

# 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

April 25, 2005

6:30 P.M.

CALL TO ORDER – Mayor Tooley

PLEDGE OF ALLEGIANCE-- Mayor Tooley

INVOCATION – Councilmember Richard Clark

ROLL CALL

MINUTES – April 11, 2005

COURTESIES

PROCLAMATIONS – Mayor Tooley

- Arbor Day: April 29, 2005
- Days of Remembrance: May 1-8, 2005

BOARD & COMMISSION REPORTS – Parks, Recreation & Cemetery Board

ADMINISTRATOR REPORTS – Kristoff Bauer

LEGISLATIVE REPORT – Jani McCall

### **PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Item: #1 and 12 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) One New Current Model 2005 800 KW Skid-mounted Diesel Generator Set and a 2,000 Gallon Above Ground Storage Tank with 250 Gallon Base Mount Diesel Day Tank for Wastewater Treatment Plant.** (Opened 4/12/05). Recommend Cummins Rocky Mountain LLC, \$99,999.00 and consideration of Tractor & Equipment Company bid as non-responsive.

[\(Corresponding Staff Memo A1\)](#)

**(2) Uniform Rental Service for Public Works Dept – Utilities.** (Opened 4/19/05). Recommend delaying to 5/9/05.  
[\(Corresponding Staff Memo A2\)](#)

**(3) Flight Information Display System Equipment.** (Opened 4/12/05). Recommend Flights-Now.Com, \$73,586.00.  
[\(Corresponding Staff Memo A3\)](#)

**(4) W.O. 04-11: SID 1373: South Billings Boulevard – King Ave East to Underpass Avenue.** (Opened 4/12/05). Recommend JTL Group, Inc., \$2,037,141.70.  
[\(Corresponding Staff Memo A4\)](#)

**B. Amendment #1, Professional Services Contract, SID 1366: Rimrock West Subdivision Park and storm drain improvements,** Interstate Engineering, Inc., \$21,975.00.  
[\(Corresponding Staff Memo B\)](#)

**C. Contract** with International Association of Chiefs of Police (IACP) for Police Operations Study, \$75,000.00.  
[\(Corresponding Staff Memo C\)](#)

**D. W.O. 04-12: Alkali Creek Road,** Right-of-Way Easement, Billings Saddle Club, \$0.00.  
[\(Corresponding Staff Memo D\)](#)

**E. W.O. 00-15: Widening Grand Avenue: 8<sup>th</sup> St. W to 12<sup>th</sup> St. W.,** Right-of-Way Agreement, Griffin Family LLP, \$46,650.00.  
[\(Corresponding Staff Memo E\)](#)

**F. Authorization** to purchase five (5) new 35-foot Transit coaches from Gillig Corporation, \$1,399,080.00.  
[\(Corresponding Staff Memo F\)](#)

**G. Approval** of large project GAP funding grant to Oliver Building Development Venture, LP, up to \$285,000.00 for the Oliver Building Redevelopment Project at 2702 Montana Avenue.  
[\(Corresponding Staff Memo G\)](#)

**H. Approval** of Downtown Revolving Loans:  
(1) Whistling Water Coffee Shop & Training Center, Inc., not to exceed the lesser of \$8,000 or 20% of purchase price of Skooterz Java Pub  
(2) Yellowstone Community Cooperative (dba Good Earth Market), not to exceed the lesser of \$140,000 or 20% of actual project costs.  
[\(Corresponding Staff Memo H\)](#)

**I. Acknowledging receipt of petition to annex #05-02:** a unplatted tract that is the W2W2SW4 of Section 32, Township 1 North, Range 25 East, containing 40.568 acres, Bishop Fox Company, petitioner, and setting a public hearing for 5/9/05.

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

**J. Acknowledging receipt of petition to annex #05-03:** C/S 1877, Tract 3 in SW4NW4 of Section 4, Township 1 South, Range 25 East, DC Capital Real Estate, petitioner, and setting a public hearing for 5/9/05.

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

**K. Chase Hawks Association** *Burn the Point* Street Dance and Car Show, temporary street closures for parade, street dance and car show on September 2-3, 2005; street closure on established parade route and from N. 27<sup>th</sup> St. to N. 29<sup>th</sup> St., and from 1<sup>st</sup> Ave. N. to 3<sup>rd</sup> Ave. N.

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

**L. Moss Mansion** *Homefront Warriors*, temporary street closures for antique car show on May 21, 2005; street closure of Clark Avenue from 1<sup>st</sup> Ave. N. to Division St.

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

**M. Resolution of Intent** to Create PMD #4026: Uinta Park Subdivision and setting a public hearing for 5/23/05.

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

**N. Preliminary Plat** of Bishop Fox Subdivision, conditional approval of plat, acceptance of the findings of fact and approval of the variances from BMCC Sections 23-602 and 23-605(d).

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

**O. Preliminary Plat** of Copper Ridge Subdivision, 1<sup>st</sup> Filing, conditional approval of plat, acceptance of the findings of fact and approval of the variances from BMCC Section 23-601(k).

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

**P. Final Plat** of Lot 5, Block 3, Superior Homes Subdivision, Second Amended.

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

**Q. Bills and Payroll.**

(1) April 1, 2005

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

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

## **REGULAR AGENDA:**

**2. PUBLIC HEARING AND RESOLUTION** making FY05 budget adjustments to the

Wastewater Construction, Water, Public Safety, SID Construction and Series 2000 Parks Debt Service Funds. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)

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

3. **PUBLIC HEARING** on the allocation of the City of Billings' 2005-2006 CDBG and HOME funding and FY2005-2009 Consolidated Plan. Final Council action scheduled for 5/09/05. **(Action:** public hearing only.)

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

4. **PUBLIC HEARING AND RESOLUTION** vacating the "street bulb" portion of Indian Trail south of Alkali Creek School in equal exchange for a storm drain easement in Spring Valley Sub., Ernie Szillat, petitioner. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)

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

5. **PUBLIC HEARING AND VARIANCE #OP05-01:** a variance from the Site Development Ordinance, BMCC Sections 6-1203(q)(2) and 6-1203(j) regarding surfacing or parking lots and minimum standards for required number of parking spaces. Northern Plains Resource Council, petitioner. Subject property is located on Lots 1-20, Block 164, O.T. and generally located between 2<sup>nd</sup> & 3<sup>rd</sup> Avenues South along the southwest side of S. 27<sup>th</sup>. St. Staff recommends denial. **(Action:** approval or disapproval of Staff recommendation.)

[\(Corresponding Staff Memo 5\)](#)

6. **PUBLIC HEARING AND RESOLUTION** adopting the North West Shiloh Area Plan. Planning Board recommends approval. **(Action:** approval or disapproval of Planning Board recommendation.)

[\(Corresponding Staff Memo 6\)](#)

7. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #756:** a zone change from Agricultural-Open Space to Community Commercial on Lot 1, Public on Lot 2, R-7000 on Lots 3-4 and R-9600 on Lot 5 for a 40.5 acre parcel of unplatted land in the proposed Bishop Fox Subdivision, generally located on the east side of 54<sup>th</sup> St. W. between Grand Avenue and Colton Boulevard. Bishop Fox Company, owner; Engineering, Inc., agent. Zoning Commission recommends approval of the zone change and adoption of the determinations of the 12 criteria. **(Action:** approval or disapproval of Zoning Commission recommendation.)

[\(Corresponding Staff Memo 7\)](#)

8. **PUBLIC HEARING AND SPECIAL REVIEW #780:** a special review to allow the construction of a 14-bed assisted living facility in Howard Heights Subdivision, Block 2, Lots 26-27, located on Lily Valley Circle, north of Hilltop Road and west of Garnet Avenue. Gayle M. Laufer, applicant; Michael and Janet White, agents. Zoning Commission makes no recommendation. Planning Staff recommends conditional approval. **(Action:** approval or disapproval of special review.)

[\(Corresponding Staff Memo 8\)](#)



9. **PUBLIC HEARING AND SPECIAL REVIEW #781:** a special review to permit an all-beverage liquor license within an existing structure and on an outdoor patio within the City's right-of-way in the Central Business District on Lot 12, Block 107, O.T. and located at 2923 Montana Avenue. Brad Anderson, owner; Chuck Goldy, agent. Zoning Commission recommends conditional approval. **(Action:** approval or disapproval of Zoning Commission recommendation.)

[\(Corresponding Staff Memo 9\)](#)

10. **PUBLIC HEARING AND FIRST READING ORDINANCE** granting to Montana Dakota Utilities Co., a non-exclusive franchise to construct, maintain, operate, replace and repair a gas distribution system within public rights-of-way of the City of Billings. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)

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

11. **PUBLIC HEARING CONTINUED AND RESOLUTION** Specifying Water and Wastewater Rate Schedule Adjustments. (PH held 4/11/05). Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)

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

12. **REPORT** from the Mayor's Ad Hoc Transit Center Study Committee. Staff recommends postponing the report to 4/27/05. **(Action:** approval or disapproval of Staff recommendation.)

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

13. **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**

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 25, 2005**

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**TITLE:** Award for Backup Diesel Generator at Wastewater Treatment Plant  
**DEPARTMENT:** Public Works  
**PRESENTED BY:** David D. Mumford, P.E., Public Works Director

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**PROBLEM/ISSUE STATEMENT:** In order to provide a more reliable source of backup power to the wastewater treatment plant a backup diesel powered generator will be permanently installed at the plant.

**FINANCIAL IMPACT:** The Council rejected a previous sole bid on this item March 28, 2005 due to a technicality. New bids were opened on April 12, 2005 for a 2005 800 KW Skid-Mounted Diesel Generator set and 2000 gallon above ground tank with a 250 gallon base mount diesel day tank as follows:

Interstate Power Systems	\$134,620.00
Tractor & Equipment Company	\$103,415.94
Cummins Rocky Mountain LLC	\$ 99,999.00

There are sufficient funds in the FY05 Budget to cover the cost of the generator set.

**RECOMMENDATION**

Staff recommends that Council award the 2005 800 KW Skid-Mounted Diesel Generator set and 2000 gallon above ground tank with a 250 gallon base mount diesel day tank to Cummins Rocky Mountain LLC in the amount of \$99,999.00. Staff also recommends that the bid from Tractor & Equipment Company be considered non-responsive due to failure to acknowledge receipt and acceptance of Addendum No. 1 to the contract specifications.

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

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**AGENDA ITEM:**



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 25, 2005**

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**TITLE:** Bid Award – Uniform Rental Services, Public Works - Utilities  
**DEPARTMENT:** Public Works Department  
**PRESENTED BY:** Dave Mumford, Public Works Director

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**PROBLEM/ISSUE STATEMENT:**

Delaying award of the Uniform Rental bid to May 9, 2005 to allow Staff time to review the bids.

**FINANCIAL IMPACT:**

There are sufficient funds in the department's operating accounts (Object 2260) to cover this expense.

**BACKGROUND**

Public Works – Utilities advertised bids for the Uniform Rental Service. Bids were received and opened on April 19, 2005. The contract will provide two years of uniform rental, laundry, and tailoring service for the uniformed employees.

**RECOMMENDATION**

We recommend delaying award of the Uniform Rental bid to May 9, 2005 to allow Staff time to review the bids.

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

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AGENDA ITEM:



**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 25, 2005**

**TITLE:** Approval of Flight Information Display System (FIDS) Equipment Supply Service Agreement

**DEPARTMENT:** Aviation and Transit

**PRESENTED BY:** J. Bruce Putnam, A.A.E., Director of Aviation and Transit

**PROBLEM/ISSUE STATEMENT:** During the last two years, the largest public request received by the Aviation and Transit Department is the need to have a Flight Information Display System (FIDS) to display updated airline flight arrival and departure information within the Terminal area. Approval of this service agreement will permit the installation of display monitors at each airline ticket counter, in the security screening lobby, the baggage claim area, the restaurant, and several locations on the concourse. Airline arrival and departure information, delays, and schedule change information will automatically be updated by an on-line service company that receives this information directly from the various airline flight departments. This project is part of the City's approved Capital Improvement Plan and will significantly enhance the service provided to our many customers. This project was advertised in the *Billings Times* and on the City of Billings website; staff distributed four sets of bid specifications, and the bids were opened April 12, 2005. In spite of these efforts, only one bid was received as follows:

**SUPPLIER**

Flights-Now.Com  
 ESTIMATE

**BID**

\$73,586.00  
 \$75,000.00

**FINANCIAL IMPACT:**

The total cost if this service agreement is \$73,586.00. We have sufficient funds budgeted to the cover the cost of this equipment.

**RECOMMENDATION**

Staff recommends that the City Council award the Flight Information Display System Equipment Supply Service Agreement to the sole bidder Flights-Now.Com, in the amount of \$73,586.00.

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

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## AGENDA ITEM:



**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 25, 2005**

TITLE: W.O. 04-11, South Billings Boulevard Project, Contract Award  
 DEPARTMENT: Public Works - Engineering  
 PRESENTED BY: David D. Mumford, P.E., Public Works Director

**PROBLEM/ISSUE STATEMENT:** The City of Billings in conjunction with the GO bond project has the desire to construct public improvements along South Billings Boulevard between King Avenue and Underpass Road. These improvements generally consist of curb and gutter, sidewalk, street improvements, water main, sewer services and storm drain facilities to South Billings Boulevard frontage.

**FINANCIAL IMPACT:** Based upon the bids received, funding for the project would be available through the following funding sources.

<b>Project Number</b>	<b><u>WO 04-11</u></b>
<b><u>Budget Amount and Sources of Funds</u></b>	
City Portion	2,271,000.55
SID 1373 South Billings Blvd.	291,000.00

Bids were opened on April 14, 2005 with the following results:

Firm	Bid
JTL Group Inc.	\$2,037,141.70
Chief Construction, Inc.	\$2,279,854.02
Engineers Estimate	\$2,306,022.43

**RECOMMENDATION**

Staff recommends that Council award a construction contract for W.O. 04-11 to JTL Group Inc. in the amount of \$2,037,141.02.

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

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## AGENDA ITEM:




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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 25, 2005**

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**TITLE:** SID 1366 Professional Services Contract with Interstate Engineering, Inc.  
 - Amendment No. 1

**DEPARTMENT:** Department of Parks, Recreation, and Public Lands

**PRESENTED BY:** Don Kearney, PRPL Director

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**PROBLEM/ISSUE STATEMENT:** The City of Billings is recommending an amendment to the Professional Services Contract with Interstate Engineering, Inc. This contract, dated April 14, 2003, is for professional design, bidding, and administration services for the Rimrock West Subdivision park and storm drain improvements, SID 1366. These changes to the original contract are due to issues related to the unanticipated master plan revision and the extension of the contract completion time from 60 to 120 days. The consultant was required to meet with property owners in Rimrock West Subdivision and, over a period of 6 months, prepare a revised Master Plan for Rimrock West Park, involving the preparation of planning exhibits and presentations, planning for and conducting property owner meetings, drafting and analyzing a property owner survey, and meeting with a homeowners committee. The Rimrock West master plan was adopted in 1999 by the City Council, when there were few property owners other than the developers. Revision of the Master Plan was not anticipated and was not included in the Scope of Services called for in the original contract for the SID. However, an initial meeting of the property owners to review the SID resulted in much controversy and demands for revisions to the plan resulting in the extended process outlined above. The contract also provided for a 60 day construction period, but concerns expressed by contractors during the bidding phase resulted in it being extended to 120 days.

**FINANCIAL IMPACT:** Amendment No. 1 increases the amount of the professional services contract by \$21,975.00. That amount is made up of \$14,475 to reimburse the unanticipated costs for revising the Master Plan, and \$7,500 that will be required for the additional 60 days of contract supervision and administration. Funds are available in the SID 1366 budget for Engineering and Design Services.

Original Prof. Service Contract:	\$ 98,000	Cumulative	Cumulative
Amendment No. 1	\$ 21,975	% of E&D Contr.	% of SID
		22.4%	3.3%
<b>Total</b>	<b>\$ 119,975</b>		

## RECOMMENDATION

Staff recommends that Council authorize the Mayor to execute Amendment No. 1 to the Rimrock West Park SID 1366 Professional Services Contract with Interstate Engineering, Inc., resulting in a net increase of \$21,975.

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

**ATTACHMENT:**

A. Three copies – Amendment No.1 and Attachments

(5 Pages/Copy)



**AMENDMENT NO. 1**  
**TO THE**  
**CONTRACT FOR PROFESSIONAL SERVICES**  
**FOR**  
**RIMROCK WEST PARK SID 1366**

This Amendment is made and entered into on the \_\_\_\_\_ day of \_\_\_\_\_, 2005 by and between the **CITY OF BILLINGS**, a Municipal Corporation, Billings, Montana, 59103, hereinafter designated the **CITY**, and **INTERSTATE ENGINEERING, INC.**, PO Box 30215, Billings, Montana, hereinafter designated the **CONSULTANT**.

The following revisions to the Contract for Engineering Services dated April 1, 2003 are hereby agreed to:

**Section 1**

The original Scope-of-Work (refer to Paragraph 3 of the original Contract for Engineering Services) referenced the January 1999 Park Master Plan prepared by Fischer and Associates as the basis for the design of the park improvements. It was determined early in the design of the project that modifications to the January 1999 Park Master Plan would be necessary based on public comments received.

The fee for Construction Phase Services was based on a contract time of 60 calendar days. During the bidding phase of the project, the contract time was changed to 120 calendar days. The increase in contract time was based on bidders concerns received during the bidding phase. The concerns were centered on sequencing of construction tasks associated with the project, and the need to use multiple subcontractors to complete the project.

The Scope-of-Work is hereby modified to include the following items:

1. The Consultant will conduct several Public Information Meetings and revise the January 1999 Park Master Plan based on comments received from the meetings and input from the Department of Parks and Recreations. Public Information Meetings were conducted by the Consultant on September 30, 2003, November 18, 2003, December 16, 2003 and June 30, 2004.
2. The Consultant completed two neighborhood surveys requesting input from the property owners as to the extent of the proposed improvements, their proposed costs and options. The first survey was distributed to property owners at the November 18, 2003 Public Information Meeting. The second survey was mailed to all property owners in the subdivision on June of 2004. The result of the surveys were compiled and incorporated into the final Park Master Plan.
3. The Consultant worked with the Rimrock West Estates Subdivision Homeowners Committee in developing the revised Park Master Plan. The Committee was formed to assist the obtaining input from the property owners in the subdivision, and to help establish consensus.
4. Based on the information received from the Public Information Meeting, surveys and input from the Homeowners Committee, a revised Park Master Plan was prepared by the Consultant. This revised Park Master Plan served as the basis for the design of the park improvements and establishment of the Special Improvement District.
5. The Contract Time for the construction of the project shall be 120 calendar days.

## **Section 2**

The total fee for the services under Paragraph 6.A of the Contract for Engineering Services provided by the Consultant is hereby increased from \$98,000.00 to \$119,975.00. This fee shall be broken down as follows:

1. The amount to be paid to the Consultant under 6.A.1 shall be increased from \$63,600 to \$78,075.00. This increase is based on the additional scope-of-work Items 1-4 from Section 1 of the Amendment.
2. The amount to be paid to the Consultant under 6.A.3 shall be increased from \$34,400 to \$41,900.00. This increase is based on the additional scope-of-work Item 4 from Section 1 of this Amendment.

Included as Attachment A to this Amendment is a summary of the revised fee.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Amendment on the day and year first written above.

CITY OF BILLINGS

INTERSTATE ENGINEERING, INC.

By: \_\_\_\_\_  
\_\_\_\_\_

By:

Title: \_\_\_\_\_  
\_\_\_\_\_

Title:

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

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## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 25, 2005**

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**TITLE:** International Association of Chiefs of Police (IACP) Review of Management and Operations of Billings Police Department

**DEPARTMENT:** Billings Police Department

**PRESENTED BY:** Kristoff T. Bauer, City Administrator  
Darrell Bell, Acting Chief of Police

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**PROBLEM/ISSUE STATEMENT:** One of the City Council goals for 2004/2005 is to work with the Mayor and City Council to identify specific performance measures for Public Safety services, establish service level objectives, and develop strategies to achieve those service level objectives. Since the Police Department is a member of the IACP, and they offer this type of service to their members, we are requesting City Council's approval to enter into a contract with IACP in the amount of \$75,000 to conduct a comprehensive study of the Billings Police Department, which will take approximately 6 months to complete. The study will produce practical, prioritized recommendations to upgrade the effectiveness and productivity of police services. The study report will be comprehensive and balanced. It will highlight positive aspects of the BPD operations as well as those that require modification. It will outline necessary and desirable improvements, placing special emphasis on actions to ensure that the BPD, city officials, and the Billings' community have a clear and mutual understanding of the police mission and that the BPD is positioned to achieve objectives more effectively, maximize productivity, and meet future requirements in an informed and orderly manner.

**ALTERNATIVES ANALYZED:**

- Issue an RFP for a study, further delaying action on this item.
- Hire IACP, a nationally recognized non-profit organization, to perform this study, which is similar to those it has conducted in departments around the country. IACP does not respond to RFP's.

**FINANCIAL IMPACT:** The Police Department will be taking the cost of this review out of their 2004/2005 budget.

## **RECOMMENDATION**

Staff recommends that Council approve entering into a contract with IACP in the amount of \$75,000 to conduct a comprehensive study of the Billings Police Dept.

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

### **Attachment**

A. A copy of the IACP proposal is on file in the City Clerk's office

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## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 25, 2005**

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**TITLE:** W.O. 04-12, Alkali Creek Road, Right-of-Way Easement  
**DEPARTMENT:** Public Works/Engineering Division  
**PRESENTED BY:** David D. Mumford, PE, Public Works Director

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**PROBLEM/ISSUE STATEMENT:** Council must approve this 6,000 square foot right-of-way perpetual easement with the Billings Saddle Club in order to construct and maintain the Alkali Creek Road improvements. The road along the frontage of the Saddle Club is currently a perpetual road easement established with Yellowstone County in 1884. The road project includes a re-alignment of the curve in front of the Saddle Club that necessitates a new public easement for right-of-way purposes. A copy of the easement and associated Exhibit "A" are on file with the City Clerk.

**FINANCIAL IMPACT:** There is no financial impact for this easement. The Billings Saddle Club has agreed to provide the easement at no cost to the City.

**RECOMMENDATION**

Staff recommends that Council approve the right of way perpetual easement with the Billings Saddle Club at no cost.

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

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## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 25, 2005**

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**TITLE:** Right-of-Way Agreement with Griffin Family, LLP  
**DEPARTMENT:** Public Works/Engineering  
**PRESENTED BY:** David D. Mumford, PE, Public Works Director

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**PROBLEM/ISSUE STATEMENT:** Work Order 00-15 Grand Avenue will widen Grand Avenue from 8<sup>th</sup> Street West to 12<sup>th</sup> Street West. The City Engineer's Office has been negotiating for the necessary Right-of-Way from the adjacent property owners for the last year. The Right-of-Way needed was identified on the design plans for the project and must be acquired prior to construction. Griffin Family, LLP owns the property at 1116 Grand Avenue which encompasses Lots 15,16, and 17, Block 4 of Sunset Subdivision. Griffin Family, LLP has agreed to sell the necessary right-of-way as shown on the attachment for \$43,663.00 and grant a temporary construction easement for \$2,968.00. The City Engineer's Office is working a subdivision plat which will dedicate the right-of-way. This is the first of fourteen properties in which right-of-way will need to be purchased.

**ALTERNATIVES ANALYZED:**

1. Approve the Right-of-Way Agreement with Griffin Family, LLP and authorize the mayor to sign the subdivision plat once completed.
2. Do not approve the Right-of-Way Agreement with Griffin Family, LLP and authorize the mayor to sign the subdivision plat once completed.

**FINANCIAL IMPACT:** The cost of the right-of-way and construction easement from Griffin Family, LLP is \$46,650.00. This will be paid out of Gas Tax in which \$595,000 has been allocated in FY '05 for Grand Avenue.

**RECOMMENDATION**

Staff requests that Council approve the Right-of-Way Agreement with Griffin Family, LLP and authorize the mayor to sign the subdivision plat for Griffin Family, LLP dedicating the right-of-way once completed.



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

ATTACHMENT

A.            Right-of-Way Agreement with Griffin Family, LLP

## **INTRODUCTION**

Work Order 00-15 Grand Avenue will widen Grand Avenue from 8<sup>th</sup> Street West to 12<sup>th</sup> Street West. The City Engineer's Office has been negotiating for the necessary Right-of-Way from the adjacent property owners for the last year. The Right-of-Way needed was identified on the design plans for the project and must be acquired prior to construction. There are fourteen properties on Grand Avenue in which the City needs to purchase right-of-way.

## **PROCEDURAL HISTORY**

The City Engineer's Office obtained appraisals for all the necessary right-of-way on Grand Avenue and started negotiations with the property owners. The City Engineer's Office then requested and got approved in a Council Work Session to offer land value plus full value for any signs within the requested right-of-way. Once all of the right-of-way properties have been acquired, the City Engineer's Office will begin the construction process, which is anticipated to start in the spring of 2006.

## **BACKGROUND**

The City Engineer's Office has been negotiating with property owners on Grand Avenue from 8<sup>th</sup> Street West to 12<sup>th</sup> Street West for the necessary right-of-way to widen Grand Avenue to a 5-lane section for the last year. There are a number of driveways on Grand Avenue and to accommodate frequent left-turns and traffic volumes, it is necessary to widen Grand Avenue to include a two-way left-turn lane. The design for this project has been completed by Kadrmas, Lee, & Jackson. Once all of the right-of-way has been acquired, construction will begin and is anticipated to take six months to complete.

## **ALTERNATIVES ANALYSIS**

Approve the Right-of-Way Agreement with Griffin Family, LLP and authorize the mayor to sign the subdivision plat once completed. Under this option, the City Engineer's Office will complete the subdivision plat dedicating the right-of-way and the right-of-way agreement and the plat will be recorded with the Clerk and Recorder's Office.

Do not approve the Right-of-Way Agreement with Griffin Family, LLP and authorize the mayor to sign the subdivision plat once completed. Under this option, negotiations might fail and further negotiations with other property owners could be in jeopardy.

## **RECOMMENDATION**

Staff requests that Council approve the Right-of-Way Agreement with Griffin Family, LLP and authorize the mayor to sign the subdivision plat for Griffin Family, LLP dedicating the right-of-way once completed.

## **ATTACHMENTS**

- A. Right-of-Way Agreement with Griffin Family, LLP

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

## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 25, 2005**

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**TITLE:** MET Transit Division Purchase of Five Transit Buses  
**DEPARTMENT:** Aviation and Transit  
**PRESENTED BY:** J. Bruce Putnam, A.A.E., Director of Aviation and Transit

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**PROBLEM/ISSUE STATEMENT:** MET Transit has five buses that will reach the end of their useful life under both Federal Transit Administration Regulations and the City of Billings Equipment Replacement Program (ERP). These five buses do not meet current ADA requirements for wheelchair lifts and passenger restraint systems. Because of their age, maintenance costs, and the decreasing ability to find replacement parts, the continued use of these older coaches is beginning to be problematic.

On June 23, 2003, the MET Transit received Council approval to accept the low bid from Gillig Corporation for a multi-year bus replacement program. This approval allowed MET Transit to order six buses in Fiscal Year 02/03 with five future year purchase options. The MET was successful in obtaining a multi-year purchase commitment from the Gillig Corporation for the cost of buses and parts in the future option years, based on the bid price adjusted by the Producer Price Index for Transportation Equipment. This index is the industry standard for determining price adjustments for the future option years. The first use of this purchase option was approved by Council in April 2004 for the five replacement buses that we will be receiving in the next couple of months. Once Council approves this order, there will be one older bus remaining to be replaced in Fiscal Year 2007. By utilizing the option year contract, the MET Transit has received a favorable price from the Gillig Corporation for the five buses scheduled for replacement in this Fiscal Year's ERP.

**FINANCIAL IMPACT:** Funds are currently available in the Fiscal Year 04/05 budget to accomplish this purchase. This bus replacement would be funded using Federal Transit Administration (FTA) Discretionary Grant dollars at 80% Federal and 20% Local. The MET Transit's Fiscal Year 04/05 budget for this replacement is \$1,487,410 (\$297,482 per bus); however, due to a low Producer Price Index, the cost of the five buses will only increase by 3% (\$8,561 per bus) for a total cost of \$1,399,080 (\$279,816 per bus).

**RECOMMENDATION**

Staff recommends that the City Council approve the authorization for staff to place an order to purchase five new 35-foot coaches at a price of \$279,816 each from Gillig Corporation, for a total price of \$1,399,080.

**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 April 25, 2005**

---

**TITLE:** Downtown Billings Partnership (DBP) Recommendation to Provide GAP Funding to Oliver Building Development Venture, L.P. for the Oliver Building Redevelopment Project

**DEPARTMENT:** Administration-Finance Division

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

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**PROBLEM/ISSUE STATEMENT:** The DBP received an application for a large project GAP funding grant for \$285,000 from Oliver Building Development Venture, L.P. This grant will be used for the renovation of the Oliver Building at 2702 Montana Avenue. The project meets the GAP funding criteria and will leverage a project with an estimated cost in excess of one million dollars.

**FINANCIAL IMPACT:** This grant will be included in the fiscal year 2006 budget with payment coming from the Development Incentives line item.

**RECOMMENDATION**

The Executive Committee of the DBP, with Board of Director's consent, recommends that the Council approve a large project GAP funding grant in an amount up to \$285,000 to Oliver Building Development Venture, L.P.

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

**ATTACHMENT**

A – DBP Informational Packet  
B – Partnership Summary

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

H

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 25, 2005**

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**TITLE:** Revolving Loan Fund Recommendations for Whistling Water Coffee Shop & Training Center, Inc., and for Yellowstone Community Cooperative

**DEPARTMENT:** Administration-Finance Division

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

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**PROBLEM/ISSUE STATEMENT:** The Downtown Revolving Loan Committee met on March, 7, 2005, and on April 6, 2005, and recommends approving two loans: 1) The Whistling Water Coffee Shop & Training Center, Inc., loan not to exceed the lesser of \$8,000 or 20% of the purchase price of the business known as Skooterz Java Pub; and 2) the Yellowstone Community Cooperative (dba as the Good Earth Market) loan is not to exceed the lesser of \$140,000 or 20% of the actual project costs.

**FINANCIAL IMPACT:** Subsequent to approval of these items, the loan fund will have a balance available of approximately \$9,000.00.

**RECOMMENDATION**

The Downtown Revolving Loan Committee recommends that council approve the loans to Whistling Water Coffee Shop & Training Center, Inc., and to Yellowstone Community Cooperative.

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

**ATTACHMENT**

A-Loan Descriptions

Revolving Loan Fund Loan

Monday, April 25, 2005

The Whistling Water Coffee Shop & Training Center, Inc. loan terms are as follows:

Loan	Not to exceed \$8,000.00 or 20% of project costs and no more than 60% of the total project directly via borrowed funds.
Interest Rate	2.625% Adjusted annually.
Term	Amortized over three years.
Payments	Minimum Payments calculated as the amount required to retire the loan by the maturity date.
Guarantees	Velma Pretty on Top and NADC, Inc. will each guarantee the loan.
Collateral	None.
Security	The City will file form UCC1 on the entity's equipment and inventory, which will be junior and subordinate to First Interstate Bank's filing.
Disbursement	The City will disburse funds after it receives documentation supporting the actual purchase of equipment and inventory.

This loan is to finance a portion of the purchase of the business known as Skooterz Java Pub, which is located on 3<sup>rd</sup> Avenue North.

The Yellowstone Community Cooperative (Good Earth Market, a non-profit cooperative membership organization whole foods grocery store) loan terms are as follows:

Loan	Not to exceed the lesser of \$140,000.00 or 20% of project costs.
Interest Rate	2.625% Adjusted annually.
Term	Amortized over seven years.
Payments	Minimum Payments calculated at a rate of five percent over a seven year term. The first payment will be due sixty days after disbursement of funds.
Personal guarantees	Personal guarantee(s) in the amount of \$70,000.00.
Collateral	Assignment of lease, which will be junior and subordinate to First Interstate Bank.
Security	The City will file form UCC1 on the entity's furnishings, equipment and inventory, which will be junior and subordinate to First Interstate Bank's filing.
Disbursement	The City will disburse funds after it receives documentation supporting the actual project costs.

This loan is to finance a portion of the following project costs:

\$385,000	Leasehold improvements to the new location at 31 <sup>st</sup> Street and 2 <sup>nd</sup> Avenue North, (historically known as the location of the Ford dealership)
260,000	Equipment and inventory, and



106,850      Project management and contingency.

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**AGENDA ITEM:**



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 25, 2005**

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**TITLE:** Annexation petition #05-02: Acknowledge receipt of petition and set a public hearing date

**DEPARTMENT:** Planning and Community Services

**PRESENTED BY:** Nicole Cromwell, AICP, Planner II, Zoning Coordinator

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**PROBLEM/ISSUE STATEMENT:** Bishop Fox Company is petitioning to annex land to the City of Billings under 7-2-4600, MCA. The 40.5-acre undeveloped parcel is located between Grand Avenue and Colton Boulevard, east of 54<sup>th</sup> Street West. The property is just east of Cottonwood Grove Subdivision and north of Vintage Estates Subdivision. Both of these subdivisions were recently annexed and subdivided. The owner intends to subdivide this property as a five-lot minor subdivision with a one-acre parcel set aside for a new fire station for the West Billings neighborhood. The petitioner is requesting annexation in order to obtain city water and sewer services. The City Council will consider this annexation at two separate Council meetings. At the first meeting, the Council acknowledges receipt of a petition and sets a public hearing date of May 9, 2005. At the second meeting the Council conducts the hearing and acts on the petition to annex.

**ALTERNATIVES ANALYZED:** MCA, Section 7-2-4600 allows owners of more than 50% of the property to petition the city for annexation. The only alternative that is consistent with City Council policy is to acknowledge receipt of the petition and set a public hearing date. The proposed subdivision lies within the acceptable limits of annexation.

**FINANCIAL IMPACT:** A fiscal impact analysis and staff recommendation will be prepared and presented at the public hearing.

**RECOMMENDATION**

Staff recommends that the City Council acknowledge receipt of the annexation petition and schedule a public hearing for May 9, 2005, to consider annexing this property.

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

**ATTACHMENTS**

- A. Property data
- B. Annexation petition
- C. Map


ATTACHMENT A  
Annexation #05-02 Property Data

Type of annexation:	Petitioned - MCA 7-2-4600
Petitioner:	Bishop Fox Company
Purpose of annexation:	Obtain City services
Property included:	A tract of Unplatted land that is the W1/2 W1/2 SW1/4 of Section 32 T.1N., R.25E., P.M.M., Yellowstone County, Montana
Location:	Grand Avenue east of 54 <sup>th</sup> Street West
Total area:	40.568 acres
Current zoning:	Agriculture - Open Space
Current land use:	Agriculture
Future zoning:	Community Commercial, Public, R-7,000 and R-9,600 (Zone Change #756)
Future land use:	Church Campus, Fire Station, Commercial and Single Family Residential

## NOTICE TO PETITIONER

## INSTRUCTIONS

## RESIDENT FREEHOLDER ELECTORS

Date	Print Name	Name Signature	Address
3/01/05	Bishop Fox Company	 President	1241 Crawford Drive Billings, MT 59102

(Should be completed prior to obtaining signatures of resident freeholder electors)

**DESCRIPTION OF THE TERRITORY TO BE ANNEXED TO THE CITY OF BILLINGS**

[illegible]

**ALL ITEMS BELOW SHALL BE COMPLETED BY STAFF**

Date Submitted: March 7, 2005  
Fee Paid: Yes

Received By: Tammy Deines

Petition Number: 05-02

Fee Paid: 405

Tammy Deines  
Nicole Cromwell

The map shows a portion of the City of Grand Rapids, Michigan, with various streets and lots. Key features include:

- Streets:** RIMROCK ROAD, COLTON BLVD, WEST STREET, 54TH STREET, GRAND AVENUE, CYNTHIA PARK, LEROY LANE, TRAIL CIRCLE DR, C/S 1615, C/S 1923, C/S 1929, C/S 1930, C/S 1931, C/S 1932, C/S 1933, C/S 1934, C/S 1935, C/S 1936, C/S 1937, C/S 1938, C/S 1939, C/S 1940, C/S 1941, C/S 1942, C/S 1943, C/S 1944, C/S 1945, C/S 1946, C/S 1947, C/S 1948, C/S 1949, C/S 1950, C/S 1951, C/S 1952, C/S 1953, C/S 1954, C/S 1955, C/S 1956, C/S 1957, C/S 1958, C/S 1959, C/S 1960, C/S 1961, C/S 1962, C/S 1963, C/S 1964, C/S 1965, C/S 1966, C/S 1967, C/S 1968, C/S 1969, C/S 1970, C/S 1971, C/S 1972, C/S 1973, C/S 1974, C/S 1975, C/S 1976, C/S 1977, C/S 1978, C/S 1979, C/S 1980, C/S 1981, C/S 1982, C/S 1983, C/S 1984, C/S 1985, C/S 1986, C/S 1987, C/S 1988, C/S 1989, C/S 1990, C/S 1991, C/S 1992, C/S 1993, C/S 1994, C/S 1995, C/S 1996, C/S 1997, C/S 1998, C/S 1999, C/S 2000, C/S 2001, C/S 2002, C/S 2003, C/S 2004, C/S 2005, C/S 2006, C/S 2007, C/S 2008, C/S 2009, C/S 2010, C/S 2011, C/S 2012, C/S 2013, C/S 2014, C/S 2015, C/S 2016, C/S 2017, C/S 2018, C/S 2019, C/S 2020, C/S 2021, C/S 2022, C/S 2023, C/S 2024, C/S 2025, C/S 2026, C/S 2027, C/S 2028, C/S 2029, C/S 2030, C/S 2031, C/S 2032, C/S 2033, C/S 2034, C/S 2035, C/S 2036, C/S 2037, C/S 2038, C/S 2039, C/S 2040, C/S 2041, C/S 2042, C/S 2043, C/S 2044, C/S 2045, C/S 2046, C/S 2047, C/S 2048, C/S 2049, C/S 2050, C/S 2051, C/S 2052, C/S 2053, C/S 2054, C/S 2055, C/S 2056, C/S 2057, C/S 2058, C/S 2059, C/S 2060, C/S 2061, C/S 2062, C/S 2063, C/S 2064, C/S 2065, C/S 2066, C/S 2067, C/S 2068, C/S 2069, C/S 2070, C/S 2071, C/S 2072, C/S 2073, C/S 2074, C/S 2075, C/S 2076, C/S 2077, C/S 2078, C/S 2079, C/S 2080, C/S 2081, C/S 2082, C/S 2083, C/S 2084, C/S 2085, C/S 2086, C/S 2087, C/S 2088, C/S 2089, C/S 2090, C/S 2091, C/S 2092, C/S 2093, C/S 2094, C/S 2095, C/S 2096, C/S 2097, C/S 2098, C/S 2099, C/S 2100, C/S 2101, C/S 2102, C/S 2103, C/S 2104, C/S 2105, C/S 2106, C/S 2107, C/S 2108, C/S 2109, C/S 2110, C/S 2111, C/S 2112, C/S 2113, C/S 2114, C/S 2115, C/S 2116, C/S 2117, C/S 2118, C/S 2119, C/S 2120, C/S 2121, C/S 2122, C/S 2123, C/S 2124, C/S 2125, C/S 2126, C/S 2127, C/S 2128, C/S 2129, C/S 2130, C/S 2131, C/S 2132, C/S 2133, C/S 2134, C/S 2135, C/S 2136, C/S 2137, C/S 2138, C/S 2139, C/S 2140, C/S 2141, C/S 2142, C/S 2143, C/S 2144, C/S 2145, C/S 2146, C/S 2147, C/S 2148, C/S 2149, C/S 2150, C/S 2151, C/S 2152, C/S 2153, C/S 2154, C/S 2155, C/S 2156, C/S 2157, C/S 2158, C/S 2159, C/S 2160, C/S 2161, C/S 2162, C/S 2163, C/S 2164, C/S 2165, C/S 2166, C/S 2167, C/S 2168, C/S 2169, C/S 2170, C/S 2171, C/S 2172, C/S 2173, C/S 2174, C/S 2175, C/S 2176, C/S 2177, C/S 2178, C/S 2179, C/S 2180, C/S 2181, C/S 2182, C/S 2183, C/S 2184, C/S 2185, C/S 2186, C/S 2187, C/S 2188, C/S 2189, C/S 2190, C/S 2191, C/S 2192, C/S 2193, C/S 2194, C/S 2195, C/S 2196, C/S 2197, C/S 2198, C/S 2199, C/S 2200, C/S 2201, C/S 2202, C/S 2203, C/S 2204, C/S 2205, C/S 2206, C/S 2207, C/S 2208, C/S 2209, C/S 2210, C/S 2211, C/S 2212, C/S 2213, C/S 2214, C/S 2215, C/S 2216, C/S 2217, C/S 2218, C/S 2219, C/S 2220, C/S 2221, C/S 2222, C/S 2223, C/S 2224, C/S 2225, C/S 2226, C/S 2227, C/S 2228, C/S 2229, C/S 2230, C/S 2231, C/S 2232, C/S 2233, C/S 2234, C/S 2235, C/S 2236, C/S 2237, C/S 2238, C/S 2239, C/S 2240, C/S 2241, C/S 2242, C/S 2243, C/S 2244, C/S 2245, C/S 2246, C/S 2247, C/S 2248, C/S 2249, C/S 2250, C/S 2251, C/S 2252, C/S 2253, C/S 2254, C/S 2255, C/S 2256, C/S 2257, C/S 2258, C/S 2259, C/S 2260, C/S 2261, C/S 2262, C/S 2263, C/S 2264, C/S 2265, C/S 2266, C/S 2267, C/S 2268, C/S 2269, C/S 2270, C/S 2271, C/S 2272, C/S 2273, C/S 2274, C/S 2275, C/S 2276, C/S 2277, C/S 2278, C/S 2279, C/S 2280, C/S 2281, C/S 2282, C/S 2283, C/S 2284, C/S 2285, C/S 2286, C/S 2287, C/S 2288, C/S 2289, C/S 2290, C/S 2291, C/S 2292, C/S 2293, C/S 2294, C/S 2295, C/S 2296, C/S 2297, C/S 2298, C/S 2299, C/S 2300, C/S 2301, C/S 2302, C/S 2303, C/S 2304, C/S 2305, C/S 2306, C/S 2307, C/S 2308, C/S 2309, C/S 2310, C/S 2311, C/S 2312, C/S 2313, C/S 2314, C/S 2315, C/S 2316, C/S 2317, C/S 2318, C/S 2319, C/S 2320, C/S 2321, C/S 2322, C/S 2323, C/S 2324, C/S 2325, C/S 2326, C/S 2327, C/S 2328, C/S 2329, C/S 2330, C/S 2331, C/S 2332, C/S 2333, C/S 2334, C/S 2335, C/S 2336, C/S 2337, C/S 2338, C/S 2339, C/S 2340, C/S 2341, C/S 2342, C/S 2343, C/S 2344, C/S 2345, C/S 2346, C/S 2347, C/S 2348, C/S 2349, C/S 2350, C/S 2351, C/S 2352, C/S 2353, C/S 2354, C/S 2355, C/S 2356, C/S 2357, C/S 2358, C/S 2359, C/S 2360, C/S 2361, C/S 2362, C/S 2363, C/S 2364, C/S 2365, C/S 2366, C/S 2367, C/S 2368, C/S 2369, C/S 2370, C/S 2371, C/S 2372, C/S 2373, C/S 2374, C/S 2375, C/S 2376, C/S 2377, C/S 2378, C/S 2379, C/S 2380, C/S 2381, C/S 2382, C/S 2383, C/S 2384, C/S 2385, C/S 2386, C/S 2387, C/S 2388, C/S 2389, C/S 2390, C/S 2391, C/S 2392, C/S 2393, C/S 2394, C/S 2395, C/S 2396, C/S 2397, C/S 2398, C/S 2399, C/S 2400, C/S 2401, C/S 2402, C/S 2403, C/S 2404, C/S 2405, C/S 2406, C/S 2407, C/S 2408, C/S 2

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## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 25, 2005**

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**TITLE:** Annexation petition #05-03: Acknowledge receipt of petition and set a public hearing date

**DEPARTMENT:** Planning and Community Services

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

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**PROBLEM/ISSUE STATEMENT:** DC Capital Real Estate is petitioning to annex land to the City of Billings under 7-2-4600, MCA. The 23-acre undeveloped parcel is located between Grand and Central Avenues, south of the Big Ditch. The property is contiguous with Vintage Estates Subdivision, a recently annexed and subdivided property. The owner intends to subdivide this property as a second filing of Vintage Estates Subdivision. The petitioner is requesting annexation in order to obtain city water and sewer services. City Council will consider this annexation at two separate Council meetings. At the first meeting, the Council acknowledges receipt of a petition and sets a public hearing date for May 9, 2005. At the second meeting, the Council conducts the hearing and acts on the petition to annex.

**ALTERNATIVES ANALYZED:** MCA, Section 7-2-4600 allows owners of more than 50% of the property to petition the city for annexation. The only alternative that is consistent with City Council policy is to acknowledge receipt of the petition and set a public hearing date. The proposed subdivision lies within the acceptable limits of annexation.

**FINANCIAL IMPACT:** A fiscal impact analysis and staff recommendation will be prepared and presented at the public hearing.

**RECOMMENDATION**

Staff recommends that the City Council acknowledge receipt of the annexation petition and schedule a public hearing for May 9, 2005, to consider annexing this property.

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

**ATTACHMENTS**

- D. Property data
- E. Annexation petition
- F. Map

ATTACHMENT A  
Annexation #05-03 Property Data

Type of annexation:	Petitioned - MCA 7-2-4600
Petitioner:	DC Capital Real Estate
Purpose of annexation:	Obtain City services
Property included:	C/S 1877, Tract 3 in SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 4, T.1S., R.25E.
Location:	Grand Avenue near 54 <sup>th</sup> Street West
Total area:	23.7625 acres
Current zoning:	Agriculture - Open Space
Current land use:	Agriculture
Future zoning:	R-9,600
Future land use:	Single Family Residential

**PETITION  
FOR ANNEXATION  
TO THE CITY OF BILLINGS**

This is a Petition to the City of Billings requesting the annexation of property to the City, pursuant to MCA Title 7, Chapter 2, Part 46. Procedures for annexation are governed by the Statutes of the State of Montana. This Petition requires the signatures of more than 50% of the Resident Freeholder Electors to be considered for annexation.

1. All items must be completed or provided. Please type or print. You may attach additional pages if more space is needed.
2. Prepare a map drawn to a scale adequate and legible to show the property requesting annexation and all other property within one-quarter (1/4) mile.

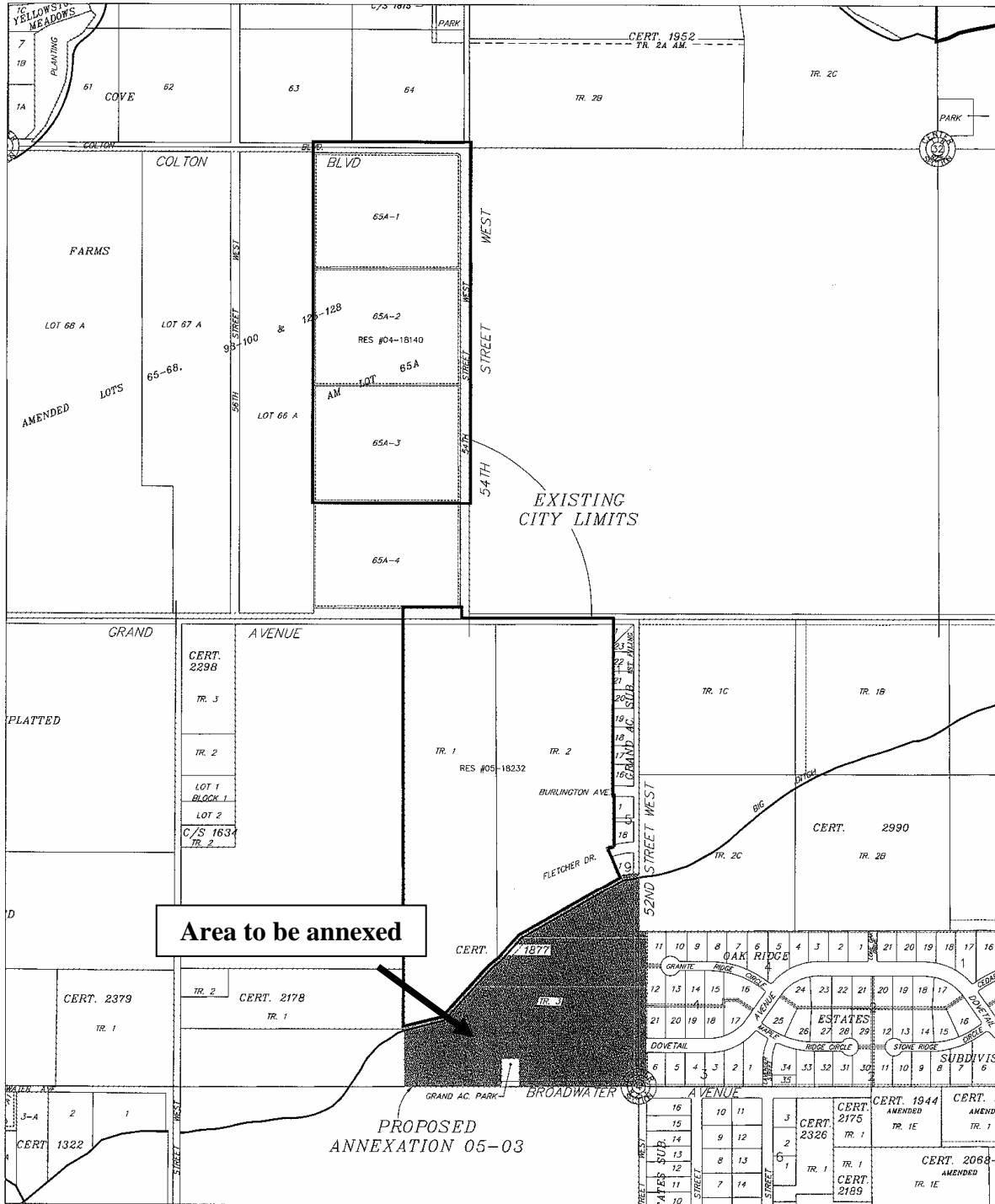
- a. The present and proposed boundaries of the municipality;
- b. The present streets, major trunk water mains and sewer mains;
- c. The zoning of the property requesting annexation and the property immediately adjacent to it.

- RESIDENT FREEHOLDER ELECTORS**

(continued on separate page)

ATTACHMENT B  
Annexation Petition #05-03

EXHIBIT "A"



## AGENDA ITEM:




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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 25, 2005**

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**TITLE:** Chase Hawks Association Burn the Point Parade, Street Dance and Car Show

**DEPARTMENT:** Parks, Recreation and Public Lands

**PRESENTED BY:** Don Kearney, Parks, Recreation and Public Lands Director

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**PROBLEM/ISSUE STATEMENT:** The Chase Hawks Association requests temporary street closures for a Parade, Street Dance and Car Show on Friday, September 2, 2005, and Saturday, September 3, 2005. Event times and locations are as follows:

**Parade:** Established downtown parade route beginning at 7:00pm on Friday, September 2, 2005.

**Street Dance:** To be held immediately following parade and will end at 11:30pm under Skypoint on Friday, September 2, 2005. The street closure will be from *N. 27<sup>th</sup> St. to N. 29<sup>th</sup> St.* and from *1<sup>st</sup> Ave. N. to 3<sup>rd</sup> Ave. N.*

**Car Show:** 1:00pm – 7:00pm on Saturday, September 3, 2005, with the same closure as the street dance. Food and merchandise vendors will be present under Skypoint.

Recommended conditions of approval include Chase Hawks Association:

1. Provide security for the event to insure there is no alcohol consumed in the public right of way during the street dance.
2. Contact all businesses and make them aware of the event 60 days in advance.
3. Clean the area to be used and provide and empty waste cans after the event.
4. Notify all emergency facilities, bus lines and media at least two weeks in advance of the event.
5. Have the Billings Fire Department provide inspections of vendors.
6. Provide a certificate of insurance naming the City of Billings as additional insured.
7. Provide a 20' emergency vehicle access lane on one side of street that is free of kiosks, cars, or anything other than pedestrians.
8. Obtain proper noise permit from Billings Police Department.

**ALTERNATIVES ANALYZED:**

1. Approve request to close streets for the events (recommended)
2. Deny the street closure

**FINANCIAL IMPACT:** There are no costs to the City of Billings for this event other than administrative time to process the permit. Police, traffic control and litter removal are to be paid for by the Chase Hawks Association.

**RECOMMENDATION**

Staff recommends that Council approve closures for the Parade, Street Dance and Car Show on Friday, September 2, 2005 and Saturday, September 3, 2005, subject to the conditions of approval.

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

**ATTACHMENT**

- A. Letter from Chase Hawks Memorial Association outlining event (1 page)
- B. Right of Way Special Activity Permit (2 pages)
- C. Course maps (3 pages)
- D. Certificate of insurance (1 page)

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L

**AGENDA ITEM:**



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 25, 2005**

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**TITLE:** Moss Mansion Street Closure  
**DEPARTMENT:** Parks, Recreation and Public Lands  
**PRESENTED BY:** Don Kearney, Parks, Recreation and Public Lands Director

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**PROBLEM/ISSUE STATEMENT:** The Moss Mansion requests the closure of Clark Avenue from 1<sup>st</sup> Avenue North to Division Street from 9:30am until 4:00pm on Saturday, May 21, 2005 for an antique car show which will be held in conjunction with a special display inside the Mansion, entitled "Homefront Warriors".

Recommended conditions of approval include Moss Mansion:

1. Contact all businesses and adjacent residents on Clark Avenue and make them aware of the event 30 days in advance
2. Clean the area to be used and provide and empty waste cans
3. Notify all emergency facilities, bus lines and media at least two weeks in advance of the event
4. Provide certificate of insurance naming City of Billings as additional insured
5. Have no alcohol consumption in the public right of way
6. Provide two-way traffic so residents may get in and out of Clark Avenue

**ALTERNATIVES ANALYZED:**

1. Approve request to close streets for the event (recommended)
2. Deny the street closure

**FINANCIAL IMPACT:** There are no costs to the City of Billings other than administrative time to process permit (\$30.00). Police, traffic control and litter removal are to be paid for by the Moss Mansion.

**RECOMMENDATION**

Staff recommends that Council approve the closures named above from 9:30am to 4:00pm on Saturday, May 21, 2005.

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



## ATTACHMENTS

- A. Letter from Moss Mansion outlining event (1 page)
- B. Right of Way Special Activity Permit (2 pages)
- C. Course map (1 page)
- D. Certificate of insurance (2 pages)

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## AGENDA ITEM:




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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 25, 2005**

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**TITLE:** Resolution of Intent - Park Maint. District No. 4026, Uinta Park Sub.  
**DEPARTMENT:** Department Of Parks, Recreation, & Public Lands  
**PRESENTED BY:** Don Kearney, Director

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**PROBLEM/ISSUE STATEMENT:** Uinta Park Subdivision contains 4.5 acres of dedicated park and public open space. It includes a 20 foot wide trailway strip that runs north – south along the Billings Bench Water Association canal right-of-way and is connected along the north edge of the subdivision by a 20 foot walkway strip to the 3.8 acre main subdivision park located at Mirror Lake Lane and Uinta Park Drive. The development and improvement of the park will be by the developer through private contract. The Park Maintenance District needs to be created at this time to provide for the maintenance of the park improvements that are to be completed by late summer 2005. Approving the Resolution of Intent provides for a Public Hearing and action for approval of a Resolution to Create Park Maintenance District 4026 at the City Council Meeting on May 23, 2005.

**ALTERNATIVES ANALYZED:**

- Create the Park Maintenance District now to assure assessments can be collected in November 2005, to pay costs of maintenance as the park is developed. This is the requirement approved in the Subdivision Improvement Agreement and staff recommendation.
- Do not create the Park Maintenance District at this time.

**FINANCIAL IMPACT:** The maintenance costs for the park improvements are estimated to be \$11,518 for the first year. The subdivision is all single family residences which allows the assessments to be equalized, assuming that there is equal benefit to each residence regardless of actual lot size. The assessment for each of the 169 lots will be \$68.16 per lot for the first year.

**RECOMMENDATION**

Staff recommends Council approve the Resolution of Intention to Create Park Maintenance District No. 4026 and set May 23, 2005 as the date for the Public Hearing and consideration of the Resolution to Create Park Maintenance District 4026, for Uinta Park.

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

**ATTACHMENT**

A: Resolution of Intent to Create Park Maintenance District No. 4026; and Exhibits A-D thereto attached.

## **INTRODUCTION**

Action is approval of the Resolution of Intent to create Park Maintenance District No. 4026 for the maintenance of Uinta Park in the Subdivision of that name located at the intersection of Uinta Park Drive and Broadview Drive west of Lake Elmo Road in the Billings Heights neighborhood. The resolution will set a date for a Public Hearing and consideration of the Resolution to create the district at the May 23, 2005, City Council meeting, and provide for the advertisement and the direct mail notification of property owners within the proposed district of the intention to create Park Maintenance District 4026.

## **PROCEDURAL HISTORY**

- Uinta Park Subdivision was annexed into the City and the plat approved in December 2000. The subdivision contains 4.5 acres of park open space with 3.8 acres in the main park that will be constructed during Phase III of the subdivision development. The park trail strips along the BBWA is part of the Heritage Trail Plan to be constructed later.
- The Master Plan for the construction of the park was developed with the PRPL Department and adopted by the City Council March 26<sup>th</sup>, 2001.
- The proposed Resolution of Intent will be considered at the April 25, 2005, council meeting.
- If approved, a Public Notice of Intent will be advertised for 2 consecutive weeks, a copy of the Public Notice will be sent to each property owner in the Uinta Park Subdivision, stating the procedure for filing protests or comments, and will set the dates of the protest and comment period to be from April 29<sup>th</sup>, 2005 through May 19<sup>th</sup>, 2005.
- The Public Hearing and the Resolution to Create the Park Maintenance District 4026 will be on the agenda for the May 23, 2005, council meeting.

## **BACKGROUND**

To provide the funding needed to develop and to maintain park areas in new subdivisions, subdivisions annexed and platted since 1982 have been required to develop parks and to create a Park Maintenance District to maintain them. It assures that there are well maintained parks in new areas of Billings without increasing the demand on the expenditures of the city general fund and to relieve the pressures on existing developed parks that adding new subdivisions to the city results in. The Uinta Park Subdivision Improvements Agreement calls for the park improvements to be made and the Park Maintenance District to be created during the Phase III development of the subdivision.

The Uinta Park will be a mix of developed irrigated park space and less developed wetland natural area. It will include a neighborhood tot lot playground, sidewalks and park walks in the main park area. The proposed maintenance district for the park includes 169 single family residential lots. There are on file Waivers of Protest for the formation of the park maintenance district for all lots within the Uinta Park Subdivision.

Approval of the Resolution of Intent to create Park Maintenance District No. 4026 for Uinta Park Subdivision is the first step in the process to create the maintenance district. If the Resolution of Intent is approved it will be advertised and a Notice of Public Hearing sent to all property owners

within the proposed district that outlines its purpose and gives the date, location, and the Hearing time. The public hearing and consideration of the resolution to create the district will take place at the May 23, 2005, City Council meeting.

### **ALTERNATIVES ANALYSIS**

- Create the Park Maintenance District now to assure assessments can be collected in November 2005, to pay costs of maintenance for the spring and summer of 2006 as the park development is completed later in the summer of 2005. The approved Subdivision Improvements Agreement calls for development at this time and requires a Park Maintenance District to be created for maintaining it. This is the staff recommendation.
- Do not create the Park Maintenance District at this time.

### **STAKEHOLDERS**

- The developers have agreed to develop planned improvements in the Uinta Park Subdivision parks and to create a park maintenance district to maintain them.
- The 169 lots in Uinta Park Subdivision consist of single family residences and the residents and property owners have agreed to the development. Many are strongly supportive of the parks and funding its ongoing maintenance. The rapid build out that is taking place is attributed to the fact that the open space and park amenities will be quickly developed.
- Billings residents would see increasingly heavy use of the existing developed parks and park facilities if not for the requirement that new subdivisions provide developed parks for their residents to mitigate that problem.

### **CONSISTENCY WITH ADOPTED POLICIES AND PLANS**

The extension of quality landscape maintenance services to new subdivision parks through the use of Special Improvement Districts and maintaining them through Park Maintenance Districts continues the Parks 20/20 plan recommendations, and conforms to city policy adopted in 1982 regarding new subdivision parks. The use of Park Maintenance Districts has allowed the use of the PRPL Parks grounds keeping staff to provide professional level maintenance to areas of public grounds and landscaping in new subdivisions as they develop and are brought into the city. This has improved the environment, increased the quality of life for Billings' residents, and increased the value of surrounding private property. The revenue provided helps support the overall park operations in all of the general fund supported parks by allowing better trained, more competent staffing and providing added support for state of the art operations and equipment that would be otherwise be limited by General Fund revenue constraints.

Maintaining this park with a maintenance district continues the process of extending maintenance services to the developing areas of Billings even though the revenue growth of the city General Fund has not been adequate to provide for the maintenance of these new parks. Park Maintenance District revenue is estimated to be \$486,683 to offset maintenance expenses in the upcoming 2006 FY PRPL Parks Operation and Maintenance budget and is projected to equal over 25% of the total Parks Division O & M budget this year.

### **RECOMMENDATION**

Staff recommends Council approve the Resolution of Intention to Create Park Mntce. District No. 4026 and set May 23, 2005 as the date for the Public Hearing and consideration of the Resolution to Create Park Maintenance District 4026, for Uinta Park.

### **ATTACHMENT**

A: Resolution of Intent to Create Park Maintenance District No. 4026; And Exhibits A-D thereto attached

**Resolution No. 05-\_\_\_\_\_**

A RESOLUTION DECLARING IT TO BE THE INTENTION  
OF THE CITY COUNCIL TO CREATE A PARK MAINTENANCE  
DISTRICT FOR THE PURPOSE OF MAINTAINING THE PARK  
IMPROVEMENTS AND OTHER PORTIONS OF IMPROVEMENTS  
MADE IN UINTA PARK SUBDIVISION, CITY OF BILLINGS,  
MONTANA

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

**Section 1. Proposed Park Maintenance District; Intention To Create Park Maintenance District.** The City proposes to maintain certain special improvements to benefit certain property located in the City of Billings, Montana. The Improvements consist of the park improvements and street frontage within Uinta Park Subdivision, and other park area improvements that may be identified in the future, as more particularly described in Section 5. It is the intention of the Billings City 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 maintenance district (the “Special Improvement Maintenance District”) for the purpose of financing the maintenance costs for the hardscaping, landscaping, drainageways, weed control, and other portions of the improvements made with the development of Uinta Park Subdivision. The estimated annual costs for the maintenance of the special improvements to be set by Resolution of the Council each year.

**Section 2. Number of District.** The District, if the same shall be created and established, shall be known and designated as the Park Maintenance District No.4026 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 C" hereto.

**Section 4. Benefited Property.** The District and territory included within the limits and boundaries described in Section 3 and as shown on Exhibits "A" and “C” are hereby declared to be the Park Maintenance District and the territory which will benefit and be benefited by the maintenance of the Uinta Park Subdivision, and will be assessed for a portion of the costs of the maintenance as described in Section 1.

**Section 5. General Character of the Improvements to be Maintained.** The general character of the Improvements to be maintained is as follows: Bike Net trail system, storm detention area, nature and exercise trail, sand play area, landscaping, trees irrigation systems, irrigation system water services, and other park equipment and improvements installed in the public areas of Uinta Park Subdivision, as shown on Exhibit “A” attached hereto.

**Section 6. Assessment Methods; Property To Be Assessed.** All properties within the District are to be assessed for a portion of the costs of maintaining the Public Area Improvements in Uinta Park Subdivision, as specified herein. The costs of maintaining the Improvements shall be assessed against the property in the District benefiting from the Uinta Park Subdivision, Public Area Improvements.

**Section 7. Assessable Area.** All properties in the District will be assessed for their proportionate share of the costs of maintaining the Uinta Park Subdivision, Public Area Improvements. The costs of maintaining the Improvements for the first year shall be \$68.16 per lot as shown in Exhibit "D" (which is hereby incorporated herein and made a part hereof).

**Section 8. Payment of Assessments.** The assessments for the costs of maintaining the Uinta Park Subdivision, Park Area Improvements shall be payable, as prescribed in Section 7-12-4162 through 7-12-4165, M.C.A.

**Section 9. 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 proposed District subject to assessment and taxation for the cost and expense of maintaining the Uinta Park Subdivision, Public Area 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 from April 29, 2005, through May 19, 2005, written protest against the proposed Special Improvement Maintenance District, 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, May 23, 2005 at 6:30 p.m., in the Council Chambers, located on the Second Floor of the City Hall at 220 North 27th Street, in Billings, Montana.

**Section 10. 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 Thursday, April 28, 2005, and Thursday, May 5, 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 Extended 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 \_\_\_\_ day of \_\_\_\_\_, 2005.

THE CITY OF BILLINGS:

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



ATTEST:

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

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AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 25, 2005**

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TITLE: Bishop Fox Subdivision Preliminary Plat  
DEPARTMENT: Planning and Community Services  
PRESENTED BY: Nicole Cromwell, AICP, Planner II, Zoning Coordinator

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**PROBLEM/ISSUE STATEMENT:** On March 15, 2005, the subdivider of this property, Bishop Fox Company, applied for preliminary plat approval for the Bishop Fox Subdivision. The City Council will review the preliminary plat and make a decision regarding approval at the April 25, 2005 meeting.

**ALTERNATIVES ANALYZED:** State and City subdivision regulations require that preliminary plats be reviewed using criteria that are set out in those laws. The City may not unreasonably restrict an owner's ability to develop his land if the subdivider provides evidence that any identified adverse effects can be mitigated.

**FINANCIAL IMPACT:** When the property is developed the new residents will need City services. It is unknown if the value of these proposed residential and commercial development will generate sufficient taxes and fees to pay for the required services. However, this property will capitalize on the City water and sewer lines extended in 54<sup>th</sup> St. West.

**RECOMMENDATION**

Staff recommends that the Billings City Council conditionally approve the preliminary plat of Bishop Fox Subdivision, accept the attached findings of fact, and approve the variances from Sections 23-602, and 23-605(d), BMCC.

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

**ATTACHMENTS**

- A. Plat
- B. Site photographs
- C. Findings of Fact
- D. Mayor's approval letter

## **INTRODUCTION**

On March 15, 2005 the Planning Department received a preliminary plat application for the Bishop Fox Subdivision. The 40.5-acre property is located on the east side of 54<sup>th</sup> Street West, north of Grand Avenue. Staff is forwarding a recommendation that the Billings City Council conditionally approve this preliminary plat and the requested variances from the City Subdivision Regulations.

## **PROCEDURAL HISTORY**

- The preliminary plat application was submitted to the Planning Department on March 15, 2005.
- The City Council will consider the application at its meeting on April 25, 2005.
- A Zone Change application and petition for annexed were received and are being processed concurrently with this 5-lot minor preliminary plat.

## **BACKGROUND**

The subject property is legally described as a tract of unplatted land that is the W1/2 W1/2 SW1/4 of Section 32 T.1N., R.25E., P.M.M., Yellowstone County, Montana. The property is bounded on the south side by Certificate of Survey No 1877, on the west side by Amended Plat of Lot 65A of the Amended Lots 65-68, 93-100 and 125-128 of Sunny Cove Fruit Farms, and on the north by Certificate of Survey No 1952 and contains 40.568 gross and net acres, more or less. The property is zoned Agriculture Open Space but a concurrent Zone Change application is being processed to change the zoning to Community Commercial (Lot 1), Public (Lot 2), R-7,000 (Lots 3 & 4) and R-9,600 (Lot 5). The proposed subdivision contains five (5) lots that may be subject to future subdivision for residential and commercial uses. Proposed Lot 2 is a one-acre lot that is reserved for a future fire station to serve the West Billings neighborhood.

General location:	On the east side of 54 <sup>th</sup> St. West just north of Grand Avenue.
Legal Description:	W1/2 W1/2 SW1/4 of Section 32 T.1N., R.25E., P.M.M., Yellowstone County, Montana
Subdivider:	Bishop Fox Company
Owner:	same
Engineer and Surveyor:	Engineering, Inc.
Existing Zoning:	Agriculture Open Space
Surrounding zoning:	North: Agriculture Open Space South: R-9,600 East: Agriculture Open Space West: Agriculture Open Space & R-7,000
Existing land use:	Vacant – agriculture
Proposed land use:	Commercial, church campus, fire station and single-family residential
Gross area:	40.568 ac.
Lot area:	36.62 ac.
Proposed number of lots:	5
Lot size:	Max.: 9.17 ac. Min.: 1.00 ac.
Parkland requirements:	None required for minor plats

## **ALTERNATIVES ANALYSIS**

One of the purposes of the City's subdivision review process is to identify potentially negative effects of property subdivision. When negative effects are identified it is the subdivider's responsibility to mitigate those effects. Various City departments reviewed this application and provided input on effects and mitigation. The Findings of Fact, which are presented as an attachment, discuss the potential negative effects and the following conditions are recommended as measures that will mitigate them.

## **RECOMMENDED CONDITIONS**

1. Contributions for 54<sup>th</sup> St. West improvements, and any off-site intersection improvements identified in the Transportation Accessibility Study shall be made prior to final plat approval as required by City Engineering. (*BMCC 23-702; Recommended by City/County Planning; City Engineering*)
2. The SIA section 3A.(8) shall be changed to reference the actual location of access points to each lot as shown on the plat. One additional access for Lot 2 will be allowed but the width and location will be determined by the City Engineer at the time of building permit application (*BMCC 23-601; Recommended by City Engineering*)
3. A section shall be added to the SIA to provide notice to future lot owners of the wildlife habitat and potential for damage to ornamental landscaping. (*BMCC 23-1102(e); Recommended by MT Fish, Wildlife & Parks and City/County Planning*)
4. Eight (8) foot wide utility easements shall be shown on both sides of common lot boundaries. (*BMCC 23-1103(d)(5) Recommended by Northwestern Energy and City/County Planning*)
5. Minor changes may be made in the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
6. The final plat shall comply with all requirements of the City Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

## **VARIANCES**

A variance from BMCC, Section 23-602, has been requested which requires platting of alleys in commercial areas specifically in Lot 1 that will be zoned Community Commercial. City staff is supportive of this type of variance providing an internal private road will service this lot and its interior development. Alleys in commercial areas normally provide access for service and emergency vehicles. This access will be provided by internal private roads.

A variance from BMCC, Section 23-605(d) has been requested that requires platting no-access reservations along a principal arterial street (Grand Avenue) and minor arterial streets (54<sup>th</sup> Street West). City staff is supportive of this variance because limited and controlled access is desired onto Grand Avenue and 54<sup>th</sup> St. West. The access points have been shown on the plat as follows; one (1) forty foot wide access to Lot 1 off Grand Avenue, one (1) shared access centered on the lot line between Lot 1 and Lot 2 off 54<sup>th</sup> Street West, one (1) additional access point for Lot 2 off 54<sup>th</sup> Street West to be determined at the time of construction of the fire station and one(1) access point each for Lots 3, 4 and 5 off 54<sup>th</sup> Street West.

**STAKEHOLDERS**

A public hearing is not scheduled for the City Council meeting; however nearby property/business owners may attend the City Council meeting. The Planning Department has received no public comments or questions regarding the proposed subdivision.

**CONSISTENCY WITH ADOPTED POLICIES OR PLANS**

Consistency with the Comprehensive Plan, West Billings Plan, Transportation Plan and Heritage Trail Plan is discussed in the Findings of Fact.

**RECOMMENDATION**

Staff recommends that the Billings City Council conditionally approve the preliminary plat of Bishop Fox Subdivision, accept the attached findings of fact, and approve the variances from Sections 23-602, and 23-605(d), BMCC.

**ATTACHMENTS**

- A. Plat
- B. Site photographs
- C. Findings of Fact
- D. Mayor's approval letter

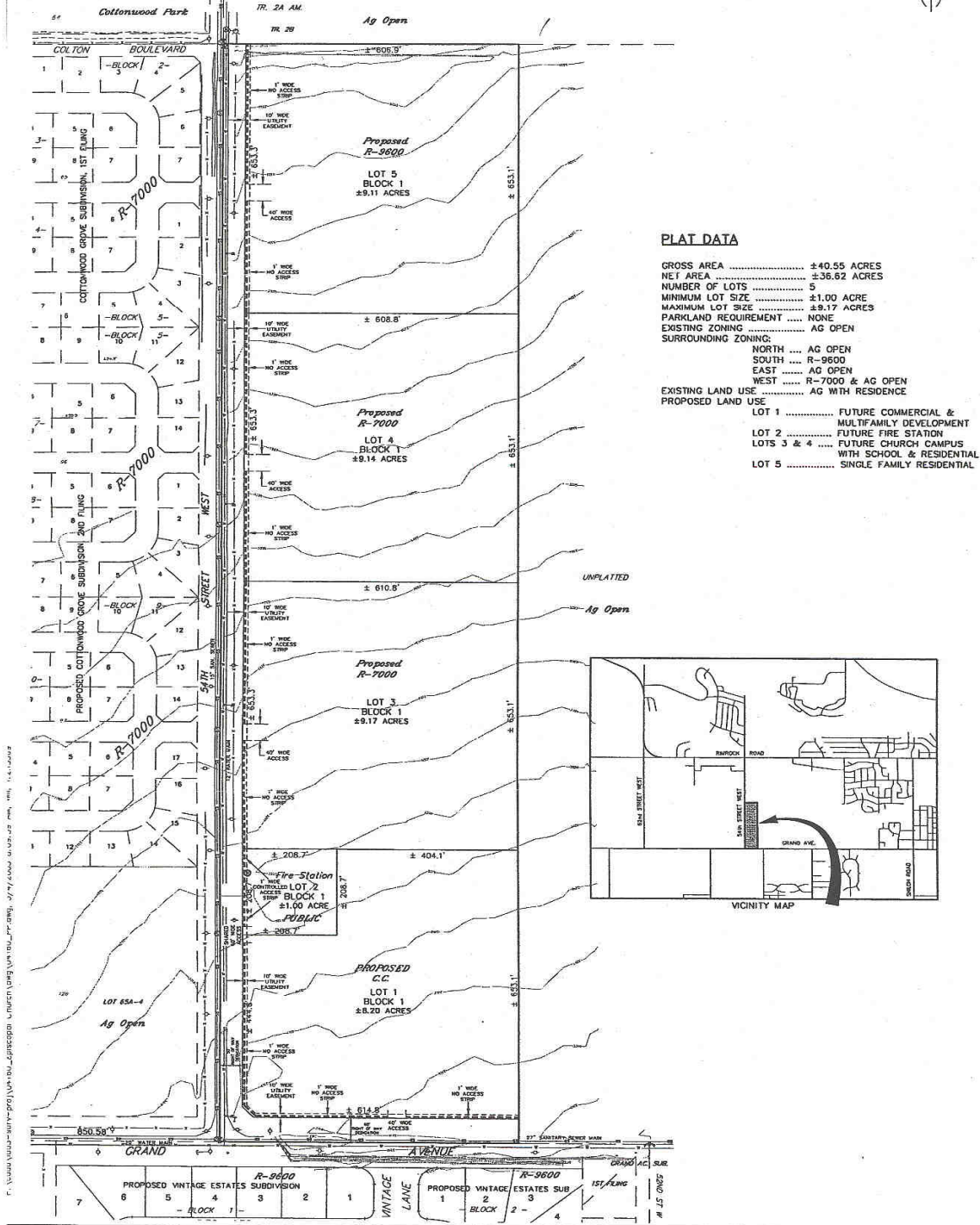
# ATTACHMENT A

## Bishop Fox Subdivision, Preliminary Plat

PRELIMINARY PLAT OF  
**BISHOP FOX SUBDIVISION**  
 BEING THE W1/2 W1/2 SW1/4 OF SECTION 32, T. 1 N., R. 25 E., P.M.M.  
 YELLOWSTONE COUNTY, MONTANA

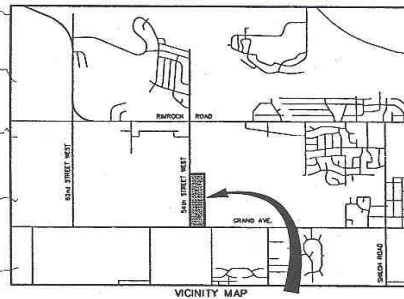
PREPARED FOR: BISHOP FOX COMPANY  
 PREPARED BY: ENGINEERING, INC.  
 SCALE: 1" = 100'

MARCH, 2005  
 BILLINGS, MONTANA



### PLAT DATA

GROSS AREA	±40.55 ACRES
NET AREA	±36.82 ACRES
NUMBER OF LOTS	5
MINIMUM LOT SIZE	±1.00 ACRE
MAXIMUM LOT SIZE	±9.17 ACRES
PARKLAND REQUIREMENT	NONE
EXISTING ZONING	AG OPEN
SURROUNDING ZONING:	
NORTH	AG OPEN
SOUTH	R-9600
EAST	AG OPEN
WEST	R-7000 & AG OPEN
EXISTING LAND USE	AG WITH RESIDENCE
PROPOSED LAND USE	
LOT 1	FUTURE COMMERCIAL & MULTIFAMILY DEVELOPMENT
LOT 2	FUTURE FIRE STATION
LOTS 3 & 4	FUTURE CHURCH CAMPUS WITH SCHOOL & RESIDENTIAL
LOT 5	SINGLE FAMILY RESIDENTIAL



ATTACHMENT B  
Bishop Fox Subdivision, Site Photographs



View north on 54<sup>th</sup> St West from intersection of Grand Avenue. Subject property is on the right



View south at intersection of Grand Avenue and 54<sup>th</sup> Street West.

ATTACHMENT C  
Findings of Fact

**A. What are the effects on agriculture, local services, the natural environment, wildlife and wildlife habitat and public health, safety and welfare? [BMC 23-304 (c) (1) and MCA 76-3-608 (3) (a)]**

1. Effect on agriculture

This subdivision will have a minor impact on agriculture. The subject property is approximately 40.5 acres in size and has been used for irrigated cropland. Agricultural irrigation activities will be discontinued on the land, and as this and other land in the region transform from crop land to residential and commercial developments, there will likely be a cumulative impact on agriculture, groundwater levels and associated items.

2. Effect on local services

- a. Utilities – Water and sanitary sewer lines will be extended by the developer from the main lines in 54<sup>th</sup> St. West throughout the subdivision to serve the new lots. Hook up fees for both the water and sewer connections will be assessed at the time of lot development.  
Storm water will be retained on site. Future development or subdivision of the lots will require a storm water management plan developed in accordance with the City Of Billings storm water management master plan. Private utilities will be extended to this property under the companies' operating rules. Easements for utilities as requested by MDU and Northwestern Energy are shown on the face of the plat and will be added along common lot boundaries.
- b. Solid waste – The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- c. Streets - The subdivider proposes to have a total of five (5) accesses off of 54<sup>th</sup> St. West and one access point for Lot 1 off Grand Avenue. 54<sup>th</sup> St. West was recently improved with a 2-lane paved section. Eventually improvements and/or widening will need to be done to accommodate the increase in traffic on this minor arterial street. It is recommended as a condition of approval that a cash contribution be provided for future standard City improvements (street, curb, gutter, boulevard sidewalk) to the adjacent half of 54<sup>th</sup> St. West and Grand Avenue. A Traffic Accessibility Study was submitted with this subdivision which identified contributions necessary for off site intersections. The necessary contributions should be reviewed and approved by City Engineering, and should be outlined in the SIA and made prior to final plat filing.  
Two variances have been requested from the City subdivision regulations in relation to the street improvements. First, a variance from BMCC, Section 23-602 has been requested which requires platting of alleys in commercial areas specifically Lot 1. Lot 1 will have an internal private road that will provide access normally provided by alleys. Also, a variance from BMCC, Section 23-605(d) has been requested which requires platting a no access reservation along arterial streets. City Council has approved these types of variances in similar situations where the alley access is provided by internal roads and where access points have been defined and approved by City Engineering.



- d. Emergency services – Billings Police and Fire Departments will respond to emergencies in this subdivision. The nearest fire station at this time is Station #3 at 1928 17<sup>th</sup> St. West. A new fire station is planned for proposed Lot 2 of this subdivision. When completed, this fire station will service this subdivision and the West Billings neighborhood. The Fire Department has not identified any concerns with the proposed subdivision. Police response will depend upon officer availability and location when a call for service is placed. City Police commented that “this property is not contiguous to our jurisdiction. We will need to travel farther to serve the property.” AMR provides medical care and transport and response would probably come from the west-end station that is located on Grand Avenue at about 25<sup>th</sup> Street West. They responded by stating “this area is will be annexed therefore we must meet response standards set by the ordinance of Billings. As Billings continues to grow AMR will need to add additional unit hours to cover this growth. For this area now, we will not be adding more staff.”
- e. Schools – The subdivision is in the School District #2. No comments have been received from School District #2.
- f. Parks and Recreation – Because this is a minor plat no parkland dedication is required.
- g. MET Transit – MET Transit’s nearest route is at Shiloh and Grand Avenue. The creation of this subdivision will not likely cause MET to expand their service area.

### 3. Effect on the natural environment

The subject property is level, irrigated crop land. According to the 1972 Soil Survey of Yellowstone County the soils in this area have the potential for building sites, however the soil is generally characterized with low bearing capacity, medium compressibility, and high frost-action potential. Geotechnical information is generally required prior to street construction to ensure proper engineering. A note has also been added to the SIA stating the potential for variable soils in the area, and recommending individual geotechnical studies on the lots prior to house foundation design and construction. Impacts to the natural environment should be minimal, given the minimal constraints from this flat land.

### 4. Effect on wildlife and wildlife habitat

There will be a small effect on wildlife and its habitat. The property is not habitat for any known endangered species. Comments received by Montana Fish, Wildlife and Parks indicate the presences of deer and a note will be added to SIA to alert future lot owners of potential wildlife conflicts.

### 5. Effect on the public health, safety and welfare

This property may have a flooding potential from the Cove Creek. At this time, the Cove Creek is not a FEMA mapped floodway south of Rimrock Road as it does not inhabit a definite channel below Rimrock Road. The historic channel in this location was altered due to agricultural activities, and the 100 year flood plain is no longer clearly defined. Therefore, as was the case with the Cottonwood Grove Subdivision west of 54<sup>th</sup> St West, a detailed flood study will be required of the developer in order to determine the potential for flooding in the area of this subdivision, and to address mitigation of any hazard identified. Preliminary results of this study

indicate that the subject property is not within the 100-year flood plain, but is within the area of the 500-year flood plain. FEMA regulations as well as local flood plain regulations do not restrict development in the 500-year flood plain.

Otherwise, there does not seem to be any other threats to public health and safety as proposed. There are two points of ingress and egress proposed, which provide adequate access for emergency services

**B. Was an Environmental Assessment required? [(MCA 76-3-603 and BMC 23-304 (c) (1)]**

As it is exempt under Section 76-3-210, MCA, an Environmental Assessment was not prepared for the subdivision.

**C. Does the subdivision conform to the 2003 Yellowstone County City of Billings Growth Policy and the Urban Area 2000 Transportation Plan? [BMC 23-304 (c) (3)]**

1. 2003 Growth Policy:

The subdivision meets the following goals/policies of the Growth Policy

- a. A safe and efficient transportation system characterized by convenient connections and steady traffic flow. (*Transportation Element #2*)
- b. More housing and business choices within each neighborhood. (*Land Use Element #6*)
- c. Well maintained network of safe and interconnected sidewalks. (*Transportation Element #9*)
- d. Sanitary and safe properties. (*Public Services Element #2*)

The subdivision does not meet the following goals of the Growth Policy:

- a. Predictable land use decisions that are consistent with neighborhood character and land use patterns. (*Land Use Element #1*)
- b. Contiguous development focused in and around existing population centers separated by open space. (*Land Use Element #4*)

2. Urban area transportation plan

The subdivision is in the jurisdictional area of the Urban Area 2000 Transportation Plan. Grand Avenue is a principal arterial street, 54<sup>th</sup> St. West is a minor arterial street; Colton Boulevard is a collector street. Sixty feet of half-width right-of-way is being dedicated for Grand Avenue, fifty feet of half-width right-of-way is being dedicated along 54<sup>th</sup> Street West, but no improvements are proposed at this time. Engineering staff is recommending the developer make a cash contribution equivalent to a residential street section for Lots 2, 3, 4 and 5 for the improvements to the east side of 54<sup>th</sup> St. West. Lot 1 will make a cash contribution equivalent to a commercial street section as well.

Additionally, the Traffic Accessibility Study submitted with the plat identified developer cash contributions recommended for the eventual intersection improvements at 54<sup>th</sup> & Grand and 54<sup>th</sup> & Rimrock. These figures will be reviewed and approved by the City and collected at the appropriate time.

### 3. Heritage Trail Plan

The subdivision is also within the jurisdictional area of the Heritage Trail Plan. The Plan identifies 54<sup>th</sup> St. West as an arterial bikeway, and Colton Blvd. as a primary bikeway, so eventually both streets could be striped with bike lanes. There are no plans to do so at this time. However, staff is recommending a note be added to the final SIA that indicates that bikeway provisions are to be made to the streets when they are improved in the future.

#### **D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [MCA 76-3-608 (3) (b) and BMC 23-304 (c) (4)]**

This proposed subdivision meets the requirements of the Montana Subdivision and Platting Act and the local subdivision regulations. The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local and state subdivision regulations.

#### **E. Does the subdivision conform to sanitary requirements? [BMC 23-304 (c) (5)]**

The subdivision will use City water, sanitary sewer, and solid waste collection and disposal services. All services are approved and regulated by state and federal authorities.

#### **F. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMC 23-304 (c) (6)]**

The property is within the Agriculture Open Space zoning district. With this filing, a concurrent application to change the zoning on the property was received and is being presented to the Council on April 25, 2005 for consideration. The proposed subdivision conforms to the proposed zoning of the lots..

#### **G. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3)(c) and BMC 23-304 (c)(7)]**

The subdivision contains public street rights-of-way and utility easements as requested by the utility companies are shown or will be shown on the face of the plat.

#### **H. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? [MCA 76-3-608 (3) (d) and BMC 23-304 (c)(8)]**

All lots will have access to a public street.

### **CONCLUSIONS OF FINDING OF FACT**

- Overall, the proposed Bishop Fox Subdivision does not create any adverse impacts that warrant denial of the subdivision.

- The subdivision as proposed should have minimal impact to agriculture or agricultural water user facilities, however as more irrigated ag-land in this area is developed for residential and commercial uses, a cumulative effect may be felt.
- The subdivision will impact local services and cause some increase in demand for those services. However, when the vacant parcel is developed the lot owners will pay property taxes and fees that should help to support those services.
- Impacts to the natural environment and wildlife habitat shall be mitigated prior to lot development.
- The proposed subdivision conforms to some of the goals and policies of the 2003 Growth Policy, but also conflicts with a few goals. The proposal is in conformance with the Transportation or Heritage Trail Plans.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each parcel.

Approved by the Billings City Council, April 25, 2005.

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Charles F. Tooley, Mayor

ATTACHMENT D  
Mayor's Approval Letter

April 25, 2005

Bishop Fox Company  
1241 Crawford Drive  
Billings, MT 59102

Dear Sir:

On April 25, 2005 the Billings City Council conditionally approved the preliminary plat of the Bishop Fox Subdivision. The conditions of approval are as follows:

1. Contributions for 54<sup>th</sup> St. West improvements, and any off-site intersection improvements identified in the Transportation Accessibility Study shall be made prior to final plat approval as required by City Engineering. (*BMCC 23-702; Recommended by City/County Planning; City Engineering*)
2. The SIA section 3A.(8) shall be changed to reference the actual location of access points to each lot as shown on the plat. One additional access for Lot 2 will be allowed but the width and location will be determined by the City Engineer at the time of building permit application (*BMCC 23-601; Recommended by City Engineering*)
3. A section shall be added to the SIA to provide notice to future lot owners of the wildlife habitat and potential for damage to ornamental landscaping. (*BMCC 23-1102(e); Recommended by MT Fish, Wildlife & Parks and City/County Planning*)
4. Eight (8) foot wide utility easements shall be shown on both sides of common lot boundaries. (*BMCC 23-1103(d)(5) Recommended by Northwestern Energy and City/County Planning*)
5. Minor changes may be made in the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
6. The final plat shall comply with all requirements of the City Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

If you have questions please contact Nicole Cromwell in the Planning Department at 247-8662 or by email at [cromwelln@ci.billings.mt.us](mailto:cromwelln@ci.billings.mt.us)

Sincerely,

---

Charles F. Tooley, Mayor

Cc: Robert Sanderson, P.E. Engineering, Inc.

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



AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 25, 2005**

---

TITLE: Copper Ridge Subdivision, 1<sup>st</sup> Filing Preliminary Plat  
DEPARTMENT: Planning and Community Services  
PRESENTED BY: Juliet Spalding, Planner II

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**PROBLEM/ISSUE STATEMENT:** On February 3, 2005 the subdivider of this property, Copper Ridge Development (Gary Oakland), applied for preliminary plat approval for the Copper Ridge Subdivision, 1<sup>st</sup> Filing. The City-County Board of Planning conducted a public hearing on March 22, 2005. The City Council will review the preliminary plat and make a decision regarding approval at the April 25, 2005 meeting.

**ALTERNATIVES ANALYZED:** State and City subdivision regulations require that preliminary plats be reviewed using criteria that are set out in those laws. The City may not unreasonably restrict an owner's ability to develop his land if the subdivider provides evidence that any identified adverse effects can be mitigated.

**FINANCIAL IMPACT:** When the property is developed the new residents will need City services. It is unknown if the value of these proposed homes will generate sufficient taxes and fees to pay for the required services.

**RECOMMENDATION**

The Yellowstone County Board of Planning recommends that the Billings City Council conditionally approve the preliminary plat of Copper Ridge Subdivision, 1<sup>st</sup> Filing, accept the attached findings of fact, and approve the variances from Sections 23-601(k), BMCC.

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

**ATTACHMENTS**

- E. Preliminary Plat & Master Plan
- F. Site photographs
- G. Findings of Fact
- H. Mayor's approval letter

## **INTRODUCTION**

On February 3, 2005 the Planning Department received a preliminary plat application for the Copper Ridge Subdivision, 1<sup>st</sup> Filing. The 23.8-acre property is located on the north side of Rimrock Road, at the location of 66<sup>th</sup> St. West. The Yellowstone County Board of Planning held a public hearing on this proposed subdivision at its meeting on March 22, 2005 and recommends that the Billings City Council conditionally approve this preliminary plat and the requested variances from the City Subdivision Regulations.

## **PROCEDURAL HISTORY**

- The subject property was annexed into the City limits on May 13, 2002.
- The subject property was approved for R-7000-R zoning on December 13, 2004.
- The preliminary plat application was submitted to the Planning Department on February 3, 2005.
- The Yellowstone County Board of Planning reviewed the plat on March 8, 2005.
- The Planning Board conducted a public hearing on March 22, 2005 and made its recommendations to the Billings City Council.
- The City Council will consider the application at its meeting on April 25, 2005.

## **BACKGROUND**

The subject property is legally described as a portion of Tracts 3A & 4 of Certificate of Survey 2465. The property is zoned R-7000-Restricted and the proposed subdivision contains 78 single-family residential lots. It is the first filing of a larger Master Planned area which would contain a total of 338 lots including all future filings/phases.

General location:	On the north side of Rimrock Road, near 66 <sup>th</sup> St. W.
Subdivider:	Copper Ridge Development, LLC
Owner:	Gary E. Oakland
Engineer and Surveyor:	Engineering, Inc.
Existing Zoning:	R-7000-R
Surrounding zoning:	North: R-7000-R South: R-15,000 East: R-9600 West: R-7000-R
Existing land use:	Vacant –un-irrigated crop land
Proposed land use:	Single-family residential
Gross area:	23.8 acres
Lot area:	15.9 acres

Proposed number of lots:	78
Lot size:	Max.: 14.146 sq. ft. Min.: 7,000 sq. ft.
Parkland requirements:	1.7521 acres of parkland dedication is required; 3.8595 acres of parkland is proposed

### **ALTERNATIVES ANALYSIS**

One of the purposes of the City's subdivision review process is to identify potentially negative effects of property subdivision. When negative effects are identified it is the subdivider's responsibility to mitigate those effects. Various City departments reviewed this application and provided input on effects and mitigation. The Planning Board develops and recommends conditions of approval that are based on the departments' comments. The Findings of Fact, which are presented as an attachment, discuss the potential negative effects and the following conditions are recommended as measures that will mitigate them.

### **RECOMMENDED CONDITIONS**

1. Contributions for any off-site intersection improvements identified in the Transportation Accessibility Study shall be made prior to final plat approval as required by City Engineering. *(Recommended by City/County Planning; City Engineering)*
2. Easements adjacent to street right of way for sidewalks, streetlights, hydrants and mailboxes shall be described by metes and bounds on the final plat or as an exhibit to be filed with the final plat. *(Recommended by City Engineering)*
3. The subdivider shall execute an encroachment agreement with ConocoPhillips Pipeline for the entire master planned area for water, sewer, streets, walks, and private utilities prior to final plat approval of the first filing. *(Recommended by ConocoPhillips; Planning Department)*
4. The subdivider shall obtain written approval by the County Public Works Department of the final design and construction for Rimrock Road from 62<sup>nd</sup> St. West to and adjacent to the Copper Ridge Subdivision and for the bridge crossing Cove Ditch prior to final plat approval. The subdivider shall also obtain written approval from the Cove Ditch Company for any alteration to the bridge crossing the ditch on Rimrock Rd.
5. Minor changes may be made in the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
6. The final plat shall comply with all requirements of the City Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.



## **VARIANCES**

The applicant is requesting the following variances in conjunction with the preliminary plat:

- Variance from BMCC, Section 23-601(k), which requires 60 feet of right-of-way for local residential streets, to allow 50 feet of right-of-way dedication for the proposed interior streets. This variance has been frequently requested lately and has been supported by staff if the proper easements are provided adjacent to the right of way for sidewalks, street lights, fire hydrants and other public amenities. In this case, the design of the streetscape is highly tailored in that the sidewalk, driveway and gang mailbox placement are dictated by the Master Plan. Therefore, staff is supporting this variance request if the easements for sidewalks, street lights and hydrants are described by metes and bounds on the final plat. This is recommended as a condition of approval.
- Variance from BMCC, Section 23-601(k) which requires 37-foot back to back of curb width of local residential streets, to allow for 34-foot back to back of curb width interior residential streets. This variance is being requested in an attempt to promote a neighborhood feel by lessening the width of asphalt. As described above, the streetscape is tailored so that in many cases the driveways are longer, and therefore less on-street parking would be utilized. City Engineering, Planning and Fire staffs are supportive of this variance request in this case.

## **STAKEHOLDERS**

A public hearing was held by the Planning Board on March 22, 2005. There was no public comment received at that meeting or any other public input up to the time this report was written.

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

Consistency with the Growth Policy, West Billings Plan, Transportation Plan and Heritage Trail Plan is discussed in the Findings of Fact.

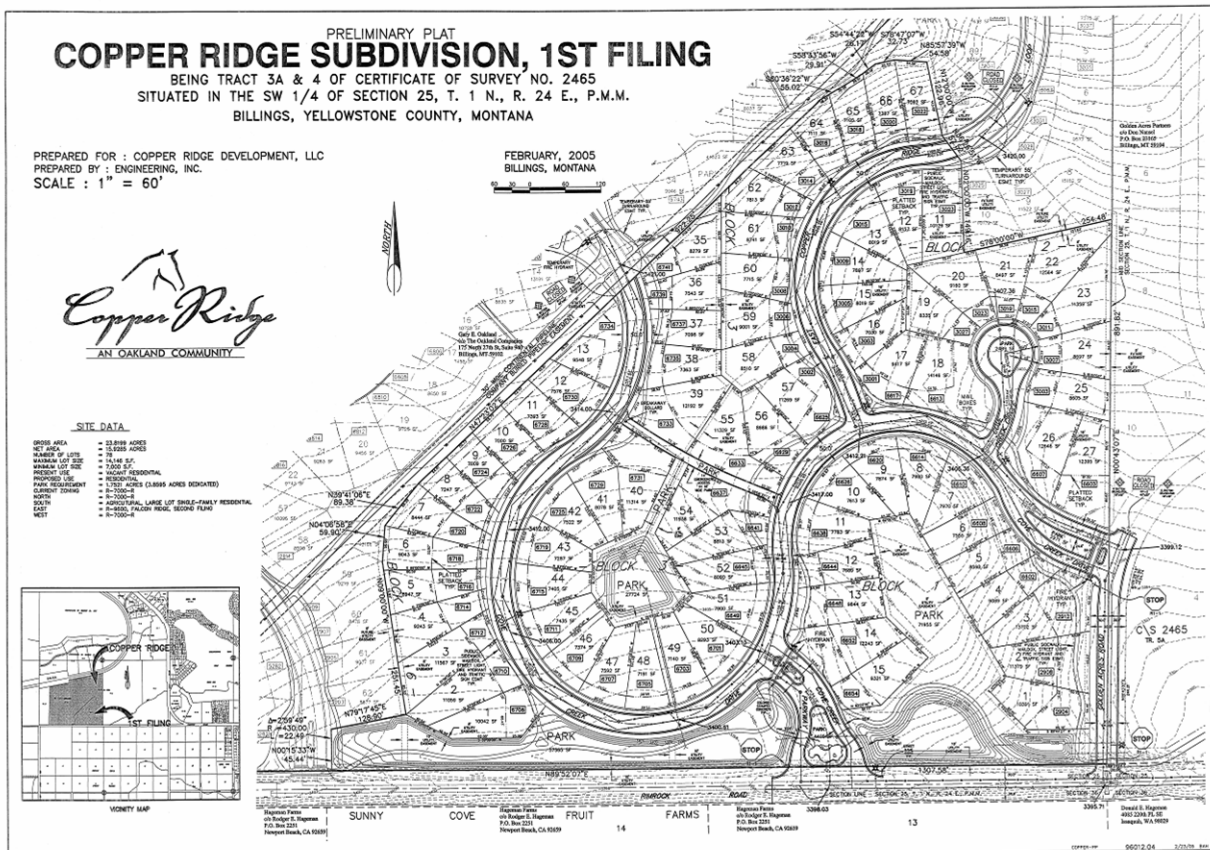
## **RECOMMENDATION**

The Yellowstone County Board of Planning recommends that the Billings City Council conditionally approve the preliminary plat of Copper Ridge Subdivision, 1<sup>st</sup> Filing, accept the attached findings of fact, and approve the variances from Sections 23-601(k), BMCC.

## **ATTACHMENTS**

- E. Preliminary Plat & Master Plan
- F. Site photographs
- G. Findings of Fact
- H. Mayor's approval letter

Copper Ridge Subdivision, 1st Filing Preliminary Plat



Copper Ridge Subdivision, Master Plan





ATTACHMENT B  
Copper Ridge Subdivision, 1<sup>st</sup> Filing Site Photographs



Figure 1: Looking north at the subject property.



Figure 2: Looking east down Rimrock Road toward 62<sup>nd</sup> St. W.  
Rimrock will be paved to 24 feet in width from 62<sup>nd</sup> to the proposed subdivision.

ATTACHMENT C  
Findings of Fact

**A. What are the effects on agriculture, local services, the natural environment, wildlife and wildlife habitat and public health, safety and welfare? [BMC 23-304 (c) (1) and MCA 76-3-608 (3) (a)]**

1. Effect on agriculture

This subdivision in combination with the subsequent filings as proposed on the master plan will have a minor impact on agriculture. The subject property is approximately 24 acres in size and the entire master planned area is approximately 97 acres. The land is currently used for dryland cropland. Although this property is not prime irrigated agricultural land, as this and other land in the region transforms from crop land to residential developments, there may be a cumulative impact on agriculture.

2. Effect on local services

- a. Utilities – Water and sanitary sewer lines will be extended by the developer from the main lines in Rimrock Road throughout the subdivision to serve the new lots. Hook up fees for both the water and sewer connections will be assessed at the time of lot development.  
Storm water will be retained on site until such time that the City's storm water lines are extended to the area. The park area within the center of Block 3 and the park areas along Rimrock Road (within Blocks 1 & 6) are proposed to serve as a storm water detention facilities. The subdivider has provided a storm water management plan with this preliminary plat application. This plan shall meet the requirements of the City of Billings *Stormwater Management Manual* and be approved by the City Engineer, prior to final plat approval.  
Private utilities will be extended to this property under the companies' operating rules. Easements for utilities as requested by MDU are shown on the face of the plat.
- b. Solid waste – The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- c. Streets - The subdivider proposes to have two accesses off of Rimrock Road for the 1<sup>st</sup> Filing of this development. Rimrock Road is a County road at this location and classified by the Transportation Plan's Functional Classification Map as a local road. It is currently a graveled road within a 60-foot right-of-way west of 62<sup>nd</sup> Street West and the subdivider proposes to pave it from 62<sup>nd</sup> St. West to a width of 24 feet and install 2-foot wide gravel shoulders and borrow ditch swales on both sides. There is a bridge crossing Cove Ditch on Rimrock Road. It currently has a travel-lane width of 22 feet. In the most recent SIA (dated 3/10/05) the subdivider has proposed to remove the bridge and replace it with a culvert of appropriate size and length as required by County public road/bridge standards. Written approval by the County Public Works Department of the final design and construction for Rimrock Road from 62<sup>nd</sup> St. West to and adjacent to the subdivision and for the bridge crossing Cove Ditch shall be required prior to final plat approval. The replacement of the bridge shall also be reviewed and approved by Cove Ditch. This is recommended as a condition of approval.

All of the lots will be accessed using interior streets. The right-of way widths and street widths are described in detail on page 4 of the SIA. The main entryways are proposed with wider rights-of-way and split traffic lanes with park medians. Those entryways then taper down for the primary internal streets that are proposed to be 34 feet in width within 50-foot rights-of-way. Because these streets are narrower in both right-of-way width and surface width than is allowed by the City Subdivision Regulations, a variance from those standards is being requested. Staff is supportive of these variances. Additional discussion can be found in the variance section of this report.

Aside from the width, the local interior streets are proposed to be constructed to City street standards with curb and gutter, and boulevard sidewalks on one side of the streets. Sidewalks within the park areas will be constructed by the developer prior to final plat approval or otherwise guaranteed. Construction of sidewalks in front of lots will be required of the individual lot owners at the time of lot development.

A Traffic Accessibility Study was submitted that identified recommended improvements and developer contributions necessary for intersection impacts from the full build-out of this subdivision. The necessary contributions should be reviewed and approved by City Engineering, and should be outlined in the SIA and made prior to final plat filing.

- c. Emergency services – Billings Police and Fire Departments will respond to emergencies in this subdivision. The nearest fire station is Station #3 at 1928 17<sup>th</sup> St. West. The Fire Department has not identified any concerns with the proposed subdivision. Police response will depend upon officer availability and location when a call for service is placed. AMR provides medical care and transport and response would probably come from the west-end station that is located on Grand Avenue at about 25<sup>th</sup> Street West.
- d. Schools – The subdivision is in the School District #2. Students within in this subdivision would likely attend Arrowhead Elementary School, Will James Middle School, and West High School. No comments have been received from School District #2.
- f. Parks and Recreation – Because this is a major plat the subdivider must dedicate parkland or provide cash in lieu of parkland. A park system for the entire Master Planned area has been proposed by the developer and accepted by PRPL. For this first filing, 3.8 acres of parkland are being proposed in the form of parkland adjacent to Rimrock Road, a pocket park within Block 3 and green pockets at entryways. The development of the park system has been outlined in a Park Master Plan that has been reviewed and approved by PRPL. The parks will be graded, irrigated and planted with lawn and trees, and walkways and trails will be constructed. In addition a park maintenance district (PMD) will be created for the maintenance of this park system, prior to final plat approval.
- g. MET Transit – MET Transit’s nearest route extends out Rimrock Road to Shiloh Road. The creation of this subdivision will not likely cause MET to expand their service area.

### 3. Effect on the natural environment

The subject property is vacant un-irrigated crop land that slopes up from Rimrock Road toward the railroad and the rimrocks to the north. Slopes are not overly steep and the proposed lots

appear to have adequate building sites and drive approaches that can meet the 12 % or less maximum.

A geotechnical study and report completed by Terracon were provided with the preliminary plat submittal. The report was derived from information collected from 7 boring samples taken at various locations on the site. Results of the tests indicated that there could be potential limitations for proposed construction on the lots in the form of collapsible soils. A note has also been added to the SIA stating the potential for variable soils in the area, and recommending individual geotechnical studies on the lots prior to house foundation design and construction.

#### 4. Effect on wildlife and wildlife habitat

There will be a small effect on wildlife and its habitat. The property is not habitat for any known endangered species. Comments were not received by Montana Fish, Wildlife and Parks.

#### 5. Effect on the public health, safety and welfare

There is a 4-inch high pressure petroleum pipeline located within a 30-foot wide easement that crosses the subject property. ConocoPhillips (CP) owns and operates the line and has requested that the subdivider enter into an encroachment agreement for all streets, sidewalks, and water and sewer lines that are proposed to cross the pipeline easement. It is recommended as a condition of approval that the encroachment agreement be executed between the developer and CP prior to final plat approval. In addition CP has requested that a statement be added to the SIA disclosing to future lot owners about the pipeline. This statement has been added to the draft SIA, and will be a part of the final SIA that is filed with the final documents.

Additionally there is a Burlington Northern Santa Fe (BNSF) railroad line that runs adjacent to the northern boundary of the property. Though it is not adjacent to this particular filing, it does abut future filings of the subdivision. The railroad is grade separated from the level of the subdivision and within a right of way that is 275-150 feet wide. No comment was received from BNSF regarding the proposed subdivision. A note in the SIA discloses the presence of the railroad to future lot owners, warns the lot owners to stay off BNSF property and states that they are waiving their right to complain about noise created by the normal operation of the railroad.

### **B. Was an Environmental Assessment required? [(MCA 76-3-603 and BMC 23-304 (c) (1)]**

As it is exempt under Section 76-3-210, MCA, an Environmental Assessment was not prepared for the subdivision.

### **C. Does the subdivision conform to the 2003 Yellowstone County City of Billings Growth Policy and the Urban Area 2000 Transportation Plan? [BMC 23-304 (c) (3)]**

#### 1. 2003 Growth Policy:

The subdivision meets the following goals/policies of the Growth Policy

- a. A safe and efficient transportation system characterized by convenient connections and steady traffic flow. (*Transportation Element #2*)
- b. More housing and business choices within each neighborhood. (*Land Use Element #6*)
- c. Well maintained network of safe and interconnected sidewalks. (*Transportation Element #9*)
- d. Sanitary and safe properties. (*Public Services Element #2*)

The subdivision does not meet the following goals of the Growth Policy:

- a. Predictable land use decisions that are consistent with neighborhood character and land use patterns. (*Land Use Element #1*)
- b. Contiguous development focused in and around existing population centers separated by open space. (*Land Use Element #4*)

## 2. Urban Area Transportation Plan

The subdivision is in the jurisdictional area of the Urban Area 2000 Transportation Plan. Rimrock Road is identified as a local street west of 62<sup>nd</sup> St. West, therefore the existing 30-foot half-width right of way dedication is sufficient. There are no projected collector or arterial streets within the area of the subdivision. Therefore, if the variances requested are granted, the proposed subdivision should meet the goals and objectives of the Transportation Plan.

## 3. Heritage Trail Plan

The subdivision is also within the jurisdictional area of the Heritage Trail Plan. The Plan identifies a trail corridor along the railroad right-of-way on the property's northern boundary. However, based on the railroad grades at this location, it is not desirable to have the trail follow the right-of-way. However, an interior trail/park network is incorporated into this subdivision master plan, and two connections to possible railroad crossings are found in the north-central area and northeast corner of the subdivision.

### **D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [MCA 76-3-608 (3) (b) and BMC 23-304 (c) (4)]**

This proposed subdivision meets the requirements of the Montana Subdivision and Platting Act and the local subdivision regulations. The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local and state subdivision regulations.

### **E. Does the subdivision conform to sanitary requirements? [BMC 23-304 (c) (5)]**

The subdivision will use City water, sanitary sewer, and solid waste collection and disposal services. All services are approved and regulated by state and federal authorities.

### **F. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMC 23-304 (c) (6)]**

The property is within the R-7000-Restricted zoning district. All properties are proposed for single-family homes only and the prescribed setbacks on the Master Plan and within the proposed C,C&R's meet the zoning requirements of the R-7000-R zone.

### **G. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3) © and BMC 23-304 © (7)]**



The subdivision contains public street rights-of-way and utility easements as requested by the utility companies are shown on the face of the plat.

**H. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? [MCA 76-3-608 (3) (d) and BMC 23-304 © (8)]**

All lots will have access to a public street.

**CONCLUSIONS OF FINDING OF FACT**

- Overall, the proposed Copper Ridge Subdivision, 1<sup>st</sup> Filing does not create any adverse impacts that warrant denial of the subdivision.
- The subdivision as proposed should have minimal impact to agriculture or agricultural water user facilities.
- The subdivision will impact local services and cause some increase in demand for those services. However, when the vacant parcel is developed the homeowners will pay property taxes and fees that should help to support those services.
- Impacts to the natural environment and wildlife habitat shall be mitigated prior to lot development.
- The proposed subdivision conforms to some of the goals and policies of the 2003 Growth Policy, but also conflicts with a few goals. The proposal is in conformance with the Transportation or Heritage Trail Plans.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each parcel.

Approved by the Billings City Council, April 25, 2005.

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Charles F. Tooley, Mayor

ATTACHMENT D  
Mayor's Approval Letter

April 26, 2005

Gary Oakland  
c/o The Oakland Companies  
175 N. 27<sup>th</sup> St., Suite 940  
Billings, MT 59102

Dear Sir:

On April 25, 2005, the Billings City Council conditionally approved the preliminary plat of the Copper Ridge Subdivision, 1<sup>st</sup> Filing. The conditions of approval are as follows:

1. Contributions for any off-site intersection improvements identified in the Transportation Accessibility Study shall be made prior to final plat approval as required by City Engineering.
2. Easements adjacent to street right of way for sidewalks, streetlights, hydrants and mailboxes shall be described by metes and bounds on the final plat or as an exhibit to be filed with the final plat.
3. The subdivider shall execute an encroachment agreement with ConocoPhillips Pipeline for the entire master planned area for water, sewer, streets, walks, and private utilities prior to final plat approval of the first filing.
4. The subdivider shall obtain written approval by the County Public Works Department of the final design and construction for Rimrock Road from 62<sup>nd</sup> St. West to and adjacent to the Copper Ridge Subdivision and for the bridge crossing Cove Ditch prior to final plat approval. The subdivider shall also obtain written approval from the Cove Ditch Company for any alteration to the bridge crossing the ditch on Rimrock Rd.
5. Minor changes may be made in the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
6. The final plat shall comply with all requirements of the City Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

The Council also approved the following variances from the City Subdivision Regulations.

- Variance from BMCC, Section 23-601(k), which requires 60 feet of right-of-way for local residential streets, to allow 50 feet of right-of-way dedication for the proposed interior streets.
- Variance from BMCC, Section 23-601(k) which requires 37-foot back to back of curb width of local residential streets, to allow for 34-foot back to back of curb width interior residential streets.

If you have questions please contact Juliet Spalding in the Planning Department at 247-8684 or by email at [spaldingj@ci.billings.mt.us](mailto:spaldingj@ci.billings.mt.us).

Sincerely,

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Charles F. Tooley, Mayor

Cc: John Stewart, PE, Engineering, Inc.

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## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 25, 2005**

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**TITLE:** Final Plat of the Second Amended Plat of Lot 5, Block 3 of the Superior Homes Subdivision

**DEPARTMENT:** Planning and Community Services, Ramona Mattix, AICP, Director

**PRESENTED BY:** Aura Lindstrand, Planner II

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**PROBLEM/ISSUE STATEMENT:** The final plat for the Second Amended Plat of Lot 5, Block 3 of the Superior Homes Subdivision is being presented to Council for approval. On December 13, 2004, the City Council conditionally approved the two (2) lot preliminary minor plat. The City Council conditions of approval have been satisfied and the City Attorney has reviewed and approved the subdivision plat and the associated documents. Upon City Council approval, these documents are appropriate as to form for filing with the Clerk and Recorder.

**FINANCIAL IMPACT:** Should the City Council approve the final plat, the subject property may further develop, resulting in additional tax revenues for the City.

**RECOMMENDATION**

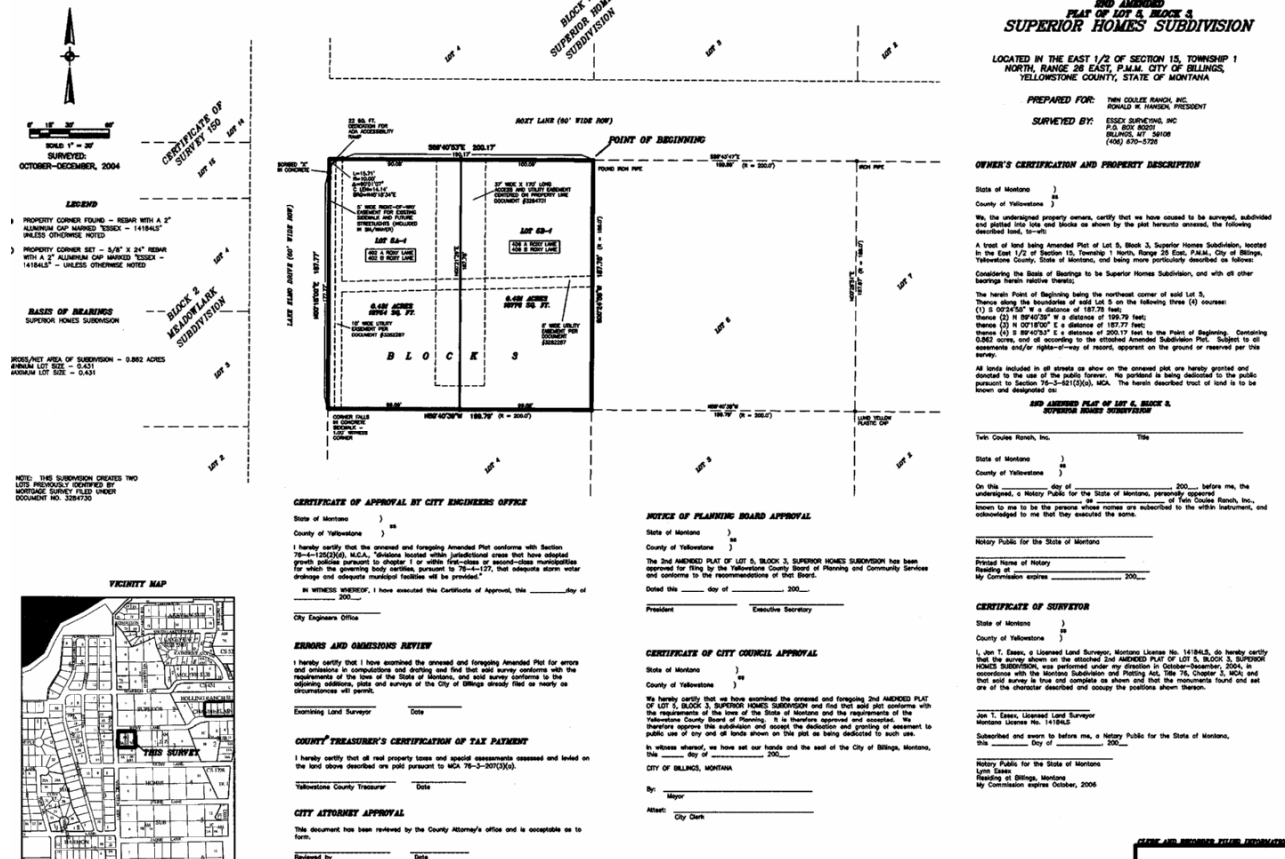
Staff recommends that the City Council approve the final plat of the Second Amended Plat of Lot 5, Block 3 of the Superior Homes Subdivision.

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

**ATTACHMENT:**

A: Final Plat

# Final Plat for the Second Amended Plat of Lot 5, Block 3 of the Superior Homes Subdivision



(Back to Consent Agenda)

Q

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 25, 2005**

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TITLE: Payment of Claims  
DEPARTMENT: Administration - Finance Division  
PRESENTED BY: Patrick M. Weber, Financial Services Manager

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**PROBLEM/ISSUE STATEMENT:** Claims in the amount of \$520,255.94 have been audited and are presented for your approval for payment. A complete listing of the claims dated April 1, 2005 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

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



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, APRIL 25, 2005**

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**SUBJECT:** Conduct a Public Hearing and Approve the Resolution Approving and Adopting the Budget Amendments for the Third Quarter of Fiscal Year 2004/2005

**DEPARTMENT:** Administration

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

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**PROBLEM/ISSUE STATEMENT:** Budget adjustments are requested for the Wastewater Construction Fund, Water Fund, Public Safety Fund, SID Construction Fund, & the Series 2000 Parks-Debt Service Fund.

**RECOMMENDATION**

Staff recommends that the City Council conduct a public hearing and approve the resolution approving and adopting the budget amendments for Fiscal Year 2004/2005 per attached.

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

**ATTACHMENTS:**

A-Resolution to Make Fiscal Year 2004/2005 Adjustments Appropriations  
Exhibit A-Detailed List of Budget Amendments

RESOLUTION 04-

A RESOLUTION TO MAKE FISCAL YEAR 05  
ADJUSTMENTS APPROPRIATIONS PURSUANT TO M.C.A. 7-  
6-4006 AS AMENDED, AND PROVIDING TRANSFERS AND  
REVISIONS WITHIN THE GENERAL CLASS OF SALARIES  
AND WAGES, MAINTENANCE AND SUPPORT AND  
CAPITAL OUTLAY.

WHEREAS, M.C.A. 7-6-4006 provides that the City Council, upon proper resolution, adopted by said Council at a regular meeting and entered into its Minutes, may transfer or revise appropriations within the general class of salaries and wages, maintenance and support, and capital outlay, and

WHEREAS, based upon a **Quarterly** Budget Review (**FY 2004/2005**), it is necessary to alter and change said appropriations.

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

That the attached transfers or revisions are hereby adopted.

(SEE EXHIBIT)

PASSED AND APPROVED by the City Council, this 25<sup>th</sup> day of April, 2005.

THE CITY OF BILLINGS:

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

ATTEST:

BY: \_\_\_\_\_  
Marita Herold, CMCCITY CLERK



**EXHIBIT A**

**BUDGET ADJUSTMENTS**

**Expenditures**

150-2229-422	2290	(82,038) Other Operating Supplies
150-2229-422	8225	82,038 Transfer to Other Funds

Change the Public Safety budget for Fire for the City match for the Homeland Security Grant. The grant match should have been budgeted as a transfer in the FY05 budget, not in the O&M.

311-1530-471-	3592	2,700 Series 2000 Parks-Debt Service
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Establish a FY05 budget for professional services required for arbitrage services. The increase is necessary because only principal and interest was budgeted since the cost of arbitrage was unknown when preparing the FY05 budget.

502-7211-601-	8226	1,100 Water Fund Transfer Out
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Increase the approved FY05 budget of \$63,000 in the water operating fund to \$64,100 for the planned closure of the Water/Wastewater Stores Fund.

421-8493-623-	9220	1,758,168 Wastewater Construction Fund
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Increase the FY05 budget in the Wastewater Construction Fund for the Headworks Building. The FY05 budget had an estimate of \$4 million dollars and the cost of the project will be \$5.7 million.

487-5163-452-	9310	668,000 Rimrock West Park SID 1366
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Increase the FY05 budget in the SID Construction Fund for SID 1366. This SID was not budgeted in the FY05 budget.

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

## AGENDA ITEM:




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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 25, 2005**

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**TITLE:** Public Hearing – FY2005-2009 Consolidated Plan (FY05-06) and Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME) Programs

**DEPARTMENT:** Planning and Development Services

**PRESENTED BY:** Ramona Mattix and John Walsh

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**PROBLEM/ISSUE STATEMENT:** The City Council is scheduled to hold a public hearing on the allocation of the City of Billings FY2005-2006 CDBG and HOME funding and the FY2005-2009 Consolidated Plan on Monday, April 25, 2005. Council action is scheduled on May 9.

**ALTERNATIVES ANALYZED:** No additional alternatives have been analyzed. A public hearing is required as a condition of receiving CDBG and HOME funding.

**FINANCIAL IMPACT:** The public hearing will result in additional public input on the use of CDBG & HOME resources in Billings. In FY2005/2006 the City has \$957,953 in new CDBG funding and \$678,192 in HOME funding available for allocation this year. An additional \$56,533 in CDBG funding is available to allocate this year from projects that have been canceled or completed and \$44,251 from completed HOME projects, resulting in a total of \$1,014,486 available for allocation in CDBG funding and \$722,443 in HOME funding. Federal revenues received for the CDBG and HOME programs are provided through the U.S. Department of Housing and Urban Development.

**RECOMMENDATION**

Staff recommends that the City Council hold a public hearing on April 25<sup>th</sup> to gather public input on the City's FY 2005-2009 Consolidated Plan and the allocation of CDBG and HOME funds in the community for FY2005/06. Council Action is scheduled for May 9<sup>th</sup> and no further action is necessary at this time. The recommendation on the allocation of FY05/06 funds has been prepared by the City's Community Development (CD).

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

**ATTACHMENTS**

- A. 2005-2006 Consolidated Plan Executive Summary (10)
- B. Community Development Board Recommendation (2)
- C. CDBG/HOME Programs FY2005-06 Project Summaries (8)
- D. Task Force Input (5)
- E. FFY05-06 Revenue (1)

## **INTRODUCTION**

The Community Development Board has made recommendations to City Council on the allocation of CDBG and HOME funding for FY2005-2006. On April 25<sup>th</sup>, the City Council Scheduled a public hearing to provide public input on the recommendations and the allocation of CDBG and HOME resources in the community. Additional background on the CD Board's recommendation will be provided to the City Council prior to the public hearing.

Also for consideration is the 2005-2009 Consolidated Plan. The purpose of the Consolidated Plan is to identify the housing and community development needs of low-income households in Billings and develop strategies for addressing those needs in a comprehensive coordinated fashion utilizing available federal and non-federal resources. The Consolidated Plan includes the one-year Action Plan for FY 2005 which will serve as the budget for the City's FY 2005/2006 CDBG and Home Programs. Project summaries for activities proposed this year are included as Attachment B. The Consolidated Plan is required for participation by the City of Billings in the U.S. Department of Housing and Urban Development (HUD) CDBG and HOME Programs and also for homeless programs funded under the McKinley Act and the Housing for Persons with AIDS (HOPWA) Program. The City of Billings does not receive McKinley funds or HOPWA funds and the City's Consolidated Plan is focused on CDBG and HOME activities. The Consolidated Plan combines the planning and application requirements for the CDBG and HOME Programs. Consolidation of the submission requirements for the CDBG and HOME Programs allows program planning and citizen participation to take place in a comprehensive context covering both programs. A separate Consolidated Plan is prepared by the City of Great Falls, the City of Missoula, and the State of Montana for urban and rural areas of Montana outside of Billings, Great Falls, and Missoula.

The City Council is asked to consider the input that is received and make a final decision on the FY2005-2006 CDBG and HOME budgets and FY2005-2009 Consolidated Plan on Monday, May 9, 2005.

## **PROCEDURAL HISTORY**

The City of Billings has been receiving CDBG funds since the mid-1970s and HOME funds since the early 1990s. These funds are provided by the Federal government and are primarily targeted in Billings to address the affordable housing and neighborhood revitalization needs of the community. The FY2005-2006 budget represents the 1st year Action Plan to implement the City's 5-Year Consolidated Plan. The Draft FY2005-2009 Consolidated Plan, described below, identifies strategies for the use of housing and community development resources in the community.

In allocating CDBG and HOME resources, the City of Billings goes through an extensive process to gather public input on the use of the funds. This year applications were available at the beginning of December and due at the end of January 2005. Task force input was requested in February and March. The Community Development Board held budget hearings on the use of the CDBG and HOME resources on March 29<sup>th</sup> and 30<sup>th</sup> and prepared its recommendation on

April 5<sup>th</sup>. A copy of the priorities of the task forces, as received during this process, is included in Attachment D.

The City Council public hearing is required by the Federal government and is part of the 30-day public comment period on the program beginning April 7<sup>th</sup> and extending to May 7<sup>th</sup>. The City Council is scheduled to act on the CDBG and HOME programs on May 9<sup>th</sup>. An application will then be submitted to HUD for its review and the program year will begin July 1, 2005.

## **BACKGROUND**

The April 25<sup>th</sup> public hearing on the 2005-2009 Consolidated Plan and the FY2005-2006 CDBG/HOME budget is part of the public input process for the use of these funds in the community. Each year the City of Billings requests application for the use of these funds for housing and community development activities. These applications are then forwarded to the Community Development Board, which prepares its recommendation for the City Council consideration. An important consideration each year is the allocation of CDBG funding for public service activities. The City of Billings is allowed by HUD to allocate 15% of its CDBG resources to nonprofit organizations or other projects classified as public service activities, ranging from daycare to crime prevention activities.

The City has received 22 applications for public service funding and the comments of most speakers at the public hearing will relate to these 22 requests. The City is also required to provide no more than 20% of its CDBG funding for administration, fair housing and planning type activities and must provide 15% of its annual HOME allocation for activities carried out by nonprofit housing development organizations or CHDOs (Community Housing Development Organizations). CDBG and HOME resources represent the main Federal commitment to communities to address the need to preserve the existing supply of affordable housing and promote the development of new affordable housing. Few other federal, state or local resources are available to address these housing needs.

## **ALTERNATIVES ANALYZED**

The allocation of funding is restricted by the eligibility requirements for CDBG and HOME funding. Projects are focused on activities that promote new affordable housing or preserving the existing supply of affordable housing and those neighborhoods where the affordable housing stock is located. The applications for housing and neighborhood activities are consistent with this focus. The CD Board reviewed the proposed projects and analyzed various alternatives for funding.

## **STAKEHOLDERS**

Stakeholders for the CDBG and HOME programs include:

1. Neighborhood task forces, which are consulted throughout the year regarding neighborhood needs and solutions to those needs utilizing both CDBG and HOME

resources. Task forces are asked to comment on or prioritize the applications. These priorities have been provided in Attachment D for your review.

2. Applicants for funding. The City receives applications from a variety of nonprofit organizations which apply for public service funding or for housing funding, such as, Living Independently for Today and Tomorrow and Yellowstone County Council on Aging. A summary of the applicants is included as Attachment C and the complete applicants are available online at <http://www.ci.billings.mt.us/Online/living.php>.
3. The Community Development Board, as an advisory body to the City Council, provides detailed oversight to both the CDBG and HOME programs throughout the year and has gone through an extensive process to prepare its recommendations for the City Council consideration at the April 25<sup>th</sup> meeting. Additional information of the Community Development Board's recommendation will be provided to the board prior to the April 25<sup>th</sup> Public Hearing.

## **CONSISTENCY WITH ADOPTED POLICIES OR PLAN**

Projects proposed for consideration are consistent with the goals and objectives of the proposed FY2005-2009 Consolidated Plan for the use of CDBG & HOME resources in Billings. Five primary strategies are proposed in the FY2005-FY2009 Consolidated Plan to meet the diverse needs of Billings' lower-income households. These needs have been primarily identified through the 2005 Billings Housing Needs Assessment completed for the City of Billings by Montana State University-Billings Center for Applied Economic Research. This needs assessment was undertaken utilizing focus groups, individual interviews, a community survey, and an examination of census and housing market data. This work and input from neighborhood groups and community partners resulted in the identification of the following four characteristics of the community that the City of Billings will attempt to address with housing and community development activities: (1) increasing housing cost compared to income and its effect on low income renters and homeowners in achieving safe, decent & affordable housing; (2) An aging population and the associated increase in the percentage of the population with disabilities; (3) A slight decrease in the price of rental housing and short term concern over the number of multi-family units scheduled to be constructed in 2005 and 2006; and (4) The age and condition of the community's affordable housing stock, particularly in the older neighborhoods surrounding the City's Central Business District.

The following five strategies are proposed by the City of Billings in its FY2005-2009 Consolidated Plan to address Billings' housing and community development needs.

### **Strategy #1**

Promote the Preservation of the existing supply of affordable housing in the community by:

- Providing affordable financing to allow low and moderate-income homeowners to perform needed repairs to their homes;

- Providing affordable financing to encourage rehabilitation of multi-family units affordable to lower income residents in the community; and,
- Reducing the loss of existing standard housing units affordable to lower income households due to redevelopment activities.

## **Strategy #2**

Promote the preservation and revitalization of the community's older neighborhoods where the affordable housing stock is located by:

- Upgrading the housing stock in older lower income neighborhoods;
- Providing incentives to encourage development of vacant lots and redevelopment of substandard properties in lower income neighborhoods;
- Supporting activities that provide amenities and address infrastructure needs of older lower income neighborhoods; and,
- Supporting efforts of residents of lower income neighborhoods to work together to address needs and respond to opportunities.

## **Strategy #3**

Promote New Affordable Housing Opportunities by:

- Encouraging the development of new affordable single, multi family, and special needs housing in the community through private developers and non-profits; and,
- Promoting homeownership.

## **Strategy #4**

Work as an active partner with non-profits, neighborhood groups, and others to address housing, community, and neighborhood needs by:

- Encouraging housing and community development organizations to work together to build strong community structures to better address needs and respond to opportunities; and,
- Supporting activities that promote fair housing and increase awareness of the rights and responsibilities of protected classes.

## **Strategy #5**

Improve the economic conditions of lower income households in the community by:

- Supporting efforts of community organizations to address the human service needs of lower income residents of the community in general and our lower income neighborhoods in particular; and
- Supporting the efforts of economic development and non-profit agencies to undertake strategies that will result in job training and employment opportunities for lower income households.

Proposed goals and objectives for each of these strategies for FY2005 through FY2009 are identified in the Executive Summary of the Consolidated Plan included as Attachment A. The complete Draft FY 2005-2009 Consolidated Plan including the 2005 MSU-B Housing Needs Assessment is available for review at <http://www.ci.billings.mt.us/Online/living.php>

## **SUMMARY**

N/A

## **RECOMMENDATION**

Staff recommends that the City Council hold a public hearing on April 25<sup>th</sup> to gather public input on the City's FY 2005-2009 Consolidated Plan and the allocation of CDBG and HOME funds in the community for FY2005/06. Council Action is scheduled for May 9<sup>th</sup> and no further action is necessary at this time. The recommendation on the allocation of FY05/06 funds has been prepared by the City's Community Development (CD) Board.

## **ATTACHMENTS**

- A. 2005-2006 Consolidated Plan Executive Summary\* (10)
- B. Community Development Board Recommendation (2)
- C. CDBG/HOME Programs FY2005-06 Project Summaries (8)\*\*
- D. Task Force Input (5)
- E. FY05-06 Revenue (1)

\* The Draft 2005-2009 Consolidated Plan is available for review online at <http://www.ci.billings.mt.us/Online/living.php>

\*\* Each application is available for review on line at: <http://www.ci.billings.mt.us/Online/living.php>



# **City of Billings**

## ***FY2005-2009 CONSOLIDATED PLAN***

### **DRAFT**

### **APRIL 2005**

#### **EXECUTIVE SUMMARY**

The City of Billings Consolidated Plan for the five year period from FY 2005 through FY 2009 will be considered by the Billings City Council on May 9th following a 30 day public comment period extending from April 7th to May 7th. City Council Action on the Consolidated Plan will follow a plan development process which included the development of the 2005 Billings Housing Needs Assessment undertaken by Montana State University-Billings, input from five neighborhood groups, public hearings on housing and community development needs on March 29th and March 30th, and a public hearing on the draft FY2005-2009 Consolidated Plan and FY2005 Action Plan on April 25th.

The purpose of the Consolidated Plan is to identify the housing and community development needs of low-income households in Billings and develop strategies for addressing those needs in a comprehensive coordinated fashion utilizing available federal and nonfederal resources. The Consolidated Plan includes the one-year Action Plan for FY 2005 which will serve as the budget for the City's FY 2005/2006 Community Development Block Grant (CDBG) Program and Home Investment Partnership Program (HOME). The Consolidated Plan is required for participation by the City of Billings in the U.S. Department of Housing and Urban Development (HUD) CDBG and HOME Programs and also for homeless programs funded under the McKinley Act and the Housing for Persons with AIDS (HOPWA) Program. The City of Billings does not receive McKinley funds or HOPWA funds and the City's Consolidated Plan is focused on CDBG and HOME activities. The Consolidated Plan combines the planning and application requirements for the CDBG and HOME Programs. Consolidation of the submission requirements for the CDBG and HOME Programs allows program planning and citizen participation to take place in a comprehensive context covering both programs. A separate Consolidated Plan is prepared by the City of Great Falls, the City of Missoula, and the State of Montana for urban and rural areas of Montana outside of Billings, Great Falls, and Missoula.

Five primary strategies are proposed in the FY2005-FY2009 Consolidated Plan to meet the diverse needs of Billings' lower-income households. These needs have been primarily identified through the 2005 Billings Housing Needs Assessment. This needs assessment was undertaken utilizing focus groups, individual interviews, a community survey, and an

examination of census and housing market data. This work and input from neighborhood groups and community partners resulted in the identification of the following four characteristics of the community that the City of Billings will attempt to address with housing and community development activities: (1) increasing housing cost compared to income and its effect on low income renters and homeowners in achieving safe, decent & affordable housing; (2) An aging population and the associated increase in the percentage of the population with disabilities; (3) A slight decrease in the price of rental housing and short term concern over the number of multi-family units scheduled to be constructed in 2005; and (4) The age and condition of the community's affordable housing stock, particularly in the older neighborhoods surrounding the City's Central Business District.

Addressing these community characteristics requires the continuation of existing partnerships and developing new partnerships between public, private and non-profit sectors of the community.

### **STRATEGIC PLAN**

The following five strategies are proposed by the City of Billings in its FY2005-2009 Consolidated Plan to address Billings' housing and community development needs.

#### **Strategy #1**

Promote the Preservation of the existing supply of affordable housing in the community by:

- Providing affordable financing to allow low and moderate-income homeowners to perform needed repairs to their homes;
- Providing affordable financing to encourage rehabilitation of multi-family units affordable to lower income residents in the community; and,
- Reducing the loss of existing standard housing units affordable to lower income households due to redevelopment activities.

#### **Strategy #2**

Promote the preservation and revitalization of the community's older neighborhoods where the affordable housing stock is located by:

- Upgrading the housing stock in older lower income neighborhoods;
- Providing incentives to encourage development of vacant lots and redevelopment of substandard properties in lower income neighborhoods;
- Supporting activities that provide amenities and address infrastructure needs of older lower income neighborhoods; and,

- Supporting efforts of residents of lower income neighborhoods to work together to address needs and respond to opportunities.

### **Strategy #3**

Promote New Affordable Housing Opportunities by:

- Encouraging the development of new affordable single, multi family, and special needs housing in the community through private developers and non-profits; and,
- Promoting homeownership.

### **Strategy #4**

Work as an active partner with non-profits, neighborhood groups, and others to address housing, community, and neighborhood needs by:

- Encouraging housing and community development organizations to work together to build strong community structures to better address needs and respond to opportunities; and,
- Supporting activities that promote fair housing and increase awareness of the rights and responsibilities of protected classes.

### **Strategy #5**

Improve the economic conditions of lower income households in the community by:

- Supporting efforts of community organizations to address the human service needs of lower income residents of the community in general and our lower income neighborhoods in particular; and
- Supporting the efforts of economic development and non-profit agencies to undertake strategies that will result in job training and employment opportunities for lower income households.

Specific actions for each of these strategies for Fiscal Years FY2005 through FY2009 are identified below. The complete Draft FY 2005-2009 Consolidated Plan including the 2005 MSU-B Housing Needs Assessment is available for review at <http://www.ci.billings.mt.us/Online/living.php>.

<b>Strategy #1 - Promote the Preservation of the existing supply of affordable housing in the community</b>		
<b><i>Objective</i></b>	<b><i>Implementation Plan</i></b>	<b><i>5-Year Goal</i></b>
Provide affordable financing to lower income homeowners to perform needed repairs	Complete substantial rehabilitation work through the Housing Rehabilitation Loan Program	75 homes
	Complete minor rehabilitation work through the Minor Home Repair Program	100 homes
	Provide funding for single purpose rehabilitation projects targeted to elderly and special needs lower income homeowners	20 ramps 150 elderly repairs
	Pursue grant and private funding to support activities that increase resources available for housing rehabilitation activities	20 home repairs
Provide affordable financing to rehabilitate rental units affordable to lower income residents	Complete substantial rehabilitation work to rental units for occupancy by lower income, elderly and special needs households	50 Rental Units
	Pursue private resources to support rental rehabilitation activities	Promote the use of Fannie Mae's America's Community Fund for rental rehabilitation activities
Reduce the loss of existing standard housing units affordable to lower income households due to redevelopment activities	Organize task force of organizations involved with redevelopment activities to promote the preservation of the existing supply of affordable housing and to mitigate the effects of demolition or conversion when it does occur	Housing Preservation Guidelines

Strategy #2 Promote the preservation and revitalization of the community's older neighborhoods where the affordable housing stock is located		
<i><b>Objective</b></i>	<i><b>Implementation Plan</b></i>	<i><b>5-Year Goal</b></i>
Preserve the housing stock in older lower income neighborhoods	<p>See Strategy #1</p> <p>Support house painting program for lower income homeowners.</p> <p>Support Tree Program to remove and replace diseased or dangerous trees for lower income homeowners</p> <p>Support activities that help preserve historic properties</p>	<p>40 homes</p> <p>80 trees</p> <p>Implement annual YHPB work plan</p>
Provide incentives to encourage development of vacant lots and redevelopment of substandard properties in lower income neighborhoods	<p>See Strategy #3</p> <p>Provide funding for Affordable Housing Volunteer Demolition program to eliminate blighted substandard properties in lower income neighborhoods and replace with new affordable housing</p>	<p>5 properties</p>
Support activities that provide amenities and address the infrastructure needs of older lower income neighborhoods	<p>Support planned neighborhood improvements included in City's Capital Improvement Plan</p> <p>Provide Special Assessment Grants for lower income households to help pay for SID's resulting from the City's public improvement projects</p> <p>Encourage the redevelopment of the South 27<sup>th</sup> Street Corridor</p> <p>Encourage the implementation of the Heritage Trail Bike Plan in lower income areas</p> <p>Promote historic preservation activities in a coordinated manner through Historic Preservation Organizations</p>	<p>Implement CIP</p> <p>100 Homeowners</p> <p>3 new redevelopment projects (800 block S. 28<sup>th</sup>, 700 block S. 27<sup>th</sup> &amp; 500 block S. S7th)</p> <p>2 projects in lower income areas</p> <p>Implement annual</p>

		YHPB work plan
Support efforts of residents of lower income neighborhoods to work together to address needs and respond to opportunities	Support Neighborhood Planning efforts and provide on-going support for monthly task force meetings	Complete Neighborhood Plans

Strategy #3 Promote New Affordable Housing Opportunities		
<i><b>Objective</b></i>	<i><b>Implementation Plan</b></i>	<i><b>5-Year Goal</b></i>
Encourage the development of new affordable single family, and multi family, special needs housing in the community through private developers and non-profits	Provide funding through the CDBG,HOME, and Other Affordable Housing Funds to encourage the development of new affordable housing in the community emphasizing: New/converted Elderly and Disabled housing New/converted Special needs housing New/converted housing in lower income neighborhoods (Strategy #2) New/converted housing for very low and extremely low renters	100 units
	Provide funding to Community Development Housing Development Organizations (CHDOs) to undertake activities to meet priority affordable housing needs	50 units
	Complete Phase II & III of the Kings Green Affordable Housing Project	25 units
	Work to address loss of mobile/manufactures housing affordable to lower income households	Establish work group to study & make recommendations
	Work with Affordable Housing task force to identify and address barriers to affordable housing and to encourage infill development	Establish work group to study & make recommendations
	Support activities of the Housing Authority of Billings and other assisted housing providers to meet the needs of very low-income households	Support implementation of HAB's 5-Year Plan
	Provide funding for support services to address the needs of the homeless, elderly, and special needs populations	Homemaker services, runaway services, housing counseling, emergency rent/mortgage,

		victims of domestic abuse, Medication assistance
Promote homeownership	<p>Assist lower income households achieve home ownership through the City's First Time Homebuyer program and low interest "set aside" financing available through Montana Board of Housing (MBOH)</p> <p>Participate with Montana Homeownership Network to increase First Time Homebuyer opportunities in the City leveraging resources available through Fannie Mae, MBOH etc.</p> <p>Support homebuyer education in partnership with Montana Homeownership Network</p> <p>Support Billings American Indian Homeownership Partnership effort to increase homeownership rates for Native Americans and other minorities in the community</p>	<p>125 homebuyers</p> <p>125 homebuyers</p> <p>750 households</p> <p>Implementation of partnership goal to increase the homeownership rate for Native Americans in Billings</p>



<b>Strategy #4- Work as an active partner with non-profits, neighborhood groups, and others to address housing &amp; community development needs</b>		
<b><i>Objective</i></b>	<b><i>Implementation Plan</i></b>	<b><i>5-Year Goal</i></b>
Encourage housing & community and development organizations to work together to build strong community structures to better address needs and respond to opportunities	Sponsor the Affordable Housing Task Force which brings together organizations such as the Housing Authority of Billings, Habitat for Humanity, HRDC, Big Sky EDA, homeWord, Realtors and Lenders to address affordable housing issues of common concerns	Implementation of Task force work Plan
	Sponsor the Adjacent Neighborhood Committee which brings together the City's neighborhood task forces and Downtown Partnership	Host bi-monthly meetings
	Support the activities of the Billings American Indian Homeownership Partnership which brings together approximately 20 organizations to increase the homeownership rate for Native Americans	Implementation of partnership goal to increase the
	Support Neighborhood Task Forces to identify and address neighborhood needs	homeownership rate for Native Americans in Billings.
Support activities that promote fair housing and increase awareness of the rights and	Undertake fair housing activities in a coordinated manner	Complete Neighborhood Plan & support distribution of Month Newsletter Implement existing FY2003-2007 Fair



**Strategy #5 Improve the economic conditions of lower income households in the community**

<b><i>Objective</i></b>	<b><i>Implementation Plan</i></b>	<b><i>5-Year Goal</i></b>
Support efforts of community organizations to address the human service needs of lower income residents of the community in general and lower income neighborhoods in particular,	Utilize up to 15% of CDBG funding for public service activities to improve the economic conditions of lower income households	Develop Performance measures to determine impact of assisted activities
Support the efforts of economic development and non-profit agencies to undertake strategies that will result in job training and employment opportunities for lower income households	Provide technical assistance to lower income households interested in starting or expanding an existing business	Provide Technical assistance to 500 lower income households

COMMUNITY DEVELOPMENT BOARD RECOMMENDATIONS  
FY 2005-2006

CDBG/HOME GRANT HISTORY (Current Projects ONLY)			2001-2002	2002-2003	2003-2004	2004-2005	2005-2006 Requested	CD Staff Recommen. CDBG Funds   HOME Funds		CD Board Recommendations CDBG Funds   HOME Funds	
Admin / Planning / Fair Housing	HN-1	CDBG Administration	\$165,694	\$172,402	\$175,000	\$173,493	\$175,000	\$173,800		\$173,800	
	HN-2	HOME Administration	\$54,648	\$57,138	\$60,000	\$63,629	\$65,000		\$66,000		\$66,000
	HN-3	Professional Services	\$10,000			\$15,000	\$5,000			\$0	
	HN-4	Yellowstone Historic Preservation Board	\$7,500	\$7,500	\$7,500	\$7,500	\$6,500	\$6,500		\$6,500	
	HN-5	Community Housing Resource Board	\$15,000	\$15,000	\$15,000	\$15,000	\$17,500	\$13,000		\$0	
	HN-6	Community Housing Resource Board - HOME FUNDS					\$2,500		\$2,000		\$0
		FAIR HOUSING ACTIVITIES								\$13,000	\$2,000
Affordable Housing Activities	HN-7	Housing Rehabilitation Loan Program	\$20,000	\$250,000	\$300,000	\$300,000	\$300,000	\$250,000		\$250,000	
	HN-8	Minor Home Repair Program	\$80,000	\$100,000	\$115,000	\$100,000	\$100,000	\$60,000		\$60,000	
	HN-9	Rental Rehabilitation Program	\$40,000	\$20,000	\$40,000	\$40,000	\$60,000	\$40,000		\$57,290	
	HN-10	HOME/CDBG Affordable Housing Support	\$170,253	\$250,000	\$464,000	\$500,000	\$400,000		\$271,133		\$271,133
	HN-11	HOME First Time Home Buyer Program	\$300,000	\$200,000	\$100,000	\$175,000	\$300,000		\$300,000		\$300,000
		homeWORD - Homebuyer Education					\$3,000		\$3,000		\$3,000
	HN-12	Set-Aside for CHDOs	\$75,450	\$75,300	\$84,703	\$84,535	\$80,310		\$80,310		\$80,310
	HN-13	Living Independently for Today & Tomorrow	\$15,000	\$15,000	\$15,000	\$10,000	\$12,500	\$10,000		\$10,000	
	HN-14	Yellowstone County Council on Aging	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000		\$5,000	
	HN-15	Rebuilding Together				\$5,000	\$5,000	\$5,000		\$5,000	
Neighborhood Projects	HN-16	CDBG Demolition Program	\$20,000			\$10,000				\$0	
	HN-17	Property Management	\$12,000	\$12,000	\$12,000	\$10,000	\$8,000	\$8,000		\$8,000	
	HN-18	Special Assessment Grants	\$85,000	\$50,000	\$50,000	\$40,000	\$50,000	\$40,000		\$40,000	
	HN-19	Paint Program				\$5,000	\$5,000	\$2,000		\$2,000	
Park Improvement Projects	HN-20	South West Bike Path					\$150,000	\$234,790		\$150,000	
	HN-21	PRPL-Skate Park - The Galles Building Improvements					\$60,000			\$30,000	
	HN-22	PRPL - South Park - Pool Heater				\$81,000	\$30,000			\$30,000	

		Athletic Park Pool Heater					\$100,000			\$10,000	
Econ Dev	HN-23	BSEDA		\$10,000		\$10,000	\$10,000	\$10,000		\$7,500	
Total:							\$1,950,310	\$858,090	\$722,443	\$858,090	\$722,443
Public Service Activities (see page 2):							\$271,635	\$156,396		\$156,396	NA
Unallocated Funds:										\$0	\$0
TOTAL ALL PROJECTS:							\$2,221,945	\$1,014,486	\$722,443	\$1,014,486	\$722,443

Community Development Board Notes

1. The Board recommends \$10,000 be awarded to fair housing activities in general through a Request for Proposal Process and \$5,000 allocated to the CHRB.
2. The Board recommends \$10,000 in funding for the Athletic Pool Heater with the provision that the Cobb Field feasibility study include the future of Athletic Pool.
3. The Board recommends \$150,000 be added to the existing \$60,000 in CDBG funding for bike trails in the Southwest Corridor Neighborhood with the provision that the funds would be dependent on securing CTEP funding in FY2006 (Fall 2005 Application) to match the \$60,000 currently reserved for the project

COMMUNITY DEVELOPMENT BOARD RECOMMENDATIONS  
FY 2005-2006 CD BOARD RECOMMENDATIONS

		CDBG Grant History (current projects only)		2001-2002	2002-2003	2003-2004	2004-2005	Amount Requested	CD Board Recommendation
Public Service Activities	PS-1	Billings Chapter Prevention of Elder Abuse		\$6,000	\$5,667	\$9,500	\$9,500	\$9,025	\$9,025
	PS-2	Billings Food Bank		\$8,000	\$6,667	\$16,000	\$10,000	\$20,000	\$10,000
	PS-3	Billings Healthy Community Coalition		\$5,000	\$2,667	\$9,500	\$9,500	\$9,500	\$9,500
	PS-4	Boys & Girls Club - Bair Family Clubhouse		\$4,500	\$3,667	\$4,000	\$4,000	\$5,000	\$5,000
	PS-5	Boys & Girls Club - Castlerock Clubhouse						\$5,000	\$0
	PS-6	Community Housing Investment Program (CHIP)						\$6,200	\$0
	PS-7	Family Service, Inc.		\$12,000	\$16,667	\$17,000	\$20,000	\$30,000	\$20,000
	PS-8	Friendship House - Summer Enrichment		\$9,000	\$11,717	\$9,000	\$10,000	\$15,000	\$12,000
	PS-10	HRDC - Growth Thru Art		\$10,000	\$9,667	\$10,000	\$10,000	\$20,000	\$11,771
	PS-11	HRDC - Housing Counseling						\$15,000	\$10,000
	PS-12	Interfaith Hospitality Network - IHN Day Center						\$7,560	\$5,000
	PS-13	Open Bible Christian Center						\$15,000	\$0
	PS-14	Parents Let's Unite for Kids			\$2,167	\$2,500	\$2,500	\$5,000	\$2,500
	PS-15	Senior Helping Hands Program, Inc.		\$15,000	\$14,667	\$18,000	\$20,000	\$19,000	\$19,000
	PS-16	Southgate COP Shop		\$4,500	\$4,167	\$6,000	\$6,000	\$6,000	\$0
	PS-17	Tree Trimming, Planting & Removal		\$15,000	\$15,000	\$15,000	\$10,000	\$15,000	\$10,000
	PS-18	Tumbleweed Runaway Program, Inc.		\$16,000	\$16,000	\$15,050	\$15,050	\$20,000	\$12,500
	PS-19	Young Families Early Head Start		\$8,500	\$7,117	\$10,000	\$11,000	\$32,000	\$10,000
	PS-20	Young Life - Campership Fund						\$5,250	\$0
	PS-21	YWCA of Billings Children's/Women's Services		\$2,000	\$1,667	\$2,000	\$2,100	\$2,100	\$2,100
	PS-22	YWCA Gateway House		\$10,000	\$4,667	\$10,000	\$8,000	\$10,000	\$8,000
Total:				#####	#####	\$153,550	#####	\$271,635	\$156,396
Amount Available:									\$156,396
Difference:								\$271,635	\$0

**COMMUNITY DEVELOPMENT APPLICANTS**  
**HOUSING & NEIGHBORHOOD ACTIVITIES**  
**TABLE OF CONTENTS**  
**FY 2005 - 2006**

**ADMINISTRATION / PLANNING**

HN-1 .....	CDBG Administration .....	\$175,000
HN-2 .....	HOME Administration .....	\$ 65,000
HN-3 .....	Professional Services .....	\$ 5,000
HN-4 .....	Yellowstone Historic Preservation Board .....	\$ 6,500

**FAIR HOUSING ACTIVITIES**

HN-5 .....	Community Housing Resource Board (CHRB) .....	\$ 17,500
HN-6 .....	Community Housing Resource Board (HOME Funds) .....	\$ 2,500

**AFFORDABLE HOUSING ACTIVITIES**

HN-7 .....	Housing Rehabilitation Loan Program .....	\$300,000
HN-8 .....	Minor Home Repair Program .....	\$100,000
HN-9 .....	Rental Rehabilitation Program .....	\$ 60,000
HN-10 .....	HOME / CDBG Affordable Housing Support Program .....	\$400,000
HN-11 .....	HOME First Time Home Buyer Program .....	\$300,000
HN-12 .....	HOME Set-Aside Community Development Organizations (CHDO) .....	\$ 80,309
HN-13 .....	Living Independently for Today & Tomorrow (LIFTT) - Ramps Project ...	\$ 12,500
HN-14 .....	Yellowstone County Council on Aging - Minor Home Repair Program .....	\$ 5,000
HN-15 .....	Rebuilding Together - Home Rehabilitation .....	\$ 5,000

**NEIGHBORHOOD PROJECTS**

HN-16 .....	CDBG Demolition Program .....	\$ 000
HN-17 .....	Property Management .....	\$ 8,000
HN-18 .....	Special Assessment Grants .....	\$ 50,000
HN-19 .....	Paint Program .....	\$ 5,000
HN-20 .....	South West Bike Path .....	\$150,000

**PARK IMPROVEMENT PROJECTS**

HN-21 .....	PRPL – Skate Park – The Galles Building Improvements .....	\$ 60,000
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HN-22 .....	PRPL – South Park – Pool Heater.....	\$ 30,000
HN-23.....	PRPL – Athletic Park – Pool Heater.....	\$100,000

**ECONOMIC DEVELOPMENT**

HN-24 .....	BSEDA - Small Business Development Center.....	\$ 10,000
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**Total Amount Requested: ..... \$1,947,309**



**COMMUNITY DEVELOPMENT APPLICANTS**  
**HOUSING & NEIGHBORHOOD ACTIVITIES - PROJECT SUMMARIES**  
**FY 2005 - 2006**

<i>ADMINISTRATION / PLANNING</i>		
HN-1	<b><i>CDBG Administration</i></b> Funds are requested for general administration expenditures, salaries, and wages for Community Development Manager, CD Grants Coordinator, and half of Senior Office Assistant position. CDBG also provides the resources for administration of other grant programs related to community development received by the City.	\$175,000
HN-2	<b><i>HOME Administration</i></b> Funds are requested for general HOME administration expenditures, salary and benefits for HOME Program Coordinator.	\$65,000
HN-3	<b><i>Professional Services</i></b> Funds are used to contract for professional services on an as-needed basis. These funds will be available to assist the Community Development (CD) Office to meet CDBG / HOME requirements when staff time is limited and to assist the CD Office, its sub-recipients, and lower-income neighborhoods to undertake planning and feasibility analysis to pursue needed projects and maximize the impact of CDBG and HOME resources in the community.	\$5,000
HN-4	<b><i>Yellowstone Historic Preservation Board</i></b> Funds will be used to match \$5,500 in grant funding made available to Certified Local Governments for historic preservation activities through the Montana State Historic Preservation Office. This funding is used to carry out historic preservation activities in Billings and Yellowstone County.	\$6,500
<i>FAIR HOUSING ACTIVITIES</i>		
HN-5	<b><i>Community Housing Resource Board (CHRB) – CDBG Funding</i></b> Funds are requested to further Fair Housing opportunity in Billings through community education and outreach. To enable the City of Billings to fulfill its proposed activities under the adopted Fair Housing Action Plan which is a requirement to be eligible for all CDBG funds. The CHRB's approach is to bring diverse populations of the Billings community together to work toward the common goal of fair and affordable housing.	\$17,500
HN-6	<b><i>Community Housing Resource Board (CHRB) – HOME Program</i></b> Funds are requested to further Fair Housing opportunity in Billings through community education and outreach. To enable the City of Billings to fulfill its proposed activities under the adopted Fair Housing Action Plan which is a requirement to be eligible for all CDBG funds. The CHRB's approach is to bring diverse populations of the Billings community together to work toward the common goal of fair and affordable housing.	\$2,500
<i>AFFORDABLE HOUSING ACTIVITIES</i>		
HN-7	<b><i>Housing Rehabilitation Loan Program</i></b> Funds are requested to rehabilitate approximately 15 homes throughout the City of Billings. The program is intended to provide affordable financing to low / moderate income applicants to provide substantial improvements that help preserve the City's affordable housing stock and revitalize older neighborhoods. Funds will be used to partially fund the CD Grants Coordinator and Loan Processor positions.	\$300,000

HN-8	<p><b><i>Minor Home Repair Program</i></b></p> <p>Funds are requested to assist approximately 40 low-income homeowners with emergency repairs related to basic systems or accessibility for a physically disabled occupant. The program is available for mobile / manufactured mobile homes and for owner / occupied homes that are not appropriate for the Housing Rehabilitation Loan Program.</p>	\$100,000
HN-9	<p><b><i>Rental Rehabilitation Program</i></b></p> <p>Funds are requested to rehabilitate approximately 12 rental properties located throughout the City of Billings. Program funds will provide matching grant funds of up to \$5,000 per unit for the rehabilitation of substandard properties to be occupied by low-income renters. This program also includes the Overcoming Hurdles Program which is a grant of up to \$5,000 per unit to help pay for historic preservation requirements and lead-based paint remediation.</p>	\$60,000
HN-10	<p><b><i>HOME / CDBG Affordable Housing Support Program</i></b></p> <p>Funds are requested to encourage the development of affordable housing for lower-income households in the City of Billings. Applicants for this program can be for-profit developers or non-profit agencies.</p>	\$400,000
HN-11	<p><b><i>HOME First Time Home Buyer Program</i></b></p> <p>Funds are requested to assist approximately 30 to 40 low-income families in the purchase of their first home. The program is designed to provide financial assistance to help qualify for traditional housing financial programs to purchase a home. Funds will be used to provide down payment assistance, closing costs, and minor repairs.</p>	\$300,000
HN-12	<p><b><i>HOME Set-Aside Community Development Organizations (CHDO)</i></b></p> <p>As a recipient of HOME funds, the City of Billings must provide at least 15% of its funding for CHDO activities. This funding is requested for CHDOs to develop affordable housing in the community.</p>	\$80,309
HN-13	<p><b><i>Living Independently for Today &amp; Tomorrow (LIFTT) - Ramps Project</i></b></p> <p>Funds are requested to construct or provide maintenance work on ramps for low-income persons with disabilities to access their homes. Approximately 5 households would be assisted.</p>	\$12,500
HN-14	<p><b><i>Yellowstone County Council on Aging - Minor Home Repair Program</i></b></p> <p>Funds are requested for this Minor Home Repair program which assists low-income persons over the age of 60 with safety-related repairs.</p>	\$5,000
HN-15	<p><b><i>Rebuilding Together - Home Rehabilitation</i></b></p> <p>Funds are requested to rebuild, revitalize, and / or renew 3 - 5 homes for low-income homeowners. Volunteers paint, clean, weatherize, and do carpentry, plumbing, roofing, and electrical work.</p>	\$5,000
<b><i>NEIGHBORHOOD PROJECTS</i></b>		
HN-16	<p><b><i>CDBG Demolition Program</i></b></p> <p>Funds are requested to demolish properties that are burned out or blighted and dangerous to the community. All buildings demolished are not feasible to rehabilitate. Funds would also be used to pay the costs of demolition-related expenses such as board-ups and asbestos inspections and abatement.</p>	\$ -0-
HN-17	<p><b><i>Property Management</i></b></p> <p>Funds are requested to pay existing SIDs and maintain weeds and snow on property previously acquired through the CDBG program. These properties are primarily located along South 27<sup>th</sup> Street.</p>	\$8,000

HN-18	<b><i>Special Assessment Grants</i></b> Funds are requested to provide grant funds to lower-income households impacted by Special Improvement District assessments for public improvements such as curb, gutter, and sidewalk projects in lower income areas.	\$50,000
HN-19	<b><i>Paint Program</i></b> Funds are requested to assist approximately 10 Billings homeowners to purchase paint and painting materials in order to paint the exterior of their owner-occupied homes. This program would be available to both stick-built and mobile / manufactured homes who meet total household income of 60% median income or less.	\$5,000
HN-20	<b><i>South West Bike Path</i></b> Funds are requested to construct a bike path on King Avenue East from South Billings Blvd. to Washington Street.	\$150,000
<b><i>PARK IMPROVEMENT PROJECTS</i></b>		
HN-21	<b><i>PRPL – Skate Park – The Galles Building Improvements</i></b> Funding is requested to pay for materials, equipment, supplies and miscellaneous expenses to renovate the former Galles Filter Building located next to the new skatepark in the South Side Neighborhood.	\$60,000
HN-22	<b><i>PRPL – South Park Pool Heater</i></b> Funding is requested to install a gas fired pool water heater in South Park pool and to purchase a custom size pool blanket and deck reels to facilitate covering the pool at night to retain heat.	\$30,000
HN-23	<b><i>PRPL – Athletic Park Pool Heater</i></b> Funding is requested to install a gas fired pool water heaters in Athletic Park pool and to purchase a pool blanket and deck reels to facilitate covering the pool at night to retain heat.	\$100,000
<b><i>ECONOMIC DEVELOPMENT</i></b>		
HN-24	<b><i>Big Sky Economic Development Authority (BSEDA) - Small Business Development Center</i></b> Funding is requested to provide technical assistance, counseling, and Pre-Business Workshops to low and moderate income persons in the City of Billings interested in starting or expanding a business.	\$10,000

*COMMUNITY DEVELOPMENT APPLICANTS***PUBLIC SERVICE ACTIVITIES****TABLE OF CONTENTS****FY 2005 - 2006**

PS-1 .....	Billings Chapter Prevention of Elder Abuse .....	\$ 9,025
PS-2 .....	Billings Food Bank .....	\$20,000
PS-3 .....	Billings Healthy Comm. Coalition .....	\$ 9,500
PS-4 .....	Boys & Girls Club of Yellowstone County (Bair Family Clubhouse) .....	\$ 5,000
PS-5 .....	Boys & Girls Club of Yellowstone County (Castle Rock Clubhouse) .....	\$ 5,000
PS-6 .....	Community Housing Investment Program .....	\$ 6,200
PS-7 .....	Family Service, Inc. ....	\$30,000
PS-8 .....	Friendship House - Summer Enrichment Program .....	\$15,000
PS-9 .....	homeWORD – Homebuyer Education .....	\$ 3,000
PS-10 .....	HRDC - Growth Thru Art .....	\$20,000
PS-11 .....	HRDC – Housing Counseling .....	\$15,000
PS-12 .....	Interfaith Hospitality Network – IHN Day Center .....	\$ 7,560
PS-13 .....	Open Bible Christian Center – Power House Youth at Risk .....	\$15,000
PS-14 .....	Parents Let’s Unite for Kids (PLUK) – Training for Special Needs .....	\$ 5,000
PS-15 .....	Senior Helping Hands Program, Inc. - Home Health .....	\$19,000
PS-16 .....	Southgate Cop Shop .....	\$ 6,000
PS-17 .....	Tree Trimming, Planting, & Removal Program .....	\$17,000
PS-18 .....	Tumbleweed Runaway Program, Inc. ....	\$20,000
PS-19 .....	Young Family Early Head Start .....	\$32,000
PS-20 .....	Young Life – Campership for Riverside Middle School Kids .....	\$ 5,250
PS-21 .....	YWCA - Children’s Services .....	\$ 2,100
PS-22 .....	YWCA - Gateway House Services .....	\$10,000
<b>Total Amount Requested: .....</b>		<b><u>\$274,635</u></b>

**COMMUNITY DEVELOPMENT APPLICANTS**  
**PUBLIC SERVICE ACTIVITIES - PROJECT SUMMARIES**  
**FY 2005 - 2006**

PS-1	<b><i>Billings Chapter Prevention of Elder Abuse</i></b> BCPEA's mission is to prevent neglect and abuse of elderly and disabled persons through education, public awareness and intervention. Funds are requested to pay a large portion of the salary of its elder Support Social Worker's salary, which will enable her to work full-time with and on behalf of seniors and developmentally disabled adults in our community.	\$9,025
PS-2	<b><i>Billings Food Bank</i></b> Funds are requested to purchase a forklift for use in a second warehouse.	\$20,000
PS-3	<b><i>Billings Healthy Community Coalition - Medication Assistance Program</i></b> Funds are requested for overall support of the Deering site, for the Medication Assistance Program (MAP) which includes expanded hours of MAP staff.	\$9,500
PS-4	<b><i>Boys &amp; Girls Club of Yellowstone County – 5-Core Program at Bair Family Clubhouse</i></b> Funds are requested to pay part-time college students to assist in providing new needed programs at the club.	\$5,000
PS-5	<b><i>Boys &amp; Girls Club of Yellowstone County – 5-Core Program at Castle Rock Clubhouse</i></b> Funds are requested to partially fund the technology program with a part-time staff member under the direction of the Director of Program Development.	\$5,000
PS-6	<b><i>Community Housing Investment Program</i></b> Funds are requested to provide scholarships for training in order to ensure that participants receive the most effective information and other tools from certified trainers to maximize their limited funds.	\$6,200
PS-7	<b><i>Family Service, Inc.</i></b> Funds are requested to prevent homelessness of families living in low-income situations. Services are available to help with rents, mortgages, utilities, and deposits.	\$30,000
PS-8	<b><i>Friendship House - Summer Enrichment Program</i></b> Funds are requested for personnel and administrative costs associated with the Summer Enrichment Program (SEP). SEP is a comprehensive program that addresses the multi-needs of youth ages 4 - 12 and provides basic human service needs.	\$15,000
PS-9	<b><i>homeWORD – Homebuyer Education</i></b> Funds are requested to fill the funding gap that is needed to fully support the Billings' Homeownership Center (HOC), which provides critical homebuyer training and financial education to low and moderate income households in Yellowstone County.	\$3,000
PS-10	<b><i>HRDC - Growth Thru Art</i></b> Funds are requested to fund personnel and administrative costs allowing the organization to continue to provide ongoing studio experiences, workshops, presentations and exhibitions, and opportunities to celebrate artists' personal growth through artistic expression for adults with disabilities.	\$20,000
PS-11	<b><i>HRDC – Housing Counseling</i></b> Funding is requested to provide pre-purchase counseling, rental counseling, default/foreclosure counseling and reverse mortgage counseling to residents of the City of Billings.	\$15,000

PS-12	<b><i>Interfaith Hospitality Network – IHN Day Center – From Homelessness to Independence</i></b>	\$7,560
	Funding is requested to pay for utilities where clients shower, use laundry services, gas for the van which transports clients from the Day Center to their host congregations where they sleep at night; two phone lines, a fax line and Internet for clients to use in looking for housing, employment and to list on forms requiring a home phone, and for children to do their homework on-line.	
PS-13	<b><i>Open Bible Christian Center – Power House Youth at Risk</i></b>	\$15,000
	Funding is requested to provide staffing, cost of temporary housing, insurance, utilities, food, transportation, and counseling services to troubled youths.	
PS-14	<b><i>Parents Let's Unite for Kids (PLUK) – Resource Development and Training for Parents of Kids with Special Needs</i></b>	\$5,000
	Funds are requested to upgrade/increase services provided by PLUK to Billings area children and their families, focusing on clientele from lower income families in an effort to ensure information and training opportunities are reaching those families and being accessed.	
PS-15	<b><i>Senior Helping Hands Program, Inc. - Home Health &amp; Care Services for Indigent Seniors</i></b>	\$19,000
	Funding is requested to provide in-home housekeeping, meal preparation, transportation, personal care, hygiene assistance, medication management, and nursing care to indigent, at-risk seniors. This program allows elders to remain in their own home, part of their community in a safe, comfortable environment.	
PS-16	<b><i>Southgate Cop Shop</i></b>	\$6,000
	Funding is requested for general operating costs for the Southgate Cop Shop. Expenses include rent, utilities, insurance, and task force support.	
PS-17	<b><i>Tree Trimming, Planting, &amp; Removal Program</i></b>	\$15,000
	Funding is requested to remove diseased or dangerous trees and to plant new trees for low-income households throughout the City of Billings.	
PS-18	<b><i>Tumbleweed Runaway Program, Inc. - Runaway &amp; Homeless Youth Program (RHY)</i></b>	\$20,000
	Funding is requested for wage / salary for one direct service person working as a counselor, mentor, and service broker to troubled youth and their families.	
PS-19	<b><i>Young Family Early Head Start - Child Care for High School Parents</i></b>	\$32,000
	Funding is requested to support salaries for staff who provide comprehensive child care and development services to infants and toddlers whose parents are teenagers, completing their high school education.	
PS-20	<b><i>Young Life – Campership Funds for Riverside Middle School Kids</i></b>	\$5,250
	Funding is requested to be used solely to send 15 kids to camp which costs \$350 per participant. This pays for their transportation, food, lodging and all of the activities provided at the camp.	
PS-21	<b><i>YWCA - Children's Services</i></b>	\$2,100
	Funding is requested to provide partial scholarships to low and moderate income families accessing YWCA Children's Services programs for affordable and quality care / educational experiences. The programs include preschool, child care, and after-school care.	
PS-22	<b><i>YWCA - Gateway House Domestic Violence &amp; Sexual Assault Services</i></b>	\$10,000
	Funding is requested to support general operating expenses of the program, which includes housing, support, education, and advocacy for victims of domestic violence and sexual assault.	

*Central Terry Task Force*

**HOUSING & NEIGHBORHOOD ACTIVITIES - RANKING SHEET**

*Fiscal Year 2005 – 2006*

*March 10, 2005*

<i>Proposed Project</i>	<i>Request</i>	<i>Top Priorities-10 responses</i>
<i>Administration &amp; Planning</i>		
CDBG Administration	\$175,000	6
HOME Administration	\$65,000	0
Professional Services	\$5,000	17
Yellowstone Historic Preservation Board	\$6,500	22
<i>Fair Housing Activities</i>		
Community Housing Resource Board	\$17,500	17
Community Housing Resource Board	\$2,500	0
<i>Affordable Housing Activities</i>		
Housing Rehabilitation Loan Program	\$300,000	48 3 <sup>rd</sup>
Minor Home Repair Program	\$100,000	60 1 <sup>st</sup>
Rental Rehabilitation Program	\$60,000	16
HOME/CDBG Affordable Housing Support	\$400,000	29 9 <sup>th</sup>
HOME First Time Home Buyer Program	\$300,000	43 5 <sup>th</sup>
Set-Aside for Community Devel. Organizations (CHDOs)	\$80,309	14
Living Independently for Today and Tomorrow (LIFTT)	\$12,500	31 8 <sup>th</sup>
Yellowstone County Council on Aging - Minor Home Repair	\$5,000	56 2 <sup>nd</sup>
Rebuilding Together - Home Rehabilitation	\$5,000	45 4 <sup>th</sup>
<i>Neighborhood Projects</i>		
CDBG Demolition Program	NA	0
Property Management	\$8,000	9
Special Assessment Grants	\$50,000	26 10 <sup>th</sup>
Paint Program	\$5,000	42 6 <sup>th</sup>
South West Bike Path	\$150,000	9
<i>Park Improvement Projects</i>		
PRPL Skate Park-Galles Building Improvements	\$60,000	1
PRPL South Park Pool Heater	\$30,000	22
Athletic Pool Heater	\$100,000	34 7 <sup>th</sup>
<i>Economic Development</i>		
BSEDA - Small Business Development Center	\$10,000	0

*North Elevation Task Force***HOUSING & NEIGHBORHOOD ACTIVITIES - RANKING SHEET***Fiscal Year 2005 – 2006**March 15, 2005*

<i>Proposed Project</i>	<i>Request</i>	<i>Priorities 3 responses</i>
<i>Administration &amp; Planning</i>		
CDBG Administration	\$175,000	
HOME Administration	\$65,000	
Professional Services	\$5,000	
Yellowstone Historic Preservation Board	\$6,500	8 7 <sup>th</sup> tie
<i>Fair Housing Activities</i>		
Community Housing Resource Board	\$17,500	2
Community Housing Resource Board	\$2,500	1
<i>Affordable Housing Activities</i>		
Housing Rehabilitation Loan Program	\$300,000	10 5 <sup>th</sup> tie
Minor Home Repair Program	\$100,000	10 5 <sup>th</sup> tie
Rental Rehabilitation Program	\$60,000	
HOME/CDBG Affordable Housing Support	\$400,000	8 7 <sup>th</sup> tie
HOME First Time Home Buyer Program	\$300,000	13 4 <sup>th</sup>
Set-Aside for Community Devel. Organizations (CHDOs)	\$80,309	
Living Independently for Today and Tomorrow (LIFTT)	\$12,500	2
Yellowstone County Council on Aging - Minor Home Repair	\$5,000	4
Rebuilding Together - Home Rehabilitation	\$5,000	5 10 <sup>th</sup>
<i>Neighborhood Projects</i>		
CDBG Demolition Program	NA	
Property Management	\$8,000	3
Special Assessment Grants	\$50,000	4
Paint Program	\$5,000	8 7 <sup>th</sup> tie
South West Bike Path	\$150,000	
<i>Park Improvement Projects</i>		
PRPL Skate Park-Galles Building Improvements	\$60,000	21 1 <sup>st</sup>
PRPL South Park Pool Heater	\$30,000	18 3 <sup>rd</sup>
Athletic Pool Heater	\$100,000	20 2 <sup>nd</sup>
<i>Economic Development</i>		
BSEDA - Small Business Development Center	\$10,000	



*North Park Task Force***HOUSING & NEIGHBORHOOD ACTIVITIES - RANKING SHEET***Fiscal Year 2005 – 2006**March 1, 2005*

<i>Proposed Project</i>	<i>Request</i>	<i>Top Priorities-7 responses</i>
<i>Administration &amp; Planning</i>		
CDBG Administration	\$175,000	<b>2</b>
HOME Administration	\$65,000	<b>0</b>
Professional Services	\$5,000	<b>2</b>
Yellowstone Historic Preservation Board	\$6,500	<b>9</b>
<i>Fair Housing Activities</i>		
Community Housing Resource Board	\$17,500	<b>5</b>
Community Housing Resource Board	\$2,500	<b>0</b>
<i>Affordable Housing Activities</i>		
Housing Rehabilitation Loan Program	\$300,000	27 6 <sup>th</sup> tie
Minor Home Repair Program	\$100,000	28 5 <sup>th</sup>
Rental Rehabilitation Program	\$60,000	25 10 <sup>th</sup>
HOME/CDBG Affordable Housing Support	\$400,000	26 9 <sup>th</sup>
HOME First Time Home Buyer Program	\$300,000	33 3 <sup>rd</sup>
Set-Aside for Community Devel. Organizations (CHDOs)	\$80,309	<b>5</b>
Living Independently for Today and Tomorrow (LIFTT)	\$12,500	<b>10</b>
Yellowstone County Council on Aging - Minor Home Repair	\$5,000	<b>34 2<sup>nd</sup></b>
Rebuilding Together - Home Rehabilitation	\$5,000	<b>27 6<sup>th</sup> tie</b>
<i>Neighborhood Projects</i>		
CDBG Demolition Program	NA	<b>0</b>
Property Management	\$8,000	<b>8</b>
Special Assessment Grants	\$50,000	<b>10</b>
Paint Program	\$5,000	<b>10</b>
South West Bike Path	\$150,000	<b>7</b>
<i>Park Improvement Projects</i>		
PRPL Skate Park-Galles Building Improvements	\$60,000	<b>30 4<sup>th</sup></b>
PRPL South Park Pool Heater	\$30,000	<b>27 6<sup>th</sup> tie</b>
Athletic Pool Heater	\$100,000	<b>54 1st</b>
<i>Economic Development</i>		
BSEDA - Small Business Development Center	\$10,000	<b>5</b>

*South Side Task Force***HOUSING & NEIGHBORHOOD ACTIVITIES - RANKING SHEET***Fiscal Year 2005 – 2006**March 17, 2005*

<i>Proposed Project</i>	<i>Request</i>	<i>Priorities – 14 responses</i>
<i>Administration &amp; Planning</i>		
CDBG Administration	\$175,000	1
HOME Administration	\$65,000	
Professional Services	\$5,000	
Yellowstone Historic Preservation Board	\$6,500	5
<i>Fair Housing Activities</i>		
Community Housing Resource Board	\$17,500	1
Community Housing Resource Board	\$2,500	6
<i>Affordable Housing Activities</i>		
Housing Rehabilitation Loan Program	\$300,000	77 3 <sup>rd</sup>
Minor Home Repair Program	\$100,000	81 2 <sup>nd</sup>
Rental Rehabilitation Program	\$60,000	17
HOME/CDBG Affordable Housing Support	\$400,000	66 5 <sup>th</sup>
HOME First Time Home Buyer Program	\$300,000	72 4 <sup>th</sup>
Set-Aside for Community Devel. Organizations (CHDOs)	\$80,309	16
Living Independently for Today and Tomorrow (LIFTT)	\$12,500	28
Yellowstone County Council on Aging - Minor Home Repair	\$5,000	43 9 <sup>th</sup>
Rebuilding Together - Home Rehabilitation	\$5,000	48 8 <sup>th</sup>
<i>Neighborhood Projects</i>		
CDBG Demolition Program	NA	1
Property Management	\$8,000	0
Special Assessment Grants	\$50,000	27
Paint Program	\$5,000	50 7 <sup>th</sup>
South West Bike Path	\$150,000	34
<i>Park Improvement Projects</i>		
PRPL Skate Park-Galles Building Improvements	\$60,000	57 6 <sup>th</sup>
PRPL South Park Pool Heater	\$30,000	87 1 <sup>st</sup>
Athletic Pool Heater	\$100,000	22
<i>Economic Development</i>		
BSEDA - Small Business Development Center	\$10,000	15

*South West Corridor Task Force***HOUSING & NEIGHBORHOOD ACTIVITIES - RANKING SHEET***Fiscal Year 2005 – 2006**March 24, 2005*

<i>Proposed Project</i>	<i>Request</i>	<i>Priorities -- 15 Responses</i>
<i>Administration &amp; Planning</i>		
CDBG Administration	\$175,000	18
HOME Administration	\$65,000	0
Professional Services	\$5,000	2
Yellowstone Historic Preservation Board	\$6,500	13
<b>K. Fair Housing Activities</b>		
Community Housing Resource Board	\$17,500	3
Community Housing Resource Board	\$2,500	0
<i>Affordable Housing Activities</i>		
Housing Rehabilitation Loan Program	\$300,000	60 7 <sup>th</sup>
Minor Home Repair Program	\$100,000	87 1 <sup>st</sup>
Rental Rehabilitation Program	\$60,000	44 10 <sup>th</sup>
HOME/CDBG Affordable Housing Support	\$400,000	61 6 <sup>th</sup>
HOME First Time Home Buyer Program	\$300,000	70 5 <sup>th</sup>
Set-Aside for Community Devel. Organizations (CHDOs)	\$80,309	3
Living Independently for Today and Tomorrow (LIFTT)	\$12,500	37
Yellowstone County Council on Aging - Minor Home Repair	\$5,000	72 3 <sup>rd</sup>
Rebuilding Together - Home Rehabilitation	\$5,000	79 2 <sup>nd</sup>
<i>Neighborhood Projects</i>		
CDBG Demolition Program	NA	5
Property Management	\$8,000	13
Special Assessment Grants	\$50,000	57 8 <sup>th</sup>
Paint Program	\$5,000	43
South West Bike Path	\$150,000	71 4 <sup>th</sup>
<i>Park Improvement Projects</i>		
PRPL Skate Park-Galles Building Improvements	\$60,000	30
PRPL South Park Pool Heater	\$30,000	52 9 <sup>th</sup>
Athletic Pool Heater	\$100,000	8
<i>Economic Development</i>		
BSEDA - Small Business Development Center	\$10,000	10

## Revenue FY05/06

### CDBG REVENUE

HUD CDBG Grant	\$ 805,288	
Misc. Revenue	5,000	
Loan Principal	8,000	
Loan Interest	10,000	
Reprogrammed Funds	56,533	(cancelled or completed projects)
Housing Rehab Loans	60,000	
Prior Year Program Income	<u>69,665</u>	(program income received in excess of estimate)

Total \$1,014,486\*

\*Public Service Funding \$156,396  
15% of \$805,288 and previous year program income (\$150,665) = \$143,393  
+ Reprogrammed Public Service funding \$ 13,003  
\$5,000 - FY04/05 Reserved for Task Force Insurance  
\$3,000 - FY03/04 KIDS Summer Program  
\$ 3 - FY01/02 Big Brothers & Sisters  
\$5,000 - FY01/02 Police Abandoned Vehicle Program

### HOME REVENUE

HUD HOME Grant	\$535,395
FTHB Payback	100,000
Reprogrammed Funds (cancelled or completed projects)	44,251
Prior Year Program Income (program income received in excess of estimate)	<u>42,797</u>
Total	<u>\$722,443</u>

### CDBG REPROGRAMMED

FY04/05 Contingency	\$16,360
FY03/04 Admin Savings	\$ 6,831
FY03/04 Contingency	\$13,144
FY03/04 KIDS	\$ 3,000
FY03/04 Pioneer Park	\$ 5
FY01/02 Big Brothers	\$ 3
FY01/02 Abandoned vehicle	\$ 5,000
FY98/00 Affordable Housing	\$ 9,134
FY97/98 Affordable Housing	\$ <u>3,056</u>
TOTAL	<u>\$56,533</u>

### HOME REPROGRAMMED

FY04/05 Contingency	\$ 5,883
FY03/04 Contingency	\$23,733
FY03/04 Admin Savings	\$12,635
FY00/01 Contingency	\$ <u>2,000</u>
TOTAL	<u>\$44,251</u>

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## AGENDA ITEM:




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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 25, 2005**

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**TITLE:** Public Hearing for Vacation of “Street Bulb” Portion of Indian Trail South of Alkali Creek School

**DEPARTMENT:** Public Works Department – Engineering Division

**PRESENTED BY:** David D. Mumford, PE, Public Works Director

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**PROBLEM/ISSUE STATEMENT:** Mr. Ernie Szillat has submitted an application to vacate the 8,836 square foot “street bulb” portion of the platted right-of-way on Indian Trail south of the Alkali Creek Elementary School. Mr. Szillat owns all of the lots adjoining the “street bulb” and anticipates re-platting the adjoining lots into a different configuration. The City has requested a 5,021 square foot storm drainage easement through Mr. Szillat’s property within the same subdivision to route storm drainage improvements as part of the Alkali Creek Road improvements project. Mr. Szillat has requested the right-of-way vacation from the City in equal exchange for the storm drain easement. Obtaining this easement is estimated to save the Alkali Creek Road improvements project over \$70,000. The cost savings would come about by avoiding necessary upsizing of storm main to the existing outfall to accommodate additional flow. It is not expected that the street bulb vacation would have an adverse traffic impact.

**ALTERNATIVES ANALYZED:**

3. Approve vacation of portion of Indian Trail, as shown on Attachment A.
4. Do not approve vacation of portion of Indian Trail, as shown on Attachment A.

**FINANCIAL IMPACT:** Mr. Szillat requests the 8,836 square foot “street bulb” area of the right-of-way be exchanged for the storm drainage easement. There was no appraisal completed for the “street bulb” in question.

**RECOMMENDATION**

Staff recommends that Council hold a Public Hearing and approve the vacation of the “street bulb” portion of the public right-of-way on Indian Trail in equal exchange for the storm drain easement through the Szillat’s property in Spring Valley Subdivision.

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

## **ATTACHMENT**

- A.** Map Depicting Area to be Vacated and Easement Area to be Exchanged

## **INTRODUCTION**

Mr. Szillat requests vacation of the existing 8,836 square foot “street bulb” right-of-way on Indian Trail south of the Alkali Creek School. The design for storm drain improvements along Alkali Creek Road requires another storm outfall or an increase in the size of the existing outfall in the area near the Alkali Creek School.

## **PROCEDURAL HISTORY**

<u>Completed Items</u>	<u>Date</u>
<ul style="list-style-type: none"><li>• Acknowledgement of Receipt of Petition</li></ul>	March 28
<ul style="list-style-type: none"><li>• Memorandum of Understanding Approval</li></ul>	March 28
<b>Future Items</b>	
<ul style="list-style-type: none"><li>• Public Hearing(This memo)</li></ul>	April 25
<ul style="list-style-type: none"><li>• Easement Agreement</li></ul>	May 9

## **BACKGROUND**

The City requested a storm drainage easement through Mr. Szillat’s property within the same subdivision to route storm drainage improvements as part of the Alkali Creek Road improvements project. Mr. Szillat has requested the right-of-way vacation from the City in equal exchange for the storm drain easement. Obtaining this easement is estimated to save the Alkali Creek Road improvements project (G.O. bond project) over \$70,000. The cost savings would come about by avoiding the necessity to replace existing storm main with upsized pipe to accommodate additional flows, and the easement gives a shorter and more direct routing to a storm outfall into Alkali Creek.

Mr. Szillat owns all of the adjoining lots to the street bulb area to be vacated. Mr. Szillat is seeking to aggregate lots through a re-platting process around the vacated right-of-way area.

The Memorandum of Understanding provides an alternate means of obtaining the storm drain easement if: (1) the vacation of the “street bulb” is not approved, or (2) the requested right-of-way vacation in equal exchange for the storm drain easement is not approved.

## **RECOMMENDATION**

Staff recommends that Council hold a Public Hearing and approve the vacation of the “street bulb” portion of the public right-of-way on Indian Trail in equal exchange for the storm drain easement through the Szillat’s property in Spring Valley Subdivision.

## **ATTACHMENT**

- A. Map Depicting Area to be Vacated and Easement Area to be Exchanged

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

## AGENDA ITEM:




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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 25, 2005**

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**TITLE:** Site Development Ordinance Variance #OP05-01  
**DEPARTMENT:** Public Works/Engineering  
**PRESENTED BY:** Dave Mumford, P.E., Public Works Director

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**PROBLEM/ISSUE STATEMENT:** The Northern Plains Resource Council desires to construct a new office building on Lots 1-10, Block 164, Billings Original Town. This property is located between 2<sup>nd</sup> & 3<sup>rd</sup> Avenues South along the southwest side of South 27<sup>th</sup> Street. To achieve the recognition by the U.S. Green Building Council's Leadership In Energy and Environmental Design (LEED) for Gold Certification, Northern Plains Resource Council requests variances for Section 6-1203(q)(2) and Section 6-1203(j) of the Site Development Ordinance. Section 6-1203(q)(2) pertains to the surfacing for off-street parking and Section 6-1203(j) pertains to the number of off-street parking stalls required.

**ALTERNATIVES ANALYZED:**

1. Approve the variance allowing gravel to be used for the parking lot surface.
2. Do not approve the variance allowing gravel to be used for the parking lot surface.
3. Approve the variance allowing fewer than the required number of off-street parking stalls.
4. Do not approve the variance allowing fewer than the required number of off-street parking stalls.

**FINANCIAL IMPACT:** There could be costs associated with maintaining and cleaning the city street due to any debris that is brought onto the street by vehicles leaving the gravel parking lot.

**RECOMMENDATION**

Staff recommends that Council deny the variance allowing gravel to be used as surfacing of the parking lot and the variance allowing fewer off-street parking stalls than required.

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



**ATTACHMENTS**

- A. Proposed Site Plan
- B. Site plan showing 28 parking stalls

## **INTRODUCTION**

The Northern Plains Resource Council desires to construct a new office building on Lots 1-10, Block 164, Billings Original Town. This property is located between 2<sup>nd</sup> & 3<sup>rd</sup> Avenues South along the southwest side of South 27<sup>th</sup> Street. To achieve recognition by the U.S. Green Building Council's Leadership In Energy and Environmental Design (LEED) for Gold Certification, Northern Plains Resource Council requests variances for Section 6-1203(q)(2) and Section 6-1203(j) of the Site Development Ordinance. Section 6-1203(q)(2) pertains to the surfacing for off-street parking and Section 6-1203(j) pertains to the number of off-street parking stalls required.

## **BACKGROUND**

The Northern Plains Resource Council would like to achieve LEED Gold Certification for their new office building. To accomplish this they are seeking two variances. The first variance is for the type of surfacing used on the parking lot, and the second variance is for number of required parking stalls.

Northern Plains Resource Council proposes to use GravelPave2 for the parking lot surfacing. This system consists of small aggregate for surfacing on top of a 1-inch-high integrated ring and grid system placed over an aggregate base course. Northern Plains Resource Council also proposes to install only 25 of the 28 required parking stalls.

Northern Plains Resource Council requests to use GravelPave2 for the following reasons:

- GravelPave2 does not increase flooding, erosion, water pollution, and it recharges the aquifer.
- They feel the durability and cold weather performance is superior to that of asphalt.
- It is wheelchair accessible.
- The product did not exist when the Site Development Ordinances were written.
- The product is aesthetically pleasing.
- The product absorbs and releases less heat in the summer months.
- The matrix portion of the gravel containment system is made of recycled materials.
- They are pursuing LEED Gold Certification.
- This application could serve as a test site for the city.

Northern Plains Resource Council requests the variance for 25 parking stalls for the following reasons:

- To accommodate 3 extra spaces, they will have to pave over an area preferred for landscaping purposes.
- By closing curb cuts on South 3<sup>rd</sup> Street, on-street parking will increase from 2 to 5 spaces.
- Most visitors and delivery personnel will likely use street parking to access the main entrance.
- Public transit is available at the site.
- They may offer incentives to employees for using alternate modes of transportation.

For the two requested variances, the Site Development Ordinance reads as follows:

Section 6-1203(q)(2):

*Surfacing.* Surfacing is required for all off-street parking, loading, storage, sales, rental or service areas for vehicles including service stations and used-car lots.

Surfacing shall be designed by accepted engineering methods and subject to the approval of the City Engineer.

Section 6-1203(q)(2):

*Table of minimum standards.* Required parking spaces shall be in conformance with the following table and where alternative standards are indicated, the greater requirement applies in conflicting computation; where the total quota results in a fraction the next highest full unit shall be provided. *Use:* Banks, business and professional offices- 1 per 300 sq. ft. of gross floor area.

### **ALTERNATIVES ANALYSIS**

1. GravelPave2 for the parking lot surfacing. The City Engineer has historically only recognized asphalt and concrete as acceptable surfacing. The Site Development Ordinance also requires that parking stalls shall be designated by pavement markings. Parking lot striping on gravel would not be permanent. Snow removal could also be problematic due to the fact the gravel surfacing would be removed from plowing the snow. The tracking of gravel onto the street could damage the asphalt and would require more maintenance for the city to keep the street clean. GravelPave2 would allow storm water to infiltrate through the surfacing and recharge the aquifer. However, for this site, connection to the city storm drain is not available, so a boulder pit would be required. Since the boulder pit is located underground, it would also recharge the aquifer. One alternative that is not presented is porous pavement design. Porous pavement would allow water to pass through the surfacing to recharge the aquifer. Asphalt and concrete can incorporate recycled materials and can be made to be aesthetically pleasing.
2. Have only 25 of the 28 required parking stalls. City Ordinance requires that a minimum of 28 parking stalls be constructed with the building. The construction of the 3 extra stalls would be over an area Northern Plains Resource Council prefers to be used as landscaping. On street parking is not recognized in this district as part of the off-street parking requirements. The proposed site has adequate space for 3 more parking stalls. In the future, if the building is sold to be used as offices and a change in use does not occur, the new tenant would not be required to install the 3 parking stalls. Parking could become an issue if the new tenant is not interested in offering incentives for creating alternative transportation such as carpooling, riding the bus, walking, and riding bikes.

### **RECOMMENDATION**

Staff recommends that Council deny the variance allowing gravel to be used as surfacing of the parking lot and the variance allowing fewer off-street parking stalls than required.

### **ATTACHMENTS**

- A. Proposed Site Plan
- B. Site plan showing 28 parking stalls

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

## AGENDA ITEM:




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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 25, 2005**

---

**TITLE:** Public Hearing and Resolution adopting the North West Shiloh Area Plan

**DEPARTMENT:** Planning & Community Development Department

**PRESENTED BY:** Ramona Mattix, AICP, Director

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**PROBLEM/ISSUE STATEMENT:** The City Of Billings City Council has had numerous annexation petitions in the area North West of Billings past Shiloh Road. Many of these annexation petitions for development have occurred due to property owner's desires to connect to city sewer and water lines that were extended in this area. As a result of this development pressure, the Council asked that a land use and circulation plan be developed for this area. The North West Shiloh Area Plan was presented to the Planning Board for a public hearing on March 22. The Planning Board is recommending adoption of this Plan.

**ALTERNATIVES ANALYZED:**

- Single Plan map showing land use and circulation along with goal, policies and implementation Plan.
- Multiple Plan maps showing various build out scenarios meeting the goals, policies and implementation Plan.

**FINANCIAL IMPACT:** The Plan build out scenarios show the City will can service the projected 6300 residents with existing resources.

**RECOMMENDATION**

Staff recommends that the City Council approve the attached resolution.

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

**ATTACHMENTS:**

Attachment A – Draft North West Shiloh Area Plan and Maps  
 Attachment B – Resolution of Adoption 05-

## **INTRODUCTION**

In May of 2004, the City Council directed planning staff to develop a land use and circulation plan for potential annexation areas in the north west area of Billings. In June, Bear West, Inc. was chosen as the consultant for development of this plan. A steering committee was formed and worked with the consultant in the development of the North West Shiloh Area Plan. Members of the committee included land owners, residents, realtors, and developers as well as representatives from the business and environmental communities. At the Council work session, it was requested that the land use scenario information be planed on one map, rather than depicting scenarios on several maps. The Planning Board held a public hearing and recommended some modifications to the Plan and the Plan map. The Planning Board requested more detailed criteria and asked that maps of constraints in the area be added along with the single suitability map as requested by City Council. The attached draft Plan is the result of this effort.

## **BACKGROUND**

- The City Council approved the consultant contract on August 8<sup>th</sup>, 2004.
- The consultant conducted the land use and circulation CHIP exercise on November 18<sup>th</sup>, 2004 at the Depot.
- A land owner Open House was held on January 26<sup>th</sup>, 2005, in the large conference room, Library 4<sup>th</sup> floor.
- A public Open House was held on March 3<sup>rd</sup>, 2005, at the MSUB downtown meeting room on the corner of Broadway and 3<sup>rd</sup> Avenue.
- City Council heard a presentation on this item at their work session on April 4<sup>th</sup>, 2005.
- The Planning Board held a public hearing on April 5<sup>th</sup>, 2005.

## **ALTERNATIVES ANALYSIS**

- Single Plan map showing land use and circulation along with goal, policies and implementation Plan. At the public open house a single composite map, developed from the CHIP exercise was shown. From public comments made at that meeting concerning land use scenarios shown, a variety of potential development scenarios maps were developed.
- Multiple Plan maps showing various build out scenarios meeting the goals, policies and implementation Plan. These multiple plan maps are examples of how development could occur consistent with the goals, policies and implementation strategies in the Plan.

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

The goals and policies of North West Shiloh Area Plan are taken largely from the adopted 2003 Growth Policy and the adopted West End Plan.

**RECOMMENDATION**

Staff recommends that the City Council approve the attached resolution.

**ATTACHMENTS:**

Attachment A – Draft North West Shiloh Area Plan and Maps

Attachment B – Resolution of Adoption 05-

**ATTACHMENT B**

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

**RESOLUTION OF INTENT TO ADOPT THE CITY OF BILLINGS  
NORTHWEST SHILOH AREA PLAN.**

WHEREAS, pursuant to Title 76, Chapter 2, PART 310, Montana Codes Annotated, the Billings City Council, desires to adopt a the Northwest Shiloh Area Plan covering the area just outside the city limits to the north and west:

WHEREAS, the Northwest Shiloh Area Plan contains land use and transportation recommendations in the event of annexations in the north west area in accordance with Title 2, Chapter 2, MCA:

WHEREAS, on the 5th day of April, 2005, a public hearing was held by the Yellowstone County Board of Planning for the purpose of receiving public comments on the proposed Northwest Shiloh Area Plan and on the 25<sup>th</sup> day of April, 2005, the Billings City Council held a public hearing for the same purpose:

WHEREAS, The Yellowstone County Board of Planning, recommends the Billings City Council adopt the proposed Northwest Shiloh Area Plan and any ordinances and resolution for its implementation:

NOW, THEREFORE, BE IT HEREBY RESOLVED that it is the intent of the Billings City Council to adopt the Northwest Shiloh Area Plan.

APPROVED AND PASSED by the City Council of the City of Billings this 25th day of April, 2005.

THE CITY OF BILLINGS:

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

ATTEST:

BY: \_\_\_\_\_  
Marita Herold, CMCCITY CLERK

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## AGENDA ITEM:



**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 25, 2005**

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**TITLE:** Zone Change #756 Public Hearing and 1<sup>st</sup> Reading of Ordinance  
**DEPARTMENT:** Planning and Community Services  
**PRESENTED BY:** Nicole Cromwell, AICP, Planner II, Zoning Coordinator

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**PROBLEM/ISSUE STATEMENT:** This is a zone change from Agricultural-Open Space (County) to Community Commercial (Lot 1), Public (Lot 2 – location of new fire station), R7,000 (Lots 3 & 4) and R9,600 (Lot 5) on a 40.5 acre parcel of unplatted land in the proposed Bishop Fox Subdivision. The subject property is generally located on the east side of 54<sup>th</sup> St. West, between Grand Avenue and Colton Boulevard. The property owner is Bishop Fox Company and the agent is Engineering, Inc. The Zoning Commission held a public hearing on April 5, 2005 and voted 4-0 to recommend approval.

**ALTERNATIVES ANALYZED:** State law at MCA 76-2-304 requires that all zone changes be 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:** This zone change should increase the City's tax base when the property is annexed and subdivided.

**RECOMMENDATION**

The Zoning Commission recommends that the City Council approve Zone Change #756 and adopt the determinations of the discussed 12 criteria.

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

**ATTACHMENTS:**

- A: Site photographs
- B: Map
- C: Ordinance



## **INTRODUCTION**

This is a zone change from Agriculture Open Space to Community Commercial, Public, R-7,000 and R-9,600 on a 40.5 acre parcel of land to be annexed into the city and subdivided initially into five lots. The two Episcopal dioceses of Billings have owned the property for a number of years and plan to develop a church campus on a portion of the property, provide a one-acre parcel (Lot 2) for the location of a new fire station for the West Billings neighborhood and plan to sell at least two of the parcels for development by others.

## **PROCEDURAL HISTORY**

- On March 7, 2005, the Planning Department received the petition for annexation and request for a zone change.
- On March 15, 2005, the Planning Department received a Preliminary Minor Plat for the Bishop Fox Subdivision.
- City Engineering approved the legal description for the petitioned annexation on March 29, 2005.
- The Zoning Commission held a public hearing on April 5, 2005, and voted 4-0 to recommend approval of the requested Zone Change.
- The City Council will hold a public hearing on April 25, 2005, and make a decision on the zone change application.
- If the Zone Change ordinance is approved on first reading, the City Council will consider it for second reading on May 9, 2005.
- On April 25, 2005, the City Council will acknowledge the petition for annexation and set a public hearing for May 9, 2005.
- On April 25, 2005, the City Council will consider conditional approval of the Preliminary Minor Subdivision of Bishop Fox Subdivision.

## **BACKGROUND**

This is a zone change from Agricultural-Open Space (County) to Community Commercial (Lot 1), Public (Lot 2 – location of new fire station), R7,000 (Lots 3 & 4) and R9,600 (Lot 5) of the 40.5 acre proposed Bishop Fox Subdivision. The parcel is currently undergoing consideration for annexation into the City, and the City Council is scheduled to acknowledge the annexation petition on April 25, 2005. Upon annexation, the parcel would be automatically zoned as R-9,600. The developers are requesting this zone change to Community Commercial, Public, R-9,600 and R-7,000 in order to develop the property at a higher density and allow for commercial uses and a new fire station on 54<sup>th</sup> Street West. The Community Commercial zone will be on the 8.2 acres at the intersection of 54<sup>th</sup> Street West and Grand Avenue and will provide a commercial node as identified by the West Billings Plan. The one-acre lot slated for Public zoning is for a new west end fire station to be built within the next five years. Lots 3 and 4 will be R-7,000 and Lot 5 will be zoned R-9,600. The churches plan to use one or both of the R-7,000 lots for the church campus development. The R-9,600 lot will be sold for development by others. Lot five will be subject to further subdivision for single family residential lots.

The City Zoning Commission reviewed this application and held a public hearing on April 5, 2005. The Zoning Commission voted 4-0 to recommend approval based on the attached twelve (12) criteria for zone changes.

## **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.

1. *Is the new zoning designed in accordance with the Growth Policy?*  
The new zoning will allow a variety of land uses and housing types. The commercial uses and the new fire station will be located at the intersection of Grand and 54<sup>th</sup> St West while the residential zones will be located away from this arterial street intersection. The 2003 Growth Policy and the 2001 West Billings Plan supports the development of a variety of housing types and lot sizes as well as the location of commercial nodes at designated intersections especially of arterial streets.
2. *Is the new zoning designed to lessen congestion in the streets?*  
The new zoning will increase the traffic generated from this site. Currently the parcel is vacant. This property is bordered on the south by Grand Avenue and on the west by 54<sup>th</sup> Street West. Grand Ave. is designated as a principal arterial street in the Transportation Plan and 54<sup>th</sup> Street West is designated as a minor arterial street. Arterial streets are designated to hold greater traffic loads, so higher density development may be appropriately located along them. The developer has submitted a Traffic Accessibility Study and several measures will be taken to mitigate any impact from this subdivision.
3. *Will the new zoning secure safety from fire, panic and other dangers?*  
These lots have or will have public street frontage and are 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. Lot 2 is proposed as a new fire station for West Billings and fire service will improve when the structure is completed and in service.
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 residential developments 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-7,000 allows single-family detached dwellings and duplexes, based on minimum lot areas. The new zoning of R-9,600 only allows single family dwellings and should avoid 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:* The new zoning will substantially increase the traffic generated from this site. However, development of the site at densities allowed under the default R-9,600 zoning would do the same. Also, the property adjoins Grand Avenue and 54<sup>th</sup> St. West which are both designated as arterial streets in the Transportation Plan. Traffic mitigation will be reviewed at the time of subdivision review.

*Water and Sewerage:* A 24 inch City sewer main and a 12 inch City water main are located in 54<sup>th</sup> Street West adjacent to the property. The City has adequate facilities to serve this property.

*Schools and Parks:* At the time of residential subdivision development, the developers will be required to give a cash payment equivalent to 11% of the lot area to support local parkland development. The 40-acre site of the future Cottonwood Park lies directly north and west of this parcel. The tax records state that children from this development would attend Central Heights Elementary, Will James Middle and West High Schools.

*Fire and Police:* If annexed the subject property will be 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. Proposed Lot 2 will provide a location for a new fire station to serve West Billings.
  
9. *Does the new zoning give reasonable consideration to the character of the district?*  
This area of the County has recently been acknowledged by the City Council as one that is likely to be developed in the near future at urban densities. Although it is currently agricultural land, the addition of municipal water and sewer lines in the adjacent streets has made urban density development possible. For example a parcel ½ mile west of this property and a 38-acre property directly west of 54<sup>th</sup> Street West have been approved for R-7,000 zoning and an urban density subdivisions have been approved. In short, this neighborhood is in a state of flux and will likely be developed as proposed in the not too distance future.
  
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.
  
11. *Was the new zoning adopted with a view to conserving the value of buildings?*

The new zoning is not expected to appreciably alter the value of buildings in the area.

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

Yes, the new zoning will allow for more dense development on lots that are currently served with City water and sanitary sewer.

### **STAKEHOLDERS**

The Zoning Commission held a public hearing on April 5, 2005 on this zone change. No surrounding property owners voiced objection to this zone change. The agent for the owner, Robert Sanderson, P.E. of Engineering, Inc. presented an overview of the development plans and the reasons for the zone change.

### **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 #756 and adopt the determinations of the discussed 12 criteria.

### **ATTACHMENTS:**

- A: Site photographs
- B: Map
- C: Ordinance

**ATTACHMENT A**  
Site Photographs – Zone Change #756



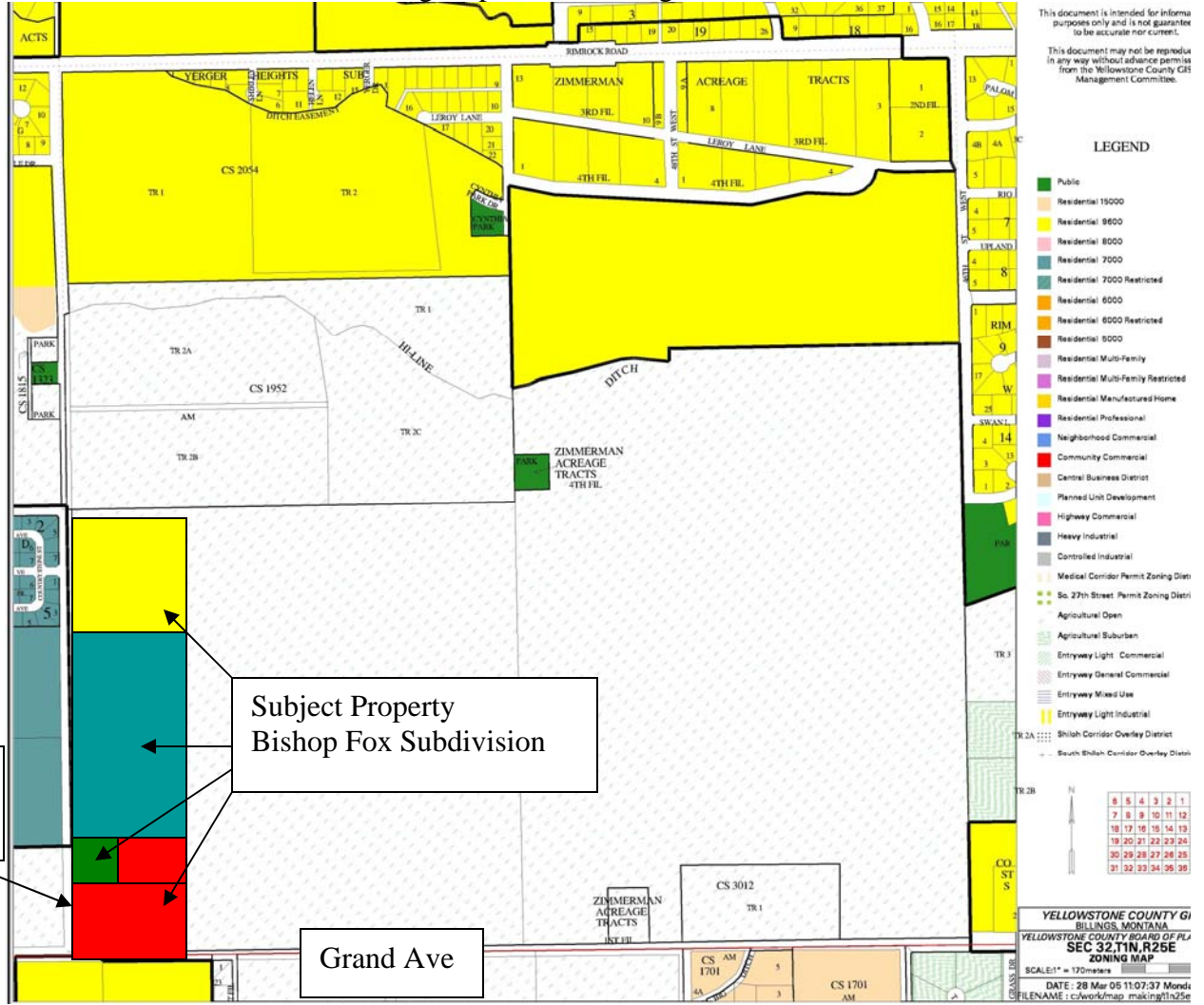
View south from intersection of 54<sup>th</sup> St West and Grand Avenue



View north along 54<sup>th</sup> Street West towards Colton Blvd  
Subject property on right of photograph

# ATTACHMENT B

## Zoning map – Zone Change #756



## ATTACHMENT C

### ORDINANCE NO. 05-

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION ON the West 1/2, West 1/2, Southwest 1/4, Section 32, of Township 1 North, Range 25 East, an unplatted 40.5 acre of land. **THE SUBJECT PROPERTY IS LOCATED NORTH OF GRAND AVENUE, EAST OF 54<sup>TH</sup> ST WEST AND SOUTH OF COLTON BOULEVARD.**

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. A tract of Unplatted land that is the W1/2 W1/2 SW1/4 of Section 32 T.1N., R.25E., P.M.M., Yellowstone County, Montana; Being bounded on the south side by Certificate of Survey No 1877, on the west side by Amended Plat of Lot 65A of the Amended Lots 65-68, 93-100 and 125-128 of Sunny Cove Fruit Farms, and on the north by Certificate of Survey No 1952. Containing 40.568 gross and net acres, more or less and is presently zoned Agriculture Open Space 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 **Agriculture Open Space** to **Community Commercial (Lot 1 Bishop Fox Subdivision), Public (Lot 2 Bishop Fox Subdivision), Residential-7,000 (Lots 3 & 4 Bishop Fox Subdivision) and Residential-9,600 (Lot 5 Bishop Fox Subdivision)**, as shown on Exhibit A attached hereto and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Community Commercial, Public, Residential-7,000 and Residential-9,600** 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 April 25, 2005.

PASSED, ADOPTED AND APPROVED on second reading May 9, 2005.

CITY OF BILLINGS:

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

ATTEST:

BY:  
Marita Herold, CMC/AAE, City Clerk

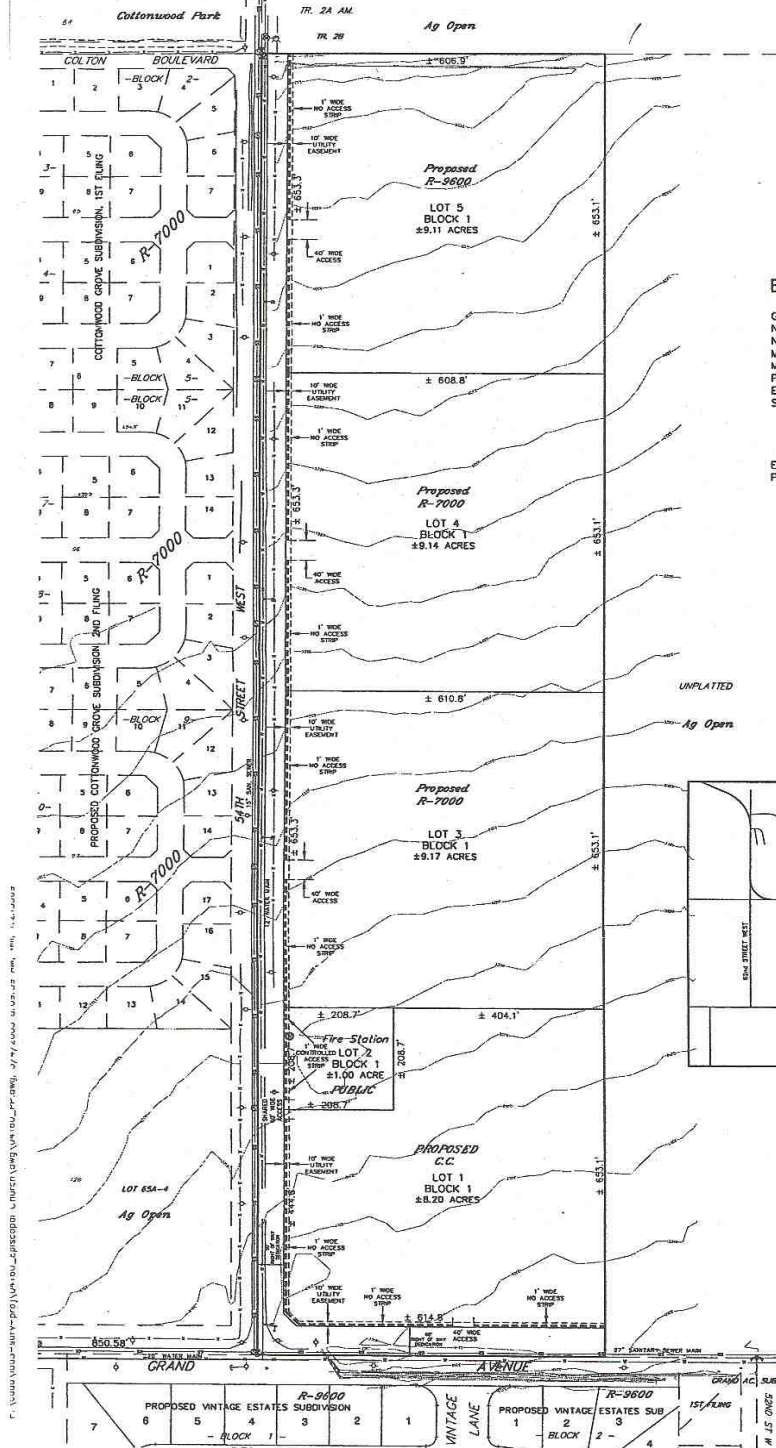
ZC#756



PRELIMINARY PLAT OF  
**BISHOP FOX SUBDIVISION**  
 BEING THE W1/2 W1/2 SW1/4 OF SECTION 32, T. 1 N., R. 25 E., P.M.M.  
 YELLOWSTONE COUNTY, MONTANA

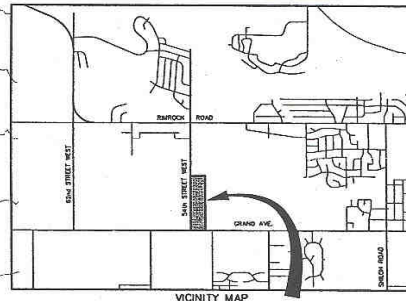
PREPARED FOR: BISHOP FOX COMPANY  
 PREPARED BY: ENGINEERING, INC.  
 SCALE: 1" = 100'

MARCH, 2005  
 BILLINGS, MONTANA



**PLAT DATA**

GROSS AREA	±40.55 ACRES
NET AREA	±36.62 ACRES
NUMBER OF LOTS	5
MINIMUM LOT SIZE	±1.00 ACRE
MAXIMUM LOT SIZE	±9.17 ACRES
PARKLAND REQUIREMENT	NONE
EXISTING ZONING	AG OPEN
SURROUNDING ZONING:	
NORTH	AG OPEN
SOUTH	R-9600
EAST	AG OPEN
WEST	R-7000 & AG OPEN
EXISTING LAND USE	AG WITH RESIDENCE
PROPOSED LAND USE	
LOT 1	FUTURE COMMERCIAL & MULTIFAMILY DEVELOPMENT
LOT 2	FUTURE FIRE STATION
LOTS 3 & 4	FUTURE CHURCH CAMPUS WITH SCHOOL & RESIDENTIAL
LOT 5	SINGLE FAMILY RESIDENTIAL



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




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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, APRIL 25, 2005**

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**TITLE:** Public Hearing for Special Review #780  
**DEPARTMENT:** Planning & Community Services  
**PRESENTED BY:** Lora Mattox, Planner II

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**PROBLEM/ISSUE STATEMENT:** A special review request to allow the construction of a 14-bed assisted living facility in Howard Heights Subdivision, Block 2, Lots 26 and 27. The subject property is located on Lily Valley Circle, north of Hilltop Road and west of Garnet Avenue. The property is zoned Residential 9600. The applicant is Gayle M. Laufer and the agents are Michael and Janet White. The Zoning Commission conducted a public hearing on April 5, 2005 and is forwarding no recommendation to the City Council.

**ALTERNATIVES ANALYZED:**

1. Approval;
2. Conditional approval; or
3. Denial.

**FINANCIAL IMPACT:** The special review, if approved, would increase the City's tax base.

**RECOMMENDATION**

The Zoning Commission is forwarding no recommendation per a 2-2 vote that the City Council grant conditional approval for Special Review #780.

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

**ATTACHMENTS**

- A. Zoning Map
- B. Site Photographs
- C. Site Plan

## **INTRODUCTION**

This request would allow a 14-bed assisted living facility to be constructed on Lily Valley Circle in the Heights. This proposed facility would be the third assisted living facility built on this cul-de-sac. The proposed facility will have a home like setting rather than a large institutional atmosphere with a smaller setting.

Currently there are 2 assisted living facilities on Lily Valley Circle which provide assisted living to 24 residents. According to the 2000 census, 1 in 8 people living in Montana were age 65 or older. Many children of this aging population are looking for alternatives to assist in the care of their parents. Assisted living homes have become an affordable alternative for the elderly. The 2 current assisted living facilities on Lily Valley Circle are fully occupied.

On January 14, 2002, the City Council conditionally approved a special review for the construction of two assisted living facilities on Lily Valley Circle. The conditions included that the resident capacity for each facility be limited to 12 residents per facility and that screening be constructed along the northern and western property boundaries.

The Planning Department reviewed the application and recommended conditional approval to the Zoning Commission. The Zoning Commission conducted a public hearing on April 5, 2005. The applicants' agent, Janet White attended the public hearing. One surrounding property owner was present to object the application for a third assisted living facility on this cul-de-sac. The reasons stated for this objection included, 1) Concerns over decrease in property values due to the assisted living facilities, and 2) Traffic concerns and impacts on Lily Valley Circle. The Zoning Commission is forwarding no recommendation to the City Council. The Planning Department did not receive negative comments from other city departments on this proposal.

## **PROCEDURAL HISTORY**

- The application was received on March 4, 2005.
- The City Zoning Commission voted 2-2 at its hearing on April 5, 2005 for conditional approval of the special review, therefore, forwarding no recommendation to the City Council.
- The City Council will conduct a public hearing for consideration of this application on April 25, 2005.

## **ALTERNATIVES ANALYSIS**

Section 27-1503(D) specifies that all Special Reviews shall comply with the following three (3) criteria:

1. Complies with all requirements of this chapter.  
*This application complies with the requirements of the zoning.*
2. Is consistent with the objectives and purposes of Chapter 27 and the Growth Policy.  
This application is generally consistent with the purposes of Chapter 27 with the recommended conditions of approval.

3. Is compatible with surrounding land uses or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.  
*The recommended conditions will ensure increased compatibility with and separation from the adjoining land uses.*

The City Council shall consider and may impose modifications or conditions concerning, but not limited to the following:

1. Deny the application for a special review use.
2. Grant the application for a special review use.
3. Conditionally grant the application for a special review use.
4. Delay action on the application for a period not to exceed thirty (30) days.
5. Give reasons for the recommendation.

Based on the above criteria, the Zoning Commission voted 2-2 on Special Review 780 and therefore is forwarding no recommendation for this application.

The Planning Department during review of this special review forwarded the following conditions of approval to the Zoning Commission for consideration:

1. The special review approval shall be limited to Lots 26 & 27, Block 2 Howard Heights Subdivision.
2. The total number of living units is limited to 14.
3. The applicant shall comply with all other requirements of Section 27-613.C. of the BMCC limiting the floor area, maximum occupancy and increases in parking spaces for this application.

**\*\*NOTE\*\*** Approval of this Special Review does not constitute approval of a building permit, sign permit or fence permit. Compliance with all applicable local codes will be reviewed at the building permit level. This application is for a Special Review as noted above and no other request is being considered with this application. The Planning Department points out that the use and development of the property must be in accordance with the submitted site plan.

### **STAKEHOLDERS**

The Zoning Commission conducted a public hearing on April 5, 2005, for the proposed special review. The result of that hearing resulted in a 2-2 vote, therefore forwarding no recommendation to the City Council.

There was one adjoining property owner present at the public hearing with the following concerns regarding the potential special review:

- Increased traffic and deterioration of Lily Valley Circle.
- A decrease in property values due to the addition of a third assisted living facility.

### **CONSISTENCY WITH ADOPTED PLANS AND POLICIES**

In addition to the above discussion in the Alternatives Analysis section, this application conforms to the goals of the 2003 City of Billings/Yellowstone County Growth Policy, specifically:

- Affordable housing for all income levels dispersed throughout the city.
- More housing and business choices within each neighborhood.
- Contiguous development focused in and around existing population centers.

### **RECOMMENDATION**

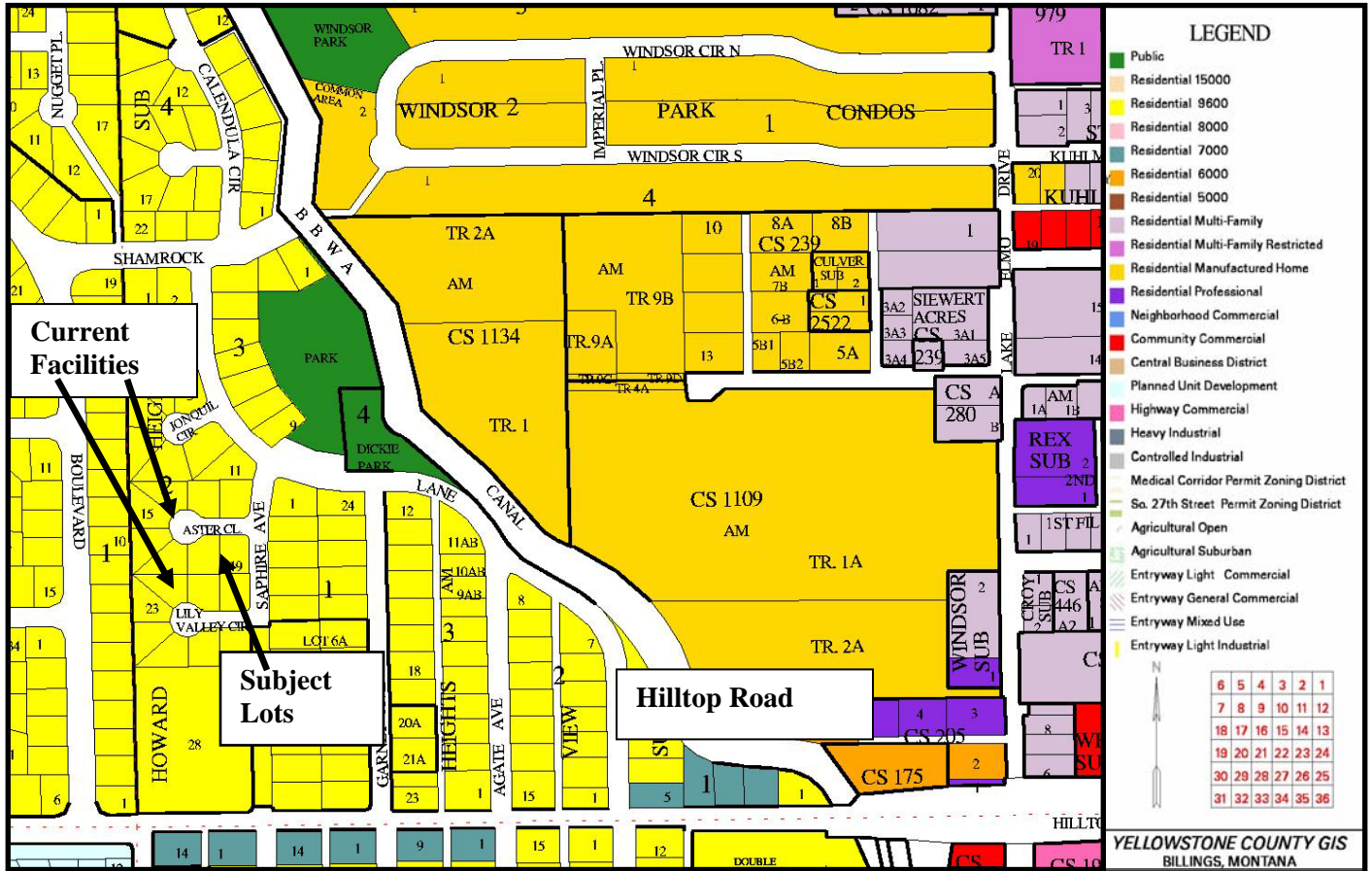
The Zoning Commission is forwarding no recommendation for Special Review #780.

### **ATTACHMENTS**

- A. Zoning Map
- B. Site Photographs
- C. Site Plan

# ATTACHMENT A

## Zoning Map





**ATTACHMENT B**  
Site Photographs

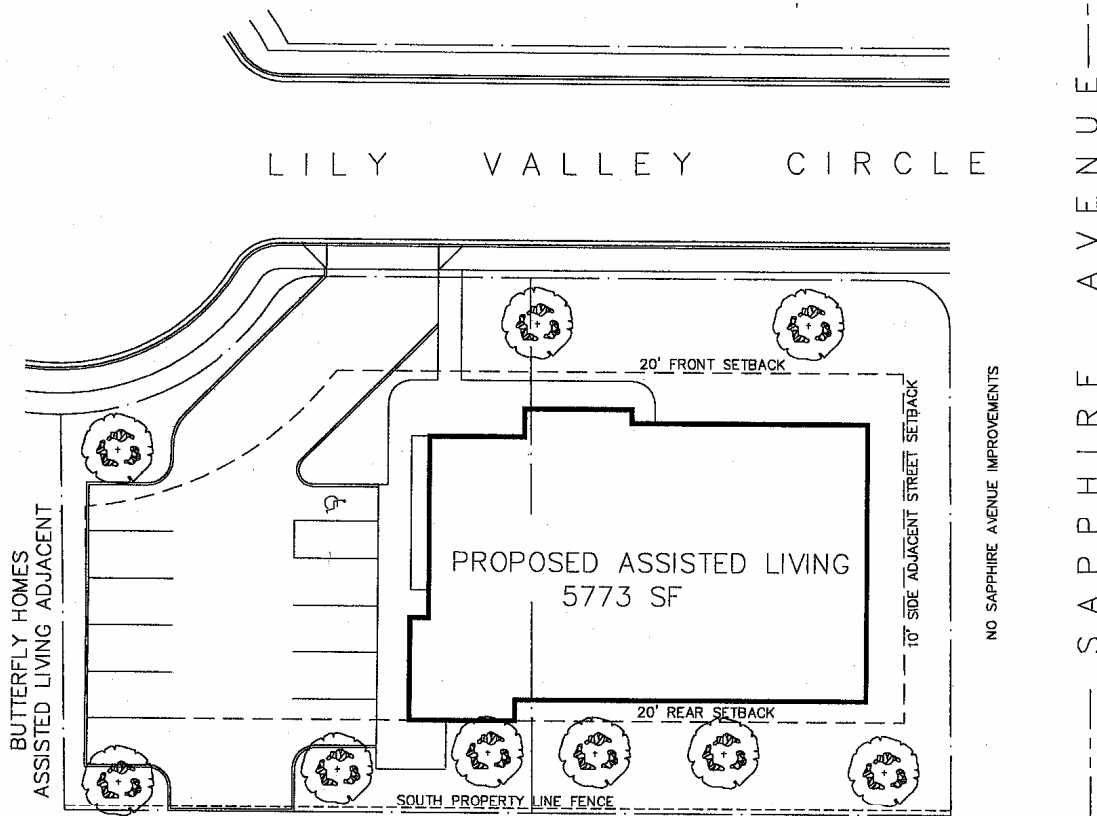


View looking west – current assisted living facilities



View looking south west – vacant and church

**ATTACHMENT C:**  
**Site Plan**



**SCHEMATIC SITE PLAN**

LEGAL DESCRIPTION: LOTS 26 AND 27, BLOCK 2, HOWARD HEIGHTS SUBD.  
LOT AREA: 20,847 SF  
CURRENT ZONING: R-9600  
PARKING REQUIRED: 1.5 CARS PER 1000 SF = 9 CARS  
PARKING PROVIDED: 11 CARS



## AGENDA ITEM:




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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, APRIL 25, 2005**

---

TITLE: Public Hearing for Special Review #781  
 DEPARTMENT: Planning & Community Services  
 PRESENTED BY: Juliet Spalding, Planner II

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**PROBLEM/ISSUE STATEMENT:** This is a Special Review to permit an all-beverage liquor license within in an existing structure and on an outdoor patio within the City's right-of-way in the Central Business District (CBD) zone. Hospitality Concepts, LLC (Brad Anderson) is the owner and CBG Architects is the agent. The Zoning Commission conducted a public hearing on April 5, 2005 and is forwarding a recommendation of conditional approval to the City Council.

**ALTERNATIVES ANALYZED:**

Before taking any action on an application for a Special Review use, the City Council shall first consider the findings and recommendations of the City Zoning Commission. In no case shall the City Council approve a special review use other than the one advertised.

The Council shall:

1. Approve the application;
2. Conditionally approve the application;
3. Deny the application;
4. Allow withdrawal of the application; or
5. Delay the application for a period not to exceed thirty (30) days.

**FINANCIAL IMPACT**

The special review, if approved, should have little financial impact to the City.

**RECOMMENDATION**

The Zoning Commission is recommending that the City Council grant conditional approval for Special Review #781.

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

## **ATTACHMENTS**

- D. Zoning Map
- E. Site Photographs
- F. Site Plans

## **INTRODUCTION**

The applicant is requesting a Special Review to permit on premise consumption of beer, wine and liquor at an existing coffee shop located at 2923 Montana Ave. in the Central Business District. The existing business, the Montana Ave. Coffee Bar, is located on the northeast corner of Montana Ave. and N. 30<sup>th</sup> St. The Zoning Commission, per a 4-0 vote, is recommending conditional approval of this application.

## **PROCEDURAL HISTORY**

- The application was received on March 7, 2005.
- The City Zoning Commission voted 4-0 at its public hearing on April 5, 2005 for conditional approval of the special review.
- The City Council will conduct a public hearing and consider this application on April 25, 2005.

## **BACKGROUND**

Section 27-612.A. Supplemental Commercial Development Standards specifies that a Special Review is necessary for any commercial establishment that serves alcoholic beverages as a primary or accessory use. The subject property is described as Lot 12 of Block 107 of the Billings Original Town. The entire lot is 3,250 square feet in size but the coffee shop business only takes up the south 36 feet of the lot, with 828 square feet on the ground floor and 409 square feet on an upper mezzanine floor, for a total of 1237 square feet of floor space. The business also has an outdoor patio area within the City's right-of-way adjacent to N. 30<sup>th</sup> St., and would like to be able to serve all beverages on that area as well. As shown on the site plan, the owner is proposing to enclose the 40-foot wide by 7.5-foot deep patio area with a fence constructed to meet the Downtown Framework Plan Standards and City Fire and Building Codes. Aside from adding the patio fence, the owner will not be remodeling the business, and is proposing to merely add to the menu by adding liquor.

The City Zoning Commission is recommending conditional approval. Most of the conditions are related to the patio area and are the same conditions as were imposed on the three other Special Review applications that permitted drinking on patios in the City right-of-way in the downtown area. The first recommended condition would limit the area approved for alcohol sales to the areas illustrated on the submitted site and floor plans. These areas include the main floor of the coffee bar, the mezzanine level of the coffee bar, and the outdoor patio located on the N. 30<sup>th</sup> St. side of the building. The second condition will require the applicant to obtain an encroachment permit from City Engineering for the patio. The third condition is a standard condition regarding music on the patio and would not allow amplified or live music on the proposed outdoor patio, while allowing background music. The fourth condition would require that the patio remains "open air" and not become enclosed and that the patio be sidewalk level only. The fifth condition would require that the patio be enclosed by a 3'6" to 5' high fence whose style and materials are consistent with the downtown "kit of parts" identified in the Downtown Framework Plan. Also, egress from the building and patio must comply with Fire and Building Codes and any required gates shall be used for exit only from the patio.

*The sixth condition would limit the operation of the patio to normal business hours. The seventh condition would make the special review for the patio area only valid as long as there is a valid encroachment permit issued by the City Engineers office. The eighth condition would require the patio operator to indemnify and hold the City harmless for the patio use and also require that an insurance policy of \$1.5 million be obtained. These two actions are intended to protect the City because this patio use will be located on City property and a permanent “seasonal” encroachment that serves alcohol is unusual. The ninth condition would not allow signage to be placed on or hung from the fence or railing surrounding the patio. The last condition requires that any request for expansion of the area approved for alcohol service shall be in accordance with Section 27-613, BMCC.*

### **ALTERNATIVES ANALYSIS**

Section 27-1503(D) specifies that all Special Reviews shall comply with the following three (3) criteria:

1. Complies with all requirements of this Article (27-1500).  
*This application complies with the requirements of the zoning regulations.*
2. Is consistent with the objectives and purposes of Chapter 27 and the Growth Policy.  
This application is generally consistent with the purposes of Chapter 27 with the recommended conditions of approval.
3. Is compatible with surrounding land uses or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.  
*The proposed use is compatible with the adjoining land uses in this downtown area.*

Further, the City Council shall consider and may impose modifications or conditions concerning, but not limited to the following:

1. Street and road capacity;
2. Ingress and egress to adjoining streets;
3. Off-street parking;
4. Fencing, screening and landscaping;
5. Building bulk and location;
6. Usable open space;
7. Signs and lighting; and/or
8. Noise, vibration, air pollution and similar environmental influences.

Based on the above criteria, the Zoning Commission is recommending approval with the following conditions:

1. The special review approval shall be limited to the south 36 feet of Lot 12 of Block 107 of the Billings Original Town and the public right-of-way adjacent to the business on N. 30<sup>th</sup> St., as shown on the submitted site and floor plans.

2. The applicant shall obtain an encroachment permit for the street-side patio area from City Engineering, prior to construction of the fence or wall barrier. The final design and layout of the patio shall be at the discretion of City Engineering.
3. There shall be no amplified or live music on the proposed outdoor patio. Only background music from stereo speakers shall be allowed.
4. The patio area shall remain 'open air' (except for fencing and awning) and shall not be enclosed. Additionally, the approval of this patio is for a sidewalk level outdoor patio only.
5. Due to the serving of alcohol within the public right-of-way, the patio shall be separated from the "open" sidewalk area by a wall, fence, or railing a minimum of 3'-6" high, but not over 5'-0" high. The fence or railing style and material shall be consistent with the specifications contained the Downtown Framework Plan and a fence permit shall be secured from the Planning Division prior to installation. All egress from the buildings and patio area must comply with Fire and Building Codes and any required gates shall be used for exit only from the patio.
6. Operation of the patio shall be allowed only during normal business hours.
7. This Special Review approval shall only be valid as long as there is a valid encroachment permit issued by the City Engineers' Office.
8. The operator of the patio shall indemnify and hold the City harmless for the activity that takes place within the public right-of-way. The Permittee or operator of the patio shall provide proof of an insurance policy, issued by a company licensed to do business in the state of Montana, in the amount of one and one-half million dollars (\$1,500,000.00) combined single limit, protecting the Permittee and the city from all claims for damages to property and bodily injury, including death, which may arise from products liability and operations under or in connection with the encroachment permit. Such insurance shall name the City as an additional insured and shall provide that the policy shall not terminate or be cancelled prior to the expiration date without thirty-(30) days' advance written notice to the City. In addition, the Permittee shall indemnify the City against any and all liability, loss or damage that the City may suffer as a result of claims, demands, costs or judgments resulting from activities related to use of the patio area within the public right-of-way.
9. No signage shall be allowed to be placed on or hung from the fence or railing that encloses the patio.
10. All limitations on expansion of the alcohol service area shall be in accordance with Section 27-613 of the Billings Montana City Code.

**\*\*NOTE\*\*** Approval of this Special Review does not constitute approval of a building permit, sign permit or fence permit. Compliance with all applicable local

codes will be reviewed at the building permit level. This application is for a Special Review as noted above and no other request is being considered with this application. The Planning Department points out that the use and development of the property must be in accordance with the submitted site plan.

### **CONSISTENCY WITH ADOPTED PLANS AND POLICIES**

In addition to the above discussion in the Alternatives Analysis section, this application conforms to the goals of the 2003 City of Billings/Yellowstone County Growth Policy, specifically:

- The proposal provides development within an existing commercial corridor.
- The proposal provides contiguous development focused in and around an existing population center.
- The proposal supports an economically and culturally vibrant downtown.

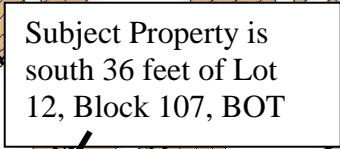
### **RECOMMENDATION**

The Zoning Commission is recommending that the City Council grant conditional approval for Special Review #781.

### **ATTACHMENTS**

- D. Zoning Map
- E. Site Photographs
- F. Site Plans

## Zoning Map





**ATTACHMENT B**  
Site Photographs



Photo 1: Looking north from corner of Montana Ave and N. 30<sup>th</sup> St. at proposed patio area.



Figure 2: Adjacent to subject property looking east down Montana Ave.

# ATTACHMENT C: Site Plans

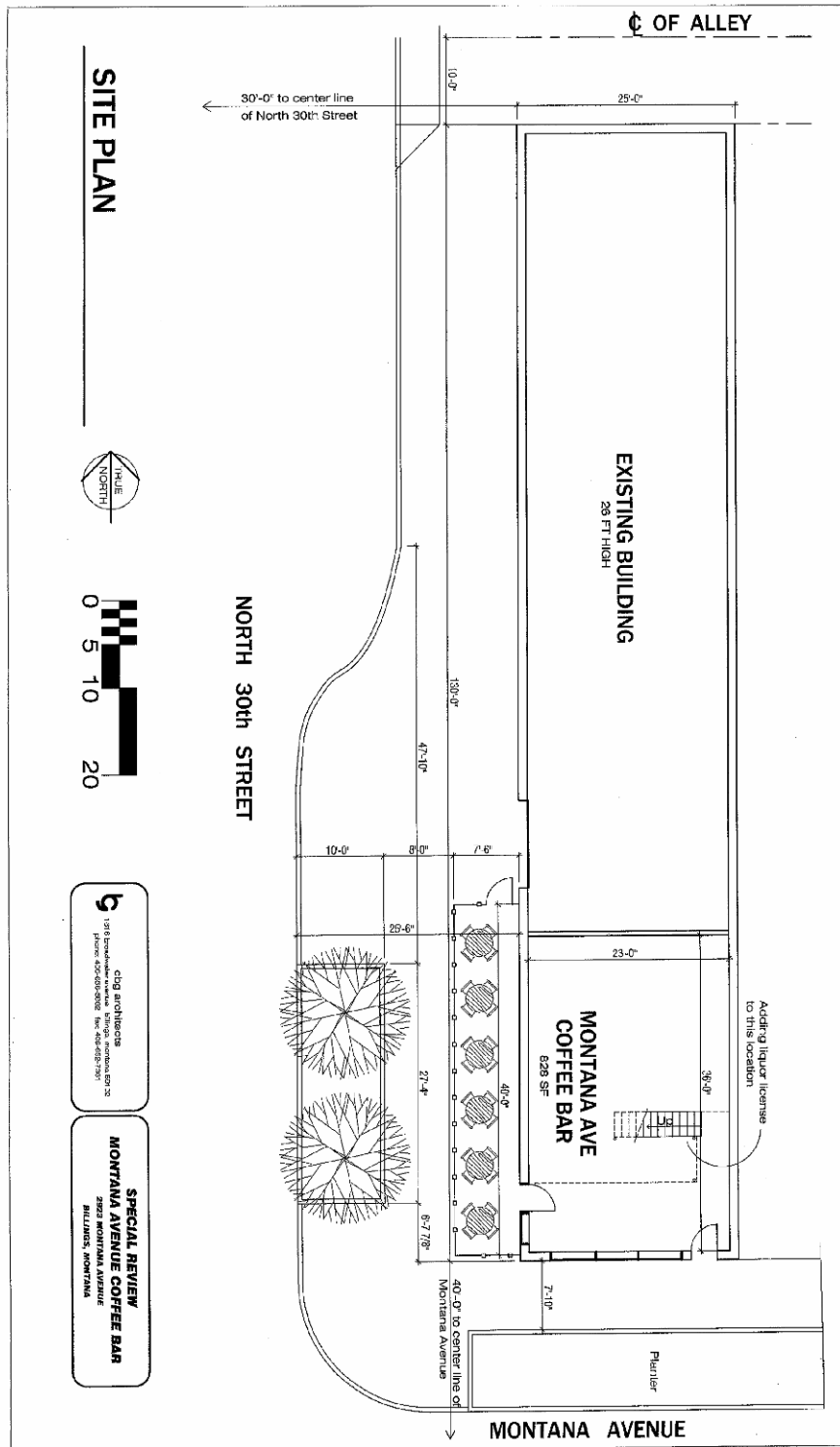


Figure 1: Site Plan showing subject property and patio area

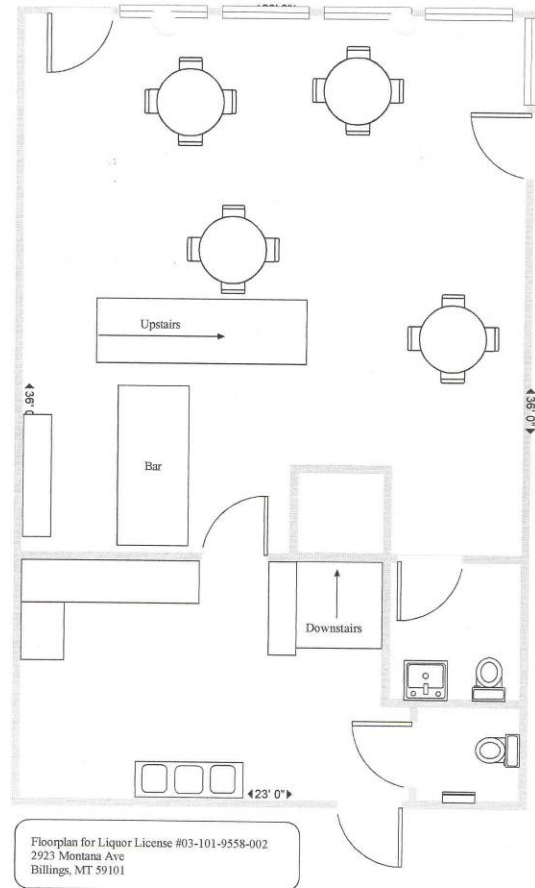
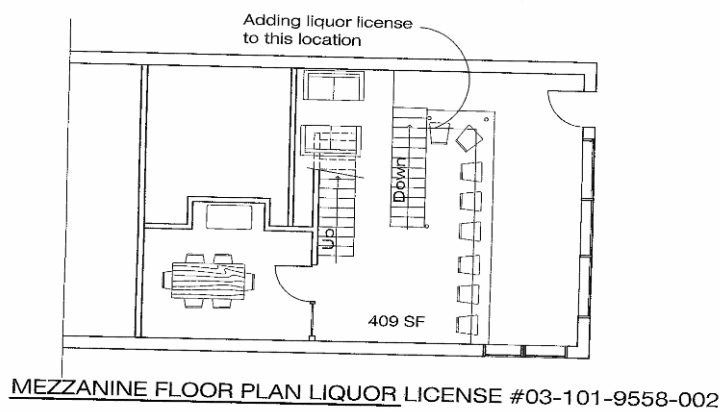


Figure 2: Floor Plan of main floor



<p><b>cbg architects</b>          1616 broadwater avenue billings, montana 59102          phone: 406-656-6862 fax: 406-652-7361</p>	<p><b>SPECIAL REVIEW</b>  <b>MONTANA AVENUE COFFEE BAR</b>          2923 MONTANA AVENUE          BILLINGS, MONTANA</p>
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Figure 3: Floor Plan for second-floor mezzanine

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## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 25, 2005**

---

**TITLE:** Public Hearing and First Reading on Ordinance Granting Montana Dakota Utilities Co. Franchise to Provide Gas Distribution Services

**DEPARTMENT:** Public Works

**PRESENTED BY:** David D. Mumford, P.E., Public Works Director

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**PROBLEM/ISSUE STATEMENT:** Montana Dakota Utilities Co. ("MDU") was provided a franchise to operate a gas distribution system within the city of Billings via Ordinance 4232 in 1979. That franchise was scheduled to expire October 25, 2004, but was extended through April 2005 by Council action in August 2004. MDU and staff have used the intervening months to address all issues and arrive at consensus regarding the proposed franchise.

The proposed franchise is for 15 years and contains modern language relating to relocation, system development, and other key operational areas.

**FINANCIAL IMPACT:** None.

**RECOMMENDATION**

Staff recommends that Council adopt on first reading the proposed ordinance granting a franchise to MDU for the operation of a gas distribution system within the city of Billings.

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

**ATTACHMENT**

A – Ordinance Granting MDU's Gas Distribution Franchise

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE OF THE CITY OF BILLINGS, MONTANA, GRANTING TO MONTANA DAKOTA UTILITIES CO., A DIVISION OF MDU RESOURCES GROUP, INC. A CORPORATION, A NON-EXCLUSIVE FRANCHISE TO CONSTRUCT, MAINTAIN, OPERATE, REPLACE AND REPAIR A GAS DISTRIBUTION SYSTEM WITHIN PUBLIC RIGHTS-OF-WAY OF THE CITY OF BILLINGS, MONTANA.**

WHEREAS, Montana Code Annotated Section 7-141-4101 and Billings, Montana City Code Sections 22-401 through 22-703 grants the City broad authority to regulate the use of the public right-of-way; and

WHEREAS the City Council of the City of Billings ("City") passed a franchise granting Montana Dakota Utilities Co. ("MDU") the authority to operate a gas distribution system September 24, 1979 via Ordinance 4232;

WHEREAS the City extended that franchise through April 24, 2005 via Ordinance 04-5299;

WHEREAS MDU has operated under that franchise in good faith for the full and provided service to the Citizens of Billings;

WHEREAS, the Council finds that it is in the best interests of the health, safety and welfare of residents of the Billings community to grant a non-exclusive franchise to MDU for the operation of a gas distribution system within the City right-of-way; NOW, THEREFORE,

**THE MAYOR AND CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, DO ORDAIN AS FOLLOWS:**

**1. Definitions.** The following terms contained herein, unless otherwise indicated, shall be defined as follows:

- 1.1. City: The City of Billings, a municipal corporation of the State of Montana, specifically including all areas incorporated therein as of the effective date of this ordinance and any other areas later added thereto by annexation or other means.
- 1.2. Days: Calendar days.
- 1.3. Director: The City administrator or designee.
- 1.4. Facilities: All pipes, access ways, pump stations, storage facilities, equipment, and supporting structures, located in the City's right-of-way, utilized by the Utility in the operation of activities authorized by this Ordinance. The abandonment by Utility of any facilities as defined herein shall not act to remove the same from this definition.
- 1.5. Permittee: A person who has been granted a permit by the Permitting Authority.
- 1.6. Permitting Authority: The head of the City department authorized to process and grant permits required to perform work in the City's right-of-way, or the head of any agency authorized or designated to perform this function on the City's behalf. Unless otherwise

indicated, all references to Permitting Authority shall include the designee of the department or agency head.

- 1.7. Person: An entity or natural person.
- 1.8. Revenue: This term as used herein shall refer to all revenue collected from Utility's customers with billing addresses that are within the corporate boundaries of the City, not including late fees.
- 1.9. Right-of-way: As used herein shall refer to the surface of and the space along, above, and below any street, road, highway, freeway, lane, sidewalk, alley, court, boulevard, parkway, drive, utility easement, and/or road right-of-way now or hereafter held or administered by the City of Billings.
- 1.10. Utility: Montana Dakota Utilities Co., a division of MDU Resources Group, Inc. a corporation.

## **2. Franchise Granted.**

- 2.1. The City hereby grants to Utility, its successors and assigns, subject to the terms and conditions hereinafter set forth, a Franchise to provide gas distribution services beginning on the effective date of this Ordinance.
- 2.2. This Franchise shall grant Utility the right, privilege and authority, subject to the terms and conditions hereinafter set forth, to construct, operate, maintain, replace, and use all necessary equipment and facilities for a gas distribution system, in, under, on, across, over, through, along or below the public right-of-way located in the City of Billings, as approved under City permits issued by the Permitting Authority pursuant to this Franchise and City ordinances.
- 2.3. This Franchise is granted upon the express condition that it shall not in any manner prevent the City from granting other or further franchises in, along, over, through, under, below or across any right-of-way. Such Franchise shall in no way prevent or prohibit the City from using any right-of-way or other City property or affect its jurisdiction over them or any part of them, and the City shall retain the authority to make all necessary changes, relocations, repairs, maintenance, establishment, improvement, dedication of the same as the City may deem fit, including the dedication, establishment, maintenance, and improvement of all new rights-of-way or other public properties of every type and description.

- 3. **Franchise Term.** The term of the Franchise granted hereunder shall be for the period commencing upon the effective date of this ordinance through and extending for fifteen (15) years there from.
- 4. **Fees or Taxes.** As a material term of this Franchise agreement, and in consideration of the right granted to Utility to occupy City rights-of-way for the purpose of operating a gas utility within the City, Utility agrees:
  - 4.1. To timely pay all fees or taxes currently adopted, or as hereinafter may be adopted by the City pertaining to the Utility's operations within the City.
  - 4.1.1. Proceeds of any fee or tax shall be distributed to the City in accordance with the terms of any adopting document or, if not specified in such document, no later than 30 days after



the end of each calendar quarter (quarters ending at the end of March, June, September and December).

- 4.2. Should the Utility be prevented by judicial or legislative action from collecting a fee or tax adopted by the City or any portions thereof, then the Utility shall be excused from the collection and distribution of that portion of the fee or tax.

## **5. City Ordinances and Regulations.**

- 5.1. Nothing herein shall be deemed to direct or restrict the City's ability to adopt and enforce all necessary and appropriate ordinances regulating the performance of the conditions of this Franchise, including any reasonable ordinance made in the exercise of its police powers in the interest of public safety and for the welfare of the public. The City shall have the authority at all times to control, by appropriate regulations, the location, elevation, and manner of construction and maintenance of any facilities of Utility located within the City right-of-way. Utility shall promptly conform with all such regulations, unless compliance would cause Utility to violate other requirements of law.

## **6. Right-of-Way Management.**

### **6.1. Excavation.**

- 6.1.1. During any period of relocation or maintenance, all surface structures, if any, shall be erected and used in such places and positions within the right-of-way so as to interfere as little as possible with the safe and unobstructed passage of traffic and the unobstructed use of adjoining property. Utility shall at all times post and maintain proper barricades and comply with all applicable safety regulations during such period of construction as required by the City ordinances or traffic control plans approved by the City consistent with state law and MPWS Section 01570 as modified by the City.
- 6.1.2. Whenever Utility excavates in any right-of-way for the purpose of installation, construction, repair, maintenance or relocation of its facilities, it shall apply to the City for a permit to do so in compliance with the ordinances and regulations of the City requiring permits to operate in the right-of-way. In no case shall any such work commence within any right-of-way without a permit, except as otherwise provided in this Ordinance. During the progress of the work, Utility shall not unnecessarily obstruct the passage or use of the right-of-way, and shall provide the City with plans, maps, and information showing the proposed and final location of any facilities in accordance with Section 6.9 of this Ordinance.
- 6.2. **Abandonment of Utility's Facilities.** Facilities laid, installed, constructed, or maintained in the right-of-way by Utility may be abandoned in place after notification of such intent is provided to the City. The City may require removal of abandoned facilities in conjunction with the process described in Section 6.8 Relocation. All necessary permits must be obtained prior to commencing removal.
- 6.3. **Restoration after Construction.**
- 6.3.1. Utility shall, after any installation, construction, relocation, maintenance, or repair of Facilities within the Franchise area, restore the right-of-way to at least the condition the same was in immediately prior to any such abandonment, installation, construction, relocation, maintenance or repair as determined by the City Engineer or designee. All



concrete encased monuments, which have been disturbed or displaced by such work, shall be restored pursuant to all federal, state and local standards and specifications. Utility agrees to promptly complete all restoration work and to promptly repair any damage caused by such work at its sole cost and expense.

- 6.3.2. If it is determined that Utility has failed to restore the right-of-way in accordance with this Section, the City shall provide Utility with written notice including a description of actions the City believes necessary to restore the right-of-way. If the right-of-way is not restored in accordance with the City's notice within fifteen (15) days of that notice, the City, or its authorized agent, may restore the right-of-way. Upon request from the Utility, the City may agree to an extension to the time provided to restore the right-of-way as long as doing so does not endanger the public. Utility is responsible for all costs and expenses incurred by the City in restoring the right-of-way in accordance with this Section. The rights reserved to the City under this Paragraph shall be in addition to those otherwise provided by this Franchise.
- 6.4. Bonding Requirement. Utility must comply with the City's standard bonding requirement for working in the City's right-of-way.
- 6.5. Emergency Work, Permit Waiver. In the event of any emergency where any facilities located in the right-of-way are broken or damaged, or if Utility's construction area for their facilities is in such a condition as to place the health or safety of any person or property in imminent danger, Utility shall immediately take any necessary emergency measures to repair or remove its facilities without first applying for and obtaining a permit as required by this Franchise. However, this emergency provision shall not relieve Utility from later obtaining any necessary permits for the emergency work. Utility shall apply for the required permits the next business day following the emergency work or as soon as practical given the nature and duration of the emergency.
- 6.6. Safety.
  - 6.6.1. The Utility, in accordance with applicable federal, state, and local safety rules and regulations shall, at all times, employ ordinary care in the installation, maintenance, and repair utilizing methods and devices commonly accepted in their industry of operation to prevent failures and accidents that are likely to cause damage, injury, or nuisance to persons or property.
  - 6.6.2. All of Utility's facilities in the right-of-way shall be constructed and maintained in a safe and operational condition.
- 6.7. Dangerous Conditions, Authority for City to Abate.
  - 6.7.1. Whenever Facilities or the operations of the Utility cause or contribute to a condition that appears to endanger any person or substantially impair the lateral support of the adjoining right-of-way, public or private property, the Director may direct the Utility, at no charge or expense to the City, to take actions to resolve the condition or remove the endangerment. Such directive may include compliance within a prescribed time period.
  - 6.7.2. In the event the Utility fails or refuses to promptly take the directed action, or fails to fully comply with such direction, or if emergency conditions exist which require immediate action to prevent imminent injury or damages to persons or property, the City may take such actions as it believes are necessary to protect persons or property and the Utility shall be responsible to reimburse the City for its costs.
- 6.8. Relocation of System Facilities.

- 6.8.1. Utility agrees and covenants to protect, support, temporarily disconnect, relocate or remove from any right-of-way its facilities without cost to the City, when so required by the City to facilitate the completion of or as a result of a public project, provided that Utility shall in all such cases have the privilege to temporarily bypass, in the authorized portion of the same right-of-way and upon approval by the City, any facilities required to be temporarily disconnected or removed. As used in this Section, the term "public project" is a project included in any City adopted Capital Improvement Program.
- 6.8.2. All Facilities utilized for providing gas distribution service within Utility's service area and within the right-of-way shall be considered owned, operated and maintained by Utility.
- 6.8.3. If the City determines that a public project necessitates the relocation of Utility's existing facilities, the City shall utilize the following process unless otherwise agreed:
  - 6.8.3.1 As soon as possible, but not less than sixty (60) days prior to the commencement of such project, provide Utility with written notice requiring such relocation; and
  - 6.8.3.2 Provide Utility with copies of any plans and specifications pertinent to the requested relocation and a proposed temporary or permanent relocation for Utility's facilities.
  - 6.8.3.3 After receipt of such notice and such plans and specifications, Utility shall complete relocation of its facilities at no charge or expense to the City at least ten (10) days prior to commencement of the project, unless otherwise agreed.
- 6.8.4. Utility may, after receipt of written notice requesting a relocation of its facilities, submit to the City written alternatives to such relocation. The City shall evaluate such alternatives and advise Utility in writing if any of the alternatives are suitable to accommodate the work that necessitates the relocation of the facilities. If so requested by the City, Utility shall submit additional information to assist the City in making such evaluation. The City shall give each alternative proposed by Utility full and fair consideration. In the event the City ultimately determines that there is no other reasonable alternative, Utility shall relocate its facilities as provided in this Section.
- 6.8.5. The provisions of Section 6.8 shall not preclude the Utility from seeking reimbursement for relocation expenses from state or federal resources as long as doing so does not impair the interests of the City.
- 6.8.6. The provisions of Section 6.8 shall in no manner preclude or restrict Utility from making any arrangements it may deem appropriate when responding to a request for relocation of its Facilities by any person other than the City, where the improvements to be constructed by said person are not or will not become City owned, operated or maintained, provided that such arrangements do not unduly delay or increase the cost of a planned City construction project.
- 6.9. Utility's Maps and Records.
- 6.9.1. As a condition of this Franchise, and without charge to the City, Utility agrees to provide the City with record plans, maps, and records that show the vertical and horizontal location of its facilities within the right-of-way, measured from the center line of the right-of-way, using a minimum scale of one inch equals one hundred feet (1"=100'). This information is to be provided in digital format that can be readily imported into the City's Geographic Information System (GIS), and, upon request, in hard copy plan form used by Utility. This information shall be provided between one hundred twenty (120) and one hundred eighty (180) days of the effective date of this Ordinance and shall be updated by the Utility utilizing information in their possession upon reasonable request by the City.

- 6.9.2. The City will keep the information provided by the Utility confidential to the extent allowed by law. If the City gets a records request demanding disclosure of Utility system information previously provided to the City by the Utility, then the City will provide the Utility notice of such request and provide the Utility the opportunity to seek to prevent the disclosure of said information through appropriate legal action.

## **7. Planning Coordination.**

- 7.1. System Information. Utility shall submit information related to the general location, proposed location, and size of all existing and proposed Facilities within the City as requested by the Director within a reasonable time, not exceeding sixty (60) days from receipt of a written request for such information.
- 7.1.1. Utility will update information provided to the City under this Section whenever there are major changes in Utility's system plans for Billings.
- 7.1.2. The City will provide information relevant to the Utility's operations within a reasonable period of written request to assist the Utility in the development or update of its System Plan. Provided that such information is in the City's possession, or can be reasonably developed from the information in the City's possession.
- 7.2. System Development Information. Utility will assign a representative whose responsibility shall be to coordinate with the City on planning for Capital Improvement Program projects. At a minimum, such coordination shall include the following:
- 7.2.1. By October 31<sup>st</sup> of each year, Utility shall provide the Director with a schedule of its planned capital improvements for the following calendar year, which may affect the right-of-way for that year;
- 7.2.2. Utility shall meet with the City, other franchisees and users of the right-of-way, according to a schedule to be determined by the City, to schedule and coordinate construction; and
- 7.2.3. All construction locations, activities, and schedules shall be coordinated, as required by the Director to minimize public inconvenience, disruption, or damages.
- 7.3. Emergency Operations. The City and Utility agree to cooperate in the planning and implementation of emergency operations response procedures.

## **8. Indemnification.**

- 8.1. Utility hereby releases, covenants not to bring suit, and agrees to indemnify, defend and hold harmless the City, its elected officials, employees, agents, and volunteers from any and all claims, costs, judgments, awards, attorney's fees, or liability to any person, including claims by Utility's own employees to which Utility might otherwise be immune, arising from personal injury or damage to property allegedly due to the negligent or intentional acts or omissions of Utility, its agents, servants, officers or employees in performing activities authorized by this Franchise. This covenant of indemnification shall include, but not be limited by this reference, claims against the City arising as a result of the acts or omissions of Utility, its agents, servants, officers or employees except for claims for injuries and damages caused by the sole negligence of the City. If final judgment is rendered against the City, its elected officials, employees, agents, and volunteers, or any of them, Utility shall satisfy and pay the judgment. The

City may appear in any proceeding it deems necessary to protect the City's or the public's interests.

- 8.2. Inspection or acceptance by the City of any work performed by Utility at the time of completion of construction shall not be grounds for avoidance of any of these covenants of indemnification. These indemnification obligations of Utility in Section 8.1 shall extend to and include any and all claims that have not yet resulted in a suit and any asserted or submitted claims that may be settled prior to the culmination of any litigation or the institution of any litigation.
- 8.3. In the event Utility refuses to undertake the defense of any filed suit or any claim asserted against the City, after the City's request for defense and indemnification has been made pursuant to the indemnification clauses contained herein, and Utility's refusal is subsequently determined by a court having jurisdiction (or such other tribunal that the parties shall agree to decide the matter), to have been a wrongful refusal on the part of Utility, then Utility shall pay all of the City's costs and expenses for defense of the action, including reasonable attorneys' fees of recovering under this indemnification clause as well as any judgment against the City.
- 8.4. In the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of Utility and the City, its officers, employees and agents, Utility's liability hereunder shall be only to the extent of Utility's comparative negligence. This waiver has been mutually negotiated by the parties.
- 8.5.1. The City hereby releases and agrees to indemnify, defend and hold harmless the Utility, its elected officials, employees, agents, and volunteers from any and all claims, costs, judgments, awards or liability to any person arising from Utility's compliance with Section 4 hereof. This indemnification is contingent upon Utility's compliance with Section 4.4 hereof.

## **9. Insurance.**

- 9.1. Utility shall procure and maintain for the duration of the Franchise, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the exercise of the rights, privileges and authority granted hereunder to Utility, its agents or employees. A combination of self-insurance and excess liability insurance may be utilized by Utility. Utility shall provide to the City an insurance certificate and proof of self-insurance, if applicable, evidencing the required insurance and a copy of the additional insured endorsements, for City's inspection prior to the commencement of any work or installation of any Facilities pursuant to this Franchise, and such insurance shall evidence the following required insurance:
  - 9.1.1. Automobile Liability insurance for owned, non-owned and hired vehicles with limits no less than \$2,000,000 Combined Single Limit per accident for bodily injury and property damage; and
  - 9.1.2. Commercial General Liability insurance policy, written on an occurrence basis with limits no less than \$750,000 dollars per claim and 1.5 million dollars per occurrence or \$500,000 dollars combined single limit together with a one million dollars (\$1,000,000) excess or umbrella policy. The City shall be named as a primary, additional insured. The Utility's policy shall be endorsed to be primary and noncontributory. Utility shall also



maintain a policy of Professional Liability insurance in an insurable amount not less than \$750,000 dollars per claim and 1.5 million dollars per occurrence. Utility shall demonstrate written proof of these mandatory minimum coverages and noncontributory endorsement by providing a Certificate of Insurance to the City evidencing such prior to execution of this contract for personal injury, bodily injury and property damage.

Coverage shall include premises, operations, independent contractors, products completed operations, personal injury and advertising injury. There shall be no endorsement or modification of the Commercial General Liability insurance excluding liability arising from explosion, collapse or underground property damage.

- 9.1.3. Excess Liability in an amount of \$5,000,000 each occurrence and \$5,000,000 aggregate limit. The City shall be named as an additional insured on the Excess Liability insurance policy.
- 9.2. Payment of deductible or self-insured retention shall be the sole responsibility of Utility.
- 9.3. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, or employees. In addition, the insurance policy shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. Utility's insurance shall be primary. Any insurance, self insurance, or insurance pool coverage maintained by the City shall be excess of Utility's insurance and shall not contribute with it. Coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the City.
- 9.4. Utility shall require all its subcontractors to carry insurance consistent with this Section 9, and shall provide evidence of such insurance to the City upon request.

#### **10. Enforcement.**

- 10.1. In addition to all other rights and powers retained by the City under this Franchise, the City reserves the right to revoke and terminate this Franchise and all rights and privileges of the Utility in the event of a substantial violation or breach of its terms and conditions.
- 10.2. A substantial violation or breach by a Utility shall include, but shall not be limited to, the following:
  - 10.2.1. An uncured violation of any material provision of this Franchise, or any material rule, order or regulation of the City made pursuant to its power to protect the public health, safety and welfare;
  - 10.2.2. An intentional evasion or knowing attempt to evade any material provision of this Franchise or practice of any fraud or deceit upon the system customers or upon the City;
  - 10.2.3. Failure to provide the services specified in the Franchise;
  - 10.2.4. Misrepresentation of material fact during negotiations relating to this Franchise or the implementation thereof;
  - 10.2.5. A continuous and willful pattern of grossly inadequate service;
  - 10.2.6. An uncured failure to pay fees associated with this Franchise;
- 10.3. No violation or breach shall occur which is without fault of the Utility or the City, or which is as a result of circumstances beyond the Utility's or the City's reasonable control. Neither the Utility, nor the City, shall be excused by economic hardship nor by nonfeasance or malfeasance of its directors, officers, agents or employees; provided, however, that damage to equipment causing service interruption shall be deemed to be

the result of circumstances beyond a Utility's or the City's control if it is caused by any negligent act or unintended omission of its employees (assuming proper training) or agents (assuming reasonable diligence in their selection), or sabotage or vandalism or malicious mischief by its employees or agents. A Utility, or the City, shall bear the burden of proof in establishing the existence of such conditions.

- 10.4. Except in the case of termination pursuant to Paragraph 10.2.4. of this Section, prior to any termination or revocation, the City, or the Utility, shall provide the other with detailed written notice of any substantial violation or material breach upon which it proposes to take action. The party who is allegedly in breach shall have a period of 60 days following such written notice to cure the alleged violation or breach, demonstrate to the other's satisfaction that a violation or breach does not exist, or submit a plan satisfactory to the other to correct the violation or breach. If, at the end of said 60-day period, the City or the Utility reasonably believes that a substantial violation or material breach is continuing and the party in breach is not taking satisfactory corrective action, the other may declare that the party in breach is in default, which declaration must be in writing. Within 20 days after receipt of a written declaration of default, the party that is alleged to be in default may request, in writing, a hearing before a "hearing examiner" as provided by the City's development regulations. The hearing examiner's decision may be appealed to any court of competent jurisdiction.
- 10.5. The City may, in its discretion, provide an additional opportunity for the Utility to remedy any violation or breach and come into compliance with this agreement so as to avoid the termination or revocation.
- 10.6. Any violation existing for a period greater than 30 days may be remedied by the City at the Utility's expense.

11. **Survival.** All of the provisions, conditions and requirements of Sections 6.1 Excavation, 6.2 Abandonment Of Utility's Facilities, 6.3 Restoration After Construction, 6.7 Dangerous Conditions, Authority For City To Abate, 6.8 Relocation Of System Facilities, and 8 Indemnification, of this Franchise shall be in addition to any and all other obligations and liabilities Utility may have to the City at common law, by statute, or by contract, and shall survive the City's Franchise to Utility for the use of the areas mentioned in Section 2 herein, and any renewals or extensions thereof. All of the provisions, conditions, regulations and requirements contained in this Franchise Ordinance shall further be binding upon the heirs, successors, executors, administrators, legal representatives and assigns of Utility and all privileges, as well as all obligations and liabilities of Utility shall inure to its heirs, successors and assigns equally as if they were specifically mentioned wherever Utility is named herein.
12. **Severability.** If any Section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other Section, sentence, clause or phrase of this Franchise Ordinance. The Parties may amend, repeal, add, replace, or modify any provision of this Franchise to preserve the intent of the parties as expressed herein prior to any finding of invalidity or unconstitutionality.
13. **Assignment.** This Franchise shall not be sold, transferred, assigned, or disposed of in whole or in part either by sale, voluntary or involuntary merger, consolidation or otherwise, without

the written approval of the City. This paragraph shall not act to require City approval of any Utility action to mortgage or otherwise encumber its facilities, or other action related to corporate financing, financial reorganization, or refinancing activity.

14. **Notice.** Any notice or information required or permitted to be given to the parties under this Franchise may be sent to the following addresses unless otherwise specified:

Region Manager  
Montana-Dakota Utilities Co.  
P.O. Box 2546  
Billings, MT. 59112-2546  
Phone: (406) 896-4221  
Fax: (406) 896-4272

City Administrator  
City of Billings  
P.O. Box 1178  
Billings, MT 59103  
Phone: (406) 657-8433  
Fax: (406) 657-8390

15. **Non-Waiver.** The failure of either party to enforce any breach or violation by the other party of any provision of this Franchise shall not be deemed to be a waiver or a continuing waiver by the non-breaching party of any subs
16. **Alternate Dispute Resolution.** If the parties are unable to resolve disputes arising from the terms of this Franchise, prior to resorting to a court of competent jurisdiction, the parties shall submit the dispute to a non-binding alternate dispute resolution process agreed to by the parties. Unless otherwise agreed between the parties or determined herein, the cost of that process shall be shared equally.
17. **Entire Agreement.** This Franchise constitutes the entire understanding and agreement between the parties as to the subject matter herein and no other agreements or understandings, written or otherwise, shall be binding upon the parties upon execution and acceptance hereof.
18. **Directions to City Clerk.** The City Clerk is hereby authorized and directed to forward certified copies of this ordinance to the Utility set forth in this ordinance. The Utility shall have sixty (60) days from receipt of the certified copy of this ordinance to accept in writing the terms of the Franchise granted to the Utility in this ordinance.
19. **Effective Date.** This ordinance shall take effect and be in full force thirty days after adoption on second reading.

**PASSED BY THE CITY COUNCIL ON \_\_\_\_\_.**

\_\_\_\_\_  
Mayor \_\_\_\_\_

**ATTEST:**

**APPROVED AS TO FORM:**

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

\_\_\_\_\_  
Brent Brooks  
City Attorney

Effective Date: \_\_\_\_\_



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

## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, April 25, 2005**

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**TITLE:** Water & Wastewater Rate Adjustments  
**DEPARTMENT:** Public Works  
**PRESENTED BY:** David D. Mumford, Public Works Director

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**PROBLEM/ISSUE STATEMENT:** The water and wastewater rates are no longer adequate to fund ongoing operation and maintenance costs and planned capital improvements. A rate study has been completed to determine the amount of the rate adjustments that will be necessary to provide adequate revenue. The Council is being asked to consider these rate adjustments now so staff can continue work on the filter building project at the water plant and the headworks project at the wastewater plant. Staff will either sell revenue bonds or secure loans from the State Revolving Fund program to finance both these projects on a long-term basis. In either case the City must have adequate rates in place to assure that revenues are adequate to support the debt. The last wastewater rate adjustment of approximately 9% was effective June 1, 2003. The last water rate adjustment of approximately 6% was effective July 1, 2004.

The recommended rates for the resale category, which is the Billings Heights Water District, were determined in accordance with the service contract between the City and the District as well as the arbitration ruling that was rendered in the last water rate study between the parties.

Per the statutory requirements, Council conducted a public hearing on April 11 for the purpose of receiving public input on the proposed rate adjustments. In addition, the Public Utilities Board considered the rate adjustments at its meeting of April 7. The Board supports the proposed wastewater rates as presented in the Integrated Utilities Group report. They do not support the proposed water rates at the recommended levels and express the following concerns:

- The Briarwood sewer, Briarwood/Cedar Park water reservoirs and Zone 4 water reservoir benefit those specific developments and these areas should bear most of these costs.
- Consideration of setting water rates by pressure zones to better reflect cost of service.
- Proposed water rates “seem a little high”.

- The city CAFR presents revenue and operating expense figures that indicate excess revenue for FY 2004, which raises the question of the need for the proposed level of water rate increase.
- Questioning the practice of the utility operation providing free water and wastewater service to other city operations.

A revised copy of the rate study was previously furnished to the Council. The action before the Council is to approve or disapprove the staff recommendation.

**ALTERNATIVES ANALYZED:** The alternatives considered are:

1. Leave rates at current levels.
2. Adopt rates at levels less than recommended.
3. Adopt rates as recommended.

**FINANCIAL IMPACT:** The impacts identified with the various alternatives are:

1. Leaving rates at the current levels will result in no increases to the monthly water and wastewater bills. However, insufficient revenues will be generated to adequately fund planned operation and maintenance costs and capital improvements deemed prudent and necessary by staff.
2. Adopting rates at levels less than recommended will minimize the financial impacts to customers through their monthly water and wastewater bills. However, as in alternative 1, insufficient revenues will be generated to fund all planned operation and maintenance costs and capital improvements deemed prudent and necessary by staff.
3. Adopting rates as recommended will increase the monthly water bills by approximately 6.5% to 7.5% (varies based on user class) and wastewater bills by 4.6%. The revenues generated by these increases are projected to be adequate to fund all planned operation and maintenance costs and capital improvements over the next 3 years.

### **RECOMMENDATION**

Staff recommends that Council adopt the proposed resolution titled “RESOLUTION SPECIFYING WATER AND WASTEWATER RATE SCHEDULE ADJUSTMENTS ENACTED PURSUANT TO TITLE 69, CHAPTER 7, MONTANA CODE ANNOTATED”.

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

ATTACHMENTS

**A – Resolution No.** \_\_\_\_\_

## **PROCEDURAL HISTORY**

- Staff and the rate consultant, Integrated Utilities Group, presented the results of the rate study to the City Council at the February 7 and March 7 work sessions.
- On February 28, 2005, in accordance with the service contract, staff provided the Billings Heights Water District with a copy of the rate study as it relates to determination of the District rates.
- The Council, at the March 14 meeting, scheduled a public hearing for April 11, 2005 to receive public input on this issue.
- The Public Utilities Board considered the proposed rate adjustments at its April 7 meeting and offered comments to the Council at the April 11 public hearing.
- The Council conducted a public hearing on April 11 and continued the public hearing until the April 25 meeting.
- The action before the Council is to approve, disapprove or amend the staff recommendation.

## **ALTERNATIVES ANALYSIS**

1. Leave rates at current levels: Leaving rates at the current levels, while having the least immediate impact on customer's bills, will generate insufficient revenues to adequately fund planned operation and maintenance costs and capital improvements deemed prudent and necessary by staff. This will result in having to defer or eliminate capital improvements and replacement of existing facilities such as water and sewer lines.
2. Adopt rates at levels less than recommended: Adopting rates at levels less than recommended, while minimizing the immediate impact on customer's bills, will, as in alternative 1, generate less revenue than needed to fund all planned operation and maintenance costs and capital improvements deemed prudent and necessary by staff. This will result in having to defer or eliminate capital improvements and replacement of existing facilities such as water and sewer lines.
3. Adopt rates as recommended: Staff projects that adopting rates as recommended, while increasing the monthly water bills by approximately 6.5% to 7% and wastewater bills by 4.6%, will generate revenues sufficient to fund all planned operation and maintenance costs and capital improvements over the next 3 years

## **RECOMMENDATION**

Staff recommends that Council adopt the proposed resolution titled "RESOLUTION SPECIFYING WATER AND WASTEWATER RATE SCHEDULE ADJUSTMENTS ENACTED PURSUANT TO TITLE 69, CHAPTER 7, MONTANA CODE ANNOTATED".

## **ATTACHMENTS**

A – Resolution No. \_\_\_\_\_

**RESOLUTION No. \_\_\_\_\_**

**RESOLUTION SPECIFYING WATER AND WASTEWATER RATE SCHEDULE  
ADJUSTMENTS ENACTED PURSUANT TO TITLE 69, CHAPTER 7, MONTANA  
CODE ANNOTATED**

WHEREAS, the City Council of the City of Billings, Montana retained Integrated Utilities Group, Inc. (IUG) to prepare water and wastewater rate schedules for the municipal water and wastewater utilities that would generate adequate funds to operate the utility during Fiscal Years 2006, 2007, and 2008 as well as require each customer class of the utility to pay its fair share of the cost of operating the water and wastewater system; and

WHEREAS, the report dated April 2005 titled "Water and Wastewater Rate Analyses" prepared by IUG projects a need for extension, expansion, repair, improvement, and continued operation and maintenance of existing and proposed water and wastewater system facilities during the period beginning July 1, 2005 and ending June 30, 2008 and recommends adjustment of the water and wastewater rates to provide for an equitable recovery of water and wastewater costs; and

WHEREAS, under Title 69, Chapter 7 of the Montana Code Annotated, and under the terms of City Resolution Number 13585, the City of Billings is authorized to regulate the City's municipal water and wastewater utility and to change rates, fees, and charges as may be deemed by the City Council to be reasonable and just; and

WHEREAS, it is essential to the public health, welfare, and safety of the inhabitants of the City of Billings and its environs to provide an adequate water and wastewater system and to provide adequate funding to meet the cost of constructing, maintaining, and operating the same;

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

1. That the following schedules of rates, fees and charges are found to be just, reasonable, and necessary for the continued sound operation of the water and wastewater utility and that the proposed rates, fees and charges are approved and adopted and published as the rates, fees and charges of the City of Billings, Montana water and wastewater utility, effective July 1, 2005, July 1, 2006, and July 1, 2007.

## SCHEDULE I

### WATER – MONTHLY VOLUME CHARGE

Customer Class	Effective Date		
	7/1/05	7/1/06	7/1/07
<i>Dollars per Ccf<sup>(2)</sup></i>	<u>(\$)</u>	<u>(\$)</u>	<u>(\$)</u>
Residential	1.33	1.42	1.51
Non-Residential	0.98	1.05	1.12
Seasonal	1.67	1.79	1.93
Resale	1.09	1.09	1.10

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## SCHEDULE II

### MINIMUM MONTHLY WATER CHARGES

Meter Size	Effective Date		
	7/1/05	7/1/06	7/1/07
	<u>(\$)</u>	<u>(\$)</u>	<u>(\$)</u>
<b>INSIDE CITY</b>			
¾"	5.91	6.12	6.35
1"	6.64	6.89	7.16
1¼"	7.13	7.41	7.71
1½"	7.63	7.92	8.25
2"	10.33	10.76	11.24
3"	30.23	31.69	33.26
4"	33.91	35.56	37.34
6"	37.60	39.43	41.41
8"	54.80	57.51	60.44
10"	74.45	78.18	82.19
<b>OUTSIDE CITY</b>			
¾"	6.56	6.66	6.79
1"	7.43	7.53	7.67
1¼"	8.00	8.12	8.26
1½"	8.58	8.70	8.85
2"	11.75	11.90	12.09
3"	35.13	35.50	35.97

4"	39.46	39.87	40.40
6"	43.78	44.24	44.82
8"	63.98	64.63	65.46
10"	87.07	87.93	89.04

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## SCHEDULE I

### WASTEWATER - MONTHLY VOLUME CHARGE

Customer Class	Effective Date		
	7/1/05	7/1/06	7/1/07
<i>Dollars per Ccf</i>	<i>(\$)</i>	<i>(\$)</i>	<i>(\$)</i>
<b>Customer Within the City</b>			
Residential	1.20	1.26	1.31
Commercial—Domestic Strength	1.20	1.26	1.31
Commercial—High Strength	1.63	1.71	1.78
<b>Customer Outside the City</b>			
Residential	1.32	1.38	1.45
Commercial—Domestic Strength	1.32	1.38	1.45
Commercial—High Strength	1.79	1.88	1.96

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## SCHEDULE IA

### MINIMUM MONTHLY WASTEWATER CHARGES

Meter Size	Effective Date		
	7/1/05	7/1/06	7/1/07
	<i>(\$)</i>	<i>(\$)</i>	<i>(\$)</i>
<b>INSIDE CITY</b>			
¾"	5.23	5.47	5.71
1"	5.79	6.06	6.33
1¼"	6.40	6.69	7.00
1½"	6.56	6.85	7.17
2"	8.66	9.05	9.46
3"	24.10	25.20	26.35
4"	29.82	31.18	32.60
6"	43.16	45.13	47.18
8"	58.42	61.08	63.86
10"	89.51	93.59	97.85

## **OUTSIDE CITY**

¾"	5.75	6.01	6.29
1"	6.38	6.67	6.97
1¼"	7.05	7.37	7.70
1½"	7.21	7.54	7.89
2"	9.53	9.96	10.41
3"	26.50	27.71	28.97
4"	32.80	34.29	35.86
6"	47.48	49.64	51.90
8"	64.26	67.19	70.25
10"	98.47	102.96	107.65

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## **SCHEDULE II EXTRA STRENGTH SURCHARGE**

<b>Unit Charges</b>	<b>Effective Date</b>		
	<u>7/1/05</u>	<u>7/1/06</u>	<u>7/1/07</u>
BOD (\$/lb)	\$0.2603	\$0.2722	\$0.2846
TSS (\$/lb)	\$0.2594	\$0.2712	\$0.2836

**Modify the first paragraph of Schedule II, Extra Strength Surcharge to read:**

“Customers contributing wastewater with strength concentrations in excess of 2000 parts per million (ppm) of BOD or 2000 ppm of total suspended solids are subject to an Extra Strength Surcharge in addition to the regular minimum monthly and volume charges for commercial-domestic strength, computed in accordance with the following formula:”

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## **SCHEDULE III**

### **SPECIAL FEES & CHARGES**

<b>Septage Disposal Permit Fee</b>	<b>Effective Date</b>		
	<u>7/1/05</u>	<u>7/1/06</u>	<u>7/1/07</u>
\$/1,000 Gallons	\$23.39	\$24.45	\$25.57



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2. That this Resolution is to be immediately filed in the City Clerk's office and that the decision adopting the adjusted rates shall be final ten days after such are so filed.
  3. That the Public Works Department is directed to file a copy of the revised water and wastewater rate schedules with the Public Service Commission within ten days after filing of this Resolution by the City Clerk.

**PASSED AND ADOPTED** by the City Council of the City of Billings,

Montana on the \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

APPROVED:

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MAYOR

ATTEST:

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CITY CLERK

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## AGENDA ITEM:




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**CITY COUNCIL AGENDA ITEM**
**CITY OF BILLINGS, MONTANA**
**Monday, April 25th, 2005**


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**TITLE:** MET Downtown Transit Operation Center Site

**DEPARTMENT:** City Administrator's Office

**PRESENTED BY:** Tina Volek, Assistant City Administrator

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**PROBLEM/ISSUE STATEMENT:** An Ad-Hoc Transit Center Advisory Committee was created by the City Council at a Feb. 14, 2005, public hearing on a proposed MET Downtown Transit Center site at 4<sup>th</sup> and Broadway. The Committee selected four alternative sites at a meeting on April 13<sup>th</sup> and is expected to forward a letter of recommendation to the Council in time to meet its April 25<sup>th</sup> deadline. The Committee also is expected to recommend that the City Council consider holding a special meeting to allow a thorough discussion of the proposals.

The City Council also directed staff, on Feb. 14<sup>th</sup>, to solicit development proposals for the 4<sup>th</sup> & Broadway property owned by the City. These proposals would include alternatives with a Transit Center and those without. Staff has completed this solicitation process and is prepared to report on the results.

**ALTERNATIVES ANALYZED:** The City Council could:

- Postpone a decision on the MET Downtown Transfer Center site to an April 27, 2005 meeting; or
- Make a decision April 25<sup>th</sup> regarding the MET Downtown Transfer Center site.

**FINANCIAL IMPACT:** Delaying the project to April 27 will have no financial impact. The total Federal Transit Administration (FTA) grant for a MET Transit Downtown Transfer Center is more than \$4.4 million.

**RECOMMENDATION**

Staff recommends that the City Council postpone a decision on placing the MET Downtown Transit Operation Center site to a special meeting at 5:30 p.m. April 27, 2005.

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

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