor wording changes may be made in the Subdivision Improvements Agreement and final documents upon request of the Planning or Public Works

Departments to clarify the documents and bring them into standard acceptable formats.

- b. The final subdivision plat and supplementary documents shall comply with all requirements of the City of Billings Subdivision Regulations, Billings Municipal City Code, and rules, regulations, policies, and ordinances of the City of Billings, and the laws and administrative rules of the State of Montana.

If you have questions about the conditions of approval, please contact Candi Beaudry in Planning and Community Services at 657-8249 or by email at [beaudryc@ci.billings.mt.us](mailto:beaudryc@ci.billings.mt.us).

Sincerely,

---

Charles F. Tooley, Mayor

Cc: Rick Leuthold  
Engineering, Inc.  
1300 North Transtech Way  
Billings, MT 59102

[\(Back to Consent Agenda\)](#)

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
CITY OF BILLINGS, MONTANA  
Monday, January 24th, 2005

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TITLE: Payment of Claims  
DEPARTMENT: City Administrator's Office  
PRESENTED BY: Patrick M. Weber, Financial Services Manager

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**PROBLEM/ISSUE STATEMENT:** Claims in the amount of \$1,289,729.07 have been audited and are presented for your approval for payment. A complete listing of the claims dated December 23rd, 2004 is on file in the Finance Department.

**RECOMMENDATION**

Staff recommends that Council approve Payment of Claims.

Approved By: City Administrator \_\_\_\_ City Attorney \_\_\_\_

**ATTACHMENT:**

A -- List of claims greater than \$2500

[\(Back to Consent Agenda\)](#)

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, January 24th, 2005**

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TITLE: Payment of Claims  
DEPARTMENT: City Administrator's Office  
PRESENTED BY: Patrick M. Weber, Financial Services Manager

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**PROBLEM/ISSUE STATEMENT:** Claims in the amount of \$1,175,866.98 have been audited and are presented for your approval for payment. A complete listing of the claims dated December 30th, 2004 is on file in the Finance Department.

**RECOMMENDATION**

Staff recommends that Council approve Payment of Claims.

Approved By: City Administrator \_\_\_\_ City Attorney \_\_\_\_

**ATTACHMENT:**

A -- List of claims greater than \$2500

[\(Back to Consent Agenda\)](#)

## AGENDA ITEM:




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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, January 24, 2005**

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**TITLE:** Resolution of Intent to Annex – Annexation #05-01  
**DEPARTMENT:** Planning and Community Services Department/Public Works Department  
**PRESENTED BY:** Candi Beaudry, AICP, Planning Division Manager

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**PROBLEM/ISSUE STATEMENT:** The City of Billings is proposing to reconstruct South Billings Boulevard from King Avenue East to Overpass Avenue. The cost of the project will be funded through a variety of mechanisms including a General Obligation Bond approved by the City voters, Special Improvement District assessments, City Storm Drain funds and Water Main Construction fees. Those properties fronting South Billings Boulevard will be directly affected by the Special Improvement District (SID) assessments. There are five County properties that are wholly surrounded by the City located near the south end of the project. Four of these properties would be part of the SID if they were in the City. Without the inclusion of these four properties in the SID, the City would not be able to complete the project as planned. All five wholly surrounded properties receive City water but are on individual septic systems. It would be in the best interest of the City to annex these five properties in order to complete a functional reconstruction of South Billings Boulevard.

**ALTERNATIVES ANALYZED:** The City has the authority to annex property that is wholly surrounded by City limits without the owners' permission. This authority is granted by state law, 7-2-4501 et. seq., Montana Code Annotated. There are other methods of annexation that would allow the property owners to protest. In these cases, if a majority of property owners protesting the annexation could effectively block the annexation. The "Wholly Surrounded Land" method is recommended for guaranteeing the success of the annexation.

**FINANCIAL IMPACT:** Without these four properties contributing their proportionate SID assessment to the project, the City would not be able to complete the South Billings Boulevard reconstruction as planned. These assessments on these properties total \$15,733.88. The fifth property would not be subject to these assessments.

**RECOMMENDATION**

Staff recommends that City Council approve a Resolution of Intent to Annex the wholly surrounded County properties located on South Billings Boulevard.

**Approved By:**      **City Administrator** \_\_\_\_\_ **City Attorney** \_\_\_\_\_

**ATTACHMENT**

- A. Map of area to be annexed
- B. Resolution of Intent

## **INTRODUCTION**

Five properties located along South Billings Boulevard lie outside of the City limits and are entirely surrounded by City properties. Four of these properties also lie within the boundaries of a proposed Special Improvement District that will help fund the reconstruction of South Billings Boulevard. Excluding these properties from the SID will preclude the City from reconstructing South Billings Boulevard as planned. The properties are currently receiving City water.

## **BACKGROUND**

The Transportation Bond approved on November 4, 2003 was created to fund several major transportation projects in the City of Billings. One of these projects is the reconstruction of South Billings Boulevard. The project entails reconstructing the roadway to three lanes, constructing curb, gutter, and sidewalks, installing streetlights and constructing an off-street bicycle path. The project will also include construction of a new storm drain system, replacement of the existing water main and minor sanitary sewer improvements. The total cost of the project is \$392,855.00. Other sources of funding for the project will come from the Arterial Fees, Storm Drain Funds and Water Main Construction Funds.

The Special Improvement District for this project would include properties along South Billings Boulevard, north of King Avenue to Underpass Avenue. Most of the properties along South Billings Boulevard are located within the City limits, with the exception of five. Four of these properties would be subject to the SID if they were annexed. Of these, three are residential and located on the east side of South Billings Boulevard. The only commercial property within the "County Island" is located on the west side of the street. The remaining property outside the SID is a residential property and is owner-occupied.

If these five properties were annexed to the City, besides receiving general City services, they would have access to the sanitary sewer. Currently, they are receiving City water provided by a County water line. The City would replace the water and sewer lines within S. Billings Boulevard and stub the utility connections to each property in the SID. The estimated Special Improvement District assessment for the four affected properties is \$15,733.88. These assessments would be spread out over a period of 15 years. Owner-occupied properties may qualify for the Special Assessment Grant Program through the Federal Community Development Block Grant funds. Property tax for all five wholly surrounded properties would increase after annexation. Tax comparisons prepared for these properties indicate that their taxes would increase from a low of \$220 to \$771 annually.

## **ALTERNATIVES ANALYSIS**

In accordance with 7-2-4501 et. seq., MCA, the City may annex any land that is wholly surrounded by the City upon passing a resolution of intent, giving notice, and passing a resolution of annexation. The City may do so whether or not a majority of the real property owners of the area to be annexed object. The question of annexing the wholly surrounded land is not subject to being voted on by the registered voters of the area to be annexed. Using this method, the City may not annex land used for agriculture, mining, smelting, refining, transportation, or any industrial or manufacturing purposes. Property that is used for the purpose of maintaining or operating a golf or country club, an athletic field or aircraft landing field, a cemetery, or a place for public or private outdoor entertainment can not be annexed by this method either.

The other annexation methods available to the City in this situation include “Annexation of Contiguous Land” (Part 43) or “Annexation with the Provision of Services” (Part 47). Both of these methods allow a majority of real property owners to protest. In the event of a majority protest, the Council cannot approve the annexation.

If the properties are not annexed, the owners could still petition to create a Rural Special Improvements District (RSID) to complete the curb, gutter and sidewalks. The remaining improvements, including the pavement and utilities, would not be eligible for the RSID because these costs are paid for through City funds. A RSID would not be the total solution for reconstructing the entire road section in the County.

**STAKEHOLDERS**

The five properties and their owners are as follows:

<b>OWNER</b>	<b>ADDRESS</b>	<b>LEGAL DESCRIPTION</b>
Duwanne E. & Susan Carner (under contract for deed)*	706 S. Billings Blvd.	Tract 1, Popelka Industrial Tracts Subdivision, First Filing
Dale & Lillian Steinbrink	726 S. Billings Blvd	Tract A, C/S 289 in Sugar Subdivision, Lot 20
Westley Wayne & Elvira Wilcox*	4017 S. Billings Blvd	Tract A, C/S 289 in Sugar Subdivision, Lot 19
Patrick & Michael Kenney*	709 S. Billings Blvd	Tract 19B-1, C/S 289 in Sugar Subdivision, Lot 19
Patrick & Michael Kenney*	713 S. Billings Blvd	Tract 19B-2, C/S 289 in Sugar Subdivision, Lot 19

\* Subject to the Special Improvement District if annexed.

The owners have been notified of the proposed annexation and are aware of the conditions imposed by the “wholly surrounded land” method of annexation.

**CONSISTENCY WITH ADOPTED POLICIES OR PLANS**

The annexation would comply with the recently adopted Annexation Policy in most respects including:

- The area must be located within the Limits of Annexation as defined herein and within the Urban Planning Area;
- The City must be able provide adequate city services within a time period mutually agreed to by the property owners requesting annexation and the City;
- The proposed land use within the area to be annexed must conform to the goals of the City of Billings and Yellowstone County Growth Policy.

After the reconstruction of S. Billings Boulevard the annexed property would meet additional criteria for annexation listed in the Annexation Policy, including:

- Existing or proposed public improvements within the area to be annexed must meet City standards;

Because the property to be annexed is already developed, the annexation would not meet the following criteria of the Annexation Policy:

- All property owners within the area to be annexed must sign a Waiver of Right to Protest the creation of Special Improvement Districts;
- All residential property owners within the area to be annexed must create or join an existing park maintenance district;
- Residential densities within the area to be annexed must equal or exceed four dwelling units per acre; and

**RECOMMENDATION**

Staff recommends that City Council approve a Resolution of Intent to Annex the wholly surrounded County properties located on South Billings Boulevard.

**ATTACHMENT**

- A. Map of area to be annexed
- B. Resolution of Intent



**ATTACHMENT C**  
**Shiloh Corridor Overlay District – Zoning**

RESOLUTION NO. 05 - \_\_\_\_\_

A RESOLUTION TO CONSIDER ANNEXING TERRITORY  
UNDER THE PROVISIONS OF TITLE 7, CHAPTER 2, PART 45  
OF THE MONTANA CODE ANNOTATED.

WHEREAS, the City Council of the City of Billings has determined that annexing said properties is in the best interest of the City of Billings; and

WHEREAS, the Billings City Council intends to consider annexing said territory to the City of Billings pursuant to Title 7, Chapter 2, Part 45 of the Montana Code Annotated; and

WHEREAS, the boundaries of the territory that the Billings City Council intends to consider annexing is particularly described as follows:

Tract 1, Popelka Industrial Tracts Subdivision, First Filing  
Tract 19A, C/S 289 Amended in Sugar Subdivision, Lot 19  
Tract 20A, C/S 289 Amended in Sugar Subdivision, Lot 20  
Tract 19B-1, C/S 289 Amended in Sugar Subdivision, Lot 19  
Tract 19B-2, C/S 289 Amended in Sugar Subdivision, Lot 19

AN05-01

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF  
BILLINGS, MONTANA:

1. The Billings City Council intends to consider annexing the above described wholly surrounded territory.
2. All registered voters in the territory to be embraced are to be immediately notified, in writing.
3. Notice of the City Council's intent to annex said territory shall be published as provided in Section 7-1-4127, MCA, with notice that for a period of twenty (20) days after first

publication of the notice, the Billings City Clerk shall accept written comments approving or disapproving the proposed annexation of the above described territory to the City of Billings from registered voters residing in the area proposed to be annexed.

4. The City Clerk shall forward all written communication received by the Clerk to the City Council for consideration.

5. The City Council shall hear the question of annexation on February 28, 2005

APPROVED AND PASSED by the City Council of the City of Billings this 24th day of January, 2005.

THE CITY OF BILLINGS

BY: \_\_\_\_\_

Charles F. Tooley, MAYOR

ATTEST:

BY: \_\_\_\_\_

Marita Herold, CMC

CITY CLERK

[\(Back to Regular Agenda\)](#)

AGENDA ITEM:



**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, January 24, 2005**

**TITLE:** Public Hearing, 1<sup>st</sup> Reading, Planned Development Zone Change #749  
**DEPARTMENT:** Planning and Community Services Department  
**PRESENTED BY:** Nicole Cromwell, AICP, Planner II, Zoning Coordinator

**PROBLEM/ISSUE STATEMENT:** This application is a request for a Planned Development zone change changing the underlying Residential Multifamily zoning to Neighborhood Commercial in the Parkland West PUD, Lot 5 of Block 10, Parkland West 6<sup>th</sup> Filing Subdivision. The property is generally located south of the intersection of Central Avenue and 32<sup>nd</sup> Street West. The Council is to hold a public hearing on this application and act on the First Reading of the Ordinance to amend the Planned Unit Development Agreement and Master Plan for Parkland West PUD.

**ALTERNATIVES ANALYZED:** The City Zoning Commission has forwarded a recommendation of approval of Zone Change #749 on a 3-0 vote. The City Council may choose to accept this recommendation and approve the application or reverse the recommendation and deny the application. The City Council may not conditionally approve a zone change but may table the action for a period not to exceed thirty (30) days.

**FINANCIAL IMPACT:** There are no anticipated financial impacts to the City resulting from the Council's action.

**RECOMMENDATION**

The City Zoning Commission, on a vote of 3 to 0 recommends that Council approve the Planned Development zone change request, #749 and adopt the determinations of the twelve discussed criteria.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

**ATTACHMENTS**

- A. Zoning Commission Determinations

- B. Conceptual Site Plan
- C. Site Photographs
- D. Ordinance

## **INTRODUCTION**

The applicant is requesting to re-zone a vacant lot in the Parkland West Planned Unit Development located approximately 1150 feet south of the intersection of 32<sup>nd</sup> Street West and Central Avenue. The current zone is designated as Residential Multifamily and could support up to 40 dwelling units. The Neighborhood Commercial zone was not included in the original Parkland West planned development. The designation and uses allowed would be exactly as shown in the current Unified Zoning Regulations. The City Zoning Commission held a public hearing on January 4, 2005 and is forwarding a recommendation of approval.

## **PROCEDURAL HISTORY**

- Original Planned Development Agreement filed October 21, 1982
- ZC # 403, July 25, 1983. An amendment to Planned Development Agreement on Lots 11-19, Block 7; Lots 7 & 8, Block 9; Lot 6, Block 8; Lot 1, Block 1; Lots 1-15, Block 5; and Lots 1-5, Block 2 for corrections, clarifications and addition to the sign paragraph. Approved.
- ZC #486, October 21, 1985. An amendment to Planned Development Agreement on Blocks 10, 12 and 13 (north and east of subject area) from PUD Community Commercial to PUD Residential Professional. Approved.
- ZC #493, January 6, 1986. An amendment to Planned Development Agreement on Lots 7, 8, and 9, Block 5 from PUD Single Family (R-6000) to PUD Residential Multi Family (RMF). Approved
- SR #307, February 23, 1987. A Special Review to construct patio homes on Lots 7, 8, and 9, Block 5. Approved.
- SR #322, June 22, 1987. A Special Review amending lot size on Tracts 1B and 2A of Amended Tracts 1 and 2. Approved.
- ZC #532, February 27, 1989. An amendment to Planned Development Agreement for Lot 1, Block 6 from Residential 9,600 to Public for golf course. Approved.
- SR #376, February 27, 1989 on Blocks 2, 7, 8, 9 1<sup>st</sup> Filing, and Blocks 17, 20, 21 2<sup>nd</sup> Filing for golf course. Approved.
- SR #550, April 24, 1995 on Block 6 for church, softball field, and single family homes. Approved.
- ZC #596, May 8, 1995 on Block 6 from PUD Public to PUD Residential 9,600. Approved.
- ZC #605, March 25, 1996. An amendment to Planned Development Agreement on Tract 2A-1 & 2A-3, Amended C/S #2185 and Tract 1 of C/S 2481 from PUD Public and Residential 7,000 to PUD Residential 9,600 and Residential 7,000. Approved.
- SR #574, February 26, 1996. A Special Review amending language in the Planned Unit Development Agreement. Conditionally approved.
- ZC #740, October 25, 2004 Tracts 1 and 2 of Certificate of Survey No. 3202 and Tract 2A-3 of Certificate of Survey 2185 Amended from PUD-R9600 to PUD-Multifamily and Mixed Use zones. Denied.

## **BACKGROUND**

### **Application Data**

OWNER: Central Capital LLC  
AGENT: Engineering, Inc.  
LEGAL DESCRIPTION: Lot 5, Block 10 Parkland West 6<sup>th</sup> Filing Subdivision  
ADDRESS: 176 S 32<sup>nd</sup> Street West  
CURRENT ZONING: PUD- Residential Multifamily (@40 units on this lot)  
PROPOSED ZONING: PUD- Neighborhood Commercial  
EXISTING LAND USE: Vacant  
SIZE OF PARCEL: 3.7119 acres or 161,690 square feet

### **Surrounding Zoning**

NORTH: Zoning: PUD-Community Commercial  
Land Use: Under construction – bank building, storage units  
SOUTH: Zoning: PUD – Residential Multifamily  
Land Use: 4-plex homes - condominiums  
EAST: Zoning: R-9600, RMF-R  
Land Use: Assisted Living under construction  
WEST: Zoning: PUD – R9600  
Land Use: Vacant

Preliminary meetings with the surrounding property owners indicated no major concerns with the proposed zoning. Cape Code Drive will become a permanent dead end where it enters the property from Banff Drive and there will not be direct vehicle access except through an approach off 32<sup>nd</sup> Street West, a principle arterial street.

The West Billings Plan states as a goal that neighborhoods should be developed in such a way as to promote pedestrian friendly, urban development patterns that promote a mix of uses. The Neighborhood Commercial zoning district will permit the re-location of a small businesses and retailers that will serve this developing part of West Billings. Certain retail uses are limited to 3,000 square feet through the zoning regulations and restaurants that serve beer, wine or liquor are not an allowed use within this zone.

The Zoning Commission and City Council shall consider whether Neighborhood Commercial is the most appropriate zoning for the subject property. The Planned Unit Development zone allows the Commission and the Council to consider the intended uses of the property in this case. The applicant does not have immediate plans for the types of uses on the property but indicates the development will conform to the Neighborhood Commercial zone requirements.

### **ALTERNATIVES ANALYSIS**

The City Zoning Commission voted to recommend approval of the zone change application based upon the review of the twelve criteria for zone changes. The principal reasons for support of the zone change are:

- The site is located on a principal arterial
- Can be readily served by City services
- Encourages services within this neighborhood

- Certain uses are restricted and no liquor licenses will be allowed making it more compatible with the existing neighborhood

The City Council may choose to accept this recommendation and approve the application or reverse the recommendation and deny the application.

#### **STAKEHOLDERS**

The Zoning Commission public hearing was attended by the applicant's agent. Several surrounding property owners attended the preliminary meeting in November 2004 but none attended the public hearing on January 4, 2005.

#### **CONSISTENCY WITH ADOPTED POLICIES OR PLANS**

Included in Zoning Commission Determinations.

#### **RECOMMENDATION**

The City Zoning Commission, on a vote of 3 to 0 recommends that Council approve the Planned Development zone change request, #749 and adopt the determinations of the twelve discussed criteria.

#### **ATTACHMENTS**

- A. Zoning Commission Determinations
- B. Conceptual Site Plan
- C. Site Photographs
- D. Ordinance

## ATTACHMENT A – ZONING COMMISSION DETERMINATIONS

The City Zoning Commission shall consider the following 12 criteria for zone changes:

1. *Is the new zoning designed in accordance with the Growth Policy?*  
The new zoning is in conformance with the Growth Policy by:
  - Predictable land use decisions within existing neighborhoods
  - Contiguous development focused in and around existing populations
  - Attractive and accessible communities
  
2. *Is the new zoning designed to lessen congestion in the streets?*  
The new zoning will facilitate the location of neighborhood services into this growing area of West Billings. The new zoning and development plan should not increase the traffic on local streets. A new drive approach will be designed and located to city standards for access onto 32<sup>nd</sup> Street West, a principle arterial street. The existing right-of-way of Cape Cod Drive north off Banff Drive will become a permanent dead-end and vehicles will not be able to access the site except through the drive approach off 32<sup>nd</sup> Street West.
  
3. *Will the new zoning secure safety from fire, panic and other dangers?*  
The new zoning has required setbacks for buildings, access for emergency vehicles and conformance with city-adopted commercial building codes. On submittal of building plans, the Fire, Police, and Building Departments will review the proposed development for compliance with applicable codes.
  
4. *Will the new zoning promote health and general welfare?*  
The proposed zoning allows uses that are commercial but allows less square footage for some uses compared to other commercial zones. In addition, no liquor licenses are allowed in this zone. The property is adjacent to PUD-R9600 to the south and west and PUD-Community Commercial to the north. The new zone is adjacent to an existing Community Commercial zone to the north and should not adversely affect the health and general welfare.
  
5. *Will the new zoning provide adequate light and air?*  
Sufficient setbacks are required within the proposed zoning that will allow for adequate light and air.
  
6. *Will the new zoning prevent overcrowding of land?*  
The proposed zoning has allowable lot coverage of up to 50% but should not overcrowd the lot or adjacent properties.
  
7. *Will the new zoning avoid undue concentration of population?*  
The proposed zoning permits uses that attract customers from a neighborhood area in and around Central Avenue and 32<sup>nd</sup> Street West. The zone does allow Residential Multi-family (Restricted) uses and this size lot might support up to 80 dwelling units but it is not the intent of the development plan to include any residential units on this lot.

8. *Will the new zoning facilitate the adequate provisions of transportation, water, sewerage, schools, parks, fire, police, and other public requirements?*

*Transportation:* The traffic generated from the new zoning has been accounted for in previous traffic studies. The current zoning of PUD-Residential Multifamily could allow 40 dwelling units. The new zoning traffic generation should be equal to or less than the current multifamily zone. Pedestrian access will be gained to the site from sidewalks along 32<sup>nd</sup> Street West and through Cape Code Drive north of Banff Drive.

*Water and Sewerage:* Municipal water and sewer services are available at the site and have the capacity to serve the subject property.

*Schools and Parks:* The proposed zoning will not further impact area schools and parks.

*Fire and Police:* The Fire Department reviews commercial building permit applications and will determine any potential issues at that time.

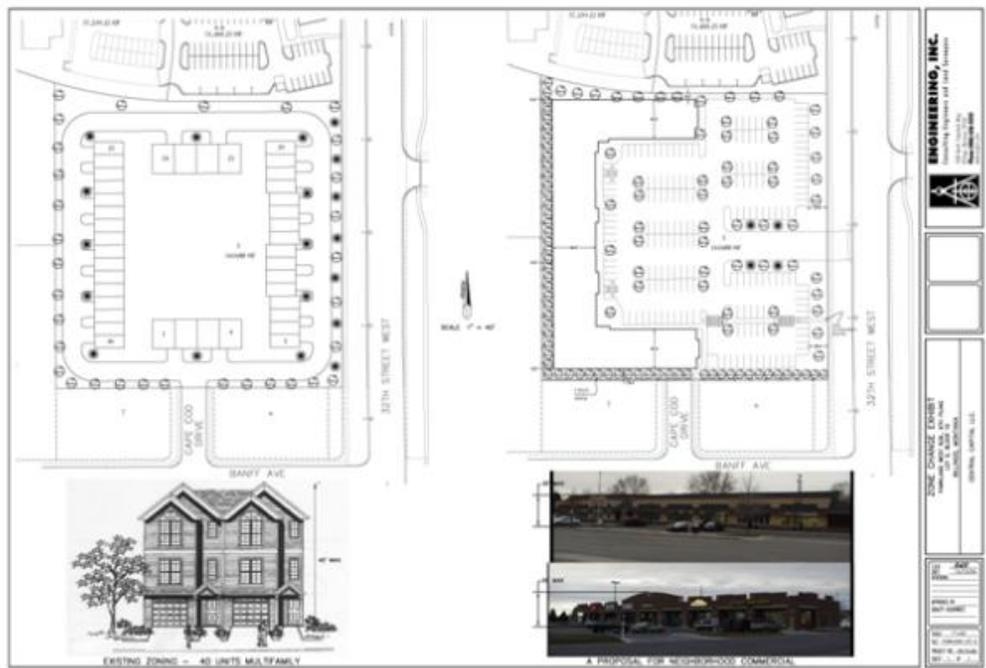
9. *Does the new zoning give reasonable consideration to the character of the district?*  
The proposed zoning will give reasonable consideration to the character of the district by locating a commercial use closer to the intersection of two arterial streets near an existing commercial zone. The potential commercial uses will be geared to neighborhood services and not regional markets.

10. *Does the new zoning give consideration to peculiar suitability of the property for particular uses?*  
Staff finds that the subject property is suitable for the requested zoning district. The uses permitted within Neighborhood Commercial are compatible with the surrounding residential and planned commercial uses.

11. *Was the new zoning adopted with a view to conserving the value of buildings?*  
Staff finds that the proposed zoning will not alter the value of the existing residences south, east or west of the subject property. Landscaping and screening will buffer the development from adjacent uses.

12. *Will the new zoning encourage the most appropriate use of land throughout such county or municipal area?*  
Staff finds that the proposed zoning, which will permit small commercial and retail outlets, will promote the most appropriate use for the subject property.

ATTACHMENT B – CONCEPTUAL SITE PLAN ZONE CHANGE #749



Existing Zoning – Site Plan

Proposed Zoning – Site Plan

ATTACHMENT C – SITE PHOTOGRAPHS ZONE CHANGE #749



Subject property view west from S 32<sup>nd</sup> Street West



View north along S 32<sup>nd</sup> Street West to intersection with Central Avenue

ATTACHMENT D – ORDINANCE FOR ZONE CHANGE #749  
**ORDINANCE NO. 04-**

AN ORDINANCE MAKING A MAJOR CHANGE TO THE  
**PARKLAND WEST SUBDIVISION MASTER PLAN AND  
PLANNED UNIT DEVELOPMENT AGREEMENT ON Lot 5,  
Block 10 of Parkland West 6<sup>th</sup> Filing Subdivision.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

1. RECITALS. Whereas, M.C.A. 76-2-304 and the City Zoning Ordinance No. 3797, as amended by Ordinance 4102, Section 7.01, provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed amendments for the real property hereinafter described. The Zoning Commission and staff have considered the twelve (12) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the twelve (12) criteria required by state law.

2. DESCRIPTION. That the **PROPERTY GENERALLY LOCATED SOUTH OF CENTRAL AVENUE AND WEST OF SWEETWATER DRIVE** situated in NE ¼ Section 11, T.1 S., R.25 E., P.M.M., Yellowstone County, Montana, more particularly described as:

LOT 5 OF BLOCK 10, PARKLAND WEST 6<sup>TH</sup> FILING SUBDIVISION

Is presently zoned **Planned Development** (Ordinance No. 82-4422 and 82-4424) and is shown on the official zoning map within this zone.

3. ZONE AMENDMENT. That Ordinance No. 82-4422 and 82-4424 and the official zoning map are hereby amended and the Master Plan and Planned Unit Development Agreement for **the above described parcels** is hereby amended and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining **Planned Development (with multiple underlying zoning districts)** as defined in the Zoning Ordinance and the Billings Montana City Code (BMCC).

4. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

5. EFFECTIVE DATE. This ordinance shall be effective from and after final passage and as provided by law.

PASSED by the City Council on first reading January 24, 2005.

PASSED, ADOPTED AND APPROVED on second reading February 14, 2005.

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Charles F. Tooley, Mayor

ATTEST:

BY:  
Marita Herold, CMC/AAE, City Clerk

ZC#749

[\(Back to Regular Agenda\)](#)

## AGENDA ITEM:




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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, January 24, 2005**

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TITLE: Zone Change #750 Public Hearing and 1<sup>st</sup> Reading of Ordinance  
DEPARTMENT: Planning and Community Services  
PRESENTED BY: Aura Lindstrand, Planner II

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**PROBLEM/ISSUE STATEMENT:** A rezone request of Tract B2-A of Certificate of Survey 1056 Amended (final plat approved on December 13, 2004, for Lots 1-4 of King Place Subdivision) from Residential-7000 (R-70) to Residential Multi-Family Restricted (RMF-R) and Neighborhood Commercial (NC). The City Zoning Commission conducted a public hearing on January 4, 2005, and is forwarding a recommendation of approval to the City Council.

**ALTERNATIVES ANALYZED:** Section 76-2-304 of the Montana Code Annotated (MCA) requires that all zone changes be reviewed in accordance with 12 criteria. Utilizing the 12 criteria to determine the appropriateness of the zone change request, the City Council may:

1. Approve the zone change request
2. Deny the zone change request
3. Allow withdrawal of the application
4. Delay action for up to thirty (30) days

**FINANCIAL IMPACT:** The proposed zone change would permit commercial and multiple family residential units on the subject property, which would increase the taxable value of the property.

**RECOMMENDATION**

The Zoning Commission recommends that the City Council approve Zone Change #750 and adopt the determinations of the discussed 12 criteria. A valid protest has been filed against the proposed zone change, therefore a two-thirds (2/3) favorable vote of the present City Council members is required for approval (Section 76-2-305(2), MCA).

Approved by: \_\_\_\_\_ City Administrator \_\_\_\_\_ City Attorney

**ATTACHMENTS:**

- A: Zoning Map  
B: Zoning Exhibit (Lots 1-4 of King Place Subdivision)

- C: Protest Petition – Valid Protest (dated January 3, 2005)
- D: 150 Foot Radius Map for Protest Petition
- E: Site photographs
- F: Ordinance

## **INTRODUCTION**

The applicant is requesting to rezone of Tract B2-A of Certificate of Survey 1056 Amended (final plat approved on December 13, 2004, for Lots 1-4 of King Place Subdivision) from Residential-7000 (R-70) to Residential Multi-Family Restricted (RMF-R) and Neighborhood Commercial (NC).

## **PROCEDURAL HISTORY**

- The Zoning Commission conducted a public hearing on December 7, 2004, and voted 4-0 to continue this item to the January 4, 2005, Zoning Commission meeting.
- The City Council approved the final plat for Lots 1-4 of King Place Subdivision (previously Tract B2-A of Certificate of Survey 1056 Amended) on December 13, 2004.
- The Zoning Commission conducted a public hearing on January 4, 2005, and voted 3-0 to forward a positive recommendation to the City Council for the proposed zone change.
- The City Council will conduct a public hearing on January 24, 2005, in order to determine approval or denial of the proposed zone change.
- Should the ordinance be approved on first reading, the City Council will consider the zone change for a second reading on February 14, 2005.

## **BACKGROUND**

The applicant is requesting to rezone Tract B2-A of Certificate of Survey 1056 Amended (final plat approved on December 13, 2004, for Lots 1-4 of King Place Subdivision) from R-7000 to NC and RMF-R. The subject property contains approximately 8 acres; 2.68 acres (proposed Lots 1 and 2) to be rezoned to Neighborhood Commercial (NC) and 5.23 acres (proposed Lots 3 and 4) to be rezoned to Residential Multi-Family Restricted (RMF-R). The purpose for the rezone is to provide for limited commercial uses on proposed Lots 1 and 2 and to provide residential apartments for median income tenants on proposed Lots 3 and 4.

Staff finds that the proposed rezone would provide a transitional zone between the existing Community Commercial (CC) zone located on the southwest corner of Wicks Lane and Bench Boulevard and the Residential 7000 (R-70) zone directly adjacent to the north and south of the subject property. The proposed multi-family zoning will further provide a buffer between the adjacent single-family residential uses to the south and the existing and proposed commercial uses to the west and north of this portion (proposed Lots 3 and 4) of the subject property.

A Protest Petition was submitted to the Planning Department on January 3, 2005, and is included as an attachment. Pursuant to Section 76-2-305(2) of the Montana Code Annotated (MCA), a protest petition against a zone change shall be signed by 25% or more of the surrounding property owners within 150 feet of the subject property for the proposed zone change. The submitted Protest has been determined valid, as 47% of the owner's signatures within 150 feet of the subject property (15 surrounding properties identified within 150 feet) have been included. As such, the MCA specifies that such petitioned zone changes shall only be approved if two-thirds (2/3) of the present and voting members of the Council vote favorably for the application.

## ALTERNATIVES ANALYSIS

The City Council may approve, deny, delay or allow withdrawal of the zone change. All zone changes shall be evaluated using the 12 criteria within Section 76-2-304 of the Montana Code Annotated (MCA), as follows:

Prior to forwarding a recommendation to the City Council, the City Zoning Commission shall consider the following 12 criteria for zone changes:

1. *Is the new zoning designed in accordance with the Growth Policy?*

Chapter 3: Community Goals/Objectives of the Growth Policy Plan specifies that there is a desire for more housing and business choices within neighborhoods. Staff finds that the proposed zoning will further provide the surrounding residential and commercial neighborhoods with commercial amenities within a close walking distance. The proposed zoning will allow for a mix of residential and commercial uses.

Additionally, the proposal is an infill development that helps to control urban sprawl. The primary utility services and street system are in place, therefore the property will utilize existing infrastructure which reduces the public cost of new developments.

2. *Is the new zoning designed to lessen congestion in the streets?*

Wicks Lane is located along the northern portion of the subject property and Bench Boulevard abuts the western boundary of the property. Staff finds that these streets are sufficient to accommodate the proposed commercial and multi-family uses, as the applicant is proposing limited street improvements with the proposed subdivision application. Furthermore, a Traffic Accessibility Study identifying specific traffic generation for the site will potentially be required upon further development of this property.

3. *Will the new zoning secure safety from fire, panic and other dangers?*

At this time, no structures are proposed for the site, however upon submittal of a subdivision application and/or building plans, the Fire, Police, and Building Departments will review the proposed development for compliance with applicable codes.

4. *Will the new zoning promote health and general welfare?*

The proposed Neighborhood Commercial zoning permits more limited uses than those permitted on the adjacent Community Commercial zoning. The proposed multiple family uses to be located on the southern portion of the site will create a buffer zone between the neighboring single-family residential uses.

5. *Will the new zoning provide adequate light and air?*

Sufficient setbacks are required within the proposed zoning that will allow for adequate light and air.

6. *Will the new zoning prevent overcrowding of land?*

The proposed zoning, as well as all zoning districts, provide restrictions on the maximum percentage of lot area that can be covered with structures. Furthermore, retail structures greater than 3,000 square feet within the Neighborhood Commercial zoning district require a Special Review in order to determine compatibility with surrounding land uses. The above restrictions will help to prevent crowding within the proposed zoning.

7. *Will the new zoning avoid undue concentration of population?*

Staff finds that the proposed commercial and residential uses should not create an undue concentration of population.

8. *Will the new zoning facilitate the adequate provisions of transportation, water, sewerage, schools, parks, fire, police, and other public requirements?*

*Transportation:* In regard to traffic generation, staff finds that the proposed zoning is no more intense than the commercial uses (Wal-Mart) and the medical office structures to the west of the subject property. A Traffic Accessibility Study identifying specific traffic generation for the site will potentially be required upon further development of this property.

*Water and Sewerage:* Municipal water and sewer services are available at the site and have the capacity to serve the subject property.

*Schools and Parks:* The proposed subdivision is located within School District #2. Staff finds that the student population impact of any proposed residential development will be minimal. With the uses proposed for the commercial zoning there will be no impacts to schools. No comments were received by the school district regarding this application.

There is no parkland dedication requirement for Lots 1 and 2, as they are proposed for commercial development. However, Lots 3 and 4 will be developed as multi-family residential units and are subject to the parkland requirement. The applicant has indicated that they will pay a cash-in-lieu for the proposed parkland requirement as necessary for the final plat.

*Fire and Police:* The Police and Fire Departments review subdivision applications and will determine potential impacts upon submittal of a Preliminary Plat application.

9. *Does the new zoning give reasonable consideration to the character of the district?*

The proposed zoning will give reasonable consideration to the character of the district by providing a transition zone between the multi-family residential uses proposed for the southern portion of the property and the proposed commercially zoned northern portion of the property, as well as the existing commercial properties to the west.

10. *Does the new zoning give consideration to peculiar suitability of the property for particular uses?*

Staff finds that the subject property is suitable for the requested zoning district. The uses permitted within the Neighborhood Commercial and the Residential Multi-Family Restricted zoning districts are compatible with the surrounding residential and commercial uses.

11. *Was the new zoning adopted with a view to conserving the value of buildings?*

Staff finds that the proposed zoning will not alter the value of existing structures within the immediate vicinity of the subject property, as the property is bordered on the west by commercial development and on the north and east by churches that tend to generate commercial traffic volumes on a limited basis.

Due to an increase in traffic volume on Wicks Lane by over 60% within the last 10 years, there has been some depreciation in value of the existing single-family residences along this section of Wicks Lane. However, as a principle arterial, the land use along Wicks Lane is anticipated to be a mix of commercial and residential uses. The proposed zone change is intended to provide neighborhood services for the existing and developing subdivisions within this area. Such services may include, but not be limited to office uses, a convenience store, or a restaurant that does not provide alcohol or gaming.

The proposed zone change should not further depreciate the value of the existing single-family uses within the area.

12. *Will the new zoning encourage the most appropriate use of land throughout such county or municipal area?*

Staff finds that the proposed zoning for the northern portion of the subject property, which will permit limited commercial development, will promote the most appropriate use for the subject property. Furthermore, the proposed multi-family zoning for the southern portion of the property will create a buffer zone between the surrounding residential uses to the north and south of the subject property.

### **STAKEHOLDERS**

The Zoning Commission conducted a public hearing on January 4, 2005, for the proposed zone change request and recommended 3-0 to forward a positive recommendation to the City Council.

There were several surrounding property owners present at the hearing with the following concerns regarding the potential zone change:

- Increased traffic on both Wicks and Bench, specifically with the proposed access points to King Place Subdivision.
- Public safety for children in the neighborhood walking to school with a commercial use on this corner, as the property is bordered on the north and south by residences. Additionally, there were concerns regarding the number of children that would be located within the subdivision, as Bitterroot Elementary School is already overcrowded.
- An increase in the crime rates in this portion of the city with the proposed multi-family development on the southern portion of the site.
- Concerns on the type of development proposed for the northern portion of the site. The applicant has stated that a bank is proposed for one (1) of the lots, however there are no specific plans for the other commercial lot (NC will somewhat limit the uses and require Special Reviews on any structure greater than 3,000 square feet.
- A decrease in property values due to the commercial uses that may be developed on the site.

Rod Wilson (owner) and Kurt Thomson of Engineering Inc. (agent) were present at the hearing to answer questions.

#### **CONSISTENCY WITH ADOPTED POLICIES OR PLANS**

Consistency with the 2003 Growth Policy Plan is discussed in the Alternatives Analysis section of this report.

#### **RECOMMENDATION**

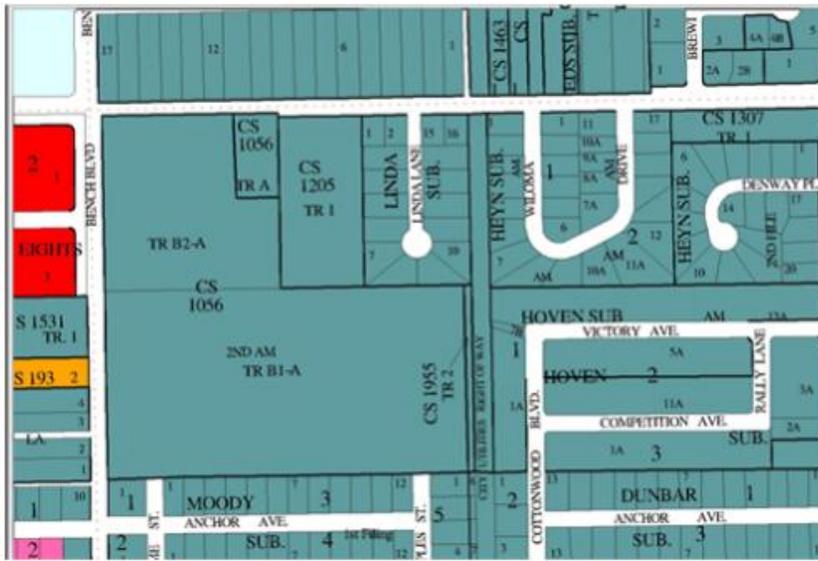
The Zoning Commission recommends that the City Council approve Zone Change #750 and adopt the determinations of the discussed 12 criteria.

**\*\*NOTE\*\* Due to the submitted valid protest against this zone change application, a two-thirds (2/3) favorable vote of the present City Council Members is required for approval (Section 76-2-305(2), MCA).**

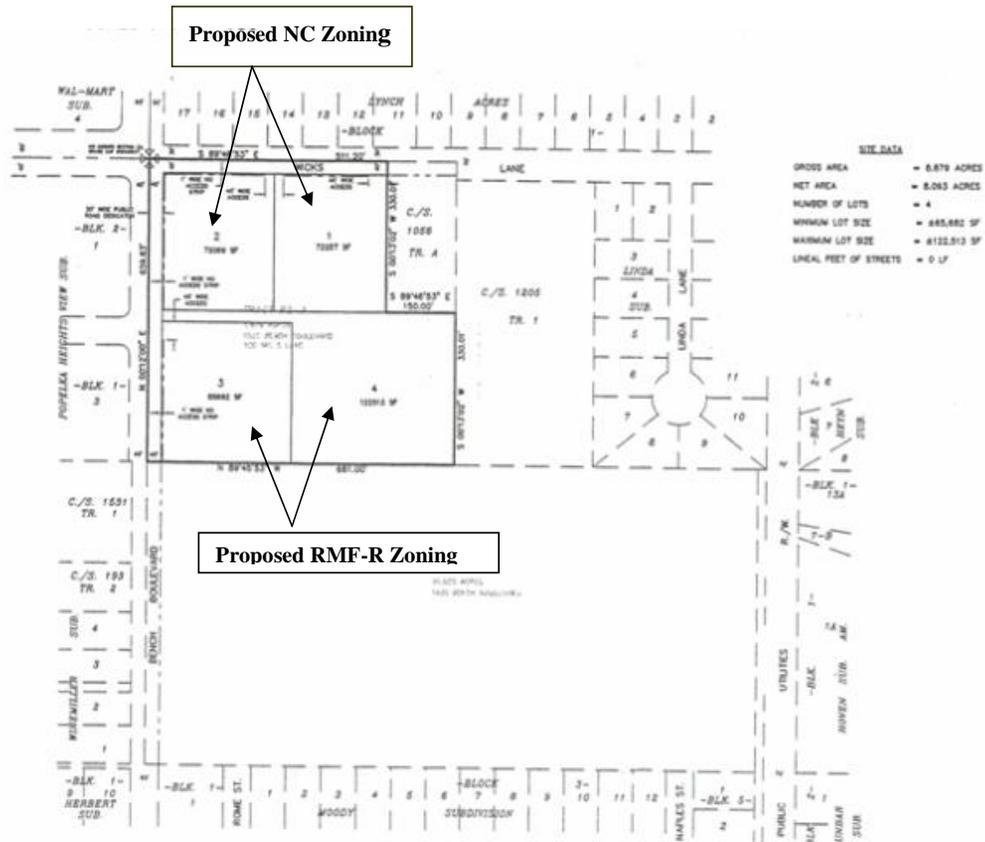
#### **ATTACHMENTS:**

- A: Zoning Map
- B: Zoning Exhibit (Lots 1-4 of King Place Subdivision)
- C: Protest Petition – Valid Protest (dated January 3, 2005)
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- E: Site photographs
- F: Ordinance

**Attachment A**  
Surrounding Zoning



**Attachment B**  
**Zoning Exhibit**



Attachment C  
Protest Petition

**PETITION AGAINST CITY ZONE CHANGE #750: PROJECT #04-00000545**

A zone change for tract B2-A of Certificate of Survey 1056 Amended (proposed Lots 1-4 of King Place Subdivision) from Residential 7000 (R-7000) zoning to Neighborhood Commercial (NC) zoning for the northern portion of the subject property and Residential Multi-Family-Restricted (RMFR) zoning for the southern portion of the subject property. The subject property is located along the southeast corner of Bench Boulevard and Wicks Lane; property owner: King Place, LLC.

We feel that the rezoning of this area from R7000 to NC and RMFR is not in keeping with the character of the neighborhood and neighborhood plans, and oppose the Planning Department opinions on their following criterion:

1. A. We already have sufficient commercial amenities within 1 block.
  - a. Wal-Mart
  - b. Deaconess Billings Clinic
  - c. Post Office
  - d. Best Friends Animal Hospital
  - e. mini mall
  - f. gas station with convenience store
  - g. eateries
  - h. Big Lots & Dollar Store
- B. To control urban sprawl it would be better kept as R7000 for single dwelling and duplex homes.
2. When you add the proposed zone change to the high congestion of Wal-Mart you certainly will increase the street congestion dramatically.
3. With the addition of RMFR, which drastically increases density, and a possible 24 hour commercial operation, the threat of drugs and crime increase is certainly a concern of all the home owners who now live in the lowest crime rate area in the city.
4. There already is a buffer --- Bench Boulevard. To allow this zone change would set a precedent as there are NO commercial structures on the east side of Bench Blvd. at this time.
6. The zone change will certainly create more crowding than R7000.
8. A. Transportation: When you add Wal-Mart to the proposed traffic generation, we feel the result will be a dramatic increase.
  - C. Schools: The closest school (Bitterroot Elementary) is already 2 classes



above capacity and buses kindergarten children. Changing R7000 to RMFR ( 3 story apartment buildings ) would drastically increase the school aged population. Also, it would not be compatible to NC as the children would have to go by or through the NC area.

9. Absolutely not. The present character east of Bench Blvd. is a peaceful neighborhood with the lowest crime rate in the city. This zoning change will definitely change that character of our neighborhood.

11. This criterion is completely untrue. This area is absolutely NOT surrounded on 3 sides by commercial property. There is NO commercial development east of Bench Blvd. We have contacted 5 Real Estate agents and they have all confirmed our worst fears that the property values of the existing homes next to the proposed change as well as those on Anchor St. and Linda Lane will become much lower.

12. We feel that the most appropriate use of this property is to have it remain R7000 and keep Bench Blvd. as the buffer between single/duplex dwellings and commercial development. We now live in the lowest crime rate area of the city and sincerely hope to keep it this way.

We appreciate the opportunity to air our deepest concerns and hope that you will consider them carefully because we live here, we care about our neighborhood, and want to continue to live and raise our families in our present pleasant environment.

Sincerely,

Dec. 30 + 31, 2004

name	address	phone #
Anthony L. Samse	827 Wicks Dr	254-2328 ✓
Rep M Redd	921 Wicks Ln	252-0842
Georgene H. Cable	835 Wicks Lane	254-2548 ✓
John St. Louis	835 Wicks Lane	671-1800 ✓
Hankon Kuehling	1445 Bench	245-3646 ✓
Alpha C. Richards	855 Wicks ✓	
Lillian Bergum	845 Wicks Ln.	256-8521 ✓
David Tucker	1605 Bench Blvd	256-1913 ✓

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Sincerely,

name	address	phone #
Brian Burgess	15076 Linda Lane	252-2989
David Toffler	815 Wicks	252-0501
Melvin Journal	827 Wicks Ln	248-2328

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NEIGHBORHOOD PETITION

This petition is in support of the Petition Against City Zone Change # 750: Project # 04-00000545.

We feel that the rezoning of this area from R7000 to NC and RMFR is not in keeping with the character of the neighborhood and neighborhood plans, and oppose the Planning Department opinions.

Although we do not live within 150 feet of the proposed zone change, we feel that the long range effect of this zone change will drastically alter the entire neighborhood. Increased traffic, population density, crime rate increase, school crowding, and property value decrease are a grave concern and we hope you will consider the ENTIRE neighborhood and NOT just one small section.

Dec. 30 + 31, 2004

name	address
<i>Michelle Peters</i>	1432 BENCH BLVD
<i>Mike Dill</i>	924 WICKS LN
<i>Benjamin E. Kaiser</i>	940 Wicks Ln
<i>Margaret L. Buford</i>	1543 Linda Ln
<i>Joyce Hayes</i>	1536 Linda Ln
<i>Luth Zader</i>	1535 Linda Lane <sup>59105</sup>
<i>David Spence</i>	1514 Linda Lane
<i>Neal Keithley</i>	1504 Linda Lane
<i>Chris Petrucci</i>	945 Wicks
<i>Jim Osterman</i>	945 Wicks
<i>Pat Brenner</i>	927 Wicks
<i>C MARTINEZ</i>	915 WICKS LANE

Name	Address
<i>Ryann Coze</i>	903 Wicks Ln
<i>Brishe Boelter</i>	939 Wicks Ln
<i>Brian Boelter</i>	939 Wicks Ln
<i>Lisa Wood</i>	1505 LINDA LANE

Name	Address
Lola Vukovich	830 Anchor Ave.
James P. Vukovich	830 Anchor Ave.
Robert J. Harpster	806 Anchor Ave.
Ada P. Harpster	806 Anchor Ave.
Craig Boyd	1331 Rome ST
A. James Martin	828 Anchor Ave.
Kathleen Jensen	904 Anchor Ave.
Howard Jensen	904 Anchor Ave.
Edna J. McMillin	920 Anchor Ave.
Mary McMillin	920 Anchor Ave.
Helen J. Jensen	1330 Naples
Kynda K. Hurst	1347 Naples St.
John J. McLean	909 Anchor Ave.
John J. McLean	834 ANCHOR AVE.
Michael J. McLean	824 Anchor Ave.
John A. McLean	824 Anchor Ave.
Kathleen M. Duncan	912 Anchor Ave.
Thomas E. Duncan	912 Anchor
Kathleen Owens	1330 Naples
Charles F. Nolin	1347 Naples Sp.
Donna McHarris	916 Anchor St.
John J. Gustin	838 Anchor St.
David K. Sheehan	1527 Linda Ln.
Karen J. Sheehan	1527 Linda Lane

<u>Name</u>	<u>Address</u>
Eg. Ellard	836 Anchor Ave.
<del>Edith Ellard</del>	<del>827 Anchor St</del>
Ryan Sherrodd	823 Anchor ST
Tabitha Sherrodd	823 Anchor St.
Butly R Lind	831 Anchor St.
Chris Schu H?	905 Anchor ST
Lew + Dorothy Ebach	909 Anchor
Ed Taylor	1341 Naples St.
Maid Rogner	" "
Alma Smith	1335 Naples, Billings 59105
Herman Smith	1335 Naples, 59105
Louise Ellard	835 Anchor
Fidel Gutierrez	<del>1503</del> Linda LN Billings MT

**Attachment D**

**150 foot Radius Map for Protest Petition**



■ Represents approximate boundaries of properties within 150 feet

★ Property owners that signed the Protest Petition

\* As calculated, 47% of the property owners within 150 feet of the subject property signed the petition.

**Attachment E**  
Site Photographs



**Figure 1:** From northwest corner of the subject property looking east toward a church and residential uses.  
(Wicks Lane is located along the northern border of the property in the photograph)



**Figure 2:** From the northwest corner of the subject property looking south toward the adjacent single-family residential uses.  
(Bench Boulevard is along the western boundary of the property in the photograph)



**Figure 3:** From the northwest corner of the property looking northwest the intersection of Bench and Wicks and the adjacent commercial use (Wal-Mart).



**Figure 4:** From the northwest corner of the property looking north toward a church and single-family residences.  
(Wicks Lane is along the northern boundary of the property in the photograph)

**Attachment F**

**ORDINANCE NO. 04-**

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION FOR Tract B2-A of Certificate of Survey 1056 Amended located within Section 23, Township 1N, Range 26E, P.M.M, Yellowstone County, Montana.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

1. **RECITALS.** *Title 76, Chapter 2, Part 3, MCA, and Sections 27-302 and 27-1502, BMCC,* provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the twelve (12) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the twelve (12) criteria required by state law.

2. **DESCRIPTION.** Tract B2-A of Certificate of Survey 1056 Amended, Section 23, Township 1N, Range 26E, P.M.M., Yellowstone County, Montana, the property is presently zoned Residential 7000 and is shown on the official zoning maps within this zone.

3. **ZONE AMENDMENT.** The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Residential 7000 to Residential Multi-Family Restricted on the south half of the property and Neighborhood Commercial on the north half of the property** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Residential Multi-Family Restricted and Neighborhood Commercial** as set out in the Billings, Montana City Code.

4. **REPEALER.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

5. **EFFECTIVE DATE.** This ordinance shall be effective from and after final passage and as provided by law.

PASSED by the City Council on first reading January 24, 2004.

PASSED, ADOPTED AND APPROVED on second reading February 14, 2004.

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Charles F. Tooley, Mayor

ATTEST:

BY:

Marita Herold, CMC/AAE, City Clerk

ZC#750

[\(Back to Regular Agenda\)](#)




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**CITY ZONING COMMISSION**  
**CITY OF BILLINGS, MONTANA**  
**TUESDAY, JANUARY 4, 2005**

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**SUBJECT:** Zone Change #751  
**THROUGH:** Ramona Mattix, AICP, Planning & Community Services Director  
**PRESENTED BY:** Juliet Spalding, Planner II

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**REQUEST**

A City Council initiated zone change from Residential-7000 to Residential-7000-Restricted.

**RECOMMENDATION**

The Planning Department is recommending approval.

**APPLICATION DATA**

**OWNER:** BRV Development, LLC  
**AGENT:** City of Billings  
**LEGAL DESCRIPTION:** Tract 3A, C/S 3217 Amended  
**ADDRESS:** Generally located north of Mary Street between Hawthorne Lane and Bitterroot Drive  
**CURRENT ZONING:** Residential-7000  
**PROPOSED ZONING:** Residential-7000-Restricted  
**EXISTING LAND USE:** vacant / preliminary plat of 1<sup>st</sup> Filing of Bitterroot Heights Subdivision approved by City Council 11/22/04  
**SIZE OF PARCEL:** 100 acres

## CONCURRENT APPLICATIONS

Bitterroot Heights Subdivision, 1<sup>st</sup> Filing Final Plat (pending zone change approval)

## APPLICABLE ZONING HISTORY

Zone Change #731, approved 6/14/04: Zone change on south 1728' of subject parcel (80 acres) from R-9600 to R-7000.

Annexation 03-05, approved 8/25/03: Subject parcel was annexed into City limits (Resolution 03-18013) and zoned R-9600 by default

Annexation 91-01, approved 6/3/91: north 20 acres of subject parcel and adjacent 10 acres was annexed into the City limits (Resolution 91-16418) in anticipation of the platting of "Easy Living Estates" Subdivision (this subdivision was never filed)

Zone Change #549, approved 6/3/91: Zone change on north 20 acres of subject parcel and adjacent 10 acres from Agricultural-Open Space (AO) to Residential-7000 (in conjunction with annexation 91-01 and subdivision preliminary plat of "Easy Living Estates").

Zone Change #483, withdrawn 8/5/85: Zone change from AO to Residential Manufactured Home (RMH) of subject parcel and surrounding lands.

## SURROUNDING LAND USE & ZONING

NORTH: Zoning: Agricultural-Open Space & R-9600(County)  
Land Use: Residential

SOUTH: Zoning: R-7,000  
Land Use: Residential

EAST: Zoning: Agricultural-Open Space, Agricultural Suburban, Residential  
Manufactured Home (County)  
Land Use: pasture land, large lot residential

WEST: Zoning: Agricultural-Open Space (County)  
Land Use: pasture land

## BACKGROUND

This is a *City Council initiated* zone change from Residential-7000 to Residential-7000-Restricted of a 100-acre property described as Tract 3A, C/S 3217 Amended. The subject property is generally located on the north side of Mary Street, between Hawthorne Lane and Bitterroot Drive and is currently a vacant reclaimed gravel mine. The northern 20 acres of the property was annexed into the City and zoned R-7000 in 1991, and the remaining 80 acres was annexed in August of 2003. Earlier this year, a zone change from R-9600 to R-7000 was approved on the southern 80 acres; at that time, the R-7000-Restricted zone was not yet created.

Concurrently with the previous zoning application the developers prepared a Master Plan for the entire 100-acre property into single-family residential lots and brought forward the 1<sup>st</sup> Filing of the Bitterroot Heights Subdivision for City Council consideration in November of this year. During the subdivision review process, the adjacent neighbors expressed concern over the possibility of duplex housing allowed with the R-7000 zoning. As a result, the City Council felt that it was appropriate to place a condition on the preliminary plat approval that the zoning on the entire property be changed to R-7000-R prior to final plat approval of Bitterroot Heights Subdivision, 1<sup>st</sup> Filing.

The Planning Department has reviewed this zoning application and is recommending approval based on the attached 12 criteria for zone changes.

## **RECOMMENDATION**

Approval

**\*\*NOTE\*\*** This is an application for a change in zoning only and any site plan submitted with this application is not being considered for either approval or disapproval. Compliance with all applicable local codes, including site development and building codes will be reviewed at the building permit level.

## **ATTACHMENTS**

Attachment A: Zoning Commission Determinations.

Attachment B: Pictures of site and surrounding properties.

Attachment C: Zoning Map

Attachment D: Application Materials

## Attachment A

The City Zoning Commission, prior to any recommendation, shall consider the following:

1. *Is the new zoning designed in accordance with the Growth Policy?*

The proposed zone change is in compliance with the following goals of the 2003 City/County Growth Policy.

- New development that are sensitive to and compatible with the character of adjacent City neighborhoods
- Contiguous development focused in and around existing population centers separated by open space.
- Affordable housing for all income levels dispersed throughout the City and County.
- Unobstructed views of the rimrocks surrounding the City of Billings.

The new zoning is an area that is currently served by municipal utilities and fire and police protection. In addition, it is bordered on two sides by Principal Arterial streets. The proposed zoning is compatible with existing zoning to the north and south of the property, and may provide for a more affordable housing choice with slightly smaller lot sizes.

2. *Is the new zoning designed to lessen congestion in the streets?*

The new zoning will not increase the traffic generated from this site. Developing the site under R-7000-R zoning will not allow any additional units per acre than R-7000 zoning, but would in fact allow less due to the restriction on duplex housing.

3. *Will the new zoning secure safety from fire, panic and other dangers?*

The property currently has public street frontage and is served by the City Fire Department. Additionally, in the subdivision review process, the Fire Department will review the layout of the proposed subdivision to ensure that fire protection can be provided to all new structures.

4. *Will the new zoning promote health and general welfare?*

The new zoning contains restrictions on uses allowed and provides for minimum setback requirements for structures.

5. *Will the new zoning provide adequate light and air?*

The new zoning provides for sufficient setbacks for structures to allow for adequate light and air.

6. *Will the new zoning prevent overcrowding of land?*

The new zoning, as do all districts, have limits on the maximum percentage of lot that can be covered with structures. In addition, the proposed development will be required to dedicate 11% of the developed property as parkland, or provide cash in lieu of land dedication, to provide for area parks. These features should prevent overcrowding of the land.

7. *Will the new zoning avoid undue concentration of population?*

The new zoning of Residential-7000-Restricted allows only single-family detached dwellings based on minimum lot areas. The parcel is adjacent to developments of similar density.

8. *Will the new zoning facilitate the adequate provisions of transportation, water, sewerage, schools, parks, fire, police, and other public requirements?*

*Transportation:* The new development will substantially increase the traffic generated from this site. However, development of the site at densities allowed under the current R-7000 zoning would do the same. Also, the property adjoins Mary Street and Bitterroot Drive which are both designated as Principal Arterial Street in the Transportation Plan. Traffic mitigation will be reviewed with each filing of the subdivision.

*Water and Sewerage:* Public water service will be provided by the Heights Water District. Existing water mains are located within the rights of way of Hawthorne Lane and Mary Street adjacent to the property to be annexed. The City of Billings will provide sanitary sewer service using the sewer mains that are located in the Mary Street and Bitterroot Drive rights of way. A 12-inch main is also located within the old Burlington Northern Railroad right of way which connects to a lift station 500' north of the property to be annexed.

*Schools and Parks:* At a certain build-out (51%) of the subdivision development, the developers will be required to develop an extensive park network throughout the property. The tax records state that children from this development would attend Eagle Cliffs Elementary, Castle Rock Middle and Skyview High.

*Fire and Police:* The subject property is currently served by the City of Billings fire and police departments. Provisions for adequate service will be reviewed and ensured at the time of subdivision review.

9. *Does the new zoning give reasonable consideration to the character of the district?*

The new zoning will restrict development of the property to single-family housing. To the south of the proposed zone change request is single-family residential development zoned R-7000 and the Heights Assembly of God church. Most of the residential lots are less than 9600 square feet in size, and the new zoning would promote a development that is consistent with the character of the surrounding properties to the south. Parcels to the north, east and west are currently either vacant agricultural land, or large lot residential.

10. *Does the new zoning give consideration to peculiar suitability of the property for particular uses?*

The subject property is suitable for the requested zoning district; it is a reclaimed gravel mine adjoining two Principal Arterial streets.

11. *Was the new zoning adopted with a view to conserving the value of buildings?*

The new zoning should not negatively affect the value of the surrounding buildings/homes.

12. *Will the new zoning encourage the most appropriate use of land throughout such county or municipal area?*

This property is located adjacent to urban density development to the south, and is served by City services. The 2003 Growth Policy supports new development that is contiguous to existing populations, as well affordable housing choices which this development may offer with the slightly smaller lot sizes allowed by this new zoning. Redeveloping the abandoned gravel mine in this way seems to be an appropriate use of the land.

**Attachment B**



Figure 1: From the corner of Mary Street and Hawthorne Lane, looking northeast.



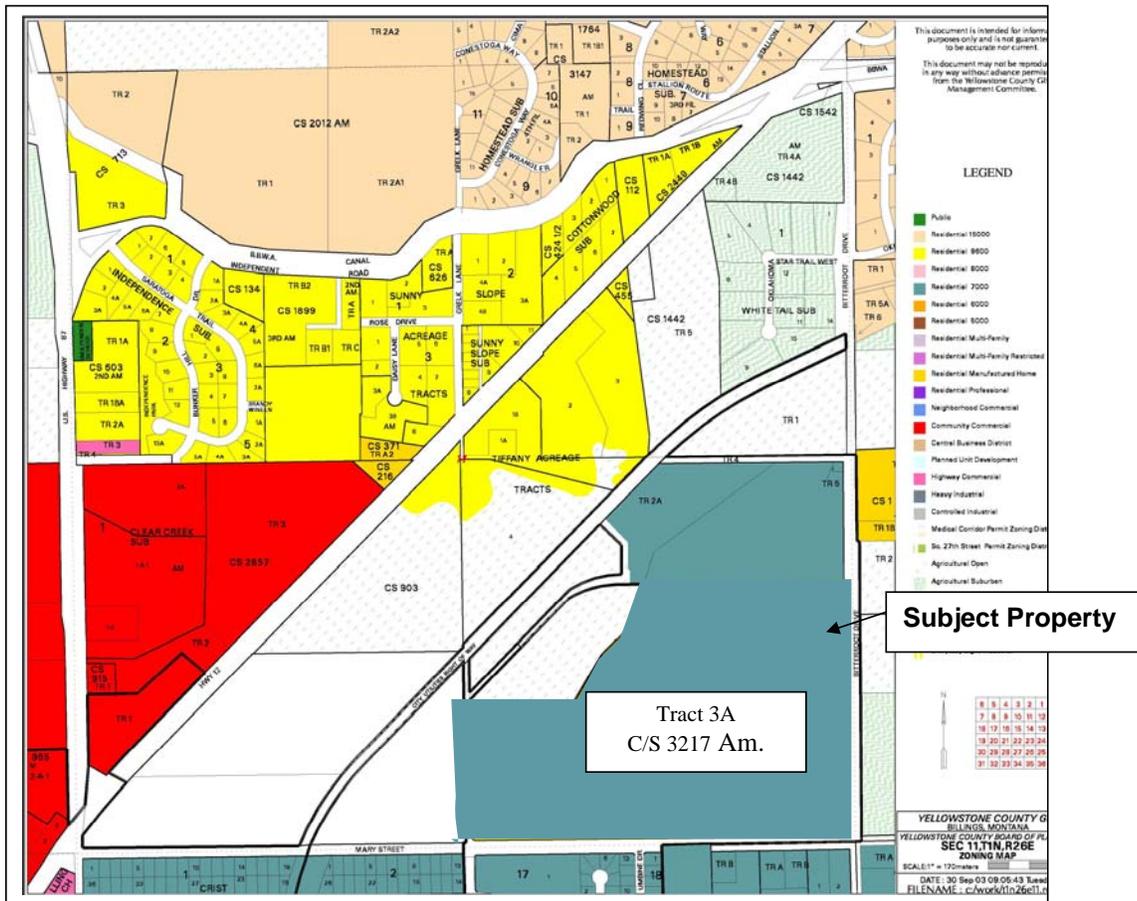
Figure 2: From same location, looking west up Mary Street.



Figure 3: Looking across Mary Street to the southwest at adjacent residential properties.

# Attachment C

## Zoning Map



[\(Back to Regular Agenda\)](#)

## AGENDA ITEM:




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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, January 24, 2005**

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**TITLE:** Zone Change #752, Shiloh Corridor Overlay District – North, Public Hearing and First Reading of Ordinance

**DEPARTMENT:** Planning and Community Development Services

**PRESENTED BY:** Candi Beaudry, AICP, Planning Division Manager

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**PROBLEM/ISSUE STATEMENT** This is a zone change initiated by City Council for the lands affected by the recently adopted Shiloh Corridor Overlay District regulations. The purpose of the zone change is to increase notification to the affected landowners and the surrounding property owners of the new Shiloh Corridor Overlay District regulations and afford those landowners the option of a valid protest. Also, the zone change amends the Official Zoning Map to show the extent of the Shiloh Corridor Overlay District. The City Zoning Commission held a public hearing on the Zone Change #752 on January 4, 2005. One affected property owner attended the public hearing and one sent a letter to the Commission. Both property owners supported the Overlay District, although one urged limits on the amount of regulations imposed. No valid protest petition was filed.

**ALTERNATIVES ANALYZED:** State law and local regulations require zone changes reviewed in accordance with 12 criteria. Using the 12 criteria to determine the appropriateness of the zone change request, the City Council may:

1. Approve the zone change request
2. Deny the zone change request
3. Allow withdrawal of the application
4. Delay action for up to thirty (30) days

**FINANCIAL IMPACT:** There should be no appreciable financial impact as a result of this zone change. The zone change does not affect the uses allowed under the existing zoning.

**RECOMMENDATION**

The City Zoning Commission recommends, on a vote of 3 in favor and none opposed, that the City Council approve Zone Change #752 and adopt the determinations of the 12 criteria.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

**ATTACHMENT**

- A. Shiloh Corridor Overlay District – Official Map
- B. Shiloh Corridor Overlay District – Affected Properties
- C. Shiloh Corridor Overlay District – Underlying Zoning
- D. Ordinance

## **INTRODUCTION**

City Council initiated the Shiloh Corridor Overlay District zone change in order to provide greater notification of the public hearing to affected and surrounding property owners and to amend the Official Zoning Map. The owners of 41 affected properties and 391 surrounding properties were notified of the Zoning Commission public hearing.

## **PROCEDURAL HISTORY**

The City-County Planning Board initiated the draft of the Shiloh Corridor Overlay District on September 9, 2003. After receiving a recommendation to approve the text amendments from the City Zoning Commission, City Council held a public hearing and approved the ordinance on first reading on June 14, 2004, excluding that part of the district located south of Hesper Road and Zoo Drive. The public hearing was preceded and followed by a series of committee, stakeholder and public meetings as listed below:

- Shiloh Corridor Overlay District Committee Meetings: 10/1/01 through 9/22/03
- Stakeholder meetings: 8/12/03 and 5/5/04
- Joint City-County meeting: 10/15/03
- Joint City-County Zoning Commission Meeting: 5/10/04
- Joint City Council and Board of County Commissioners meeting, Council approves Ordinance on First Reading: 6/14/04
- Board of County Commissioners review meetings: 7/22/04 through 8/9/04
- 1<sup>st</sup> Reading of Shiloh Corridor Overlay District – North approved: 10/25/05
- 2<sup>nd</sup> Reading of Shiloh Corridor Overlay District – North approved: 12/13/04

City Council initiated a zone change for the affected properties on December 13, 2004. Following the initiation, staff notified the affected property owners and surrounding property owners, posted the property and advertised the Zoning Commission public hearing. The City Zoning Commission held the public hearing on ZC #752 on January 4, 2005.

## **BACKGROUND**

The Yellowstone County Planning Board initiated the Shiloh Corridor Overlay District as a text amendment to the Unified Zoning Regulations in order to implement the West Billings Plan. The Plan states as a policy to “designate the full length of Shiloh Road between Interstate 90 and Rimrock Road, and neighboring lands within approximately 1,000 feet from the centerline of Shiloh Road, as a Community Entryway Corridor.” The recommended implementation strategy is to “review current Entryway Corridor Districts for application to Shiloh Road and if necessary, devise and implement an entryway corridor zoning.” A committee composed of local residents, architects, engineers, design professionals and realtors met periodically for two years to draft the Shiloh Corridor Overlay District regulations. After the draft was created, the Planning Division staff held two stakeholder meetings, inviting all the affected property owners, and one general public meeting to review the proposed regulations. The City Zoning Commission held a joint public hearing with the County Zoning Commission in May, 2004 and forwarded a recommendation of approval to the City Council, omitting the properties along Zoo Drive. City Council approved the first reading of the Ordinance for that portion of the District located north of Hesper Road in June, 2004 and instructed staff to work with the property owners along Shiloh and Zoo Drive south of Hesper Road to develop acceptable standards for that portion of the

District. Staff met with these property owners, and other affected property owners with the Yellowstone County Commissioners in a series of meetings to review the regulations. As a result of these meetings, the portion of the Shiloh Corridor Overlay District located south of King Avenue was separated, resulting in two distinct districts. This zone change applies to the north district. Council approved the north portion at first reading on October 25 and the second reading on December 13, 2004.

Some of the testimony received by the City Council was concerned with the degree of public notice and the lack of protest afforded to the landowners by processing the Shiloh Corridor Overlay District regulations as text amendments to the Unified Zoning Regulations only. Because of this concern, Council instructed staff to initiate a zone change for the properties affected by these regulations. This zone change required notification of all 41 affected property owners and all property owners within 300 feet of the affected properties of the public hearing. The notice was also published in the Billings Gazette and each property was posted. Council also changed the extent of the Overlay District from 1,000 feet to 500 feet from the centerline of Shiloh Road.

The West Billings Plan, adopted in 2002 included the results of a Visual Preference Survey designed to identify design characteristics favored by a majority of the participants. The character of nine design categories, including streets, sidewalks, signs, landscaping, parking lots and commercial development was assessed. The Shiloh Corridor Overlay District regulations attempt to reproduce the preferred character.

Much of the commercial development occurring along Shiloh Road meets or exceeds many of the standards set forth in the District Regulations and many of the property owners of future developments are in favor of these regulations. Where there were concerns over the standards, staff incorporated alternative language to address these concerns which does not compromise the intent of the Overlay District. Specific changes made from the original text include, but are not limited to:

- Establishing a fifteen-day review period and allowing the applicant to seek approval from the Planning Director if the application is not acted on in that period.
- Eliminating vague language.
- Eliminating the need to measure light emissions and replacing this standard with simple, well-defined criteria.
- Reducing the number of relative points required.
- Eliminating the number of relative points required based on zoning districts and basing it solely on the lot size.
- Replacing impractical relative design elements with simple, quantifiable standards.
- Providing for the reexamination of regulations after one year and periodically thereafter.
- Adding an appeal process.

#### **ALTERNATIVES ANALYSIS**

The City Council may approve, deny, delay or allow withdrawal of the zone change. All zone changes must be evaluated using the 12 criteria that are set out in MCA 76-2-304. The 12 criteria and the Zoning Commission's determinations are listed below.

The City Zoning Commission, prior to any recommendation, shall consider the following:

1. *Is the new zoning designed in accordance with the Growth Policy?*

The Overlay District was specifically developed to implement both the Growth Policy and the West Billings Plan.

2. *Is the new zoning designed to lessen congestion in the streets?*

The Overlay District will not affect the volume of traffic. It may have a positive effect on traffic flow within developments because of the new parking lot requirements.

3. *Will the new zoning secure safety from fire, panic and other dangers?*

The increased setbacks and other site design elements should contribute to lessening dangers on the property.

4. *Will the new zoning promote health and general welfare?*

The Overlay District enhances the aesthetics of development which should promote health and general welfare.

5. *Will the new zoning provide adequate light and air?*

Enhanced landscaping and building design will improve light and air quality.

6. *Will the new zoning prevent overcrowding of land?*

The Overlay District does not affect residential development and does not dictate densities. There will be no effect on the population densities.

7. *Will the new zoning avoid undue concentration of population?*

The Overlay District will not affect population concentrations.

8. *Will the new zoning facilitate the adequate provisions of transportation, water, sewerage, schools, parks, fire, police, and other public requirements?*

The Overlay District has provisions to enhance development by encouraging public amenities such as pedestrian and bicycle paths, park benches, transit stops and increased landscaping. These amenities should facilitate the provision of public services.

9. *Does the new zoning give reasonable consideration to the character of the district?*

Considerable thought was given to the character of the area in the development of the Overlay District regulations. Specific design elements were included, such as scale and

size of building to encourage compatibility with adjacent development. Bufferyard requirements are also imposed on commercial developments that adjoin residential uses.

10. *Does the new zoning give consideration to peculiar suitability of the property for particular uses?*

The Overlay District applies only to industrial, commercial, and mixed use developments along Shiloh Road. Shiloh Road is a principal arterial and a main entryway to the City. The District regulations are designed to improve the suitability of commercial development in context of the character of Shiloh Road.

11. *Was the new zoning adopted with a view to conserving the value of buildings?*

The increased quality of development resulting from the Overlay District standards should have a positive effect on the value of surrounding buildings and property.

12. *Will the new zoning encourage the most appropriate use of land throughout such county or municipal area?*

Yes, the Overlay District will encourage high quality commercial and mixed use development along a principal arterial.

### **STAKEHOLDERS**

Throughout the adoption process of the Shiloh Corridor Overlay District regulations, several comments were received questioning the procedure by which the regulations were adopted. Staff had determined that changes to the Unified Zoning Regulations may be adopted through the text amendment procedure. Some individuals, and particularly the Billings Association of Realtors, argued that the zone change procedure should be followed. The City Council agreed and directed staff to proceed with a zone change after adopting the Shiloh Corridor Overlay District regulations as text amendments. The zone change procedure requires notifying all affected property owners and all property owners within 300 feet of the affected properties of a public hearing to be held by the City Zoning Commission and City Council. The City Zoning Commission held the public hearing on January 4, 2005. At that meeting no one present spoke in favor but one property owner, Mr. Eggebrecht, said he generally supported the Overlay District while voicing concern about imposing regulations that restrict development. St. Vincent's Healthcare sent a letter of support to the Zoning Commission reiterating that the intended to comply with the Overlay District as they develop The Village Subdivision.

### **CONSISTENCY WITH ADOPTED POLICIES OR PLANS**

Consistency with adopted policies and plans is discussed under the Zoning Commission determinations.

**RECOMMENDATION**

The City Zoning Commission recommends, on a vote of 3 in favor and none opposed, that the City Council approve Zone Change #752 and adopt the determinations of the 12 criteria.

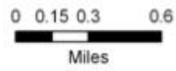
**ATTACHMENT**

- A. Shiloh Corridor Overlay District – Official Map
- B. Shiloh Corridor Overlay District – Affected Properties
- C. Shiloh Corridor Overlay District – Underlying Zoning
- D. Ordinance

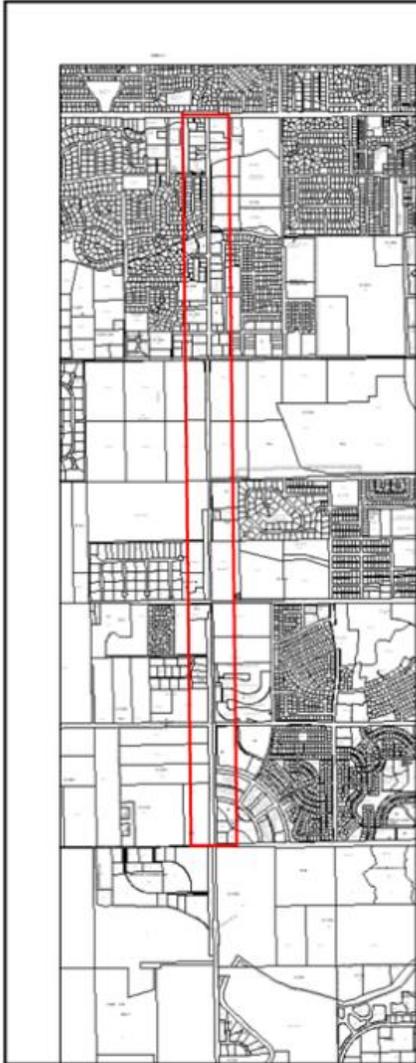
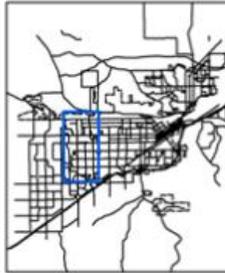
**SHILOH CORRIDOR  
OVERLAY DISTRICT**

**Official Map**

-  City Limits
-  Parcels
-  Shiloh Overlay District

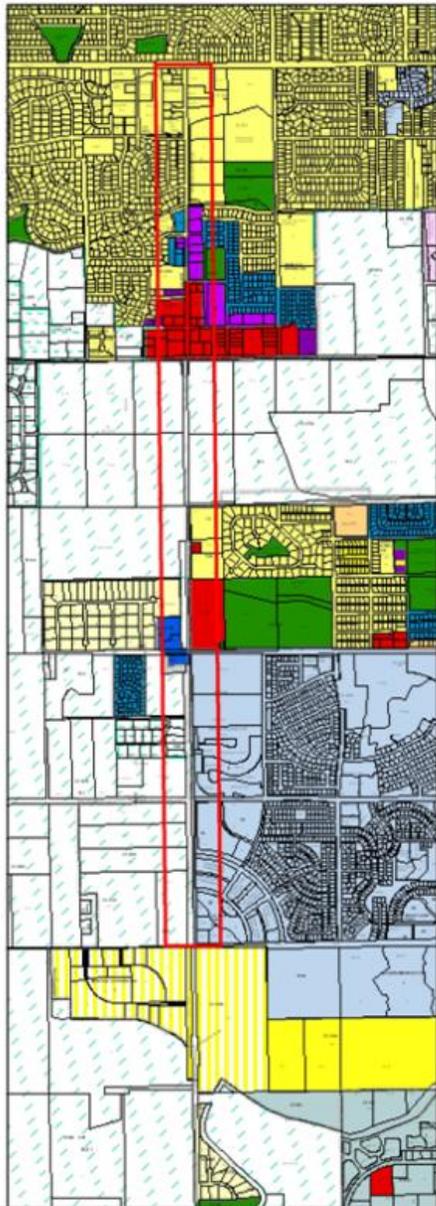


**District Location**

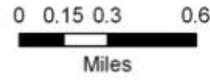


# SHILOH CORRIDOR OVERLAY DISTRICT

## Zoning



- ZONE\_CODE
- A1
  - AS
  - CBD
  - CC
  - CI
  - EHC
  - ELC
  - ELI
  - EMIX
  - HC
  - HI
  - LI
  - MCPZD
  - NC
  - P
  - PUD
  - PZD
  - R150
  - R200
  - R50
  - R60
  - R70
  - R75
  - R80
  - R96
  - RLMF
  - RMF
  - RMFR
  - RMH
  - RP
  - RS
  - W



### District Location



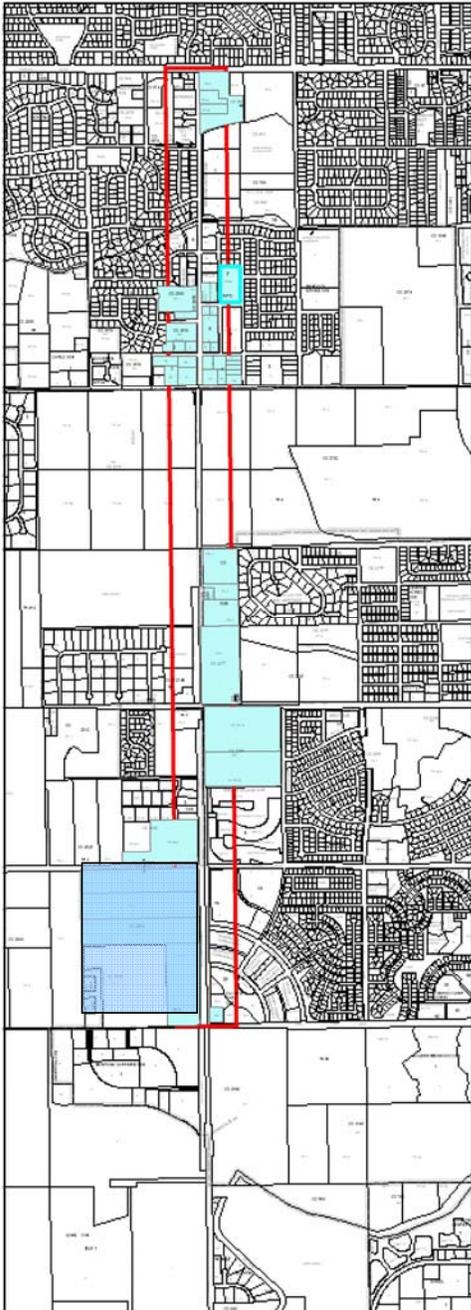
# SHILOH CORRIDOR OVERLAY DISTRICT

## Affected Properties

- City Limits
- Parcels
- Shiloh Overlay District
- Affected\_-\_City



### District Location



**ATTACHMENT C**  
**Shiloh Corridor Overlay District – Zoning**  
**ORDINANCE NO. 05-**

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP TO SHOW THE EXTENT OF THE SHILOH CORRIDOR OVERLAY DISTRICT 500 FEET FROM THE CENTERLINE OF SHILOH ROAD FROM KING AVENUE NORTH TO RIMROCK ROAD REGULATING DEVELOPMENT STANDARDS, LANDSCAPING STANDARDS, BUILDING DESIGN STANDARD AND OTHER SITE DEVELOPMENT STANDARDS, AND SIGN STANDARDS FOR COMMERCIAL, INDUSTRIAL AND MULTIFAMILY DEVELOPMENTS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

1. RECITALS. *Title 76, Chapter 2, Part 3, MCA, and Sections 27-302 and 27-1502, BMCC,* provide for amendment to the Official Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the twelve (12) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the twelve (12) criteria required by state law.

2. DESCRIPTION. The Shiloh Corridor Overlay District extends 500 feet on either side of the centerline of Shiloh Road from King Avenue to Rimrock Road. The properties affected include all properties that are within the City limits and are zoned or used for commercial, industrial or multifamily purposes.

3. ZONE AMENDMENT. The official zoning map is hereby amended and all City properties within the Shiloh Corridor Overlay District that are zoned or used for commercial, industrial or multifamily purposes, shall be subject to all the rules and regulations pertaining **Shiloh Corridor Overlay District** as set out in the Billings, Montana City Code.

4. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

5. EFFECTIVE DATE. This ordinance shall be effective from and after final passage and as provided by law.

PASSED by the City Council on first reading January 24, 2005.

PASSED, ADOPTED AND APPROVED on second reading February 14, 2005.

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Charles F. Tooley, Mayor

ATTEST:

BY:  
Marita Herold, CMC/AAE, City Clerk

ZC#752

[\(Back to Regular Agenda\)](#)

## AGENDA ITEM:




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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, January 24, 2005**

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TITLE: Zone Change #753 Public Hearing and 1<sup>st</sup> Reading of Ordinance  
DEPARTMENT: Planning and Community Services  
PRESENTED BY: Aura Lindstrand, Planner II

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**PROBLEM/ISSUE STATEMENT:** The applicant is requesting to rezone Lot 1, Block 27, Lake Hills Subdivision 6<sup>th</sup> Filing from Residential 7000 (northern portion) and Residential 9600 (southern portion) to Public zoning. This rezone is being processed in order to fulfill the conditions of approval, as required by the preliminary plat of Kreitz Heights Subdivision, which includes the subject property. On January 4, 2005, the Zoning Commission conducted a public hearing on the proposed rezone and voted 3-0 to recommend approval to the City Council.

**ALTERNATIVES ANALYZED:** Section 76-2-304 of the Montana Code Annotated (MCA) requires that all zone changes be reviewed in accordance with 12 criteria. Utilizing the 12 criteria to determine the appropriateness of the zone change request, the City Council may:

1. Approve the zone change request
2. Deny the zone change request
3. Allow withdrawal of the application
4. Delay action for up to thirty (30) days

**FINANCIAL IMPACT:** The proposed zone change will not provide any additional revenue for the City at this time.

**RECOMMENDATION**

The Zoning Commission recommends that the City Council approve Zone Change #753 and adopt the determinations of the discussed 12 criteria.

Approved by: \_\_\_\_\_ City Administrator \_\_\_\_\_ City Attorney

**ATTACHMENTS:**

- A: Zoning Map
- B: Zoning Exhibit (proposed site plan)
- C: Site Photographs

D: Ordinance

## **INTRODUCTION**

The applicant is requesting to rezone Lot 1, Block 27, Lake Hills Subdivision 6<sup>th</sup> Filing from Residential 7000 (northern portion) and Residential 9600 (southern portion) to Public zoning. This rezone is being processed in order to fulfill the conditions of approval, as required by the preliminary plat of Kreitz Heights Subdivision, which includes the subject property.

## **PROCEDURAL HISTORY**

- The Zoning Commission conducted a public hearing on January 4, 2005, and voted 3-0 to recommend approval to the City Council.
- The City Council will conduct a public hearing on January 24, 2005, in order to determine approval or denial of the proposed zone change.
- Should the ordinance be approved on first reading, the City Council will consider the zone change for a second reading on February 14, 2005.

## **BACKGROUND**

The applicant is requesting to rezone Lot 1 of Block 27 of Lake Hills Subdivision 6<sup>th</sup> Filing from Residential 7000 (northern portion) and Residential 9600 (southern portion) to Public zoning. This rezone is being processed in order to fulfill the conditions of approval, as required by the preliminary plat of Kreitz Heights Subdivision, which includes the subject property.

As proposed on the preliminary plat, access to the proposed subdivision will be via an extension of Almadin Lane, a dedicated 50-foot wide public right-of-way, which will continue across the intersection of St. Andrews Drive through the center of the subject property. As such, two (2) remainder parcels are formed; one (1) containing 4,361 square feet (north portion) and one (1) containing 5,439 square feet. The remainder parcels do not satisfy the minimum lot size for the zoning districts in which they are located; therefore, the applicant has requested to rezone entire Lot 1 to Public zoning in order to create a landscaped entryway for the proposed subdivision.

While only landscaping has been proposed at this time, Public zoning does provide for limited uses that are reserved for the public, such as educational facilities and public administration offices. These would be predictable uses for the northern portion of the property in the future, as Rocky Mountain College retains ownership of this portion. The southern portion of the property is retained by the County Water District of Billings Heights and contains the existing pump station, which may be required to expand in the future based on water demand. While no structures are proposed at this time, the properties may be developed further at a later date.

## **ALTERNATIVES ANALYSIS**

The City Council may approve, deny, delay or allow withdrawal of the zone change. All zone changes shall be evaluated using the 12 criteria within Section 76-2-304 of the Montana Code Annotated (MCA), as follow:

Prior to forwarding a recommendation to the City Council, the City Zoning Commission shall consider the following 12 criteria for zone changes:

1. *Is the new zoning designed in accordance with the Growth Policy?*

The Growth Policy does not provide specific information regarding the location of Public zoning within the City and County; however staff finds that the subject property is suitable for this type of zoning.

While only landscaping is proposed at this time, Public zoning would provide for limited Public uses, such as administrative offices or public utilities. Chapter 3: Community Goals and Objectives of the Growth Policy specifies that there is a desire for more mixed uses within neighborhoods. Staff finds that the permitted uses within this type of zoning would be compatible with the adjacent residential uses and would and promote a mix of uses within the neighborhood.

3. *Is the new zoning designed to lessen congestion in the streets?*

The subject property is bordered on the west by St. Andrews Drive and Almadin Lane, which is proposed to extend through the center of the property. As no structures are proposed for the site, staff finds that these streets will sufficiently serve the subject property.

3. *Will the new zoning secure safety from fire, panic and other dangers?*

At this time, only landscaping is proposed for the site, however should the subject property be developed in the future, the Fire, Police, and Building Departments will review the proposed building plans for compliance with applicable codes.

4. *Will the new zoning promote health and general welfare?*

The proposed zone change will have no adverse impacts on health and general welfare.

5. *Will the new zoning provide adequate light and air?*

Sufficient setbacks are required within the proposed zoning that will allow for adequate light and air.

6. *Will the new zoning prevent overcrowding of land?*

At this time, only landscaping is proposed, therefore no overcrowding is anticipated.

7. *Will the new zoning avoid undue concentration of population?*

No additional structures are proposed at this time, which will preclude any undue concentrations of population.

8. *Will the new zoning facilitate the adequate provisions of transportation, water, sewerage, schools, parks, fire, police, and other public requirements?*

- Transportation:* The existing streets are sufficient to accommodate the proposed use of entryway landscaping for the subject property.
- Water and Sewerage:* Municipal water and sewer services are available at the site and have the capacity to serve the subject property.
- Schools and Parks:* No structures or uses other than landscaping are proposed at this time, therefore there will be no impact to schools.
- Fire and Police:* The proposed street (Almadin Lane) that will extend through the center of the property was reviewed by the Fire and Police Department with the preliminary plat application; no comments were received. At this time, no additional structures are proposed for the site, therefore no impact to police and fire protection is expected.

9. *Does the new zoning give reasonable consideration to the character of the district?*

The proposed zoning will provide for a landscaped entryway to the proposed Kreitz Heights Subdivision, maintaining a buffer between the proposed street (extension of Almadin Lane) and the adjacent single-family residence to the north.

If development is proposed in the future, the size of the remainder parcels would preclude large structures onsite, therefore any offices or other public uses proposed would have minimal impact on the surrounding residential neighborhood

10. *Does the new zoning give consideration to peculiar suitability of the property for particular uses?*

Staff finds that the subject property is suitable for the requested zoning district.

While no structures are proposed at this time, the owners of the subject property may develop at a later date. At that time the building plans will be reviewed for consistency with required setbacks and maximum lot coverage permitted by Section 27-309 of the Unified Zoning Regulations.

11. *Was the new zoning adopted with a view to conserving the value of buildings?*

Staff finds that the proposed zoning will not alter the value of existing structures within the immediate vicinity of the subject property.

12. *Will the new zoning encourage the most appropriate use of land throughout such county or municipal area?*

Staff finds that the proposed zoning will provide for the most appropriate use of this property, as the remainder parcels created by the proposed road do not satisfy the lot size

minimums required for the R-9600 and R-7000 zoning districts. The rezone to Public will bring these remainder lots into conformance with the zoning regulations.

**STAKEHOLDERS**

The Zoning Commission conducted a public hearing on January 4, 2005, for the proposed zone change request and voted 3-0 to forward a positive recommendation to the City Council. There was no discussion or opposition to the proposed zone change.

Rick Leuthold of Engineering Inc. (agent) was present at the hearing to answer questions.

**CONSISTENCY WITH ADOPTED POLICIES OR PLANS**

Consistency with the 2003 Growth Policy Plan is discussed in the Alternatives Analysis section of this report.

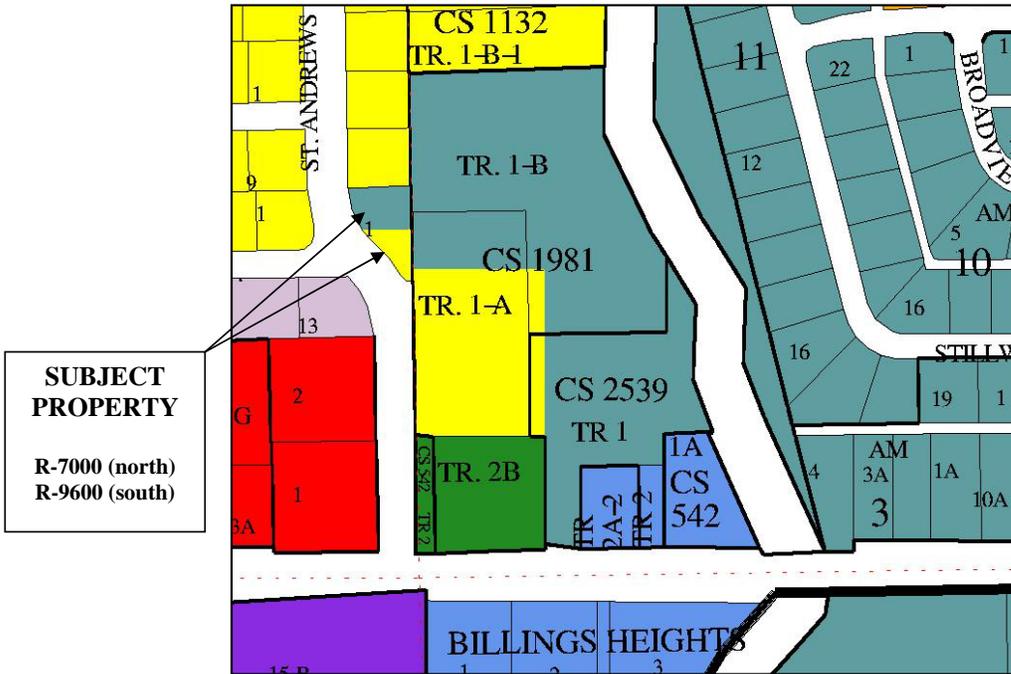
**RECOMMENDATION**

The Zoning Commission recommends that the City Council approve Zone Change #753 and adopt the determinations of the discussed 12 criteria.

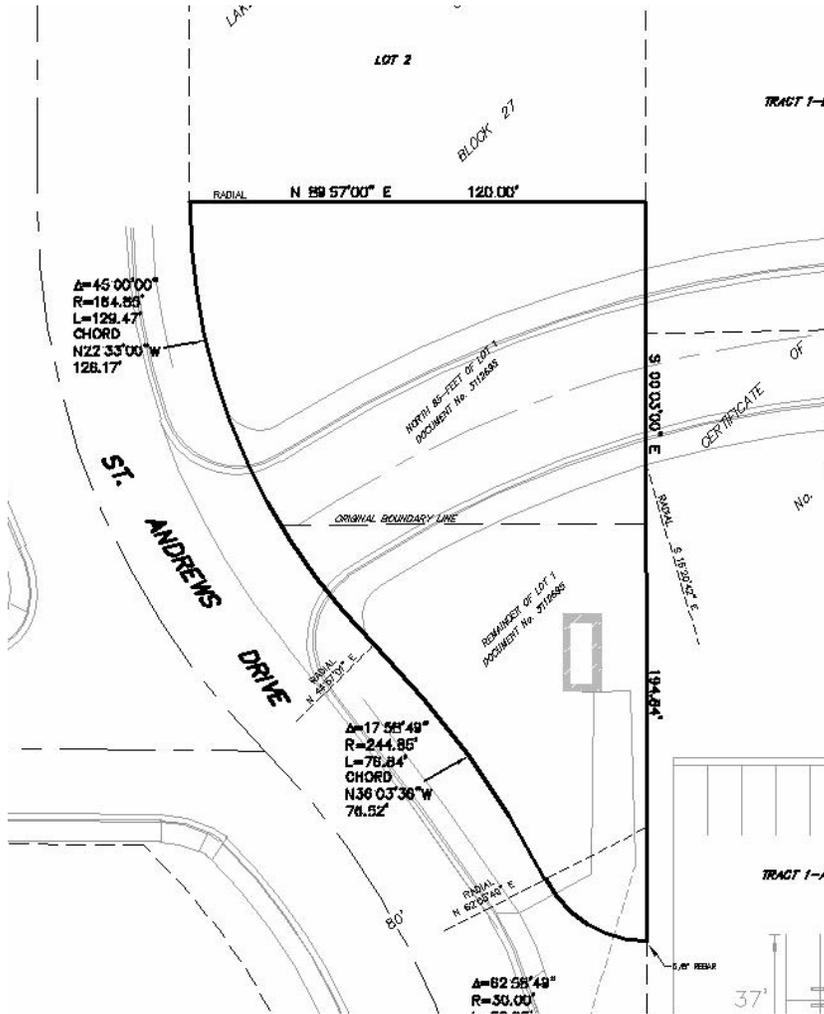
**ATTACHMENTS:**

- A: Zoning Map
- B: Zoning Exhibit (proposed site plan)
- C: Site Photographs
- D: Ordinance

**Attachment A**  
Surrounding Zoning



**Attachment B**  
Zoning Exhibit



**Attachment C**  
Site photographs



**Figure 1:** From southwest corner of the subject property looking north to vacant property and existing single-family residences. (41<sup>st</sup> Street is located along the western border of the property in the photograph)



**Figure 2:** From the center point of the subject property looking east toward vacant land (future Kreitz Heights Subdivision).



**Figure 3:** From the center point of the subject property looking north along St. Andrews Drive toward the existing single-family residences.



**Figure 4:** From the northwest corner of the property looking west toward existing single-family residences and apartment complex.



**Figure 5:** From the northwest corner looking south toward the intersection of St. Andrews Drive and Almadin Lane (existing apartment building is located on Almadin Lane)

**Attachment D**

**ORDINANCE NO. 04-**

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION FOR Lot 1, Block 27, Lake Hills Subdivision 6<sup>th</sup> Filing, located within Section 16, Township 1N, Range 26E, P.M.M, Yellowstone County, Montana.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

1. **RECITALS.** *Title 76, Chapter 2, Part 3, MCA, and Sections 27-302 and 27-1502, BMCC,* provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the twelve (12) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the twelve (12) criteria required by state law.

2. **DESCRIPTION.** Lot 1, Block 27, Lake Hills Subdivision 6<sup>th</sup> Filing, located within Section 16, Township 1N, Range 26E, P.M.M, Yellowstone County, Montana, Lot 1 is presently zoned Residential 7000 and Residential 9600 and is shown on the official zoning maps within this zone.

3. **ZONE AMENDMENT.** The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Residential 7000 and Residential 9600** to **Public** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Public** as set out in the Billings, Montana City Code.

4. **REPEALER.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

5. **EFFECTIVE DATE.** This ordinance shall be effective from and after final passage and as provided by law.

PASSED by the City Council on first reading January 24, 2005.

PASSED, ADOPTED AND APPROVED on second reading February 14, 2005.

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Charles F. Tooley, Mayor

ATTEST:

BY:  
Marita Herold, CMC/AAE, City Clerk

ZC#753

[\(Back to Regular Agenda\)](#)

AGENDA ITEM:



**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, January 24, 2005**

TITLE: SID 1369 Moore Lane Resolution to Create District  
 DEPARTMENT: Public Works/Engineering  
 PRESENTED BY: David D. Mumford, PE, Public Works Director

**PROBLEM/ISSUE STATEMENT:** The City of Billings and a number of residents within Flanagan Subdivision have the desire to construct public improvements along Moore Lane between the Burlington Northern Sante Fe Railroad and Central Avenue. These improvements generally consist of water, sanitary sewer, storm drain, curb and gutter, sidewalk, streetlights and street improvements to Moore Lane frontage, as shown on the attached "Exhibit A".

**ALTERNATIVES ANALYZED:**

1. Approve the Resolution Creating Special Improvement District 1369; or
2. Do not approve the Resolution Creating Special Improvement District 1369.

**FINANCIAL IMPACT:** The total estimated cost of the project is \$1,147,652.57, which will be recovered through direct assessments to property owners within the district boundary and City of Billings contributions.

<b>Project Number</b>	<b>SID 1369</b>
<b><u>Budget Amount and Sources of Funds</u></b>	
PW Funds (Street Improvements)	\$ 145,652.00
PW-Belknap Utility Funds	\$ 37,024.25
City Contribution per Resolution 04-18 / 204	\$ 144,485.32
SID 1369 Moore Lane	<u>\$1,147,491.00</u>
<b>Total Estimated Project Cost</b>	<b>\$1,474,652.57</b>

**RECOMMENDATION**

Staff recommends that Council approve the Resolution to Create Special Improvement District 1369.

Approved By: City Administrator \_\_\_\_\_ City Attorney \_\_\_\_\_

**ATTACHMENT**

A. Boundary of Proposed Special Improvement District “Exhibit A” (1 page)

## **INTRODUCTION**

The City of Billings and a number of the residents within Flanagan Subdivision have the desire to construct public improvements along Moore Lane between Burlington Northern Santa Fe Railroad and Central Avenue. These improvements generally consist of water, sanitary sewer, storm drain, curb and gutter, sidewalk, streetlights and street improvements to Moore Lane frontage as shown on the attached "Exhibit A". To complete the project, it is necessary to create a Special Improvement District.

## **PROCEDURAL HISTORY**

- October 25, 2004 – Resolution of Intent to Create SID 1369 approved by Council.
- November 22, 2004 – Public Hearing and Resolution Creating SID 1369. Delay of Vote on Intent to Create SID 1369 until January 24<sup>th</sup>, 2005.
- Award of Professional Services Contract Upon Council Approval to Create SID 1369.
- Spring 2005 – Resolution Authorizing for Construction Bids and Construction Contract Award. (Proposed Schedule)

## **BACKGROUND**

The boundary of this proposed special improvement district is as indicated on the attached "Exhibit A". The public improvements contemplated under the terms of this project include water main, sanitary sewer, storm drain, curb and gutter, sidewalk, street widening, street lights and street improvements to Moore Lane frontage.

In accordance with the Special Improvement District Policy (Resolution No. 04-18204) adopted by City Council on October 12, 2004, the adjacent property owners will be responsible for the improvements on the existing collector street. The City will be funding the reconstruction of the existing asphalt street section using Gas Tax funds taken from another CIP project. The water improvements will be funded through Utility Water funding.

The protest period ended on November 12, 2004. The total number of protests will be presented at the council meeting of November 22, 2004. Vote to create SID 1369 was delayed until the January 24, 2005 Council Meeting. If approved, it is anticipated that construction of SID 1369 will begin in the summer of 2005 and be completed by the Fall of 2005.

## **RECOMMENDATION**

Staff recommends that Council approve the Resolution to Create Special Improvement District 1369.

## **ATTACHMENTS**

- A. Boundary of Proposed Special Improvement District "Exhibit A" (1 page)

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the City), hereby certify that the attached resolution is a true copy of Resolution No. \_\_\_\_\_, entitled: **RESOLUTION RELATING TO SPECIAL IMPROVEMENT DISTRICT NO. 1369; DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO CREATE THE DISTRICT FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND** (the Resolution" was duly adopted by the City Council of the City at a meeting on January 24, 2005 that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.)

I further certify that, upon vote being taken on the Resolution at said meeting, the following Councilmembers voted in favor thereof: \_\_\_\_\_;

voted against the same: \_\_\_\_\_;

or were absent: \_\_\_\_\_.

WITNESS my hand officially this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_\_.

\_\_\_\_\_  
Marita Herold, CMC City Clerk

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RESOLUTION NO. 04-\_\_\_\_\_

RESOLUTION RELATING TO SPECIAL IMPROVEMENT DISTRICT NO. 1369; DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO CREATE THE DISTRICT FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND

BE IT RESOLVED by the City Council of the City of Billings (the City), Montana, as follows:

**Section 1. Proposed Improvements; Intention To Create District.** The City proposes to undertake certain local Improvements (the "Improvements") to benefit certain property located in the City. The Improvements consist of the construction of sewer main, storm drainage facilities, street lighting and street improvements, as more particularly described in Section 5. The total estimated costs of the Improvements are \$1,147,491.00. The costs of the Improvements are to be paid from the sale of Special Improvement District bonds hereinafter described. It is the intention of this Council to create and establish in the City under Montana Code Annotated, Title 7, Chapter 12, Parts 41 and 42, as amended, a Special Improvement District (the "District") for the purpose of financing costs of the Improvements and paying costs incidental thereto, including costs associated with the sale and the security of Special Improvement District bonds drawn on the District (the "Bonds"), the creation and administration of the District, the funding of a deposit to the City's Special Improvement District Revolving Fund (the "Revolving Fund"). The total estimated costs of the Improvements, including such incidental costs, to be financed by the Bonds are \$1,147,491.00. The Bonds are to be payable primarily from special assessments to be levied against property in the District, which property will be specially benefited by the Improvements.

**Section 2. Number of District.** The District, if the same shall be created and established, shall be known and designated as Special Improvement District No. 1369 of the City of Billings, Montana.

**Section 3. Boundaries of District.** The limits and boundaries of the District are depicted on a map attached as Exhibit A hereto (which is hereby incorporated herein and made a part hereof) and more particularly described on Exhibit B hereto (which is hereby incorporated herein and made a part hereof), which boundaries are designated and confirmed as the boundaries of the District. A listing of each of the properties in the District is shown on Exhibit E hereto (which are hereby incorporated herein and made a part hereof).

**Section 4. Benefited Property.** The District and territory included within the limits and boundaries described in Section 3 and as shown on Exhibits A, B, and E are hereby declared to be the Special Improvement District and the territory which will benefit and be benefited by the Improvements and will be assessed for the costs of the Improvements as described in Section 7.

**Section 5. General Character of the Improvements.** The general character of the Improvements, as shown in Exhibit D, is the construction of curb & gutter, sidewalk, drive approaches, accessibility ramps, storm drain facilities, street lighting and street improvements to Moore Lane.

**Section 6. Engineer and Estimated Cost.** The Office of the City Engineer, 510 N. Broadway, 4<sup>th</sup> Floor, Billings, MT 59101, shall be the Engineer for the District. The Engineer has estimated that the costs of the Improvements, including all incidental costs, are \$1,147,491.00.

**Section 7. Assessment Methods.**

**7.1. Property to be Assessed.** All properties within the district are to be assessed for the costs of the Improvements, as specified herein. The costs of the Improvements shall be assessed against the property in the District benefiting from the Improvements based on the equal amount and linear footage methods described in Section 7-12-4162, and 7-12-4163 M.C.A., as particularly applied and set forth in this Section 7.

**7.1.2 Assessment # 1 - Linear Foot Method.**

The assessment # 1 will include Improvements to curb, gutter, sidewalks, sanitary sewer mains, water main, storm drain facilities and street lights within Flanagan Subdivision along Moore Lane between Burlington Northern Rail Road and Central Avenue. The properties to be assessed for these improvements shown on Exhibit "A" and listed as follows: C/S 363 IN LOT 6 FLANAGAN SUB(OLD CODE # D-229); FLANAGAN SUB AMND 6B(OLD D01450) (98); OLD #(D 233)FLANAGAN SUB S 145' OF LOT 6 8 1S 26E1.A; OLD #(D 228)FLANAGAN SUB LOT 5IN NE4 8 1S 26E4.55A; FLANAGAN SUB (LOT 12 AMEND) 12A; MAVERIK SUB N 150' OF LOT 11FLANAGAN SUB AMND IN 8 1S 26E 1 1; FLANAGAN SUB(LOT 12 AMEND) 12C & 12D; MAVERIK SUB 2<sup>ND</sup> FIL 2 1; OLD #(D263)FLANAGAN SUB 145.55' OFN2 OF LOT 12; MAVERICK SUB 2<sup>ND</sup> 3 1OLD #(D01475) ('87); C/S 352 TR AIN LOT 12 FLANAGAN SUB(OLD CODE # D-264); MAVERICK SUB 2<sup>ND</sup> FIL 4 1OLD #(D)1475) ('87); MAVERICK SUB 2<sup>ND</sup> FIL 5 1OLD # (D01475) ('87)NO PERSONAL PROPERTY 1992; C/S 352 TR BIN S2 LOT 12 FLANAGAN SUB(OLD CODE # D-262); FLANAGAN N 3/5 LOT 22 AMEND 7 & 10' ADJ VAC ALLEY; C/S 352 TR CIN S 72.53' OF LOT 12 FLANAGAN SUB(OLD CODE # D-266); FLANAGAN SUB N 3/5 LOT 22 AMNDN60' OF 8 & 10' ADJ VAC ALLEY; OLD #(D 292)FLANAGAN SUB N 150' OF 21; FLANAGAN SUBN 3/5 LOT 22 AMND 9 & 10& S 5' OF 8& 10' ADJ VAC ALLEY; C/S 1495 FLANAGAN SUBCENTER TRCT 21-CIN NE4 8 1S 26EOLD #(D292-1) .41A; FLANAGAN SUB N 3/5 LOT 22 AMND 11 &10' ADJ VAC ALLEY; OLD #(D 292-2)FLANAGAN SUB 21A; FLANAGAN SUB N 3/5 LOT 22 AMEND 12&10' ADJ VAC ALLEY; FLANAGAN SUB AMND 21B-1 (99); OLD #(D 294)FLANAGAN SUB 22AN 2/3 OF 2/5 OF LT 22 AMND; FLANAGAN SUB 22BN 2/3 OF S 2/5 OF LOT 22 AMND(OLD D 1512) (03); OLD #(D 293)FLANAGAN SUBS 1/3 OF S 2/5 22; FLANAGAN SUB AMND 21B-2 (99); C/S 116 AMND TR 1A & 1B (93)(I00777 ALSO HERE) (03); OLD #(D 323)FLANAGAN SUB LOT 28 8 1S 26E1.70A; C/S 116 AMND TR 1CIN LOT 27 FLANAGAN SUB(OLD CODE # D-322) .41A; FLANAGAN SUB FRAC LOT 27 AMEND 1; FLANGAN SUB FRAC LOT 27 AMEND 2 &30' ABDN 11<sup>TH</sup> STREET WEST. The costs of the Improvements plus the proportionate share of the incidental costs of issuing the Bonds

attributable to the parcels in the District is \$976,611.00. The total of \$976,611.00 shall be assessed against each lot, tract, or parcel of land in the District, as above-mentioned, for that part of the costs of the Improvements that the linear frontage of such lot, tract or parcel bears to the total linear frontage of all lots, tracts, or parcels of land in the District, as above-mentioned. The total linear frontage of parcels attributable to this assessment is 3,782.60 linear feet. The costs of the Improvements and the properties share of the incidental costs to be financed by the Bonds assessable to the above-mentioned parcels per linear frontage of each parcel are estimated to be \$258.1851100.

### **7.1.3 Assessment # 2 - Equal Amount Method.**

Assessment #2 will include sewer laterals (connections to main) to be constructed on Moore Lane as described in Exhibit D. The properties to be assessed for these improvements include the following: OLD #(D 292)FLANAGAN SUB N 150' OF 21; FLANAGAN SUBN 3/5 LOT 22 AMND 9 & 10& S 5' OF 8& 10' ADJ VAC ALLEY; C/S 1495 FLANAGAN SUBCENTER TRCT 21-CIN NE4 8 1S 26EOLD #(D292-1) .41A; FLANAGAN SUB N 3/5 LOT 22 AMND 11 & 10' ADJ VAC ALLEY; OLD #(D 292-2)FLANAGAN SUB 21A; FLANAGAN SUB N 3/5 LOT 22 AMEND 12&10' ADJ VAC ALLEY; FLANAGAN SUB AMND 21B-1 (99); OLD #(D 294)FLANAGAN SUB 22AN 2/3 OF 2/5 OF LT 22 AMND; FLANAGAN SUB 22BN 2/3 OF S 2/5 OF LOT 22 AMND(OLD D 1512) (03); OLD #(D 293)FLANAGAN SUBS 1/3 OF S 2/5 22; FLANAGAN SUB AMND 21B-2 (99); C/S 116 AMND TR 1A & 1B (93)(I00777 ALSO HERE) (03); OLD #(D 323)FLANAGAN SUB LOT 28 8 1S 26E1.70A; C/S 116 AMND TR 1CIN LOT 27 FLANAGAN SUB(OLD CODE # D-322) .41A; FLANAGAN SUB FRAC LOT 27 AMEND 1; FLANAGAN SUB FRAC LOT 27 AMEND 2 & 30' ABDN 11<sup>TH</sup> STREET WEST . For the purposes of equitably apportioning special benefit to each lot, tract or parcel of land in the District, as above-mentioned, the Engineer has determined that each lot, tract, or parcel of land, receiving sewer main improvements, shall equally bear the costs of the improvements as set forth hereto to arrive at an equal cost for the improvements. The total estimated cost of the Assessment is \$ 128,100.00 and shall be assessed against each lot, tract, or parcel of land within the District, as above-mentioned, receiving sewer main improvements, on an equal amount basis based on the bid price to be received. The equal amount assessment is estimated to be \$8,006.25.

### **7.1.4 Assessment # 3 - Equal Amount Method.**

Assessment #3 will include sewer laterals (connections to main) to be constructed on Moore Lane as described in Exhibit D. The properties to be assessed for these improvements include the following: FLANAGAN SUB AMND 6B(OLD D01450) (98); FLANAGAN SUB (LOT 12 AMEND) 12A; MAVERIK SUB N 150' OF LOT 11FLANAGAN SUB AMND IN 8 1S 26E 1 1; MAVERICK SUB 2<sup>ND</sup> FIL 5 1OLD # (D01475) ('87)NO PERSONAL PROPERTY 1992; OLD #(D 292)FLANAGAN SUB N 150' OF 21; FLANAGAN SUBN 3/5 LOT 22 AMND 9 & 10& S 5' OF 8& 10' ADJ VAC ALLEY; C/S 1495 FLANAGAN SUBCENTER TRCT 21-CIN NE4 8 1S 26EOLD #(D292-1) .41A; FLANAGAN SUB N 3/5 LOT 22 AMND 11 & 10' ADJ VAC ALLEY; OLD #(D 292-2)FLANAGAN SUB 21A; FLANAGAN SUB N 3/5 LOT 22 AMEND 12&10' ADJ VAC ALLEY; FLANAGAN SUB AMND 21B-1 (99); OLD #(D 294)FLANAGAN SUB 22AN 2/3 OF 2/5 OF LT 22 AMND; FLANAGAN SUB 22BN 2/3 OF S 2/5 OF LOT 22 AMND(OLD D 1512) (03); OLD #(D 293)FLANAGAN SUBS 1/3 OF S 2/5 22; FLANAGAN SUB AMND 21B-2 (99); C/S 116 AMND TR 1A & 1B (93)(I00777 ALSO

HERE) (03); OLD #(D 323)FLANAGAN SUB LOT 28 8 1S 26E1.70A; C/S 116 AMND TR 1CIN LOT 27 FLANAGAN SUB(OLD CODE # D-322) .41A; FLANAGAN SUB FRAC LOT 27 AMEND 1; FLANGAN SUB FRAC LOT 27 AMEND 2 &30' ABDN 11<sup>TH</sup> STREET WEST . For the purposes of equitably apportioning special benefit to each lot, tract or parcel of land in the District, as above-mentioned, the Engineer has determined that each lot, tract, or parcel of land, receiving sewer lateral improvements, shall equally bear the costs of the improvements as set forth hereto to arrive at an equal cost for the improvements. The total estimated cost of the Assessment is \$ 42,780.00 and shall be assessed against each lot, tract, or parcel of land within the District, as above-mentioned, receiving sewer lateral improvements, on an equal amount basis based on the bid price to be received. The equal amount assessment is estimated to be \$2,139.00.

**7.2. Assessment Methodologies Equitable and Consistent With Benefit.** This Council hereby determines that the methods of assessment and the assessment of costs of the specific improvements against the properties benefited thereby as prescribed in this Section 7 are equitable in proportion to and not exceeding the special benefits derived from the respective improvements by the lots, tracts, and parcels to be assessed therefore within the District.

**Section 8. Payment of Assessments.** The special assessments for the costs of the Improvements shall be payable over a term not exceeding 15 years, each in equal semiannual installments of principal, plus interest, or equal semiannual payments of principal and interest, as this Council shall prescribe in the resolution authorizing the issuance of the Bonds. Property Owners have the right to prepay assessments as provided by law. Further, all owners shall have the opportunity to prepay their assessments prior to sale of the SID bonds.

**Section 9. Method of Financing; Pledge of Revolving Fund; Findings and Determinations.** The City will issue the Bonds in an aggregate principal amount not to exceed \$1,147,491.00 in order to finance the costs of the Improvements. Principal of and interest on the Bonds will be paid from special assessments levied against the properties in the District. This Council further finds it is in the public interest, and in the best interest of the City and the District, to secure payment of principal of and interest on the Bonds by the Revolving Fund and hereby authorizes the city to enter into the undertakings and agreements authorized in Section 7-12-4225 in respect of the Bonds.

In determining to authorize such undertakings and agreements, this Council has taken into consideration the following factors:

(a) **Estimated Market Value of Parcels.** The estimated market value of the lots, parcels, or tracts in the District as of the date of adoption of this resolution, as estimated, by the County Assessor for property tax purposes ranges from \$21,215 to \$595,428 and is set forth in Exhibit E. The average market value is \$182,386.36 with the median being \$145,250.00. The special assessments to be levied under Section 7 against each lot, parcel, or tract in the District is less than the increase in estimated value of the lot, parcel, or tract as a result of the construction of the Improvements.

(b) **Diversity of Property Ownership.** There are a total of 33 parcels within the district boundaries. No improvements, public or private, are located on any of the parcels within the District. There are 24 different owners of the 33 parcels in the district boundaries.

(c) **Comparison of Special Assessments and Property Taxes and Market Value.** Based on an analysis of the aggregate amount of the proposed, any outstanding special assessments (whether or not delinquent), and any delinquent property taxes (as well as any known industrial development bonds theretofore issued and secured by a mortgage against a parcel in the District) against each lot, parcel, or tract in the District in comparison to the estimated market value of such lot, parcel, or tract after the Improvements, the City concludes that, overall, the estimated market value of the lots, tracts, or parcels of land in the District exceeds the sum of special assessments, delinquent property taxes, and current assessments and is set forth in Exhibit E.

(d) **Delinquencies.** An analysis of the amount of delinquencies in the payment of outstanding special assessments or property taxes levied against the properties in the District shows that of 33 properties, one (1) property was delinquent which represents 0.3% of the total number of properties in the District, and is set forth in Exhibit E.

(e) **The Public Benefit of the Improvements.** The total estimated cost of installing these public improvements is \$1,147,491.00, the full cost of which would be recovered through direct assessments to property owners within the District. There are a total of 33 parcels within the District. Of the 33 parcels within the District, 26 parcels are fully developed. This condition is necessary to satisfy the City's Special Improvement District Policy regarding raw land subdivision. The public improvements contemplated under the terms of this proposed District are required by the City Subdivision, Site Development and Zoning Ordinances. All properties are zoned "Controlled Industrial".

#### **Section 10. Reimbursement Expenditures.**

**10.01. Regulations.** The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City for project expenditures paid by the City prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the "Regulations") require that the City adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within 18 months (or three years, if the reimbursement bond issue qualifies for the "small issuer" exception

from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

**10.02. Prior Expenditures.** Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures permitted to be reimbursed under the transitional provision contained in Section 1.150-2(j)(2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a “de minimus” amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Improvements have been paid by the City before the date 60 days before the date of adoption of this resolution.

**10.03. Declaration of Intent.** The City reasonably expects to reimburse the expenditures made for costs of the Improvements out of the proceeds of Bonds in an estimated maximum aggregate principal amount of \$1,147,491.00 after the date of payment of all or a portion of the costs of the Improvements. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

**10.04. Budgetary Matters.** As of the date hereof, there are no City funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Improvements, other than pursuant to the issuance of the Bonds. The statement of intent contained in this resolution, therefore, is determined to be consistent with the City’s budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.

**10.05. Reimbursement Allocations.** The City’s financial officer shall be responsible for making the “reimbursement allocations” described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the Bonds to reimburse the source of temporary financing used by the City to make prior payment of the costs of the Improvements. Each allocation shall be evidenced by an entry on the official books and records of the City maintained for the Bonds or the Improvements and shall specifically identify the actual original expenditure being reimbursed.

**Section 11. Public Hearing Protests.** At any time within fifteen (15) days from and after the date of the first publication of the notice of the passage and approval of this resolution, any owner of real property within the District subject to assessment and taxation for the cost and expense of making the Improvements may make and file with the City Clerk until 5:00 p.m., M.T., on the expiration date of said 15-day period (November 12, 2004), written protest against the proposed Improvements, or against the extension or creation of the District or both, and this Council will at its next regular meeting after the expiration of the fifteen (15) days in which such protests in writing can be made and filed, proceed to hear all such protests so made and filed;

which said, regular meeting will be held on Monday the 22nd day of November 2004, at 6:30 p.m., in the Council Chambers, at 220 North 27<sup>th</sup> Street, in Billings, Montana.

**Section 12. Notice of Passage of Resolution of Intention.** The City Clerk is hereby authorized and directed to publish or cause to be published a copy of a notice of the passage of this resolution in the Billings Times, a newspaper of general circulation in the county on January 28th and February 4, 2005, in the form and manner prescribed by law, and to mail or cause to be mailed a copy of said notice to every person, firm, corporation, or the agent of such person, firm, or corporation having real property within the District listed in his or her name upon the last completed assessment roll for state, county, and school district taxes, at his last-known address, on or before the same day such notice is first published.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, this 24th day of January 2005.

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Mayor

Attest:

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City Clerk

[\(Back to Regular Agenda\)](#)

AGENDA ITEM:




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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, January 24, 2005**

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TITLE: Public hearing and First Reading of an Ordinance expanding Ward V  
DEPARTMENT: Planning and Community Services Department  
PRESENTED BY: Candi Beaudry, AICP, Planning Division Manager

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**PROBLEM/ISSUE STATEMENT:** On January 10, 2005 the City Council adopted Resolution No. 05-18232 annexing 50 acres located near the intersection of 52<sup>nd</sup> Street West and Grand Avenue (Annexation #04-13). The property must be added to one of the City's election wards. This ordinance will add the property to Ward V.

**FINANCIAL IMPACT:** There are no direct financial impacts if this ordinance is approved.

**RECOMMENDATION**

Staff recommends that the City Council hold a public hearing and approve the first reading of this ordinance that adds property to City Ward V.

Approved by: City Administrator \_\_\_\_\_ City Attorney \_\_\_\_\_

**ATTACHMENT**

A: Ward Ordinance and Exhibit A

**ORDINANCE NO. 05-\_\_\_\_\_**

AN ORDINANCE OF THE CITY OF BILLINGS, AMENDING BILLINGS MUNICIPAL CODE, CHAPTER 11, ELECTIONS, IN PARTICULAR, SECTION 11-102(c), WARD BOUNDARIES; AND CHANGING THE WARD BOUNDARIES ESTABLISHED THEREIN BY ADDING CERTAIN NEWLY ANNEXED REAL PROPERTY TO WARD V PROVIDING FOR CERTIFICATION AND REPEALING OF ALL ORDINANCES AND RESOLUTIONS INCONSISTENT THEREWITH.

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:**

3. AMENDMENT. Pursuant to Billings Municipal Code, Section 11-102(c) and the State Law, Billings Municipal Code, Section 11-102(c) Ward Boundaries is hereby amended by adding to the following designated Ward the following described real property:

A tract of land situated in the E1/2 NW1/4 of Section 4, T.1S., R.25E., P.M.M.,

Yellowstone County, Montana, more particularly described as:

Certificate of Survey 1877, Tracts 1 and 2, Recorded April 20, 1979, Under

Document No. 1125965, Records of Yellowstone County, Montana; containing

50.101 gross acres and 49.853 net acres, more or less (see Exhibit A).

(# 04-13)

4. CERTIFICATION. Pursuant to M.C.A. Section 13-3-103, the above change and alteration is hereby certified to the election administrator by the City Council, and the City Administrator or his designee is hereby directed to certify the changes and alterations and to deliver a map showing the boundaries of the ward, the streets, avenues and alleys by name and the ward by number, to the election administrator not more than ten (10) days after the effective date of this ordinance.
3. REPEALER. All other ordinances, sections of the Billings Municipal Code and ordinances inconsistent herewith are hereby repealed.

PASSED by the City Council on the first reading this 24<sup>th</sup> day of January, 2005.

PASSED by the City Council on the second reading this 14<sup>th</sup> day of February, 2005.

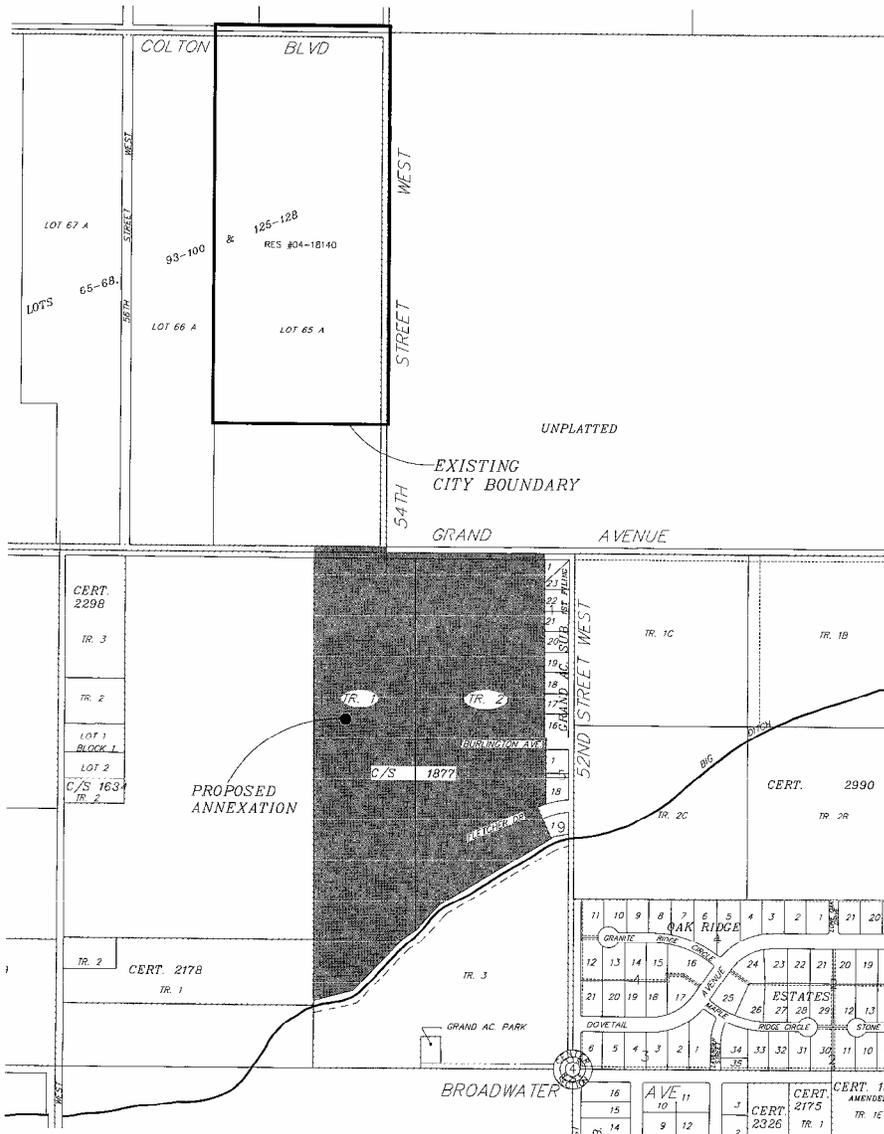
THE CITY OF BILLINGS:

\_\_\_\_\_  
Charles F. Tooley, MAYOR

ATTEST:

BY: \_\_\_\_\_  
Marita Herold, CITY CLERK

# EXHIBIT "A"



[\(Back to Regular Agenda\)](#)

## AGENDA ITEM:




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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, January 24, 2005**

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**TITLE:** Second Reading, South Shiloh Corridor Overlay District  
**DEPARTMENT:** Planning and Community Services Department  
**PRESENTED BY:** Candi Beaudry, AICP, Planning Division Manager

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**PROBLEM/ISSUE STATEMENT:** The Shiloh Corridor Overlay District was separated into two segments, north and south of King Avenue. The ordinance for a zoning text amendment pertaining to the north segment was approved on second reading on December 13, 2004 and the first reading of the south segment was approved with changes on January 10, 2005. The approved changes included: (1) Reduce the number of relative criteria from 7 of 9 to 6 of 9 (Sec. 27-1509); (2) Remove second sentence of Sec. 27-1509, "The number of points required depends on the underlying zoning of the property on which the development is located", and (3) Remove 3a in Sec. 27-1509 – "All lighting shall be cutoff type fixtures with recessed lamps having no dropped lenses". A single point has also been added for lighting values that are less than 1.5 foot candles.

**ALTERNATIVES ANALYZED:** The City Council may approve or deny the second reading of the Shiloh Corridor Overlay District South as a text amendment to the Billings Municipal City Code. If the Overlay District is approved on second reading, the Council may choose to proceed with a zone change to provide additional notice and comment on these regulations. The north segment of the Shiloh Corridor Overlay District is proceeding as a zone change.

**FINANCIAL IMPACT:** No financial impact to the City is anticipated from the creation of the South Shiloh Corridor Overlay District.

**RECOMMENDATION**

Staff is recommending that Council adopt the South Shiloh Corridor Overlay District, as defined by the area 500 feet from the centerline of Shiloh Road, from King Avenue West south to Interstate 90, including Zoo Drive on Second Reading of the Ordinance.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

**ATTACHMENT**

E. Ordinance

ATTACHMENT A  
ORDINANCE

ORDINANCE NO. 05-\_\_\_\_

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY ADDING A SECTION TO BE NUMBERED 27-1500; ESTABLISHING A ZONING OVERLAY DISTRICT TO EXTEND 500 FEET FROM THE CENTER LINE OF SHILOH ROAD FROM KING AVENUE SOUTH TO I 90 INCLUDING ZOO DRIVE REGULATING DEVELOPMENT STANDARDS, LANDSCAPING STANDARDS, BUILDING DESIGN STANDARD AND OTHER SITE DEVELOPMENT STANDARDS, AND SIGN STANDARDS FOR COMMERCIAL, INDUSTRIAL AND MULTIFAMILY DEVELOPMENTS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

**Section 1.** That the Billings, Montana City Code be amended by adding Section 27-1400 through 1424.

SEC. 27-1500. SOUTH SHILOH CORRIDOR OVERLAY DISTRICT

**Sec. 27 - 1501. PURPOSE.**

The purpose of the South Shiloh Corridor Overlay District is to provide standards for industrial, commercial, and mixed-use development as called for in the West Billings Plan. This overlay zoning district is intended to promote an aesthetically pleasing and distinct entryway corridor by encouraging abundant landscaping, attractive building design, and preservation of scenic vistas. Single family and duplex residential development are exempt from the requirements of this overlay zoning district. The overlay zoning does not alter the category of permitted uses in the underlying zoning.

**Sec. 27-1502. District Boundaries.**

The boundaries of the South Shiloh Corridor Overlay District shall be that displayed on the map at the end of Section 27-1403. In no case shall the boundaries of the district exceed a depth of 500 feet from the centerline of the right-of-way of Shiloh Road from King Avenue south to Interstate 90 and Zoo Drive from Interstate 90 to the intersection of Shiloh Road. If only a portion of the property falls within the boundaries of the district, the entire property will be subject to the regulations in Section 27-1500.

**ATTACHMENT A  
ORDINANCE**

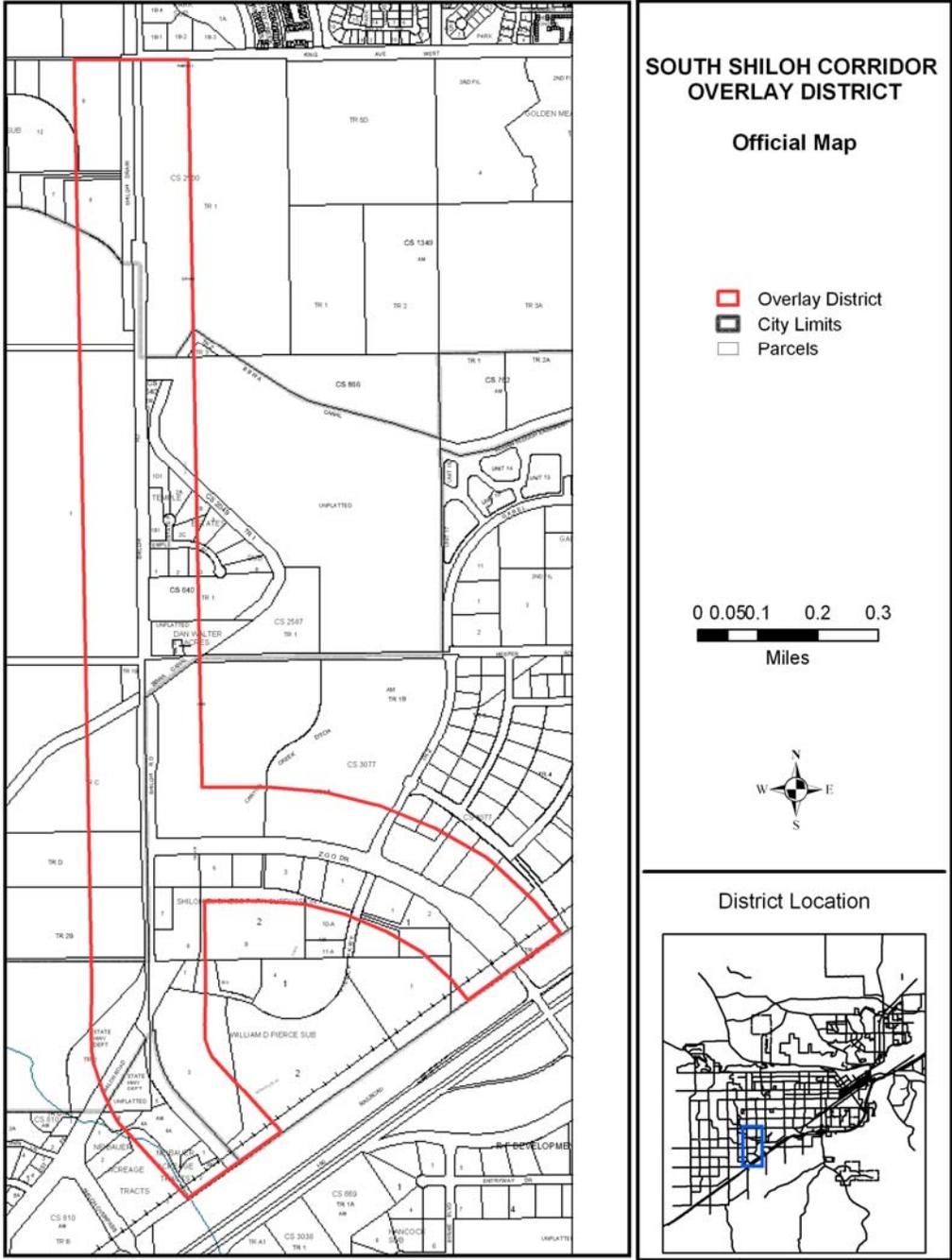
**Sec. 27-1503. Review Criteria.**

1. **Generally.** The South Shiloh Corridor Overlay District review process is a review of development proposals against a set of absolute and relative criteria. Site and development plans are evaluated to determine whether the proposed development meets the identified criteria. If the criteria are met, the development may proceed.

New developments and existing development in which the gross floor area (GFA) or the number of parking stalls is increased by twenty-five percent must comply with these regulations.

2. **Absolute Criteria.** A developer must meet all absolute criteria to obtain Planning and Community Services Department approval. The absolute criteria are defined in Sections 27-1506 through 27-1508. Absolute criteria also include all other applicable codes, ordinances, and statutes, including, but not necessarily limited to, minimum engineering and building standards, public service and utility requirements, and environmental regulations.
3. **Relative Criteria.** Relative criteria are the “points” of the review process. Each development must obtain a specified minimum number of points based on the relative criteria identified in Section 27-1509. The development plans are evaluated against the relative criteria and scored on a point chart.

ATTACHMENT A  
ORDINANCE



**ATTACHMENT A  
ORDINANCE**

**SEC. 27-1504. APPLICATION AND APPROVAL PROCESS.**

**Comment [CB1]:** There are no similar sections in the Unified Code that can be referenced. Also with no building permits in the County, requiring a detailed application this is the only way to ensure compliance.

1. **Approval Required.** If the development is within the City limits, a building permit must be applied for from the City Building Division. Planning Department approval is required prior to construction. If the development is outside the City limits, a Zoning Compliance Permit must be applied for from the Planning and Community Services Department. Planning Department approval is to ensure compliance with the Zoning Regulations. This does not in anyway imply approval by any other city or county department.
2. **Content of Application.** Each application for development located in the South Shiloh Corridor Overlay District shall include the following:
  - a. The name and address of the property owner and applicant, if different;
  - b. The legal and general description of the tracts or lots upon which review is sought;
  - c. A statement of proposed use;
  - d. A complete site development plan drawn to scale of no less than 1" = 40' indicating:
    - i. **Plans for landscape development, including irrigation, drainage, grading, and planting detail showing species, size and spacing of trees and shrubs and percent of living and non-living material;**
    - ii. **Dimension and location of all existing and proposed buildings, recreation areas, utility and service areas, trash storage area, fire hydrants, access drives, full width of street and adjacent drives, parking areas, existing utility lines, and easements;**
    - iii. **Dimension, location and description of all other existing and proposed site improvements including fences, walls, walkways, patios, decks, and barriers;**
    - iv. **A clear delineation of all areas to be paved or surfaced, including a description of surfacing materials to be used;**
    - v. **Location and description of all off-site improvements and right-of-way dedication; and,**
    - vi. **Location and type of lighting, including a scaled or dimensioned elevation of each type of lighting fixture, and the maximum illumination measured in foot-candles at the property line.**
    - vii. **Information describing how sound suppression will be accomplished when property is adjacent to residential use.**
  - e. Building plans drawn to a scale of no less than 1/16" = 1'-0" for all structures, including architectural plans for proposed buildings complete with exterior finishes and including floor plans and elevations.
  - f. A signage plan describing specifications and location of all signage. A separate application and approval shall be required for all signs;
  - g. A timetable for the proposed construction project; and
  - h. A complete form showing compliance with the relative criteria and points assigned (see Section 27-1424);

**ATTACHMENT A  
ORDINANCE**

- i. Any other information pertinent to the particular project which, in the opinion of the Zoning Coordinator, is determined to be necessary for the review of the project.

**SEC. 27-1505. DEFINITIONS.**

Terms not specifically defined in this chapter shall have the same meanings as defined in BMCC Section 27-201 and in Section 27-1104. The standard dictionary meaning shall be applied to terms not otherwise defined.

**SEC. 27-1506. ABSOLUTE CRITERIA.**

**1. Development Standards**

- a. **Shiloh Road and Zoo Drive Frontage Setbacks.** The minimum frontage setback from the property line along Shiloh Road and Zoo Drive for all developments excluding residential single family or duplex shall be twenty (20) feet. The clear vision triangle will be maintained as required in Section 27-615. Side and rear building setbacks shall be the same as the underlying zoning district. All arterial setbacks as outlined in BMCC Section 27-602 must also be maintained.
- b. **Other Regulations.** All other city and county codes shall apply, including but not limited to the following: building, zoning, site development, parking and drainage regulations that are not directly addressed in this chapter. Where requirements are addressed in both this section and other codes, those in this section apply.
- c. **Sidewalks.** All sidewalks along internal platted streets shall be boulevard walks. The boulevard shall be at least five feet wide and landscaped. The landscaping shall contain ground cover such as sod, shrubs, flower beds or living plant material. River rock, bark chips, flagstones or similar non-living material may be used as mulch or decorative landscape features to supplement the living plant material. No more than twenty-five (25) percent of the landscaped area shall contain non-living material. There shall be at least one canopy tree per every forty (40) linear feet.

**2. Landscaping Standards.**

- a. **Shiloh Road and Zoo Drive Frontage Setback Landscaping Required.** All developments are required to landscape the frontage setback adjacent to and along the length of Shiloh Road and Zoo Drive, excluding driveways. Frontage setbacks shall be landscaped with a minimum of five (5) canopy or evergreen trees and ten (10) shrubs per one hundred (100) feet of frontage. Trees may be massed within the frontage setback as long as the same densities are maintained.
- b. **Right-of-Way Frontage other than Shiloh Road and Zoo Drive Landscaping Required.** All developments are required to landscape the frontage setback adjacent to and along the length of all rights-of-way other than Shiloh Road, excluding driveways. Right-of-way frontage setbacks

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**ATTACHMENT A  
ORDINANCE**

shall be landscaped with a minimum of four (4) canopy or evergreen trees and eight (8) shrubs per one hundred (100) feet of frontage. Massing of landscaping elements with the required number of landscaping is permitted to meet the intent of 2(a) above.

**c. Off-Street Parking Lot Landscaping.**

- i. **A minimum of twenty (20) square feet of internal landscaping shall be provided for each parking space.**
- ii. **Two (2) canopy and/or evergreen trees and (5) shrubs shall be required for every nine (9) parking spaces.**
- iii. **The shortest dimension of any parking lot landscaped area shall not be less than five (5) feet.**
- iv. **Internal parking lot landscaping shall be proportionately dispersed, at the developer's discretion, in order to define aisles and limit unbroken rows of parking. The maximum unbroken distance in any direction shall be limited to one hundred fifty (150) feet. See Section 27-1106 for additional requirements.**
- v. **Trees and shrubs may be massed.**

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- d. Commercial Uses Abutting Residential and Public Uses.** All commercial or industrial uses shall be separated from abutting, including across an alley, residential single family, duplex and public uses by a fifteen (15) foot wide bufferyard. The bufferyard shall be landscaped with a minimum of five (5) canopy or evergreen trees and ten (10) shrubs per one hundred (100) linear feet. If the adjacent land use is a vacant building or ground, then the zoning shall be used in place of the land use.

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A solid fence or wall that is architecturally similar in color and design shall be required on the property line. The fence shall be a minimum of six (6) feet high. Chain link or other wire fencing material is prohibited. All fences shall be maintained by the commercial property owner.

- e. **Non-living Material Allowed.** River rock, bark chips, flagstones or similar material may be used as mulch or decorative landscape features to supplement the living plant material. Bufferyards may include boulevard sidewalks. No more than 25 percent of the landscaped area shall contain non-living material.
- f. **Landscape Maintenance Required.** All landscaped areas shall be irrigated, maintained and kept free of weeds, debris and litter. Dead or dying material shall be replaced within one (1) year.
- g. **Protection of Landscaped Areas.** Landscaped areas within parking lots or along the perimeter of the property must be protected from vehicular traffic through the use of continuous concrete curbs, extruded asphalt or other approved barriers.
- h. **Landscape Exemptions.** Uses for automobile and recreation vehicle sales are exempt from the tree requirements in the interior of their lots only as long as the required trees are replaced with shrubs and/or other landscape features, including but not limited to water features, landscape rock, public art, etc. If no landscaping is provided in the interior of lots, at least one additional tree and two additional shrubs per 500 feet of frontage should be provided in perimeter landscape to offset the exemption. This landscaping may also be massed.

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**ATTACHMENT A  
ORDINANCE**

**i. Plant Standards:**

- i. **Canopy tree:** A species of tree that normally bears crown foliage no lower than six (6) feet above ground level upon maturity. Minimum size of canopy trees shall be at least two (2) inches in caliper at the time of installation. Caliper shall be defined by the American Nurseryman Standard Definition.
- ii. **Evergreen:** A tree or shrub of a species that normally retains leaves / needles throughout the year. Minimum size of evergreen trees shall be five (5) feet in height at the time of installation.
- iii. **Shrubs:** The minimum size of a shrub shall be at least five (5) gallons.
- iv. **Recommended Tree Types.** It is recommended that the developer work with the City Parks Department, county extension agent, a local greenhouse operator, landscape architect or other professional designer to determine the species of trees that are most suitable for each situation. The use of native, drought tolerant plant materials is strongly encouraged. Evergreen trees are discouraged for internal parking areas if they limit sight lines. The planting of trees should be done in such a manner as to provide maximum solar efficiency throughout the site. A list of recommended plant material shall be available at the Planning Department.
- v. **Fractions in the Calculations of Number of Trees and Shrubs.** In the calculation of trees and shrubs for bufferyards or parking landscaping, fractions of less than five tenths (.5) shall be rounded down to the nearest whole number; fractions five tenths and more (.5) shall be rounded up to the nearest whole number.

**SEC. 27-1507. BUILDING DESIGN STANDARDS.**

1. **Materials:** All buildings shall be completed on all sides with an acceptable finishing material. The following materials are acceptable: brick, fluted block, colored textured block, glass, stucco, architectural metal panels with covered fasteners, exterior insulation and finishing systems (i.e., Dryvit, etc.), stone, wood, and integrally colored or exposed aggregate concrete. Exposed-seam metal buildings shall be prohibited unless covered with an acceptable finishing material.
2. **Roofs:** Roofs exposed to view shall be finished with a durable material that is architecturally coordinated in color and design with the building material. Recommended materials include: standing seam, dimensional asphalt shingles, shakes or shingles. Other types or styles of roofing materials that are consistent with this chapter may be approved by the Zoning Coordinator or his/her designee. Pitched roofs are encouraged wherever possible.
3. **Mechanical Equipment:** Mechanical equipment, placed at ground level or on a roof, shall be screened. The screening shall be at least the height of the mechanical equipment. Sound suppression/abatement shall be provided when mechanical equipment is installed on property that is adjacent to residential uses or zoning districts.
4. **Elevations and Facades:** Buildings shall incorporate one or more of the following: recesses, off sets, angular forms, or other architectural features such as bell towers or clock towers to provide a visually interesting shape. The break in facade shall be a minimum of twelve (12) feet in length and with a minimum protrusion or recess of four (4) feet. Buildings shall incorporate a break in the architectural façade at least every sixty (60) feet. It is encouraged that each offset area contain landscaping or other similar amenities that will complement the offset area.

**ATTACHMENT A  
ORDINANCE**

**SEC. 27-1508. ADDITIONAL PROVISIONS.**

1. **Storage of Merchandise:** Any permitted storage of merchandise outside an approved building shall be within an area enclosed with a sight obscuring fence at least six (6) feet in height that is architecturally coordinated in color and design with the building. However, vehicle sales lots and plant materials may be displayed outside of an approved building or enclosed area so long as they are on the same site wherein the business displays the bulk of its goods for sale. Outside promotional displays are allowed during business hours only. Bufferyards or required landscaping shall not be used for the displaying of merchandise. Chain link and other types of wire fencing are prohibited.
2. **Area Lighting:**
  - a. All outdoor pole lighting shall be fully shielded cut off fixtures with recessed lamps (no light emitted by the fixture is projected above the horizontal plan of the fixture, and no dropped lenses) and mounted at heights no greater than twenty (20) feet above grade.

All outdoor lighting, except street lights, shall be located and aimed or shielded so as to minimize stray light trespassing across property boundaries and no more than 1.5 foot candles as measured vertically at the lot line.

3. **Canopy, Marquee and “Wall Pack” Lighting:** Canopy, marquee and “wall pack” lighting shall be fully shielded with recessed lamps. No internally illuminated fascia shall be allowed.
4. **Storage of Junk:** No person shall store junk, partially or completely dismantled vehicles, or salvaged materials outside a building. In the case of repair shops, such material must be enclosed within a building or an area having a sight-obscuring fence at least six (6) feet in height. Chain link or other type of wire fencing is prohibited.
5. **Waste Storage Area:** All solid waste storage shall be located within an area enclosed with a solid, masonry wall that is architecturally coordinated in color and design with the building. The following materials are acceptable: brick, fluted block, colored textured block, glass, stucco, architectural metal panels with covered fasteners, exterior insulation and finishing systems (i.e., Dryvit, etc.), stone, wood, and integrally colored or exposed aggregate concrete. Exposed-seam metal buildings shall be prohibited unless covered with an acceptable finishing material. Solid waste enclosures are encouraged to be landscaped.

**SEC. 27-1509. DEVELOPMENT FEATURES REQUIRED TO EARN POINTS (RELATIVE CRITERIA).**

a. In accordance with Sec. 27-1503, each application for development in South Shiloh Corridor Overlay District must score a minimum number of points based on the relative criteria described below. Design elements are listed under nine category headings. A project shall earn one point for each design element that it incorporates. At least one point shall be earned from six (6) out of the nine (9) categories listed. The developer must attain a minimum of 15 points.

**1. Site Development:**

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**Deleted:** the following minimum number of points:¶  
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<#>Twenty (20) points if the lot size is greater than 25,000 square feet; or ¶  
<#>¶  
Fifteen (15) points if the lot size is less than 25,000 square feet.

**ATTACHMENT A  
ORDINANCE**

- a. Pavement along Shiloh and Zoo frontage setback is less than or equal to thirty-five (35) feet.
- b. Construct one or more public use spaces such as mini-parks, water feature, playfields or playgrounds, rest areas, for example.

**2. Access:**

- a. A transit or school bus stop.
- b. Easement granted for bike path or pedestrian trail other than sidewalk. The easement must be in addition to what is required by the Subdivision Regulations.
- c. Construction of bike path or pedestrian trail other than sidewalk (one (1) point for each 50 feet of ten (10) foot wide concrete or comparably durable hard surface pathway, four (4) points maximum).
- d. Provision for internal access between lots.

e. A single approach onto a public road that serves multiple lots.

**Deleted:** Shared driveway

**3. Lighting:**

a. Light spill over limits of less than 1.5 foot candles.

**Deleted:** <#>All lighting shall be cut off type fixtures with recessed lamps having no dropped lenses. ¶

b. Continuity of lighting fixture design with adjacent properties.

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c. Incorporate outdoor light fixtures at heights less than twenty (20) feet.

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**4. Parking:**

- a. A joint use parking agreement.
- b. Parking provided does not exceed one hundred twenty-five (125) percent of required spaces.
- c. Landscaping internally integrated in parking areas and/or sales area.
- d. Parking lots placed at the rear and/or side of the building, none in front.

**5. Scale:**

- a. The mass and scale does not exceed that of the surrounding development by more than 10 percent.
- b. The height of structures does not exceed that of the surrounding development by more than 10 percent.

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**ATTACHMENT A  
ORDINANCE**

c. The building size does not exceed that of the surrounding development by more than 10 percent.

**6. Landscaping:**

- a. Buildings have landscaping immediately adjacent to a building. Deleted: foundation planting
- b. Landscaping exceeds the minimum number of trees and shrubs that are required by ten (10) percent each.
- c. Landscaping material exceeds minimum caliper width by one (1) inch or fifty (50) percent additional height required.
- d. Drought tolerant tree, shrub and grass species requiring a significant reduction of water use.
- e. Terraced or bermed site design.
- f. Stormwater retention areas include significant landscaping.
- g. Bufferyards larger than required by at least ten (10) percent.
- h. Continuity of landscaping features at interface with adjacent property.
- i. Canopy trees placed in the boulevard along all streets except Shiloh Road and Zoo Drive, at one tree per 25 feet of street frontage. Deleted: internal
- j. Installation of a curvilinear boulevard walk.
- k. Incorporates existing trees in landscape design.

**7. Architectural Design:**

- a. Building materials are natural, i.e. wood or stone.
- b. Pitched roof with a minimum 3:12 pitch.
- c. Exceeds the state energy code requirements by:
  - Twenty-five (25) percent = One (1) point
  - Fifty (50) percent = Two (2) points
  - More than seventy-five (75) percent = Three (3) points
- d. The use of alternative energy sources, for example: photovoltaic, solar, geothermal, wind.
- e. Each building up to seventy-five (75) feet in length contains four (4) facade relief elements;

**ATTACHMENT A  
ORDINANCE**

- f. Each building of seventy-five to one hundred fifty (75-150) feet in length contains five (5) facade relief elements;
- g. Each building exceeding one hundred fifty (150) feet in length contains six (6) facade relief elements;

**Facade relief elements**

- Two (2) or more colors
- Natural earth toned colors
- Substantial fenestration using windows, doors, or other openings
- Two (2) or more materials that break up the mass of the structure
- Articulation of the parapet walls
- Change in wall plane
- Change in roof plane
- Extended roof overhangs
- Significant variation in building masses and/or forms

**8. Signage**

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- a. Signage is not internally illuminated.
- b. Monument signs used in lieu of pole signs.
- c. Area of signage is at least twenty (20) percent less than total area allowable for each sign type.
- d. Maximum sign height does not exceed one-third (1/3) the maximum height of the building(s).
- e. Comprehensive sign plan (See also 27-1517).

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**9. Mixed Use:**

One point will be given for each subdivision or building that contains two (2) or more of the following uses:

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- Office
- Retail
- Personal services such as dry cleaner, laundromats, beauty salons
- Residential
- Hotel/motel
- Medical
- Entertainment
- Restaurant

**SEC. 27-1510. SIGNAGE STANDARDS - PURPOSE, INTENT, AND SCOPE**

**ATTACHMENT A  
ORDINANCE**

The purpose and intent of this section is to promote commerce, traffic safety, and community identity while improving the visual environment of residential, commercial, and industrial areas.

This section of the Code shall not regulate traffic and directional signs installed by a governmental entity or in a private parking lots; signs not readable from nor intended to be viewed from a public right-of-way; merchandise displays; point-of-purchase advertising displays, such as product dispensers; national flags; flags of a political subdivision; symbolic flags of an institution; legal notices required by law; barber poles; historic site monuments/plaques; gravestones; structures intended for a separate use, such as phone booths, donation and recycling containers; lettering or symbols applied directly onto or flush-mounted magnetically to a motor vehicle operating in the normal course of business.

1. **Permits Required.** Any on-premise sign shall hereafter be erected, re-erected, constructed, painted, posted, applied or structurally altered in accordance with this chapter and pursuant to a sign permit issued by the Planning and Community Services Department. A sign permit shall be required for each group of signs on a single supporting structure installed simultaneously. Thereafter, each additional sign erected on the structure must have a separate sign permit. The owner of a sign shall produce a permit upon request. Within fifteen (15) working days following the submittal of a complete sign permit application, the Zoning Coordinator or his/her designee shall approve or deny the application, unless the applicant consents in writing to an extension of the review period. In the event that review exceeds 15 days, the applicant may seek immediate approval from the Planning Director. If an application is determined to be incomplete, the applicant shall be notified within 5 days of the submittal. Should the application be denied, the applicant shall be notified in writing specifying all areas of noncompliance with this Section.
  
2. **Permit Applications.** All permit applications for signs shall include a site plan that provides the following information:
  - a. The location of the affected lot, building and sign;
  - b. The scale of the site plan;
  - c. A drawing of the proposed sign or sign revision, including size, height, copy, structural footing details, method of attachment and illumination;
  - d. All existing signs on the site including their size and height; and
  - e. The legal description of the parcel.

**SECTION 27-1511. DEFINITIONS**

The definitions used in this chapter may be found below and in Section 27-703 of the City of Billings Sign Regulations or Article X, Section of the Yellowstone County Sign Regulations.

1. **Bulletin Board:** A sign which identifies an institution or organization on the premises on which it is located and which contains the name of the institution or organization, the names or individuals connected with it, or general announcements of events or activities or similar messages.

**ATTACHMENT A  
ORDINANCE**

2. **Electronically Changeable Message Sign:** A computer programmable, microprocessor controlled electric display utilizing a means of illumination (light bulb, LED, fiber optics, etc) upon which alphanumeric characters, graphics, electronic animations, symbols and words can be displayed, such as a programmable display system. Message and symbols that have the capability of alternating, traveling and animating along with any other of a variety of change, appear and disappear methods are allowed.
3. **Flashing Sign:** An electrical sign or portion thereof which changes light intensity in a brief, brilliant, or sudden and transient outburst of light causing a steady on and off, glittering, sparkling, or scintillating pattern.
4. **Incidental Sign:** Signs allowed under temporary use Groups I and II, such as garage sale signs and banners.
5. **Individual Business:** One business on one parcel provided that the parcel is not part of a multiple business complex; and also provided the parcel is not part of a group of multiple contiguous parcels under the same ownership.
6. **Monument Sign:** A sign and supporting structure constructed as a solid structure or one that gives the appearance of a continuous, non-hollow, unbroken mass.
7. **Multiple Businesses:** Multiple businesses include businesses that may be located in a single building or in multiple buildings on a single site.
8. **Support Structure(s):** Posts or columns and their anchors and bolts that structurally support the sign attached to it.
9. **Three-Sided Sign:** A sign with three (3) faces.
10. **Two-Sided Sign:** A sign with two (2) faces.

**SECTION 27-1512. EXEMPT SIGNS.**

The following shall not require a sign permit, provided that these exemptions shall not be construed as relieving the owner from the responsibility to comply with the provisions of this Code or any other law or ordinance, including the International Building Code.

1. The changing of the advertising copy or message on a lawfully erected sign that is currently in compliance with this Section, reader board or similar sign specifically designed for replaceable copy.
2. Painting, repainting or normal maintenance, unless a structural or electrical change is made.
3. Temporary banners and temporary signs as permitted herein.
4. Real estate sign as permitted herein.

**ATTACHMENT A  
ORDINANCE**

5. Incidental signs.
6. Political signs.
7. Bench signs on city or county rights-of-way, provided approval has been granted for the location by the appropriate city or county agency.

**SECTION 27-1513. PROHIBITED SIGNS.**

The following signs are prohibited in all zones unless otherwise specifically permitted.

1. Sign which by ~~shape, wording or location resemble or conflict with traffic control signs or devices~~ Deleted: coloring.
2. Signs that create a safety hazard for pedestrian or vehicular traffic
3. Signs with special or auxiliary flashing lights which are not a part of the sign's message.
4. Portable signs
5. Portable reader boards
6. Portable electric signs
7. Banner signs
8. Signs attached to or placed on a vehicle or trailer parked on public or private property, provided that this provision shall not be construed as prohibiting the identification of a firm or its product on a vehicle operating during the normal course of business. Franchised buses and taxis are exempt from these provisions.
9. Roof signs
10. Billboards
11. Painted signs on buildings, including those attached on or to the surface of windows.

**SECTION 27-1514. SIGNS PERMITTED IN ALL ZONES IN CONNECTION WITH SPECIFIC USES.**

The following signs may be permitted in any zone, subject to the limitations as provided herein.

1. **Bulletin boards:** Bulletin boards may be permitted on the premises of public, charitable or religious institutions, subject to the following:

**ATTACHMENT A  
ORDINANCE**

- a. Such sign shall contain not more than thirty-two (32) square feet in area on a face and may be double-faced.
  - b. No part of the sign shall exceed a height of six (6) feet above the ground.
  - c. The sign, if lighted, shall use low-intensity lighting.
  - d. A thirty-two (32) square foot, double-faced sign, no higher than fourteen feet above grade, is authorized for a public or private school on property not less than three acres in size.
2. **Temporary Residential Subdivision or Area Name Signs:** A temporary real estate sign advertising the prospective sale or lease of a group of lots or dwellings within a tract, condominium, or apartment complex shall be permitted, subject to the following conditions:
- a. The freestanding sign shall be located on the premises being sold or leased.
  - b. The sign shall not exceed forty (40) square feet in area on a face and may be double-faced.
  - c. The sign shall remain only as long as property remains unsold or unleased for the first time with the tract, but not to exceed one (1) year. The Planning Division may extend the one year time period upon written request by the owners/developers of the project.
  - d. The sign shall be non-illuminated.
  - e. The top of the sign shall be no higher than ten (10) feet above grade of the lot or parcel on which the sign is located.
3. **Permanent Residential Subdivision or Area Name Signs:** Decorative subdivision or area name signs of a permanent character at the street entrance or entrances to the subdivision or area that identifies the name of the subdivision or area only are permitted, subject to the following conditions:
- a. The sign shall consist of decorative building material with illuminated, indirectly lighted or non-illuminated name plates or letters, and be located in a maintained landscaped area; and
  - b. The wall and or sign shall not exceed six (6) feet above grade of the lot or parcel.
4. **Contractor, Architect, Surveyor, or Engineer Signs:** One on-premises sign identifying the project, developers, building contractor and/or subcontractors, architect, surveyor and engineer engaged in the construction is permitted on a property during the period of construction, provided that:
- a. The sign is located on the parcel on which the construction is located.
  - b. The sign shall not exceed forty (40) square feet in area; and
  - c. The top of the sign shall not exceed ten (10) feet above grade of the lot or parcel on which the sign is located. The sign shall be removed prior to final building inspections. However, no such sign shall be maintained for a period in excess of twelve months without approval from the Planning Department. The Planning Department may extend the one (1) year time period upon written request of the owners/developers of the project.
5. **Real Estate Sign:**

**ATTACHMENT A  
ORDINANCE**

- a. Residential and Agricultural use or property: One temporary on-premise sign per frontage road, advertising the sale, lease or rental of the building, property or premises, is permitted on the property. Such sign shall be unlighted, no more than five (5) square feet and no higher than five (5) feet above grade. A thirty-two (32) square foot sign is allowed on agricultural property of twenty (20) acres or more, with or without a dwelling on site.
  - b. Commercial and Industrial use or property: One temporary on-premise sign advertising the sale, lease or rental of the building, property or premises is permitted on the property. Such sign shall be unlighted, no more than thirty-two (32) square feet and no higher than ten (10) feet above grade.
  - c. Open house and directional sign: For (a) and (b) above, an open house or directional sign shall be allowed on each street access street to the property. Signs shall not be placed in such a manner as to interfere with vehicular or pedestrian traffic, shall be used when the property is actually open for immediate inspections, shall be unlighted, and shall be no more than five (5) square feet and no higher than three (3) feet above grade.
6. **Electronically Changeable Message Sign:** Electronically changeable message signs shall be permitted in Community Commercial, Highway Commercial, Controlled Industrial, Heavy Industrial, Entryway General Commercial, and Entryway Light Industrial zones in accordance with the standards of Sections 27-1417 through 27-1423 and their definitions.

**SECTION 27-1515. SIGN STANDARDS IN AGRICULTURAL (A-O) AND RESIDENTIAL (A-S, R-150, R-96, R80 R-70R R-70, R-60R, R-60, R-50, RMF, RMF-R, RMH) ZONES**

1. **Permitted Signs by Zone:** Sign structures are permitted in the agricultural and residential zones in accordance with the following uses and standards:
  - a. A nameplate, which indicates no more than the name and address of the occupant of the premises, is permitted, provided that such sign shall not exceed a maximum area of five (5) square feet and a maximum height of four (4) feet above grade.
  - b. A freestanding or wall sign identifying a community residential facility, family day-care home, child day-care center in a residence, nursery school, or similar institution is permitted, provided that such sign shall not exceed a maximum area of five (5) square feet, a maximum height of four (4) feet above grade and is unlighted.
2. **Permitted Signs by Use**
  - a. The standards in Tables 1 and 2 apply to the following uses:
    - i. Residential/Semi-Public uses include a church, public park, multiple-family dwelling, dormitory, fraternity, sorority, nursing home, retirement apartment, public building, child day-care center, family day-care provider, non-profit community hall or lodge, animal clinic, cemetery, or sanitarium.

**ATTACHMENT A  
ORDINANCE**

ii. School/Public uses include a school (kindergarten through university), hospital, police station, fire station, post office, or public golf course, incinerator, solid waste recycling transfer site, or landfills.

b. **Wall signs:** On-premises wall signs are permitted, not to exceed the maximum number and size as shown in Table 1. Wall signs shall be unlighted or have low-intensity lighting, and shall be placed flat against the outside wall of the main building.

Use per Paragraph 2(a)	Maximum Number of Signs	Maximum Sign Area
Residential/Semi-Public	1	20 square feet
Schools/Public Use	1	32 square feet

**Table 1**

– Wall Signs – Agricultural and Residential Zones

c. **Freestanding signs:** On-premises freestanding signs are permitted, not to exceed the maximum number, size and height as shown in Table 2. On-premises freestanding signs shall be unlighted or have low-intensity lighting.

Use per Paragraph 2(a)	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height
Residential/Semi-Public	1	16 square feet	6 feet
Schools/Public Use	1	32 square feet*	15 feet

\*Maximum sign area may be increased to 48 square feet for monument signs seven feet or less in height.

**Table 2** – Freestanding Signs – Agricultural and Residential Zones

**3. Multiple Arterials**

In the event the use or group of uses is adjacent to more than one arterial, including through and corner lots, they will be allowed a freestanding sign exclusively oriented to the additional arterial. The above allowance shall be calculated independently, using only the additional arterial frontage. However, in no instance shall the square footage allowance from one arterial be transferred to the other.

**SECTION 27-1516. SIGN STANDARDS FOR BUSINESS AND INDUSTRIAL (RP, NC, CC, HC, CI, HI, ELG, EGC, EMU, ELI).**

1. Permitted signs by zone: Sign structures are permitted in commercial and industrial zones in accordance with the following uses and standards.

a. **Wall Signs – Individual and Multiple Businesses:** Wall signs are permitted on each wall of a building provided the wall sign does not exceed twenty (20) percent of the total area of the wall

**ATTACHMENT A  
ORDINANCE**

or a maximum of 250 square feet, whichever provides the smaller area. Mansard roofs shall not be included when calculating the total area of the wall.

- b. **Freestanding Signs (pole or monument design) – Individual Businesses:** One on-premises freestanding sign is permitted. Signs shall not exceed the area and height limits as provided in Table 3.
- c. The maximum height of the on-premise sign may be increase to forty (40) feet above grade measured at the centerline of Shiloh Road or Zoo Drive, whichever is adjacent and the area may be increased to 200 square feet, provided the parcel is contiguous with Interstate 90 or Zoo Drive.

Zoning District	Maximum Area ≤ 100' Street Frontage	Maximum Area ≥ 100' Street Frontage	Maximum Sign Height
RP	50 square feet	50 square feet	15 feet
NC	50 square feet	50 square feet	15 feet
CC	80 square feet	140 square feet	20 feet
HC	80 square feet	140 square feet	20 feet
CI	80 square feet	140 square feet	20 feet
HI	50 square feet	50 square feet	15 feet
ELC	80 square feet	120 square feet	20 feet
EGU	80 square feet	140 square feet	20 feet
EMU	50 square feet	50 square feet	15 feet
ELI	80 square feet	140 square feet	20 feet

**Table 3 – Freestanding Signs – Commercial and Industrial Zones**

- d. **Freestanding Signs (pole or monument design) – Multiple Businesses**
  - i. Freestanding on-premises sign(s) for multiple businesses are permitted, not to exceed the number, area and height limits as provided in Table 4.
  - ii. Freestanding signage allowed for an individual business under Paragraph b. of this Section shall not be combined with signage allowed for multiple businesses under this Paragraph.
  - iii. The minimum separation between signs shall be 500 feet, measured from the center of the sign.

Zoning District	Maximum Number of Signs	Maximum Area	Maximum Sign Height

**ATTACHMENT A  
ORDINANCE**

RP	1	75 square feet	15 feet
NC	1	75 square feet	15 feet
CC	1 per 500 feet of street frontage*	175 square feet	20 feet
HC	1 per 500 feet of street frontage*	175 square feet	20 feet
CI	1 per 500 feet of street frontage*	175 square feet	20 feet
HI	1 per 500 feet of street frontage*	75 square feet	15 feet
ELC	1 per 500 feet of street frontage*	150 square feet	15 feet
EGU	1 per 500 feet of street frontage*	175 square feet	20 feet
EMU	1	75 square feet	15 feet
ELI	1 per 500 feet of street frontage*	175 square feet	20 feet

\*One freestanding sign is permitted on parcels with less than 500' of lineal street frontage.

**Table 4** – Standards for on-premises signs for multiple businesses

**2. Incentive to Substitute Height Restricted Monument Signs for Freestanding Signs.**

- a. Monument signs, not to exceed seven (7) feet in height, may substitute for individual and multiple business signs under Paragraphs 1 b. and 1 c. with maximum sign number(s) and area(s) as provided in Tables 5 and 6. There is no minimum separation requirement between signs.

<b>Zoning District</b>	<b>Maximum Number of Signs</b>	<b>Maximum Area/Each Sign</b>
RP	1	50 square feet
NC	1	50 square feet
CC	2	90 square feet
HC	2	90 square feet
CI	2	90 square feet
HI	2	90 square feet

**ATTACHMENT A  
ORDINANCE**

ELC	2	80 square feet
EGC	2	90 square feet
EMU	2	50 square feet
ELI	2	90 square feet

**Table 5** – Standards for on-premises monument signs for individual businesses  
\*Two freestanding signs are permitted on parcels with more than 500’ of lineal street frontage

Zoning District	Maximum Number of Signs	Maximum Area/Each Sign
RP	2	50 square feet
NC	2	50 square feet
CC	2 per 500 feet of street frontage*	90 square feet
HC	2 per 500 feet of street frontage*	90 square feet
CI	2 per 500 feet of street frontage*	90 square feet
HI	2 per 500 feet of street frontage*	90 square feet
ELC	2 per 500 feet of street frontage*	80 square feet
EGC	2 per 500 feet of street frontage*	90 square feet
EMU	2 per 500 feet of street frontage*	50 square feet
ELI	2 per 500 feet of street frontage*	90 square feet

**Table 6** – Standards for on-premises monument signs for multiple businesses

**3. Multiple Arterials**

In the event the use or group of uses is adjacent to more than one arterial, including through and corner lots, they will be allowed a freestanding sign exclusively oriented to the additional arterial. The above allowance shall be calculated independently, using only the additional arterial frontage. However, in no instance shall the square footage allowance from one arterial be transferred to the other.

**SECTION 27-1517. COMPREHENSIVE SIGN PLAN**

For shopping centers, industrial parks, mixed use developments, and hotel conference centers; the Zoning Coordinator may approve a comprehensive sign plan that deviates from the provisions set forth in Section 27-1416 above, provided the following standards and conditions are met:

1. The development exceeds the following minimum square foot floor area requirements:

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ORDINANCE**

- a. 250,000 square feet for a shopping center or hotel conference center
  - b. 250,000 square feet of commercial/industrial floor space for a mixed use development
  - c. 300,000 square feet for an industrial park
2. The applicant shall submit a sign plan that includes size, location, height, lighting, construction materials, and orientation of all proposed signs in addition to any other information deemed necessary by the staff.
  3. The sign plan shall conform to the standards of Section 27-1416; except that a maximum of three of the allowed signs under Section 27-1416 may be allowed an increase of twenty (20) percent in sign height and area over the maximum allowed in the underlying zone.
  4. The sign plan shall be consistent with the Yellowstone County - City of Billings 2003 Growth Policy, the West Billings Master Plan, and the purpose and intent of this section, as determined by the Zoning Coordinator.
  5. The applicant/owner(s) shall sign a binding agreement ensuring compliance with the approved sign plan. The agreement shall be filed with the Planning and Community Services Department and shall apply to present as well as future property owners. All signage shall be installed in conformance with the approved sign plan.
  6. Modifications to the approved sign plan shall require reapplication and approval by the Zoning Coordinator.

**SECTION 27-1518. SIGN LOCATION AND SETBACK.**

1. All signs shall be located so that they:
  - a. Do not interfere with vehicular or pedestrian accessibility or sight distance;
  - b. Conform to the provisions of Section 27- 615, the clear vision triangles and visibility at intersections; and
  - c. No sign may encroach upon, or overhang, adjacent property or public right-of-way.
2. All signs shall be located and set back as follows:
  - a. Any portion of a freestanding sign shall be located a minimum of ten (10) feet back from any property line abutting a public right-of-way.
  - b. The support structure of a monument sign shall be located a minimum of five (5) feet back from any property line abutting a public right-of-way.

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**SECTION 27-1519. SIGN AREA AND CALCULATION.**

1. The sign area of a wall sign made up of letters, words or symbols shall be measured from the outside edge of the frame. The square footage of a sign composed of only letters, words or symbols shall be

**ATTACHMENT A  
ORDINANCE**

determined from imaginary straight lines drawn from high point to high point around the entire copy or grouping of such letters, words or symbols. Those portions that are an integral part of the sign display shall be considered in the determination of square footage allowed. An obvious border designed as an integral part of a sign shall be calculated in the total square footage allowed. All measurements for sign height shall be from the grade to the topmost part of the sign.

2. Logos or identification symbols shall be considered signs and shall conform to all provisions of this section.
3. The sign area of a freestanding sign shall be measured from the outside edge of the frame. The sign area of a freestanding sign consisting of more than one sign shall be computed by adding together the total area(s) of all signs. Any portion of the sign not necessary for structural support of the sign or any structural support greater than two (2) feet in width shall be considered in the determination of the square footage of the sign. A 50 percent increase in monument sign area is allowed for decorative framing or borders. Area calculation does not include decorative rocks or landscaping adjacent to a monument sign.
4. The sign area for multiple-sided signs shall be calculated as follows:
  - a. The total sign area for a two-sided sign shall be calculated using one face, but the second face may not exceed the area of the first face.
  - b. The total sign area for a three-sided sign shall be calculated using one face, but the second and third face total area may not exceed the area of the first face.

**SECTION 27-1520. MAINTENANCE OF SIGNS.**

1. Any sign that has been approved or that has been issued a permit shall be maintained by the owner or person in possession of the property on which the sign is located. Maintenance shall be such that the signage continues to conform to the conditions imposed by the sign permit.
2. Any damaged sign base shall be repaired within sixty (60) days.
3. Any signage which has been damaged to such extent that it may pose a hazard to passersby shall be repaired or removed immediately.

**SECTION 27-1521. NONCONFORMING SIGNS.**

Nonconforming signs are those that were permanently installed and legally erected prior to the adoption of this Code. Nonconforming signs shall be allowed to continue in use so long as they are continuously maintained, are not relocated, and are not structurally altered or made more nonconforming in any way. If a sign is nonconforming and the copy is changed in any way or the sign is structurally altered, the sign shall be brought into conformance with these regulations.

**SECTION 27-1522. LANDSCAPING FOR FREESTANDING AND MONUMENT SIGNS**

**ATTACHMENT A  
ORDINANCE**

All freestanding and monument signs shall be located in a landscaped area. Landscaping should be appropriately sited to ensure that signs are not blocked or obscured by trees or bushes.

**SECTION 27-1523. SIGN ILLUMINATION.**

Externally illuminated signs shall have lighting confined to the sign with the light source positioned and shielded to eliminate spill over impacts to the surrounding area(s) in such a manner that it conforms to the site lighting standards. See 27-1508-2. The light source for internally illuminated signs must be entirely enclosed within the sign. Internally illuminated signs shall be constructed with an opaque background and translucent letters and symbols. (Opaque means that the material must not transmit light from an internal illumination source.)

**SECTION 27-1524. SOUTH SHILOH CORRIDOR OVERLAY DISTRICT APPLICATION FORM.**

# SHILOH CORRIDOR OVERLAY ZONE PERMIT

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Permit # \_\_\_\_\_

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## Application Information

Applicant Name: \_\_\_\_\_ Date: \_\_\_\_\_

Applicant Address: \_\_\_\_\_ Phone: \_\_\_\_\_

Property Owner Name (if different): \_\_\_\_\_

Property Owner Address: \_\_\_\_\_ Phone: \_\_\_\_\_

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## Property Information

Property Address: \_\_\_\_\_

Section, Township, Range: \_\_\_\_\_ Zoning District: \_\_\_\_\_

Lot size: \_\_\_\_\_ sq. ft. Lot area covered by structure(s): \_\_\_\_\_ sq.ft. \_\_\_\_\_ %

Subdivision/COS: \_\_\_\_\_ Block: \_\_\_\_\_ Lot: \_\_\_\_\_

Proposed Use: \_\_\_\_\_

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### FOR OFFICE USE ONLY

Date Received \_\_\_\_\_

Number of relative criteria categories met: \_\_\_\_ Total number of points scored: \_\_\_\_

Approved \_\_\_\_\_ Denied \_\_\_\_\_ Date: \_\_\_\_\_

Reviewed By: \_\_\_\_\_

## RELATIVE CRITERIA

- Applicant must obtain points from seven (7) of nine (9) categories.
- Applicant must obtain 15 points:

1.	<b>SITE DEVELOPMENT</b> a. Frontage pavement less than 35' along Shiloh Road <u>and Zoo Drive</u> b. Public use space included	____ ____
2.	<b>ACCESS</b> a. MET transit or school bus stop b. Bikepath or pedestrian trail easement (above what subdivision requires) c. Bikepath or pedestrian trail construction (1 point for each 50 feet, 4 points max) d. Reciprocal access between lots e. <u>A single approach serving multiple lots</u> f. ____ f. ____	____ ____ ____ ____ ____ ____
3.	<b>LIGHTING</b> a. ____ a. <u>All cutoff lighting</u> b. <u>Light measurement of 1.5 foot candles or less, measured vertically at property line.</u> c. Continuity of lighting fixture design with adjacent properties. d. Incorporate outdoor light fixtures at heights less than <u>twenty (20)</u> feet.	____ ____ ____ ____

**Deleted:** Shared driveway approaches

**Deleted:** Internal sidewalks incorporating stone, brick patterned or colored concrete.¶  
Installation of a curvilinear boulevard walk.

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**Deleted:** Establish an overall outdoor lighting budget for the property that does not exceed 50,000 initial lamp lumens per net acre for all fully shielded and unshielded light sources.¶

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4.	<b>PARKING</b> <ol style="list-style-type: none"> <li>a. Joint use parking agreement.</li> <li>b. Parking does not exceed 125% of required spaces</li> <li>c. Landscaping internally integrated in parking areas.</li> <li>d. Parking lots placed at the rear and/or side of building – none in front.</li> </ol>	<p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>
5.	<b>SCALE</b> <ol style="list-style-type: none"> <li>a. Mass and scale of structures does not exceed that of the surrounding development by more than 10 percent.</li> <li>b. Height of structures does not exceed that of the surrounding development by more than 10 percent.</li> <li>c. Building size does not exceed that of the surrounding development by more than 10 percent.</li> </ol>	<p>_____</p> <p>_____</p> <p>_____</p>
6.	<b>LANDSCAPING</b> <ol style="list-style-type: none"> <li>a. Buildings have foundation planting.</li> <li>b. Landscaping exceeds minimum number of trees and shrubs that are required by ten (10) each.</li> <li>c. Landscaping material exceeds minimum caliper width by one (1) inch or fifty (50) percent additional height required.</li> <li>d. Drought tolerant tree, shrub and grass species requiring a significant reduction of water use.</li> <li>e. Terraced or bermed site design.</li> <li>f. Stormwater retention areas include significant landscaping.</li> <li>g. Bufferyards larger than required by at least ten (10) percent.</li> <li>h. Continuity of landscaping features at interface with adjacent property.</li> <li>i. Canopy trees placed in the boulevard along <u>all streets except Shiloh Road and Zoo Drive</u> at one tree per <u>twenty 20</u> feet of street frontage.</li> <li>j. <u>Installation of a curvilinear boulevard walk.</u></li> <li>k. <u>Incorporates existing trees in landscape design.</u></li> </ol>	<p>_____</p>
7.	<b>ARCHITECTURAL DESIGN</b> <ol style="list-style-type: none"> <li>a. Building materials are natural, i.e. wood or stone.</li> <li>b. Pitched roof with a minimum 3:12 pitch.</li> <li>c. Exceeds the state energy code requirements by: <ul style="list-style-type: none"> <li>• Twenty-five (25) percent = One (1) point</li> <li>• Fifty (50) percent = Two (2) points</li> <li>• More than seventy-five (75) percent = Three (3) points</li> </ul> </li> </ol>	<p>_____</p> <p>_____</p> <p>_____</p>

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	<p>d. The use of alternative energy sources, for example: photovoltaic, solar, geothermal, wind.</p> <p>e. Each building up to seventy-five (75) feet in length contains four (4) facade relief elements;</p> <p>f. Each building of seventy-five to one hundred fifty (75-150) feet in length contains <u>four (4)</u> facade relief elements;</p> <p>g. Each building exceeding one hundred fifty (150) feet in length contains six (6) facade relief elements;</p> <p style="text-align: center;"><b>Facade relief elements</b></p> <ul style="list-style-type: none"> <li>• Two (2) or more colors</li> <li>• Natural earth toned colors</li> <li>• Substantial fenestration using windows, doors, or other openings</li> <li>• Two (2) or more materials that break up the mass of the structure</li> <li>• Articulation of the parapet walls</li> <li>• Change in wall plane</li> <li>• Change in roof plane</li> <li>• Extended roof overhangs</li> </ul> <p>h. Significant variation in building masses and/or forms</p>	<p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>
8.	<p><b>SIGNAGE</b></p> <p>a. Signage is not internally illuminated.</p> <p>b. Monument signs used in lieu of pole signs.</p> <p>c. Area of signage is at least twenty (20) percent less than total area allowable for each sign type.</p> <p>d. Maximum sign height does not exceed one-third (1/3) the maximum height of the building(s).</p> <p>e. Comprehensive sign plan.</p>	<p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>
9.	<p><b>MIXED USE</b></p> <p>One point will be given for each building that contains two (2) or more of the following uses:</p> <ul style="list-style-type: none"> <li>• Office</li> <li>• Retail</li> <li>• Personal services</li> <li>• Residential</li> <li>• Hotel</li> <li>• Medical</li> <li>• Entertainment</li> </ul>	<p>_____</p>

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	<ul style="list-style-type: none"><li>• Restaurant</li></ul>	
	<b>TOTAL POINTS</b>	—

**SECTION 27-1525. REEXAMINATION OF REGULATIONS.**

After one year of the effective date of this ordinance, and periodically afterwards, these regulation shall be reviewed for their effectiveness and the practicality of implementation and enforcement.

**SECTION 27-1526. APPEAL PROCESS**

An appeal may be made by any applicant aggrieved by a denial of a Shiloh Corridor Overlay Zone permit by the Planning and Community Services Department. The applicant shall first appeal to the Department Director, and if not satisfied with the Director's determination, may then file an appeal with City Council. The City Council shall hold a public hearing and make a determination whether to approve or deny the appeal. Before either the Director or City Council makes a determination on the appeal, the following criteria shall be considered:

1. That the official erred in the interpretation or application of this chapter.
2. That approving the permit will not confer on the applicant any special privilege that is denied by this chapter to other land in the same district;
3. That no substantial detriment to the public good is created;
4. That the intent and purpose of this chapter is not impaired.

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Upon receiving written notice of denial of a permit from the Planning and Community Services Department, the aggrieved applicant has fourteen (14) days from the date on the notice to submit a written request for appeal to the Department Director. The Director shall meet with the applicant within five (5) days of receiving the request and issue a determination on the decision to deny the permit. If the Department Director upholds the decision to deny, the applicant may file, within fourteen (14) days from the date of the Director's determination, a request for appeal before the City Council. If an appeal is requested, the Planning and Community Service Director shall:

1. Submit a staff report to the City Council within thirty (30) days after receipt of the appeal scheduling a public hearing and describing the nature of the appeal. The memo shall include the request for the appeal and a copy of the notice stating reason(s) for the denial of the permit.
2. Place notice of the time, date and place of the public hearing in a newspaper of general circulation fifteen (15) days in advance of the date set for the public hearing.
3. Notify, by mail, the party requesting the appeal and all adjacent property owners of the time, date and place of the public hearing and nature of the appeal five (5) days in advance of the public hearing.

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Upon reversing a decision to deny an appeal, the Council may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms upon which the appeal is granted, shall be deemed a violation of this chapter.

Under no circumstances shall the Council issue a decision that would allow a use not permitted under the terms of this chapter in the district involved. Approval of a permit shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.

**Section 2. REPEALER.** All resolutions, ordinances and sections of the City Code in conflict herewith are hereby repealed.

**Section 3. SEVERABILITY.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the

other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

**Section 4. EFFECTIVE DATE.** This ordinance shall be effective from and after final passage and as provided by law.

PASSED by the City Council on first reading January 10, 2005.

PASSED, ADOPTED AND APPROVED on second reading January 24, 2005.

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Charles F. Tooley, Mayor

ATTEST:

BY: \_\_\_\_\_  
Marita Herold, CMC/AAE, City Clerk

Unified Zoning Regulations Text Amendments

[\(Back to Regular Agenda\)](#)

## AGENDA ITEM:




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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, January 24, 2005**

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TITLE: 2005 Transportation Plan  
DEPARTMENT: Planning and Community Services Department  
PRESENTED BY: Scott Walker, Transportation Planner

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**PROBLEM/ISSUE STATEMENT:** Federal regulations require that Metropolitan Planning Organizations (MPOs) review and update their Transportation Plan every 3-4 years. Our current 2000 Transportation Plan falls into this category. Transportation Plans in Billings have gone through periodic updates since 1961. This current 2005 update reevaluates and affirms the current roadway network, parking, transit, bike pedestrian facilities and freight movement. The Plan also verifies current regional, community-wide, and neighborhood issues and needs associated with the transportation system as well as future travel demand for years 2015 and 2025. Proposed short range and long range transportation system improvements and funding sources for these projects are presented as well. Only minor changes to the 2000 Transportation Plan's background information and project list have been made.

This update is being presented to Council for review of the project goals, all federally funded transportation planning projects, and the functional classification map, and recommendation to the Policy Coordinating Committee (PCC). The PCC is the final approving authority for transportation-related documents within the Billings Urban Area. The Mayor serves as Council's representative on the PCC. The PCC is composed of four members; the Mayor of the City of Billings, the Chair of the Yellowstone County Commission, the President of the Yellowstone County Board of Planning, and the District Administrator, Billings District, of Montana Department of Transportation.

**ALTERNATIVES ANALYZED:** The Council may elect to recommend approval of the 2005 Transportation Plan in order to continue the implementation of federally funded transportation projects as presented. If Council chooses to recommend modifications to the proposed update, the Mayor will present these recommendations to the PCC for further consideration.

**FINANCIAL IMPACT:** Federal requirements mandate that any project receiving Federal highway funding must be listed in a local as well as State and federally approved Transportation Plan. Projects which are listed in the plan are eligible for federal funding pending approval of this document. Additional funding sources are also considered, including the Arterial Fee option available for City arterial projects.

**RECOMMENDATION**

Staff recommends that Council approve the Transportation Plan project goals, the short range and long range project lists and their priority ranking, and the functional classification map.

**Approved By:**      **City Administrator** \_\_\_\_      **City Attorney** \_\_\_\_

**ATTACHMENTS**

- A. Transportation Plan Project Goals
- B. Transportation Plan Short Range Project List
- C. Transportation Plan Long Range Project List
- D. Functional Classification Map

## **INTRODUCTION**

Because of federally mandated requirements, staff has prepared the Administrative Update of the 2000 Transportation Plan now referred to as the 2005 Transportation Plan. This plan will allow transportation projects in the Billings Urban Area to continue to move through the funding and construction phases without delay. This Plan reevaluates and affirms the goals, short and long term projects, as well as travel demand for the next 20 years. All of the projects listed have previously received local, state and federal approvals and are being reconfirmed in this document. The plan also updates the functional classification map.

Federal requirements state that this document must conform to the existing Transportation Planning process. This process initiated by the Technical Advisory Committee (TAC) is the first step. Recommendations from the governing bodies (City Council, Planning Board, Yellowstone County Commission and MDT) are forwarded to the PCC for their final action. The process must be conducted in a timely manner in order to avoid any delays in implementing ongoing and proposed projects.

## **PROCEDURAL HISTORY**

Federal transportation law requires that projects be included in a Plan to receive Title 23 and Title 49 funds. Currently there is a 4 year mandate which requires the Metropolitan Planning Organization (MPO) to update their Transportation Plan. All federally funded street and highway projects must be included in this Plan. The 20052005 Transportation Plan has been developed in a manner consistent with 23 U.S.C. 134, particularly these criteria:

1. The Plan must be developed based on previous planning assumptions and goals, appropriately adjusted for currently available projections for population growth, economic activity and other relevant data.
2. The Plan must be developed with public involvement consistent with the normal transportation plan and program development process. Public involvement with our current plan update as well as Growth Policy update will fulfill this requirement.
3. The Plan must satisfy the Title 23 and 49 requirements for financial planning and constraint.
4. The Plan must be approved by the MPO and the Governor (or the Governor's designee).

The Technical Advisory Committee has recommended approval of this document. City Council reviewed staff's recommendations at their work session on January 18. The Mayor will forward the Council's recommendation to the Policy Coordinating Committee (PCC) for final action. Staff will also present these recommendations to the Yellowstone County Board of Commissioners for their review and approval prior to the PCC's action.

## **BACKGROUND**

This 2005 Transportation Plan has a 20-year time horizon with key horizon years being 2015 and 2025. The Plan evaluates existing socioeconomic and transportation data to determine the need for transportation system improvements. Funding sources for these improvements include all federal and local funds utilized to support local transportation needs for the next 20 years. Assumptions

from the 2000 Transportation plan were carried over, where relevant. The principal guidelines used to identify short and long range projects are the project goals provided in Attachment A.

MDT staff worked closely with the Billings-Yellowstone County Metropolitan Planning Organization in the update of the travel demand forecasting for the Billings Urban Area. The purpose of the model is to analyze the existing travel demand patterns, and forecast expected future travel demand based on increases in population and employment in the Billings Urban Area. The MDT staff used transportation modeling software for travel demand estimates. The model also developed 452 Traffic Analysis Zones (TAZs) which encompass all of the census geography in and around Billings including an inventory of dwelling units, socioeconomic measures of median family income and vehicles per household. The roadway data includes over 4,000 roadway segments, including the functionally classified roads in the Billings Urban Area that represent the Interstate, Principal Arterials, Minor Arterials, and Collectors, as well as many of the local streets. The travel demand forecast model for this update is based on the 2000 Census and a tabulation of two years of building permits in the greater Billings Urban Area bringing it up to the 2002 condition. Employment data was developed from the Department of Labor and Industry's 2002 File from the third quarter of 2002.

The Billings Urban Area has set a goal of achieving and maintaining level of service (LOS) "C" on all major roadways for the 20-year planning horizon. This Transportation Plan will identify the locations where that LOS currently exceeds or is anticipated to be exceeded, determine the appropriate improvements and their associated cost to achieve LOS "C", and determine whether there is available funding to support the improvements.

Funding sources for both long and short range projects include local, state and federal sources, they are listed as follows:

<u>Local</u>	<u>State/Federal</u>
Motor Vehicle Tax	Urban
Motor Fuel Tax	Montana Air & Congestion Initiative
Paver Program	Community Transportation Enhancement
Street Maintenance/MDT Pass-through	Surface Transportation Funds-Primary
Special Improvement Districts	Surface Transportation Funds-Secondary
Bonds	Interstate Maintenance
Special Assessments	National Highway System
Arterial Fee (as of 2005)	Hazard Elimination
Grants	Rail Safety
	Bridge Rehabilitation/Replacement
	Federal Transit Administration

Some examples of projects which have been completed in the past 4 years include 21<sup>st</sup> Street Underpass, 27<sup>th</sup> Street R. R. Study, Gabel Road and Midland Road. Projects currently in design are, 32<sup>nd</sup> Street W., Airport Road, Alkali Creek Road, Bench/6<sup>th</sup>, Lake Elmo, N. By-Pass, Rimrock Road, S. Billings Blvd., Shiloh Road.

The projects listed in the plan address community-wide issues and needs as well as mobility and safety concerns. Examples of two completed projects fitting this criterion include the Gabel Road and Midland Road extensions. Both of these projects provide increased access and mobility. Three projects which are currently in the design phase include Airport Road, Bench/6<sup>th</sup> and Rimrock Road (Shiloh-54<sup>th</sup>). These reconstruction projects will provide for increased volumes while allowing for greater regional mobility.

The Urban Area Functional Classification Map has been updated to reflect new connections as well as new classifications for existing roadways. Functional classification is a system by which streets and roadways may be distinguished by types according to their function within the entire transportation network. Functional classification considers the type and distance of travel served by the roadway, as well as the land accessed. The three major levels of functional classification considered are Freeways, Arterial Streets, and Collector Streets. Arterial Streets are further subdivided into Principal and Minor Arterial classes. A few examples of changes between the 2000 and the 2005 map are the reclassification of the Molt-Hwy 3 connector from proposed Principal Arterial to Proposed Collector; reclassification of Senators Boulevard and High Sierra Boulevard; and extension of Proposed Collectors in the West Billings area.

### **ALTERNATIVES ANALYSIS**

The development of the 2005 Transportation Plan is a joint effort between the local jurisdictions within the Urban Planning Area and the Montana Department of Transportation. Each entity has a responsibility to review the information within the plan and confirm that the goals will be achieved by implementing the proposed projects. If Council prefers to modify the goals or projects, their recommendations shall be considered by the PCC along with the other interest of the other entities.

Long term and short term projects are ranked according to priority. The ranking is based on four characteristics of the project: Level of Service, Accident Rating, Average Daily Traffic volume, and System Warrant. The most current data available was used for ranking. Where no score for the category is listed, the project did not rate high enough in that category to rank and was assigned no value.

### **RECOMMENDATION**

Staff recommends that Council approve the Transportation Plan project goals, the short range and long range project lists and their priority ranking, and the functional classification map.

### **ATTACHMENTS**

- A. Transportation Plan Project Goals
- B. Transportation Plan Short Range Project List
- C. Transportation Plan Long Range Project List
- D. Functional Classification Map

Goal 1. To develop a transportation plan that accurately reflects community needs, values, desires, and goals; is consistent with other plans and policies; and helps to shape the future development of the community.

Goal 2. To develop a transportation system that is safe, efficient and effective, that also maximizes the benefits for the costs.

Goal 3. To maximize the functional integrity of the transportation system.

Goal 4. To identify deficiencies and needs in the transportation system and to identify appropriate improvements.

Goal 5. To provide mitigation of impacts caused by the transportation system on adjacent land uses.

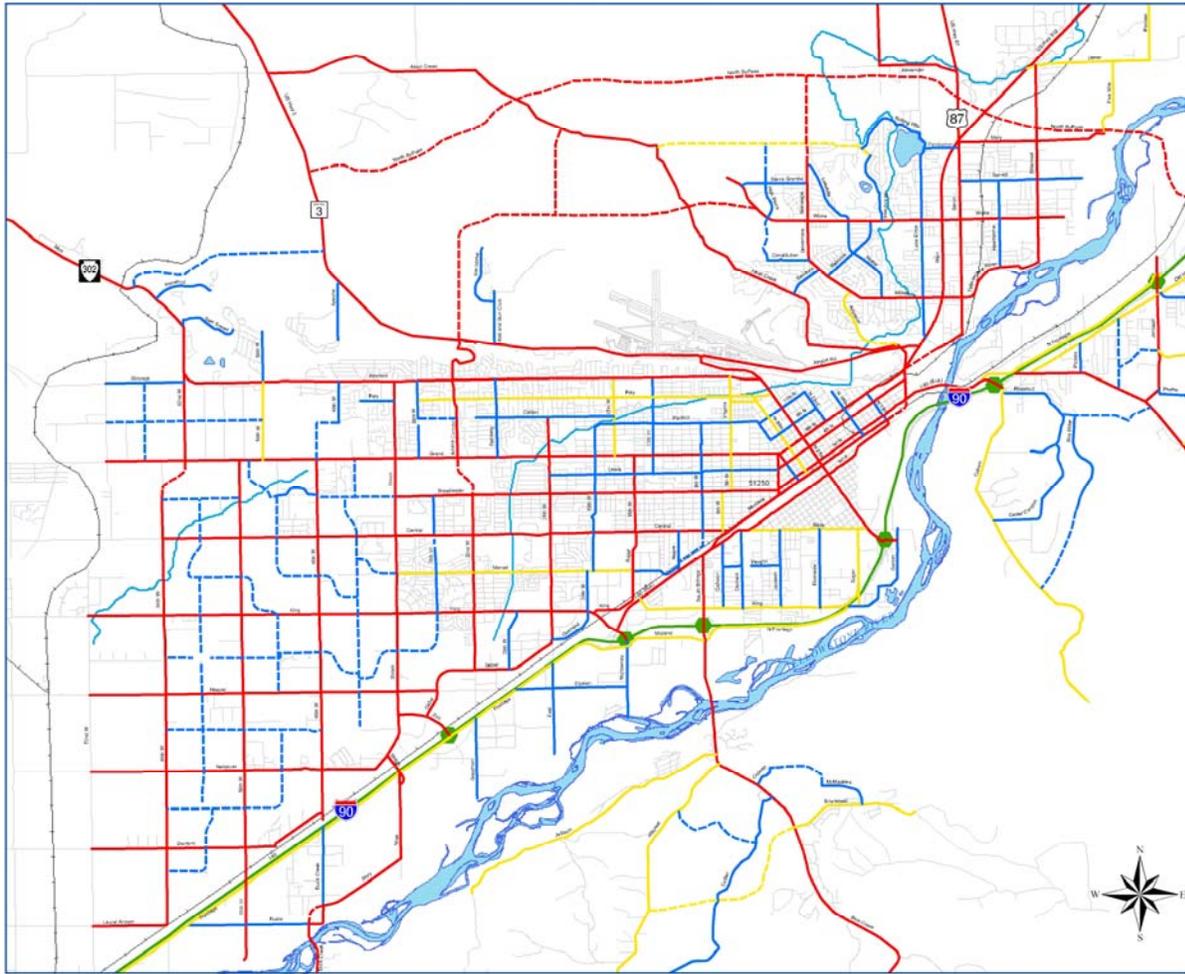
Goal 6. To ensure a realistic, multi-modal approach to the transportation system including transportation system management (TSM) and travel demand management (TDM) approaches.

Goal 7. To consider all potential funding sources for transportation improvements including innovative, non-traditional methods.

Goal 8. To prioritize projects based on anticipated needs and available funding.

Goal 9. To involve the public and develop clear understanding of the plan.

Goal 10. To develop new roadway routes sufficiently to allow right-of-way preservation and/or acquisition.



[\(Back to Regular Agenda\)](#)

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
CITY OF BILLINGS, MONTANA  
January 24, 2005

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TITLE: Work Order 04-14 WWTP Headworks Building  
Contract Amendment One with HDR Engineering, Inc.

DEPARTMENT: Public Works Department – Engineering Division

PRESENTED BY: David D. Mumford, P.E., Public Works Director

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**PROBLEM/ISSUE STATEMENT:** The project requires engineering services for the City of Billings Wastewater Treatment Plant (WWTP) Headworks Building Replacement and Improvements. The project will replace the existing Headworks Building at its current location. The original design contract provided for project startup/pre-design, preliminary design, and final design. This contract amendment includes bid administration services, and construction services.

**FINANCIAL IMPACT:** The total cost for professional engineering services is \$385,500.00 for the original contract, plus \$398,841 for Contract Amendment One. Source of Funding is the Wastewater Construction Fund.

**RECOMMENDATION**

Staff recommends that Council authorize the Mayor to execute Contract Amendment One to the Agreement for Professional Services with HDR Engineering, Inc. for \$398,841.

Approved By: City Administrator \_\_\_\_ City Attorney \_\_\_\_

**ATTACHMENT**

A. Contract Amendment One

## **INTRODUCTION**

The City of Billings entered into a contract with HDR Engineering, Inc. in 1999 for a Water/Wastewater Facility Study. The contract also contained provisions for HDR Engineering, Inc. to provide engineering services for replacement of the WWTP Headworks Building. City Council approved the Headworks Building design contract with HDR Engineering, Inc. in February 2004. Additional scope and cost for construction administration was to be executed at a later date by mutual consent of both parties. The contract amendment before the Mayor and Council now addresses that additional scope and cost.

The building design is complete and construction bids for the project are scheduled to be opened on January 11, 2005.

## **BACKGROUND**

All the wastewater entering the treatment plant flows through the headworks building. The headworks is where preliminary treatment should occur. Bar screens collect and remove large debris and rags; grit (sand and gravel) should be settled out next to prevent excess wear and tear on downstream pumps; and lastly a flow measurement and sample should be taken prior to the wastewater entering the rest of the process.

The headworks building at the wastewater treatment is part of the original plant built in the late 1940s and has not been updated. The bar screens are antiquated and require significant maintenance attention. The removal of rags is a manual operation using barrels and hoists. In the 1970s, grit removal was moved from the headworks building to a point downstream. The former grit removal channel continues to collect grit that must be manually cleaned out on a regular basis. The slide gates that control influent and effluent flow from the building are weakened from age and deterioration. There is no flow measurement device. The building's foundation is deteriorating and cracks in the influent channel are growing. A major concern is the safety of employees required to perform maintenance to the existing structure and equipment.

It is envisioned that the new headworks building will provide a more efficient preliminary treatment, backup power generation, flow monitoring and a safe work environment. The construction of the new headworks project will be a one of a kind undertaking with many disciplines of engineering required to complete the facility. As a result of the specialized construction a in-depth knowledge is required to administer the construction of this facility.

## **RECOMMENDATION**

Staff recommends that Council authorize the Mayor to execute Contract Amendment One to the Agreement for Professional Services with HDR Engineering, Inc. for \$398,841.

## **ATTACHMENT**

A. Contract Amendment One

[\(Back to Regular Agenda\)](#)

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, Jan. 24, 2005**

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**TITLE:** 2005 Federal Affairs Program  
**DEPARTMENT:** Airport/City Administration  
**PRESENTED BY:** J. Bruce Putnam, A.A.E., Dir. of Aviation & Transit  
Tina Volek, Assistant City Administrator

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**PROBLEM/ISSUE STATEMENT:** City staff has been working on a 2005 Federal Affairs Program to obtain appropriations for City projects from the U.S. government. The program will be presented at a Jan. 18, 2005, work session with the Council and needs to be approved at a subsequent Council meeting. The Council approved the hiring of Van Scoyoc Associates to handle the Federal Affairs Program at the Council's April 26, 2004, meeting.

**ALTERNATIVES ANALYZED:**

- Adopt the program as presented.
- Amend the program.

**FINANCIAL IMPACT:**

More than \$25 million worth of Federally eligible projects have been requested by City departments, ranging from repairing Airport aircraft ramps to reclaiming the former dump site at Coulson Park. Most of these funds would provide purchases or projects that otherwise might not occur; or supplement City funds for projects, freeing City money for other uses. A list of proposed projects will be presented for Council consideration at the Jan. 18 Work Session.

**RECOMMENDATION**

Staff recommends that Council approve the proposed 2005 Federal Legislative Agenda as presented Jan. 18.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

[\(Back to Regular Agenda\)](#)