

CITY OF BILLINGS

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

AGENDA

COUNCIL CHAMBERS

April 10, 2006

6:30 P.M.

CALL TO ORDER – Mayor Tussing

PLEDGE OF ALLEGIANCE – Mayor Tussing

INVOCATION – Councilmember Nancy Boyer

ROLL CALL

MINUTES – March 27, 2006

COURTESIES – Exchange City Golf Corporation (ECGC)

PROCLAMATIONS

- April 21 - Head Start, Inc. Day
- April 21 - Thelma Adolph Day

ADMINISTRATOR REPORTS – Tina Volek

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1, 9B, & #10 through #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. Mayor's Appointments:

	Name	Board/Commission	Term	
			Begins	Ends
1.	Alex Tommerup	City County Planning	4/10/06	12/31/07

*Unexpired term of Cary Brown (Ward II)

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

B. Bid Awards:

(1) Airport Business Park Paving Project. (Opened 3/28/06).
Recommend JTL Group, Inc., \$170,787.00.
([Corresponding Staff Memo B1](#))

C. Architectural Services Agreement with CTA Architects and Engineers for architectural and contract administration services for AIP 27: Security Access Control & CCTV Upgrades, \$80,673.65, including City match of \$8,067.36.
([Corresponding Staff Memo C](#))

D. Approval of *Shiloh Drain* Acquisition Agreement, \$0.
([Corresponding Staff Memo D](#))

E. Acceptance of AIP 30 grant from Federal Aviation Administration (FAA), \$3,958,490.05, including City match of \$197,924.07.
([Corresponding Staff Memo E](#))

F. Acceptance of *American Dream Downpayment Initiative* grant funding through the Montana Department of Commerce for the First-Time Homebuyers' Program, \$23,078.00.
([Corresponding Staff Memo F](#))

G. Acknowledging receipt of petition to annex #06-05: the remainder of Amended Tract 1, C/S 3223, McCall Development, Inc., petitioner, and setting a public hearing date for 4/24/06.
([Corresponding Staff Memo G](#))

H. Resolution of Intent to create Park Maintenance District #4032: Riverfront Pointe Subdivision and setting a public hearing for 5/08/06.
([Corresponding Staff Memo H](#))

I. Second/final reading ordinance providing that the BMCC be amended by adding a section 13-505; providing for a procedure whereby city contractors can be debarred from bidding on city contracts, establishing an effective date and providing a severability clause.
([Corresponding Staff Memo I](#))

J. Second/final reading ordinance for Zone Change #774: a zone change from Residential 9,600 to Residential 7,000 on Tract 123, Sunny Cove Fruit Farm (Foxtail Village, 2nd Filing), located at the northeast intersection of Grand Avenue and 60th Street West. Kenmark Corporation, applicant, Engineering, Inc., agent; approval of the zone change and adoption of the determinations of the 12 criteria.
([Corresponding Staff Memo J](#))

K. Second/final reading ordinance for Zone Change #775: a text amendment change to Section 27-706(d) of the City Sign Code Circumstance Signs

with the Medical Corridor Permit Zoning District. Billings Clinic & St. Vincent Healthcare, applicants; Mary Scrim Dyre and Doug James, agents; approval of the zone change.
([Corresponding Staff Memo K](#))

L. Preliminary Plat of Arlene Subdivision, generally located on the west side of Zimmerman Trail between Poly Drive and Colton Blvd., conditional approval of the preliminary plat and adoption of the Findings of Fact.
([Corresponding Staff Memo L](#))

M. Final Plat of Morning Star Subdivision.
([Corresponding Staff Memo M](#))

N. Bills and Payroll.
(1) March 10, 2006
(2) March 17, 2006
([Corresponding Staff Memo N1](#))
([Corresponding Staff Memo N2](#))

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

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION revising the 2004 Annexation Policy and Map. Staff recommends approval. (**Action:** approval or disapproval of Staff recommendation.)
([Corresponding Staff Memo 2](#))

3. PUBLIC HEARING AND RESOLUTION annexing a 19-acre parcel described as a portion of C/S 2776 located on the west side of Highway 87, north of its intersection with Main Street in the Heights, 4A's LLC, petitioner, Annex #06-02. Staff recommends conditional approval. (**Action:** approval or disapproval of Staff recommendation.)
([Corresponding Staff Memo 3](#))

4. FRANK PROPERTY:

A. PUBLIC HEARING AND RESOLUTION approving the *Frank Property Urban Planning Study* and expanding the Urban Planning Area to include Tracts 1 and 2, C/S 3139, Tract 1, C/S 2379 and two unplatted tracts containing 79 acres, located near the southwest corner of the Grand Avenue and 56th Street West intersection. Douglas and Ronald Frank, owners. Planning Board recommends acceptance of the urban planning study and approval of expanding the urban planning area. (**Action:** approval or disapproval of Planning Board recommendation.)
([Corresponding Staff Memo 4A](#))

- B. PUBLIC HEARING AND RESOLUTION** annexing Tracts 1 and 2, C/S 3139, Tract 1, C/S 2379 and two unplatted tracts containing 79 acres located near the southwest corner of the Grand Avenue and 56th Street West intersection, Douglas and Ronald Frank, petitioners, Annex #06-03. Staff recommends conditional approval of the resolution. **(Action:** approval or disapproval of Staff recommendation.)

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

- 5. PUBLIC HEARING CONTINUED AND RESOLUTION FOR ANNEXATION #05-06:** a 116.17 acre parcel located on the north side of Rimrock Road at the intersection of 70th Street West and extending to the railroad property on the north and west, known as Tract 1, C/S 1871 and Tract 2A, C/S 2465. Larry Staley and Westward Ho Company, petitioners. (Action delayed from 2/27/06). Staff recommends denial of the petition and resolution. **(Action:** approval or disapproval of Staff recommendation.)

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

- 6. PUBLIC HEARING AND RESOLUTION** creating PMD #4031 for park land maintenance in Copper Ridge Subdivision, 1st Filing. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)

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

- 7. PUBLIC HEARING AND RESOLUTION** setting building permit fees at the same level established in 1993 and repealing Res. #03-17998. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)

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

- 8. PUBLIC HEARING AND SITE DEVELOPMENT ORDINANCE VARIANCE #CC05-03:** a variance from Section 6-1208(h)(3) concerning driveway width and Section 6-1203(j)(2) concerning curb cuts on property located on Lots 7-12, Block 91, O.T., generally located between N. 27th Street and N. 26th Street and between 1st Avenue N. and 2nd Avenue N., known as the former Smith Funeral Home site. City of Billings, applicant. (Delayed from 2/27/06). Staff recommends delaying approval until approval of the Park II bids. **(Action:** approval or disapproval of Staff recommendation.)

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

9. FALCON RIDGE ESTATES:

- A. PUBLIC HEARING AND RESOLUTION** vacating right-of-way for portions of the existing Falcon Ridge Subdivision, 1st Filing, at no cost. Dennis Buscher, petitioner. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)

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

- B. FINAL PLAT** of Falcon Ridge Estates Subdivision. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)

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

10. **RESOLUTION** authorizing condemnation of six properties on Grand Avenue. (Delayed from 1/9/06). Staff recommends delaying action for 30 days to allow staff to evaluate the market analysis and renegotiate with affected property owners. **(Action:** approval or disapproval of Staff recommendation.)

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

11. **REPORT FROM AD HOC COMMITTEE** on City Administrator Selection. A recommendation to the Council by the Ad Hoc Committee will be made at the meeting. Staff recommends the Council direct Staff to assist with recruitment and make any budgetary adjustments needed to accomplish the tasks **(Action:** approval or disapproval of Staff recommendation.)

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

12. **4TH AND BROADWAY REDEVELOPMENT – 2005.** Report by the Review Committee will be made at the meeting. Staff recommends the Council grant a 60-day time extension for completing negotiations with both developers. **(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

(NOTE: Additional information on any of these items is available in the City Clerk's Office)

**Visit our Web site at:
<http://ci.billings.mt.us>**

CALENDAR

(Council AND Boards & Commissions)

APRIL:

4/03/2006	Council WORK SESSION	5:30 p.m.	Community Center 360 N. 23 rd St
4/04/2006	Community Development Board	3:00 p.m.	4 th Floor Library
	Zoning Commission	4:30 p.m.	Council Chambers
	Aviation & Transit Commission	5:30 p.m.	Airport Terminal
	Board of Adjustment	6:00 p.m.	Council Chambers
4/05/2006	Policy Coordinating Committee	8:00 a.m.	4 th Floor Library
4/06/2006	EMS Commission	7:30 a.m.	Main Fire Station Conf. Rm 2300 9 th Ave. N.
	Human Relations Commission	12:15 p.m.	CH Conference Room
4/10/2006	Parking Advisory Board	4:00 p.m.	CH Conference Room
	REGULAR Council Meeting	6:30 p.m.	Council Chambers
4/11/2006	Planning Board	6:00 p.m.	4 th Floor Library
4/12/2006	Parks/Recreation/Cemetery Bd	11:30 a.m.	Community Center 360 N. 23 rd St.
4/13/2006	Library Board	11:30 a.m.	Library
4/17/2006	Council WORK SESSION	5:30 p.m.	Community Center 360 N. 23 rd St
4/18/2006	Yellowstone Historic Preservation Board	8:00 a.m.	4 th Floor Library
4/24/2006	REGULAR Council Meeting	6:30 p.m.	Council Chambers
4/25/2006	Planning Board	6:00 p.m.	4 th Floor Library
4/26/2006	Traffic Control Board	NOON	4 th Floor Library
	Housing Authority	NOON	2415 1 st Avenue North
	Development Process Advisory Review Board (DPARB)	1:00 p.m.	CH Conference Room
4/27/2006	Yellowstone County Board of Health	7:00 a.m.	Community Health Center

123 So. 27th Street

MAY:

5/01/2006	Council WORK SESSION	5:30 p.m.	Community Center 360 N. 23 rd St
5/02/2006	Community Development Board Zoning Commission Aviation & Transit Commission Board of Adjustment	3:00 p.m. 4:30 p.m. 5:30 p.m. 6:00 p.m.	4 th Floor Library Council Chambers Airport Terminal Council Chambers
5/03/2006	Policy Coordinating Committee	8:00 a.m.	4 th Floor Library
5/04/2006	Human Relations Commission	12:15 p.m.	CH Conference Room
5/08/2006	Parking Advisory Board REGULAR Council Meeting	4:00 p.m. 6:30 p.m.	CH Conference Room Council Chambers
5/09/2006	Planning Board	6:00 p.m.	4 th Floor Library
5/10/2006	Parks/Recreation/Cemetery Bd	11:30 a.m.	Community Center 360 N. 23 rd St.
5/11/2006	Library Board Public Utilities Board	11:30 a.m. 6:30 p.m.	Library Public Works-Belknap 2251 Belknap Ave
5/15/2006	Council WORK SESSION	5:30 p.m.	Community Center 360 N. 23 rd St
5/16/2006	Yellowstone Historic Preservation Board	8:00 a.m.	4 th Floor Library
5/22/2006	REGULAR Council Meeting	6:30 p.m.	Council Chambers
5/23/2006	Planning Board Traffic Control Board	6:00 p.m. NOON	4 th Floor Library 4 th Floor Library
5/24/2006	Development Process Advisory Review Board (DPARB)	1:00 p.m.	CH Conference Room
5/25/2006	Yellowstone County Board of Health	7:00 a.m.	Community Health Center 123 So. 27 th Street
5/29/2006	MEMORIAL DAY – CITY OFFICES CLOSED		
5/31/2006	Housing Authority	NOON	2415 1 st Avenue North



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, APRIL 10, 2006

TITLE: Boards & Commissions –Appointment
DEPARTMENT: City Administrator’s Office
PRESENTED BY: wynnette Maddox, Administration

PROBLEM/ISSUE STATEMENT: Confirmation of the appointment for Board and Commission position that is vacant due to a resignation.

FINANCIAL IMPACT: No financial impact involved.

RECOMMENDATION

Mayor Tussing recommends that Council confirm the following appointments:

	Name	Board/Commission	Term	
			Begins	Ends
1.	Alex Tommerud	City County Planning	4/10/06	12/31/07

1. Unexpired term of Cary Brown (Ward II)

Approved By: City Administrator ____ City Attorney ____

Attachment

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, April 10, 2006

TITLE: Approval of Award of the Miscellaneous Airport Paving Project

DEPARTMENT: Aviation and Transit

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

PROBLEM/ISSUE STATEMENT: The Aviation and Transit Department is bidding three Airport paving projects together to achieve better pricing for a larger piece of work. The three paving projects, included in the City's Capital Improvement program, are the Airport Business Park paving, vehicle access Gate 9, and vehicle access Gate 24. The Business Park Paving project is the final portion of a multi-year program to rehabilitate the pavement in the Airport Business Park. The asphalt paving in the Business Park is over 20 years old and has deteriorated into loose gravel and potholes, and needs to be replaced. This project will complete the asphalt paving on Rimtop Drive from its intersection with North View Drive to the west, and will overlay the asphalt in the parking lot for the IP-9 office building leased by several State of Montana agencies. The pavement at Gate 9, near the BLM's fire tanker base, is nearly 30 years old and is breaking into small pieces creating hazard for aircraft operating in this area. The asphalt at Gate 24, near the Corporate Air hangar on the Airport's west end, has cracked allowing water to penetrate the base gravel causing deep rutting of the surface. The existing asphalt in the two gate areas will be removed and replaced with a new asphalt section.

CONTRACTOR

JTL Group, Inc.
Hardrives Construction, Inc.
Engineers Estimate

BID AMOUNT

\$170,787.00
\$205,433.70
\$183,445.00

FINANCIAL IMPACT:

The total cost of this project is \$170,787. The source of the funds for this project is in the Department's Capital fund.

RECOMMENDATION

Staff recommends that the City Council award the Airport Paving Project to the lowest bidder JTL Group, Inc., for the amount of \$170,787.

Approved By: **City Administrator** ____ **City Attorney** ____

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C

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, April 10, 2006

TITLE: Approval of Architectural Fees from CTA Architects for Airport Improvement Program (AIP) Project AIP 27 Security Access Control and CCTV Upgrades

DEPARTMENT: Aviation and Transit

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

PROBLEM/ISSUE STATEMENT: Due to the unique design requirements associated with airport facilities, the City of Billings Aviation and Transit Department has historically entered into a five-year term contract for architectural services at the Airport. The current five-year contract is with CTA Architects and Engineers to provide design, planning, and contract administration for Federal Airport Improvement Program (AIP) projects. This project will provide upgrades to the 26 access system controlled doors in the Terminal leading to the secured areas of the Airport, and Closed Circuit Television cameras and recording equipment to monitor the 10 automatic vehicle gates that provide access to the airfield. These upgrades, identified in our Airport Security Master Plan, are in response to the Transportation Security Administration's (TSA) requirement that all access points to the airfield be monitored. The scope of work and fees associated with this project have been reviewed and negotiated by Airport staff. Including these proposed current fees of \$80,673.65, the total cost of the architectural work under this contract during the first four years totals \$763,293.31, and has produced \$6,010,991 in construction projects.

FINANCIAL IMPACT: The total cost of architectural fees is \$80,673.65, and will be funded with a 90/10 AIP entitlement grant. The FAA portion will be \$72,606.28 and the City's match is \$8,067.36. The source of the City's match is in the Department's Capital fund.

RECOMMENDATION

Staff recommends that the City Council approve the architectural fees to the CTA Architects and Engineers' term contract, in the amount of \$80,673.65, to cover the architectural services needed for the AIP 27 Project Security Access Control System and CCTV Upgrades.

Approved By: City Administrator ____ City Attorney ____

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, April 10, 2006

TITLE: Shiloh Drain Acquisition Agreement
DEPARTMENT: Public Works
PRESENTED BY: David D. Mumford, PE, Public Works Director

PROBLEM/ISSUE STATEMENT: The Shiloh Drain is an irrigation waste, groundwater control, and storm drainage channel located west of Shiloh Road. The drain serves an area encompassing about 1600 acres and discharges into the Hogan Slough. The drain is controlled by the Shiloh Drain District. Under contract with the City, Engineering, Inc. has been assisting the City in obtaining rights to the Shiloh Drain. With full control of the Shiloh Drain, the City will have an option to provide more pedestrian corridors along Shiloh Road, and the drain will become a major means of conveyance of storm water within the west end. Ballots were sent to the property owners within the Shiloh Drain District to dissolve the district and convey all rights-of-way and easements to the City of Billings. Over 50% of the property owners within the district voted to dissolve the district. Within the Agreement, the Shiloh Drain District will be required to convey all rights-of-way and easements associated with the Shiloh Drain to the City in deed form.

ALTERNATIVES ANALYZED:

1. Approve the Shiloh Drain Acquisition Agreement conveying control of the Shiloh Drain to the City of Billings.
2. Do not approve the Shiloh Drain Acquisition Agreement.

FINANCIAL IMPACT: The Shiloh Drain District has agreed to dissolve the district and convey all rights-of-way and easements to the City for no fee. The City will be required to maintain the Shiloh Drain.

RECOMMENDATION

Staff recommends that Council approve the Shiloh Drain Acquisition Agreement to obtain control of the Shiloh Drain.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENTS

- A. Map Depicting Shiloh Drain
- B. Shiloh Drain Acquisition Agreement

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM**CITY OF BILLINGS, MONTANA****Monday, April 10, 2006**

TITLE: Acceptance of Federal Aviation Administration (FAA) Airport Improvement Program (AIP) 30 Grant

DEPARTMENT: Aviation and Transit Department

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

PROBLEM/ISSUE STATEMENT: It is necessary to secure the City Council's approval and authorization for the Mayor to execute Federal Aviation Administration (FAA), Airport Improvement Program (AIP) Grant 30 once it has been received from the FAA. Grant 30 contains this year's entitlement funds that will be used to undertake engineering, planning, and construction projects at the Airport. As required by the FAA, the grant offer is based on the actual amounts awarded for construction and engineering for these projects. The City Council previously approved this year's projects, which include pavement replacement on Runway 10R/28L, the replacement of the concrete in the commercial aircraft ramp area, and the Runway Incursion Road Safety and Drainage Upgrades.

FINANCIAL IMPACT: The total costs of the construction, engineering and planning services associated with this grant are \$3,958,490.05. The grant will fund 95% of this cost (\$3,760,565.55), and the City will be required to provide a 5% match (\$197,924.50). The source of the City's match is the Department's Capital fund.

RECOMMENDATION

Staff recommends that the City Council approve the acceptance of this year's grant and authorize the Mayor to execute AIP Grant 30.

Approved By: City Administrator ____ City Attorney ____

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AGENDA ITEM:

CITY COUNCIL AGENDA ITEM**CITY OF BILLINGS, MONTANA****Monday, April 10, 2006**

TITLE: American Dream Downpayment Initiative Funds

DEPARTMENT: Planning & Community Development Division

PRESENTED BY: Candi Beaudry, Acting Planning & Community Services Director, and
Brenda Beckett, Community Development Manager

PROBLEM/ISSUE STATEMENT: The State of Montana, Department of Commerce will receive \$82,255 in American Dream Downpayment Initiative (ADDI) grant funding from the U.S. Department of Housing & Urban Development. Last year, the state granted \$74,891 of these funds to the City of Billings. This year, the state has chosen to allocate an additional \$23,078 ADDI funds to the City for first time homebuyer activities, bringing the total granted to \$97,969. The funds are the result of an initiative of the Bush Administration that provided \$24,750,000 this year to assist new homebuyers and do not require a local match.

ALTERNATIVES ANALYZED: Alternatives considered include: a) Accepting the ADDI funding to increase resources available for the City First Time Homebuyers Program; and b) not accept the assistance. Additional resources for homebuyer activities in Billings are needed as housing costs continue to rise. If the City rejected the grant, the funds would be allocated by MDOC to other Montana communities.

FINANCIAL IMPACT: HOME funds are awarded to the City of Billings annually from HUD for affordable housing projects. In FY 06, \$350,000 of these funds were budgeted for the First Time Homebuyers Program. The ADDI funding will be combined with the HOME resources to provide an additional \$23,078 for the City's First Time Homebuyer Program.

RECOMMENDATION

Staff recommends the City Council accept the additional \$23,078 in American Dream Downpayment Initiative grant funding provided through the Montana Department of Commerce and authorize the Mayor to sign the contract amendment.

Approved By: City Administrator ____ City Attorney ____

Attachments:

3 Copies of Contract Amendment for Contract M04-SG3001-01A

HOME Investment Partnerships Program Grant Contract Amendment

Amending Contract #M04-SG3001-01A

This contract amendment is entered into by the City of Billings, 210 North 27th Street, Billings, Montana herein referred to as "the Grantee" and the State of Montana, Department of Commerce, Helena, Montana herein referred to as "the Department."

WITNESSETH THAT the Grantee and the Department mutually agree to amend Contract #M04-SG3001-01 executed by them on December 13, 2004 relating to the Budget for the addition of the 2005 American Dream Downpayment initiative (ADDI) funds as approved by the Department under the Montana HOME Investment Partnerships (HOME) Program for FY '05, as follows:

1. Section 7, **BUDGET (A)** is amended to include an additional **\$23,078** in ADDI funds for the 2005 FY. Section A is amended to read:

The initial amount to be awarded to the Grantee under this Contract will not exceed \$74,891, the Grantee's portion of FFY 2003 and 2004 American Dream Downpayment Initiative (ADDI) funds. An additional amount of \$23,078 for FFY 2005 has now been added to the Grantee's budget. Total amount of this Grant is now \$97,969, and is reflected in the attached Budget. Future amounts to be awarded to the Grantee under this Contract for FFY 2006, and 2007 will depend upon ADDI appropriations from HUD to the State of Montana. Future amounts will be determined based on the number of low-income renters residing in the City of Billings relative to the number of low-income renters residing in the State of Montana.

The remaining provisions of the original Grant Contract remain in full force and effect. This amendment is fully incorporated into, and by this reference is made a part of, that contract.

IN WITNESS WHEREOF, the parties hereto have caused this Contract Amendment to be executed.

City of Billings, Grantee

Department of Commerce

Chief Elected Official

Anthony J. Preite, Director
Montana Department of Commerce

Date: _____

Date: _____

**SECTION C - FINANCIAL
PART II - USES OF FUNDS**

	SOURCE	SOURCE	SOURCE	SOURCE	SOURCE	SOURCE	SOURCE	TOTAL PROJECT BUDGET
ADMINISTRATION								
Personnel Services								
Supplies								
Communications								
Printing/Duplication/Postage								
Advertising								
Accounting/Auditing								
Travel								
Training								
Other Administration								
TOTAL ADMINISTRATION COSTS								
LAND/ BLDG./ACQUISITION								
Land								
Existing Structure								
Demolition								
Homebuyer's Assistance	97,969							
TOTAL LAND & BUILDING COSTS								
SITE WORK								
Site Work								
Off-Site Improvement								
Environmental								
Other								
TOTAL SITE WORK COSTS								
CONSTRUCTION AND REHAB								
New Building								
Rehabilitation								
Accessory Structures								
General Requirements								
Contractor Overhead								
Contractor Profit								
Construction Contingency								
Community Revitalization								
Other								
TOTAL REHAB & CONST COSTS								
SUBTOTAL	97,969							

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM**CITY OF BILLINGS, MONTANA****Monday, April 10, 2006**

TITLE: Annexation Petition #06-05: Acknowledge receipt of Petition and Set a Public Hearing Date

DEPARTMENT: Planning and Community Services, Candi Beaudry, AICP, Interim Planning Director

PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: Owners and petitioners McCall Development, Inc. are petitioning to annex an approximate 89.381 acre parcel legally described as the remainder tract of Amended Tract 1 of Certificate of Survey 3223 located within Section 20, T1S, R26E, into the City of Billings pursuant to Section 7-2-4600 of the Montana Code Annotated (MCA). The subject property is located east off of Mallowney Lane, directly south of Elysian Road, north of the Yellowstone River (south of the West Billings I-90 Interchange) and is currently zoned Public. There is a concurrent zone change application for the subject property to rezone the property to Planned Development (PD) and a subdivision application for 143 lots within the 1st Filing of Josephine Crossing Subdivision. A timeline for the submitted applications is outlined below:

- On March 1, 2006, a preliminary plat application for Josephine Crossing Subdivision was submitted to the Planning Department.
- On March 6, 2006, the Annexation Petition and zone change request from Public to Planned Development (PD) was submitted to the Planning Department.
- On March 30, 2006, a preliminary review of the zone change will be conducted by the Planning Department.
- On April 10, 2006, the City Council will acknowledge the annexation petition and set a public hearing date for April 24, 2006.
- On April 11, 2006, the Planning Board will conduct the plat review of the preliminary plat.
- On April 24, 2006, the City Council will conduct the public hearing and potentially adopt a resolution annexing the subject property.
- On April 25, 2006, the Planning Board will conduct the public hearing of the preliminary plat.

- On May 2, 2006, the City Zoning Commission will conduct a public hearing for the proposed zone change to Planned Development (PD)
- On May 8, 2006, if the annexation is approved by the City Council, a public hearing for the first reading to expand Ward Boundary I will be conducted.
- On May 22, 2006, if the expansion of the ward boundary is approved, the City Council will conduct the second and final reading. In addition, a public hearing for the proposed zone change will be conducted by the City Council at this meeting; the preliminary plat of Josephine Crossing Subdivision will be on the consent agenda at this meeting.
- On June 12, 2006, if the zone change is approved, the 1st reading of the ordinance will be conducted by the City Council.
- On June 26, 2006, the second reading of the zone change ordinance will be conducted if the City Council approves the 1st reading.

The petitioners are requesting annexation in order to obtain city water and sewer services for the proposed. The City Council will consider this annexation at two (2) separate Council meetings. At this meeting, the Council acknowledges receipt of the petition and sets a public hearing date for April 24, 2006. The Council will vote on the petition at that public hearing.

ALTERNATIVES ANALYZED: Section 7-2-4600, MCA, permits owners of more than 50% of a 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 subject property is directly south of a property within the City limits and is depicted on the adopted Limits of Annexations Map in an area proposed to be annexed within the next five (5) years.

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 April 24, 2006, to consider annexing this property.

Approved by: **City Administrator** _____ **City Attorney** _____

ATTACHMENTS

- A: Property Data
- B: Annexation Petition
- C: Annexation Exhibit

ATTACHMENT A

Property Data

Type of annexation:	Petitioned - MCA 7-2-4600
Petitioner:	McCall Development, Inc
Purpose of annexation:	To Obtain City Services
Property included:	Remainder Tract of Amended Tract 1, Certificate of Survey 3223
Location:	East off of Mallowney Lane, directly south of Elysian Road, north of the Yellowstone River (south of the West Billings I-90 Interchange)
Total area:	89.381 acres
Current zoning:	Public
Current land use:	Vacant Agricultural Land
Future zoning:	Planned Development (pending zone change)
Future land use:	Residential and Commercial Uses

ATTACHMENT B

Annexation Petition

PETITION FOR ANNEXATION TO THE CITY OF BILLINGS

NOTICE TO PETITIONER

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.

INSTRUCTIONS

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.

The map must show:

- 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.
3. The Petition may be submitted to the Planning Department, Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m., located on the 4th Floor of Parmly Billings Library at 510 North Broadway, Billings, Montana. Upon presentation, the Petition will be checked for completeness. Once accepted, the Petition will be routed to the following City Departments: Public Works, City-County Planning, Public Utilities, Fire Department, City Attorney, Police Department, and Finance Department. If no problems with the Petition have been noted by the departments, the City Clerk will schedule the Petition for City Council action.
 4. By filing the petition for annexation, the Petitioner(s) agree that only those City services which are available to the general area shall be provided to Petitioner, and that additional services as may become available to the general area shall be made available to Petitioner(s) in the same manner as said services are made available to other residents of the City. Petitioner(s) specifically waive the right to the report and plans for extension of services as provided in MCA Title 7, Chapter 2, Part 47.
 5. A description of the territory to be annexed to the City is legally described on a document attached hereto.

RESIDENT FREEHOLDER ELECTORS

Date	Print Name	Name Signature	Address
<u>03/06/06</u>	<u>McCall Development, Inc.</u> By Grea McCall		<u>2751 Enterprise Avenue</u> Suite 2

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

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

Legal Description	Tax Code	Address of General Location	Use of Property	Legal Property Owners	Address	Phone
See Attached	D01936	Muldowney Lane	Agricultural	McCall Development	2751 Enterprise Avenue Ste 2; Billings, MT 59102	591-4747 Greg McCall

ALL ITEMS BELOW SHALL BE COMPLETED BY STAFF

Date Submitted: _____ Received By: _____ Petition Number: _____

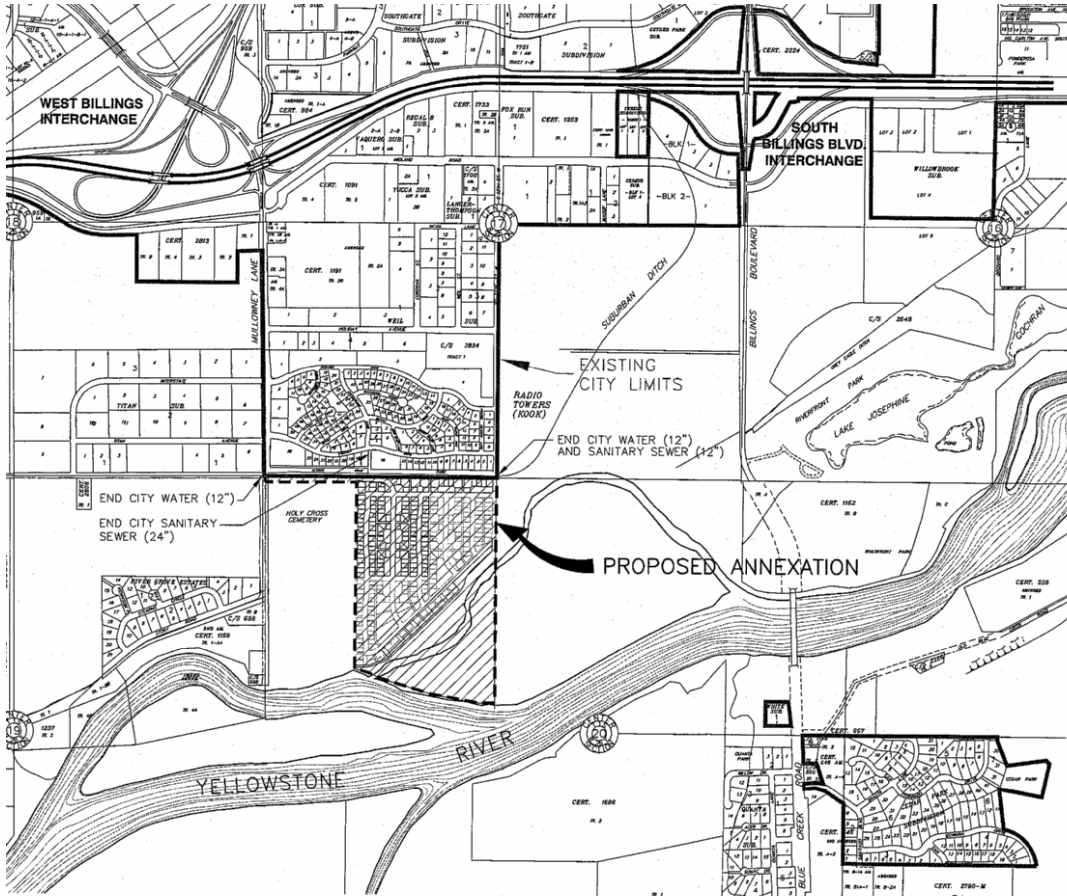
Fee Paid: _____

P:\51020_Annex_Pet

(03/03/06) dml

ATTACHMENT C

Annexation Exhibit



ANNEXATION EXHIBIT

BEING UNPLATTED LANDS
SITUATED IN THE NW 1/4 OF
SECTION 20, T. 1 S., R. 26 E., PMM
YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : McCALL DEVELOPMENT, INC

PREPARED BY : ENGINEERING, INC.



ENGINEERING, INC.
Consulting Engineers and Land Surveyors
BILLINGS • BOZEMAN

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM**CITY OF BILLINGS, MONTANA****Monday, April 10, 2006**

TITLE: Resolution of Intent to Create - Park Maint. District No. 4032, Riverfront Pointe Subdivision

DEPARTMENT: Department Of Parks, Recreation, & Public Lands

PRESENTED BY: Gene Blackwell, Acting Director

PROBLEM/ISSUE STATEMENT: Riverfront Pointe Subdivision contains approximately 1.36 acres of dedicated park and public open space consisting of primarily the railway corridor along the south side of the subdivision. 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 trail corridor improvements. As a condition of the Riverfront Pointe Subdivision final plat approval, the lots must establish a park maintenance district. The Resolution of Intent to Create the District is the first step in the process to include all lots of Riverfront Pointe Subdivision in Park Maintenance District No. 4032.

ALTERNATIVES ANALYZED:

- Create the Park Maintenance District now to assure assessments can be collected in November 2006, to pay costs of maintenance as the park is developed. This is the requirement approved in the Subdivision Improvement Agreement and the staff recommendation.
- Do not create the Park Maintenance District at this time.

FINANCIAL IMPACT: The maintenance costs for the public area improvements are estimated to be \$3,800.00 for the first year for 74 lots. The assessment rate for the first year is \$51.35135 assessed equally to 74 units in District 4032. The first year budget and assessment for the lots is shown in "Exhibit D" of the attached PMD documents for the coming year.

RECOMMENDATION

Staff recommends Council approve the Resolution of Intention to Create Park Mntce. District No. 4032 and set May 8, 2006, as the date for the Public Hearing and consideration of the Resolution to Create Park Maintenance District No. 4032 for Riverfront Pointe Subdivision.

Approved By: **City Administrator** ____ **City Attorney** _____

ATTACHMENT

A: Resolution of Intent to Create Park Maintenance District No. 4032; and Exhibits A-D thereto attached.

INTRODUCTION

Approval of the Resolution of Intent to Create Park Maintenance District No. 4032 for the maintenance of Riverfront Pointe Subdivision, public areas is the first step in creating the Park Maintenance District by setting a date for the Public Hearing, considering the Resolution to Create the district, and to notifying the property owners included within the district of the intended action.

PROCEDURAL HISTORY

- The Riverfront Pointe Subdivision plat is in the process of being approved and filed.
- The Resolution of Intent To Create the Park Maintenance District provides for advertisement and mailing of a public notice to affected property owners explaining the protest and comment procedures and protest period and setting a date for a Public Hearing and Council consideration of the Resolution to Create the district at the May 8th, 2006, regular City 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 Riverfront Pointe Subdivision, Improvement Agreements call for the park improvements to be made and the Park Maintenance District to be created. The proposed maintenance district includes all lots and blocks of Riverfront Pointe Subdivision. Said lots shall not be eligible for assessment until such time as the final plat of the property is filed and the Restrictions on Transfers and Conveyances are lifted. All filings have or will have on file Waivers of Protest for the formation of the park maintenance district for all lots within Riverfront Pointe Subdivision.

Approval of the Resolution of Intent to Create Park Maintenance District No. 4032 for Riverfront Pointe Subdivision, is the first step in the creation process. The Resolution of Intent to Create the district provides for advertisement and mailing of a public notice to affected property owners explaining the protest and comment procedures. The Public Hearing and consideration of the Resolution to Create the district will take place at the May 8th, 2006, City Council Meeting.

ALTERNATIVES ANALYSIS

- Create the Park Maintenance District now to assure assessments can be collected in November 2006, to pay costs of maintenance for the spring and summer of 2006 as the public area development commences. The approved Subdivision Improvements Agreements call 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 developer has agreed to the development and maintenance of the public areas in Riverfront Pointe Subdivision.
- 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 subdivision's public area 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 new parks. Park Maintenance District revenue is estimated to be \$548,986 to offset maintenance expenses in the upcoming 2007 FY PRPL Parks Operation and Maintenance budget and is projected to equal over 25% of the total Parks Division Operations & Maintenance budget this year.

RECOMMENDATION

Staff recommends Council approve the Resolution of Intention to Create Park Mntce. District No. 4032 and set May 8, 2006, as the date for the Public Hearing and consideration of the Resolution to Create Park Maintenance District No. 4032 for Riverfront Pointe Subdivision.

ATTACHMENT

A: Resolution of Intent to Create Park Maintenance District No. 4032; and Exhibits A-D thereto attached.

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 10, 2006

TITLE: Second Reading of Ordinance for Vendor Debarment
DEPARTMENT: Administration – Finance Division
PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: The City does not have a method to prevent vendors from bidding on City services, supplies or projects due to prior unsatisfactory performance. State law and Administrative Rules allow cities this ability. This ordinance allows the City to debar vendors from bidding on City projects based on specific terms within the Ordinance. The Council considered the Ordinance on 2/13/2006, requested changes and reconsidered it on March 27, at which time it conducted a public hearing and approved the ordinance on first reading. The ordinance must be approved on second reading to become effective.

ALTERNATIVES ANALYZED: Most of the proposed debarment procedures are drawn from the Administrative Rules of Montana. The Council requested some changes to the proposed ordinance and staff recommended some changes at the March 27 Council meeting. Those changes are as follows:

- Delete paragraphs (2) (b) and (2) (c)
- Change “(1)” to “(2)” in the first sentence of paragraph (3)
- Change “may” to “to” in the first sentence of paragraph (11)
- Delete paragraphs (18) and (19)

RECOMMENDATION

Staff recommends that Council approve second reading of the Ordinance that allows the City Administrator to debar or suspend vendors based on the terms in the Ordinance.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENT

A- Debarment Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY ADDING A SECTION TO BE NUMBERED 13-505; PROVIDING FOR A PROCEDURE WHEREBY CITY CONTRACTORS CAN BE DEBARRED FROM BIDDING ON CITY CONTRACTS, ESTABLISHING AN EFFECTIVE DATE, AND PROVIDING A SEVERABILITY CLAUSE.

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

Section 1. That the Billings, Montana City Code be amended by adding a section to be numbered 13-308, to read as follows:

Section 13-505. Debarment of contractors.

(1) If a person commits an act, as defined in this ordinance, indicating that the person no longer merits the privilege of contracting with the city or participating in city projects, the city may begin proceedings under these rules to debar the person from bidding on or otherwise participating in city contracts or projects. The city will debar or suspend contractors which violate this ordinance, and will not do business with, or allow prime and subcontractors to do business with, on city-related projects, persons debarred or suspended by the federal government, by another state, or by an agency of Montana state government. A contractor who has been debarred by the city, the federal government, by another state, or by an agency of Montana state government may not participate in work, contracts or projects with the City. A person's decision to bid upon or accept contracts with the city, or otherwise participate in city contracts, is a voluntary acceptance of the provisions of these rules and their requirements.

(2) The city administrator has the authority to temporarily suspend a contractor from consideration for further contracts with the city if the city administrator has credible evidence to believe that the contractor has engaged in activities that could lead to debarment from contract

eligibility. Debarment applies both to a firm or an individual. In the case of a firm, it may be applied against any or all businesses in which a firm has involvement or over which it has ownership or control. In the case of an individual, debarment may be applied to and enforced against any and all businesses in which the individual has any level of interest, ownership or control. The causes for debarment include the following:

(a) submission of a false affidavit for Montana residency;

(b) contractor is not responsible because they do not have available the appropriate financial, material, equipment, facility, and personnel resources and expertise, or the ability to obtain them, necessary to indicate capability to meet all contractual requirements to perform fully the contract requirements;

(c) contractor is not responsive because their bid fails to conform in all material respects to the invitation for bids or request for proposals;

(b) deliberate failure, without good cause, to perform in accordance with the specifications or within the time limit provided in a contract;

(c) contractor does not have a satisfactory record of integrity;

(d) contractor is not qualified legally to contract with the City;

(e) contractor has failed to supply any necessary information in connection with the inquiry concerning the responsibility;

(f) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts;

(g) failure to comply with the provisions of the Unemployment Insurance Law, Title 39, chapter 51, MCA;

(h) failure to comply with the provisions of the Workers' Compensation Act, Title 39, chapter 71, MCA;

(i) failure to pay the prevailing wage to any worker on any contract costing more than \$25,000 let for construction, heavy construction, highway construction or remodeling work; or

(j) any other cause that the city administrator determines to be so serious and compelling as to affect responsibility as a City contractor, including debarment by another governmental entity.

(3) If there is credible evidence that any of the situations exist as set out in ~~(1)~~ (2), the city administrator shall mail a notice of suspension to the affected contractor or individual. The notice must state that:

(a) the suspension is for the period it takes to complete an investigation into possible debarment;

(b) bids or proposals will not be accepted from the suspended contractor and contracts will not be awarded to the suspended contractor during the period of suspension;

(c) the suspension is effective upon the date of issuance of the notice of suspension and, unless the suspension is terminated by the city administrator or a court, it will remain in effect for a period not to exceed 90 calendar days.

(4) If the city administrator's investigation confirms a cause for debarment, a notice will be served upon the contractor by certified mail, return receipt requested. The notice will include:

(a) the pertinent facts supporting the alleged cause for debarment and the city administrator's intent to remove the contractor from eligibility to contract with the city;

(b) the term of the debarment and to what extent affiliates are affected. The debarment will be for a specific period of time or until certain conditions are met, at the discretion of the city administrator; and

(c) notification of the contractor's right to a hearing on the matter with the city administrator, or designee, as hearing examiner, and of the contractor's right to appeal any adverse determination by the hearing examiner to the full City Council.

(5) A written request for hearing must be received by the city administrator from the contractor within 14 calendar days after the date of the mailing of the notice of debarment. Failure to timely request a hearing will constitute a waiver by the contractor of the opportunity for a contested case hearing and appeal and will result in the city administrator or city administrator's designee entering an order supporting the contractor's debarment from contracting with the city for a specified period of time or until certain conditions are met.

(6) Upon timely receipt of a written request for a hearing, the city administrator shall appoint a hearing examiner to hear the evidence in the matter and come to a determination as to whether the facts support the decision to debar the contractor from contracting with the city for a specified period of time or until certain conditions are met. A written notice appointing the hearing examiner shall be issued by the city administrator, and sent to the person requesting the hearing.

(7) The person against whom debarment is being considered has the right to be accompanied, represented and advised by counsel, and to appear in person or by or with counsel. Counsel will not be provided by or at the expense of the city.

(8) Service of notice and later documents for the hearing will be complete and effective when made upon a person, or his counsel, if he has counsel.

(9) A notice of hearing shall be sent by the hearing examiner to the person requesting the administrative hearing. The notice shall include:

(a) A statement of the date, time, and location of the hearing;

(b) A reference to the provisions of the violation(s) involved;

(c) A short, understandable statement of the matters asserted; and

(d) A statement advising the party of its right to be represented by legal counsel at the hearing.

(10) The hearing examiner shall not engage in communications with any party or their counsel except upon notice and opportunity for all parties to participate.

(11) For hearings:

(a) The city shall record any hearing conducted and maintain a record of the proceedings. The record shall include:

(i) the initial determination of the city administrator;

(ii) the written request for a hearing;

(iii) the appointment of the hearing examiner;

(iv) the notice of hearing;

(v) the evidence offered to, or considered by, the hearing examiner;

(vi) any objections and rulings thereon;

(vii) all matters placed on the record at the hearing;

(viii) all briefs or memoranda submitted by the parties; and

(ix) any transcript made of the proceedings.

(b) The hearing examiner presiding over the hearing shall have the powers and duties ~~may~~ to: administer oaths or affirmations; issue subpoenas; provide for the taking of testimony by deposition; regulate the course of hearings, including setting the time and place for continued hearings and fixing the time for filing of briefs or other documents; and direct parties to appear and confer to consider simplification of the issues by consent of the parties.

(c) Discovery will be available to the parties in accordance with Rules 26, 28 through 37 (except Rule 37(b)(1) and 37(b)(2)(d)) of the Montana Rules of Civil Procedure in effect as of the date of

the adoption of these rules. Provided that: all references in the Montana Rules of Civil Procedure to a "court" are considered to refer to the city; all references to the use of subpoena power are considered to refer to the power in these rules; references to "trial" are considered to refer to the hearing; all references to "plaintiff" are considered to refer to a "party"; all references to "clerk of court" are considered to refer to the hearing examiner.

(i) If a party or other witness refuses to be sworn or refuses to answer any question after being directed to do so by the hearing examiner, the refusal to obey the hearing examiner's order shall be enforced as provided by law.

(ii) If a party seeking discovery from the city believes he has been prejudiced by a protective order issued by the hearing examiner under Rule 26(c), Montana Rules of Civil Procedure, or, if the hearing examiner refuses to make discovery, the party may petition the District Court, Thirteenth Judicial District for the County of Yellowstone, for review of the intermediate action of the hearing examiner.

(e) The usual order of presentation at a hearing shall be:

(i) Argument and the submission of evidence and testimony on behalf of the city;

(ii) Argument and the submission of evidence and testimony from the party requesting the hearing;
and

(iii) The introduction of rebuttal evidence and testimony by the city.

(f) The hearing may be continued with recesses as determined by the hearing examiner.

(g) Evidence introduced at the hearing may be received in written form or oral testimony given under oath or affirmation. Parties have a right to cross-examine all persons testifying at a hearing.

(i) The hearing examiner may consider hearsay evidence for the purpose of supplementing or explaining other evidence. A decision should not ordinarily be based wholly upon hearsay evidence,

however, circumstances in some cases may require it (i.e., debarment based on a prior debarment in another jurisdiction), at the discretion of the hearing examiner.

(ii) Judicially noticed facts are not hearsay.

(iii) Fraudulent, criminal or other seriously improper conduct of any individual (officer, director, shareholder, partner, employee, or other individual associated with a person) may be imputed to the person when the conduct occurred in connection with the individual's performance of duties for or on behalf of the person, or with the person's knowledge, approval, or acquiescence. The person's acceptance of the benefits derived from the conduct will be evidence of such knowledge, approval or acquiescence.

(iv) The hearing examiner's experience, technical competence, and specialized knowledge may be utilized in the evaluation of evidence.

(v) Exhibits shall be marked and the markings shall identify the party offering the exhibit. Exhibits shall be preserved by the hearing examiner as part of the administrative record.

(h) Objections to offers of evidence must be made at the time of the offer and shall be noted in the administrative record. A hearing examiner may rule on evidentiary objections at the time of the hearing, after receipt of oral or written argument by the parties, or at the time of entry of the proposed decision.

(i) The person must present all potential and available grounds to contest the debarment, and failure to raise an issue before the hearing examiner will waive that issue's consideration on any appeal or potential judicial review.

(j) The city's burden of proof for the hearing will be a preponderance of the admissible evidence presented. That is proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

(k) After the hearing and any required post-hearing briefs and submissions, the hearing examiner shall enter a proposed decision, which shall be served on all parties by certified mail, return receipt requested, to their designated agent. The proposed decision shall contain findings of fact and conclusions of law supported by the administrative record, and recommend a proposed action to the city administrator.

(12) The city administrator shall within 30 days review the proposed decision and enter the hearing examiner's final decision. The city administrator may accept, reject or modify the proposed decision. The city administrator's final decision shall contain findings of fact and conclusions of law, and shall be mailed to the parties by certified mail, return receipt requested.

(13) The sole method of appeal of the city administrator 's decision is as follows:

(a) The city administrator's decision is final unless appeal is made to the commission. An appeal may only be made if it is submitted to the city administrator in writing, and only if received by the city administrator's office no later than 10 calendar days after date of mailing of the final decision to the designated agent of the appealing party. If delivery of the final decision is refused or for any other reason not able to be delivered to the designated agent (i.e., returned as undeliverable, addressee moved and left no forwarding address, etc.), the decision will be final and the 10-day appeal period will begin to toll on the date the certified letter is returned to the city administrator's office.

(14) The contractor may appeal any adverse determination by the hearing examiner to the full city council which shall review the administrative record of the proceedings and its findings and conclusions only. The council will determine whether or not the findings and conclusions are supported by that record. The council's review will not be a de novo hearing, nor will it receive written briefs from a party except on the issue of whether or not the findings and conclusions are

supported by the administrative record. The council will not hear oral argument or testimony, or receive any evidence that was not presented in the hearing. The council may affirm, reject or modify the city administrator's decision. If the council determines that the record does not support the findings and conclusions, it may refer the matter back to the city administrator for any action the council deems appropriate and directs.

The council's determination shall be final.

(15) Debarment is distinct from a finding of non-responsibility. The city has the authority and ability in its discretion to find a person non-responsible for purposes of disallowing a bid on a project or contract, or prohibiting a person from otherwise participating in a project or contract (e.g., as a subcontractor, supplier, etc.) without conducting debarment proceedings.

(16) If debarred by the federal government or any Montana government agency, a person may not bid on or otherwise participate in any city project or contract in any capacity (prime contractor, subcontractor, supplier, etc.), including as a separate contractor for a utility to relocate utilities required by a city project, until after the completion of the entire debarment period, whether or not the city debar the person. Debarment proceedings may proceed even if the person ceases doing business during the proceedings.

(17) If a person is debarred by any agency of the federal government for any period, the city may debar it for a period up to that set by the federal government without need for further debarment proceedings. The only evidence required in a debarment hearing in a case based on an existing debarment will be a certified copy of an order, agency letter or other final action declaring the debarment in the other jurisdiction. That will not prevent the person from presenting evidence to dispute the proposed debarment or its length. If the person is debarred by a branch or agency other than of the Montana or federal government (i.e., another state, a county, etc.), or if the city may wish

a debarment period exceeding that set by the other Montana agency or the federal government, the city must hold debarment proceedings before increasing the debarment period.

(18) If debarred by the federal government or any Montana government agency, a person may not bid on or otherwise participate in any city project or contract in any capacity (prime contractor, subcontractor, supplier, etc.), including as a separate contractor for a utility to relocate utilities required by a city project, until after the completion of the entire debarment period, whether or not the city debars the person. Debarment proceedings may proceed even if the person ceases doing business during the proceedings.

(19) If a person is debarred by any agency of the federal government for any period, the city may debar it for a period up to that set by the federal government without need for further debarment proceedings. The only evidence required in a debarment hearing in a case based on an existing debarment will be a certified copy of an order, agency letter or other final action declaring the debarment in the other jurisdiction. That will not prevent the person from presenting evidence to dispute the proposed debarment or its length. If the person is debarred by a branch or agency other than of the Montana or federal government (i.e., another state, a county, etc.), or if the city may wish a debarment period exceeding that set by the other Montana agency or the federal government, the city must hold debarment proceedings before increasing the debarment period.

(18) A person planning to bid on or participate in a city contract or work, or who has already bid on or is participating in a city contract or work, must immediately notify the city administrator in writing of any debarment or suspension against it, or of any debarment or suspension proceedings pending against it in any jurisdiction.

(19) Projects or contracts already awarded to a person at the time it is debarred will not be affected, except that a bid may be rejected, or contract award rescinded, if a person submits the bid or is awarded the contract after the date on which it was debarred.

(20) The city shall maintain a list of debarred contractors on its website at <http://ci.billings.mt.us/>.

Section 2. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 3. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this _____ day of _____, 2006.

PASSED, ADOPTED and APPROVED on second reading this _____ day of _____, 2006.

CITY OF BILLINGS

By _____
RON TUSSING, Mayor

ATTEST:

By _____
MARITA HEROLD, City Clerk

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J

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, April 10, 2006

TITLE: Zone Change #774, Second Reading of Ordinance

DEPARTMENT: Planning and Community Development Services, Candi Beaudry, AICP,
Interim Planning Director

PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: The applicant is requesting to rezone Tract 123 of Sunny Cove Fruit Farm (Foxtail Village, 2nd Filing) from Residential 9600 (R-9600) to Residential 7000 (R-7000). The subject property is located at the northeast intersection of Grand and 60th Street West and is currently vacant. The owner is Kenmark Corporation and the representing agent is Engineering, Inc. The Zoning Commission conducted a public hearing on March 7, 2006, and voted unanimously to recommend approval to the City Council. The City Council approved the first reading of this zone change on March 27, 2006.

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

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

FINANCIAL IMPACT: The proposed zone change could increase the City's tax base, when the property is developed.

RECOMMENDATION

The City Zoning Commission recommends that the City Council approve Zone Change #774 on the second reading and adopt the determinations discussed 12 criteria.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENT

- A. Zoning Commission Determinations
- B. Ordinance

ATTACHMENT A

Zoning Commission Determinations

The City Council may approve, deny, delay or allow withdrawal of the zone change. All zone changes must be evaluated utilizing the 12 criteria set forth within Section 76-2-304, MCA. 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 proposed zone change is generally consistent with the following goals of the Growth Policy:

- *Predictable land use decisions that are consistent with neighborhood character and land use patterns. (Land Use Element Goal, page 6)*

The proposed zoning would permit residential uses comparable to the densities within Foxtail Village, 1st Filing located to the east of the subject property.

- *New developments that are sensitive to and compatible with the character of adjacent City Neighborhoods and County Townsites. (Land Use Element Goal, page 6)*

With the extension of the City limits and as surrounding properties develop with similar densities along this portion of Grand Avenue, the proposed rezone is compatible with the character of the neighborhood. However, there are still agricultural lands and low density housing located to the south, west, and north of this property.

- *More housing and business choices with each neighborhood. (Land Use Element Goal, page 6)*

The proposed zoning will permit single-family residential uses and duplexes within this neighborhood.

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

The proposed subdivision, with R-7000 zoning, could add approximately 360 trips per day to the local street network (10 trips per unit). The traffic accessibility study conducted for the Foxtail Village Subdivision, 2nd Filing identified the off-site street improvements required to accommodate a proposed traffic generation of 400 trips per day of increased traffic.

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

There are two (2) accesses from 60th Street West to the proposed subdivision, which were reviewed with the preliminary plat and found to be adequate for emergency services to the property.

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

The proposed zoning will permit single-family residences and duplexes. The Unified Zoning Regulations specify minimum setbacks and lot coverage requirements, as well as height restrictions for the proposed zoning district.

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

The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

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

The proposed zoning, as well as all zoning districts, contain limitations on the maximum percentage of the lot area that can be covered with structures. Both the R-9600 and R-7000 zoning districts permit a maximum lot coverage of 30%; this requirement will help prevent overcrowding of land.

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

The proposed R-7000 zoning district permits detached single-family residential units and duplexes; the R-9600 zoning district permits only detached single-family residences. The only duplexes that will be permitted on the subject property are located within proposed Block 3, along Grand Avenue, as the minimum lot size required for duplexes is 9,600 square feet.

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

Transportation: The proposed zoning will not affect the adjacent streets or traffic patterns. Any proposed roads or improvements were reviewed during the subdivision process.

Water and Sewer: The property was recently annexed to the City of Billings. The City will provide water and sewer to the property through existing lines from Foxtail Village Subdivision, First Filing.

Schools and Parks: The proposed zoning could result in an overcrowding of West High School which is currently over capacity. The middle and elementary schools that serve this property have capacity for additional students.

Fire and Police: The subject property is currently served by the City of Billings fire and police departments. Provisions for adequate emergency service were reviewed with the subdivision application.

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

The proposed zoning will be alike in character with the adjacent single-family residences and duplexes within Foxtail Village, 1st Filing to the east.

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?*

Because the existing 10-acre residential lots are separated from the proposed R-7000 zoning by the R-9600 zoning, the proposed zoning is not expected to appreciably alter the value of structures within the area.

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

The proposed zoning will permit more dense development than what currently exists in the area. However, the higher density development (R-7000 zoning) will be located along Grand Avenue.

ATTACHMENT B
Ordinance

ORDINANCE NO. 06-

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION
FOR Tract 123 of Sunny Cove Fruit Farm, containing
approximately 7.79 acres (including only Blocks 2 and 3 of the
proposed Foxtail Village Subdivision, 2nd Filing).

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 land known as Tract 123, Sunny Cove Fruit Farm (including only Blocks 2 and 3 of the proposed Foxtail Village Subdivision, 2nd Filing) containing approximately 7.79 acres and is presently zoned Residential 9600 and is shown on the official zoning maps within this zone.

3. ZONE AMENDMENT. The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Residential 9600** to **Residential 7000** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Residential 7000** zones 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 March 27, 2006.

PASSED, ADOPTED AND APPROVED on second reading April 10, 2006.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY: _____
Marita Herold, CMC/AAE, City Clerk

ZC#774

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K

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, April 10, 2006

TITLE: Zone Change #775 2nd Reading of Ordinance –Text Amendment to Section 27-706(d) of the City Sign Code Special Circumstance Signs Medical Corridor

DEPARTMENT: Planning and Community Services

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

PROBLEM/ISSUE STATEMENT: St. Vincent Healthcare and Billings Clinic have been working for over six months with property owners within the Medical Corridor Permit Zoning District and the neighborhood to develop changes to the City Sign Code Section 27-706(d) that meet the current and future signage needs of the medical facilities in the corridor. On January 24, 2006, the Planning Board initiated this text amendment to the sign code. The City Zoning Commission held a public hearing on the amendment to the zoning regulation on March 7, 2006, and voted 4-0 to recommend approval to the City Council. The City Council held a public hearing and approved the first reading of this zone change on March 27, 2006.

ALTERNATIVES ANALYZED: The City Zoning Commission held a public hearing on the proposed text amendment on March 7, 2006. The Commission heard testimony before recommending approval of these changes. The City Zoning Commission is forwarding a recommendation of approval. The City Council may choose to approve, deny or delay action for thirty (30) days on the proposed text amendments.

FINANCIAL IMPACT: There should be no direct financial impact to the City as a result of the interim zoning regulation.

RECOMMENDATION

The Zoning Commission on a 4-0 vote recommends that the City Council approve Zone Change #775 on 2nd reading.

Approved by: _____ City Administrator _____ City Attorney

ATTACHMENTS:

A: Ordinance

ATTACHMENT A

ORDINANCE NO. 06-_____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTION 27-706 (d); CITY SIGN CODE SPECIAL CIRCUMSTANCE SIGNS, ADOPT THE REVISIONS AS AN AMENDMENT TO THE ZONING REGULATIONS AND SET A TIME PERIOD FOR THE REGULATION TO BE EFFECTIVE.

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

Section 1. RECITALS. *Title 76, Chapter 2, Part 3, MCA, and Section 27-1502, BMCC, provide for amendment to the City Zoning Regulations from time to time. The Board of Planning initiated the amendment to the City Zoning Regulations and the City Zoning Commission and staff have reviewed the proposed zoning regulations hereinafter described. 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 proposed amendments to the City Zoning Regulations.*

Section 2. DESCRIPTION. *The zoning regulation shall apply to all land within Medical Corridor and South 27th Street Corridor as described in Section 27-801 and Section 27-905 in the Billings, Montana City Code.*

Section 3. *That the Billings, Montana City Code be amended by revising Section 27-706(d) to delete certain language and add new language definition to read as follows:*

SEC. 27-706. SPECIAL CIRCUMSTANCE SIGNS.

(d) *Medical corridor and South 27th Street corridor signs.*

1) ~~Statement of special purpose. This section acknowledges the architectural visual concerns associated with the Billings Medical Corridor Permit Zoning District as set forth in Article 27-900, as well as the South 27th Street Corridor Zoning District as set forth in Article 27-800. This section further recognizes the needs and benefits of limited sign standards that will adequately serve the uses in these zoning districts and those who utilize their services, and at the same time, recognizes the need to protect the remaining residential areas within, adjacent and surrounding these zoning districts from the intrusion of unsightly, excessive and confusing sign usage. In addition, this section further acknowledges that the development trends in the Billings Medical Corridor Permit Zoning District are to build, develop and expand into "campus" like patterns, thereby developing in definable areas beyond the normal city block and it~~

~~recognizes the uniqueness of this extended arrangement and location of medical services provided in a multitude of buildings, or one building encompassing two (2) or more block area.~~

a. Medical Corridor. The Billings Medical Corridor Permit Zoning District as set forth in Article 27-900 (the "Medical Corridor") is a unique, distinct and separately identifiable area of the City of Billings. Over time, a majority of the Medical Corridor has developed a campus environment that is separate and distinct from the surrounding area. The large scale buildings, the complexities of the medical campuses, the needs and abilities of those seeking medical and emergency services, and the diversification of services offered within the Medical Corridor create a need for flexibility in establishing clear way-finding and informational signage. Accordingly, this special Medical Corridor sign code is adopted to facilitate, enhance, encourage and promote the following purposes:

- (i) To facilitate and foster complementary uses servicing the healthcare community, including hospitals, clinics, medical office buildings, laboratories, and related or supporting uses;
- (ii) To promote a unique, attractive and distinctive healthcare campus environment with limited retail uses;
- (iii) To encourage creativity and continuity in design, quality, and the character of new signage;
- (iv) To anticipate and recognize the needs of patients and visitors in the Medical Corridor;
- (v) To safeguard and enhance property values, and to protect public and private investment in the Medical Corridor;
- (vi) To promote those qualities in the visual environment which bring economic value to the community;
- (vii) To encourage the design of signs that are in harmony with the principal activities and structures that they serve and that are compatible with the overall healthcare campus environment;
- (viii) To alleviate the burdens of complex compliance and enforcement responsibilities; and
- (ix) To promote the public safety, welfare, convenience and enjoyment of travel and the free flow of traffic within the Medical Corridor.

The Medical Corridor is primarily occupied by regional healthcare providers that draw patients and visitors from a multi-state region. The Medical Corridor sign

code recognizes that patients and visitors to the Medical Corridor need to be able to easily and conveniently locate, identify, and find their way to hospitals, medical groups, clinics, medial departments, laboratories, physicians, and other healthcare points of interest.

The primary purpose of the Medical Corridor is healthcare, with very limited retail uses. Accordingly, the Medical Corridor sign code recognizes that the primary purpose of signs in the Medical Corridor is not for retail purposes, yet retains historical restrictions for retail establishments within the Medical Corridor.

The caliber of the development of the medical campuses within the Medical Corridor over time has demonstrated a commitment to maintaining architecturally sound and aesthetically pleasing signage, as well as uniform appearance of signage within parcels under common ownership. Healthcare and healthcare providers are constantly evolving and changing. One of the express purposes of the Medical Corridor sign code is to provide healthcare providers with flexibility with respect to both way-finding and informational signage.

b. South 27th Street Corridor. This section acknowledges the architectural visual concerns associated with the South 27th Street Corridor Zoning District as set forth in Article 27-800. This section further recognizes the needs and benefits of limited sign standards that will adequately serve the uses in this zoning district and those who utilize their services, and at the same time, recognizes the need to protect the remaining residential areas within, adjacent and surrounding these zoning districts from the intrusion of unsightly, excessive and confusing sign usage.

(2) Healthcare Purposes Sign Definition. As used within this section, the term *Healthcare Purposes Sign* shall mean any sign located in the Medical Corridor (excluding prohibited signs) that:

- a. identifies a hospital, clinic, medical building, healthcare facility, emergency room, trauma center, healthcare provider or Ancillary Healthcare Service (as defined herein below), and/or associated parking areas located in the Medical Corridor; or
- b. provides direction to a hospital, clinic, medical building, healthcare facility, emergency room, trauma center, healthcare provider or Ancillary Healthcare Service, and/or associated parking areas located in the Medical Corridor.

For the purposes of this definition, the phrase “Ancillary Healthcare Service” shall not include restaurants, hotels, motels, churches, and gas stations.

(3) Except as provided in subsection (4) below, (2) Within the Medical Corridor and the South 27th Street Corridor, signs are permitted per developed parcel as follows:

- a. Two (2) monument type signs, provided the two (2) monument signs are located on separate public street frontages and located at least one hundred (100) lineal frontage feet apart, measured along property line, as follows:
 - i. One (1) main identification free-standing sign not exceeding forty (40) square feet in sign area nor be over twelve (12) feet in height;
 - ii. One (1) secondary identification free-standing sign not exceeding thirty-two (32) square feet in sign area nor be over eight (8) feet in height.
- b. One (1) identification wall sign placed flat against a building or designed as part of an architectural feature for each public street frontage for each developed parcel not to exceed fifty (50) square feet in sign area.
- c. Free-standing directory signs shall not exceed eight (8) square feet in sign area nor be over five (5) feet in height. Wall directory signs shall not exceed eight (8) square feet in sign area.
- d. ~~On-premise medical campus signs for properties located in the medical corridor. All signs related to the medical services located in the same medical campus shall be considered on-premise signs.~~

(4) Healthcare Purposes Signs Permitted

a. Except for those signs specifically prohibited by Section 5 below, all Healthcare Purposes Signs shall be permitted in all portions of the Medical Corridor except for the area west of North 30th Street.

b. Emergency Room and Trauma Center Signs. All Emergency Room and Trauma Center signs shall be permitted in the Medical Corridor as Healthcare Purposes Signs.

(5) Prohibited Signs and Lighting. The following signs and lighting shall be prohibited in the Medical Corridor:

- a. Strobe lights;
- b. Searchlights;
- c. Balloon signs;
- d. Portable signs;
- e. Flashing neon signs;
- f. Third party signs;

- g. Billboards;
- h. Flashing incandescent lamps;
- i. Vehicles used as signs (provided that this provision shall not be construed as prohibiting the identification of a healthcare services entity or provider);
- j. Signs projecting into Rights-of-Way;
- k. Window signs;
- l. Signs exceeding 20 (twenty) feet in height;
- m. Signs exceeding 175 square feet of area;
- n. Signs which by coloring, shape, wording or location resemble or conflict with traffic control signs or devices;
- o. Signs that create a safety hazard for pedestrian or vehicular traffic;
- p. Signs attached to or placed on a motor vehicle or trailer parked on public or private property, provided that this provision shall not be construed as prohibiting the identification of a firm or its product on a vehicle operating during the normal course of business;
- q. Any electronic reader board sign or animated sign that is otherwise prohibited by the City of Billings Sign Code.
- r. Wall signs which, individually or collectively, cover more than 25% of the surface area of any wall. The surface area of a wall shall be determined by measuring the building height and multiplying it by the length of the wall, without deduction for doors and windows.

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

Section 5. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

Section 6. 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 March 27, 2006.

PASSED, ADOPTED AND APPROVED on second reading April 10,2006.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY: _____
Marita Herold, CMC/AAE, City Clerk

ZC#775 – Amending City Sign Code – Special Circumstance Signs – Medical Corridor
and South 27th Street District

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

L

AGENDA ITEM:



**CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 10, 2006**

TITLE: Preliminary Plat of Arlene Subdivision
DEPARTMENT: Planning and Community Services, Candi Beaudry, AICP, Interim Planning Director
PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: On March 1, 2006, the City of Billings applied for preliminary minor plat approval for Arlene Subdivision, which contains three (3) lots on approximately 11.29 acres of land for residential development. Proposed Lot 1, Block 1, of the subdivision is located on the west side of Zimmerman Trail between Poly Drive (north) and Colton Boulevard (south); proposed Lots 2 and 3, Block 2, are located on the east side of the Zimmerman Trail between Poly Drive (north) and Lyman Avenue (south). The owner and representing agent is the City of Billings.

ALTERNATIVES ANALYZED: State and City subdivision regulations require that preliminary plats be reviewed using specific criteria, as stated within this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated.

FINANCIAL IMPACT: Should the City Council approve the preliminary plat, the subject property may further develop under private ownership, resulting in additional tax revenues.

RECOMMENDATION

Staff recommends conditional approval of the preliminary plat of Arlene Subdivision and adoption of the Findings of Fact as presented in the staff report to the City Council.

Approved by: City Administrator _____ City Attorney _____

ATTACHMENTS

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

INTRODUCTION

On March 1, 2006, the City of Billings applied for preliminary minor plat approval for Arlene Subdivision, which contains three (3) lots on approximately 11.29 acres of land for residential development. The subject property is surrounded by single-family residences located within the Residential 9600 zoning district.

PROCEDURAL HISTORY

- The preliminary plat application for this subdivision was submitted to the Planning Department on March 1, 2006.
- The City Council will consider the preliminary plat application on April 10, 2006.

BACKGROUND

General location:	Proposed Lot 1, Block 1, of the subdivision is located on the west side of Zimmerman Trail between Poly Drive (north) and Colton Boulevard (south); proposed Lots 2 and 3, Block 2, are located on the east side of the Zimmerman Trail between Poly Drive (north) and Lyman Avenue (south).
Legal Description:	The Remainder of the S1/2 of Tract 4, Monsma Acres; Tracts 1 and 2, Certificate of Survey 914; Tract 1, Certificate of Survey 1461; and an unplatted portion of land located in the N1/2, Section 34, T1N, R25E.
Subdivider:	City of Billings
Owner:	Same
Engineer and Surveyor:	City of Billings Engineering Department
Existing Zoning:	Residential 9600
Existing land use:	Vacant Land
Proposed land use:	Residential
Gross area:	11.29 acres
Net area:	7.165 acres
Proposed number of lots:	3

Lot size: Max: 15,463.8 square feet (0.355 acres)
Min.: 263,973.6 square feet (6.06 acres)

Parkland requirements: A parkland dedication is not required, as this is a minor subdivision.

ALTERNATIVES ANALYSIS

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

RECOMMENDED CONDITIONS OF APPROVAL

Pursuant to Section 76-3-608(4), MCA, the following conditions are recommended to reasonably minimize potential adverse impacts identified within the Findings of Fact:

1. To mitigate impacts to local services, the property will be subject to appropriate local and interior water and wastewater construction fees. The construction of a 12-inch water main in Colton Boulevard will need to be extended west from Zimmerman Trail and connected to the water main at Green Valley Drive. *(Recommended by the Public Utilities Department)*
2. The 1-foot no access strip located along the eastern boundary of Lot 1, Block 1 and along the western boundary of Lot 2, Block 2 shall be removed and a controlled access strip depicted to allow for one (1) access off of Zimmerman Trail to each lot. *(Recommended by City Engineering)*
3. To minimize effects on public health and safety, utility easements shall be provided on the plat in accordance with City Engineering specifications that easements be located along the rear and side lot lines. *(Recommended by City Engineering)*
4. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
5. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of City of Billings, and the laws and Administrative Rules of the State of Montana.

VARIANCES REQUESTED

None

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 Growth Policy, the 2005 Transportation Plan Update, and Heritage Trail Plan are discussed within the Findings of Fact.

RECOMMENDATION

Staff recommends conditional approval of the preliminary plat of Arlene Subdivision and adoption of the Findings of Fact as presented in the staff report to the City Council.

ATTACHMENTS

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

Preliminary Plat of Arlene Subdivision

BEING THE REMAINDER OF THE SOUTH ½ OF TRACT 4, MONSMA ACRES, C/S 914 TRACTS 1 and 2,
C/S 1461 TRACT 1, AND AN UNPLATTED PORTION OF LAND, ALL LOCATED IN
THE N 1/2 OF SECTION 34, T. 1 N., R 25 E., P.M.M.,
CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

VICINITY MAP
SCALE: NONE



GROSS AREA	11.292 ACRES
NET AREA	7.165 ACRES
NUMBER OF LOTS	3
MINIMUM LOT SIZE	0.355 ACRES
MAXIMUM LOT SIZE	6.006 ACRES
ROAD DEDICATION	4.127 ACRES

ATTACHMENT B
Site Photographs



Figure 1: View northeast across the property from Colton Boulevard toward proposed Lot 1, Block 1 on the east side of Zimmerman Trail



Figure 2: View west along Poly Drive (northern boundary of Lot 1, Block 1) toward the intersection of Poly Drive and Zimmerman Trail.



Figure 3: View from the southeast corner of Lot 1, Block 1 north along Zimmerman Trail. The proposed right-of-way dedication for this plat is pictured to the east (right) in the photograph).

ATTACHMENT C

Findings of Fact

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

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

1. Effect on agriculture and agricultural water user facilities

The Big Ditch is located through the center of proposed Lot 1, Block 1 and will be preserved within a 20-foot wide ditch easement, as depicted on the plat.

2. Effect on local services

- a. **Utilities** – The owners of the proposed lots will be responsible for connecting to the City water and sewer systems. Applicable System Development Fees will be required at the time of connection. The construction of a 12-inch water main in Colton Boulevard will need to be extended west from Zimmerman Trail and connected to the water main at Green Valley Drive, as required by Condition #1.
- b. **Stormwater** – As specified in the submitted Deed Restrictions, storm drainage will be provided through a combination of surface drainage, curbs and gutters, storm drain lines, and surface detention areas to be reviewed and approved by the City Engineering Department. Any drainage improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual* and will be subject to review and approval by the Engineering Department.
- c. **Solid waste** - The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- d. **Streets** - Access to proposed Lot 1, Block 1, will be via Colton Boulevard (south) Poly Drive (north) and one (1) controlled access along Zimmerman Trail. A 1-foot no access strip is depicted along the eastern border of Lot 1, Block 1 and shall be removed and replaced with a controlled access strip, as specified in Condition #2. A 1-foot no access strip has been depicted for 75-feet along the northern and southern boundaries of Lot 1, Block 1 to prevent accesses too close to the intersection of Poly Drive and Colton Boulevard with Zimmerman Trail.

Proposed Lot 1, Block 2 will be accessed from Poly Drive along the northern boundary; a 1-foot no access strip has been depicted for 75-feet to prevent access too close to the

intersection of Zimmerman Trail. A 1-foot no access strip is depicted along the western boundary of Lot 1, Block 2 to prevent any additional accesses from Zimmerman Trail.

Access to proposed Lot 2, Block 2 will be from one (1) controlled access point from Zimmerman Trail. Condition #2 requires that the 1-foot no access strip be removed and a controlled access strip be depicted along the western boundary of Lot 2, Block 2.

The City is proposing to dedicate approximately 4.127 acres as road dedication for Zimmerman Trail, including a 40-foot half width dedication along the northern and southern boundaries of the subject property for Colton Boulevard and Poly Drive.

- e. **Emergency services** - The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 604 South 24th Street West Drive (Station #5). The subdivision is located within the ambulance service area of American Medical Response.
- f. **Schools** - The subdivision is located within School District #2. No comments were received from the School District; however the subdivision was submitted for review by the local schools that will be affected by this subdivision. Students from the proposed subdivision will attend Boulder Elementary School, Will James Middle School, and Senior High School. No comments were received by the schools, as the proposed minor subdivision will not create a significant population of students. Upon development of the site or further subdivision, the impacts to schools will be greater.
- g. **Parks and Recreation** - There is no parkland dedication requirement, as this is a minor plat.

3. Effect on the natural environment

The proposed subdivision should have only minor effects on the natural environment, as there will be short term air and noise pollution associated with construction on the property. However, the property is within an urbanized portion of the city and these effects should be minimal.

4. Effect on wildlife and wildlife habitat

The proposed subdivision should not affect wildlife or habitat. There are no known endangered or threatened species on the property.

5. Effect on the public health, safety and welfare

The subdivision should not negatively affect public health or safety. The subject property is not within a mapped floodway or flood zone. There are no obvious threats to public health, safety or welfare.

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

An Environmental Assessment is not required, as this is a minor plat.

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

1. Yellowstone County-City of Billings 2003 Growth Policy

The proposed subdivision is consistent with 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 Goal, Page 6)

The proposed subdivision is consistent with the surrounding neighborhood, as single-family residences are proposed.

- b. New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites. (Land Use Element Goal, Page 6)

The subject property is surrounded on three (3) sides by single-family residential uses within the Residential 9600 zoning district; the proposed single-family residential uses are compatible.

- c. Contiguous development focused in and around existing population centers separated by open space. (Land Use Element Goal, Page 6)

The subdivision may be considered infill and does not contribute to urban sprawl.

2. Urban Area 2000 Transportation Plan Update

Zimmerman Trail through the center of the subdivision is classified as a Principal Arterial and was reconstructed in 2005. This reconstruction included widening of the street, the installation of a center island, boulevard sidewalks, and striping of a bike path on both sides. Poly Drive is classified as a Minor Arterial at this location and Colton Boulevard is a local residential street. The City is proposing to dedicate approximately 4.127 acres as road dedication for Zimmerman Trail, including a 40-foot half width dedication along the northern and southern boundaries of the subject property for Colton Boulevard and Poly Drive. No further improvements are required to any of the streets at this time.

3. Heritage Trail Plan

During the reconstruction of Zimmerman Trail, a bike lane was striped on the east and west side of the street. Poly Drive and Colton Boulevard are identified within the Heritage Trail Plan as primary bikeways and should be striped in the future; no striping is proposed with this 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 BMCC 23-304 (c) (4)]

The proposed subdivision satisfies the requirements of the Montana Subdivision and Platting Act and conforms to the design standards specified in 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? [BMCC 23-304 (c) (5)]

The property is served by municipal water, sewer, storm drain and solid waste services.

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

The subject property is located within the R-9600 zoning district and shall comply with the standards set forth in Section 27-308, BMCC.

G. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3) (c) and BMCC 23-304 9 (c) (7)]

The City Engineering Department will work with the utility companies to provide easements in acceptable locations on the plat. The City maintains that utility easements provided on front lot lines create conflicts with sanitary water and sewer lines and have requested that they be located on the rear and sides of lots for public health and safety. Condition #3 specifies that utility easements shall be provided in accordance with City Engineering specifications.

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 BMCC 23-304 9 (c) (8)]

Access to the proposed lots will be via private driveways from Zimmerman Trail, Colton Boulevard, and Poly Drive.

CONCLUSIONS OF FINDING OF FACT

- The preliminary plat of Arlene Subdivision does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2003 Growth Policy and does not conflict with the 2005 Transportation Plan Update or the Heritage Trail Plan.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

Approved by the Billings City Council, April 10, 2006

Ron Tussing, Mayor

ATTACHMENT D

Mayor's Approval Letter

April 10, 2006

City of Billings
Engineering Department
510 North Broadway, 4th Floor
Billings, Montana 59101

Dear Applicant:

On April 10, 2006, the Billings City Council conditionally approved the preliminary plat of Arlene Subdivision, subject to the following conditions of approval:

1. To mitigate impacts to local services, the property will be subject to appropriate local and interior water and wastewater construction fees. The construction of a 12-inch water main in Colton Boulevard will need to be extended west from Zimmerman Trail and connected to the water main at Green Valley Drive. *(Recommended by the Public Utilities Department)*
2. The 1-foot no access strip located along the eastern boundary of Lot 1, Block 1 and along the western boundary of Lot 2, Block 2 shall be removed and a controlled access strip depicted to allow for one (1) access off of Zimmerman Trail to each lot. *(Recommended by City Engineering)*
3. To minimize effects on public health and safety, utility easements shall be provided on the plat in accordance with City Engineering specifications that easements be located along the rear and side lot lines. *(Recommended by City Engineering)*
4. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
5. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of City of Billings, and the laws and Administrative Rules of the State of Montana.

Should you have questions please contact Aura Lindstrand with the Planning Division at 247-8663 or by email at lindstranda@ci.billings.mt.us.

Sincerely,

Ron Tussing, Mayor

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

M

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, April 10, 2006

TITLE: Final Plat of Morning Star Subdivision

DEPARTMENT: Planning and Community Services, Candi Beaudry, AICP, Interim Planning Director

PRESENTED BY: Juliet Spalding, Planner II

PROBLEM/ISSUE STATEMENT: The final plat of Morning Star Subdivision is being presented to the City Council for approval. On September 8, 2003, the City Council conditionally approved the 4-lot preliminary minor plat on 2.015 acres for commercial uses. The subject property is zoned Community Commercial and is located on the west side of Lake Elmo Drive, south of the Hilltop Road ramp. The owner is Timothy Wilson and the agent is Engineering, Inc. 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 Yellowstone County Clerk and Recorder.

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

RECOMMENDATION

Staff recommends that the City Council approve the final plat of Morning Star Subdivision.

Approved By: City Administrator _____ City Attorney _____

ATTACHMENT

A: Final Plat

ATTACHMENT A

Final Plat

PLAT OF
MORNING STAR SUBDIVISION
BEING TRACT 1A2 OF AMENDMENT OF TRACT 1A, CERTIFICATE OF SURVEY No. 1012 AMENDED
SITUATED IN THE NW1/4 OF SECTION 27, T. 1 N., R. 26 E., P.M.M.
YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : TIM WILSON
PREPARED BY : ENGINEERING, INC.
SCALE : 1"=40'

JULY, 2005
BILLINGS, MONTANA

BASE OF BEARING: CERTIFICATE OF SURVEY No. 1012 AMENDED.
• FOUND 5/8" REBAR OR REBAR WITH CAP MARKED AS NOTED.
• SET 5/8"x18" REBAR WITH CAP MARKED WITH THE LICENSE NUMBER OF THE UNDERSIGNED AND SURVEYOR AND "ENGINEERING INC BILLINGS MT".

CERTIFICATE OF DEDICATION:
STATE OF MONTANA } ss
County of Yellowstone }
I, the undersigned, hereby certify that the following described tract of land, do hereby certify that they have consented to be surveyed, subdivided and platted into lots, blocks and streets as shown on the annexed plat, said tract being situated in the NW1/4 of Section 27, T. 1 N., R. 26 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:
Beginning at a point which is the southeast corner of Tract 1A2, Certificate of Survey No. 1012, Amended; thence (S20°N), along the west right-of-way line of Lake Elmo Road, a distance of 350.41 feet, thence, bearing said right-of-way line, S 09°04'45" W a distance of 173.93 feet, thence, N 09°04'45" W a distance of 248.29 feet; thence, N 13°48'45" W a distance of 142.80 feet; thence, N 17°48'15" W a distance of 70.36 feet; thence, EAST a distance of 253.77 feet to the point of beginning.
There is no part requirement for this minor subdivision pursuant to Section 78-3-621(3)(a), M.C.A.
The undersigned hereby grants unto all utility companies, as such are defined and established by Montana Law, and code creation companies, as exempted for the location, maintenance, repair and removal of their lines over and across the areas designated on the plat as "UTILITY EASEMENT" to have and hold forever.
Said tract to be known and designated as MORNING STAR SUBDIVISION. There is no land dedication with this subdivision.

CERTIFICATE OF SURVEYOR:
STATE OF MONTANA } ss
County of Yellowstone }
The undersigned, a Montana Registered Land Surveyor being first duly sworn, deposes and says that during the month of July, 2005, it being well performed under his supervision of a tract of land to be known as MORNING STAR SUBDIVISION, in accordance with the request of the owner thereof and in compliance with the Montana Subdivision and Platting Act, said subdivision, description of boundaries and dimensions being in accordance with the Certificate of Dedication and as shown on the annexed plat; that the monuments found and set are of the character and kind and the positions shown thereon and that the gross area and net area is 87,756 square feet.

ENGINEERING, INC.
By: _____
Montana Registration No. _____
Subscribed and sworn to before me, a Notary Public in and for the State of Montana, on this _____ day of _____, 20____.

NOTICE OF PLANNING BOARD APPROVAL:
STATE OF MONTANA } ss
County of Yellowstone }
This plat has been approved for filing by the Yellowstone County Board of Planning and conforms to the recommendations of this board.
Date _____ President _____
Executive Secretary _____

SUBDIVISION IMPROVEMENT AGREEMENT:
Document No. _____

CONSENT TO PLATTING:
Document No. _____

ERRORS AND OMISSIONS REVIEW:
I hereby certify that I have examined the annexed plat for errors and omissions in calculation and drafting on this _____ day of _____, 20____.
Examining Land Surveyor _____

CERTIFICATE OF COUNTY TREASURER:
I hereby certify that all real property taxes and special assessments have been paid per 78-3-811(3)(d), M.C.A.
Date: _____
Yellowstone County Treasurer _____
By: _____ Deputy _____

CERTIFICATE OF CITY ATTORNEY:
This document has been reviewed by the City Attorney's office and is acceptable as to form.
Date: _____
Reviewed by: _____

CERTIFICATE OF APPROVAL BY CITY ENGINEER'S OFFICE:
STATE OF MONTANA } ss
County of Yellowstone }
I hereby certify that the annexed and foregoing plat conforms with Section 78-3-120(2)(d), M.C.A., for the removal of sanitary restrictions since the plat is made a master planning plat and the site will be provided with municipal facilities for the supply of water and the disposal of sewage and solid waste.
IN WITNESS WHEREOF, I have executed this CERTIFICATE OF APPROVAL this _____ day of _____, 20____.
City Engineer's Office _____

CERTIFICATE OF CITY COUNCIL APPROVAL:
STATE OF MONTANA } ss
County of Yellowstone }
We hereby certify that we have examined the annexed and foregoing PLAT OF MORNING STAR SUBDIVISION, and find that said plat conforms with the requirements of the laws of the State of Montana, and the requirements of the Yellowstone County Board of Planning. It is therefore approved and the decision to public use of any and all lands shown on this plat as being dedicated to such use are accepted.
IN WITNESS WHEREOF, we have set our hands and the seal of the CITY OF BILLINGS, MONTANA, this _____ day of _____, 20____.
CITY OF BILLINGS, MONTANA
By: _____ Mayor _____
Attest: _____ City Clerk _____

PLAT MAP
NOT TO SCALE

NEIGHBORING SUBDIVISIONS:
SMOKEY SUBDIVISION
HANSEN SUBDIVISION
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N1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 10, 2006

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

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$851,890.67 have been audited and are presented for your approval for payment. A complete listing of the claims dated March 10, 2006, 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

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

N2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, April 10, 2006

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

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$1,727,748.55 have been audited and are presented for your approval for payment. A complete listing of the claims dated March 17, 2006, is on file in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENT:

A -- List of claims greater than \$2500

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM**CITY OF BILLINGS, MONTANA****Monday, April 10, 2006**

TITLE: Public Hearing and Resolution to Revise the 2004 Annexation Policy and Map

DEPARTMENT: Planning and Community Services Department

PRESENTED BY: Candi Beaudry, Interim Director

PROBLEM/ISSUE STATEMENT: The City Council adopted the current Annexation Policy on November 22, 2004. The Policy requires the City to update the associated map whenever the Capital Improvements Plan is revised. Council approved revisions to the Capital Improvements Plan on March 27, 2006. A committee consisting of representatives from the Parks, Recreation and Public Lands, Police, Fire, Public Works, Administration and Planning Departments provided input into the development of the revised map based on the ability to serve the areas located within the Limits of Annexation. The committee also took into account the proposed Water and Wastewater Master, the 2006 Capital Improvements Plan, and individual developers' requests in developing the revised map. The text of the Policy was also modified to correct errors in the statutory citations. The committee is presenting the resolution to revise the Annexation Policy and Limits of Annexation Map to the Council for its action.

ALTERNATIVES ANALYZED: Staff considered the ability to serve areas outside the existing City limits based on existing resources and programmed improvements. The revised Limits of Annexation Map reflects these considerations but does not favor one department's ability to provide service over another department's limitation. In some areas, the extension of water and sewer were limiting factors; in other areas, law enforcement and fire protection were cost prohibitive or beyond their service area. The resulting map reflects the limits of any City department to serve an area.

FINANCIAL IMPACT: Annexation of property to the City of Billings will increase the City's tax base. At the same time, the City will bear the cost of additional service requirements. The Annexation Policy and the Limits of Annexation Map is a management tool to help balance this cost-benefit ratio.

RECOMMENDATION

Staff recommends that Council adopt the resolution to revise the Annexation Policy and Limits of Annexation Map.

Approved By: **City Administrator** ____ **City Attorney** ____

ATTACHMENTS

A. Resolution

INTRODUCTION

The Annexation Policy adopted in 2004 requires the City to update the Limits of Annexation map whenever the Capital Improvements Plan (CIP) is revised. The City Council approved an administrative revision to the CIP on March 27, 2006. A committee consisting of representatives from City Departments reviewed the existing map and is forwarding recommend changes to the City Council. The committee considered requests from developers to annex to the City of Billings, the changes included in the CIP, and the impacts on City services. The guiding principal for recommendation was to not increase costs to the City that were not already programmed.

PROCEDURAL HISTORY

- November 22, 2004, Annexation Policy and Limits of Annexation Map adopted by City Council
- March 20, 2006, Recommended revisions to the Annexation Policy and Limits of Annexation Map presented to City Council at work session
- March 27, 2006, Proposed FY 2007 Modifications to the CIP approved by City Council
- April 10, 2006, Public Hearing and Resolution revising the Annexation Policy and Limits of Annexation Map presented to City Council for action

BACKGROUND

The City of Billings annexed over six square miles in the past 6 years (32.8 to 39.1 sq. mi.). Many of those annexations required a considerable outlay of City funds to ensure acceptable levels of service to the annexed properties and maintain the levels of service within the existing City limits. As these properties developed, the cost of providing certain services exceeded the revenue generated by the development. For this reason, the City Council requested staff to draft an Annexation Policy that would recommend limiting annexations to areas that could be served without incurring additional costs. The adopted policy established three limits of annexation. The red area coincides with the immediate five years covered by the CIP and defines an area where annexation petitions would be supported. The second time period, designated as orange, covers the next ten years for areas that City services may be extended but would require additional funding to support those services. The third area, shown in yellow, is not defined by a time period but is considered “uncertain” due to lack of information regarding the feasibility and costs of extending services.

ALTERNATIVES ANALYSIS

City staff considered the proposed revisions to the Capital Improvements Plan, revisited the 2004 map to confirm or modify previous recommendations and reviewed specific landowner requests in making recommendations to Council.

With the exception of adding a revenue source for an annual program of reimbursement, the CIP did not alter the map.

Two areas on the map were changed as a result of new information. The first change is located south of the Yellowstone River along Blue Creek Road. This area was changed from orange to red, indicating that the City is capable of providing all services now that the sewer line will be extended to Briarwood Subdivision. Also in this area, the subdivision referred as “Blaine’s Trailer Court” was removed from any designation. The existing infrastructure and development is substandard and would be extremely difficult to bring into compliance with City standards.

The other area that was changed due to new information encompasses the land west of 70th Street West to the railroad. This area was previously outside the limits of annexation; it is now classified as “uncertain” (yellow). The new classification corresponds with the proposed Water and Wastewater Master Plan service area.

Staff received six requests from individual property owners to include their properties in the 2006 - 2012 limits of annexation (red). Four of these properties are recommended for inclusion in the 2006 -2012 classification. The remaining two are classified for future annexations or uncertain annexations. The recommendations for each property are detailed below:

1. Kunkel/Krieg Property: 156.8 acres located at the southeast corner of the intersection of King Avenue and 48th Street West. Previously classified as orange (2012 – 1026). Now recommended to be reclassified as red (2006 – 2012). Public Works Department supports this change because the owner has agreed to pay for extension of sewer and water lines and enter into a reimbursement agreement with the City. Administration, Planning, Parks, Fire and Police Departments concur.
2. Frank Property: 78.75 acres located near the southwest corner of the intersection of Grand Avenue and 56th Street West. A portion of the property was previously classified as red, the remainder was orange. Staff recommends changing classification of entire property to red. Public Works Department supports this change because the owner has agreed to pay for extension of sewer and water lines and enter into a reimbursement agreement with the City. Administration, Planning, Parks, Fire and Police Departments concur.
3. Staley and Forbes (Westward Ho) Properties: 116.2 acres located north of Rimrock Road, north of 70th Street West. Previously unclassified, now recommended to be classified as “uncertain”. Staff cannot support reclassifying these properties as red because it is unknown what infrastructure is required to provide sewer and water and because it lies beyond the response time area for the Fire Department. This designation could change in the future when the Water and Wastewater Master Plan is completed and when the new fire station on 54th Street West is operational.
4. 4A’s Property: 19 acres located west Highway 87, north of Pemberton Drive. Previously classified as orange. The property is split by the City limits and the south portion is served by the City. The split jurisdiction poses some problems to the landowner for developing the property as a whole. Staff has no objection to the entire parcel being included in the City limits.
5. Dover Ranch Property: 402 acres located north of Skyview High School and west of Annendale Road. Previously classified as orange. Staff cannot support reclassifying

these properties as red because it is unknown what infrastructure is required to provide sewer and water. This designation could change in the future when the Water and Wastewater Master Plan is completed.

6. Larson and Long Properties: 74 acres located north of ZooMontana and west of Shiloh Road. Previously classified as orange. Staff cannot support reclassifying these properties as red because it is unknown what infrastructure is required to provide sewer and water. This designation could change in the future when the Water and Wastewater Master Plan is completed.

STAKEHOLDERS

Written requests for including property within the 2006 – 2012 Limits of Annexation time frame (red), were received from the property owners. These requests were distributed to the representatives from City departments for their review and comment. The staff recommendations are summarized in the **Alternatives Analysis** section.

RECOMMENDATION

Staff recommends that Council adopt the resolution to revise the Annexation Policy and Limits of Annexation Map.

ATTACHMENTS

- A. Resolution

RESOLUTION NO. 06 - _____

A RESOLUTION OF THE CITY OF BILLINGS, MONTANA
PURSUANT TO ARTICLE II. CITY BOUNDARIES, MCA 7-1-
114(1)(a); ANNEXATION PROCEDURES, MCA 7-2-4201 ET
SEQ. AND SETTING FORTH AN ANNEXATION POLICY;

WHEREAS, the City Council adopted the City of Billings Annexation Policy by
Resolution on November 22, 2004; and

WHEREAS, the Policy states that the Map shall be revised whenever the Capital
Improvements Plan is revised; and

WHEREAS, the City Council approved the FY 2007 Modifications to the Capital
Improvements Plan on March 27, 2006.

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

That the City Council now makes and adopts the following

ANNEXATION POLICY
Revised, April 10, 2006

1. Statement of Intent

The City of Billings intends to permit the annexation of land as to provide for orderly growth, adequate provision of municipal services, and equal benefits to both the annexed territory and existing City properties.

2. Policy Statement

The City Council shall consider land annexations that adhere to the provisions specified in Montana Annexation Statutes (7-2-4201 through 7-2-4761, MCA) and the Billings Municipal City Code, Section 26-204 and Sections 20-301 through 305. The Council may approve, deny or conditionally approve petitions or initiatives for annexation based on the following criteria:

- The area must be located within the Limits of Annexation as defined herein and within the Urban Planning Area;
- The City must be able provide adequate city services within a time period mutually agreed to by the property owners requesting annexation and the City;
- Existing or proposed public improvements within the area to be annexed must meet City standards;

- All property owners within the area to be annexed must sign a Waiver of Right to Protest the creation of Special Improvement Districts;
- All residential property owners within the area to be annexed must create or join an existing park maintenance district;
- Residential densities within the area to be annexed must equal or exceed four dwelling units per acre; and
- The proposed land use within the area to be annexed must conform to the goals of the City of Billings and Yellowstone County Growth Policy.

3. Limits of Annexation

Map (attached) - The City shall prepare a map showing limits of annexation for three time periods. The first time period shall cover five years and coincide with the time period of the existing Capital Improvements Plan. The second time period shall cover fifteen years beginning after the last year of the existing Capital Improvements Plan. The last period shall begin after the last year of the second time period and the ending year shall be considered long range and remain undefined.

A map update shall be prepared for Council consideration whenever the Capital Improvements Plan is revised. Map updates will be recommended to City Council by a committee of representatives from City Administration, Collection and Distribution Division, Engineering Division, Fire Department, Parks Department, Planning Division, Police Department.

Rationale. In preparation of the map, the committee shall consider and document for Council:

- distance from existing city services and response times;
- capacity and location of existing facilities and future upgrades or construction of new facilities;
- cost of city services;
- effect on existing residents; and
- conformance with all adopted plans including the Growth Policy, West Billings Plan, Heritage Trails Plan, and sewer, and water and storm sewer plans.

The Council will then determine and approve appropriate Limits of Annexation consistent with the adopted Annexation Policy.

4. Obligation of City

The City may choose to annex any property in accordance with the provisions of the following state statutes:

- Annexations of Additions to Municipalities (7-2-4201 et. seq., MCA)
- Annexations of Contiguous Land (7-2-4301 et. seq., MCA)
- Annexations of Contiguous Government Land (7-2-4401 et. seq., MCA)
- Annexations of Wholly Surrounded Land (7-2-4501 et. seq., MCA)
- Annexation by Petition (7-2-4601 et. seq., MCA)

- Annexation with the Provision of Services (7-2-4701 et. seq., MCA)

The City may decide to condition the approval of the annexation in order to meet the criteria listed under the Policy Statement. The conditions of approval must be clearly stated in the resolution of annexation. In the case where the property to be annexed is not developed, the conditions of approval shall include a requirement for; a) a development agreement prior to the issuance of a building permit, or b) a subdivision improvements agreement at the time of final subdivision plat approval. In the event the property is developed and contains public improvements that are not constructed to city standards, the City shall require an annexation agreement. The agreement shall specify which public improvements are to be upgraded and/or installed to city standards, and a time period and mechanism to finance the construction and installation of those improvements. In any case, all public improvements, whether existing or proposed, shall meet city standards.

5. Obligation of Petitioner

Petitions for annexation must comply with the provisions of Annexation by Petition (7-2-4601 et. seq., MCA) and Section 26-204 and Sections 20-301 through 305, BMCC. A fee, to be established by the City Administrator, must be paid at the time the petition is submitted. If the area to be annexed is not developed, petitioners are required to comply with the conditions of approval prior to the issuance of a building permit or at the time of final subdivision plat approval. If the area to be annexed is developed and requires the construction or installation of public improvements, the petitioner must enter into an annexation agreement prior to the City Council acting on the resolution of annexation.

APPROVED AND PASSED by the City Council of the City of Billings, this 10th day of April, 2006.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing MAYOR

ATTEST:

BY: _____
Marita Herold, CMC/AAE City Clerk

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 10, 2006

TITLE: Public Service Report, Public Hearing and Resolution for
Annexation No. 06-02, 4A's Property

DEPARTMENT: Planning and Community Services Department

PRESENTED BY: Juliet Spalding, Planner II

PROBLEM/ISSUE STATEMENT: 4A's, LLC is requesting approval of the petition to annex a 19-acre parcel described as a portion of Certificate of Survey 2776. The property is located on the west side of Highway 87, north of its intersection with Main Street in the Heights. The owners, 4A's, LLC, Dean Luptak, Secretary, are requesting annexation in accordance with 7-2-4601 et. seq., MCA, in order to obtain municipal sewer and water for development of the property. This public service report describes the City's capacity to serve the proposed development.

ALTERNATIVES ANALYZED: The City Council may approve or deny a petition submitted by owners of 50% of the real property in the area to be annexed (7-2-4601 (3)(b), MCA).

FINANCIAL IMPACT: The City can provide service to this property. The annexation will increase the City's tax base, and depending on final use of the property, the costs of providing service to the property may or may not outweigh the revenues generated from property tax.

RECOMMENDATION

Staff recommends that City Council approve the Resolution of Annexation with the following conditions:

1. That prior to development of the site the following shall occur:
 - a. A Development Agreement shall be executed between the owner(s) and the City that shall stipulate specific infrastructure improvements and provide guarantees for said improvements; or

- b. A Subdivision Improvements Agreement (SIA) and Waiver of Protest the Creation of future SID's shall be approved and filed that stipulate specific infrastructure improvements and provide guarantees for such infrastructure improvements. The subdivider will be responsible for forming a new or joining an existing Park Maintenance District at the time of subdivision.

Approved By: **City Administrator** _____ **City Attorney** _____

ATTACHMENT

A. Resolution

INTRODUCTION

The owner submitted a petition for annexation for a 19-acre property located on the west side of US Highway 87 North, just north of its intersection with Main Street on February 13, 2006. The property is currently zoned Community Commercial and will likely be developed as a mixed use development.

PROCEDURAL HISTORY

- February 13, 2006– 4A's, LLC submitted Petition for Annexation
- March 27, 2006 – City Council acknowledges Petition for Annexation
- April 10, 2006 – City Council holds public hearing for Annexation Petition.

BACKGROUND

The subject property is a portion of Tract 1 of Certificate of Survey 2776. The remaining portion of that survey (land to the south) was annexed in 1980, leaving this parcel split jurisdictional. The property is currently vacant, but the owners are exploring its development options at this time, and would like the ability to extend City services to the entire parcel. Possible development ideas that the owners are exploring include situating a mix of medium to higher density housing and light commercial uses on the parcel.

ALTERNATIVES ANALYSIS

The City Council has expressed concerns about how annexations may affect the City's ability to provide services to annexed property without diminishing the services provided to existing City residents. To address these concerns, Council adopted an annexation policy that lists criteria for suitable annexations. The proposed annexation *complies* with the recently adopted Annexation Policy criteria as follows:

1. The area is located within the Limits of Annexation and within the Urban Planning Area.
2. The City is able to provide adequate services.
3. The proposed improvements will meet City standards.
4. Upon approval of the final subdivision plat, the owners will sign a Waiver of Right to Protest the Creation of Special Improvement Districts.
5. Upon approval of the final subdivision plat, the owners will form a Park Maintenance District if residential development is proposed.
6. Residential densities will be at least 4 dwelling units per acre.
7. The proposed annexation meets the goals of the City-County Growth Policy.

Although MCA 7-2-4600 allows the municipality to waive the requirement of an annexation public services plan, it is the City's custom to have staff prepare a brief analysis of predicted impacts to services and facilities. State law lists the required contents of a public services plan including a 5-year (minimum) plan that outlines how and when services and infrastructure will be extended to the annexed area and how they will be financed. This report follows that general format.

Departmental Response: City departments were given the opportunity to comment on this annexation. School District #2 and Yellowstone County were also notified of this annexation. All City departments responded favorably; the Planning Department points out that the proposed update of the Limits of Annexation Map includes this parcel in the immediate annexation area. The Police Department points out that continued annexations and development can potentially affect service. No comments were received from School District #2 or Yellowstone County.

City Facilities: The following improvements and facilities are necessary to provide adequate services to the subject property.

Water: Water service can likely be extended from an existing line in Pemberton Lane. The Heights Water District provides water this area and will evaluate serving the property at the time of development.

Sewer: There is an 8" and 10" sanitary sewer line in Pemberton Lane to the south of the subject property that could be used to serve the future subdivision.

Storm water: There is a 30" City storm water line in the Main Street and a 15" Holling Drain lateral that crosses the property. Storm water management will be evaluated at the time of further development of the property.

Transportation: The subject property fronts US Highway 87 North on the west. The 2005 Billings Urban Transportation Plan Update classifies Highway 87 North as a principal arterial. Also, Pemberton Lane, which lies just to the south is classified as a collector street, and the future North Bypass is shown hypothetically within a mile north of the property. These roads will provide access to the future development of the property. Impacts on the surrounding street network will be evaluated at the subdivision stage. Subdividers are required to pay their proportionate share of off-site street improvements identified in a Traffic Accessibility Study.

Fire Station: The study area is within the Billings Urban Fire Service Area and currently served by the Billings Fire Department. Fire protection will continue to be provided to this property after annexation from Fire Station No. 6 at 1601 St. Andrews.

Parks: No detailed plans were provided on the future provision for parks and recreation. The City Parks, Recreation and Public Lands Department did not comment on this annexation request, however, when the owners submit an application for the future subdivision PRPL will be given additional opportunity to comment. Lake Elmo State Park lies within ½ mile of the subject property.

Bicycle and pedestrian facilities: The area proposed for annexation is not affected by the Heritage Trail Plan.

General City Services: These are the City services that are provided to all residents and businesses in the City, such as police and fire protection, street and storm drain maintenance, and garbage collection and disposal. The service providers that responded did not object to the annexation of this property.

Transit: MET serves this area with routes that travel down Pemberton Lane, just south of the subject property. MET had no problem with the petition to annex.

Fire: The property is currently within the Billings Urban Fire Service Area (BUFSA) and is served by the Billings Fire Department. After annexation, the Billings Fire Department will continue to serve this area. The Fire Department did not object to this annexation.

Police: The Police Department responded that continued annexations and development can potentially affect service.

Ambulance Service: The City does not provide ambulance service but dictates the level of service provided by American Medical Response (AMR). By City ordinance, 90% of ambulance calls must be answered within 8 minutes. This annexation is within the area of acceptable response time.

Legal and Finance: General Fund services such as Legal and Finance have indicated that they will not be negatively impacted.

Other Departments: City/County services such as Library, Planning, and Environmental Health are only slightly affected by the annexation since they will serve new development if it is in the City or if it remains in the County.

STAKEHOLDERS

The annexation by petition method does not require notification of adjoining landowners but does require the City Council to hold a public hearing. Notice of the public hearing was posted on the property and published in the Billings Times. The Planning Division has received no comments on this proposed annexation.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

The property is within the area covered by the 2003 Growth Policy and the recently adopted Heights Neighborhood Plan. The proposed development is consistent with the applicable land use goals of these Plans in the following manner:

2003 City-County Growth Policy

1. New developments that are sensitive and compatible with the character of adjacent City neighborhoods.
2. Contiguous development focused in and around existing population centers separated by open space.
3. Affordable housing for all income levels dispersed throughout the City.
4. More housing and business choices (mixed uses) within each neighborhood.

2006 Heights Neighborhood Plan

1. Prohibit high intensity commercial development in residential areas. Provide less intensive commercial development on arterial intersections within residential neighborhoods.
2. Encourage economic development through improvements to Main Street.
3. Encourage the annexation of county parcels into the City of Billings.

4. Provide housing and commercial development compatible with existing development.

RECOMMENDATION

Staff recommends that City Council approve the Resolution of Annexation with the following conditions:

1. That prior to development of the site the following shall occur:
 - a. A Development Agreement shall be executed between the owner(s) and the City that shall stipulate specific infrastructure improvements and provide guarantees for said improvements; or
 - b. A Subdivision Improvements Agreement (SIA) and Waiver of Protest the Creation of future SID's shall be approved and filed that stipulate specific infrastructure improvements and provide guarantees for such infrastructure improvements. The subdivider will be responsible for forming a new or joining an existing Park Maintenance District at the time of subdivision.



ATTACHMENT

A. Resolution

RESOLUTION NO. 06-

A RESOLUTION OF THE CITY OF BILLINGS
APPROVING PETITIONS FOR ANNEXATION
AND ANNEXING TERRITORY TO THE CITY.

WHEREAS, one hundred percent (100%) of the freeholders who constitute more than fifty percent (50%) of the resident freeholder electors have petitioned the City for annexation of the territory hereinafter described; and

WHEREAS, the territory was described in the Petition as required by law, and

WHEREAS, annexation of said territory would be in the best interest of the City.

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

1. TERRITORY ANNEXED. Pursuant to Petition filed as provided M.C.A., Title 7, Chapter 2, Part 46, the following territory is hereby annexed to the City of Billings:

A tract of land situated in the SE1/4 of Section 10 and the SW1/4 of Section 11, T.1N., R.26E., P.M.M., Yellowstone County, Montana, more particularly described as:

Certificate of Survey 2776, a partition of Tract 1, Recorded September 3, 1993, Under Document No. 1702477, Records of Yellowstone County, Montana, less that portion of Tract 1 previously annexed as Tract 1 of Certificate of Survey 1965 Recorded January 21, 1980, Under Document No. 1154541, Records of Yellowstone County, Montana, annexed by City of Billings Resolution No. 84-14768 passed and approved by City Council December 17, 1984; including all adjacent right-of-way of U.S Highway No. 87

and existing U.S. Highway No. 87 right-of-way south of proposed Annexation wholly surrounded by City of Billings city limits.

Containing 22.516 gross and 19.038 net acres, more or less.

(# 06-02) See Exhibit "A" Attached

2. CONDITIONS. The annexation is approved subject to the following conditions:

That prior to development of the site the following shall occur:

- a. A Development Agreement shall be executed between the owner(s) and the City that shall stipulate specific infrastructure improvements and provide guarantees for said improvements; or
- b. A Subdivision Improvements Agreement (SIA) and Waiver of Protest the Creation of future SID's shall be approved and filed that stipulate specific infrastructure improvements and provide guarantees for such infrastructure improvements. The subdivider will be responsible for forming a Park Maintenance District at the time of subdivision.

3. PROCEDURE. All procedures as required under M.C.A., Title 7, Chapter 2, Part 46, have been duly and properly followed and taken.

PASSED by the City Council and APPROVED this 10th day of April, 2006.

THE CITY OF BILLINGS:

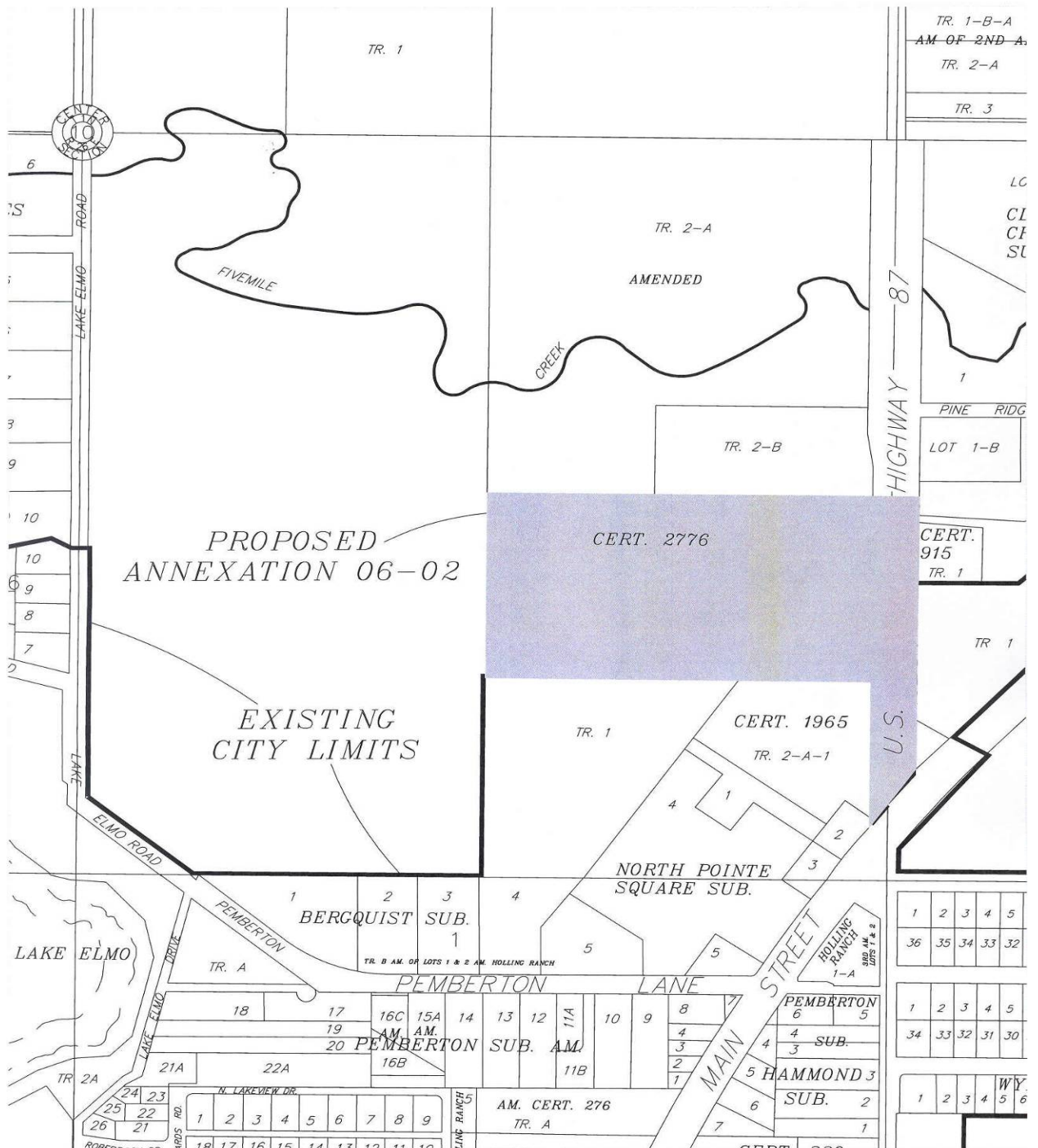
BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Marita Herold, CMC/A AE CITY CLERK

(AN 06-02)

EXHIBIT A



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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM**CITY OF BILLINGS, MONTANA****Monday, April 10, 2006**

TITLE: Public Hearing and Resolution to Approve the Frank Property Urban Planning Study and Expand the Urban Planning Area

DEPARTMENT: Planning and Community Services Department

PRESENTED BY: Candi Beaudry, AICP, Interim Director

PROBLEM/ISSUE STATEMENT: Douglas and Ronald Frank are requesting expansion of the Billings Urban Planning Area to include Tracts 1 and 2, Certificate of Survey No. 3139, Tract 1, Certificate of Survey No. 2379, and two unplatted tracts containing 79 acres. The property is located near the southwest corner of Grand Avenue and 56th Street West intersection. This request precedes a request for annexation, zone change and subdivision of this parcel. The expansion of the Urban Planning Area is required prior to annexation and provision of City services. The Yellowstone County Board of Planning is required to recommend whether the Urban Planning Area should be expanded or not based on whether the City can safely and effectively serve this property within a ten-year period. Upon recommendation by the Planning Board, the City Council will hold a public hearing to receive comments and make the final determination to include this property in the Urban Planning Area.

City Council denied a similar request to expand the Urban Planning Area on June 27, 2005, because the property did not lie within the acceptable Limits of Annexation as defined by the Council's Annexation Policy. Upon approval of the updated Annexation Policy, this property will be located within the short-term Limits of Annexation.

ALTERNATIVES ANALYZED: The City Council may approve or deny the request to accept the Frank Property Urban Planning Study and expand the Urban Planning Area pursuant to Article 20-305, BMCC.

FINANCIAL IMPACT: The approval or denial of the proposed Frank Property Urban Planning Study and the expansion of the Urban Planning Area does not commit the City to any expenditure of public funds.

RECOMMENDATION

The Planning Board voted 9 – 0 to recommend that Council hold a public hearing and approve the request to accept the Frank Property Urban Planning Study and to expand the Urban Planning Area to include Tracts 1 and 2, Certificate of Survey No. 3139, Tract 1, Certificate of Survey No. 2379, and two unplatted tracts.

Approved By: **City Administrator** _____ **City Attorney** _____

ATTACHMENTS

- A. Vicinity Map
- B. Map of the Frank Property
- C. Photographs of Site
- D. Resolution

INTRODUCTION

The Urban Planning Area is defined as “that area established by the City of Billings for the purpose of planning for future growth of the City of Billings within approximately a ten-year period. No City services will be provided outside the Urban Planning Area.” Developments seeking the provision of City services, including water, sewer, street maintenance, police and fire protection, must lie within the Urban Planning Area. If the property is located outside of this area, the applicant is responsible for preparing an Urban Planning Study to demonstrate that the City can safely and efficiently provide services to the property. The County Planning Board reviews and makes a recommendation on whether to approve or deny the request to expand the Planning Area. City Council is responsible for holding a public hearing and acting on the request by resolution.

PROCEDURAL HISTORY

- April 22, 2002 - Expansion of the Urban Planning Area to encompass a small portion of the Frank property.
- March 28, 2006 – Recommendation by County Planning Board to approve expansion of the Urban Planning Area to include the Frank property.
- April 10, 2006 – City Council holds public hearing and acts on the request to expand Urban Planning Area.
- April 10, 2006 – City Council holds public hearing and acts on the petition to annex the subject property.

BACKGROUND

The Urban Planning Study for the Frank property was submitted to the Planning Department for review and approval as a prerequisite to expanding the Urban Planning Area boundary and subsequent annexation. An Urban Planning Area is the area established by the City for the purpose of planning for future growth of the City within approximately a ten-year period. The study identifies the impacts to City services and the natural environment, and the feasibility of extending services within the area. Article 20-305, BMCC gives City Council authority to expand the boundaries of the Urban Planning Area after receiving a recommendation from the Planning Board and holding a public hearing. The owners, Douglas and Ronald Frank, requested the expansion of the Urban Planning Area. The study area includes a 79 acres parcel located at the southwest corner of the intersection of Grand Avenue and 56th Street West. The area is contiguous with the City limits for approximately 350 feet along Grand Avenue. It is surrounded by County property to the east, west and south.

Population and Land Use

The study area is currently used for agricultural purposes. A development conceptual plan for the Frank property was not submitted, but the Study indicates future development would include

a combination of Residential Multi-Family, Residential-9,600 and Residential 7,000. The development is expected to contain approximately 632 people upon full buildout.

Streets, Transportation, Traffic Circulation and Generation

The study area adjoins Grand Avenue, a principal arterial, to the north, 56th Street West, also a principal arterial, to the east, and Broadwater Avenue, a collector, to the south. Each street is expected to be affected by future development as are 58th Street West, a collector and 54th Street West, a minor arterial. It is estimated that the development would produce approximately 1,063 trips on an average weekday. The Urban Planning Study indicates that the connecting street system has sufficient capacity for the additional residential units.

Because there is no conceptual plan for this development, the location of approaches to the principal arterials is unknown. There are no existing rights-of-way that intersect the property frontage, therefore future approaches would be offset from existing intersections.

Storm Water Management, Sewer, and Water

The Birely Drain runs through the west portion of the property from north to south before existing the property at the south edge. There are no City storm water facilities in the vicinity. Nearby subdivision developments have discharged storm water into the Birely Drain.

Water and sanitary sewer exists at the corner of 58th Street West and Grand Avenue. However, because of the topography of the property, it is expected that gravity sewer service to the existing sewer line would only be available from approximately 300 feet south of Grand. The developers expect to gravity flow to the southern end of the property and continue to the Vintage Estates Subdivision Lift Station, approximately ½ mile to the east. The developers would pay their proportionate share for using the lift station. The Study indicates that a 12" water line would be extended from the existing main located at the intersection of 58th Street West and Grand Avenue.

Solid Waste, Public Safety, Parks, and Recreation

There is a single residence on the property, although it is unknown if they receive solid waste collection services. If the residents haul their own waste, the City would provide solid waste service upon annexation and development. Regardless, the City would provide solid waste service to the remainder of the property now used for agricultural purposes.

The study area is within the Billings Urban Fire Service Area and currently served by the Billings Fire Department. Interim fire protection will be provided to this property after annexation from Fire Station No. 3 at Parkhill and 17th Street West and Fire Station No. 5 at 24th Street and Rosebud prior to the construction of a new station. Land has been purchased for a new fire station at the intersection of Grand and 54th Street West. The station is scheduled for construction in 2008 and will service this area at that time. Based on 2002 statistics, the Fire Department responded to approximately 85 incidents per 1000 people. At this level of impact, the development could generate approximately 46 incidents per year at full buildout.

Emergency medical services is provided by Deaconess Hospital, approximately 8.0 miles from the area at 2813 9th Avenue North, and St. Vincent's Hospital, approximately 7.6 miles from the area at 1233 North 30th Street. There are also emergency outpatient and walk-in treatment facilities on 24th Street West.

Ambulance service is contracted with American Medical Response (AMR). AMR is required to provide to respond to emergency calls to all locations within the corporate limits of the City within eight minutes or less on at least ninety percent of such calls. As the City limits stretch further westward, the ability of AMR to meet this requirement becomes increasingly difficult. Currently, AMR has no difficulty in meeting this requirement as it applies to this area.

Police protection will be provided by the City of Billings Police Department. While the Police Department has previously indicated that expansion of City limits negatively affects staffing and budget, they do not have specific concerns with the annexation of this property.

The study area lies within the influence area of the future Cottonwood Park, located approximately 1 mile to the northeast. The future subdivision would contribute cash-in-lieu of parkland for the development of Cottonwood Park and participate in a Park Maintenance District for the continued maintenance.

Schools

Elementary students would attend Central Heights Elementary School with a current enrollment of 339 students. Middle school students would attend Will James Middle School with an enrollment of 561 students and an ideal capacity of 690 students. High school students would attend Billings West High. West High has an enrollment of 2,101 but has an ideal capacity of only 1,400 students. School District #2 was notified of this application but has submitted no comment regarding the impacts to local schools or school transportation.

Effects of Urbanization on Existing Environment and Agriculture

The study area contains a single residence and the remainder is currently being used for agricultural purposes. Future development would convert roughly 45 acres of agricultural property to moderate to high density residential land use.

The property immediately north of the study area is currently being developed for single family and duplex residential lots. However, before that development was constructed, the typical pattern of development was large lot, ranchette-style residential. With the extension of City sewer and water along Grand and 58th Street West, the west Billings area is becoming increasingly higher density and urbanized. The City Annexation Policy and accompanying Limits of Annexation map provides some guidance to the Planning Board and City Council when reviewing requests for annexation in this area. The overriding intent of the policy was to limit annexation to areas that can be immediately served by existing services without added costs to the City. In the absence of a development plan, it can only be presumed that the request to expand the Urban Planning Area is consistent with this policy in the following ways:

- The proposed improvements meet City standards.
- Upon approval of the final subdivision plat, the owners will sign a Waiver of Right to Protest the Creation of Special Improvement Districts.
- Upon approval of the final subdivision plat, the owners will form a Park Maintenance District.
- Residential densities will be at least 4 dwelling units per acre.
- With the exception of being partially contiguous to existing City limits, the proposed annexation meets the goals of the City-County Growth Policy.

An update of the Annexation Policy map will be presented to City Council on April 10, 2006 for their approval. The update includes this property in the near-term Limits of Annexation. This is a change from the previous map adopted in 2004. During the interval between the 2004 and 2006, the City agreed to the construction of a sewer lift station in Legacy Subdivision. This lift station would be paid for and constructed by the developer of that subdivision. The lift station is designed to handle volume from a specific area that includes the subject property. The developers of the subject property would reimburse the developers of the lift station on a proportionate basis. Because of this arrangement, there would be no additional cost to the City for developing the subject property.

If the Council approves the updated version of the Annexation Policy Map, the subject property would be within the new Limits of Annexation.

The recently adopted Northwest Shiloh Land Use Plan also provides guidance as to the preferred future development patterns of this area. The study area falls within an area suitable for urban densities of 1 dwelling unit per 9,600 square feet as identified in the plan.

There are two other land use plans that guide development in the vicinity of the study area; The West Billings Plan and the 2003 Growth Policy.

The Urban Planning Area expansion is consistent with the following Growth Policy goals:

- Affordable housing for all income levels dispersed throughout the City and County (Land Use Element Goal, page 6).
- More housing and business choices within each neighborhood (Land Use Element Goal, page 6)

The Urban Planning area expansion partially meets these goals:

- New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites (Land Use Element Goal, page 6). *The study area is partially adjacent to a similar land use pattern, although is higher density than the older, County development.*

- Contiguous development focused in and around existing population centers separated by open space (Land Use Element Goal, page 6). *The study area is only slightly contiguous to noncontiguous City territory.*

The annexation is generally consistent with the West Billings Plan's policies in that it falls in an area identified for residential land use.

If subdivided, the property could contribute to implementing the 2005 Transportation Plan by extending Broadwater Avenue by approximately 1/3 mile. In any event, Grand Avenue and 56th Street West would remain as arterial streets, as shown in the plan.

Soil, Geology and Topography

The soils in the study area are known to be problematic based the 1973 Yellowstone County Soil Survey. These studies found the area soil consists of sandy loam and loam and are described as having low to moderate stability. The area is generally flat but slope slightly towards the southeast.

A recently prepared Flood Hazard Area Map shows the study area to lie within the potential 100-year floodplain. This map is based on approximate data only and cannot be considered a final delineation of the floodplain. The exact location of the floodplain may change if more precise data were available. Widening the Birely Drain for stormwater retention and possible flood storage could alleviate the potential for flooding in this area.

Historic Sites and Wildlife

The Urban Planning Study did not identify any existing historic assets in the vicinity other than an unnamed trail indicated on an 1883 general land office map. The trail could not be verified in the field.

Development Timetables

The timetable for the development of the study area began with the submission of the Urban Planning Study and concurrent petition for annexation. The Planning Board made a recommendation on the Urban Planning Area expansion on March 28, and the City Council will hold a public hearing and make a final determination on April 10, 2006.

Method of Funding Public Improvements and Sources

On-site improvements will be constructed and paid for by the developer. The developer is also responsible for paying all applicable water and wastewater connection fees and charges. The actual mechanism for payment and financial guarantee of offsite public improvements associated with the Frank property will be determined during subdivision review. Prior to any development, the Subdivision Improvements Agreement shall be approved and recorded with the subdivision plat. The SIA will stipulate specific infrastructure improvements and provide for financial security for such infrastructure improvements.

Extending water, and possibly sewer service to this property would require the City to participate in the cost of upsizing the mains.

Taxes generated by the proposed and future development of this property will go towards support of all local government functions such as schools, police and fire protection, street maintenance, City and County administration and parks. Studies have demonstrated that tax revenue generated from residential subdivisions generally do not pay for the cost of providing services.

ALTERNATIVES ANALYSIS

Pursuant to Sec. 26-203, BMCC, areas to be annexed must be located within the Urban Planning Area prior to annexation and the provision of water and sewer service. Council may approve or deny the application to expand the Urban Planning Area after determining whether City services may be safely and efficiently extended to this area.

STAKEHOLDERS

The County Planning Board considered the application for expansion of the Urban Planning Area on March 28, 2006. The Board discussed the advantages and disadvantages of this application and recommended approval.

RECOMMENDATION

The Planning Board voted 9 – 0 to recommend that Council hold a public hearing and approve the request to accept the Frank Property Urban Planning Study and to expand the Urban Planning Area to include Tracts 1 and 2, Certificate of Survey No. 3139, Tract 1, Certificate of Survey No. 2379, and two unplatted tracts.

ATTACHMENTS

A. Vicinity Map

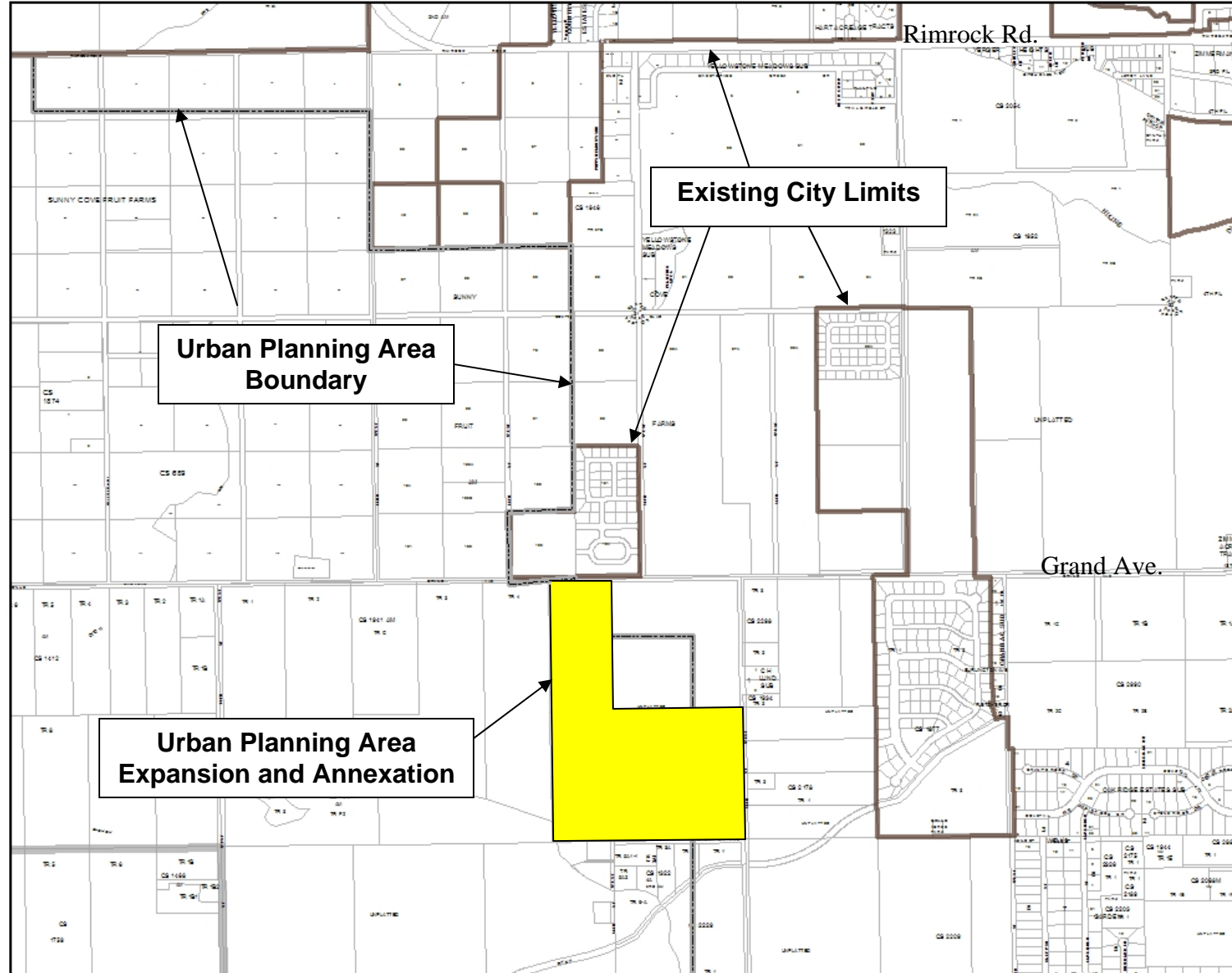
B. Map of Frank Property

C. Photographs of Site

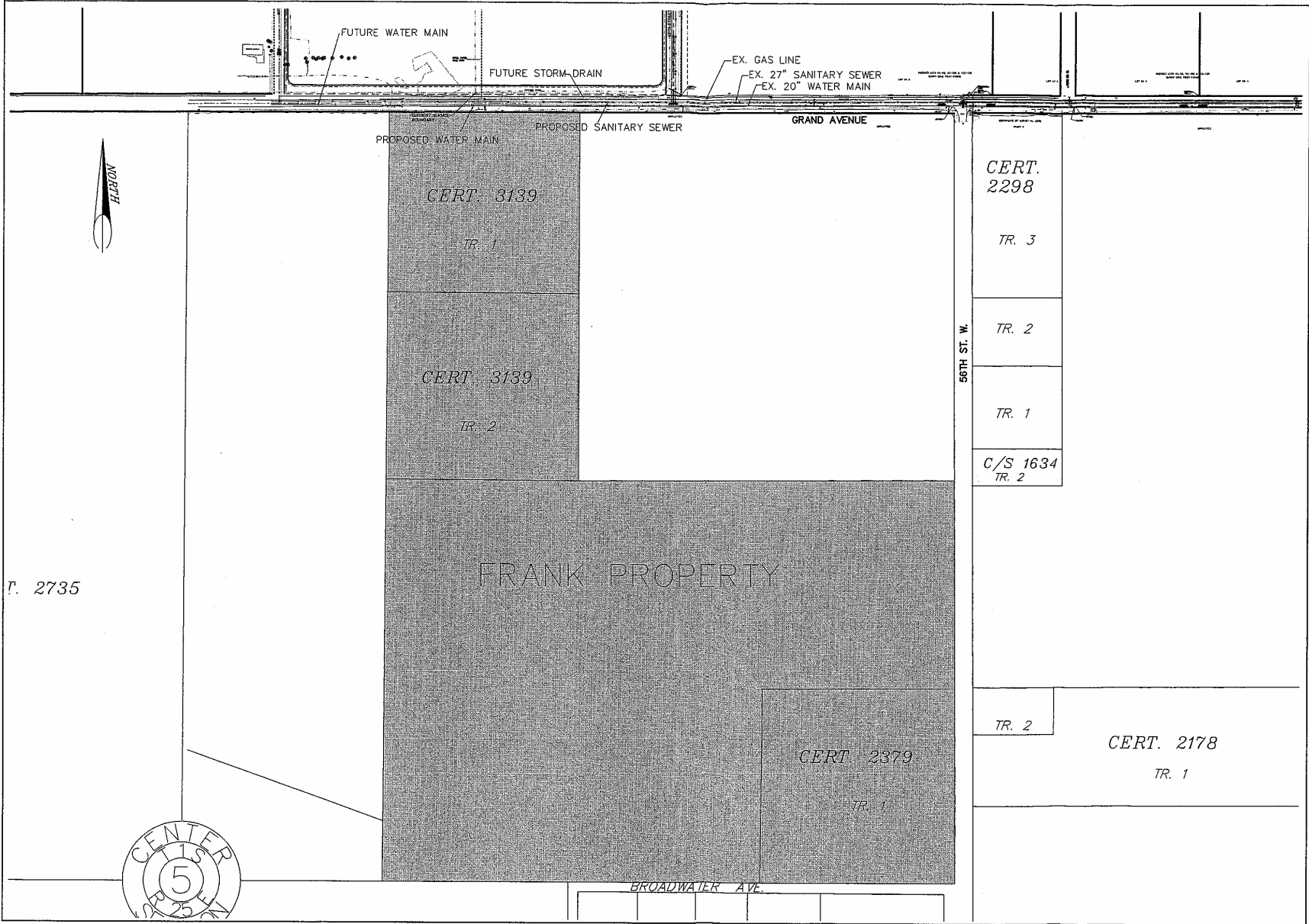
D. Resolution

ATTACHMENT A

Vicinity Map



ATTACHMENT B
Map of the Frank Property



ATTACHMENT C
Site Photographs



Frank

property looking northwest from Broadwater Avenue.



Frank property looking south from Grand Avenue, Birely Drain shown to right, existing residence on left.

EXHIBIT D

RESOLUTION NO. 06-_____

A RESOLUTION OF THE CITY OF BILLINGS, MONTANA, APPROVING THE URBAN PLANNING STUDY AND EXPANDING THE BOUNDARIES OF THE BILLINGS URBAN PLANNING AREA TO INCLUDE TRACTS OF LAND SITUATED IN THE NE1/4 OF SECTION 4, T.1S., R.25E., P.M.M., YELLOWSTONE COUNTY, MONTANA, MORE PARTICULARLY DESCRIBED AS: TRACTS 1 AND 2, CERTIFICATE OF SURVEY NO. 3139, TRACT 1, CERTIFICATE OF SURVEY NO. 2379, AND TWO UNPLATTED TRACTS, ALSO KNOWN AS THE FRANK PROPERTY.

WHEREAS, an Urban Planning Study was conducted on the Frank property, herein described, and was submitted to the City for review and approval, and

WHEREAS, the Billings Urban Planning Area is the area established by the City, for the purpose of planning for future growth of the City, and

WHEREAS, the purpose of the study is to determine impacts on city services, the natural environment, and the feasibility of extending City services within the proposed area, and

WHEREAS, the study area encompasses the property generally located at the southwest corner of Grand Avenue and 58th Street West intersection. More particularly described as:

Certificate of Survey 3139, Tracts 1 and 2, Recorded April 18, 2003, Under Document No. 3225759, Records of Yellowstone County, Montana; Certificate of Survey 2379, Tract 1, Recorded June 2, 1986, Under Document No. 1395571; Along with a portion of unplatted land in the NE1/4 of Section 5, T.1S., R.25E., P.M.M. beginning at the SW corner of C/S No 3139; Thence S 00° 11' 15" E for an approximate distance of 1321.06 feet to a point on the mid E-W Section line of

said Section 5; Thence at an easterly direction along the said mid section line to the SW corner of C/S 2379; Thence N 00° 15' 45" W for a distance of 660.00 feet to the NW corner of said C/S 2379; Thence N 89° 51' 58" E for a distance of 660.00 feet to the NE corner of said C/S 2379; Thence N 00° 15' 08" W for an approximate distance of 658.24 feet along the east section line of Section 5 to the N1/16 corner; Thence S 89° 56' 55" W for an approximate distance of 1304.60 feet to the SE corner of C/S 3139; Thence S 89° 56' 55" W for a distance of 652.30' to the Point of Beginning. Containing 78.749 gross and net acres, more or less.

WHEREAS, the Yellowstone County Board of Planning reviewed the Urban Planning Study on this property, also known as the Frank Property Urban Planning Study at its regular meeting on June 14, 2005, and

WHEREAS, the Yellowstone County Board of Planning has recommended approval of inclusion of the following areas:

Certificate of Survey 3139, Tracts 1 and 2, Recorded April 18, 2003, Under Document No. 3225759, Records of Yellowstone County, Montana; Certificate of Survey 2379, Tract 1, Recorded June 2, 1986, Under Document No. 1395571; Along with a portion of unplatted land in the NE1/4 of Section 5, T.1S., R.25E., P.M.M. beginning at the SW corner of C/S No 3139; Thence S 00° 11' 15" E for an approximate distance of 1321.06 feet to a point on the mid E-W Section line of said Section 5; Thence at an easterly direction along the said mid section line to the SW corner of C/S 2379; Thence N 00° 15' 45" W for a distance of 660.00 feet to the NW corner of said C/S 2379; Thence N 89° 51' 58" E for a distance of 660.00 feet to the NE corner of said C/S 2379; Thence N 00° 15' 08" W for an

approximate distance of 658.24 feet along the east section line of Section 5 to the N1/16 corner; Thence S 89° 56' 55" W for an approximate distance of 1304.60 feet to the SE corner of C/S 3139; Thence S 89° 56'55" W for a distance of 652.30' to the Point of Beginning. Containing 78.749 gross and net acres, more or less.

in the Billings Urban Planning Area, finding that municipal services can safely and efficiently be extended to this area and the projected growth is consistent with existing and proposed land use and transportation plans, and

WHEREAS, a public hearing was properly noticed and held by the Billings City Council as required by law.

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

1. URBAN PLANNING STUDY. The Urban Planning Study for the Frank property is hereby approved by the Billings City Council.
2. URBAN PLANNING AREA. The boundaries of the Billings Urban Planning Area are hereby extended to include the Frank property herein described.

PASSED AND APPROVED by the City Council this 10th day of April, 2006

THE CITY OF BILLINGS:

BY: _____
Ron Tussing MAYOR

ATTEST:

BY: _____
Marita Herold, CMC/AAE City Clerk

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM**CITY OF BILLINGS, MONTANA****Monday, April 10, 2006**

TITLE: Public Service Report and Resolution for Annexation #06-03, Frank Properties

DEPARTMENT: Planning and Community Services Department

PRESENTED BY: Candi Beaudry, AICP, Interim Director

PROBLEM/ISSUE STATEMENT: Douglas and Ronald Frank, owners and petitioners, are requesting approval of the petition to annex Tracts 1 and 2, Certificate of Survey No. 3139, Tract 1, Certificate of Survey No. 2379, and two unplatted tracts containing 79 acres. The property is located near the southwest corner of Grand Avenue and 56th Street West intersection. The owners are requesting annexation in order to obtain municipal sewer and water for a proposed residential subdivision in accordance with 7-2-4601 et. seq., MCA. This public service report describes the City's capacity to serve the proposed development.

ALTERNATIVES ANALYZED: The City Council may approve or disapprove a petition submitted by owners of 50% of the real property in the area to be annexed (7-2-4601 (3)(b), MCA).

FINANCIAL IMPACT: The City can provide service to this property. While the annexation will increase the City's tax base, in general, the costs of providing service to residential properties exceed the revenues generated from property tax.

RECOMMENDATION

Staff recommends that City Council approve the Resolution of Annexation with the following conditions:

- That prior to development of the site the following shall occur:

- A Development Agreement shall be executed between the owner(s) and the City that shall stipulate specific infrastructure improvements and provide guarantees for said improvements; or
- A Subdivision Improvements Agreement (SIA) and Waiver of Protest the Creation of an SID shall be approved and filed that will stipulate specific infrastructure improvements and provide guarantees for such infrastructure improvements. The subdivider will be responsible for forming a Park Maintenance District at the time of subdivision.

Approved By: **City Administrator** ____ **City Attorney** ____

ATTACHMENT

A. Resolution

INTRODUCTION

The owner submitted a petition for annexation for properties totally approximately 79 acres located near the intersection of 56th Street West and Grand Avenue on February 13, 2006. The owners also intend to submit preliminary subdivision plat application in the near future. The property is currently zoned Agricultural-Open Space. The owners plan to rezone this property to Residential Multi-Family, Residential-9,600 and Residential 7,000 for a mix of single family, duplex, and multi-family units. Upon approval of the Frank Property Urban Planning Study and the Urban Planning Area expansion, this property is eligible for annexation

PROCEDURAL HISTORY

- April 22, 2002 - Expansion of the Urban Planning Area to encompass a small portion of the Frank property.
- June 27, 2005 – City Council denies request to expand the Urban Planning Area to include the Frank property.
- March 28, 2006 – Recommendation by County Planning Board to approve expansion of the Urban Planning Area to include the Frank property.
- April 10, 2006 – City Council holds public hearing and acts on the request to expand Urban Planning Area.
- April 10, 2006 – City Council holds public hearing and acts on the petition to annex the subject property.

BACKGROUND

The Urban Planning Study that incorporates this property will come before Council at the same meeting as this petition for annexation. The approval of the Study and expansion of the Urban Planning Area is required prior to annexation of any property to the City of Billings.

ALTERNATIVES ANALYSIS

The City Council has expressed concerns about how annexations may affect the City's ability to provide services to annexed property without diminishing the services provided to existing City residents. To address these concerns, Council adopted an annexation policy that lists criteria for suitable annexations. The proposed annexation *complies* with the recently adopted Annexation Policy criteria as follows:

- The area is located within the Limits of Annexation and within the Urban Planning Area.
- The City is able to provide adequate services.
- The proposed improvements meet City standards.
- Upon approval of the final subdivision plat, the owners will sign a Waiver of Right to Protest the Creation of Special Improvement Districts.
- Upon approval of the final subdivision plat, the owners will form a Park Maintenance District.
- Residential densities will be approximately 4 dwelling units per acre.
- With the exception of being contiguous to existing City limits, the proposed annexation meets the goals of the City-County Growth Policy.

Although MCA 7-2-4600 allows the municipality to waive the requirement of an annexation public services plan, it is the City's custom to have staff prepare a brief analysis of predicted impacts to services and facilities. State law lists the required contents of a public services plan including a 5-year (minimum) plan that outlines how and when services and infrastructure will be extended to the annexed area and how they will be financed. This report follows that general format.

Departmental Response: City departments and Yellowstone County were given the opportunity to comment on this annexation. School District #2 and Yellowstone County were also notified of this annexation. All City departments responded favorably, with the exception of the Police Department. No comments were received from School District #2 or Yellowstone County.

City Facilities: The following improvements and facilities are necessary to provide adequate services to the subject property.

Water: Water service will be extended from Grand Avenue from an existing 20" water main.

Sewer: There is a 27" sanitary sewer main in Grand Avenue but because of topographic constraints, the entire property cannot be served by this line. Instead, the petitioners are proposing to utilize the Vintage Estates Subdivision Lift Station located approximately ½ mile east. This lift station is being paid for and constructed by the developers of the Vintage Estates and Legacy Subdivisions. The petitioners reimburse the developers on a proportional basis for the use of this lift station.

Stormwater: There are no City storm water facilities in the vicinity. Nearby subdivision developments have been required to retain storm water drainage onsite, or if permissible, discharge into a local irrigation facility.

Transportation: The study area adjoins Grand Avenue, a principal arterial, to the north, 56th Street West, also a principal arterial, to the east, and Broadwater Avenue, a collector, to the south. Each street is expected to be affected by future development as are 58th Street West, a collector and 54th Street West, a minor arterial. It is estimated that the development would produce approximately 1,063 trips on an average weekday. The connecting street system has sufficient capacity for the additional residential units.

Because there is no conceptual plan for this development, the location of approaches to the principal arterials is unknown. There are no existing rights-of-way that intersect the property frontage, therefore future approaches would be offset from existing intersections.

Fire Station: The study area is within the Billings Urban Fire Service Area and currently served by the Billings Fire Department. Interim fire protection will be provided to this property after annexation from Fire Station No. 3 at Parkhill and 17th Street West and Fire Station No. 5 at 24th Street and Rosebud prior to the construction of a new station. Land has been purchased for a new fire station at the intersection of Grand and 54th Street West. The

station is scheduled for construction in 2008 and will service this area at that time. Based on 2002 statistics, the Fire Department responded to approximately 85 incidents per 1000 people. At this level of impact, the development could generate approximately 54 incidents per year at full buildout.

Parks: No detailed plans were provided on the future provision for parks and recreation. The City Parks, Recreation and Public Lands Department commented that the property lies within the “Benefited Area” of Cottonwood Park. If the future subdivision contributes cash-in-lieu of parkland, the cash will be used for the development and maintenance of Cottonwood Park. Regardless, the future subdivision will be required to participate in the Park Maintenance District of Cottonwood Park. The future subdivision is expected to contain significant greenspace, waterways, and park features. A separate park maintenance district would be set up for the maintenance of these features.

Bicycle and pedestrian facilities: The area proposed for annexation is not affected by the Heritage Trail Plan.

General City Services: These are the City services that are provided to all residents and businesses in the City, such as police and fire protection, street and storm drain maintenance, and garbage collection and disposal. The service providers that responded did not object to the annexation of this property.

Transit: MET does not regularly serve this area, but paratransit services will be provided. MET had no problem with the petition to annex.

Fire: The property is currently within the Billings Urban Fire Service Area (BUFSA) and is served by the Billings Fire Department. After annexation, the Billings Fire Department will continue to serve this area. The Fire Department responded that this and other annexations will require additional firefighting resources.

Police: The Police Department responded that any annexation would cause law enforcement to be over-extended.

Ambulance Service: The City does not provide ambulance service but dictates the level of service provided by American Medical Response (AMR). By City ordinance, 90% of ambulance calls must be answered within 8 minutes. This annexation is within the area of acceptable response time.

Legal and Finance: General Fund services such as Legal and Finance have indicated that they will not be negatively impacted.

Other Departments: City/County services such as Library, Planning, and Environmental Health are only slightly affected by the annexation since they will serve new development if it is in the City or if it remains in the County.

STAKEHOLDERS

The annexation by petition method does not require notification of adjoining landowners but does require the City Council to hold a public hearing. Notice of the public hearing was posted on the property and published in the Billings Gazette. The Planning Division has received no

comments on this proposed annexation.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

The property is also within the area covered by the West Billings Plan and the recently adopted Northwest Shiloh Land Use Plan. The proposed development is consistent with the applicable land use goals of these Plans in the following manner:

West Billings Plan

5. Establish Development Patterns that Use Land More Efficiently. *The future development will utilize available infrastructure that can service higher densities than those that currently exist.*
6. Plan for the Orderly and Efficient Urbanization of Agricultural Lands. *The property is currently zoned Agricultural Open-Space. While the existing land use is agricultural, the zoning anticipates higher densities in this area. The higher density residential development is consistent with developments occurring to the north, northwest, and east of this property.*

Northwest Shiloh Area Plan

5. Encourage new development that is compatible with and complements existing City neighborhoods and County townsites. *The Northwest Shiloh area is developing as a major City neighborhood with densities of 4 dwelling units per acre or more. The plan calls for commercial development at the intersection of 54th Street West and Grand Avenue to provide retail business and services to the residential developments. This proposed development is compatible with the current trends and existing uses in this area.*
6. Provide more housing and business choices within each neighborhood. Provide affordable housing for all income levels dispersed throughout the City and County. *The proposed land use for this area is for single family duplex-style and multifamily units..*
7. Plan for the cost-efficient extension and delivery of public services. *The existing and planned infrastructure is capable of providing services to the expansion area.*

The proposed development conflicts with some of the goals from these plans as follows:

1. Reduce sprawl and development pressure on agricultural land. *The entire expansion area is currently used for agricultural purposes.*
2. Reduce commuting and the number and length of daily vehicle trips. *The area to be developed is located at least 8 miles from the major downtown and west end work centers.*
3. Ensure the continued functionality of natural systems. *The expansion area lies within a flood prone area as identified by the Cove Creek – Little Cove Creek Approximate Flood Study prepared in 2004.*

The Urban Planning Area expansion is consistent with the following Growth Policy goals:

1. Affordable housing for all income levels dispersed throughout the City and County (Land Use Element Goal, page 6).
2. More housing and business choices within each neighborhood (Land Use Element Goal, page 6)

The Urban Planning area expansion conflicts with the following goal:

Contiguous development focused in and around existing population centers separated by open space (Land Use Element Goal, page 6). *The study area is not contiguous to City territory.*

RECOMMENDATION

Staff recommends that City Council approve the Resolution of Annexation with the following conditions:

1. That prior to development of the site the following shall occur:
 - a. A Development Agreement shall be executed between the owner(s) and the City that shall stipulate specific infrastructure improvements and provide guarantees for said improvements; or
 - b. A Subdivision Improvements Agreement (SIA) and Waiver of Protest the Creation of an SID shall be approved and filed that will stipulate specific infrastructure improvements and provide guarantees for such infrastructure improvements. The subdivider will be responsible for forming a Park Maintenance District at the time of subdivision.

ATTACHMENT

A. Resolution

ATTACHMENT A

RESOLUTION NO. 06-_____

A RESOLUTION OF THE CITY OF BILLINGS APPROVING PETITIONS FOR ANNEXATION AND ANNEXING TERRITORY TO THE CITY.

WHEREAS, one hundred percent (100%) of the freeholders who constitute more than fifty percent (50%) of the resident freeholder electors have petitioned the City for annexation of the territory hereinafter described; and

WHEREAS, the territory was described in the Petition as required by law, and

WHEREAS, annexation of said territory would be in the best interest of the City.

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

1. TERRITORY ANNEXED. Pursuant to Petition filed as provided M.C.A., Title 7, Chapter 2, Part 46, the following territory is hereby annexed to the City of Billings:

A tract of land situated in the NE1/4 of Section 5, T.1S., R.25E., P.M.M., Yellowstone County, Montana, more particularly described as:

Certificate of Survey 3139, Tracts 1 and 2, Recorded April 18, 2003, Under Document No. 3225759, Records of Yellowstone County, Montana; Certificate of Survey 2379, Tract 1, Recorded June 2, 1986, Under Document No. 1395571; Along with a portion of unplatted land in the NE1/4 of Section 5, T.1S., R.25E., P.M.M. beginning at the SW corner of Certificate of Survey No 3139; Thence S 00° 11' 15" E for an approximate distance of 1321.06 feet to a point on the mid E-W Section line of said Section 5; Thence at an easterly direction along the said mid section line to the SW corner of Certificate of

Survey 2379; Thence N 00° 15' 45" W for a distance of 660.00 feet to the NW corner of said Certificate of Survey 2379; Thence N 89° 51' 58" E for a distance of 660.00 feet to the NE corner of said Certificate of Survey 2379; Thence N 00° 15' 08" W for an approximate distance of 658.24 feet along the east section line of Section 5 to the N1/16 corner of said Section 5; Thence S 89° 56' 55" W for an approximate distance of 1304.60 feet to the SE corner of Certificate of Survey 3139; Thence S 89° 56' 55" W for a distance of 652.30' to the Point of Beginning. Containing 78.749 gross and net acres, more or less.

(# 06-03) See Exhibit "A" Attached

2. CONDITIONS. The annexation is approved subject to the following conditions:

That prior to development of the site the following shall occur:

- c. A Development Agreement shall be executed between the owner(s) and the City that shall stipulate specific infrastructure improvements and provide guarantees for said improvements; or
- d. A Subdivision Improvements Agreement (SIA) and Waiver of Protest the Creation of an SID shall be approved and filed that will stipulate specific infrastructure improvements and provide guarantees for such infrastructure improvements. The subdivider will be responsible for forming a Park Maintenance District at the time of subdivision.

3. PROCEDURE. All procedures as required under M.C.A., Title 7, Chapter 2, Part 46, have been duly and properly followed and taken.

PASSED by the City Council and APPROVED this 10th day of April, 2006.

THE CITY OF BILLINGS:

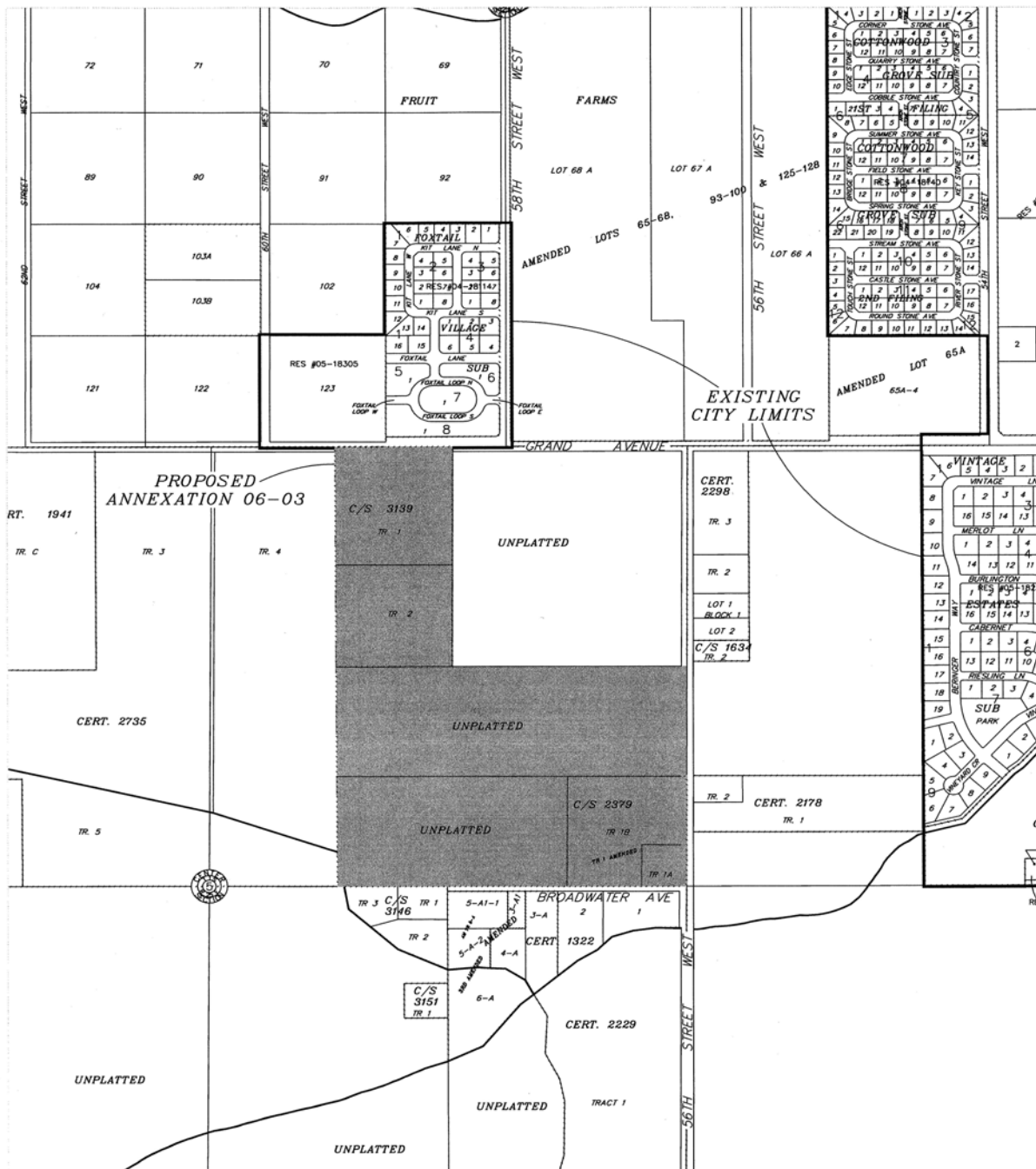
BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Marita Herold, CMC/AAE CITY CLERK

(AN 06-03)

EXHIBIT A



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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 10, 2006

TITLE: Continued Public Hearing and Resolution for Annexation #05-06,
Staley/Westward Ho Property

DEPARTMENT: Planning and Community Services Department

PRESENTED BY: Candi Beaudry, AICP, Interim Director

PROBLEM/ISSUE STATEMENT: Larry Staley and the Westward Ho Company petitioned for annexation of Tract 1 of Certificate of Survey 1871 and Tract 2A of Certificate of Survey 2465 in May, 2005. The property, containing approximately 116.17 acres, is located on the north side of Rimrock Road at the intersection of 70th Street West and extends to the railroad property on the north and west. The owners requested annexation in order to obtain municipal sewer and water for a proposed residential subdivision in accordance with 7-2-4601 et. seq., MCA. On June 27, 2005, Council denied the expansion of the Urban Planning Area to include this property but acknowledged the petition of annexation and set a public hearing for June 11, 2005. At that meeting, City Council voted to continue the public hearing and delay action on the Resolution for Annexation until February 27, 2006. Council approved an extension of the continued public hearing to April 10 on February 27, 2006. The purpose for the continuation is to allow staff to propose revisions to the Annexation Policy and map. Staff will present recommendations to the revised Annexation Policy and map to the Council on April 10.

In order for the property to be annexed, it must lie within the Urban Planning Area (Section 26-204, BMCC). The expansion of the Urban Planning Area to include this property was denied Council in 2005. Because of that decision, this property does not qualify for annexation. The property also does not lie within the acceptable Limits of Annexation for years 2006-2012.

ALTERNATIVES ANALYZED: Council may approve or disapprove a petition submitted by owners of 50% of the real property in the area to be annexed (7-2-4601 (3)(b), MCA).

FINANCIAL IMPACT: The City would incur unprogrammed costs if this property were annexed and developed at this time. This property is not currently served by sewer or water. The cost of extending these utilities must be paid for by the developer or the City. Additionally, the location of this property places it beyond the acceptable response time limits for the Fire

Department. Law enforcement also, would be overextended if they were to extend services to this property. While the annexation will increase the City's tax base, in general, the costs of providing service to residential properties exceed the revenues generated from property tax.

RECOMMENDATION

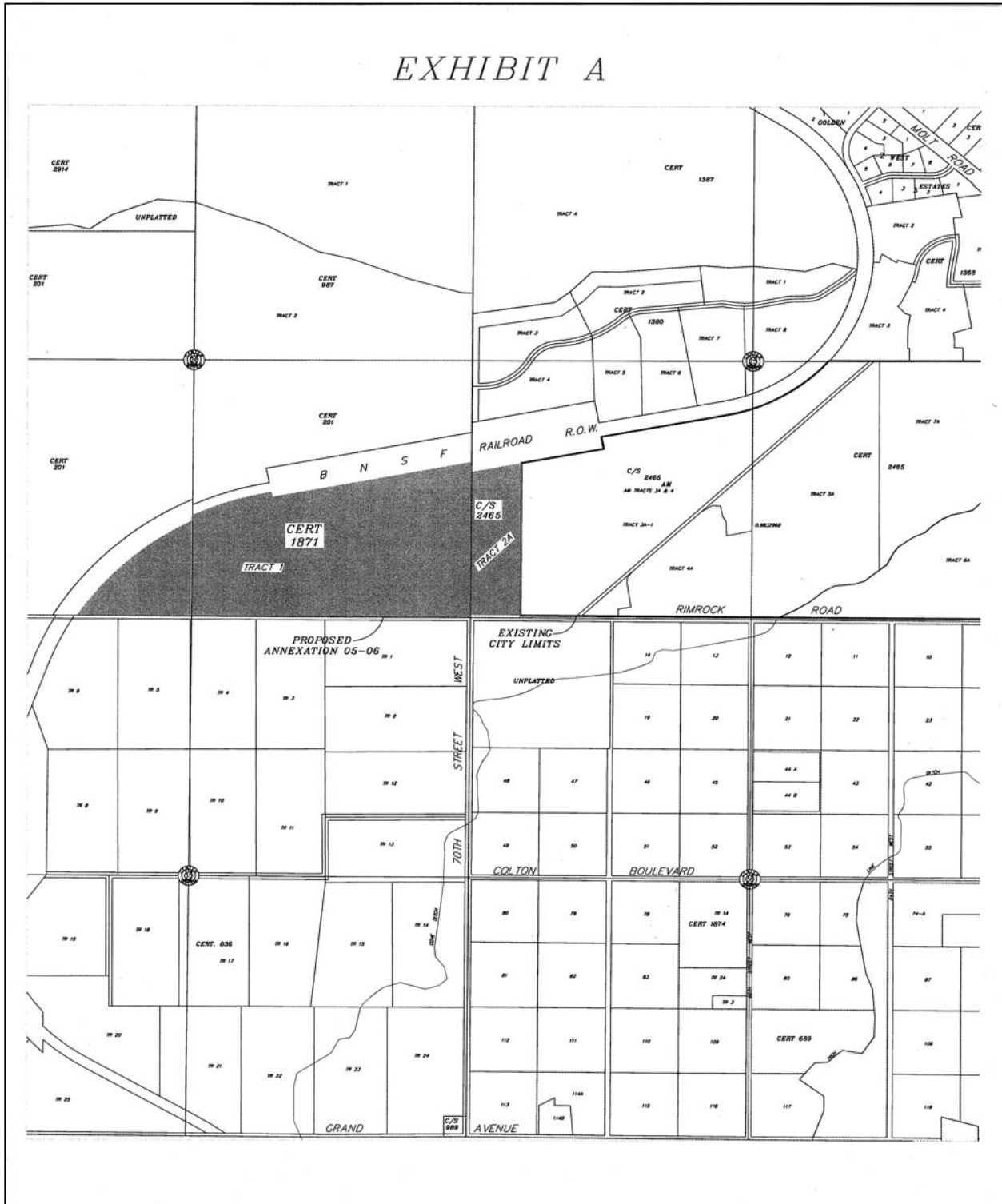
Staff recommends that City Council *deny* the petition to annex Tract 1 of Certificate of Survey 1871 and Tract 2A of Certificate of Survey 2465 containing approximately 116.17 acres.

Approved By: **City Administrator** _____ **City Attorney** _____

ATTACHMENT

A. Area of annexation petition

EXHIBIT A



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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 10, 2006

TITLE: Public Hearing and Resolution to Create - Park Maint. District No. 4031, Copper Ridge Subdivision

DEPARTMENT: Department Of Parks, Recreation, & Public Lands

PRESENTED BY: Gene Blackwell, Acting Director

PROBLEM/ISSUE STATEMENT: Copper Ridge Subdivision contains approximately 14.56 acres of dedicated park and public open space. It includes trail greenways throughout the subdivision, which provides connectivity between the many large public park areas. 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 public area improvements. As a condition of the Copper Ridge Subdivision, 1st Filing final plat approval, a park maintenance district must be established. The Resolution to Create the District is the final action in the process to include all lots of Copper Ridge Subdivision in Park Maintenance District No. 4031. A report of protest and comments received will be provided to the City Council at the start of the Public Hearing.

ALTERNATIVES ANALYZED:

- Create the Park Maintenance District now to assure assessments can be collected in November, 2006, to pay costs of maintenance as the park is developed. This is the requirement approved in the Subdivision Improvement Agreement and the staff recommendation.
- Do not create the Park Maintenance District at this time.

FINANCIAL IMPACT: The maintenance costs for the public area improvements are estimated to be \$18,198.00 for the first year. The assessment rate for this amount is \$233.31 per unit for 78 units in District 4031. The assessment for the lots is shown in "Exhibit D" of the attached PMD documents for the coming year.

RECOMMENDATION

Staff recommends Council approve the Resolution to Create Park Maintenance District No. 4031.

Approved By: **City Administrator** ____ **City Attorney** _____

ATTACHMENT

A: Resolution to Create Park Maintenance District No. 4031; and Exhibits A-D thereto attached.

INTRODUCTION

The Public Hearing and Consideration and approval of the Resolution to Create Park Maintenance District No. 4031 for the maintenance of Copper Ridge Subdivision public areas completes the action needed to create the district.

PROCEDURAL HISTORY

- The Copper Ridge Subdivision, First Filing, is in the process of being approved and filed. The remaining filings will be submitted to the Planning Department in the near future.
- The Master Plan for the construction of the public area improvements was developed with the PRPL Department and adopted by the City Council with the approval of the Subdivision Plan
- The Resolution of Intent to Create the Park Maintenance District was approved by City Council on March 13th, 2006.
- A Notice of Passage of the Resolution of Intent was advertised March 16 and March 23, 2006, as required and was mailed to property owners within the proposed district explaining the protest and comment procedures.
- The required protest and comment period was from March 16th through March 30, 2006.
- The Public Hearing and Council consideration of the Resolution to Create the district at completes the creation process.

BACKGROUND

The Copper Ridge Subdivision, Improvement Agreements call for the park improvements to be made and the Park Maintenance District to be created. The proposed maintenance district includes all lots and blocks of Copper Ridge Subdivision. Said lots shall not be eligible for assessment until such time as the final plat of the property is filed and the Restrictions on Transfers and Conveyances are lifted. All filings have or will have on file Waivers of Protest for the formation of the park maintenance district for all lots within Copper Ridge Subdivision.

ALTERNATIVES ANALYSIS

- Create the Park Maintenance District now to assure assessments can be collected in November 2006, to pay costs of maintenance for the spring and summer of 2006 as the public area development commences. The approved Subdivision Improvements Agreements call 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 the development and maintenance of the public areas in Copper Ridge Subdivision.

- The 78 lots initially included in the PMD in Copper Ridge Subdivision consist of single-family residences. 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 staff 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 subdivision's public area 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 Districts revenue is estimated to be \$548,986 to offset maintenance expenses in the upcoming 2007 FY PRPL Parks Operation and Maintenance budget and is projected to equal over 25% of the total Parks Division Operations & Maintenance budget this year.

RECOMMENDATION

Staff recommends Council approve the Resolution to Create Park Maintenance District No. 4031.

ATTACHMENT

A: Resolution to Create Park Maintenance District No. 4031; and Exhibits A-D thereto attached.

ATTACHMENT A

RESOLUTION NO. 06-

A RESOLUTION CREATING SPECIAL IMPROVEMENT MAINTENANCE DISTRICT NO. 4031 FOR THE PURPOSE OF MAINTAINING EXISTING AND FUTURE PUBLIC AREA IMPROVEMENTS IN COPPER RIDGE SUBDIVISION, CITY OF BILLINGS, MONTANA

WHEREAS, the City Council of Billings, Montana, hereby finds, determines and declares that:

1. The public interest and convenience require the creation of the above named district.
2. That said district is of more than local or ordinary public benefit.
3. All lands are benefited and no lands that are not benefited have been included within the district. All lands within the district will be enhanced in value to the extent of the assessments to be levied upon such lands, and all lands included within the district should be assessed accordingly to pay the costs and expenses of the district.

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

1. *Jurisdiction and Creation.* Special Improvement Maintenance District Number 4031 is of more than local or ordinary public benefit. The Council has acquired jurisdiction to order the proposed improvement, and it does hereby create Special Improvement Maintenance District Number 4031. All lands included within Special Improvement Maintenance District Number 4031 are benefited and no lands that are not benefited have been included in said district.
2. *General Character of Improvement and Maintenance.* The general character of the improvements to be maintained is as follows: landscaping, trails, trees, lighting, irrigation systems, irrigation system water services, storm water detention facilities, and other park equipment and public area improvements installed by the developer, Parks Department and/or as part of a future Special Improvement District. The purpose of said district is to provide perpetual maintenance of the above-mentioned items.
3. *Boundaries.* The Boundaries of the district are described and designated on Exhibit "B" attached hereto.

4. *Ownership.* The ownership records of all properties within the said district are described and designated in Exhibit “C” attached hereto.
5. *Maintenance Estimate.* The estimated cost of the proposed maintenance for the first year will be \$233.33/lot for 78 lots as described in the Maintenance Estimate attached hereto in Exhibit “D”.
6. *Assessment Method.* All eligible properties within the District are to be assessed for a portion of the costs of maintaining the existing and future Copper Ridge Subdivision public area improvements, as specified herein. Said properties shall not be eligible for assessment until such time as the final plat of the property is filed. The costs of maintaining the Improvements shall be assessed against the property in the District benefiting from the Copper Ridge Subdivision, Public Area Improvements, based on the assessable area method of assessment described in Section 7-12-4162 through 7-12-4165, M.C.A., as particularly applied and set forth herein.
7. *Payment of Assessment.* The assessments for all maintenance and costs of the district shall be paid in equal annual installments, provided that payment of one-half of said annual assessment may be deferred to May 31 of the year following the assessment. All money derived from the collection of said assessments otherwise shall constitute a fund to be known as Fund of Special Improvement Maintenance District Number 4031.
8. *Bonds for Improvement.* There will be no bonds sold for this district as it is for maintenance only.
9. *Engineering.* No engineering will be required.
10. *District Accounts.* The Director of Finance is hereby authorized and directed to establish the necessary accounts to govern the receiving of all revenues and the expenditures of the same district.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, this _____ day of _____, 2006.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Marita Herold, CMC/AAE, CITY CLERK

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 10, 2006

TITLE: Public Hearing and Resolution to Set Permit Fees
DEPARTMENT: City County Planning/Building Division
PRESENTED BY: Kim Palmieri, Building Official

PROBLEM/ISSUE STATEMENT: The Building Division is proposing a resolution to increase building permit fees by approximately 11%.

ALTERNATIVES ANALYZED:

1. Approve the resolution at purposed level.
2. Do not approve the resolution and retain the current fee schedule.

FINANCIAL IMPACT: Building Division revenue projections are estimated to increase \$150,000 annually.

RECOMMENDATION

Staff recommends that Council approve the resolution to set building permit fees at the same level established in 1993, as printed in the 1991 Edition of the Uniform Codes.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENT

- A. Resolution (5 pages)

INTRODUCTION

Section 6-202 of the BMCC authorizes the City to set permit fees by Council Resolution. In 1993 fees were set based on those printed in the 1991 Edition of the Uniform Codes (Resolution 93-16708). This fee schedule remained in place until July of 1999 when fees were reduced by 25%. The reductions were necessary for the City to comply with the statutory requirements imposed by the 1997 Montana Legislature. House Bill 388 in part, requires local Building Departments limit their operating reserve fund to the estimated cost of conducting the operation for a twelve month period. In 1999 it was determined the Building Division budget would exceed allowed reserves; therefore, a reduction of fees was necessary. In June of 2003 a resolution was approved to re-instate a portion of those fees that had been reduced in 1999. The proposed fee schedule will be identical to the schedule used from 1993 to 1999. As costs increase due to inflation and personnel (two positions added in 2004) an adjustment in fees is necessary. The Building Division cash balance is currently below \$800,000. In June 2007 this balance is projected to fall below \$600,000. The cash balance should be maintained at the six to nine month level of the annual operation cost. The operating cost for fiscal year 2006 – 2007, is \$1.6 million.

Setting these permit fees will result in an average increase of 11% across the board. As an example, a single family home valued at \$150,000, which is currently charged a permit fee of \$733, will increase to \$814. Passage of this resolution will slow the decline in the Building Division cash balance. Staff will continue to monitor the cash balance and provide future recommendations as necessary.

STAKEHOLDERS

At the regular monthly meeting, the Home Builders Association were informed of the pending increase in fees. They were told there would be a public hearing. While no one welcomed the increase there seemed to be a understanding this was part of the normal business process. The Development Process Advisory Review Board (DPARB) was also informed of the increase before Council.

ALTERNATIVES ANALYSIS

1. If the resolution is approved, the Building Division will proceed with the increase in building permit fees.
2. If the resolution is not approved, current fees will remain in place and the Building Division will draw from the reserve funds. In a future year it will be necessary to approve a greater increase.

RECOMMENDATION

Staff recommends that Council approve the resolution to set building permit fees at the same level established in 1993, as printed in the 1991 Edition of the Uniform Codes.

ATTACHMENT

- A. Resolution (5 pages)

ATTACHMENT A

RESOLUTION 06- _____

A RESOLUTION SETTING BUILDING, ELECTRICAL, PLUMBING AND MECHANICAL PERMIT FEES AND REPEALING RESOLUTION #03-17998

WHEREAS, the building, electrical, plumbing and mechanical permit fees were last set in June, 2003, by Council Resolution 03-17998; and,

WHEREAS, it has become necessary for the efficient operation of city services to increase the fees due to inflation, increased demand for services, additional staffing, and the need to maintain an acceptable cash balance; and,

WHEREAS, increasing all fees approximately 11% will result in the fee schedule being identical to what it was from 1993 to 1999; and,

WHEREAS, said fees are established and will apply until changed by a subsequent resolution.

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

1. BUILDING PERMIT FEES. Residential and Commercial Building Permit fees are to be charged based on the most recent valuation table established in the Building Safety Magazine and in accordance with the 1991 Edition of the Uniform Building Code Fee Schedule and are set as follows:

RESIDENTIAL AND COMMERCIAL BUILDING PERMIT FEES [ADD 65% PLAN CHECK FOR COMMERCIAL & MULTI-FAMILY]

	<u>VALUATION</u>
\$1 - \$500	15.00
\$501 - \$2,000	15.00 for the first \$500
Plus for each additional \$100 or fraction of >2.00	
\$2,001 TO \$25,000	45.00 for the first \$2,000
Plus for each additional \$1000 or fraction of >9.00	
\$25,001 to \$50,000	252.00 for the first \$25,000
Plus for each additional \$1,000 or fraction of >	6.50
\$50,001 to \$100,000	414.50 for the first \$50,000
Plus for each additional \$1,000 or fraction of >	4.50

\$100,001 to \$500,000	639.50 for the first \$100,000
Plus for each additional \$1,000 or fraction of >	3.50
\$500,001 to \$1,000,000	2039.50 for the first \$500,000
Plus for each additional \$1,000 or fraction of >	3.00
\$1,000,001 and up	3539.50 for the first \$1,000,000
Plus for each additional \$1,000 or fraction of >	2.00

OTHER INSPECTIONS AND FEES **\$30.00***

Includes inspections outside of normal business hours (Minimum charge – two hours), re-inspection fee, inspections for which no fee is specifically indicated, and additional plan review required by changes, additions or revisions to approved plans (Minimum charge – ½ hour).

*Or the total hourly cost to the City, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.

2. ELECTRICAL PERMIT FEES. Electrical Permit fees are to be charged as follows:

A. Single Family Swelling (includes garage wired at same time)	
100 to 300 amp service	130.00
301 or more amp service	200.00
B. Interior Rewire Only or New Addition to Home	40.00
C. Residential Change of Service	25.00
D. Private Property Accessory Building (Garages, Barns, Sheds, Etc.)	
To 200 amp service	40.00
201 to 300 amp service	100.00
301 or more amp service	130.00
E. Modular Home - No basement and/or garage	40.00
Modular Home – With basement and/or garage	65.00
F. Mobile Home located in a court	25.00
Mobile Home located outside of a court	40.00
G. Livestock Wells, Irrigation Wells	40.00
H. Irrigation Pump or Machines, per unit (one pump or one pivot)	35.00
I. Temporary Construction Service (ADDITIONAL FEE)	25.00
J. New service only	40.00
K. Multi-family Dwellings Per Building +>	100.00
Plus per unit, up to and including 12 units >	40.00
[\$90.00 per bldg. Fee does not apply to remodel/rewire projects only. Over 12 units under one roof will use commercial fee]	
L. Mobile Home Courts and/or Recreational Vehicle Parks up to 3 spaces	45.00
(Audit. spaces at same time plus per space) - >	5.00
M. Requested Inspection for 1 hour or less	40.00

Plus \$18.00 for each 30 minutes or fractional part thereof in excess of one hour plus travel and per diem.	
N. Permit Renewal Fee (Up to One Year Upon Approval)	40.00

COMMERCIAL, INDUSTRIAL, INSTITUTIONAL PROJECTS:

Project Cost	
\$ 0 - \$ 500	30.00
\$ 501 - \$ 1,000	30.00 for first \$500 plus 6% of balance
\$ 1,001 - \$10,000	60.00 for first \$1,000 plus 2% of balance
\$10,001 - \$50,000	240.00 for first \$10,000 plus 0.5% of balance
\$50,001 - or more	440.00 for first \$50,000 plus 0.3% of balance

3. PLUMBING PERMIT FEES. Plumbing Permit fees are to be charged as follows:

PERMIT ISSUANCE

A. For the issuance of each permit [Minimum total on each permit]	20.00
B. For issuing each supplemental permit	10.00

UNIT FEE SCHEDULE (in addition to Items 1 and 2 above)

A. For each plumbing fixture or trap or set of fixtures on one trap (including water, drainage piping, and backflow protection)	7.00
B. For each building sewer and each trailer park sewer	15.00
C. Rainwater systems – per drain (inside building)	7.00
D. For each cesspool (where permitted)	25.00
E. For each private sewage disposal system	40.00
F. For each water heater and/or vent	7.00
G. For each gas-piping system of one to five outlets	5.00
H. For each additional gas piping system outlet, per outlet	1.00
I. For each industrial waste pretreatment interceptor including its trap and vent, excepting kitchen-type grease interceptors functioning as fixture traps	7.00
J. For installation, alteration, or repair of water piping and/or water-treating equipment, each	7.00
K. For each repair or alteration of drainage or vent piping, each fixture	7.00
L. For each lawn sprinkler system on any one meter, including backflow protection devices	7.00
M. For atmospheric-type vacuum breakers not included in Item L:	
1 to 5	5.00
Over 5, each	1.00
N. For each backflow protective device other than atmospheric-type Vacuum breakers; 2 inch diameter and smaller	7.00
over 2 inch diameter	15.00

OTHER INSPECTIONS AND FEES	\$30.00*
----------------------------	----------

Includes inspections outside of normal business hours (Minimum charge – two hours), re-inspection fee, inspections for which no fee is specifically indicated, and additional plan review required by changes, additions or revisions to approved plans (Minimum charge – ½ hour).

*Or the total hourly cost to the City, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.

MECHANICAL PERMIT FEES. Mechanical Permit fees are to be charged as follows:

Permit Issuance

- | | |
|---|-------|
| A. For the issuance of each permit [Minimum Total on each permit] | 15.00 |
| B. For issuing each supplement permit | 4.50 |

Unit Fee Schedule

- | | |
|--|-------|
| A. For the installation or relocation of each forced-air gravity-type Furnace or burner, including ducts and vents attached to such appliance, Up to and including 100,000 Btu/h | 9.00 |
| B. For the installation or relocation of each forced-air gravity-type Furnace or burner, including ducts and vents attached to such appliance, over 100,000 Btu/h | 11.00 |
| C. For the installation or relocation of each floor furnace, including vent | 9.00 |
| D. For the installation or relocation of each suspended heater, recessed wall heater or floor mounted unit heater | 9.00 |
| E. For the installation, relocation or replacement of each appliance vent installed and not included in an appliance permit | 4.50 |
| F. For the repair of, alteration of, or addition to each heating appliance, refrigeration unit, cooling unit, absorption unit or each heating cooling, absorption, or evaporative cooling system including installation of controls regulated by this code | 9.00 |
| G. For the installation or relocation of each boiler or compressor to and including three horsepower, or each absorption system to and including 100,000 Btu/h | 9.00 |
| H. For the installation or relocation of each boiler or compressor over three horsepower to and including 15 horsepower, or each absorption system over 100,000 Btu/h and including 500,000 Btu/h | 16.50 |
| I. For the installation or relocation of each boiler or compressor over 15 horsepower to and including 30 horsepower, or each absorption system over 500,000 Btu/h to and including 1,000,000 Btu/h | 22.50 |
| J. For the installation or relocation of each boiler or compressor over 30 horsepower to and including 50 horsepower, or for each absorption system over 1,000,000 Btu/h to and including 1,750,000 Btu/h | 33.50 |

- K. For the installation or relocation of each boiler or refrigeration compressor over 50 horsepower, or each absorption system over 1,750,000 Btu/h 56.00
 - L. For each air handling unit to and including 10,000 cfm, including ducts attached thereto 6.50
- Note: This fee shall not apply to an air handling unit which is a portion of a factory assembled appliance, cooling unit, evaporative cooler or absorption unit for which a permit is required elsewhere in this Code.
- M. For each air handling unit over 10,000 cfm 11.00
 - N. For each evaporative cooler other than portable type 6.50
 - O. For each ventilation fan connected to a single duct 4.50
 - P. For each ventilation system, which is not a portion of any heating or air conditioning system authorized by a permit 6.50
 - Q. For the installation of each hood which is served by mechanical exhaust, including the ducts for such hood 6.50
 - R. For the installation or relocation of each domestic type incinerator 11.00
 - S. For the installation or relocation of each commercial or industrial type incinerator 45.00
 - T. For each appliance or piece of equipment regulated by this Code but not classed in other appliance categories, or for which no other fee is listed in this Code 6.50

OTHER INSPECTIONS AND FEES

\$30.00*

Includes inspections outside of normal business hours (Minimum charge – two hours), re-inspection fee, inspections for which no fee is specifically indicated, and additional plan review required by changes, additions or revisions to approved plans (Minimum charge – ½ hour).

*Or the total hourly cost to the City, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.

- 4. **EFFECTIVE DATE.** This resolution shall be effective immediately upon passage.
- 5. **REPEALER.** All resolutions inconsistent herewith, including Resolution 03-17998, are hereby repealed.
- 6. **SEVERABILITY.** If any provision of this resolution or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this resolution which may be given effect without the invalid provisions or application, and, to this end, the provisions of this resolution are declared to be severable.

PASSED by the City Council and APPROVED _____, 20____.

THE CITY OF BILLINGS

BY: _____
Ron Tussing, Mayor

ATTEST

Marita Herold, CMC/AAE City Clerk

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 10, 2006

TITLE: Public Hearing & Site Development Ordinance Variance(s) #CC05-03
DEPARTMENT: Public Works/Engineering
PRESENTED BY: Dave Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: The City of Billings demolished the existing Smith's Funeral Home and plans to remodel/expand the existing Park II building in the downtown area. This property is located on Lots 7-12, Block 91 of the Original Townsite of Billings, being generally located between North 27th Street and North 26th Street and between 1st Avenue North and 2nd Avenue North. The City of Billings is requesting variances from the Site Development Ordinance, Section 6-1208(h)(3), and Section 6-1203(j)(2).

ALTERNATIVES ANALYZED:

1. a. Approve the variance allowing a curb cut of 32 feet instead of the standard 30 feet.
- b. Do not approve the variance allowing a curb cut of 32 feet instead of the standard 30 feet.
2. a. Approve the variance allowing curb cuts serving the same property to be separated by 15 feet instead of the standard 25 feet of full height curb.
- b. Do not approve the variance allowing curb cuts serving the same property to be separated by 15 feet instead of the standard 25 feet of full height curb.

FINANCIAL IMPACT: There is no financial impact associated with these variances.

RECOMMENDATION

Staff recommends that Council delay approval of both the variances until approval of Park II bids.

Approved By: **City Administrator** ____ **City Attorney** ____

ATTACHMENT

- A. Proposed Site Plan (2 pages)

INTRODUCTION

The City of Billings demolished the existing Smith's Funeral Home and is remodeling and expanding the existing Park II Parking Garage located at 2651 1st Avenue North. The new parking facility will be generally located between North 27th Street and North 26th Street and between 1st Avenue North and 2nd Avenue North. The City of Billings is requesting variances from the Site Development Ordinance, Section 6-1208(h)(3), and Section 6-1208(j)(2). Section 6-1208(h)(3) pertains to the maximum allowable driveway widths, and Section 6-1208(j)(2) pertains to the distance separating drive approaches serving the same property.

BACKGROUND

The first variance the City of Billings is seeking concerns the curb cut for the 2nd Avenue North entrance. The variance is to allow a curb cut of 32 feet instead of the standard 30 feet. For curb cuts, the Site Development Ordinance reads as follows:

Section 6-1208(h)(3)

In any commercial and industrial zoned districts, the maximum driveway width shall be thirty (30) feet except driveway widths for service stations and trucking businesses may be up to forty (40) feet when approved by the city, and shall be located in accordance with city specifications and drawings. The minimum distance between curb cuts shall be twenty-five (25) feet.

The second variance the City of Billings is seeking concerns the distance that separates the entrance drive approach from the exit drive approach. The Site Development Ordinance is as follows:

Section 1208(j)(2)

Two (2) or more curb cuts serving the same property must be separated by islands with full height curb not less than twenty-five (25) feet long.

ALTERNATIVES ANALYSIS

1. a. Approve the variance allowing a curb cut of 32 feet instead of the standard 30 feet. Approval of this variance will allow for improved turning movements for vehicles wishing to use the Wells Fargo drive-through banking facility on the first level of the parking garage.
- b. Do not approve the variance allowing a curb cut of 32 feet instead of the standard 30 feet. Denying this variance may decrease vehicle mobility.
2. a. Approve the variance allowing curb cuts serving the same property to be separated by 15 feet instead of the standard 25 feet of full height curb. Approval of this variance will allow for improved turning movements for vehicles wishing to use the Wells Fargo drive-through banking facility on the first level of the parking garage.

- b. Do not approve the variance allowing curb cuts serving the same property to be separated by 15 feet instead of the standard 25 feet of full height curb. Denying this variance would require substantial redesign of the site increasing project cost. In addition, if this variance is denied, and the drive approach is moved to the east to allow for 25 feet of full height curb separation, the drive approach will conflict with the existing support column causing multiple mobility issues.

RECOMMENDATION

Staff recommends that Council delay approval of both the variances until approval of Park II bids.

ATTACHMENT

- A. Proposed Site Plan (2 pages)

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

AGENDA ITEM:

**CITY COUNCIL AGENDA ITEM**

CITY OF BILLINGS, MONTANA

Monday, April 10, 2006

TITLE: Public Hearing and Resolution - Vacation of Right-of-Way for Falcon Ridge Subdivision 1st Filing

DEPARTMENT: Public Works Department – Engineering Division

PRESENTED BY: David D. Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT: The plat of Falcon Ridge Subdivision, 1st Filing, was recorded on September 20, 2005. The owner of the subdivision has decided to reconfigure the lots and has submitted a new plat to be named Falcon Ridge Estates Subdivision. This subdivision will require right-of-way to be vacated for portions of the existing Falcon Ridge Subdivision, 1st Filing, plat. The attached Exhibit A shows the right-of-way to be dedicated and vacated.

ALTERNATIVES ANALYZED:

- After holding a public hearing, approve the vacation of portions of Falcon Ridge Subdivision 1st Filing Right-of-Way
- After holding a public hearing, do not approve the vacation of portions of Falcon Ridge Subdivision 1st Filing Right-of-Way.

FINANCIAL IMPACT: Right-of-way will be dedicated with Falcon Ridge Estates Subdivision. There will be no financial impact to the City. The City Engineer's Office recommends the right-of-way be vacated at no cost.

RECOMMENDATION

Staff recommends that Council approve the vacation of portions of Falcon Ridge Subdivision 1st Filing, Billings, Montana.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENT

A. Exhibit A

ATTACHMENT A

RESOLUTION NO. 06-_____

A RESOLUTION OF THE CITY OF BILLINGS, MONTANA,
DISCONTINUING AND VACATING **all of Masters Court, Falcon Ridge Court & the 20' right-of-way and portions of Western Bluffs Boulevard, Golden Acres Drive & the parkland within Falcon Ridge Subdivision 1st Filing.**

WHEREAS, a proper petition was filed with the City Council of the City of Billings, Montana, as per Section 22-601 BMCC, requesting discontinuance and vacation of **all of Masters Court, Falcon Ridge Court & the 20' right-of-way and portions of Western Bluffs Boulevard, Golden Acres Drive & the parkland within Falcon Ridge Subdivision 1st Filing** as described hereinafter; and

WHEREAS, a public hearing was properly noticed and held as required by law.

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

1. **DISCONTINUANCE AND VACATION.** Pursuant to Sections 7-14-4114 and 7-14-4115, M.C.A., **all of Masters Court, Falcon Ridge Court & the 20' right-of-way and portions of Western Bluffs Boulevard, Golden Acres Drive & the parkland within Falcon Ridge Subdivision 1st Filing** and more particularly described in *Exhibit "A"* attached, is/are hereby discontinued, abandoned and vacated.
2. **PUBLIC INTEREST.** The discontinuance, vacation and abandonment of the above described **all of Masters Court, Falcon Ridge Court & the 20' right-of-**

way and portions of Western Bluffs Boulevard, Golden Acres Drive & the parkland within Falcon Ridge Subdivision 1st Filing is in the best interest of the public and can be done without any public detriment. Ownership of the vacated area will revert to the adjacent owner – Dennis Buscher.

PASSED by the City Council and APPROVED this 10th day of April, 2006.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing MAYOR

ATTEST:

BY: _____
Marita Herold, CMC/AE CITY CLERK

Exhibit A

Legal Descriptions for Right-of Way Vacations within Falcon Ridge Subdivision, First Filing

R.O.W. Vacation #1

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the northeast corner of the parkland in Block 6 of Falcon Ridge Subdivision, First Filing; thence N 89°59'43" E a distance of 4.82 feet; thence S 00°04'00" E a distance of 62.24 feet; thence along a curve to the left having a radius of 411.34 feet a distance of 100.18 feet (chord bearing S 07°02'38" E, chord distance of 99.93 feet); thence S 24°50'04" W a distance of 7.84 feet; thence along a non-tangent curve to the right having a radius of 380.0000 feet a distance of 102.23 feet (chord bearing N 07°46'25" W, chord distance of 101.92 feet); thence N 00°04'00" W a distance of 67.56 feet to the point of beginning; said described tract having an area of 831 square feet.

R.O.W. Vacation #2

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the northwest corner of Lot 10, Block 5 of Falcon Ridge Subdivision, First Filing; thence along a curve to the left having a radius of 570.00 feet a distance of 11.67 feet (chord bearing S 51°29'59" W, chord distance of 11.67 feet); thence N 00°04'00" W a distance of 14.60 feet; thence along a non-tangent curve to the right having a radius of 570.00 feet a distance of 157.84 feet (chord bearing N 55°08'59" E, chord distance of 157.33 feet); thence S 67°06'41" E a distance of 13.04 feet; thence along a non-tangent curve to the right having a radius of 1470.00 feet a distance of 77.00 feet (chord bearing S 16°06'45" E, chord distance of 76.99 feet); thence N 19°08'21" W a distance of 52.47 feet; thence N 66°01'49" W a distance of 13.67 feet; thence along a non-tangent curve to the left having a radius of 570.00 feet a distance of 144.15 feet (chord bearing S 59°19'52" W, chord distance of 143.77 feet) to the point of beginning; said described tract having an area of 3,109 square feet.

R.O.W. Vacation #3

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the northeast corner of Lot 9, Block 3 of Falcon Ridge Subdivision, First Filing; thence N 89°59'43" W a distance of 222.50 feet; thence along a tangent curve to the left having a radius of 570.00 feet a distance of 153.05 feet (chord bearing S 82°18'45" W, chord distance 152.59 feet); thence S 27°29'22" W a distance of 9.05 feet; thence along a non-tangent curve to the left having a radius of 1530.00 feet a distance of 24.86 feet (chord bearing N 17°21'17" W, chord distance of 24.86 feet); thence N 26°19'08"

E a distance of 14.31 feet; thence along a non-tangent curve to the right having a radius of 570.00 feet a distance of 187.59 feet (chord bearing

N 80°34'35" E, chord distance of 186.75 feet); thence S 89°59'43" E a distance of 241.71 feet; thence S 00°04'00" E a distance of 38.70 feet; thence N 89°59'43" W a distance of 27.02 feet; thence S 00°04'00" E a distance of 136.76 feet; thence S 05°23'16" E a distance of 24.65 feet; thence N 89°59'43" W a distance of 20.09 feet; thence

N 05°23'16" W a distance of 23.69 feet; thence N 00°04'00" W a distance of 137.71 feet; to the point of beginning; said described tract having an area of 19,110 square feet.

R.O.W. Vacation #4

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the northeast corner of Lot 1, Block 3 of Falcon Ridge Subdivision, First Filing; thence N 45°01'52" W a distance of 14.15 feet; thence

N 89°59'43" W a distance of 299.98 feet; thence N 00°04'00" W a distance of 38.70 feet; thence S 89°59'43" E a distance of 300.00 feet; thence S 44°58'50" E a distance of 14.14 feet; thence S 00°04'00" E a distance of 38.70 feet to the point of beginning; said described tract having an area of 11,995 square feet.

R.O.W. Vacation #5

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the northwest corner of Lot 8, Block 1 of Falcon Ridge Subdivision, First Filing; thence N 00°04'00" W a distance of 38.70 feet; thence

N 45°29'29" E a distance of 14.00 feet; thence along a non-tangent curve to the right having a radius of 270.00 feet a distance of 136.29 feet (chord bearing S 73°25'42" E, chord distance of 134.85 feet); thence along a curve to the left having a radius of 330.00 feet a distance of 177.94 feet (chord bearing S 74°24'52" E, chord distance 175.79 feet); thence S 00°04'00" E a distance of 38.70 feet; thence along a non-tangent curve to the right having a radius of 330.00 feet a distance of 179.12 feet (chord bearing

N 74°31'02" W, chord distance of 176.93 feet); thence along a curve to the left having a radius of 270.00 feet a distance of 135.11 feet (chord bearing N 73°18'12" W, chord distance 133.70 feet); thence S 45°37'00" W a distance of 13.97 feet to the point of beginning; said described tract having an area of 12,038 square feet.

R.O.W. Vacation #6

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the southwest corner of Lot 11, Block 3 of Falcon Ridge Subdivision, First Filing; thence S 19°08'21" E a distance of 27.04 feet; thence

N 50°58'04" W a distance of 13.00 feet; thence along a non-tangent curve to the left having a radius of 1530.00 feet a distance of 68.75 feet (chord bearing N 13°24'52" W, chord distance of 68.75 feet); thence S 19°08'21" E a distance of 52.41 feet to the point of beginning; said described tract having an area of 255 square feet.

R.O.W. Vacation #7

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the southwest corner of Lot 13, Block 3 of Falcon Ridge Subdivision, First Filing; thence along a curve to the right having a radius of 630.00 feet a distance of 35.69 feet (chord bearing S 05°36'48" E, chord distance of 35.69 feet); thence N 89°59'43" W a distance of 31.34 feet; thence N 46°14'45" W a distance of 14.45 feet; thence along a non-tangent curve to the left having a radius of 1530.00 feet a distance of 181.28 feet (chord bearing N 06°04'40" W, chord distance of 181.17 feet); thence N 40°10'22" E a distance of 12.90 feet; thence S 89°59'43" E a distance of 6.40 feet; thence S 19°08'21" E a distance of 39.47 feet; thence along a tangent curve to the right having a radius of 630.00 feet a distance of 130.88 feet (chord bearing

S 13°11'16" E, chord distance 130.64 feet) to the point of beginning; said described tract having an area of 6,273 square feet.

R.O.W. Vacation #8

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the southeast corner of Lot 19, Block 3 of Falcon Ridge Subdivision, First Filing; thence N 05°23'16" W a distance of 24.41 feet; thence

S 89°59'43" E a distance of 20.09 feet; thence S 05°23'16" E a distance of 18.76 feet; thence along a non-tangent curve to the right having a radius of 55.00 feet a distance of 37.32 feet (chord bearing S 75°57'01" E, chord distance of 36.61 feet); thence

S 00°00'17" W a distance of 91.75 feet; thence along a non-tangent curve to the right having a radius of 55.00 feet a distance of 21.18 feet (chord bearing S 67°33'16" W, chord distance of 21.05 feet); thence along a curve to the left having a radius of 10.00 feet a distance of 10.03 feet (chord bearing S 49°51'05" W, chord distance 9.62 feet); thence along a curve to the left having a radius of 270.00 feet a distance of 68.63 feet (chord bearing S 13°50'03" W, chord distance 68.44 feet); thence N 89°59'43" W a distance of 60.32 feet; thence along a non-tangent curve to the right having a radius of 330.00 feet a distance of 98.38 feet (chord bearing N 13°53'57" E, chord distance of 98.02 feet); thence along a curve to the left having a radius of 10.00 feet a distance of 8.30 feet (chord bearing N 01°20'30" W, chord distance 8.07 feet); thence along a curve to the right having a radius of 55.00 feet a distance of 84.87 feet (chord bearing

N 19°04'57" E, chord distance 76.70 feet) to the point of beginning; said described tract having an area of 13,295 square feet.

R.O.W. Vacation #9

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the northwest corner of Lot 21, Block 3 of Falcon Ridge Subdivision, First Filing; thence along a curve to the right having a radius of 55.00 feet a distance of 38.06 feet (chord bearing S 03°55'49" W, chord distance of 37.30 feet);

thence N 00°00'17" E a distance of 44.30 feet; thence along a non-tangent curve to the right having a radius of 55.00 feet a distance of 7.54 feet (chord bearing S 19°49'05" E, chord distance of 7.53 feet) to the point of beginning; said described tract having an area of 139 square feet.

R.O.W. Vacation #10

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the southeast corner of Lot 5, Block 1 of Falcon Ridge Subdivision, First Filing; thence along a curve to the right having a radius of 55.00 feet a distance of 33.36 feet (chord bearing S 63°04'57" E, chord distance of 32.85 feet); thence along a non-tangent curve to the left having a radius of 50.50 feet a distance of 29.98 feet (chord bearing N 72°59'35" W, chord distance of 29.54 feet); thence N 89°59'43" W a distance of 36.99 feet; thence along a non-tangent curve to the right having a radius of 55.00 feet a distance of 37.19 feet (chord bearing N 80°10'18" E, chord distance of 36.48 feet) to the point of beginning; said described tract having an area of 286 square feet.

R.O.W. Vacation #11

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the northwest corner of Lot 1, Block 1 of Falcon Ridge Subdivision, First Filing; thence along a curve to the right having a radius of 970.00 feet a distance of 53.52 feet (chord bearing N 05°47'23" E, chord distance of 53.51 feet); thence N 48°50'07" E a distance of 15.06 feet; thence S 89°59'43" E a distance of 73.01 feet; thence S 47°33'10" E a distance of 14.76 feet; thence along a non-tangent curve to the left having a radius of 50.50 feet a distance of 75.50 feet (chord bearing S 53°37'16" E, chord distance of 68.66 feet); thence along a non-tangent curve to the right having a radius of 55.00 feet a distance of 16.06 feet (chord bearing S 81°38'07" W, chord distance of 16.00 feet); thence S 89°56'00" W a distance of 129.30 feet; thence S 47°13'08" W a distance of 14.69 feet to the point of beginning; said described tract having an area of 286 square feet.

R.O.W. Vacation #12

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the southwest corner of Lot 24, Block 3 of Falcon Ridge Subdivision, First Filing; thence S 89°56'00" W a distance of 40.00 feet; thence along a tangent curve to the right having a radius of 998.66 feet a distance of 40.00 feet (chord bearing N 88°55'09" W, chord distance 40.00 feet); thence N 45°56'15" E a distance of 13.89 feet; thence N 00°04'00" W a distance of 189.59 feet; thence

S 89°59'43" E a distance of 60.00 feet; thence S 00°04'00" E a distance of 189.96 feet; thence S 45°04'00" E a distance of 14.14 feet to the point of beginning; said described tract having an area of 12,096 square feet.

R.O.W. Vacation #13

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the southwest corner of Lot 15, Block 3 of Falcon Ridge Subdivision, First Filing; thence along a curve to the right having a radius of 998.66 feet a distance of 27.04 feet (chord bearing N 73°27'00" W, chord distance of 27.04 feet); thence N 33°39'41" W a distance of 15.60 feet; thence along a non-tangent curve to the left having a radius of 1530.00 feet a distance of 131.88 feet (chord bearing N 02°24'29" E, chord distance of 131.84 feet); thence N 44°52'41" E a distance of 14.11 feet; thence S 89°59'43" E a distance of 31.64 feet; thence along a non-tangent curve to the right having a radius of 630.00 feet a distance of 151.62 feet (chord bearing

S 07°27'18" W, chord distance of 151.25 feet); thence S 29°34'02" E a distance of 14.30 feet to the point of beginning; said described tract having an area of 5,628 square feet.

R.O.W. Vacation #14

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the northwest corner of Lot 18, Block 4 of Falcon Ridge Subdivision, First Filing; thence S 63°05'28" W a distance of 14.61 feet; thence along a non-tangent curve to the left having a radius of 970.00 feet a distance of 121.92 feet (chord bearing S 16°06'58" W, chord distance of 121.84 feet); thence along a curve to the left having a radius of 1530.00 feet a distance of 122.80 feet (chord bearing

N 10°12'58" E, chord distance 122.76 feet); thence N 57°20'57" E a distance of 12.96 feet; thence along a non-tangent curve to the left having a radius of 1058.66 feet a distance of 14.76 feet (chord bearing S 73°42'04" E, chord distance of 14.76 feet) to the point of beginning; said described tract having an area of 649 square feet.

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, April 10, 2006

TITLE: Falcon Ridge Estates Subdivision Final Plat
DEPARTMENT: Planning and Community Services
PRESENTED BY: Wyeth Friday, Planner II, through Candi Beaudry, AICP, Interim Planning Director

PROBLEM/ISSUE STATEMENT: This final plat is being presented to the City Council for approval. The preliminary plat was approved on November 28, 2005. The property is located northwest of the intersection of Molt Road and Rimrock Road near the western edge of the City of Billings. This property was annexed into the City in May 2002. The proposed subdivision contains 78 residential lots on 28 acres of land. The property is zoned Residential-9600.

This subdivision replats a portion of the Falcon Ridge Subdivision that was recorded on September 20, 2005 (See Attachment A). This replatting requires that vacation of road rights-of-way for the underlying Falcon Ridge Subdivision be approved by the City Council prior to approval of the Falcon Ridge Estates Subdivision. The Council is scheduled to conduct the public hearing for the road vacations and act on the proposed vacations at this meeting prior to acting on this final plat.

The final documents for this final plat meet all of the preliminary plat approval conditions. The City Attorney reviewed and approved the subdivision plat and the associated documents.

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

RECOMMENDATION

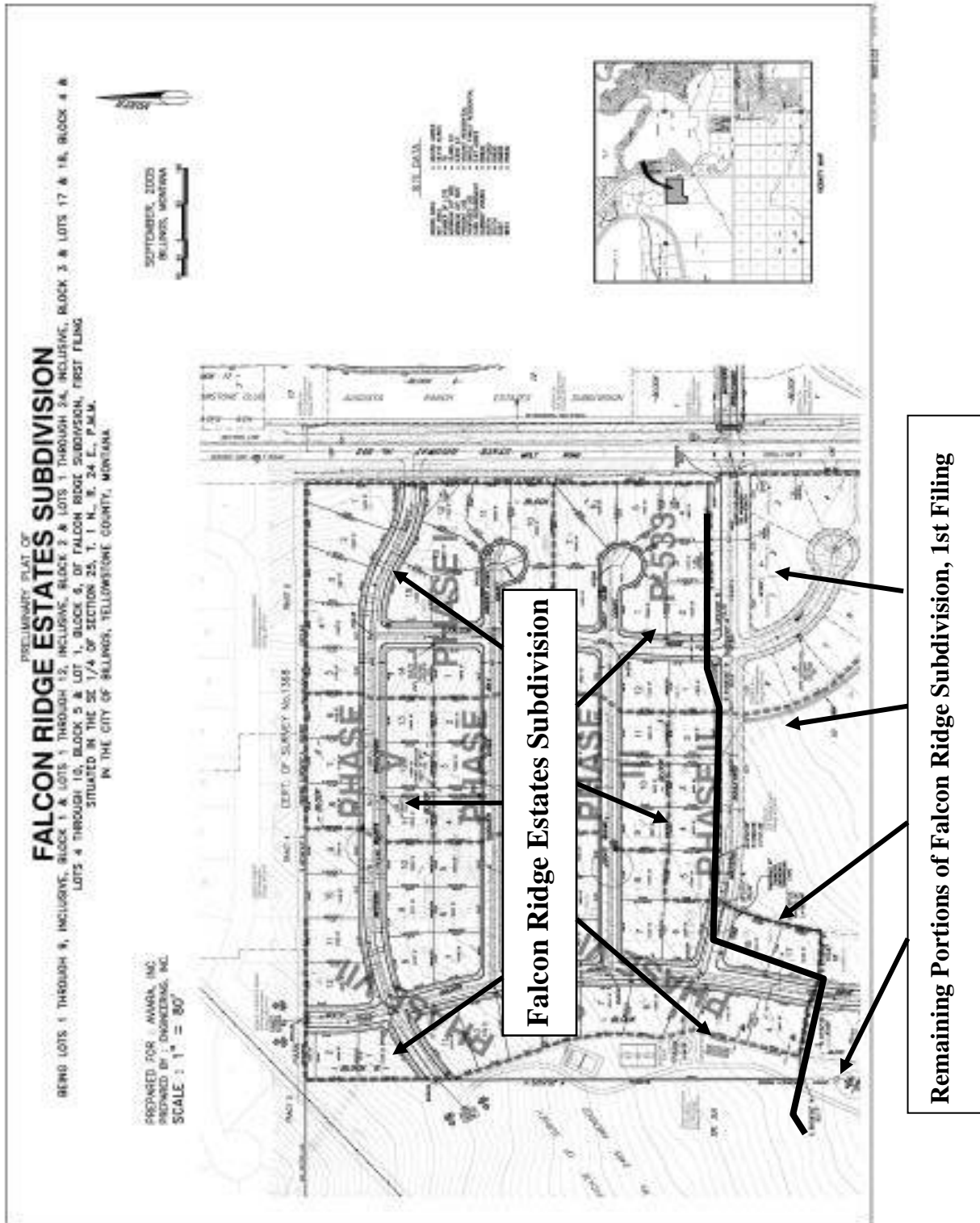
Staff recommends that the City Council approve the final plat of the Falcon Ridge Estates Subdivision.

Approved By: City Administrator _____ City Attorney _____

ATTACHMENTS

A: Plat

ATTACHMENT A



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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 10, 2006

TITLE: W.O. 00-15 Resolution Authorizing Condemnation of Property on Grand Avenue

DEPARTMENT: Public Works/Engineering

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

PROBLEM/ISSUE STATEMENT: City Council was requested to approve a resolution authorizing condemnation of six properties on Grand Avenue at the January 9, 2006, Council Meeting. Council delayed action on the resolution to allow staff 90 days to obtain expert advice on evaluation of appraisals and alternatives. The Public Works Department has received a separate market analysis of the six properties but has not evaluated the analysis or made new offers to the affected property owners.

FINANCIAL IMPACT: Final value will be presented to City Council if the values exceed staff's allowable negotiating value.

RECOMMENDATION

Staff recommends that Council further delay action 30 days on the resolution authorizing condemnation of six properties on Grand Avenue to allow staff to evaluate market analysis and renegotiate with affected property owners.

Approved By: **City Administrator** ____ **City Attorney** ____

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 10, 2006

TITLE: City Administrator Selection
DEPARTMENT: Administration
PRESENTED BY: Bruce McCandless, Deputy City Administrator

PROBLEM/ISSUE STATEMENT: Council members, department directors and a citizen committee submitted proposed City Administrator qualifications to the Council at the April 3, 2006 work session. The Council may choose to take recruitment actions beyond giving staff instructions that the City Code allows at work sessions. This item is scheduled to allow Council the flexibility to take those actions if it chooses.

FINANCIAL IMPACT: Recruiting a new City Administrator may have substantial financial impacts depending on the course of action approved by Council. There are no funds budgeted in the FY 06 budget for these expenses, however, there may be salary savings in the Administrator budget, the Council may authorize spending from its Council Contingency account or it may approve a budget amendment. Staff will be proposing a FY 07 budget to cover travel and relocation expenses if the Council proceeds with a national search.

RECOMMENDATION

Staff recommends that the Council direct staff to assist with recruitment and make any budgetary adjustments needed to accomplish the tasks.

Approved By: City Administrator ____ City Attorney ____

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 10, 2006

TITLE: 4th and Broadway Property Development

DEPARTMENT: Administration

PRESENTED BY: Bruce McCandless, Deputy City Administrator

PROBLEM/ISSUE STATEMENT: On January 9, 2006 the City Council created a Property Development Review Committee and authorized it to negotiate with two prospective developers of the City owned property at 4th Avenue North and Broadway. The Council authorized a 90 day negotiating period. The property developer negotiations are not complete, primarily because both developments require City owned and operated parking. The uncertainty over Parking Fund money availability is making the negotiations more difficult and slower than anticipated. The Committee will more completely explain the reasons for the delay and ask for a time extension or other Council guidance.

ALTERNATIVES ANALYZED: The Council could:

- Grant a time extension and continue negotiating with the prospective developers
- Terminate negotiations with either or both prospective developers

FINANCIAL IMPACT: The Stockman Bank has offered \$900,000 for the corner property and the price for the middle of the block is part of the negotiations with Downtown Billings Investors. There should be no financial impact to granting a time extension because both parties remain committed to purchasing the properties and developing them.

RECOMMENDATION

Staff recommends that the Council grant a sixty (60) day time extension for completing negotiations with both developers.

Approved By: City Administrator ____ City Attorney ____

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