

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

September 25, 2006

6:30 P.M.

CALL TO ORDER – Mayor Tussing

PLEDGE OF ALLEGIANCE – Mayor Tussing

INVOCATION – Councilmember Jim Ronquillo

ROLL CALL

MINUTES – September 11, 2006.

COURTESIES

PROCLAMATIONS

- September 25: Family Day – A Day to Eat Dinner With Your Children
- October 8-14: Fire Prevention Week

ADMINISTRATOR REPORTS – Tina Volek

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Item: #1 and #17

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 Appointment:

	Name	Board/Commission	Term	
			Begins	Ends
1.	Bruce MacIntyre	Homelessness Committee	09/11/06	12/31/10

1. Unexpired term of Joseph McClure

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

B. Bid Awards:

(1) 2007 4-Wheel Mechanical Broom High Dump Sweeper.
(Opened 9/5/06). Recommend Western Plains, \$155,462.00 including the trade for Unit #1253.

[\(Corresponding Staff Memo B1\)](#)

C. Change Order #9 -- W.O. 04-13: Filter Building Expansion and Improvements, COP Construction, \$6,349.72.

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

D. Two West End Hangar Ground Leases with John M. and Marcia A. Nash, term: 20 years.

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

E. Pledged Collateral on Certificates of Deposits, US Bank Repurchase Account, and US Bank Municipal Investor Account.

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

F. C. Amendments to Agreements with Wells-Fargo:

- (1) Buy-Sell Agreement
- (2) Drive-up Bank lease.

(delayed from 9/11/06).

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

G. Acknowledging receipt of petition to vacate portion of Zimmerman Trail and Lyman Avenue abutting Lot 6, Scott Subdivision, Ronald Sanchez and Traci Albright, petitioners, and setting a public hearing for 10/23/06.

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

H. Resolution on East Billings Urban Renewal District, declaring blight, intent to create the district and setting a public hearing for 10/10/06.

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

I. Resolution on expanding the N. 27th Urban Renewal District, declaring blight, intent to create the expanded district and setting a public hearing for 10/10/06.

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

J. Second/final reading ordinance expanding the boundaries of Ward V to include recently annexed property in Annex #06-12: a 14.5-acre parcel described as Tract 1 of Corrected Amendment of Tracts 1 and 3 and Remainder Tract 2 to be the Amendment of Tracts 1, 2, and 3, C/S 1648, Bell Family Trust, owner.

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

K. Preliminary plat of E. D. King Subdivision, generally located on the north side of Grand Avenue and east of Zimmerman Trail; conditional approval of the plat, approval of the variance and adoption of the findings of fact.

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

L. Preliminary subsequent minor plat of Amended Lot 7, Block 2, Lake Hills Subdivision, 1st filing, generally located at the northwest corner of the intersection of Wicks Lane and Inverness Drive in the Heights; conditional approval of plat and adoption of the findings of fact.

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

M Preliminary subsequent minor plat of Normal Subdivision, 3rd filing, generally located west of N. 27th St. between Poly Drive and 12th Ave. North; conditional approval of plat and adoption of the findings of fact.

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

N. Final plat of Bellville Subdivision.

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

O. Bills and payroll.

(1) September 1, 2006

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

(Action: approval or disapproval of Consent Agenda.)

REGULAR AGENDA:

2. PUBLIC HEARING on FY 2005-2006 Draft Comprehensive Annual Performance Evaluation Report (CAPER) for the Community Development Block Grant (CDB) and HOME Programs. **(Action:** public hearing only.)

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

3. PUBLIC HEARING AND RESOLUTION vacating portions of 8th Avenue North and the alley between 7th Avenue North and 8th Avenue North for a value of \$584,250.00. Billings Clinic, petitioner. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)

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

4. PUBLIC HEARING AND RESOLUTION annexing a 65-acre parcel generally located south of Rimrock Rd. between 50th and 54th Streets West and described as Tracts 1 & 2, C/S 2054 and Cynthia Park (a county park), Blue Diamond Ranch Partnership LLC, owner/petitioner, Annex #06-13. Staff recommends conditional approval. **(Action:** approval or disapproval of Staff recommendation.)

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

5. PUBLIC HEARING AND RESOLUTIONS levying and assessing FY2007 assessments:

- A. Encumbrances, Obstructions, or Encroachments on, over, across or above the streets, avenues, sidewalks, or alleys of the City of Billings
- B. Cost of cutting and/or exterminating weeds.
- C. Park Maintenance Districts 4030 - 4033.

Staff recommends approval. (**Action:** approval or disapproval of Staff recommendation.)

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

6. PUBLIC HEARING AND RESOLUTIONS relevying and reassessing various assessments:

- A. Respreading assessments for SIDs 1332 and 1341 for a property split
- [\(Corresponding Staff Memo 6A\)](#)
- B. Respreading assessments for SIDs 1332, 1341 and 1353 for a property split
- [\(Corresponding Staff Memo 6B\)](#)
- C. Respreading assessment for SID 1346 for a property split
- [\(Corresponding Staff Memo 6C\)](#)
- D. Respreading assessment for SID 1356 for a property combination
- [\(Corresponding Staff Memo 6D\)](#)
- E. Respreading assessment for SID 1360 for a property combination
- [\(Corresponding Staff Memo 6E\)](#)
- F. Respreading assessment for SID 2203 for a property split
- [\(Corresponding Staff Memo 6F\)](#)
- G. Respreading assessments for SIDs 2301 and 2399 for a property split
- [\(Corresponding Staff Memo 6G\)](#)

Staff recommends approval. (**Action:** approval or disapproval of the Staff recommendation.)

7. PUBLIC HEARING AND RESOLUTION renaming Broadview Drive, north of Uinta Park Drive to Twin Oaks Drive. Staff recommends approval. (Action:** approval or disapproval of Staff recommendation.)**

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

8. PUBLIC HEARING AND RESOLUTION regarding petitions for *Reduction of Arterial Construction Fee Assessments* on eight (8) parcels. Staff recommends approval of the reduction for six parcels and denial of the reduction for two parcels due to failure to meet the criteria. (Action:** approval or disapproval of Staff recommendation.)**

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

9. PUBLIC HEARING AND SPECIAL REVIEW #824: A special review to construct a wireless communication antennae support structure of 125 feet in height in a Community Commercial zone on a leased portion of a 4.792-acre tract of land

described as Tract 2A1, C/S 1965, generally located at Main Street & Roundup Road. Ernie and Leann Dutton, owners; Verizon Wireless, agent. Zoning Commission recommends conditional approval. **(Action:** approval or disapproval of Zoning Commission recommendation.)

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

10. PUBLIC HEARING AND SPECIAL REVIEW #825: A special review to construct a senior housing community in a Residential-9,600 zone on a 14.77-acre tract of land described as Corrected and Amended Tracts 1-3 of C/S 1648 and generally located at the Southwest corner of Central Avenue & Shiloh Road, north of Bell Avenue. Robert & Bonnie Bell, owners; Carl Sanders of Mountain West Senior Housing, agent. Zoning Commission recommends conditional approval. **(Action:** approval or disapproval of Zoning Commission recommendation.)

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

11. PUBLIC HEARING AND SPECIAL REVIEW #826: A special review to construct a four-plex in a Residential-6,000 zone on a 11,850-square foot tract of land described as the West 79 feet of Lot 2, Block 1, Algeo Subdivision and located at 818 Avenue B. Derwood and Beverly Schrotberger, owners; Michael Stock, agent. Zoning Commission recommends conditional approval. **(Action:** approval or disapproval of Zoning Commission recommendation.)

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

12. PUBLIC HEARING AND SPECIAL REVIEW #827: A special review to construct a reinforcing steel fabrication facility in a Controlled Industrial zone on a 1.84-acre tract of land described as Lot 3, Block 5, Tierra Yellowstone Industrial Subdivision and generally located South of Gabel Road at the intersection of South 29th Street West. Tony Creek, LLC, owner; Engineering, Inc., agent. Zoning Commission recommends conditional approval. **(Action:** approval or disapproval of Zoning Commission recommendation.)

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

13. PUBLIC HEARING AND SPECIAL REVIEW #828: A special review to locate an all-beverage liquor license with gaming in a Controlled Industrial zone on a 4.14-acre tract of land described as Lot 11, Block 1 of Broso Valley Park Subdivision and located at 3398 Broso Park Drive. Big Horn Resorts, LLC, owner; Doug Braham, Divide Development and Engineering, Inc., agent. Zoning Commission recommends conditional approval. **(Action:** approval or disapproval of Zoning Commission recommendation.)

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

14. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #790: A zone change from Residential-9,600 to Neighborhood Commercial on a 0.913- acre parcel of land described as the North 1 acre (less 3,795 sq ft for street) of the E2 of Lot 2 in the NE4 of Section 9, Township 1 South, Range 26 East and located at 4130 State Avenue. Guy & Lloyd Romero, owners; George

Esparza and Valerie Dangerfield, agents. Zoning Commission recommends approval. **(Action:** approval or disapproval of Zoning Commission recommendation.)

[\(Corresponding Staff Memo 14\)](#)

15. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE

#791: A City Council-initiated zone change to correct the zoning from Public to Residential-9,600 on a 20,022 square parcel of land described Lots 19 and 20 of Block 61, Lake Hills Subdivision, 27th Filing and located at 241 and 301 Glenhaven Drive. Lloyd & Leon Irvine and Laura Dimmler and Robert Guisti, owners; City of Billings, agent. Zoning Commission recommends approval. **(Action:** approval or disapproval of Zoning Commission recommendation.)

[\(Corresponding Staff Memo 15\)](#)

16. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE

#792: A City Council-initiated zone change to correct the zoning from Agriculture-Open Space to Public on a 202-acre parcel of land described as Tract 1 of C/S 2432 and Tracts 1-8 & 11 of C/S 2037 and generally located on Airport Property. City of Billings, owner/agent. Zoning Commission recommends approval. **(Action:** approval or disapproval of Zoning Commission recommendation.)

[\(Corresponding Staff Memo 16\)](#)

17. CITY ADMINISTRATOR CONTRACT with Tina Volek. (Delayed from 9/11/06)

(Action: approval or disapproval of contract.)

[\(Corresponding Staff Memo 17\)](#)

18. PUBLIC COMMENT on Non-Agenda Items -- Speaker sign-in required.

(Restricted to ONLY items not on this 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)

SEPTEMBER:

9/25/2006	REGULAR Council Meeting	6:30 p.m.	Council Chambers
9/26/2006	Agenda Setting Meeting Planning Board Traffic Control Board	5:30 p.m. 6:00 p.m. NOON	CH Conference Room 4 th Floor Library 4 th Floor Library
9/27/2006	Housing Authority Development Process Advisory Review Board (DPARB)	NOON 1:00 p.m.	2415 1 st Avenue North CH Conference Room
9/28/2006	Yellowstone County Board of Health	7:00 a.m.	Community Health Center 123 So. 27 th Street

OCTOBER:

10/02/2006	Council WORK SESSION	5:30 p.m.	Community Center 360 N. 23 rd St
10/03/2006	Community Development Board Cobb Field Stadium Steering Committee Zoning Commission Aviation & Transit Commission	3:00 p.m. 3:00 p.m. 4:30 p.m. 5:30 p.m.	4 th Floor Library PRPL – 390 N. 23 rd St. Council Chambers Airport
10/04/2006	Policy Coordinating Committee Board of Adjustment Public Forum on Animal Shelter	8:00 a.m. 6:00 p.m. 6:00 p.m.	4 th Floor Library Council Chambers 3 rd Floor Library
10/05/2006	EMS Commission Human Relations Commission	7:30 a.m. 12:15 p.m.	Main Fire Station Conf. Rm 2300 9 th Ave. N. CH Conference Room
10/09/2006	COLUMBUS DAY – CITY OFFICES CLOSED		
10/10/2006	Parking Advisory Board Planning Board REGULAR Council Meeting	4:00 p.m. 6:00 p.m. 6:30 p.m.	CH Conference Room 4 th Floor Library Council Chambers
10/11/2006	Parks/Recreation/Cemetery Bd Agenda Setting Meeting	11:30 a.m. 5:30 p.m.	Community Center 360 N. 23 rd St. CH Conference Room
10/12/2006	Library Board Homeless Committee	NOON 2:00 p.m.	Library 3 rd Floor Library

10/16/2006	Energy & Conservation Commission Council WORK SESSION	3:00 p.m. 5:30 p.m.	BOC Conference Room Community Center 360 N. 23 rd St
10/17/2006	Yellowstone Historic Preservation Board	8:00 a.m.	4 th Floor Library
10/19/2006	Public Utilities Board	6:30 p.m.	Public Works-Belknap 2251 Belknap Ave
10/23/2006	REGULAR Council Meeting	6:30 p.m.	Council Chambers
10/24/2006	Planning Board Traffic Control Board	6:00 p.m. NOON	4 th Floor Library 4 th Floor Library
10/25/2006	Housing Authority Development Process Advisory Review Board (DPARB)	NOON 1:00 p.m.	2415 1 st Avenue North CH Conference Room
10/26/2006	Yellowstone County Board of Health (Note: November and December meetings to be combined at a date decided in October)	7:00 a.m.	Community Health Center
10/31/2006	Agenda Setting Meeting	5:30 p.m.	CH Conference Room

A



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, SEPTEMBER 25, 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.	Bruce MacIntyre	Homelessness Committee	09/11/06	12/31/10

1. Unexpired term of Joseph McClure

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

Attachment

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

B1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, September 25, 2006

SUBJECT: Sweeper Bid

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: The Street/Traffic Division intends to purchase a 4-wheel mechanical broom high dump sweeper in FY07. This purchase was approved by the City Council in the FY07 budget process for replacement of an existing sweeper to be purchased in the Equipment Replacement Plan (ERP). Bids were opened on Tuesday, September 5, 2006, at 2:00pm.

FINANCIAL IMPACT: This expense was budgeted for FY07 in the Capital Replacement Fund (\$183,967).

<u>Vendor</u>	<u>Bid</u>	<u>Trade In</u>	<u>Net Bid</u>	<u>Warranty 5yr</u>	<u>Total</u>
Kois Bros	\$176,600	\$ 20,000	\$156,600	\$1635.00	\$158,124
Western Plains	\$178,637	\$ 25,000	\$153,637	\$1825.00	\$155,462

RECOMMENDATION

Staff recommends Western Plains receive bid as low bidder. Staff also recommends trading Unit #1253 for the trade in amount of \$25,000.

Approved By: City Administrator City Attorney

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C

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, September 25, 2006

TITLE: W.O. 04-13—Filter Building Expansion and Improvements,
Change Order Number Nine

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: HDR Engineering, the designer and consultant for the expansion and improvements to the Water Treatment Plant (WTP) Filter Building (W.O. 04-13), has submitted Change Order Number Nine to modify the construction contract with COP Construction. Change Order No. Nine involves labor and materials related to rerouting a sanitary sewer line, modifying a sump in the south gallery, modifying how a 36-inch influent pipe ties into the flume, and modifying the plumbing and specifications for one of the new restrooms. No additional time is requested, but additional costs result from the recommended changes, as outlined below.

During excavation of the new Filter Building, COP encountered a 6-inch sanitary sewer (SS) line coming from the existing women's restroom. The plans call for all new restroom plumbing to tie into this 6-inch line, but the existing location of the line put it in conflict with the new excavation. The existing SS line and all new plumbing must therefore be rerouted. The new route increases the efficiency of the plumbing, but additional costs of \$4,523.95 result from the extra labor and materials needed.

The plans call for a sump in the south gallery of the new Filter Building. Original specifications required a "separator" wall to separate treated from untreated water. The sump is below the filter level, so no treated water will be present and the "separator" requirement is not needed. To allow the contractor to order the necessary material and begin construction of the redesigned sump area, the following changes will be implemented: 1) eliminate a void form and 8-inch wall ("separator"); 2) replace the 8-inch wall with a single-sided wall 12 inches wide and containing adequate reinforcement; 3) eliminate wall sleeves; 4) provide strip style waterstop on 30-inch wall penetrations; and 5) replace wall sleeves and modular seals with wall pipes with weep rings on the lines into and out of the sump. These changes result in a deduct of \$1,570.39.

The plans call for a 36-inch filter influent line to interconnect to the existing east flume. However, a conflict has been found with another existing flume that will not allow installation as originally planned. To overcome this conflict, the core drill and double modular wall seal will be eliminated and replaced with saw cutting demolition, installation of a weep ring seal, and repair of the flume wall causing the conflict. The labor and materials needed for this change result in additional costs of \$1,521.01. No additional time has been requested.

As part of the building permit application and review by the City Building Division, some changes are required for the restrooms. Most of the changes involve adherence to ADA regulations. Most changes required by the Building Division were implemented into Change Order No. 1 and/or 1A. The restroom changes were only recently finalized with the plumbing contractor, so they will now be included in Change Order No. 9. The labor and materials needed to conform to the restroom requirements result in additional costs of \$1,875.15.

In summary, Change Order Number Nine creates an increase of \$6,349.72 to the contract amount, but no change to the schedule for time of completion. The Change Order Cover Sheet is shown in Attachment A.

FINANCIAL IMPACT: W.O. 04-13 – Water Treatment Plant Filter Building Expansion and Improvements is being funded by a State Revolving Fund (SRF) loan and supplemented by the City’s Utilities Water Building and Operation Facilities Fund, Account #416-7493-603-9220. Change Order Number Nine represents an addition to the project’s costs. The approved project budget includes a contingency to pay for unforeseen circumstances characteristic with those depicted in Change Order Number Nine. There are adequate funds available to cover the additional costs. The table below summarizes the financial impact to the project.

ORIGINAL CONSTRUCTION CONTRACT:	\$16,400,000.00	
	Amount	% Of Contract
Change Orders 1 A thru 5 (Additions)	\$ 99,397.19	0.61%
Change Order No. 6 (Deduction)	(\$ 1,588.17)	-0.01%
Change Order No. 7 (Addition)	\$ 2,029.08	0.01%
Change Order No. 8 (Addition)	\$ 48,312.49	0.29%
Change Order No. 9 (Addition)	\$ 6,349.72	0.04%
TOTALs to date:	\$ 154,500.31	0.94%

RECOMMENDATION

Staff recommends that Council approve Change Order Number Nine to the construction contract with COP Construction for W.O. 04-13—Filter Building Expansion and Improvements, adding \$6,349.72 to the contract.

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

ATTACHMENT

A. Cover sheet of Change Order Number Nine

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D

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, September 25, 2006

TITLE: Council Approval of Two West End Hangar Ground Leases with John M. and Marcia A. Nash

DEPARTMENT: Aviation and Transit

PRESENTED BY: Tom Binford, A.A.E., Interim Director of Aviation and Transit

PROBLEM/ISSUE STATEMENT: Mr. and Mrs. Nash desire to construct a new one hundred and twenty-foot by sixty-foot aircraft hangar in the City's West End General Aviation area located at the Billings Logan International Airport. This area was specifically developed in the early 1990's to accommodate the general aviation tenants with this type of lease and hangar construction. The proposed hangar will have a steel partition wall that separates the hangar into two separate units, similar to a duplex. Each hangar unit will have its own hangar door. This will allow Mr. Nash to utilize one side for pursuing his hobby of restoring older planes and use the other side for aircraft storage; allowing him to heat only half the building when he is using one side or the other. He also wanted the flexibility to sell one side of the hangar in the future. To simplify a potential future sale and assignment transaction, staff has opted to provide Mr. and Mrs. Nash with two lease parcels that adjoin down the center of the proposed hangar, making a sales transaction and assignment of one of the hangar sides fairly straight forward. These two twenty (20) year ground Leases would be for two adjoining 5,525 square foot parcels on the south side of general aviation Taxilane "C" for a total of 11,050 square feet. This would be the seventeenth, 20-year ground lease in this specified area. The ground lease rate of \$.17 per square foot per annum is very similar to the rate being paid by the other sixteen ground lease tenants in this area. We have compared our ground lease rates with other commercial service airports and have found that our ground lease rates are comparable. The format of the two Lease documents is very similar to the Airport ground lease documents used for the past number of years. The Lease identifies that the tenant is responsible for maintaining the leasehold, and includes the appropriate insurance coverage requirements and indemnification language. This is a regular business transaction for the Airport.

FINANCIAL IMPACT: Each of the two ground Leases will generate \$939.25 in the first year of the Lease, for a total of \$1,875.50. Future lease year rentals will be adjusted annually by the Consumer Price Index.

RECOMMENDATION

Staff recommends that Council approve the authorization for the Mayor to execute two new twenty-year West End Hangar Ground Leases at the Billings Logan International Airport with John M. and Marcia A. Nash.

Approved By: City Administrator City Attorney

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AGENDA ITEM:

**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, September 25, 2006**

TITLE: Quarterly Report for Pledged Collateral on Certificates of Deposit, US Bank Repurchase Account, and US Bank Municipal Investor Account

DEPARTMENT: Administration-Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: On June 30, 2006, the City had \$4,000,000 invested in certificates of deposit at Wells Fargo Bank, Billings; \$2,000,000 in certificates of deposit at Sterling Savings Bank, Billings: \$1,000,000 in certificates of deposit at US Bank, Billings; \$5,134,905.66 invested in the U.S. Bank Municipal Investor Account; and \$5,397,946.86 in the US Bank Repurchase Account. The City also has \$2,000,000 in a non compensating certificate of deposit at US Bank, Billings. The earning credits are applied to our bank charges.

Because Wells Fargo's net worth ratio is over 6%, the City is required to have a minimum of 50% of the deposits covered by pledged securities. Wells Fargo has collateralized the City's deposits with 148% in pledged securities.

Because Sterling Savings Bank's net worth ratio is over 6%, the City is required to have a minimum of 50% of the deposits covered by pledged securities. Sterling Savings Bank has collateralized the City's deposits with 51% in pledged securities.

Because US Bank's net worth ratio is in excess of 6%, the City is required to have a minimum of 50% of the deposits covered by pledged securities. US Bank has collateralized the City's certificates of deposit and Municipal Investor Account with 103.07% in pledged securities and collateralized the Repurchase Account with 102 % in pledged securities.

RECOMMENDATION

Staff recommends that Council approve securities pledged by Wells Fargo Bank, Sterling Savings Bank and US Bank as collateral for their respective certificates of deposit and repurchase accounts.

Approved By: City Administrator City Attorney
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F

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, September 25, 2006

TITLE: Amendments to Wells-Fargo Drive-Through Bank Lease and Purchase and Sale Agreement

DEPARTMENT: Administration

PRESENTED BY: Bruce McCandless, Deputy City Administrator

PROBLEM/ISSUE STATEMENT: The City Council delayed this item at its September 11, 2006 meeting and continued it to this meeting. Councilmember Jones requested a change to one section of the agreement and that change will be incorporated in the section highlighted in the attached documents.

The City Council approved three agreements with Wells-Fargo Bank on January 11, 2006. The Bank requests amendments to two of the agreements; delaying the occupancy deadline to August 1, 2007 for the drive-through bank lease and adding a right of first refusal to repurchase the property from the City in the purchase and sale agreement. The Council approved the original agreements and it must approve the amendments to put them into effect.

ALTERNATIVES ANALYZED: The Council may:

- Approve the amendments
- Reject the amendments
- Request changes to the amendments or the original agreements

FINANCIAL IMPACT: The requested changes should have no financial impact on the City.

RECOMMENDATION

Staff recommends that Council approve the amendments delaying the occupancy deadline to August 1, 2007 in the drive-through bank lease and adding a right of first refusal to repurchase the property from the City in the drive-up bank lease agreement with Wells-Fargo Bank.

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

ATTACHMENTS

- A: Purchase and sale agreement paragraph 10 – to be deleted from present agreement
- B: Purchase and sale agreement amendment
- C: Drive-through lease amendment

INTRODUCTION

In January 2006 the City purchased the present Wells Fargo drive up bank, leased it back to the bank and leased the ground floor of the Park II expansion to the bank for a replacement drive up. The bank requests changes to two out of the three agreements. The Council must approve the amendments for them to become effective.

BACKGROUND

In 2005 the City transit division identified downtown properties that would be suitable for a new transfer station and operations center. Two of the sites were either unavailable or deemed to be unacceptable. The Wells-Fargo Bank offered its present drive up bank property, located at 2nd Avenue North and N. 26th Street. The only way that the bank could abandon that property was to find a replacement property. The City and bank were able to negotiate three agreements to transfer ownership of the bank property to the City, for the bank to lease that space for approximately one year and for the bank to relocate to the ground floor of the future Park II expansion.

The buy-sell agreement contains a provision that allows the bank to repurchase the land if the City doesn't use it for a transfer center or other public use or if it discontinues that use in the future. According to its attorneys, the provision prevents the bank from reporting the sale as a final disposition. Therefore, the bank requests an amended paragraph that allows it a first right of refusal to repurchase the property if the City attempts to sell the property in the future.

The City agreed to lease the ground floor of the Park II garage expansion to Wells Fargo as a replacement site for the property it sold to the City. The City expected to start construction early in 2006 but due to high bid prices and then examining multiple options, the construction start was delayed until July. The lease agreement requires the City to turn over the ground floor space to the bank no later than April 2007. Since the construction was delayed, the occupancy deadline needs to be extended until August 1, 2007.

Councilmember Jones requested a change to one section of the right of first refusal provision (Section 1 of Attachment B and Section B of Exhibit E-1). The section will be revised so that the Seller (Wells-Fargo) has the right to repurchase the property for the greater of the price offered by a third party purchaser or the appraised value. The appraised value reference addresses Councilmember Jones' concern that the original agreement did not provide enough flexibility to determine the price in the event that the third party purchaser offered something of value to the City other than cash; for example, a land trade. The pertinent sections are highlighted in the attached documents. The signature copies will be revised before the Council's Sept. 25 meeting.

ALTERNATIVES ANALYSIS

The City Council may approve the changes as presented and there should be no negative impact on either party. Council could request additional changes in the documents but staff does not recommend any at this time. The Council could reject the changes. This would force the City to try to complete the ground floor by April 1, which may be possible if there are no weather or material delivery delays. The Bank would not be able to properly book and report the asset sale.

RECOMMENDATION

Staff recommends that Council approve the amendments delaying the occupancy deadline to August 1, 2007 in the drive-through bank lease and adding a right of first refusal to repurchase the property from the City in the drive-up bank lease agreement with Wells-Fargo Bank.

ATTACHMENTS

- A: Purchase and Sale Agreement Paragraph 10 – to be deleted from present agreement
- B: Purchase and Sale Agreement Amendment
- C: Drive-Up Bank Lease Agreement Amendment

ATTACHMENT A

PURCHASE AND SALE AGREEMENT PARAGRAPH 10 – TO BE DELETED FROM PRESENT AGREEMENT

10. Seller's Repurchase Rights. Buyer intends to develop the Property as a bus transit center. In the event that Buyer fails to develop the Property as a bus transit center (or related transportation facility), or subsequently ceases to use the property as a bus transit center (or related transportation facility), then Seller shall have the right and option to repurchase the property from Buyer at its then fair market value. Seller's repurchase rights shall continue and survive so long as Seller or its successors and assigns maintain a banking facility located at 175 North 27th Street, Billings, Montana. Contemporaneously herewith, Buyer shall execute a recordable instrument memorializing Seller's repurchase rights in the form of Exhibit E hereto.

ATTACHMENT B

AMENDMENT OF PURCHASE AND SALE AGREEMENT

This Amendment Agreement dated August 10, 2006, is made and entered into by and between **WELLS FARGO BANK, N.A.**, a national banking association ("Seller") and the **CITY OF BILLINGS, MONTANA**, a municipal corporation ("Buyer") who, for valuable consideration received, agree as follows:

RECITALS

1. Buyer and Seller entered into a Purchase and Sale Agreement dated January 11, 2006 for the sale of the real property described on Exhibit "A" hereto.
2. Buyer and Seller enter into this Amendment Agreement in order to amend and revise the foregoing Purchase and Sale Agreement, as expressly set forth in this Amendment.

AMENDMENT AGREEMENT

Buyer and Seller stipulate and agree that the above-referenced Purchase and Sale Agreement shall be amended in the following respects:

1. Section 10, Seller's Repurchase Rights shall be deleted in its entirety, and the following language shall be substituted:
10. Seller's Right of First Refusal in the Event of a *Bona Fide* Third Party Offer. Buyer grants to Seller a right of first refusal to purchase the property described on Exhibit "A" in the event that Buyer receives a *bona fide* third party offer to purchase the property described in Exhibit "A". Before selling the property described in Exhibit "A", Buyer shall give written notice to Seller that Buyer has received a *bona fide* third party offer to purchase the property, which is acceptable to Buyer. Buyer shall disclose all of the terms and conditions of the *bona fide* third party offer to Seller, including the purchase price to be paid by the third party. Seller shall have ninety (90) days from and after the date Seller receives actual notice of a Third Party Offer from Buyer in order to decide whether or not Seller will exercise Seller's Right of First Refusal to purchase the property. If Seller elects to exercise its right of first refusal, Seller shall provide written notice to Buyer within the foregoing ninety (90) days of Seller's intention to exercise Seller's Right of First Refusal. Seller shall then have sixty

(60) days to close the purchase and sale. **Seller may exercise its Right of First Refusal by offering to purchase the property described on Exhibit "A" for the exact dollar amount offered by the bona fide third party offeror.** If Seller fails to elect to exercise its Right of First Refusal, then Buyer may sell the subject property to the *bona fide* third party offeror. If Buyer fails to close the sale to the *bona fide* third party offeror within one hundred eighty (180) days of Buyer's notice of a third party offer to Seller, then Seller's Right of First Refusal shall continue, and Buyer shall give an additional notice to Seller of Buyer's intent to sell the property (Exhibit "A") to any *bona fide* third party offeror. Additionally, if there is any material change in the terms of the third party offer, Buyer shall give an additional notice to Seller of the changed terms of the third party offer and Seller shall have an additional ninety (90) days to give notice of Seller's intention to exercise Seller's Right of First Refusal. Contemporaneously herewith, Buyer shall execute a recordable instrument memorializing Seller's Right of First Refusal in the form of Exhibit "E-1" hereto.

2. Exhibit "E" (Repurchase Rights) to the above-described Purchase and Sale Agreement is deleted in its entirety, and in place thereof the new Exhibit E-1, attached hereto and incorporated herein by reference as though fully set forth, shall be substituted.
3. The above-described Purchase and Sale Agreement shall remain in full force and effect, binding upon the parties according to its original terms, except as expressly set forth hereinabove.

DATED August ___, 2006

WELLS FARGO BANK, N.A.,
A national banking association

By _____
Name: _____
Its _____

DATED August ___, 2006

CITY OF BILLINGS, MONTANA

By _____
Name: _____
Its _____

EXHIBIT “E-1”

**RIGHT OF FIRST REFUSAL BASED ON A
BONA FIDE THIRD PARTY OFFER**

This Agreement is entered into by and between **WELLS FARGO BANK, N.A.**, a national banking association, 175 North 27th Street, Billings, MT 59101, as “**Seller**” and the **CITY OF BILLINGS**, a Montana municipal corporation, PO Box 1178, Billings, MT 59103, as **Buyer**.

RECITALS

A. On or about January 11, 2006, Buyer and Seller entered into a written Purchase and Sale Agreement, pursuant to which Seller agreed to sell to Buyer the following described real property in Yellowstone County, Montana, to-wit:

Parcel A:

Lots 1, 2, 3, 4, and 5, Block 60, of Town of Billings, in the City of Billings, Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County, under Document #16312. TOGETHER with that part of vacated alley adjoining, which attached to said land by operation of law upon vacation.

Parcel B:

Lots 20, 21, 22, 23 and 24, Block 60, of Town of Billings, in the City of Billings, Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County, under Document #16312.

TOGETHER with that part of vacated alley adjoining, which attached to said land by operation of law upon vacation.

Parcel C:

Lot 19, Block 60, of Town of Billings, in the City of Billings, Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County, under document #16312

B. Contemporaneously herewith, Buyer and Seller have entered into an Amendment to the foregoing Purchase and Sale Agreement in order to delete Section 10 of the foregoing Agreement, and to substitute in place thereof the following provision:

Seller’s Right of First Refusal in the Event of a *Bona Fide* Third Party Offer. Buyer grants to Seller a right of first refusal to purchase the property described on Exhibit “A” in the event that

Buyer receives a *bona fide* third party offer to purchase the property described in Exhibit "A". Before selling the property described in Exhibit "A", Buyer shall give written notice to Seller that Buyer has received a *bona fide* third party offer to purchase the property, which is acceptable to Buyer. Buyer shall disclose all of the terms and conditions of the *bona fide* third party offer to Seller, including the purchase price to be paid by the third party. Seller shall have ninety (90) days from and after the date Seller receives actual notice of a Third Party Offer from Buyer in order to decide whether or not Seller will exercise Seller's Right of First Refusal to purchase the property. If Seller elects to exercise its right of first refusal, Seller shall provide written notice to Buyer within the foregoing ninety (90) days of Seller's intention to exercise Seller's Right of First Refusal. Seller shall then have sixty (60) days to close the purchase and sale. **Seller may exercise its Right of First Refusal by offering to purchase the property described on Exhibit "A" for the exact dollar amount offered by the bona fide third party offeror.** If Seller fails to elect to exercise its Right of First Refusal, then Buyer may sell the subject property to the *bona fide* third party offeror. If Buyer fails to close the sale to the *bona fide* third party offeror within one hundred eighty (180) days of Buyer's notice of a third party offer to Seller, then Seller's Right of First Refusal shall continue, and Buyer shall give an additional notice to Seller of Buyer's intent to sell the property (Exhibit "A") to any *bona fide* third party offeror. Additionally, if there is any material change in the terms of the third party offer, Buyer shall give an additional notice to Seller of the changed terms of the third party offer, and Seller shall have an additional ninety (90) days to give notice of Seller's intention to exercise Seller's Right of First Refusal. Contemporaneously herewith, Buyer shall execute a recordable instrument memorializing Seller's Right of First Refusal in the form of Exhibit "E-1" hereto.

Wherefore, Buyer and Seller enter into this Agreement in order to memorialize Seller's Right of First Refusal in the event of a *Bona Fide* Third Party Offer.

AGREEMENT

Buyer and Seller covenant and agree as follows:

1. **Seller's Right of First Refusal Based on a *Bona Fide* Third Party Offer.** Buyer grants to Seller a Right of First Refusal to purchase the real property described hereinabove in the event that Buyer receives a *bona fide* third party offer to purchase the property. Buyer shall have the right to exercise its Right of First Refusal based upon and according to the terms and conditions of Section 10 of the Amended Purchase and Sale Agreement as set forth in Recital "B" hereinabove.

Notice. All notices required or permitted shall be in writing, and may be delivered in person (by hand or by messenger or courier service), or may be sent by certified or registered mail, postage prepaid, or a nationally-recognized overnight courier service, postage prepaid. The addresses noted below shall be those for delivery or mailing of notices.

If to Seller: Wells Fargo Bank, N.A.
 Corporate Properties Group
 Attn: Lease Administration
 633 Folsom Street, 6th Floor
 San Francisco, CA 94107-3617
 Telephone (415) 396-3115

Copy to: Wells Fargo Bank, N.A.
Attn: Dan Majeski, Regional Property Manager
175 North 27th Street
Billings, MT 59101
Telephone (406) 657-3466

If to Buyer: The City of Billings
Attn: City Administrator
PO Box 1178
Billings, MT 59103
Telephone (406) 657-8433

STATE OF MONTANA)
County of Yellowstone)
ss)

On this _____ day of July, 2006, before me, a Notary Public in and for the State of Montana, personally appeared RON TUSSING, known to me to be the person who executed the foregoing instrument as Mayor, on behalf of the CITY OF BILLINGS and acknowledged to me that he signed the same. Witness my hand and seal the day and year hereinabove written.

(SEAL) Notary Public for the State of Montana
Printed Name: _____
Residing at Billings, Montana
My commission expires: _____
Mm/dd/yyyy

STATE OF CALIFORNIA)
County of San Francisco)
:ss)

On this _____ day of July, 2006, before me, a Notary Public in and for the State of California, personally appeared JEFFREY W. RADER, known to me to be the person who executed the foregoing instrument on behalf of WELLS FARGO BANK, N.A. and acknowledged to me that he signed the same. Witness my hand and seal the day and year hereinabove written.

Notary Public for the State of California
Printed Name: _____
(SEAL) Residing at: _____
My commission expires: _____
Mm/dd/yyyy

California All-Purpose Acknowledgment

State of California)
:ss
County of San Francisco)

On _____, before me, _____, personally appeared Jeffrey W. Rader

____ personally known to me

proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

(SEAL)

WITNESS my hand and official seal.

Signature of Notary Public

ATTACHMENT C

**AMENDMENT TO
ATM
DRIVE-THROUGH LEASE**

**CITY OF BILLINGS
Landlord**

**WELLS FARGO BANK, N.A.
Tenant**

August 10, 2006

Amendment OF ATM Drive-Through Lease

Billings Municipal Garage No. 2, Billings, Montana

THIS AMENDED LEASE AGREEMENT dated August 10, 2006, is made and entered into by and between The **CITY OF BILLINGS**, Montana, a Montana municipal corporation ("Landlord"), and **WELLS FARGO BANK, N.A.**, a national banking association ("Tenant").

RECITALS

1. Landlord and Tenant entered into an ATM Drive-Through Lease dated January 11, 2006 relating to the real property described therein.

2. Landlord and Tenant enter into this Amended Lease in order to amend and revise the foregoing ATM Drive-Through Lease as expressly set forth in this amendment.

AMENDMENT AGREEMENT

Landlord and Tenant stipulate and agree that the above-described ATM Drive-Through Lease shall be amended in the following respects:

1. Section 2. The date of "August 1, 2007" shall be substituted in place of the date of "April 1, 2007".

2. The above-described ATM Drive-Through Lease shall remain in full force and effect, binding upon the parties according to its original terms, except as expressly set forth hereinabove.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first set forth above.

TENANT

WELLS FARGO BANK, N.A., a national banking association

By _____
Name: _____
Title: _____

LANDLORD

THE CITY OF BILLINGS, MONTANA, a Montana municipal corporation

By _____
Name: Mayor Ron Tussing
Title: Mayor

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

G

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, September 25, 2006

TITLE: Acknowledge Receipt of Petition to Vacate Portions of Zimmerman Trail and Lyman Avenue abutting Lot 6, Scott Subdivision and Set a Public Hearing Date

DEPARTMENT: Public Works/Engineering

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

PROBLEM/ISSUE STATEMENT: The City of Billings recently platted Arlene Subdivision out of the parcels purchased for Zimmerman Trail just south of Poly Drive. The subdivision plat dedicated the necessary right of way for Zimmerman Trail and split the remaining land into three developable parcels. The final plat was approved at the June 26, 2006, City Council Meeting. The City purchased the land for \$0.82 per square foot. The city has offered to sell the parcels and any unnecessary right of way to adjacent land owners at the same price the land was purchased (\$0.82 per square foot). The city vacated portions of Zimmerman Trail abutting Lots 1, 2, and 4, Scott Subdivision at the August 14, 2006, City Council Meeting. The property owner of Lot 6, Scott Subdivision has requested to vacate a portion of Zimmerman Trail and Lyman Avenue abutting Lot 6, Scott Subdivision. This will put the property back on the tax rolls and relieve the city of its maintenance.

ALTERNATIVES ANALYZED:

1. Approve acknowledgement of petition to vacate the above-mentioned right-of-way and set a public hearing for October 23, 2006.
2. Do not approve acknowledgement of petition to vacate the right-of-way.

FINANCIAL IMPACT: The property owners of Lot 6, Ronald Sanchez and Traci Albright, are proposing to purchase 7,655 sf of right of way for \$6,277.10.

RECOMMENDATION

Staff recommends that Council acknowledge the receipt of petition to vacate portions of Zimmerman Trail and Lyman Avenue abutting Lot 6, Scott Subdivision and set a public hearing for October 23, 2006.

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

ATTACHMENT

A. Map Depicting Area to be Vacated

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM**CITY OF BILLINGS, MONTANA****Monday, September 25, 2006**

TITLE: Resolution on East Billings Urban Renewal District, Declaring Blight, Intent to Create the District and Setting a Public Hearing

DEPARTMENT: Administration

PRESENTED BY: Bruce McCandless, Deputy City Administrator

PROBLEM/ISSUE STATEMENT: The Council will consider adopting a resolution that is the first step toward creating an East Billings Urban Renewal District. The resolution declares the Council's intention to create the district, including tax increment authority, describes the property involved and the blighting conditions, sets a public hearing for October 10, 2006, and directs staff to make the necessary public notifications. It is important that the district be created this calendar year in order to take advantage of the lowest possible taxable value when establishing the District's base value.

ALTERNATIVES ANALYZED: Creating this district is discretionary. The City Council may:

- not approve the resolution
- modify the proposed boundary
- adopt the resolution as the first step toward creating the proposed district

FINANCIAL IMPACT: The financial impact is unknown. However, the taxable market value is approximately \$75,000,000 and is stagnant. The purpose of an urban renewal and tax increment district is for the public to invest in infrastructure and thereby encourage private investment that increases the taxable value. Without the public investment, it is assumed that the private investment would not occur, thus there is no "loss" of taxes from freezing the taxable value base because all taxing entities continue to collect taxes on the base value.

RECOMMENDATION

Staff recommends that Council adopt the resolution that declares the Council's intention to create an East Billings Urban Renewal District, including tax increment authority, describes the property involved and the blighting conditions, sets a public hearing for October 10, 2006, and directs staff to make the necessary public notifications.

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

ATTACHMENTS

A: Resolution

INTRODUCTION

The City Council will consider adopting a resolution that is the first step toward creating an East Billings Urban Renewal District.

PROCEDURAL HISTORY

- April 3, 2006, City Council work session on new downtown and East Billings urban renewal districts
- August 21, 2006; City Council work session status report on downtown and East Billings urban renewal districts
- September 25, 2006; City Council considers adopting a resolution of intent to create the East Billings district and setting a public hearing date
- September 28, 2006; City publishes and mails notice of public hearing to property owners
- October 10, 2006; City Council public hearing and first reading of an ordinance to create the district
- October 23, 2006; City Council considers ordinance second and final reading. The ordinance becomes effective 30 days later unless appealed

BACKGROUND

In 2005, earlier this year and at City/County/School District meetings, the Council heard presentations on the potential of creating a new tax increment district in east Billings. The City, County and Big Sky Economic Development Authority (BSEDA) agreed to hire a consultant that could develop an urban renewal plan for the area. CTA Architects was hired and has completed most of the plan. The area is roughly bounded by the MRL tracks on the south, on the north by 7th Avenue North, on the west by N. 22nd Street and by Exposition Drive on the east. This is a mixed-use area that has some housing near the downtown and transitions to retail, manufacturing and warehousing uses to the east.

The original plan was for properties that are in the city and some that are still in the county be included in one district. The Montana Attorney General issued an opinion in September 2006 that disallows this practice. Therefore, the plan and proposed district include only properties that are within the city. Unilaterally annexing the county properties does not appear to be a viable option at this time. A few owners are vehemently opposed to annexation and most others will voluntarily annex as the properties develop or redevelop and utility and other city services are needed. Once annexed, the district boundaries may be amended to include the new city land.

Working with area property owners, CTA developed a plan that identifies conditions that create blight, opportunities for growth and development and the infrastructure improvements that need to occur to support private development. In order to create an urban renewal district and use tax increment financing for some or all of the public improvements, cities must adopt a resolution that describes the area, identified the conditions that create blight, state its intention to create a new district and set a public hearing on the plan. The attached resolution satisfies that requirement. If the resolution is approved, staff will publish the notice of public and send it to all property owners in the proposed district. On October 10 the Council will consider the ordinance that adopts the plan and allows the City to use tax increment financing for public improvements.

ALTERNATIVES ANALYSIS

The City Council may approve or disapprove the resolution and it may alter the boundaries. Approving the resolution is the first step toward creating the district. It will be created only after a public hearing and the Council's approval of the urban renewal plan by ordinance.

STAKEHOLDERS

- BSEDA has been involved with creating the district from the outset. It supports the districts creation because it is an area of the community that is underdeveloped and presents business investment opportunities.
- The Billings Industrial Redevelopment District, Inc. was formed by property owners in the area to support creation of the combined city and county urban redevelopment area. Since the district is now confined to city properties, some of the support may be diluted.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Consistency with the Growth Policy is one requirement for adopting an urban renewal plan. Growth Policy compliance is outlined in the body of the urban renewal plan.

RECOMMENDATION

Staff recommends that Council adopt the resolution that declares the Council's intention to create an East Billings Urban Renewal District, including tax increment authority, describes the property involved and the blighting conditions, sets a public hearing for October 10, 2006 and directs staff to make the necessary public notifications.

ATTACHMENTS

A: Resolution

ATTACHMENT A

RESOLUTION NO. 06 _____

A RESOLUTION DECLARING THE CITY COUNCIL INTENT TO CREATE AN EAST BILLINGS URBAN RENEWAL DISTRICT WITH TAX INCREMENT AUTHORITY; DECLARING THE EXISTENCE OF BLIGHT WITHIN THE EAST BILLINGS URBAN RENEWAL AREA; SETTING A PUBLIC HEARING DATE; AND REQUIRING PUBLICATION AND MAILING OF THE NOTICE OF HEARING

WHEREAS, under the provisions of Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the "Act"), the City of Billings, Montana (the "City") is authorized, among other things, to identify and declare an area as containing blight with the intention of eliminating it through urban renewal; and

WHEREAS, the City is authorized by the Act to create urban renewal areas with tax increment provisions by adopting an urban renewal plan by ordinance; and

WHEREAS, an urban renewal plan has been prepared for the proposed East Billings Urban Renewal District; and

WHEREAS, the City Council desires to conduct a public hearing on the draft urban renewal plan for the proposed East Billings Urban Renewal District to determine if it is desirable to create the district.

NOW, THEREFORE, the City Council of the City of Billings, Montana, declares and resolves as follows:

1. Description of Proposed District The area being considered for inclusion in the proposed urban renewal area is described as:

Starting at the intersection of Montana Avenue and North 22nd Street, extending north down the centerline of North 22nd to the intersection of North 22nd Street and 8th Avenue North, extending east down the centerline of 8th Avenue North to the intersection of 8th Avenue North and North 19th Street, extending south down the centerline of North 19th Street to the intersection of North 19th Street and 7th Avenue North, extending east along the centerline of 7th Avenue North to the intersection of North 18th Street and 7th Avenue North, extending south down the centerline of North 18th Street to be perpendicular with the northern most edge of property line of LT 23 & 24 BLK 274 BILLINGS 1ST ADD, T01NR26E, extending east along the Northern edge of LT 23 & 24 BLK 274 BILLINGS 1ST ADD, T01NR26E and hence eastward including in their entirety the southern most properties

most directly adjacent to 6th Avenue North to the city boundary line, extending southerly and westerly along the city boundary lines to the northern edge of the rail road tracks, extending west along the northern edge of the railroad tracks to the centerline of North 22nd Street, extending north along the centerline of North 22nd Street to the ending point at the intersection of Montana Avenue and North 22nd Street. Excluding the non-incorporated land that envelops the empire steel property LTS 3 TO 23 & VAC 10FT ADJ ALLEY & E 404T ADJ N 16TH ST BLK 258 & 259.

2. Determination of blight. The following conditions that exist within the proposed East Billings Urban Renewal District meet the definitions of “blight” contained in Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43:

7-15-4206(2,) (a) - “the substantial physical dilapidation; deterioration; defective construction, material, and arrangement; or age obsolescence of buildings or improvements, whether residential or nonresidential;”

Flooding

There are multiple findings of physical dilapidation and deterioration in the defined district. Inadequate and dysfunctional existing utilities are currently adversely affecting the district. One example affects storm sewer and surface storm drainage. Due to old and undersized subsurface piping near 22nd Avenue North and 22nd Street and other areas affected by flooding of the street right-of-way and onto private property occurs regularly during heavy rain storm events.

Vacant Properties

There are many vacant lots, and vacant buildings in the district. Many of these vacant properties have deteriorated to the point where a significant amount of revenues will be required to revive them to an acceptable standard. Considering the number of vacant lots and buildings shown on the map it is easily concluded that there is a greater amount of underutilized and deteriorating properties in the area than there should be.

7-15-4206(2,) (c) - “inappropriate or mixed uses of land or buildings;”

More Appropriate Application for Housing

The district is predominantly zoned Controlled Industrial. The City of Billings Code Sec. 27-301. Zoning districts, defines Controlled Industrial as:

CI Controlled Industrial: The controlled industrial zone is intended to accommodate a variety of business, warehouse and light industrial uses related to wholesale plus other business and light industries not compatible with other commercial zones, but which need not be restricted in industrial or general commercial zones, and to provide locations directly accessible to arterial and

other transportation systems where they can conveniently serve the business and industrial centers of the city and county.

This designation allows single family residential development with approval from a Special Review for a true mixed use of development that includes housing. Also for multi-family housing a zoning change is required. Currently the housing that is in the area is predominantly rentals with little, to no occupied ownership. The majority if, not all the housing in the district, is in very poor condition and disrepair.

The housing as it now exists is out of place within the Controlled Industrial zoning of the area, and is augmented by being in disrepair. Housing should be a part of the district but should be configured and designed in a way that addresses the zoning and surrounding functions better.

7-15-4206(2,) (e) - “defective or inadequate street layout;”

Currently from North 22nd Street to North 13th Street the street configuration for east/west bound traffic is one way. First Avenue North is west bound and serves as a major arterial street, Second Avenue North is east bound, Third Avenue North is West bound, 4th Avenue North is east bound and serves as a major arterial street, Where Fifth Avenue North would be is a railroad spur, and Sixth Avenue North is west bound and serves as a major arterial street.

Leaving First, Fourth and Sixth Avenue North Streets as major one-way arterials makes sense; however, Second and Third Avenue North Streets do not function to their fullest potential as one way streets. Their one-way configuration reduces customer drive by potential and makes getting around difficult and even frustrating for motorists and business travelers.

Additionally internal roads, alleys used as roadways and the north running streets might break up the district too frequently which leads to the next M.C.A. designation for blight under “faulty lot layout in relation...:

7-15-4206(2,) (f) - “faulty lot layout in relation to size, adequacy, accessibility, or usefulness;”

As discussed above many of the lot sizes in the area are broken up too frequently by secondary roads and alleys. The district services large delivery rigs and farm equipment. The broken up lot sizes are not adequate for expansion for these operations.

7-15-4206(2,) (h) - “unsanitary or unsafe conditions;”

Underdeveloped Utilities

The further east in the district the fewer and less developed and reliable the underground utilities of water, sanitary sewer, and storm sewer are. In many

instances utilities are not only lacking but also missing for certain properties. The dividing line for this distinction appears where the city boundaries predominantly end with a line that runs north and south between North 12th and North 10th Streets. This underdevelopment of utilities predominantly and adversely affects the properties to the east of this dividing line.

- As a part of a larger project the Montana Department of Environmental Quality and other state agencies are in the process of mapping areas within the district that have the potential to be designated as Brownfield. The DEQ report should be available as soon as the fall of 2006. It is anticipated that there will be sites within the district that, if pursued, will qualify for Brownfield funding. Specific sites might include those that are vacant or abandoned industrial buildings. One specific site that is outside the boundaries but borders and directly affects the properties to the West that lie within the district is the old Yale Refinery. The old refinery is a confirmed superfund site and is located directly adjacent to the southwest corner of the district. Other sites within the district will become evident pending the DEQ report.
- Clearly Brownfield status qualifies as “unsanitary or unsafe conditions” The EPA website explains the unsafe conditions of Brownfield in the following manner:

Protecting Public Health

... Brownfield ...have [broad] health impacts of concern to the community, including:

***Safety.** Abandoned and derelict structures, open foundations, other infrastructure or equipment that may be compromised due to lack of maintenance, vandalism, deterioration, controlled substance contaminated sites (i.e., methamphetamine labs), or abandoned mine sites may all pose safety risks.*

***Social and economic factors.** Blight, crime, vagrancy, reduced social capital or community 'connectedness', reductions in the local government tax base, and private property values that may reduce social services are all social and economic problems sometimes created by Brownfield.*

***Environmental health.** Potential environmental dangers can be biological, physical, or chemical, and can be the result of site contamination, groundwater impacts, surface runoff, migration of contaminants, or wastes dumped on site.*

(http://www.epa.gov/brownfields/tools/tti_pub_hlt.htm.)

- See Flooding under “**7-15-4206(2,) (a)** above. Flooding promotes mold and mold related health problems. Improving storm drainage systems which will reduce the chance of mold becoming established in buildings due to flooding is imperative.

7-15-4206(2,) (i) - “deterioration of site;”

See Vacant Properties under **7-15-4206(2,) (a)** above.

7-15-4206(2,) (m) “improper subdivision or obsolete platting;”

See **7-15-4206(2,) (f)**, above.

7-15-4206(2,) (n) “the existence of conditions that endanger life or property by fire or other causes; or”

See “unsanitary or unsafe conditions.”**7-15-4206(2,) (h)**, above.

7-15-4206(2,) (o) “any combination of the factors listed...”

Combinations of the factors exist for the district as written above.

3. Intent to Create an Urban Renewal Area with Tax Increment Authority. Pursuant to the Act and considering the blighted conditions cited above, the City Council declares its intention to create an East Billings Urban Renewal Area and that public improvements that will stimulate private investment in the area may be financed in part through tax increment generated from the District, subject to a public hearing and adoption of the draft urban renewal plan by ordinance.

4. Public Hearing. A public hearing is hereby called and shall be held on October 10, 2006 at 6:30 p.m. in the Council Chambers at 220 N. 27th Street, on whether to adopt the draft urban renewal plan for the proposed East Billings Urban Renewal Area.

5. Publication and Mailing of Notice. The City Clerk is hereby authorized and directed to cause notice of the public hearing to be published in the *Billings Times* at least once a week for two consecutive weeks prior to the date set for the hearing and to mail notice of such hearing not less than 10 days prior to the date of the hearing to the persons whose names appear on the county treasurer’s tax roll as the owners, reputed owners, or purchasers under contract for the deed of the Property, at the addresses shown on the tax roll.

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

Mayor

Attest: _____
City Clerk

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, September 25, 2006

TITLE: Resolution on Extended N. 27th Street Urban Renewal District, Declaring Blight, Intent to Create the Expanded District and Setting a Public Hearing

DEPARTMENT: Administration

PRESENTED BY: Bruce McCandless, Deputy City Administrator

PROBLEM/ISSUE STATEMENT: The Council will consider adopting a resolution that is the first step toward expanding the existing N. 27th Street Urban Renewal District. The resolution declares the Council's intention to expand the district, describes the property involved and the blighting conditions, sets a public hearing for October 10, 2006, and directs staff to make the necessary public notifications. It is important that the district be expanded this calendar year in order to take advantage of the relatively low base taxable value. Taxable value in the proposed district is expected to increase next year because a number of properties have changed ownership and/or property investments that will increase the taxable value, which creates the increment that will be important for financing future public improvements.

ALTERNATIVES ANALYZED: Creating this district is discretionary. The City Council may:

- not approve the resolution
- modify the proposed boundary
- adopt the resolution as the first step toward creating the proposed district

FINANCIAL IMPACT: The financial impact is unknown. However, the taxable market value is approximately \$22 million and includes a lot of public or tax exempt property. The purpose of an urban renewal and tax increment district is for the public to invest in infrastructure and thereby encourage private investment that increases the taxable value. Without the public investment, it is assumed that the private investment would not occur, thus there is no "loss" of taxes from freezing the taxable value base because all taxing entities continue to collect taxes on the base value and that value would not increase absent the investments in public facilities.

RECOMMENDATION

Staff recommends that Council adopt the resolution that declares the Council's intention to expand the N. 27th Street Urban Renewal District, including tax increment authority, describes the property involved and the blighting conditions, sets a public hearing for October 10, 2006 and directs staff to make the necessary public notifications.

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

ATTACHMENTS

A: Resolution

INTRODUCTION

The City Council will consider adopting a resolution that is the first step toward expanding the N. 27th Street Urban Renewal District.

PROCEDURAL HISTORY

- April 3, 2006; City Council work session on an expanded N. 27th Street and a new East Billings urban renewal district
- August 21, 2006; City Council work session status report on the proposed N. 27th Street district expansion and a new East Billings urban renewal district
- September 25, 2006; City Council considers adopting a resolution of intent to expand the N. 27th Street district and setting a public hearing date
- September 28, 2006; City publishes and mails notice of public hearing to property owners
- October 10, 2006; City Council public hearing and first reading of an ordinance to expand the district
- October 23, 2006; City Council considers ordinance second and final reading. The ordinance becomes effective 30 days later unless appealed

BACKGROUND

In 2005 and at least twice this year, the Council heard presentations on the potential of creating a new downtown tax increment district. The Downtown Billings Partnership (DBP) took the lead and wrote an urban renewal plan for an area of the central downtown that expands the existing N. 27th Street district that was created in 2005. After the Dept. of Revenue ruled earlier this summer that boundary changes are acceptable, it was decided that this is the most efficient way to create the new TIF area. The area is roughly bounded by N. 26th Street, 6th Avenue North, N. 30th Street and 1st Avenue North, however, the boundary is irregular and does not include all of the property within this general description. A more exact boundary description is included in the plan and the attached resolution. The boundary was established to capture the lowest possible base value and to take advantage of planned and known private investments that will increase the tax increment.

In order to create an urban renewal district and use tax increment financing for some or all of the public improvements, cities must adopt a resolution that describes the area, identifies the conditions that create blight, state its intention to create a new district or expand one and set a public hearing on the plan. The attached resolution satisfies that requirement. If the resolution is approved, staff will publish the notice of public and send it to all property owners in the proposed district. On October 10 the Council will consider the ordinance that adopts the plan and allows the City to use tax increment financing for public improvements.

ALTERNATIVES ANALYSIS

The City Council may approve or disapprove the resolution and it may alter the boundaries. Approving the resolution is the first step toward expanding the N. 27th Street district. It will be created only after a public hearing and the Council's approval of the urban renewal plan by ordinance.

STAKEHOLDERS

- The DBP initiated this project and endorses it.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Consistency with the Growth Policy is one requirement for adopting an urban renewal plan. Growth Policy compliance is outlined in the body of the urban renewal plan.

RECOMMENDATION

Staff recommends that Council adopt the resolution that declares the Council's intention to expand the N. 27th Street Urban Renewal District, including tax increment authority, describes the property involved and the blighting conditions, sets a public hearing for October 10, 2006, and directs staff to make the necessary public notifications.

ATTACHMENTS

A: Resolution

RESOLUTION NO. 06 _____

A RESOLUTION RELATING TO THE DOWNTOWN REDEVELOPMENT DISTRICT AND MODIFICATION OF THE URBAN RENEWAL PLAN OF THE NORTH 27TH STREET DISTRICT URBAN RENEWAL AREA; CALLING A PUBLIC HEARING ON THE PROPOSED REMOVAL OF PROPERTY FROM THE DOWNTOWN REDEVELOPMENT DISTRICT, THE EXTENSION OF THE NORTH 27TH STREET URBAN RENEWAL AREA TO INCLUDE SUCH REMOVED PROPERTY, THE PROPOSED ADOPTION OF A MODIFIED URBAN RENEWAL PLAN INCLUDING A TAX INCREMENT PROVISION.

WHEREAS, under the provisions of Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the "Act"), the City of Billings, Montana (the "City") is authorized, among other things, to create urban renewal areas; to prepare, adopt and modify urban renewal plans therefor; to undertake urban renewal projects therein; to provide in such plans for the segregation and collection of tax increment with respect to property taxes collected in such areas; to issue its bonds to pay all or a portion of the costs of such projects; and to pledge to repayment of the bonds the tax increment and other revenues derived from the urban renewal projects.

WHEREAS, the City Council of the City (this "Council") created the Downtown Redevelopment District as an urban renewal area (the "Redevelopment Area") pursuant to, among other documents, Resolution No. 12303, adopted by this Council on December 20, 1975, as amended and supplemented, and the City has issued its tax increment urban renewal bonds payable from the tax increment generated from the Redevelopment Area, which were outstanding as of September, 2006 in the aggregate principal amount of \$2,645,000 (the "Outstanding Bonds"), pursuant to Resolution No. 12937, adopted February 26, 1979, as amended and supplemented from time to time (as amended and supplemented to date, the "Bond Resolution").

WHEREAS, this Council desires to conduct a public hearing on a proposal to modify the North 27th Street Plan by adopting the Urban Renewal Plan of the Extended North 27th Street District Urban Renewal Area ("Modified Plan"), and amending the boundaries of the North 27th Street District Urban Renewal Area (hereinafter the "Extension Property") and adding said Extension Property to the North 27th Street District, thereby establishing a modified urban renewal area to be designated as the Extended North 27th Street District Urban Renewal Area (hereafter the "Extended North 27th Street District" or "the District"), and to undertake urban renewal projects therein, all as authorized by the Act.

WHEREAS, an opportunity has been presented to the City that makes it desirable for the City to consider urban renewal projects within the Extended North 27th Street District consisting of demolishing certain blighted structures within the district; improving such properties with new construction, landscaping, utilities, and other similar improvements; and making the properties

so improved available for private redevelopment in accordance with the Act (the “Projects”). Development proposals to be considered for funding should include mixed-use facilities. The Projects could also include building renovations and the construction or expansion of City owned parking structures within the District. The Projects may be financed in part from the proceeds of tax increment urban renewal bonds (the “Bonds”).

WHEREAS, the District proposed to be consolidated as the Extended North 27th Street District is legally described on the attached Exhibit A (which is hereby incorporated in this resolution and made a part hereof). In order to provide the public support deemed necessary to encourage the redevelopment of the District by private enterprise through the undertaking of Projects, which are proposed to be financed in part through tax increment generated from the District, it is necessary to add the Extension Property to the North 27th Street District to establish a modified urban renewal area under the Act.

WHEREAS, the Extension Property, as part of the 1975 Redevelopment Area, was previously determined to be blighted and an appropriate area for an urban renewal project in Resolution 12107 dated January 5, 1976; and

WHEREAS, the City desires to establish the Property as an urban renewal area designated as the Extended North 27th Street District and adopt a modified urban renewal plan therefore titled the Urban Renewal Plan of the Extended North 27th Street District Urban Renewal Area (“Modified Plan”) containing a tax increment provision by adoption of a proposed ordinance (**“Ordinance”**) in the form of the attached Exhibit B, and the Modified Plan is Attachment 5 to the Ordinance.

WHEREAS, as a condition to approving the Ordinance, the Act requires that a public hearing be held after appropriate notice to consider the proposed Ordinance, and this Council wishes to provide such notice by virtue of the present Resolution.

WHEREAS, the Modified Plan contains a tax increment provision and it is proposed that the tax increment derived from the District be segregated and applied to pay costs of Projects or be pledged to secure the Bonds that the City will issue to finance a portion of the costs of the Projects, as provided in Sections 7-15-4282 through 7-15-4293 of the Act.

NOW, THEREFORE, the City Council of the City of Billings, Montana, declares and resolves as follows:

1. Public Hearing. A public hearing is hereby called and shall be held on October 10, 2006 at 6:30 p.m. in the Council Chambers at 220 N. 27th Street, on the removal of property from the Downtown Redevelopment District, the extension and modification of the North 27th Street District to establish the Extended North 27th Street District, the adoption of the Modified Plan, the undertaking of the Project, and the issuance of the Bonds to finance a portion of the costs thereof.

2. Form of Notice. The notice of the public hearing shall be in substantially the following form:

NOTICE OF PUBLIC HEARING ON THE REMOVAL OF CERTAIN PROPERTY FROM THE DOWNTOWN REDEVELOPMENT DISTRICT AND THE PROPOSED INCLUSION OF SUCH PROPERTY IN THE EXTENDED NORTH 27TH STREET DISTRICT URBAN RENEWAL AREA AND ADOPTION OF A MODIFIED URBAN RENEWAL PLAN THEREFOR (INCLUDING A TAX INCREMENT PROVISION), ALL IN ACCORDANCE WITH MONTANA CODE ANNOTATED, TITLE 7, CHAPTER 15, PARTS 42 AND 43

CITY OF BILLINGS, MONTANA

NOTICE IS HEREBY GIVEN that the City Council (the "Council") of the City of Billings, Montana (the "City") will hold a public hearing on _____, 2006, at _____ p.m., M.S.T., at Council Chambers in the City Hall, 210 N. 27th Street, Billings, Montana, on the proposed removal of certain property as hereinafter described from the Downtown Redevelopment District, an existing urban renewal area of the City, and the proposed aggregation of such property with the existing 27th Street District Urban Renewal Area to form the Extended North 27th Street District Urban Renewal Area (hereafter the "Extended North 27th Street District"); the adoption of a modified urban renewal plan therefor containing a tax increment provision; and the approval of developing urban renewal projects to encourage the private redevelopment of such property, to be financed in part by the issuance of urban renewal bonds of the City, all in accordance with Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the "Act").

Although the majority of Urban Renewal Projects would require investment made by private investors, it is proposed that a portion of such costs would be financed from tax increment derived from property within the district or from urban renewal revenue bonds of the City secured by such tax increment.

In general terms the proposed Extended North 27th Street District would include downtown property and the district would have the following legal description:

Beginning at a point at the centerline intersection of the 1st Avenue North right of way and the centerline of North 25th Street right of way and proceeding west along the centerline of 1st Avenue North until reaching the intersection with the centerline of the alley right of way between North 27th Street and North 28th Street then proceeding north down the centerline of the alley until the intersection of the

alley and the centerline of the 4th Avenue North right of way then proceeding west along the centerline of 4th Ave. North until the intersection of 4th Ave. North and the North 30th Street centerline then proceeding north along the centerline of North 30th Street until the intersection of North 30th Street and the centerline of the 6th Avenue North right of way then proceeding east along the centerline of 6th Avenue North until the intersection of 6th Avenue North and the centerline of North 26th Street then proceeding south along the centerline of North 26th Street right of way until the intersection of the centerline of 4th Avenue North right of way then proceeding east along the centerline of 4th Avenue North until the intersection of the centerline of North 25th Street right of way then proceeding south along the centerline of North 25th Street until the intersection of the centerline of the 3rd Ave. North right of way then proceeding east along the centerline of 3rd Avenue North until the intersection of the centerline of North 26th Street right of way then proceeding south along the centerline of North 26th Street until the intersection of the centerline of the 2nd Avenue North right of way then proceeding east along the centerline of 2nd Avenue North until the intersection with the centerline of North 25th Street the proceeding south along the centerline of North 25th Street to the intersection of the centerline of 1st Avenue North thus arriving at the beginning, all inclusive.

Interested persons may appear and will be heard at the public hearing at the time and place stated above or they may file written comments with the City Clerk prior to the date of such hearing. Further information regarding the proposal, including a draft of the modified urban renewal plan and the proposed adopting ordinance, is on file and available for public inspection in the office of the City Clerk at City Hall. Further information regarding the proposal may also be obtained from Deputy City Administrator Bruce McCandless by calling 406-657-8222.

Dated: _____, 2006.

BY ORDER OF THE CITY COUNCIL
OF THE CITY OF BILLINGS, MONTANA

Publication Dates: _____, 2006
_____, 2006

3. Publication and Mailing of Notice. The City Clerk is hereby authorized and directed to cause notice of the public hearing, substantially in the form set forth in Section 2, to be published in the *Billings Times* at least once a week for two consecutive weeks prior to the date set for the hearing, the first such notice being given at least ten (10) days before the date of the hearing, excluding the date of publication, and to mail notice of such hearing not less than 10 days prior to the date of the hearing to the persons whose names appear on the county treasurer's

tax roll as the owners, reputed owners, or purchasers under contract for the deed of the Property, at the addresses shown on the tax roll.

4. Condition Precedent. This Council acknowledges that before the Extension Property can be removed from the Redevelopment Area and aggregated with the existing North 27th Street District to form the Extended North 27th Street District, the City must obtain the report specified above and that such report must reach conclusions necessary to expand the District. Officers of the City are hereby authorized and directed to retain or cause the retention of an Independent Financial Consultant to undertake all appropriate studies and prepare such report if necessary.

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

Mayor

Attest: _____
City Clerk

EXHIBIT A
Legal Description of Property

The area in the City of Billings which is inside the boundaries described as:

Beginning at a point at the centerline intersection of the 1st Avenue North right of way and the centerline of North 25th Street right of way and proceeding west along the centerline of 1st Avenue North until reaching the intersection with the centerline of the alley right of way between North 27th Street and North 28th Street then proceeding north down the centerline of the alley until the intersection of the alley and the centerline of the 4th Avenue North right of way then proceeding west along the centerline of 4th Ave. North until the intersection of 4th Ave. North and the North 30th Street centerline then proceeding north along the centerline of North 30th Street until the intersection of North 30th Street and the centerline of the 6th Avenue North right of way then proceeding east along the centerline of 6th Avenue North until the intersection of 6th Avenue North and the centerline of North 26th Street then proceeding south along the centerline of North 26th Street right of way until the intersection of the centerline of 4th Avenue North right of way then proceeding east along the centerline of 4th Avenue North until the intersection of the centerline of North 25th Street right of way then proceeding south along the centerline of North 25th Street until the intersection of the centerline of the 3rd Ave. North right of way then proceeding east along the centerline of 3rd Avenue North until the intersection of the centerline of North 26th Street right of way then proceeding south along the centerline of North 26th Street until the intersection of the centerline of the 2nd Avenue North right of way then proceeding east along the centerline of 2nd Avenue North until the intersection with the centerline of North 25th Street the proceeding south along the centerline of North 25th Street to the intersection of the centerline of 1st Avenue North thus arriving at the beginning, all inclusive.



NORTH ↑

EXHIBIT B

ORDINANCE NO. _____

AN ORDINANCE MODIFYING THE URBAN RENEWAL PLAN OF 27TH STREET DISTRICT URBAN RENEWAL AREA TO INCLUDE CERTAIN PROPERTY FORMERLY PART OF THE DOWNTOWN REDEVELOPMENT DISTRICT IN ORDER TO ESTABLISH THE EXTENDED NORTH 27TH STREET DISTRICT URBAN RENEWAL AREA; ADOPTING A MODIFIED URBAN RENEWAL PLAN THEREFOR INCLUDING A TAX INCREMENT PROVISION; APPROVING AN URBAN RENEWAL PROJECT THEREIN AND AUTHORIZING THE ISSUANCE OF TAX INCREMENT URBAN RENEWAL REVENUE BONDS OF THE CITY TO FINANCE COSTS THEREOF

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

WHEREAS, the City Council of the City (this "Council") created the Downtown Redevelopment District as an urban renewal area (the "Redevelopment Area") pursuant to, among other documents, Resolution No. 12303, adopted by this Council on December 20, 1975, as amended and supplemented, and the City has issued its tax increment urban renewal bonds payable from the tax increment generated from the Redevelopment Area, which were outstanding as of September, 2006 in the aggregate principal amount of \$2,645,000 (the "Outstanding Bonds"), pursuant to Resolution No. 12937, adopted February 26, 1979, as amended and supplemented from time to time (as amended and supplemented to date, the "Bond Resolution").

WHEREAS, on July 11, 2005 the City Council adopted Ordinance No. 05-5333, which created the 27th Street District Urban Renewal Area (hereafter "North 27th Street District") and adopted the Urban Renewal Plan of 27th Street District Urban Renewal Area ("27th Street Plan") that included a tax increment provision and endorsed a mixed-use urban renewal project known as "the Sandstone."

WHEREAS, it has been determined that the North 27th Street District and the 27th Street Plan should be modified to include additional property contiguous to the North 27th Street District that is currently included in the Redevelopment Area.

WHEREAS, this Council on October 10, 2006, conducted a public hearing on a proposal to modify the North 27th Street Plan by adopting the Urban Renewal Plan of the Extended North 27th Street District Urban Renewal Area, which calls which calls for the removal of certain

property from the Downtown Redevelopment District (the “Extension Property”) and aggregating said Extension Property North 27th Street District, thereby establishing a modified urban renewal area to be formally designated as the Extended North 27th Street District Urban Renewal Area (the “Extended North 27th Street District” or “the Property”), and to undertake urban renewal projects therein, all as authorized by Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the “Act”).

WHEREAS, the Extended North 27th Street District is depicted on Attachment 1 and Attachment 1a (depicting the relationship of the old urban renewal area to The Redevelopment Area) hereto and Attachment 2 (each of which is hereby incorporated herein and made a part hereof). Pursuant to this Ordinance, the boundaries of the Redevelopment Area are being modified to reflect the removal of the Extension Property from the Redevelopment Area and addition the removed properties of Extension Property depicted on the map on Attachment 1. The Redevelopment Area, as modified, is depicted on Attachment 2 and legally described on Attachment 3 (the “Resulting Redevelopment Area”) (each of which is hereby incorporated herein and made a part hereof). The Resulting Redevelopment Area is contiguous.

WHEREAS, the Extension Property, as part of the Downtown Redevelopment Area, was previously determined by this Council to be “blighted” within the meaning of the Act and an appropriate area for an urban renewal project in Resolution 12107 dated January 5, 1976; and

WHEREAS, opportunities have been presented to the City that makes it desirable for the City to consider urban renewal projects within the Extended North 27th Street District consisting of demolishing certain blighted structures within the district; improving such properties with new construction, landscaping, utilities, and other similar improvements; and making the properties so improved available for private redevelopment in accordance with the Act (the “Projects”). Development proposals to be considered for funding include mixed use occupancies. The Projects could also include building renovations and the construction or expansion of City owned parking structures within the District (the “Bonds”).

WHEREAS, the proposed modified urban renewal plan titled the Urban Renewal Plan of the Extended North 27th Street District Urban Renewal Area is attached hereto as Attachment 4 (which is hereby incorporated herein and made a part hereof) (the “Modified Plan”). The Modified Plan contains a tax increment provision and will govern the operation and administration of the Extended North 27th Street District.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Billings, Montana, as follows:

1. Findings. This Council hereby finds, determines and declares, based on the comments received at the public hearing and other studies and information available to this Council, that:

a. The Property presently contains structures and improvements that are in a state of substantial deterioration, are obsolete or defective, pose unsanitary or unsafe conditions, are vacant and unused, and have inappropriate uses. The present condition of the Property substantially impairs the sound functioning of the downtown area of the City and its environs, is conducive to juvenile delinquency and crime, poses the threat of vandalism or mischief and fire or loss, constitutes an economic and social liability, and is a menace to the public health, safety, and welfare of the residents of the City. Accordingly, the Council reaffirms its previous findings that the Property remains a blighted area within the meaning of Section 7-15-4210 of the Act. This Council finds that the rehabilitation, redevelopment or a combination thereof of the Property is necessary and in the interest of the health, safety, morals or welfare of the residents of the City. This Council finds that undertaking measures to eradicate or diminish the blight affecting the Property will help to foster a more dynamic, livable, and vibrant downtown.

b. If Projects require relocation of displaced persons, a detailed relocation plan is required.

c. The Plan must conform to the Growth Policy and Framework Plan or parts thereof of the City.

d. The Plan will afford maximum opportunity, consistent with the needs of the City as a whole, for the rehabilitation or redevelopment of the District by private enterprise.

e. A sound and adequate financial program is required for the financing of Projects, which program includes substantial private investment and financing and the sale and issuance by the City of the Bonds in an amount not to exceed \$10 million after payment of administration costs, reserve fund deposits, capitalized interest and costs of issuance of the Bonds, in proportions yet to be determined, for the purpose of financing a portion of the costs of the Projects as set forth above.

f. Approved Projects will constitute urban renewal projects within the meaning of the Act and are authorized to be undertaken by the City.

2. Plan Adoption. The Modified Plan is hereby adopted and approved in all respects, including without limitation, the segregation and application of tax increments as provided in Sections 7-15-4282 through 7-15-4293 of the Act as provided therein. For purposes of allocating taxes according to the Act, the "prior assessed value" of taxable property within the Extended North 27th Street District is that value shown on the assessment rolls as of January 1, 2006.

3. Project Approval. Authorized Projects are hereby approved.

4. Bonds. This Council approves financing the costs of Urban Renewal Projects, or a portion thereof, with proceeds of the Bonds. The City is hereby authorized and directed to undertake activities and analysis ordinarily prerequisite to the issuance of tax increment urban

renewal revenue bonds in a principal amount not to exceed \$10 million for financing of the costs of Urban Renewal Projects or a portion thereof.

5. Conditional Commitment. The adoption of the Plan does not constitute a guarantee or a firm commitment that the City will issue the Bonds or undertake Projects. If, based on comments or information made available to or obtained by the City, it appears that the issuance of the Bonds or Projects is not in the public interest or consistent with the purposes of the Act, the City reserves the right not to issue the Bonds or undertake the Project.

7. Repealer. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

8. 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.

9. Effective Date. This Ordinance shall be in full force and effect from and after the date that is 30 calendar days after the date set forth below.

ADOPTED by the City Council of the City of Billings, Montana, on second reading this _____ day of 2006.

Mayor

ATTEST:

City Clerk

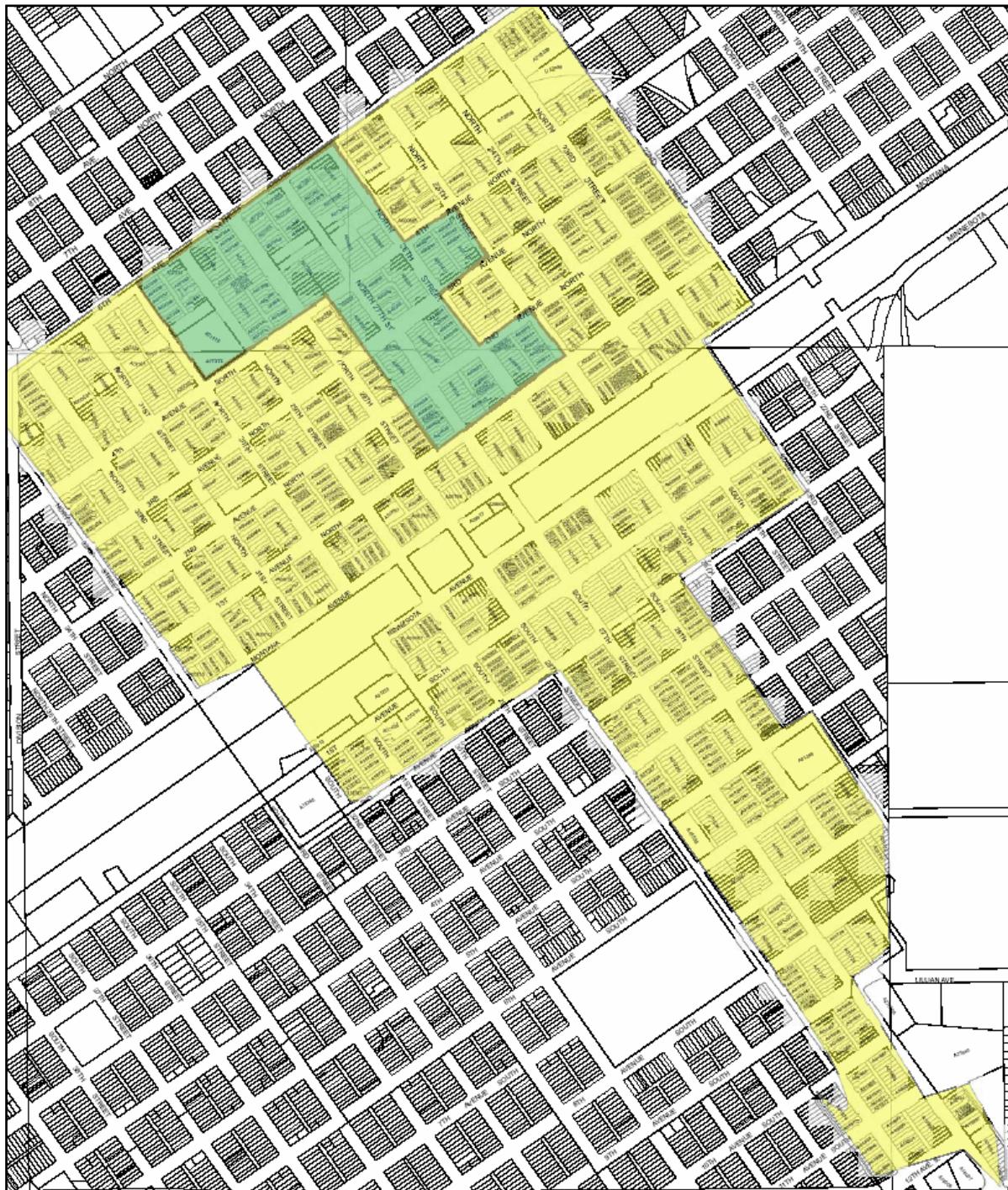
ATTACHMENT 1

Map of the Proposed Extended District In Relation to Established District (2005) (NORTH = ↑)



ATTACHMENT 1a

Map of the Proposed Extended District In Relation to Old Urban Renewal Area – TID
(NORTH = ↑)



ATTACHMENT 2

Map of Resulting Redevelopment Area (NORTH = ↑)



ATTACHMENT 3

Legal Description of the Resulting Redevelopment Area

Legal Description of Property

The area in the City of Billings which is inside the boundaries described as:

Beginning at a point at the centerline intersection of the 1st Avenue North right of way and the centerline of North 25th Street right of way and proceeding west along the centerline of 1st Avenue North until reaching the intersection with the centerline of the alley right of way between North 27th Street and North 28th Street then proceeding north down the centerline of the alley until the intersection of the alley and the centerline of the 4th Avenue North right of way then proceeding west along the centerline of 4th Ave. North until the intersection of 4th Ave. North and the North 30th Street centerline then proceeding north along the centerline of North 30th Street until the intersection of North 30th Street and the centerline of the 6th Avenue North right of way then proceeding east along the centerline of 6th Avenue North until the intersection of 6th Avenue North and the centerline of North 26th Street then proceeding south along the centerline of North 26th Street right of way until the intersection of the centerline of 4th Avenue North right of way then proceeding east along the centerline of 4th Avenue North until the intersection of the centerline of North 25th Street right of way then proceeding south along the centerline of North 25th Street until the intersection of the centerline of the 3rd Ave. North right of way then proceeding west along the centerline of 3rd Avenue North until the intersection of the centerline of North 26th Street right of way then proceeding south along the centerline of North 26th Street until the intersection of the centerline of the 2nd Avenue North right of way then proceeding east along the centerline of 2nd Avenue North until the intersection with the centerline of North 25th Street the proceeding south along the centerline of North 25th Street to the intersection of the centerline of 1st Avenue North thus arriving at the beginning, all inclusive.

ATTACHMENT 5

**URBAN RENEWAL PLAN OF THE
EXTENDED NORTH 27TH STREET DISTRICT
URBAN RENEWAL AREA**

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SECTION 1 – INTRODUCTION

On July 11, 2005, the City Council adopted an ordinance that (a) created the North 27th Street District Urban Renewal Area (“North 27th Street District”) and (b) adopted an urban renewal plan for the district. The North 27th Street District is located on the west side of the 100 Block of North 27th Street. For reasons discussed in this Urban Renewal Plan of the Extended North 27th Street District Urban Renewal Area (“Modified Plan”), it has been determined that the North 27th Street District should be expanded to include other blighted properties in need of redevelopment. Further, it has been determined that this area, known as the “core” of downtown Billings, has been and is in need of expanded public parking, enhanced pedestrian connections and experiences, and infrastructure improvements to public and private properties that will lead to increased taxable values. The existing urban renewal plan may be modified by ordinance in accordance with the procedure described in M.C.A. § 7-15-4221. The Urban Renewal Plan of the 27th Street District Urban Renewal Area approved by the City Council on July 11, 2005 (“27th Street Plan”) is hereby included by reference as part of this Modified Plan and shall remain applicable hereto except to the extent the original plan is explicitly or impliedly amended by this Modified Plan. It is recognized as part of this Modified Plan that the basic vision of the document known as Downtown Billings Framework Plan, adopted by the Billings City Council on December 22, 1997 and by the Yellowstone County Commissioners on December 23, 1997, is still valid and should be considered a part thereof. The terms defined in “Part I – DEFINITIONS” of the 27th Street Plan shall have the same meanings in this Modified Plan unless a contrary meaning is expressed herein. The expanded district proposed in this Modified Plan is hereafter referred to as the “Extended North 27th Street District.”

SECTION 2 – BACKGROUND

The original Downtown Redevelopment District, a downtown tax increment finance district, was created on December 20, 1975 by a resolution which cited hazardous conditions existing in the district due to overhead utility wires, inefficient land use, problems of access and circulation, physical constraints to development, random location of mixed uses and deteriorated building

conditions, and found that rehabilitation and redevelopment of the District would be in the public interest. That original district (hereafter “1975 District”) comprised about seventy blocks in the city center was expanded in 1985 and again in 2004. The 1975 District expires March 1, 2008.

In 1979, bonds were issued to pay for the construction of a city parking garage in the downtown at a cost of \$3,990,000. Other downtown improvements that have occurred over the years include: The Depot renovation, downtown streetscape improvements, Old Chamber Building renovation and parking lot, the Venture Theatre, SoNoMa Lofts, renovation of the Securities Building and Wells Fargo Bank Building, The CTA Building, The Rocky Mountain Professional Building, and numerous housing, parking, technical assistance, façade and awning projects. Currently, Park 2 is being expanded, and a bus transfer facility is planned on North 25th Street.

It is estimated that since the original 1975 District was created there has been over \$75 million dollars of private investment and about \$25 million dollars of tax increment dollars spent in the downtown. In today’s marketplace this could well equate to over \$150 million of development. The tax increment program has been a major factor in the Central Business District resurgence.

Because the 1975 District will soon terminate, it was determined that it would be in the best interest of the City to form a new tax increment district to assist the construction of public and private development, stabilize and grow the tax base, increase the parking inventory, increase the inventory of downtown residential property, stimulate multi-use development (“Multi-Use Facility Projects”) and further implement the vision of the Downtown Framework Plan.

On June 14, 2005, the Yellowstone County Planning Board approved an urban renewal plan to allow creation of a tax increment district. This new district, called the 27th Street District Urban Renewal Area, was to be located on the west side of the 100 Block of North 27th Street. Subsequently, the new tax increment district was created by Ordinance adopted by the City Council on July 11, 2005.

Currently, there is a need to expand the North 27th Street District to encompass development needs on the North 27th Street corridor, North 28th Street and other underutilized properties within the core of downtown Billings. Although there has been significant improvement in the valuation of property in much of the 1975 District, the area defined by this proposed expanded tax increment district has been neglected for many years and either continues to or is starting to show signs of blight and tax base decline. In fact, much of the property shows an continued decline in taxable value. Many parcels have been removed from the tax rolls. The Extended North 27th Street District creates an opportunity to continue redevelopment of the center of downtown with a mixture of public and private investment in a slightly larger than fourteen - square-block district (about 12% of the size of the 1975 expanded district) encompassing the existing 27th Street District, by **beginning at a point at the centerline intersection of the 1st Avenue North right of way and the centerline of North 25th Street right of way and proceeding west along the centerline of 1st Avenue North until reaching the intersection with the centerline of the alley right of way between North 27th Street and North 28th Street then proceeding north down the centerline of the alley until the intersection of the alley and the centerline of the 4th Avenue North right of way then proceeding west along the centerline of 4th Ave. North until the intersection of 4th Ave. North and the North 30th Street centerline then proceeding north along the centerline of North 30th Street until the intersection of North 30th Street and the centerline of the 6th Avenue North right of way then proceeding east along the centerline of 6th Avenue North until the intersection of 6th Avenue North and the centerline of North 26th Street then proceeding south along the centerline of North 26th Street right of way until the intersection of the centerline of 4th Avenue North right of way then proceeding east along the centerline of 4th Avenue North until the intersection of the centerline of North 25th Street right of way then proceeding south along the centerline of North 25th Street until the intersection of the centerline of the 3rd Ave. North right of way then proceeding west along the centerline of 3rd Avenue North until the intersection of the centerline of North 26th Street right of way then proceeding south along the centerline of North 26th Street until the intersection of the centerline of the 2nd Avenue North right of way then proceeding east along the centerline of 2nd Avenue**

North until the intersection with the centerline of North 25th Street the proceeding south along the centerline of North 25th Street to the intersection of the centerline of 1st Avenue North thus arriving at the beginning, all inclusive.

The area has a low taxable value, with several lots of the land being owned by government and other non-profit entities.

The creation of the Extended North 27th Street District is essential to any planned development at 4th Avenue North and North 28th Street. It could also assist with the essential remodeling of the property immediately north of Park 2, i.e., the Wells Fargo Bank Building, as well as, following possible additional expansion when the 1975 District sunsets, the redevelopment of the Babcock Theater Building, the Northern Hotel properties, the Sheraton and the Lincoln Hotel properties. Specifically, it is currently expected that the Extended North 27th Street District may help fund the following projects:

1. At least one new parking structure for approximately 400 to 500 cars
2. Expansion of the Park II facility
3. Construction of multi-use facilities that include housing, commercial and office space
4. Upgrading infrastructure and beautification of the district
5. A potential new office tower in the “core” area

SECTION 3 – SUMMARY OF BLIGHT FINDINGS

The area in the proposed Extended North 27th Street District contains a great deal of blight. Within the district there is substantial structural deterioration, long-term land vacancy, and a railroad spur line that has been abandoned. Several of the commercial buildings in the district are deteriorated and need demolition. Many of the storefronts and upper floors are vacant or under-occupied. Sidewalks are cracked; alleys are deteriorated, and, in general, much of the area is below accepted standards. In contrast to the above, there are certain properties within the

district in good repair but included in the district to allow for a contiguous block of land within the district; and because pockets of revitalization cannot be sustained if areas of neglect and blight surround them. Over time, without continued managed urban renewal, even these success stories will once again decline in taxable value. Most of the district falls into the blighted, neglected and under-utilized categories.

SECTION 4 – DESCRIPTION OF BLIGHTED AREA

The extended urban renewal area described in this Modified Plan incorporates portions of several blocks centered in the downtown area. Within the district there are several older, single-story structures that have been retrofitted for offices and warehousing, numerous surface parking lots, and several vacant structures. Many of these structures are unsuited to their current uses because of age obsolescence and physical deterioration.

Montana's Urban Renewal Law (Montana Code Annotated Title 7, Chapter 15, Parts 42 and 43) provides the authority to declare the existence of blighted areas and to target them for improvements. "Blighted area" is defined in Section 7-15-4206(2), M.C.A., as follows:

[A]n area that is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime; substantially impairs or arrests the sound growth of the city or its environs; retards the provision of housing accommodations; or constitutes an economic or social liability or is detrimental or constitutes a menace to the public health, safety, welfare, and morals in its present condition and use, by reason of:

- (a) the substantial physical dilapidation; deterioration; defective construction, material, and arrangement; or age obsolescence of buildings or improvements, whether residential or nonresidential;*
- (b) inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined by competent appraisers on the basis of an examination of the building standards of the municipality;*
- (c) inappropriate or mixed uses of land or buildings;*
- (d) high density of population and overcrowding;*
- (e) defective or inadequate street layout;*
- (f) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;*
- (g) excessive land coverage;*
- (h) unsanitary or unsafe conditions;*
- (i) deterioration of site;*
- (j) diversity of ownership;*
- (k) tax or special assessment delinquency exceeding the fair vale of the land;*

- (l) *defective or unusual conditions of title;*
- (m) *improper subdivision or obsolete platting;*
- (n) *the existence of conditions that endanger life or property by fire or other causes;*

or

- (o) *any combination of the factors listed in this subsection (2).*

The extended urban renewal area includes 81 (Exhibit A) properties. Within that total area, there are “target blocks” that should be, the initial focus for redevelopment, but potential projects outside of this “target area” may come forward and should be considered as equal in value to the urban renewal plan as the “target area.” This target area includes all of Blocks 48, 49, 50, 52, 53 and 54 of Foster Addition; Lots 13 through 23 and Lot 24A of Block 51, Foster Addition; Lots 13A and Lots 14 through 21 of Block 9, Billings Original Townsite; Lots 13 through 24 of Block 43, Billings Original Townsite; Lots 1 through 12 of Block 44, Billings Original Townsite; Lots 1 through 12 of Block 58, Billings Original Townsite; Lots 13 through 24 of Block 59, Billings Original Townsite; all of Block 91, Billings Original Townsite; all of Blocks 109 and 110, Billings Original Townsite; the east half of Block 93, Billings Original Townsite and Lots 5 through 12 of Block 92, Billings Original Townsite. Also included are the intervening street rights-of-way of North 27th, 28th, 29th Streets and 2nd, 3rd, 4th Avenues North, as well as all the intervening alley rights-of-way. The total area of the Expanded District, excluding public sidewalks and streets, is 291,987 square feet. Within the “target area” described above, there are approximately 31 commercial structures, one public parking ramp, one private parking ramp, one warehouse, 21 paved parking lots, and several tax exempt structures. Three of the commercial structures are completely vacant and several more are 50% or less occupied.

The target area encompasses at least six, intersecting streets serving the downtown area. Two of the streets, 4th Avenue North and North 27th Street, are classified as principal arterials. Fourth Avenue is an eastbound one-way street. The intersecting streets, including North 29th and North 30th, are one-way streets, northbound and southbound, respectively. Only North 27th and North 28th Streets are two-way. North 27th Street is part of the state highway system and carries approximately 18,000 vehicles a day.

SECTION 5 – DETERMINATION OF BLIGHT

The proposed Extended North 27th Street District contains a number of underdeveloped properties. The Council previously determined that the property included in the North 27th Street District was “blighted” within the meaning of the Act in Resolution 05-18276 adopted June 13, 2005. The Redevelopment Area, including the portion that is to be expanded, to form the Extended North 27th Street District, was previously determined to be blighted and an appropriate area for an urban renewal project in Resolution No. 12107 dated January 5, 1976. Deficiencies in public and private properties located in the district lead to a determination that the area continues to be blighted, as defined by state statute. Specific areas of blight on the site are listed below:

Deficient Structures in Extended Area

There are several buildings that are over 50 years in age and do not qualify as being historically significant. Many are in poor repair and may contain potentially hazardous asbestos and lead paint.

Deficient Public Facilities in Extended Area

The streets, curbs, gutters and sidewalks are generally in satisfactory repair. However, sewer and water utilities in the area are aging and have required frequent repairs in recent years. City parking lots generally do not meet code requirements for paving, striping and landscaping. Many of them are cracked and crumbling. The city owned parking ramps within the area have extensive “waiting lists” and public parking for adjacent office and commercial structures continues to be inadequate. Demand for parking will continue and additional and expanded parking structures will be required to accommodate commercial growth.

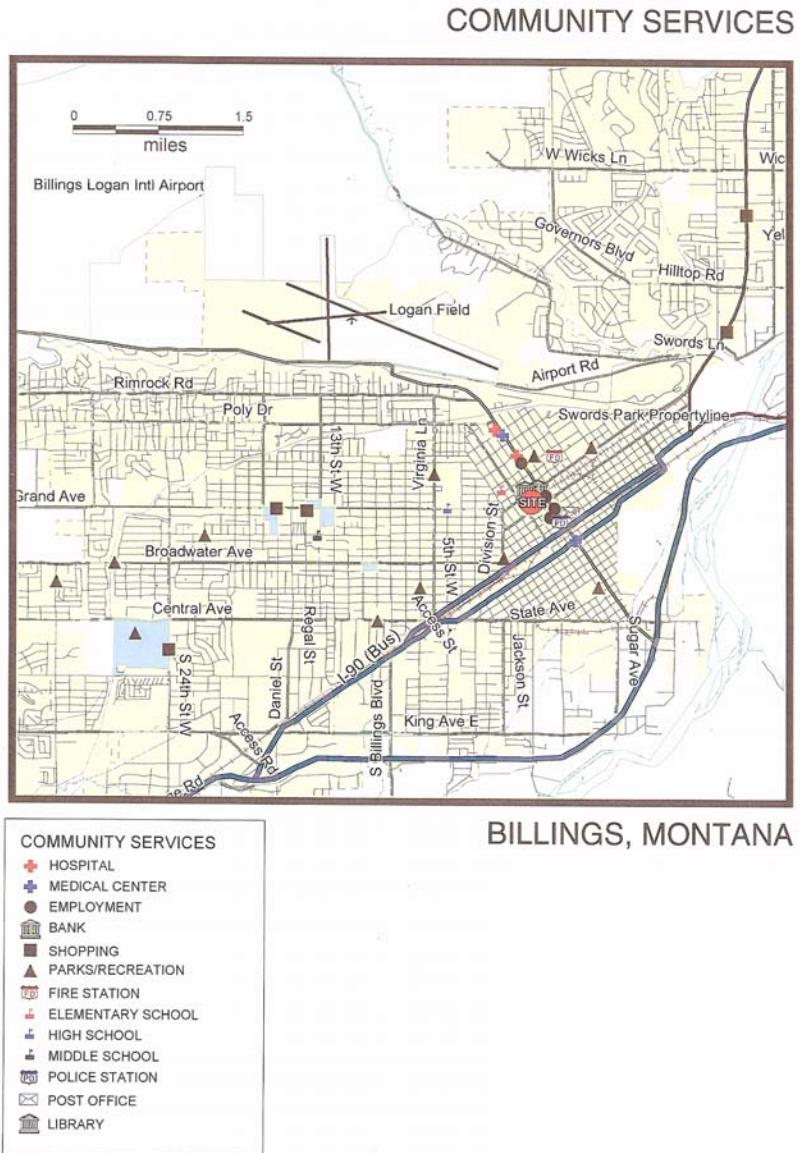
Deficient Land Use in Extended Area

In general, the area is under-utilized due to the significant amount of surface parking areas and a large number of single-story structures. The extended district is located in what could be a prime commercial area including and surrounding what is considered to be the center of the CBD and

may have a higher development potential than what is presently in place.

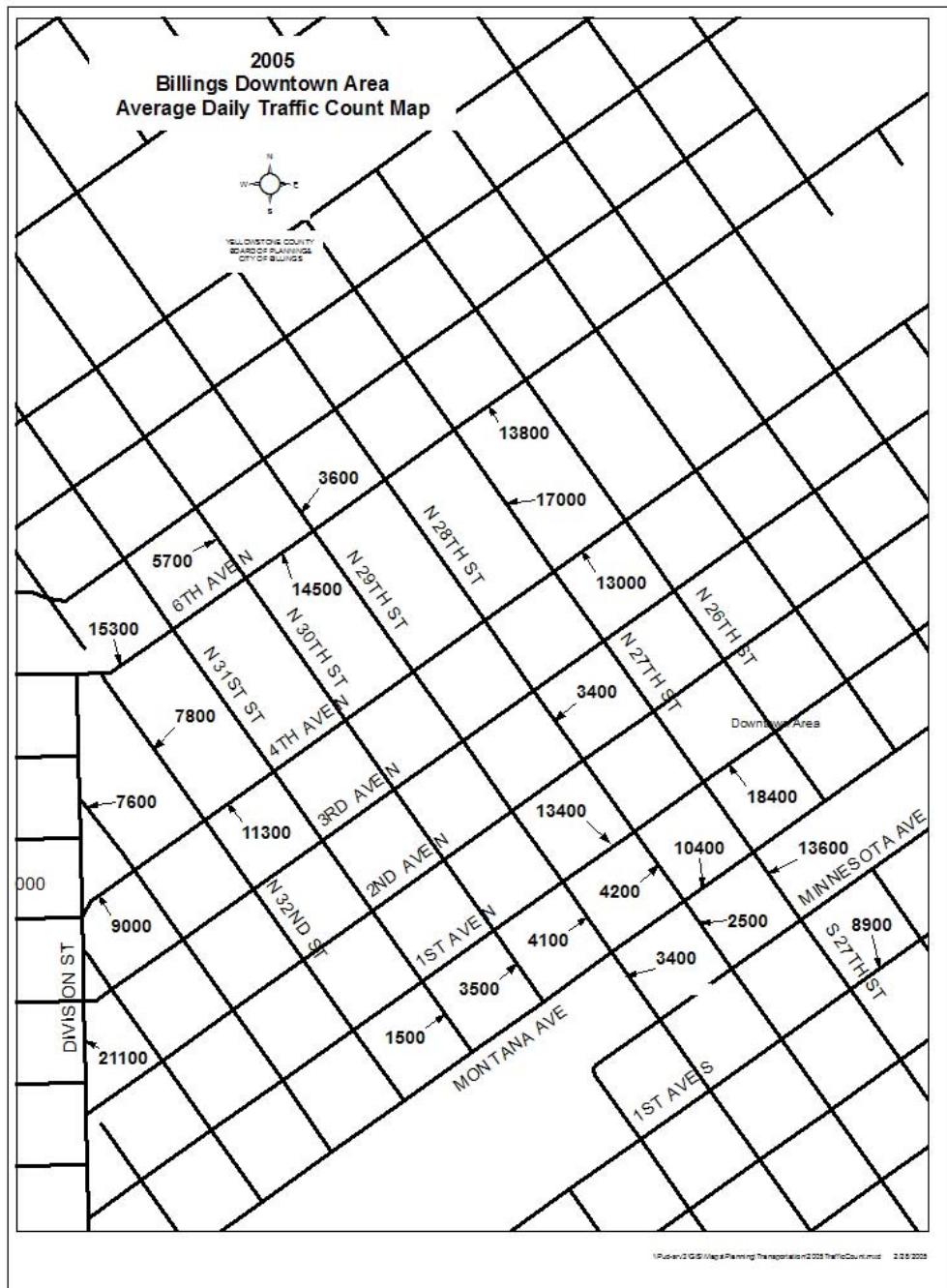
SECTION 6 – THE SITE AND ITS RELATIONSHIP TO THE CITY

The proposed Expanded North 27th Street District is located within and around the primary downtown business district. It is surrounded by a number of community services as described and shown on the following:



SECTION 7 – TRAFFIC PATTERN

Average daily traffic counts along streets that surround and flow through the extended tax increment district are shown below as excerpted from the 2005 Billings Urbanized Area Traffic Count Map prepared by the City-County Planning Department.



SECTION 8 – LEGAL DESCRIPTION

The legal description of the proposed Extended North 27th Street District is as follows:

Beginning at a point at the centerline intersection of the 1st Avenue North right of way and the centerline of North 25th Street right of way and proceeding west along the centerline of 1st Avenue North until reaching the intersection with the centerline of the alley right of way between North 27th Street and North 28th Street then proceeding north down the centerline of the alley until the intersection of the alley and the centerline of the 4th Avenue North right of way then proceeding west along the centerline of 4th Ave. North until the intersection of 4th Ave. North and the North 30th Street centerline then proceeding north along the centerline of North 30th Street until the intersection of North 30th Street and the centerline of the 6th Avenue North right of way then proceeding east along the centerline of 6th Avenue North until the intersection of 6th Avenue North and the centerline of North 26th Street then proceeding south along the centerline of North 26th Street right of way until the intersection of the centerline of 4th Avenue North right of way then proceeding east along the centerline of 4th Avenue North until the intersection of the centerline of North 25th Street right of way then proceeding south along the centerline of North 25th Street until the intersection of the centerline of the 3rd Ave. North right of way then proceeding west along the centerline of 3rd Avenue North until the intersection of the centerline of North 26th Street right of way then proceeding south along the centerline of North 26th Street until the intersection of the centerline of the 2nd Avenue North right of way then proceeding east along the centerline of 2nd Avenue North until the intersection with the centerline of North 25th Street the proceeding south along the centerline of North 25th Street to the intersection of the centerline of 1st Avenue North thus arriving at the beginning, all inclusive.

Map of entire Expanded N. 27th District (NORTH = ↑)



Section 9 -- TAX STATUS

A breakdown of the tax status of 81 properties suitable for private redevelopment located in the proposed district follows. A more detailed breakdown is attached as Exhibit A.

Appraisal Value								
\$62,580,330.00								
	Totals	\$727,855	19	30	32	32	81	
	2006 TAXABLE VALUE		Decline	Moderate Growth		Flat	Total Parcels	
		4%	Growth of Entire Taxable Value including BASE in proposed Area					
		30%	Growth of JUST THE INCREMENT in entire current TID					

SECTION 10 – PROPERTY DEVELOPERS

New development in the proposed tax increment district will also be accomplished through the implementation of the Downtown Framework Plan and through development incentive programs that have already been tested and proven effective within the 1975 and expanded Urban Renewal Area. These projects could include:

- At least one new parking structure for approximately 400 to 500 cars
- Construction of multi-use facilities that include housing, commercial, lodging and/or office space
- Upgrading infrastructure and beautification of the district
- A potential new office tower in the “core” area

SECTION 11 – PROJECT RELATIONSHIP TO THE FRAMEWORK PLAN

The proposed urban renewal area and extended tax increment district is located generally in the North Downtown District, The City Center, and The Civic District as defined by the Billings Framework Plan (“Framework Plan”). One goal of the Framework Plan was to remove barriers to downtown circulation and development created by 4th Avenue North and 6th Avenue North and establish the area between the avenues as both a discreet district and a recognized extension of the CBD, thereby allowing potential ties to the medical corridor and MSU-Billings from the

CBD. Generally, the Framework Plan stressed the downtown's ability to make a positive impact on the entire city. The Framework Plan also established a private non-profit organization to assist the City of Billings with the management of the Tax Increment District through an annual work plan and contract. This Extended N 27th Street District could be managed in a similar manner and could make use of the redevelopment criteria established by the criteria outlined in Exhibit B. The Framework Plan identified the following problems confronting Downtown Billings and recommended strategies for addressing them.

Framework Plan Recommendation: Entertainment, Retail, Culture and Image

- The discontinuity of land uses and activity levels creates gaps and a lack of connection between the core of Downtown and the surrounding neighborhoods.
- Downtown has no apparent center, edges or entryways
- Downtown's districts are poorly defined (geographically and internally) and unconnected; there is no program to reinforce their function; and there is poor directional signage, maps, or brochures.
- The richness of the Billings community – its culture, personality, and spirit – is present but not apparent in Downtown.
- Downtown is not perceived as the nucleus of the community, and it does not take advantage of its potential to be the social, cultural, and business center of the region. Billings' citizens come to a number of Downtown destinations, but Downtown as a whole is not in and of itself a destination.
- Downtown does not have a residential population that makes it alive after office hours; Downtown does not reach its potential as a neighborhood or an amenity for the close-in neighborhoods. Because there is no residential population, there is a lack of excitement and vibrancy in the Downtown.

The Extended North 27th Street District will help to address these problems by supporting the proposed redevelopment of 4th Avenue North and North 28th Street and many other target sites. One proposed development, which centers on a multi-use residential/office/parking structure,

provides specific solutions to many of the above-described problems by strengthening the center of town, building its edges, and providing a gateway into Downtown Billings via North 28th Street. Further, development near the Library and structural improvements of the Library building will be a major cultural benefit to the community. Development in this urban renewal district will make Downtown more of a destination and promote housing that will strengthen the CBD. In sum, the proposed extended district promotes the goals of the Framework Plan by making a larger portion of the downtown a safe and inviting place for citizens to work and play.

Framework Plan Recommendation: Housing

The Framework Plan continues by stating that housing should be a top priority and that the City should continue to work with builders and developers to encourage downtown housing through various methods. Specifically, the plan states that high-rise housing is to be located in the east transition zone and portions of the north transition zone.

The formation of an expanded tax increment district will help to raise funds that can be used for the construction or rehabilitation of housing in the urban renewal area or for construction or rehabilitation of public infrastructure necessary to attract and retain housing in the area. It is estimated that one or more development projects could include approximately 40 high-end residential condominium units that will be occupied by approximately 120 people.

Framework Plan Recommendation: Development of North Downtown District

One goal of creating the North Downtown District was to reduce barriers to downtown circulation and development posed by 4th Avenue North and 6th Avenue North, both busy arterials, and establish the area between the avenues as an extension of the CBD, thereby tying the CBD to the medical corridor and the university district. The Framework Plan further states that North 28th Street should be promoted as the primary pedestrian connection between downtown and the medical corridor.

The Extended North 27th Street District would promote the development of the North Downtown District and help achieve the goals of the Framework Plan. Development in the district, and especially development in the vicinity of 4th Avenue North and North 28th Street, and Montana Avenue and North 28th Street would reduce the barriers of blighted and decaying property and potentially transform the area into a vibrant neighborhood featuring a new bank, at least 40 housing units, office space, major new street-level commercial space, and an addition to the Library.

Framework Plan Recommendation: Priorities

The top priorities identified in the Framework Plan include the following:

- Development incentives, including business retention and recruitment
- Housing – demonstration projects
- Streetscape Kit of Parts – Pedestrian Cores
- Events Kit of Parts
- Paving configuration adjustments
- 5th Avenue North Corridor preservation

This Modified Plan and the urban renewal projects that it contemplates specifically address all six of these priorities.

SECTION 12 – OPPORTUNITIES CREATED BY THE EXTENDED URBAN RENEWAL DISTRICT

Specific opportunities for the City of Billings that may be created as a result of this Modified Plan and the urban renewal projects described herein include, but are not necessarily limited to, the following:

1. Demolition of substandard structures located on the west side of North 28th Street from 4th Avenue North to the Library.
2. Replacement of the City/Library surface parking on North 28th Street with covered parking that will increase total parking opportunities in this area.
3. Possible expansion of the Billings Parmly Library.

4. Introducing a new bank and office building into the district.
5. Adding first-floor commercial area for restaurants, stores, or other retail uses.
6. Adding owner-occupied office space.
7. Development of condominium residential living units.
8. Landscaping of the area, including potential new street lighting and landscaping.
9. Removal of blight in the area and upgrading of the public rights of way.

Similar development requiring expansion of The District could be placed as a “bookend” at Montana Ave. and N. 28th Street thus linking the Historic District to the Library and North Downtown and creating a pedestrian CBD with multiple “anchors.”

SECTION 13 – ECONOMIC IMPACT

At the request of the Big Sky Economic Development Authority, Scott Rickard, PhD of the Center of Applied Economic Research at MSU-Billings analyzed a mixed-use development concept and indicated strong economic advantages to the City of Billings as a result of such projects. His report describes a very positive impact on the neighborhood from the shopping and restaurant activity that would be generated because of a mixed use project and the new downtown residents. Professor Rickard’s review identified positive impacts in the following areas:

Retail

Professor Rickard found that mixed use development containing a residential component could have a significant beneficial economic impact on the city. Retailers inhabiting the space may offer goods and services not currently available locally. These additional retail opportunities may create or enhance downtown retail clusters and lead to new local spending, thereby generating positive economic impacts.

Parking

The study indicated that new parking to be used by residents and users of a mixed use development and visitors to the surrounding area would generate substantial income each year. It specifically stated that this amount would be between \$480-\$900 per space per year based on a minimum of 400 parking places in the core structure. This would generate total income of between \$192,000-\$360,000 per year respectively.

Condominiums

If a development of approximately 91,000 square feet of condominium space were to be constructed, sales income for such condominiums could be nearly \$20 million with the construction of an overall facility, less the parking, to be in excess of \$16 million. This could make a substantial economic impact both through construction jobs and the benefits of the sales themselves. There is also a ripple effect as it is estimated that at least half the condominium owners, and perhaps as much as 75%, are currently property owners in Billings and putting their property in the sales market could stimulate another \$10-\$15 million in sales. Thus, this condominium development could motivate nearly \$30 million in total sales.

It is further pointed out that if one-third of the potential residents' available disposable income were spent downtown, it would represent nearly \$12,500 per unit, thus creating new sales in downtown Billings of approximately \$500,000 per year.

SECTION 14 – CONFORMANCE TO THE GROWTH POLICY

One of the requirements of Montana's Urban Renewal Law (Title 7, Chapter 15, Parts 42 and 43) is that the urban renewal plan must conform to the community's growth policy. The Yellowstone County and City of Billings 2003 Growth Policy Plan ("Growth Policy") refers to and promotes downtown redevelopment in a variety of ways. The relevant goals in the Growth Policy are:

GOAL: An economically and culturally vibrant Downtown Billings.

OBJECTIVES:

Preserve and promote economic development of Downtown Billings.
Create a strong central ‘core’ for our community.
Establish downtown as a recognizable landmark.

GOAL: More housing and business choices within each neighborhood.

OBJECTIVES:

Improve quality of life.
Encourage more live-work environments.
Reduce commuting and subsequent drain on natural resources.
Develop more self-contained neighborhoods.

GOAL: Rational consideration of all City neighborhoods and County townsites for public funds expenditures.

OBJECTIVES:

Identify and prioritize neighborhood needs.
Empower public to provide direction on capital improvements expenditures.
Leverage public funds with other resources.

SECTION 15 – CERTAIN PLAN FEATURES AND FINANCIAL MATTERS

Section 7-15-4217, M.C.A., of the Act requires cities to make certain findings when they adopt an urban renewal plan and approve Urban Renewal Projects. These are addressed below:

1. The part of the extended district that is immediately targeted for development (the area west of North Broadway from 4th Avenue North to the Library) contains no existing dwelling units or housing, and a Multi-Use Facility Project would not displace any persons from housing. Accordingly, there is no need to have a workable and feasible plan for substitute housing.

2. Second, this Modified Plan with Multi-Use Facility Projects conform to the Growth Policy for the City as a whole and to the Framework Plan.

3. This Modified Plan affords maximum opportunity, consistent with the needs of the City as a whole, for the rehabilitation or redevelopment of the Extended North 27th Street District by private enterprise. It is unreasonable to expect that the district will be redeveloped without public support. The area in question is generally dilapidated. As presently constituted, property in the district is not conducive to any sort of uniform or integrated development and, as

presently existing, cannot compete with other areas of the City for substantial developments, particularly areas at the outskirts of the City. Experience has validated the foregoing facts and observations. This Modified Plan is intended to facilitate the identification and construction of significant Urban Renewal Projects, which would not be possible in the absence of this Modified Plan.

4. A sound and adequate financial program exists for financing Multi-Use Facility Projects, which program includes the sale and issuance by the City of the Bonds in an amount not to exceed the costs of the Project, including administration costs and costs of issuance of the Bonds. Any approved Development Project will require commitments of substantial private financing that will provide the primary means for funding construction of the improvements.

SECTION 16 – TAX INCREMENT

Tax increment financing is necessary to encourage a company or companies to construct improvements within the District, such as, without limitation, a Multi-Use Facility or Facilities, which will further encourage economic growth in the North 27th Street District and Downtown Billings, create substantial employment opportunities, and increase the tax base of the City and other taxing jurisdictions. The North 27th Street District is hereby established as a tax increment financing urban renewal area within the meaning of the Act, and, in particular, Section 7-15-4282 through 7-15-4293 of the Act. This Section constitutes a tax increment provision within the meaning of the Act. In connection therewith:

1. For the purpose of calculating the incremental taxable value each year for the life of the district, the base taxable value shall be calculated as the taxable value of all real and personal property within the district as of **January 1, 2006.**

2. The City is hereby authorized to segregate as received the tax increment derived in the district and use and deposit such increment into the tax increment fund of the district for use as authorized by the Act and as authorized herein from time to time, including, without limitation, pledging the tax increment to repayment of Bonds.

3. The tax increment received from the district may be used to pay directly costs of an approved Development Project as may from time to time be approved by the Council. The

Council also hereby authorizes the use of tax increment in the district to pay debt service on Bonds issued to finance a portion of the costs of these Development Projects, and costs associated with the sale and security of such Bonds in compliance with the Act, subject to any limitations imposed by the Montana Constitution and federal law.

4. The tax increment provision of the district will terminate upon the latter of:
 - a. The twentieth (15th) year following the creation of the district; or
 - b. The payment or provision for payment in full or discharge of all Bonds, and the payment of interest thereon, for which the tax increment has been pledged.

After termination of the tax increment provision, all taxes shall continue to be levied upon the actual taxable value of the taxable property in district, but shall be paid into funds of the taxing bodies levying taxes within the district.

SECTION 17 – COMPONENT IMPROVEMENTS FOR THE EXPANDED DISTRICT PLAN

Transportation and Circulation

Development projects may increase traffic in the area. North Broadway is currently blocked approximately four blocks to the north, thus, there is no continuous north/south travel along North Broadway to the northern portion of the City.

Proposed Site Improvements

There will be substantial streetscape, sidewalk and general beautification improvements of the district as requirements contained within approved Development Agreements associated with approved Urban Renewal Projects. Sidewalks may incorporate patterned concrete and street trees. Street furniture may be placed in appropriate locations.

Neighborhood Considerations

The primary impact of new construction resulting from the creation of this extended district would be felt around North Broadway and 4th Avenue North. Businesses and users in this general area, i.e., School District Number 2, Billings Clinic, Underriner Motors and the Billings Gazette, have been contacted and are favorable to the redevelopment plan.

When this tax increment district is extended it will also have a favorable impact on North 27th Street A potential future tax increment district extension may also have a favorable impact on the revitalization and renewal of the former Sheraton, Wells Fargo Tower, Park II and the Northern Hotel properties and well as enhance and provide several more opportunities of redevelopment.

SECTION 18 – CONCLUSIONS

The creation of this Extended North 27th Street Urban Renewal District will have a positive impact on Downtown Billings and no impact on the sunset and expiration date of the 1975 Urban Renewal District. This expanded N. 27th District is separate from the 1975 District and has no impact on the increment generated by that district, the base taxable value of that district and the sunset of that district

Expansion of the existing 27th Street District is an essential first-step in completing what may be a number of urban renewal projects. If completed, mixed use projects approved within the first year could stimulate over \$30 million in new construction, and possibly as much as \$15 million in re-sales. Approximately 200 employees could be located on the commercial and office floors of possible mixed use projects. Also new condominiums housing could be a substantial contribution to the district. Thus, expansion of the district, in addition to eliminating blight and providing renaissance to the CBD, will also bring new employees and residents to the CBD.

Mixed use development within the Expanded District ties in favorably with and actually stimulates the remodeling plans that are currently underway for several downtown properties. Additionally, like any major new development, the anticipated construction at 4th Avenue North and North Broadway will have a stimulating effect on the surrounding area. Specific examples of this are:

1. It will tie the CBD to the medical corridor located immediately to the north of the development.

2. The Billings Clinic has purchased the Underriner property to the north. The Clinic's plans at this point have not been determined; however, the development proposed in this Modified Plan will enhance and encourage future development by this group.

3. The Framework Plan encourages the development of the 5th Avenue North corridor. An enhanced Library, as accomplished by projects described in this Modified Plan, will provide an excellent entrance to this corridor.

4. Future redevelopment and revitalization of structures like the Northern Hotel and the Babcock Theater Building are enabled by this district and its possible future expansion.

In conclusion, expansion of the existing 27th Street Urban Renewal District to include the property described in this Modified Plan will have a positive effect on the CBD.

EXHIBIT A

TAX_ID	MAX(TX_GIS.LEGALDESC)	LOT SIZE (SQ FT)	2006 APPRAISAL VALUE	2006 MARKET VALUE	2006 TAXABLE VALUE
A00062	LTS 1-6 BLK 9 BILLINGS ORIGINAL TOWN	21000	\$97,300.00	\$83,483.00	\$2,621
	LTS 7-12 & 14-24 BLK 9 BILLINGS ORIGINAL TOWN & LTS 13A BLK 58 FOSTERS ADD AMND (LESS 642 SQ FT STREET) (98)	70431	\$2,665,481.00	\$2,253,292.00	\$0
A00063		21000	\$780,300.00	\$525,382.00	\$16,497
A00237	LTS 1-6 BLK 42 BILLINGS ORIGINAL TOWN	7000	\$163,500.00	\$134,012.00	\$4,208
A00241	LTS 7-8 BLK 42 BILLINGS ORIGINAL TOWN	7000	\$47,100.00	\$37,833.00	\$1,188
A00242	LTS 9-10 BLK 42 BILLINGS ORIGINAL TOWN	7000	\$67,600.00	\$54,376.00	\$1,708
A00243	LTS 11-12 BLK 42 BILLINGS ORIGINAL TOWN	7000	\$810,800.00	\$833,721.00	\$25,901
A00244	LTS 13-14 BLK 42 BILLINGS ORIGINAL TOWN	7000	\$47,100.00	\$37,948.00	\$1,192
A00246	LTS 15-16 BLK 42 BILLINGS ORIGINAL TOWN	7000			
	LTS 17-24 BLK 42 BILLINGS ORIGINAL TOWN	28000	\$142,100.00	\$106,174.00	\$3,334
A00247	COMBO W/A00248-50 28,000 SQ FT (05)	42000	\$6,179,200.00	\$5,301,753.00	\$0
A00251	LTS 1-12 BLK 43 BILLINGS ORIGINAL TOWN	13850	\$177,915.00	\$149,043.00	\$4,680
A00252	LTS 13-16 BLK 43 BILLINGS ORIGINAL TOWN (LESS 150 SQ FT ST TO CITY)	12250	\$64,575.00	\$55,405.00	\$1,740
A00254	LTS 17-19 N2 LT 20 BLK 43 BILLINGS ORIGINAL TOWNSITE	15720	\$1,094,208.00	\$889,082.00	\$27,918
A00255	LTS 20-24 S2 LT 20 BLK 43 BILLINGS ORIGINAL TOWN (LESS 30 SQ FT ST TO CITY)	62238	\$3,485,813.00	\$2,724,592.00	\$0
A00256	LTS 1-9 BLK 44 BILLINGS ORIGINAL TOWN & LTS 1-9 BLK 56 FOSTERS ADDITION (LESS 762 SQ FT ST TO CITY)	10425	\$261,838.00	\$215,071.00	\$6,754
A00257	LTS 10-12 BLK 44 BILLINGS ORIGINAL TOWN & LTS 10-12 BLK 56 FOSTERS ADDITION (LESS 75 SQ FT ST TO CITY)	42000	\$2,072,600.00	\$1,733,910.00	\$0
A00368	LTS 1-12 BLK 58 BILLINGS ORIGINAL TOWN	7000	\$47,100.00	\$40,411.00	\$0
A00378	LTS 5-6 BLK 59 BILLINGS ORIGINAL TOWN	7000	\$47,100.00	\$40,382.00	\$0
A00379	GENERAL FUND PARKING LOT 208 26TH ST	7000	\$49,400.00	\$42,155.00	\$1,323
A00380	LTS 9-10 BLK 59 BILLINGS ORIGINAL TOWN	7000	\$47,100.00	\$40,238.00	\$1,263
A00381	LTS 11-12 BLK 59 BILLINGS ORIGINAL TOWN	42000	\$8,550,800.00	\$7,323,962.00	\$0
A00382	LTS 13-24 BLK 59 BILLINGS ORIGINAL TOWN	14000	\$284,900.00	\$205,916.00	\$6,465
A00611	GENERAL FUND COURTHOUSE 2630 3RD AVE N (SS 00348)	7000	\$100,100.00	\$67,051.00	\$2,105
A00612	LTS 5-6 BLK 90 BILLINGS ORIGINAL TOWN	7000	\$100,100.00	\$67,051.00	\$2,105
A00613	LTS 7-8 BLK 90 BILLINGS ORIGINAL TOWN	7000	\$100,100.00	\$67,051.00	\$2,105
A00614	LTS 9-10 BLK 90 BILLINGS ORIGINAL TOWN	7000	\$100,100.00	\$67,051.00	\$2,105
A00615	LTS 11-12 BLK 90 BILLINGS ORIGINAL TOWN	3500	\$237,800.00	\$138,916.00	\$4,362
A00616	LTS 13 BLK 90 BILLINGS ORIGINAL TOWNSITE	3500	\$55,250.00	\$37,070.00	\$1,164
A00617	LTS 14 BLK 90 BILLINGS ORIGINAL TOWNSITE	35000	\$805,100.00	\$603,017.00	\$18,935
A00618	LTS 15-24 BLK 90 BILLINGS ORIGINAL TOWN				

A00620	LTS 1-4 19-24 S130.3' OF 20' OF ABDN BLK 91 BILLINGS ORIGINAL TOWNSITE	ALLEY	35000	\$2,978,100.00	\$2,518,543.00	\$0
A00620A	LOTS 5-7 AMEND		4215	\$62,503.00	\$50,885.00	\$0
	LTS 5-6 AMEND BLK 91 BILLINGS					
A00621	ORIGINAL TOWNSITE		3081	\$47,194.00	\$39,000.00	\$0
A00622	LTS 7A & 8 BLK 91 BILLINGS ORIGINAL TOWN		6940	\$368,890.00	\$282,705.00	\$0
A00623	LTS 9-12 BLK 91 BILLINGS ORIGINAL TOWN		14000	\$194,600.00	\$148,499.00	\$0
A00624	LTS 13-18 BLK 91 BILLINGS ORIGINAL TOWN		21000	\$6,284,200.00	\$5,370,603.00	\$168,637
A00630	LTS 1-4 BLK 92 BILLINGS ORIGINAL TOWN		14000	\$1,766,300.00	\$1,472,750.00	\$46,244
A00630A	ALSO LOT 6		7000	\$100,100.00	\$80,074.00	\$0
A00631	LT 7 BLK 92 BILLINGS ORIGINAL TOWNSITE		3500	\$102,400.00	\$82,419.00	\$2,587
A00632	LT 8 BLK 92 BILLINGS ORIGINAL TOWNSITE		3500	\$55,250.00	\$45,335.00	\$0
A00633	LTS 9-10 BLK 92 BILLINGS ORIGINAL TOWN		7000	\$104,600.00	\$83,762.00	\$0
A00634	LTS 11-12 BLK 92 BILLINGS ORIGINAL TOWN		7000	\$298,000.00	\$249,872.00	\$7,846
A07331	ALSO LTS 2-4		14000	\$204,000.00	\$161,507.00	\$0
	OF AMND LOTS 5-6 BLK 48					
A07332	32-1N- 26E		2216	\$212,916.00	\$182,142.00	\$5,719
	OF AMND LOTS 5-6 BLK 48					
A07332A	32-1N- 26E		4850	\$214,575.00	\$175,593.00	\$5,514
A07333	LTS 7 & 8 BLK 48 FOSTER'S ADD		7000	\$132,700.00	\$100,660.00	\$3,161
A07334	L: 9-12 B: 48 FOSTERS ADD		14000	\$1,694,600.00	\$1,440,442.00	\$0
A07335	L: 13-14 B: 48 FOSTER'S ADDITION		7000	\$104,000.00	\$83,420.00	\$0
A07336	ALSO LT 16		7000	\$104,500.00	\$83,849.00	\$0
A07337	ALSO LT 18		7000	\$104,500.00	\$83,849.00	\$0
A07338	LT 19-20 BLK 48 FOSTER SUBD		7000	\$134,470.00	\$84,936.00	\$2,667
A07339	ALSO LT 22-24		14000	\$207,800.00	\$164,767.00	\$0
A07341	ALSO LTS 2-6		21000	\$2,119,300.00	\$1,707,637.00	\$0
	ABDN RAILROAD R/W BETWEEN BLKS & 53 (LESS 7500 SQ FT RR	49				
	TRACKS					
A07341A	E00087) FOR PARKING LOT		16500	\$228,350.00	\$179,644.00	\$0
A07342	ALSO LT 8		7000	\$100,100.00	\$80,074.00	\$2,514
A07343	LTS 9 & 10 BLK 49 FOSTER'S ADD		7000	\$107,000.00	\$85,994.00	\$2,700
A07344	LTS 11-12 BLK 49 FOSTER'S ADD		7000	\$107,200.00	\$86,050.00	\$2,702
A07345	LTS 13-20 BLK 49 FOSTER'S ADD		30940	\$725,200.00	\$590,028.00	\$18,527
A07347	S 3FT ALSO LTS 22-24		10920	\$159,820.00	\$126,765.00	\$0
A07348	LTS 1 AND 2 BLK 50 FOSTER ADDITION		7000	\$408,200.00	\$391,587.00	\$12,213
A07349	ALSO LT 4		7000	\$104,300.00	\$83,677.00	\$2,627
A07350	ALSO LTS 6-9		17500	\$253,750.00	\$200,335.00	\$6,291
A07352	ALSO LTS 11 & 12		10500	\$147,350.00	\$116,758.00	\$3,666
A07353	ALSO LTS 14-17		17500	\$470,150.00	\$382,685.00	\$12,016
A07355	ALSO LTS 19 & 20		10500	\$153,650.00	\$122,163.00	\$3,836
A07356	ALSO LTS 22-24		14000	\$221,100.00	\$175,262.00	\$5,503
	LT 1-4, 21-23 BLK 51 FOSTER ADDITION & LTS 1-4 & ADJ VAC 20' ALLEY BLK 268 BILLINGS					
A07356A	OT (97)		26250	\$462,000.00	\$438,208.00	\$13,664
	LT24A BLK51 FOSTERS ADD AMND (97)					
A07356C	(A27734 & A07356A)		22677	\$311,740.00	\$210,048.00	\$6,596
	L:5-12 B:51 FOSTER'S ADD	(OLD A-				
A07357	7358,A-7359 & A-7360) (2000)		28000	\$655,700.00	\$487,969.00	\$15,322

A07361	LTS 13-17 BLK 51 FOSTER ADDITION	17500	\$407,350.00	\$377,826.00	\$11,797
A07362	ALSO N 1/2 OF LT 19	5250	\$80,375.00	\$65,079.00	\$0
A07363	S 1/2 ALSO LT 20 LT 1-10 & 15-24 BLK 52 FOSTERS ADD AMND & TR 1 C/S 2278 & ABND RR 113.684 SQ	5250	\$293,975.00	\$240,877.00	\$0
A07364	FT	113684	\$4,690,034.00	\$6,529,111.00	\$200,738
A07366	LTS 1,2,3,4 BLK 53 FOSTER'S ADD	14000	\$451,300.00	\$352,093.00	\$0
A07367	ALSO LT 6	7000	\$216,100.00	\$170,270.00	\$0
A07368	L:7 & 8 B:53 FOSTER'S ADD	7000	\$104,700.00	\$83,877.00	\$0
A07369	L:9-12 B:52 FOSTER'S ADD	14000	\$203,900.00	\$161,106.00	\$0
A07370	LTS 13-20 BLK 53 FOSTERS ADD	28000	\$873,058.00	\$755,547.00	\$23,676
A07371A	LT 21 & 22 BLK 53 FOSTER'S ADDITION	3500	\$110,100.00	\$90,382.00	\$1,419
A07371B	ALSO LOT 24 ALSO LTS 2-24 ALSO BILLINGS ALL BLK 8 & VAC 5TH LYING BTWN BLKS 48 & 54 FOSTERS ADD ABDN R/W 32'X160' & 17'X140' LYING BTWN BLKS 49 & 53 (OLD #E00087)	7000	\$104,500.00	\$83,676.00	\$0
A07372		114000	\$4,044,600.00	\$3,346,544.00	\$0
D12396		7500	\$106,850.00	\$85,315.00	\$0

EXHIBIT B

LARGE DOWNTOWN BILLINGS DEVELOPMENT PROJECTS DEVELOPMENT CRITERIA

INTRODUCTION

The Downtown Billings Partnership, Inc. (DBP) has been responsible for administering the Tax Increment Finance dollars in Billings, pursuant to Montana Urban Renewal Law (Title 7 Chapter 15 part 42 Montana Code Annotated, "Urban Renewal." Tax Increment Financing (TIF) is an important element of the program as it provides a means to finance urban renewal activities

The DBP encourages large development projects, defined as those with over \$1 million in property improvements. This program enables the Developer and the DBP to work together in a streamlined, efficient manner.

INVESTMENT PARAMETERS

Each project is unique. A 5:1 private:public leveraging investment ratio (for every \$5 in private funds a maximum of \$1 of TIF funds invested into public improvements) is desired for each project. Please note that property acquisition costs are *not* to be included in the 5:1 calculation; *only* property improvements are to be considered. Property improvements are defined as all project costs excluding property acquisition.

ELIGIBLE ACTIVITIES

As specified by Title 7 Chapter 15 Part 4288 Montana Code Annotated (please see Attachment), TIF may be used to finance certain urban renewal activities. The DBP places special emphasis on those projects that exemplify the Downtown Billings Framework Plan, particularly mixed-use developments. In addition, all projects should address parking needs and accommodations for the completed project (see Criteria for Review #13). Please note that the investment levels indicated below serve as examples only.

POTENTIAL MIXED USE DEVELOPMENT								
POSSIBLE PROPERTY IMPROVEMENT INVESTMENT (excluding property acquisition)			POSSIBLE PUBLIC BENEFIT GUIDELINES					
Total	Private:Public 5:1 Ratio		Retail Space	Office Space	Market Rate Housing Units	Job Retention/Creation (FTE)	Parking	Entertainment (if applicable)
\$1,000,000	\$833,333	\$166,667	$\geq 1,000 \text{ ft}^2$	$\geq 8,000 \text{ ft}^2$	≥ 2	≥ 4		avg. ≥ 50 patrons/day
\$1,500,000	\$1,250,000	\$250,000	$\geq 1,200 \text{ ft}^2$	$\geq 9,000 \text{ ft}^2$	≥ 2	≥ 4		avg. ≥ 60 patrons/day
\$2,000,000	\$1,666,667	\$333,333	$\geq 1,400 \text{ ft}^2$	$\geq 10,000 \text{ ft}^2$	≥ 3	≥ 5		avg. ≥ 70 patrons/day
\$2,500,000	\$2,083,333	\$416,667	$\geq 1,600 \text{ ft}^2$	$\geq 11,000 \text{ ft}^2$	≥ 3	≥ 5		avg. ≥ 80 patrons/day
\$3,000,000	\$2,500,000	\$500,000	$\geq 1,800 \text{ ft}^2$	$\geq 12,000 \text{ ft}^2$	≥ 4	≥ 6		avg. ≥ 90 patrons/day
\$3,500,000	\$2,916,667	\$583,333	$\geq 2,000 \text{ ft}^2$	$\geq 13,000 \text{ ft}^2$	≥ 4	≥ 6		avg. ≥ 100 patrons/day
\$4,000,000	\$3,333,333	\$666,667	$\geq 2,400 \text{ ft}^2$	$\geq 14,000 \text{ ft}^2$	≥ 5	≥ 7		avg. ≥ 110 patrons/day

POTENTIAL HOUSING DEVELOPMENT (MARKET RATE)								
POSSIBLE PROPERTY IMPROVEMENT INVESTMENT (excluding property acquisition)			POSSIBLE PUBLIC BENEFIT REQUIREMENTS					
Total	Private:Public 5:1 Ratio				Market Rate Housing Units		Parking	
\$1,000,000	\$833,333	\$166,667			≥ 10			
\$1,500,000	\$1,250,000	\$250,000			≥ 15			
\$2,000,000	\$1,666,667	\$333,333			≥ 20			
\$2,500,000	\$2,083,333	\$416,667			≥ 23			
\$3,000,000	\$2,500,000	\$500,000			≥ 26			
\$3,500,000	\$2,916,667	\$583,333			≥ 29			
\$4,000,000	\$3,333,333	\$666,667			≥ 32			

POTENTIAL DINING/ENTERTAINMENT							
POSSIBLE PROPERTY IMPROVEMENT INVESTMENT (excluding property acquisition)		POSSIBLE PUBLIC BENEFIT GUIDELINES					
Total	Private:Public 5:1 Ratio				Job Re-tention/ Creation (FTE)	Parking	Entertainment (if applicable)
\$1,000,000	\$833,333	\$166,667			≥4		avg. ≥75 patrons/day
\$1,500,000	\$1,250,000	\$250,000			≥4		avg. ≥90 patrons/day
\$2,000,000	\$1,666,667	\$333,333			≥5		avg. ≥105 patrons/day
\$2,500,000	\$2,083,333	\$416,667			≥5		avg. ≥120 patrons/day
\$3,000,000	\$2,500,000	\$500,000			≥6		avg. ≥135 patrons/day
\$3,500,000	\$2,916,667	\$583,333			≥6		avg. ≥150 patrons/day
\$4,000,000	\$3,333,333	\$666,667			≥7		avg. ≥165 patrons/day

CRITERIA FOR REVIEW

The DBP evaluates projects based on the following criteria.

1. Relevance to the Framework Plan – Documentation of the project's impact on Downtown Billings in relation to the goals and objectives of the Framework Plan, particularly mixed-use development. Urban design elements will also be considered, including pedestrian emphasis, quality of design, and downtown Billings' personality.

2. Economic Stimulus – The amount of economic activity to be generated by the project is assessed, as well as the leverage ratio of public to private investment.

3. Tax Generation – The increase in taxable value due to new construction/rehabilitation is estimated by the County Assessor's office to determine tax increment generation.

4. Employment Generation – Total employment generated by the project assessed in terms of new permanent and part-time jobs, and construction jobs.

5. Elimination of Blight – The project's direct and indirect impact on the physical and fiscal deterioration within the Tax Increment District and the community is documented by the Developer.

6. Special or Unique Opportunities – The extent to which the project represents a unique opportunity, meets a special need, or addresses specific Framework or community goals. The restoration of historic property or the provision of an unmet community need are examples of special and unique opportunities.

7. Impact Assessment – The extent of both positive and negative environmental impacts, appropriateness of the project design, and impact on existing businesses or residents.

8. Financial Assistance – Various forms of financing available to the Developer ; i.e. lender participation and state and federal grant monies

9. Project Feasibility – A determination of feasibility is made on the strength of the Developer's demonstration of market demand for the project as contained primarily on the pro forma and financing commitments.

10. Developer Ability to Perform – An assessment of the developer's capability to undertake the relative complexities of the project based on past performance on similar or comparable projects.

11. Timely Completion – The feasibility of completing the project according to the Developer's project schedule.

12. Payment of Taxes – All property taxes, special improvement district assessments, and other assessments on the project property must be paid to date.

13. Parking – Developer should present a parking needs assessment for the completed project and a plan for using new or existing parking to meet the anticipated demand.

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J

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 25, 2006

TITLE: Second Reading of an Ordinance Expanding Ward V

DEPARTMENT: Planning and Community Services

PRESENTED BY: Candi Beaudry, AICP, Interim Director

PROBLEM/ISSUE STATEMENT: On August 28, 2006, the City Council approved the annexation of properties described as Tract 1, of Corrected Amendment of Tracts 1 and 3 and Remainder Tract 2 to be Amendment of Tracts 1, 2, and 3, Certificate of Survey No. 1648, totaling 14.5 acres (Annexation #06-12). The petition for annexation was submitted by Bell Family Trust, owner of property, on behalf of Mountain West Senior Housing, LLC. After annexation, the property must be added to one of the City's election wards. The first reading and public hearing on the ordinance to add the property to Ward V was held on September 11, 2006. The second reading of the ordinance is scheduled for Council action on September 25, 2006.

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

RECOMMENDATION

Staff recommends that the City Council approve the second reading of this ordinance that adds property to City Ward V.

Approved by: City Administrator _____ City Attorney _____

ATTACHMENT

A. Ward Ordinance and Exhibit A

ORDINANCE NO. 06-_____

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

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

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

A tract of land located in the NE1/4 of Section 10, T.1S., R.25E., and the SE1/4 of Section 3, T.1S., R.25E., P.M.M., Yellowstone County, Montana, being more particularly described as: Tract 1 and that portion of Tract 4 (a road Tract) adjacent to the north line of Tract 1 of Corrected Amendment Of Tracts 1 And 3 and Remainder Tract 2 To Be Amendment Of Tracts 1, 2 And 3 Certificate Of Survey No 1648, Recorded July 20, 1994, Under Document No. 1749237, Records of Yellowstone County, Montana, including all adjacent right-of-way of Central Avenue. Containing 14.549 gross acres and 14.077 net acres.

(# 06-12) See Exhibit "A" Attached

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

3. REPEALER. All other ordinances, sections of the Billings Municipal Code and ordinances inconsistent herewith are hereby repealed.

PASSED by the City Council on the first reading this 11th day of September, 2006.

PASSED by the City Council on the second reading this 25th day of September, 2006.

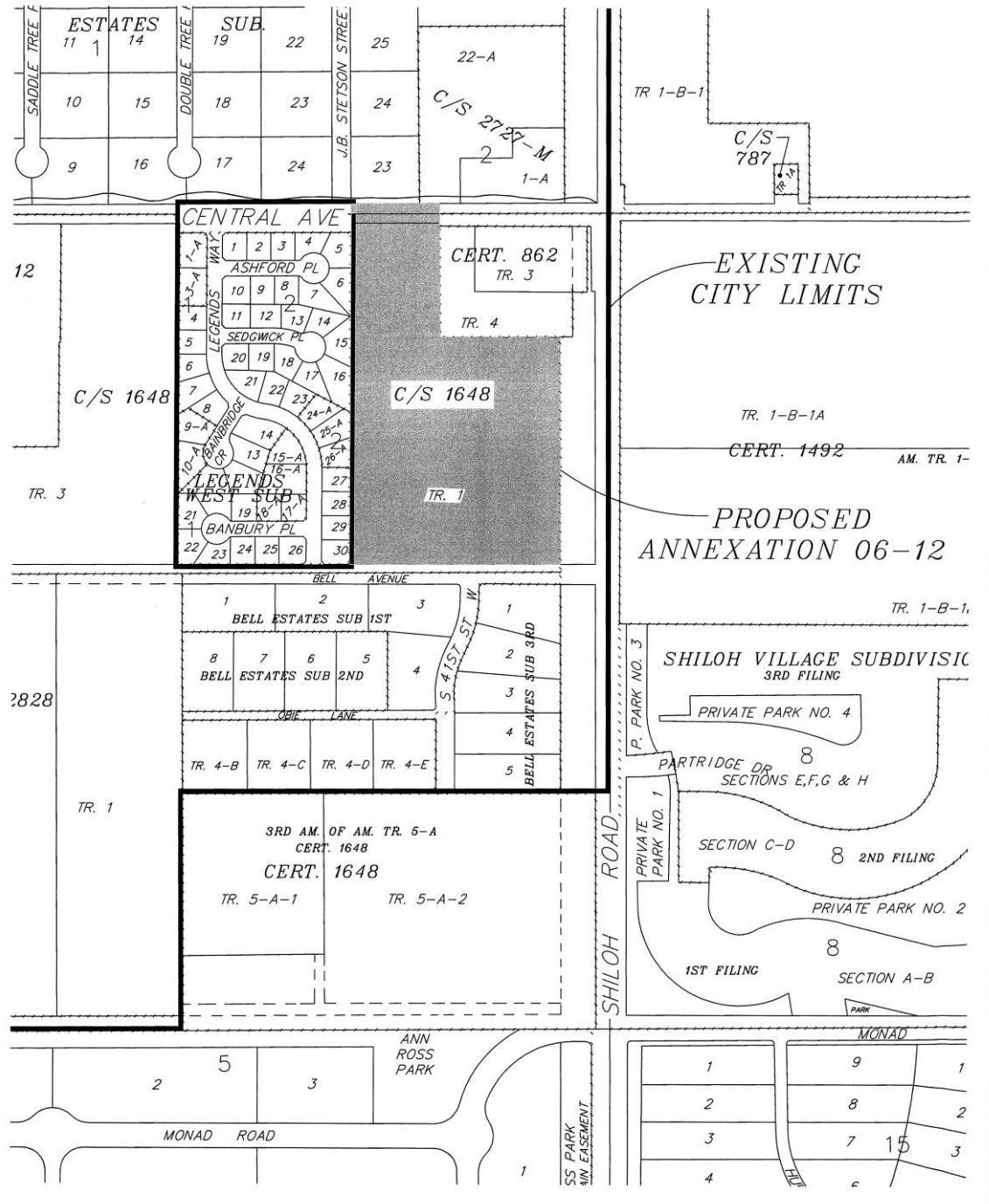
THE CITY OF BILLINGS:

Ron Tussing, MAYOR

ATTEST:

BY: _____
Marita Herold, CITY CLERK

EXHIBIT A



(Back to Consent Agenda)

K

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 25, 2006

TITLE: Request for Removal of the Preliminary Plat of E. D. King Subdivision from the Consent Agenda

DEPARTMENT: Planning and Community Services

PRESENTED BY: David Green, Planner I

PROBLEM/ISSUE STATEMENT: On August 15, 2006, Latigo Development LLC applied for preliminary minor plat approval for E. D. King Subdivision, which contains three (3) lots on approximately 172,918 square feet (3.97 acres) of land for commercial development. The proposed subdivision is located on the northeast corner of Grand Avenue and Zimmerman Trail. The owner is Latigo Development LLC and the representing agent is Engineering Inc.

The owner is requesting the City Council remove E.D. King Subdivision from the consent agenda because the property has not been annexed yet. There is an underlying amended Certificate of Survey that has not been recorded as required by a condition of approval prior to annexation of the property. This Certificate of Survey grants a right-of-way tract to the City for 34th Street West along the western boundary of this property. Also, upon submitting the exempt plat to the Clerk and Recorder for review, there were revisions necessary for both the deed and the face of exempt plat before it could be recorded. Until the exempt plat is recorded, the property is not located within the City; therefore, the City Council cannot act upon it. The owner has requested an extension of the 35-working day review period to the October 10, 2006, City Council meeting.

RECOMMENDATION

Staff recommends Council grant the extension of the 35 working day review period to October 10, 2006, for the E. D. King Subdivision preliminary plat.

Approved by: City Administrator _____ City Attorney _____

ATTACHMENT

A: Time Extension Request

ATTACHMENT A



September 20, 2006

Ms. Aura Lindstrand, Planner II
Planning and Community Services Department
510 North Broadway, 4th Floor
Billings MT 59101

Dear Ms. Lindstrand:

I am respectfully requesting an extension to the review and approval period for the **Preliminary Plat of E.D. King Subdivision** until the October 10, 2006, council meeting. It is our understanding that this should allow sufficient time for the filing of the underlying certificate of survey.

Feel free to contact me if you have any questions or would like to discuss this further.

Thank you,

LATIGO DEVELOPMENT, LLC
A Montana Limited Liability Company

By: Charles D. King
Charles D. King

P:05043_01_Lindstrand_Ltr_092006

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 25, 2006

TITLE: Preliminary Subsequent Minor Plat of Amended Lot 7, Block 2, Lake Hills Subdivision, 1st Filing

DEPARTMENT: Planning and Community Services

PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: On August 15, 2006, the subdivider applied for preliminary subsequent minor plat approval of Amended Lot 7, Block 2, Lake Hills Subdivision, 1st Filing, which contains 2 lots on approximately 60,735 square feet for commercial development; proposed Lot 7-B contains the existing Bennion Dental Center. The subject property is located at the northwest intersection of Wicks Lane and Inverness Drive in the Heights and is zoned Community Commercial (CC). The owner and subdivider is DJ Properties, LLC and the representing agent is Engineering, Inc.

ALTERNATIVES ANALYZED: In accordance with state law, the City Council has 35 working days to act upon this minor plat; the 35 working day review period for the proposed plat ends on October 3, 2006. State and City subdivision regulations also 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. Within the 35 day review period, the City Council is required to:

1. Approve;
2. Conditionally Approve; or
3. Deny the Preliminary Plat

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 subsequent minor plat of Amended Lot 7, Block 2, Lake Hills Subdivision, 1st Filing 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 August 15, 2006, the subdividers applied for preliminary subsequent minor plat approval of Amended Lot 7, Block 2, Lake Hills Subdivision, 1st Filing which contains 2 lots on approximately 60,735 square feet for commercial development; proposed Lot 7-B contains the existing Bennion Dental Center. The subject property is located at the northwest intersection of Wicks Lane and Inverness Drive in the Heights and is zoned Community Commercial (CC).

PROCEDURAL HISTORY

- The preliminary plat application for this subdivision was submitted to the Planning Department on August 15, 2006.
- The City Council will consider the preliminary plat on September 25, 2006.

BACKGROUND

General location:	Northwest corner of the intersection of Wicks Lane and Inverness Drive in the Heights
Legal Description:	Amended Lot 7, Block 2, Lake Hills Subdivision, 1 st Filing in Section 16, T1N, R26E
Subdivider/Owner:	DJ Properties, LLC
Engineer and Surveyor:	Engineering, Inc.
Existing Zoning:	Community Commercial
Existing land use:	Lot 7-B contains the existing Bennion Dental Center and Lot 7-A is vacant
Proposed land use:	Same and Commercial
Gross area:	60,735 square feet
Net area:	57,685 square feet
Proposed number of lots:	2
Lot size:	Max: 33,690 square feet Min.: 23,995 square feet
Parkland requirements:	A parkland dedication is not required, as this is a minor commercial 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 ensure the provision of easements and minimize effects on public health and safety, the subdivider shall work with the City Engineering Division and the private utility companies to determine suitable locations for utility easements. These easements shall be depicted on the plat. (*Recommended by the Engineering Division*)
2. To minimize effects on local services, the following revisions shall be made to the SIA (*Recommended by the Engineering Division and Distribution and Collection Division of the Public Works Department*):
 3. Section III.A.4 shall reference the reciprocal access easement document.
 4. The statement "Connections to the existing city system" shall be removed from Section VI.A.2, as the property is served by the Heights Water District.
5. To minimize effects on the natural environment and wildlife, the following statement shall be added to the SIA under "Conditions that Run with the Land:" (*Recommended by the Planning Division and Montana Fish Wildlife and Parks*)
 - a. This subdivision is being built in close proximity to prime deer and antelope habitat and interactions with wildlife are likely. Property owners should be aware that any damage caused by wildlife is the responsibility of the owner.
6. 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.
7. 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

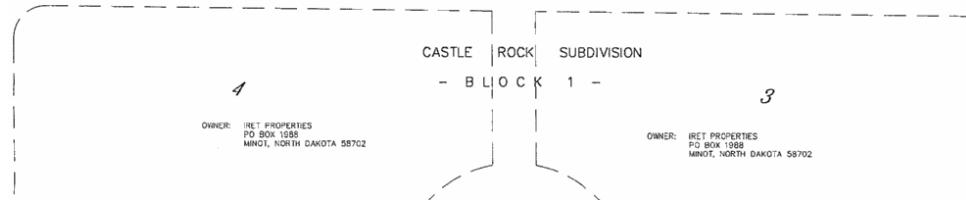
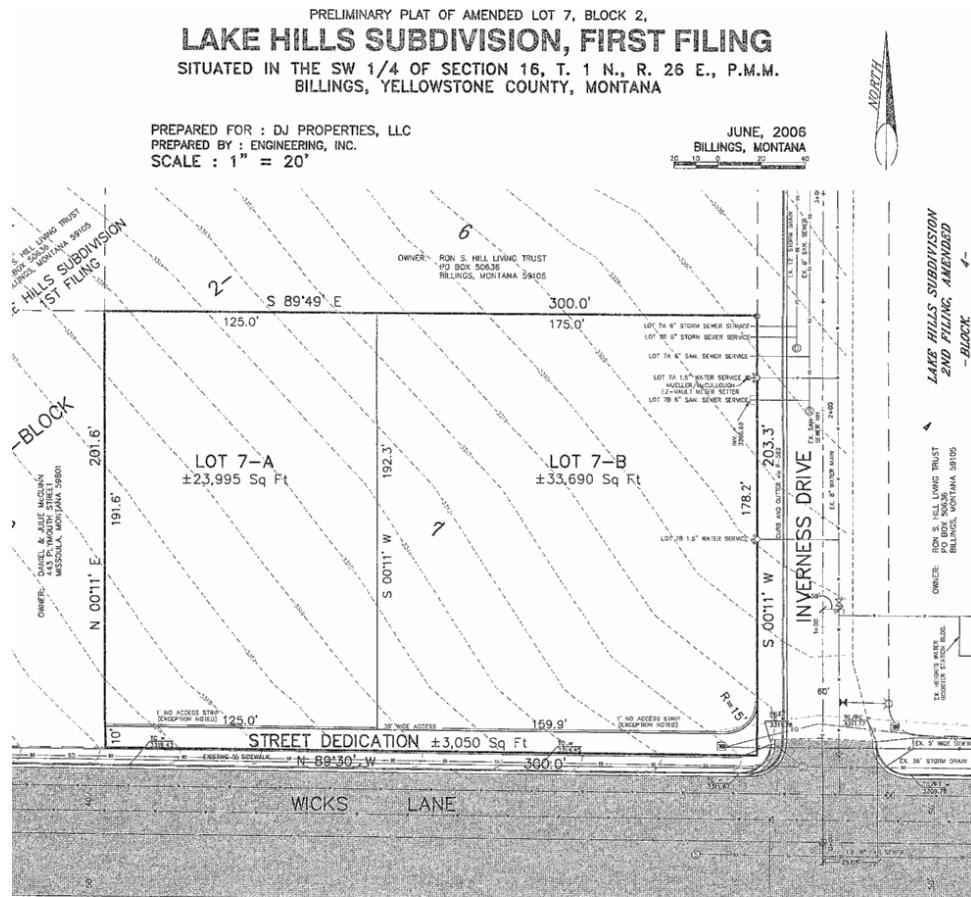
Staff recommends conditional approval of the preliminary subsequent minor plat of Amended Lot 7, Block 2, Lake Hills Subdivision, 1st Filing and adoption of the Findings of Fact as presented in the staff report to the City Council.

ATTACHMENTS

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

ATTACHMENT A

Preliminary Plat of Amended Lot 7, Block 2, Lake Hills Subdivision, 1st Filing



ATTACHMENT B
Site Photographs



Figure 1: View west from Inverness Drive toward the Bennion Dental Center currently under construction.



Figure 2: View south along Inverness Drive toward the adjacent multi-family residential units located across Wicks Lane.



Figure 3: View north along Inverness Drive toward residential duplexes on Pebble Beach Road.

ATTACHMENT C
Findings of Fact

Staff is forwarding the recommended Findings of Fact for the preliminary subsequent minor plat of Amended Lot 7, Block 2, Lake Hills Subdivision, 1st Filing 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 (23-303(H)(2), BMCC).

A. What are the effects on agriculture, local services, the natural environment, wildlife and wildlife habitat and public health, safety and welfare? (76-3-608 (3)(a), MCA) (23-302(H)(2), BMCC)

1. Effect on agriculture and agricultural water user facilities

The proposed subdivision should have no effect on agriculture or agricultural water user facilities. The subject property is not currently used for agriculture and no irrigation facilities are located on the subject property.

2. Effect on local services

- A. **Utilities** – Water to the subject property will be extended from the 8-inch main line currently under construction in Inverness Drive. Sanitary sewer will be extended from the 8-inch main line within Inverness Drive. The subject property is located within the County Water District of Billings Heights and will be subject to their review and approval during the time of construction. Condition #2 requires that references to the city water system be removed from Section VI.A.2 of the SIA.
- B. **Stormwater** – As specified in the submitted SIA, onsite storm drainage shall be provided by a combination of surface flow to curbs, gutters subsurface discharge and discharge to the existing storm drainage trunk within Wicks Lane. All 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 the proposed lots will be via two (2) shared 30-foot wide accesses from Inverness Drive and Wicks Lane. A reciprocal access easement been submitted with this application. The Engineering Department has reviewed these accesses and finds them acceptable, provided that Section III.A.4 of the SIA references the reciprocal access easement document, as required by Condition #2.
- E. **Emergency services** - The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 1601 St. Andrews Drive (Station #6).
- F. **Schools** - The subdivision will have no affect on schools, as it is proposed for commercial uses.

G. Parks and Recreation - There is no parkland dedication requirement, as this is a subsequent minor plat for commercial purposes.

3. Effect on the natural environment

A geotechnical study was submitted with this application and has been determined sufficient by the Building Official.

4. Effect on wildlife and wildlife habitat

There are no known endangered or threatened species on the property; however the property is located near open lands, where the likelihood of wildlife interaction is high. As required by Condition #3, a note shall be added to the SIA under general conditions that run with the land that future property owners should be aware that the proposed subdivision is located within prime deer and antelope habitat. Any damage caused by wildlife is the responsibility of the owner.

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? (76-3-210, MCA) (23-901, BMCC)

An Environmental Assessment is not required, as this is a subsequent 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? (23-301, BMCC)

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 multi-family residential uses and commercial offices.

- 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 compatible with the surrounding commercial and residential uses.

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

The property is located within an urbanized portion of the city.

2. Urban Area 2005 Transportation Plan Update

The proposed subdivision adheres to the goals and objectives of the 2005 Transportation Plan Update and preserves the street network and street hierarchy specified within the plan.

3. Heritage Trail Plan

A Heritage Trail corridor is not identified within this subdivision.

D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? (76-3-608 (3)(b), MCA) (23-301, BMCC)

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? (23-408, BMCC)

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

F. Does the proposed subdivision conform to all requirements of the zoning in effect? (23-402, BMCC)

The subject property is located within the Community Commercial (CC) 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? (76-3-608 (3)(c), MCA) (23-410(A)(1), BMCC)

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 creates 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 #1 requires the subdivider to work with the City Engineering Division and the private utility companies to provide acceptable utility easements on the plat.

H. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? (76-3-608 (3)(d), MCA) (23-406, BMCC)

The lots will share accesses from Wicks Lane and Inverness Drive through a reciprocal access easement.

CONCLUSIONS OF FINDING OF FACT

- The preliminary plat of Amended Lot 7, Block 2, Lake Hills Subdivision, 1st Filing 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, September 25, 2006

Ron Tussing, Mayor

ATTACHMENT D
Mayor's Approval Letter

September 25, 2006

DJ Properties, LLC
374 Burning Tree Drive
Billings, MT 59105

Dear Applicant:

On September 25, 2006, the Billings City Council conditionally approved the preliminary plat of Amended Lot 7, Block 2, Lake Hills Subdivision, 1st Filing, subject to the following conditions of approval:

1. To ensure the provision of easements and minimize effects on public health and safety, the subdivider shall work with the City Engineering Division and the private utility companies to determine suitable locations for utility easements. These easements shall be depicted on the plat. (*Recommended by the Engineering Division*)
2. To minimize effects on local services, the following revisions shall be made to the SIA (*Recommended by the Engineering Division and Distribution and Collection Division of the Public Works Department*):
 - Section III.A.4 shall reference the reciprocal access easement document.
 - The statement “Connections to the existing city system” shall be removed from Section VI.A.2, as the property is served by the Heights Water District.
3. To minimize effects on the natural environment and wildlife, the following statement shall be added to the SIA under “Conditions that Run with the Land:” (*Recommended by the Planning Division and Montana Fish Wildlife and Parks*)

This subdivision is being built in close proximity to prime deer and antelope habitat and interactions with wildlife are likely. Property owners should be aware that any damage caused by wildlife is the responsibility of the owner.

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, September 25, 2006

TITLE: Preliminary Subsequent Minor Plat of Normal Subdivision, 3rd Filing
DEPARTMENT: Planning and Community Services
PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: On August 15, 2006, the subdividers applied for preliminary subsequent minor plat approval of Normal Subdivision, 3rd Filing, which contains 2 lots on approximately 1-acre of a vacated portion of North 28th Street. The subject property is located west of North 27th Street between Poly Drive and 12th Avenue North. The property is being subdivided to clarify the ownership for the vacated portion of North 28th Street (vacated by Resolution 99-17476). The owners and subdividers are St. Vincent Hospital and MSU-B Foundation, and the representing agent is Engineering, Inc.

The preliminary plat of Normal Subdivision, 3rd Filing was granted approval by the City Council on August 29, 2000. Pursuant to Section 76-9-610, MCA, a final plat must be filed within three (3) years of preliminary plat approval. The final plat for this subdivision was never filed; this preliminary plat is the same as that approved by the Council in 2000.

ALTERNATIVES ANALYZED: In accordance with state law, the City Council has 35 working days to act upon this minor plat; the 35 working day review period for the proposed plat ends on October 3, 2006. State and City subdivision regulations also 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. Within the 35 day review period, the City Council is required to:

1. Approve;
2. Conditionally Approve; or
3. Deny the Preliminary Plat

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 subsequent minor plat of Normal Subdivision, 3rd Filing 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 August 15, 2006, the subdividers applied for preliminary subsequent minor plat approval of Normal Subdivision, 3rd Filing, which contains 2 lots on approximately 1-acre of a vacated portion of North 28th Street. The subject property is located west of North 27th Street between Poly Drive and 12th Avenue North. The property is being subdivided to clarify the ownership for the vacated portion of North 28th Street (vacated by Resolution 99-17476).

The subject property is bordered by the MSU-Billings College Campus to the north, by medical and office buildings within the Medical Corridor Zoning District on the south, and west and on the east by the remainder of the parking lot for St. Vincent Hospital.

PROCEDURAL HISTORY

- The preliminary plat for Normal Subdivision, 3rd Filing was approved by the City Council on August 29, 2000.
- On August 29, 2003, the preliminary plat approval for the subdivision lapsed.
- The preliminary plat application was updated and resubmitted to the Planning Department on August 15, 2006.
- The City Council will consider the preliminary plat on September 25, 2006.

BACKGROUND

General location:	West of North 27 th Street between Poly Drive and 12 th Avenue North
Legal Description:	Normal Subdivision, 3 rd Filing, being a vacated portion of North 28 th Street located in Section 32, T1N, R26E
Subdivider/Owner:	St. Vincent Hospital and MSU-B Foundation
Engineer:	Engineering, Inc.
Existing Zoning:	Medical Corridor Zoning District
Existing land use:	Parking Lot and Landscaping
Proposed land use:	Same
Gross and Net Area:	43,797 square feet
Proposed number of lots:	2
Lot size:	Max: 39,427 square feet Min.: 4,371 square feet

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. 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.
2. 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 subsequent minor plat of Normal Subdivision, 3rd Filing 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

ATTACHMENT A

Preliminary Plat of Normal Subdivision, 3rd Filing

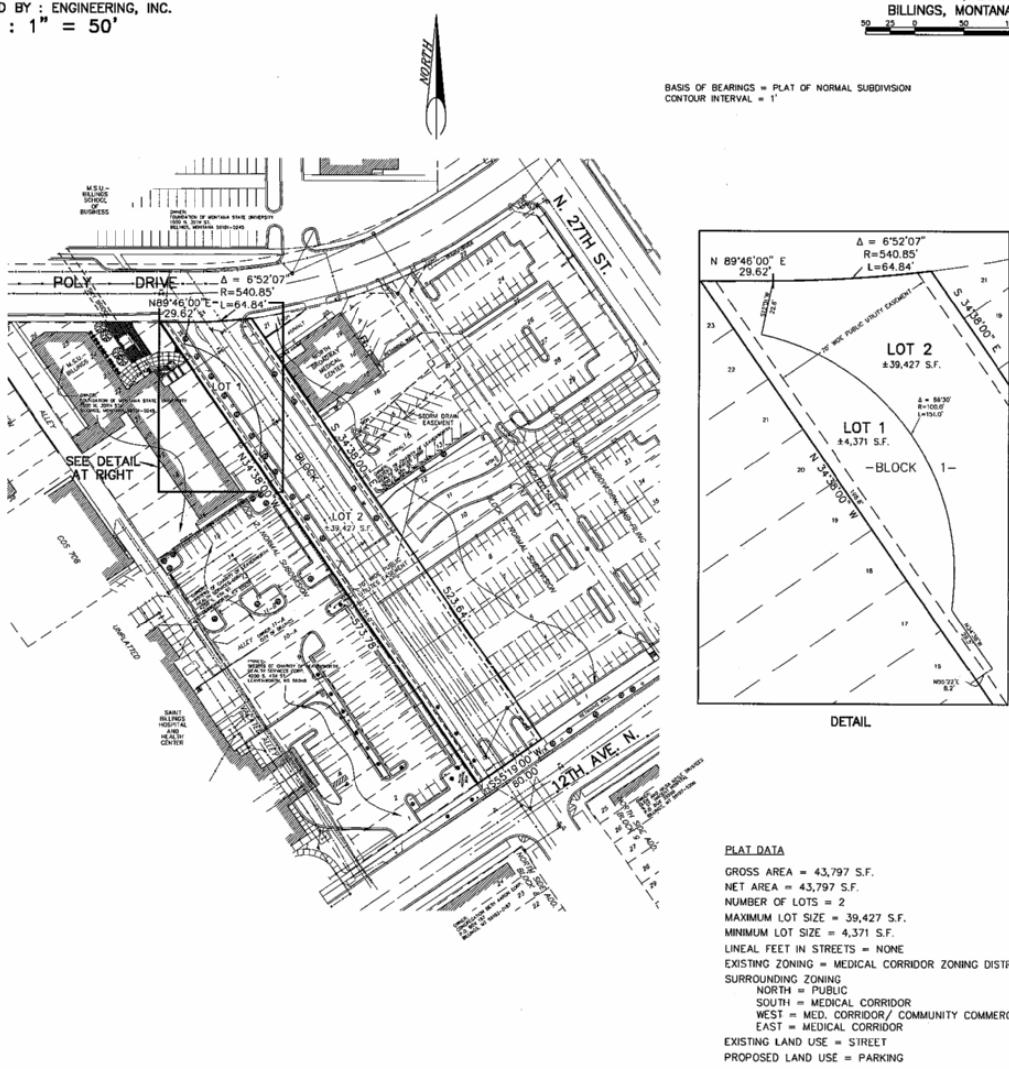
NORMAL SUBDIVISION, 3RD FILING

BEING A VACATED PORTION OF NORTH 28TH STREET,
SITUATED IN THE NE 1/4 AND THE NW 1/4 OF SECTION 32, T. 1 N., R. 26 E., P.M.M.
YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : SISTERS OF CHARITY OF LEAVENWORTH HEALTH SERVICES CORPORATION
PREPARED BY : ENGINEERING, INC.
SCALE : 1" = 50'

MAY, 2006
BILLINGS, MONTANA
50 23 9 30 19

BASIS OF BEARINGS = PLAT OF NORMAL SUBDIVISION
CONTOUR INTERVAL = 1'



ATTACHMENT B
Site Photographs



Figure 1: View south from the subject property toward North 28th Street.



Figure 2: View north toward Poly Avenue from the subject property.

ATTACHMENT C

Findings of Fact

Staff is forwarding the recommended Findings of Fact for Normal Subdivision, 3rd Filing 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 (23-303(H)(2), BMCC).

A. What are the effects on agriculture, local services, the natural environment, wildlife and wildlife habitat and public health, safety and welfare? (76-3-608 (3)(a), MCA) (23-302(H)(2), BMCC)

1. Effect on agriculture and agricultural water user facilities

The proposed subdivision will have no effect on agriculture or agricultural water user facilities. The subject property is not currently used for agriculture and no irrigation facilities are located on the subject property.

2. Effect on local services

- A. Utilities** – No water and sanitary sewer facilities are proposed at this time, as the subject property has already been developed with a parking lot. The utilities located within the 70-foot wide public utility easement on the plat are proposed to be rerouted through a private contract under review by the Engineering Department. When the property develops with the future expansion of the hospital, sanitary sewer and water lines will be extended from 12th Avenue North.
- B. Stormwater** – No storm drainage improvements are required, as the parking lot has already been constructed to City Engineering specifications.
- 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 the site is from 12th Avenue North, which is constructed to City standards. No street improvements are required with this subdivision.
- E. Emergency services** - The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 2305 8th Avenue North (Station #1).
- F. Schools** - The subdivision will have no affect on schools, as it is a commercial subdivision and contains a parking lot and landscaping.
- G. Parks and Recreation** - There is no parkland dedication requirement, as this is a subsequent minor plat for commercial purposes.

3. Effect on the natural environment

A geotechnical study was submitted with this application and has been determined sufficient by the Building Official. The geotechnical study is not necessary for the existing parking lot use. If structures are proposed in the future, further geotechnical analysis may be required.

4. Effect on wildlife and wildlife habitat

There are no known endangered or threatened species on the property. The property is within a highly urbanized portion of the city where interactions with wildlife is unlikely.

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? (76-3-210, MCA) (23-901, BMCC)

An Environmental Assessment is not required, as this is a subsequent 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? (23-301, BMCC)

1. Yellowstone County-City of Billings 2003 Growth Policy

The proposed subdivision is consistent with the following goals of the Growth Policy:

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

The proposed subdivision is a parking lot for the surrounding medical facilities and is consistent with the neighborhood character.

- e. 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 compatible with the surrounding medical and education facilities.

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

The property is located within an urbanized portion of the city.

2. Urban Area 2005 Transportation Plan Update

The proposed subdivision adheres to the goals and objectives of the 2005 Transportation Plan Update and preserves the street network and street hierarchy specified within the plan.

3. Heritage Trail Plan

A Heritage Trail corridor is not identified within this subdivision.

D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? (76-3-608 (3)(b), MCA) (23-301, BMCC)

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.

F. Does the subdivision conform to sanitary requirements? (23-408, BMCC)

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

F. Does the proposed subdivision conform to all requirements of the zoning in effect? (23-402, BMCC)

The subject property is located within the Medical Corridor 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? (76-3-608 (3)(c), MCA) (23-410(A)(1), BMCC)

The subject property is a 70-foot wide utility easement located within the vacated portion of North 28th Street. There is a private contract with the Engineering Department to reroute the utilities outside of this easement in order to expand the St. Vincent Hospital building onto proposed Lot 2 of the subdivision. The easement is no longer necessary in its location depicted on the plat, however the Engineering Department has requested that the easement remain in place.

H. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? (76-3-608 (3)(d), MCA) (23-406, BMCC)

Access to the site is from 12th Avenue North.

CONCLUSIONS OF FINDING OF FACT

- The preliminary plat of Normal Subdivision, 3rd Filing does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to three (3) 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, September 25, 2006

Ron Tussing, Mayor

ATTACHMENT D
Mayor's Approval Letter

September 25, 2006

St Vincent Hospital
1233 North 30th Street
Billings, Montana 59101

MSU-Billings
1500 North 30th Street
Billings, Montana 59101

Dear Applicant:

On September 25, 2006, the Billings City Council conditionally approved the preliminary plat of Normal Subdivision, 3rd Filing, subject to the following conditions of approval:

1. 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.
2. 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

Pc: Dennis Randall, Engineering, Inc.

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N

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 25, 2006

TITLE: Final Plat of Bellville Subdivision

DEPARTMENT: Planning and Community Services

PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: The final plat of Bellville Subdivision is being presented to the City Council for approval. On January 9, 2006, the City Council conditionally approved the 22-lot preliminary major plat on 7.19 acres for residential development. The subject property is zoned Residential 7000 (R-7000) and is located north of Wicks Lane, west off of Brewington Lane at the terminus of Kyhl Lane. The owners are Steve and Sok Sun Kerns and the representing agent is EEC, 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 Bellville Subdivision.

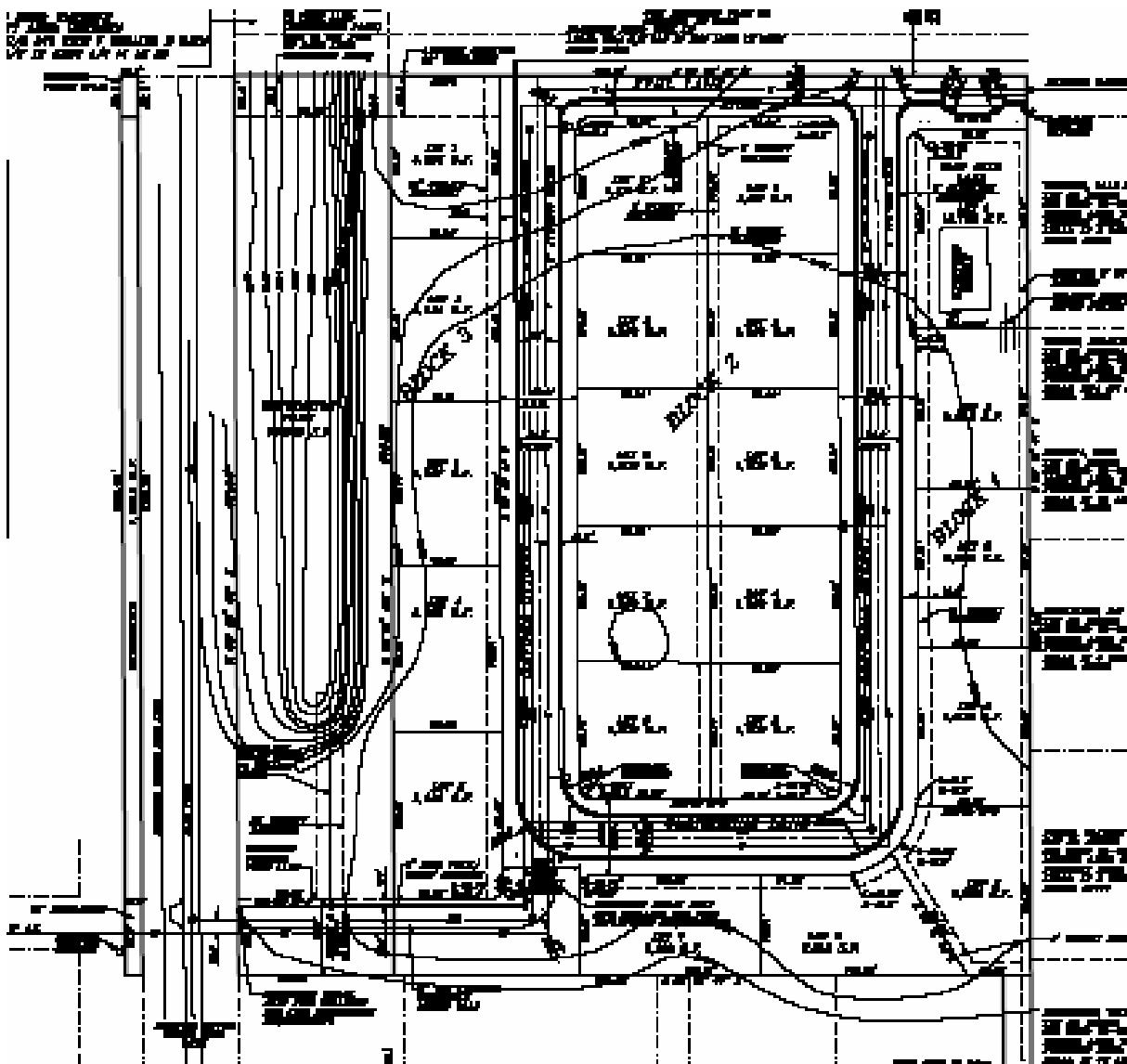
Approved By: **City Administrator** **City Attorney**

ATTACHMENT

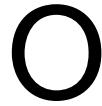
A: Final Plat

ATTACHMENT A

Final Plat



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



AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 25, 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 \$640,760.01 have been audited and are presented for your approval for payment. A complete listing of the claims dated September 1, 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, September 25, 2006

TITLE: Public Hearing on September 25, 2006, on the FY 2005-2006 Draft Comprehensive Annual Performance Evaluation Report (CAPER) Community Development Block Grant (CDBG) and HOME Programs

DEPARTMENT: Planning and Community Services

PRESENTED BY: Brenda Beckett, Community Development Manager

PROBLEM/ISSUE STATEMENT: Each year the City of Billings is required to report on the results of its federally funded CDBG and HOME programs and submit a report to HUD within 90 days of the end of the program year, June 30, 2006. As part of this report process, the City of Billings must make the report available for public comment for a 15-day period and hold a public hearing on this performance during this period. The public hearing will be undertaken in conjunction with the 15-day public review and comment period extending from September 8 through September 25, 2006. A notice of the availability of the draft report has been published and provided to community partners. No further action is required.

ALTERNATIVES ANALYZED: Alternatives to the public hearing, which is required for receipt of federal CDBG and HOME funds, have not been considered.

FINANCIAL IMPACT: The Annual Performance Report reports on the City's progress in achieving the goals of its Five Year Consolidated Plan. The period covered by the FY 2005-2006 report represents progress under the City's first year of the Five Year Consolidated Plan 2005-2009. The City received \$805,288 in new federal CDBG funding and \$535,395 in new HOME funding for FY 2005-2006 activities.

RECOMMENDATION

Staff recommends that Council hold a public hearing on September 25, 2006, to receive input on the City's Draft Comprehensive Annual Performance Evaluation Report available for public comment beginning September 8 and lasting through September 25, 2006. No further action is required.

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

ATTACHMENTS

A. Sections I & II of the FY 2005-2006 Comprehensive Annual Performance Evaluation Report are attached. The full drafted report is on file at the City Clerk's office.

COMPREHENSIVE ANNUAL PERFORMANCE & EVALUATION REPORT

FY 2005-2006 CDBG & HOME PROGRAMS



**COMMUNITY DEVELOPMENT DIVISION
PO BOX 1178
BILLINGS, MONTANA 59102**

SEPTEMBER 2006

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SECTION I – CONSOLIDATED PLANNING & REPORTING

Introduction

Presented below is the City of Billings' FY 2005-2006 Comprehensive Annual Performance and Evaluation Report (CAPER) for the City's federally funded Community Development Block Grant (CDBG) and Home Investment Partnership Programs (HOME). The FY 2005-2006 CAPER covers the period from July 1, 2005 to June 30, 2006 and reports on the City of Billings' first year of progress in meeting the goals established in the FY 2005-2009 Consolidated Plan. The City's Consolidated Plan is a strategic planning document that identifies housing and community development needs and proposes strategies to address those needs with available resources.

The Consolidated Plan initiative of the U.S. Department of Housing & Urban Development (HUD) combines the planning, application and reporting requirements of the Community Development Block Grant (CDBG) and Home Investment Partnership (HOME) Programs. The Consolidated Plan initiative also covers the Emergency Shelter Grant Program and Housing Opportunities for Persons with AIDS Program. The City of Billings, however, is not an Entitlement City or Participating Jurisdiction for these programs and, as such, strategies for these programs were not included in the City's Consolidated Plan. Consolidated Plans are also submitted by the Cities of Great Falls and Missoula and by the State of Montana. The State's Plan covers areas of Montana, outside of Billings, Great Falls, and Missoula.

The consolidation of the submission and reporting requirements for the CDBG and HOME Programs allows the City of Billings to report on its various housing and community development activities in an effective and coordinated manner. It also reduces the duplication of effort for planning and reporting for these programs and affords the opportunity for citizen participation on the CDBG and HOME Programs to take place in a comprehensive context. The CDBG, HOME, McKinney, and HOPWA programs covered by the Consolidated Plan must primarily benefit low and moderate-income persons and are intended nationally to provide decent housing, a suitable living environment, and expand economic opportunities for lower-income individuals.

The needs and strategies described in the City of Billings' Consolidated Plan outlines a specific course of action for the community's housing and community development activities. The City's Consolidated Plan sets forth goals and objectives that are used to measure progress in achieving the strategies described in the plan. The CAPER provides a report on the City's progress in meeting these goals and objectives.

The structure and content of the Consolidated Plan and this CAPER are based on specific requirements of HUD. Many terms used in this document are specific to the

CAPER process and HUD Programs, and the reader should consult the City of Billings Community Development Office for assistance.

Summary of FY 2005-2009 Consolidated Plan

The City of Billings' FY 2005 through FY 2009 Consolidated Plan was approved by the Billings City Council on May 9, 2005. The development process included the completion of the *Billings Housing Needs Assessment* completed by the Center for Applied Economic Research, Montana State University – Billings in January of 2005. The *Billings Housing Needs Assessment* highlighted: 1) the affordability of housing; 2) the condition of the housing stock; and 3) demographic trends related to elderly / disabled households. Study results of the needs assessment formed the basis for the development of the strategies for the Consolidated Plan. The Executive Summary for the City's FY 2005-2009 Consolidated Plan is attached as Appendix G.

The following five strategies are proposed by the City of Billings in its FY 2005-2009 Consolidated Plan to address Billings' housing and community development needs:

Strategy #1

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

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

Strategy #2

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

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

Strategy #3

Promote new affordable housing opportunities, by:

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

Strategy #4

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

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

Strategy #5

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

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

The complete FY 2005-2009 Consolidated Plan can be viewed online:

<http://www.ci.billings.mt.us/Living/community/consolidatedplan2005.php>

Specific actions for each of these strategies for Fiscal Years FY 2005 through FY 2009 are described in detail in Section II along with the City's progress in FY 2005-2006 in meeting the 5-year goals and objectives that were established.

The Billings Housing Needs Analysis is also available on line at

<http://www.ci.billings.mt.us/Living/community/planning.php>

The Billings Housing Needs Analysis and the City's FY 2005-2009 Consolidated Plan are available by contacting the Community Development Division at the address below:

Community Development Division
City of Billings
P.O. Box 1178
Billings, MT 59103
Phone: 406-657-8281
TTY Users - 1-800-253-4093

SECTION II - FY 2005-2006 ACCOMPLISHMENTS

The City of Billings' FY 2005-2009 Consolidated Plan consisted of five strategies to utilize CDBG and HOME resources to address Billings' housing and community development needs. These five strategies and the City's goals and objectives to undertake each strategy are identified below followed by the City of Billings' accomplishments and progress in FY 2005-2006 in meeting the goals and objectives that were established.

FY 2005-2006 ANNUAL PLAN & ACCOMPLISHMENTS			
Strategy #1 - Promote the preservation of the existing supply of affordable housing in the community.			
Objective	Implementation Plan	2005-2006 Goals	2005-2006 Accomplishments
A) Provide affordable financing to lower income homeowners to perform needed repairs.	1) Complete substantial rehabilitation work through the Housing Rehabilitation Loan Program.	12 homes	Substantial rehabilitation work was completed in the community with the CDBG Housing Rehabilitation Program.
	2) Complete minor rehabilitation work through the Minor Home Repair Program.	15 homes	The City of Billings completed minor rehabilitation work for 15 households during the program year through the Minor Home Repair Grant Program.
	3) Provide funding for single purpose rehabilitation projects targeted to elderly and special needs lower income homeowners.	5 wheelchair ramps by Living Independently for Today and Tomorrow (LIFTT) 40 home repairs for the elderly by Yellowstone County Council on Aging (YCCOA)	Funding was provided to LIFTT which completed the construction of 8 new ramps and home repairs for disabled homeowners. YCCOA assisted 30 elderly households with \$500 in home repairs.
	4) Pursue grant and private funding to support activities that increase resources available for housing rehabilitation activities.	4 homes by Rebuilding Together	Rebuilding Together completed 4 projects for elderly and disabled. Billings continues to implement the Rebuilding Together program established in June 2002 through a partnership with Rebuilding Together Fargo. The City continues to pursue grant and private funding for affordable financing for home repairs.
B) Provide affordable financing to rehabilitate rental units affordable to lower income residents.	1) Complete substantial rehabilitation work to rental units for occupancy by lower income, elderly and special needs households through the Rental Rehabilitation Program.	10 Rental Units	Funding provided to the Rental Rehabilitation Program for the rehabilitation of 4 units this fiscal year. This Rental Rehab Program was added to the City's Consolidated Plan in 2003.

¹ For the purposes of this report, substandard condition of housing is defined by the City of Billings as properties requiring more than \$20,000 in funding to complete all required code related improvements to the property. Substandard condition but suitable for rehab would be those properties where \$20,000 invested would address all safety hazard conditions related items associated with the house within primary systems ranging from electrical, plumbing, heating, roofing, and foundation repairs.

	2) Pursue private resources to support rental rehabilitation activities.	Utilize Fannie Mae's America's Community Fund for rental rehabilitation activities to complete one project in FY 2005	The City is researching the possibility of credit utilizing Fannie Mae's America's Community Fund for future projects.
C) Reduce the loss of existing standard housing units affordable to lower income households due to redevelopment activities.	1) Organize task force of organizations involved in redevelopment activities to promote the preservation of the existing supply of affordable housing and to mitigate the effects of demolition or conversion when it does occur.	Establish work group by 12/31/2005 to begin work on new housing preservation guidelines	The Affordable Housing Task Force planning processes this fiscal year are following subcommittees to address issues: Housing Needs Assessment; Local Funding Options.

Strategy #2 - Promote the preservation and revitalization of the community's older neighborhoods where the affordable housing stock is located.

Objective	Implementation Plan	2005-2006 Goals	2005-2006 Accomplishments
Preserve the housing stock in older lower income neighborhoods	See implementation plan for Strategy #1.	-	-
	Support house painting program for lower income homeowners.	5 homes	The Paint Program was rejuvenated and suspended due to lack of volunteers and program requirements. This program is currently not active this fiscal year.
	Support Tree Program to remove and replace diseased or dangerous trees for lower income homeowners.	12 trees through public service activity	The City of Billings assisted 14 homeowners remove diseased or dangerous trees during the 2005-2006 program year.
	Support activities that help preserve historic properties.	Implement annual historic preservation work plan	The historic preservation work plan has been completed this fiscal year and is available through the City of Billings' Planning Division.
Provide incentives to encourage development of vacant lots and redevelopment of substandard properties in lower income neighborhoods	See implementation plan for Strategy #3.	-	-
	Provide funding for Affordable Housing Volunteer Demolition program to eliminate blighted substandard properties in lower income neighborhoods and replace with new affordable housing.	1 property	The Volunteer Demolition program continues to be available for interested applicants.
Support activities that provide amenities and address the infrastructure	Support planned neighborhood improvements included in City's Capital Improvement Plan (CIP).	Implement City's FY 2005-2006 CIP including improvements to South Park Pool and Skate Park	The Billings Heights Milton Road Improvements were completed in November 2005. Funding was provided for the South Park Skate Park cover which were installed in May 2006.

needs of older lower income neighborhoods	Provide Special Assessment Grants for lower income households to help pay for Special Improvement Districts resulting from the City's public improvement projects.	10 Homeowners	Special Assessment Grants were provided to moderate-income homeowner to pay for improvements resulting from infrastructure improvements. The number of assisted homes varies as improvements are made within specific areas in low income areas.
	Encourage the redevelopment of the South 27 th Street Corridor.	Complete 1 new redevelopment project in corridor	The City of Billings has facilitated several land sales, swap, and donation for the 27 th Street corridor including: <ul style="list-style-type: none"> - A new Northern Plains Resource Center - A new MTS building - Expansion of the Deering Clinic Building - Donation of land for Montana Resource Center campus
	Encourage the implementation of the Heritage Trail Bike Plan in lower income areas.	Plan needed improvements in Southwest Corridor	Neighborhood Planning is scheduled for the Southwest Corridor area. The Community Development Division is exploring opportunities in support of the Heritage Trail, including a recent grant application for the trail.
	Promote historic preservation activities in a coordinated manner through Historic Preservation Organizations.	Implement annual historic preservation work plan	Historic preservation activities completed during the year through the activities of the Yellowstone Riverfront Preservation Board include: <ul style="list-style-type: none"> - Successful expansion of the City's historic district to include the 2600 block of Montana Avenue; - Consideration of new and expanded historic districts; - Review of building permits for the Arlo Carlin building; - Continued presentations of an architectural tour in the South Side neighborhood; - Completion and distribution of a Historic Preservation Brochure.
Support efforts of residents of lower income neighborhoods	Support neighborhood planning efforts and provide on-going support for monthly task force meetings.	Initiate Neighborhood Plans in Southwest Corridor area	Neighborhood Planning is scheduled for the Southwest Corridor area.

to work together to address needs and respond to opportunities		Continue to support neighborhood task forces	<p>The Billings City Council continued to use General Funds to help support the neighborhood task forces.</p> <p>The City hired a Neighborhood Planner to develop and help implement neighborhood plans.</p> <p>The City of Billings provided staff support to the Neighborhood Committee. The committee provide a forum for representatives of neighborhood groups to identify and address problems.</p> <p>The City provided staff support the Eastern Relocation Committee. A special federal grant of \$100,000 was secured for the project and completed as of June 2004. This study identified alternatives to address problems resulting from the railroad tracks between downtown and the side.</p>
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Strategy #3 - Promote new affordable housing

Objective	Implementation Plan	2005-2006 Goals	2005-2006 Accomplishments
Encourage the development of new affordable single family, multi-family, and special needs housing in the community through private developers and non-profits	<p>Provide funding through the CDBG / HOME, and other affordable housing funds to encourage the development of new affordable housing in the community emphasizing new / converted:</p> <ul style="list-style-type: none"> - Elderly and disabled housing - Special needs housing - Housing in lower income neighborhoods (Strategy #2) - Housing for very low and extremely low-income renters 	25 units	<p>The City supported applications from homeWORD, and Lincoln Springs through the HOME program.</p> <p>The City of Billings completed Phase 1 of the Kings Green Subdivision this fiscal year. Ten single family homes were built and sold to low to moderate income families.</p> <p>Infrastructure construction has begun on the Kings Green Subdivision. This phase will consist of 20 single family homes.</p> <p>Funds have been awarded to homeWORD for the construction of Southern Lights which will consist of 20 rental units targeted for 30-50% income population.</p> <p>Irma House has been awarded funds for a transitional housing shelter for 6 men transitioning from substance abuse treatment into their own living environment. This project is planned for completion in 2006-2007.</p> <p>The Volunteers of America – Magic City completed this fiscal year and consists of 10 units for the elderly.</p> <p>Habitat has completed 8 single family homes using CDBG funding. HOME assistance was used to build eight homes at Community Leadershipe Chrysalis Acres. To date, 17 homes have been completed at Chrysalis Acres and 6 of the 17 homes are occupied.</p>

Promote homeownership	Provide funding to Community Development Housing Development Organizations (CHDOs) to undertake activities to meet priority affordable housing needs.	5 units	Funds have been awarded to homeownership construction of Southern Lights which consists of 20 rental units targeted for 30-50% income population.
	Complete Phase II and III of the Kings Green Affordable Housing Project.	10 units	Infrastructure development began this fiscal year for the Green Phase II which will result in 14 new homes.
	Work to address loss of mobile/manufactured housing affordable to lower income households.	Establish work groups to study and make recommendations	The Affordable Housing Task Force will continue the planning processes this fiscal year and will establish the following subcommittees to address issues: Housing Needs Assessment, Local Funding Options.
	Work with Affordable Housing Task Force to identify and address barriers to affordable housing and to encourage infill development.	Support implementation of Housing Authority of Billings' 5-Year Plan	The City is committed to supporting the Housing Authority of Billings in their 5-Year plan. The Housing Authority will be involved on the Affordable Housing Task Force and its subcommittees.
	Support activities of the Housing Authority of Billings and other assisted housing providers to meet the needs of very low-income households.		The Mayor's Committee on Homelessness and Chronic Homelessness was established on June 15, 2006 to develop a 10-year plan to end homelessness and chronic homelessness. The Community Foundation of Billings is spearheading this initiative which includes the City, county, and state level organizations involved with the Continuum of Care.
	Provide funding for support services to address the needs of the homeless, elderly, and special needs populations.	Funding to Senior Helping Hands for homemaker services, Tumbleweed for runaway services, HRDC for housing counseling, Family Service for emergency rent / mortgage, YWCA for victims of domestic abuse, Deering Clinic for medication assistance.	Funding was provided to Senior Helping Hands for home care for 23 elderly individuals. Tumbleweed provided services to 44 individuals. HRDC provided housing counseling to 100 participants this fiscal year. Family Services provided homeless individuals with rent / mortgage assistance and utility assistance. YWCA Gateway House provided emergency shelter to 386 victims of domestic violence during this fiscal year. The Medication Assistance Program at the Deering Clinic and the Billings Health Center provided medications to 109 new clients this fiscal year. Interfaith Hospitality Network operates the Deering Clinic and the Billings Health Center and provides temporary housing for homeless individuals. The Deering Clinic is able to serve 48 individuals this fiscal year.

	Assist lower income households achieve home ownership through the City's First Time Homebuyer program and low interest "set aside" financing available through Montana Board of Housing (MBOH).	35 homebuyers	Assistance was provided to 44 low and moderate income individuals to help them achieve homeownership during the 2005 program year through the City's First Time Homebuyer program (HOME and CDBG funding) and the Montana Board of Housing's payment Initiative programs.
	Participate with Montana Homeownership Network to increase First Time Homebuyer opportunities in the City leveraging resources available through Fannie Mae, MBOH etc.	20 homebuyers	Montana Board of Housing (MBOH) participants in the First Time Homebuyer year. To date, Montana Board of Housing has invested \$1.5 million for this purpose.
	Support homebuyer education in partnership with Montana Homeownership Network.	150 households	234 households have participated in homebuyer education programs this fiscal year.
	Support Billings Partners for American Indian Homeownership effort to increase homeownership rates for American Indians and other minorities in the community.	Implementation of partnership goals to increase the homeownership rate for American Indians in Billings	The City of Billings continues to provide leadership for the Billings Partners for American Indian Homeownership task force. The task force was reorganized in August 2005 due to inactivity and has been active and effective this year to address the homeownership needs of American Indians in Billings through cultural education sessions, and other outreach efforts.

Strategy #4 - Work as an active partner with non-profits, neighborhood groups, and others to address housing development needs.

Objective	Implementation Plan	2005-2006 Goals	2005-2006 Accomplishments
Encourage housing, community, and development organizations to work together to build strong community structures to better address needs and respond to opportunities	Sponsor the Affordable Housing Task Force which brings together organizations such as the Housing Authority of Billings, Habitat for Humanity, HRDC, Big Sky EDA, homeWORD, realtors and lenders to address affordable housing issues of common concern.	Implementation of task force work plan	The Affordable Housing Task Force continues to meet monthly to plan for the 2006-2007 planning processes this fiscal year and to establish subcommittees to address issues: Housing Needs Assessment; Local Funding Options.
	Sponsor the Adjacent Neighborhood Committee which brings together the City's neighborhood task forces and Downtown Partnership.	Host bi-monthly meetings	The Adjacent Neighborhood Committee continues to meet monthly to discuss neighborhood and other city issues.
	Support the activities of the Billings American Indian Homeownership Partnership which brings together approximately 20 organizations to increase the homeownership rate for American Indians.	Implementation of partnership goal to increase the homeownership rate for American Indians in Billings.	The City continues to support the Billings American Indian Homeownership Partnership which was renewed in August of 2003 after a period of inactivity. The partnership has become an active and successful advocacy group for American Indians in the Billings area. The group hosts monthly Lunch and Learn sessions, cultural education sessions, and housing referrals.

	Support Neighborhood Task Forces to identify and address neighborhood needs.	Complete neighborhood plans and support distribution of monthly newsletters	Neighborhood plans are underway for Side neighborhoods. The Southwest neighborhoods undergo planning processes for their neighborhoods. Newsletter distribution for 7 neighborhoods is facilitated through the Community Development Department. Approximately 1450 total newsletters were distributed during the fiscal year.
Support activities that promote fair housing and increase awareness of the rights and responsibilities of protected classes	Undertake fair housing activities in a coordinated manner.	Complete FY 2005-2006 fair housing work plan resulting from 2002 Analysis of Impediments to Fair Housing Choice. Work with Community Housing Resource Board and others to implement work plan to address impediments.	The City's Analysis of Impediments to Fair Housing was completed in March 2002. The City developed a 5-year Fair Housing Work Plan that was presented to the Billings City Council in October 2002. The City tracks the community's progress in achieving the 5-year work plan during FY 2005-2006. The City provided \$15,000 to the Community Housing Resource Board for fair housing education and implementation of Fair Housing Actions for FY 2005-2006. The work plan is included in Appendix B and includes many of actions to be taken by the Community Housing Resource Board to promote fair housing choice in Billings. The City also received \$92,879 following the City's application to HUD's Fair Housing Initiatives Program. The City is partnering with organizations for this program including the Community Housing Resource Board, Billings Partnership, the Blackfeet Indian Homeownership, and the Intertribal Council.

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

Objective	Implementation Plan	2005-2006 Goals	2005-2006 Accomplishments	
Support efforts of community organizations to address the human service needs of lower income residents of the community in general and lower income neighborhoods in particular	Utilize up to 15% of CDBG funding for public service activities to improve the economic conditions of lower income households.	Provide funding to 16 organizations addressing the human service needs of lower income households Develop performance measures to determine impact of assisted activities	The City of Billings provided the funding to public service activities including the Billings Food Bank to the YWCA shelter for women and children.	Performance measurements have been developed for the fiscal year as per HUD's new Performance Measurement System. Technical assistance training has been provided to recipients to assist with the implementation of performance measurements.

<p>Support the efforts of economic development and non-profit agencies to undertake strategies that will result in job training and employment opportunities for lower income households</p>	<p>Provide technical assistance to lower income households interested in starting or expanding an existing business.</p>	<p>Provide technical assistance to 100 lower income households through Big Sky Economic Development Authority's Small Business Development Center</p>	<p>The City provided funding to Big Sky Economic Development Authority to provide technical assistance to 100 lower income persons to start or expand a business. The Economic Development Authority provided assistance to 106 individuals during the year. 106 low / moderate clients started a business, 103 clients expanded their current businesses, and 1 client purchased an existing business after participating in this program this year.</p>
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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 25, 2006

TITLE: Public Hearing to Vacate Portions of 8th Avenue North and the Alley between 7th Avenue North and 8th Avenue North

DEPARTMENT: Public Works/Engineering

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

PROBLEM/ISSUE STATEMENT: Billings Clinic has petitioned to vacate 8th Avenue North between North 28th Street and North 29th Street and the alley between 7th Avenue North and 8th Avenue North. Billings Clinic owns all of the property abutting the proposed right-of-way and is proposing to develop the property in the future. Per the attached letter (Attachment A), the Billings Clinic is requesting that the City Council delay action and continue the public hearing at the October 23, 2006, City Council Meeting.

ALTERNATIVES ANALYZED:

1. Delay action and continue public hearing at the October 23, 2006, City Council Meeting.
2. After holding a public hearing approve the vacation of the above-mentioned right-of-way.
3. After holding a public hearing do not approve the vacation of the above-mentioned right-of-way.

FINANCIAL IMPACT: Billings Clinic is willing to accept the same value established by an appraisal completed for North 28th Street between 11th Avenue North and 12th Avenue North. The appraisal established the value of the right-of-way at \$20.50 per square foot. The total value of the proposed vacated property (28,500 square feet) to be paid to the city from Billings Clinic is \$584,250.00. This will be deposited into the Gas Tax Fund.

RECOMMENDATION

Staff recommends that Council delay action on the vacation of portions of 8th Avenue North and the alley between 7th Avenue North and 8th Avenue North and continue the public hearing at the October 23, 2006, City Council Meeting at the request of the Billings Clinic.

Approved By: City Administrator City Attorney

ATTACHMENT

A. Letter from Billings Clinic

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AGENDA ITEM:



**CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 25, 2006**

TITLE: Public Hearing and Resolution to Annex – Annexation #06-13

DEPARTMENT: Planning and Community Services

PRESENTED BY: Candi Beaudry, AICP, Interim Director

PROBLEM/ISSUE STATEMENT: The Krutzfeldt Ranch LLC, owner of the property located between 50th and 54th Streets West, south of Rimrock Road, has petitioned to annex this property to the City of Billings on behalf of the developers, Blue Diamond Ranch Partnership, LLC. The owner is requesting annexation in order to obtain city water and sewer to develop residential housing. The property is described as Tracts 1 and 2, Certificate of Survey 2054 and Cynthia Park, a County park containing 64.714 acres. The adjoining rights-of-way of 50th and 54th Streets West and Rimrock Road will also be annexed at the same time, adding 3.414 acres for a total of 68.128 acres. The City Council acknowledged receipt of the petition annex this property on September 11, 2006, and set a public hearing date for September 25, 2006. The property is currently zoned Residential 9600 (R-9,600). The owners intend to apply for a zone change and subdivision approval at a later date.

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 these properties. The properties are currently zoned Residential 9600 but the developers plan to submit a zone change request to Neighborhood Commercial and Residential 8000. 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:

1. 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.

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

ATTACHMENT

- A. Resolution to Annex
- B. Photographs of Subject Property
- C. Concept Plan - preliminary

INTRODUCTION

On August 4, 2006, the owner submitted a petition for annexation of a 64.714 net acre property located near the southeast corner of the intersection of Rimrock Road and 54th Street West. The developer, Blue Diamond Ranch Partnership, has presented a concept plan depicting a 4-lot subdivision to be developed for condominiums. The property is currently zoned Residential 9600, but the developer proposes to request a zone change to Neighborhood Commercial and Residential 8000. Neighborhood Commercial will be located at the intersection of Rimrock Road and 54th Street West. The subject property adjoins City limits on the southeast corner and on the northwest corner.

PROCEDURAL HISTORY

- September 11, 2006 – City Council acknowledged receipt of annexation petition and set a public hearing date for September 25, 2006.
- September 25, 2006 – City Council holds the public hearing and acts on the Resolution to Annex.
- October 10, 2006 – Upon approval of the annexation, the City Council acts on the 1st Reading of the Ordinance to change the Ward Boundaries.
- October 23, 2006 – Upon approval of the 1st Reading, the City Council acts on the 2nd Reading of the Ordinance to change the Ward Boundaries. City Council also holds a public hearing on the Special Review and acts on the resolution.

BACKGROUND

The developers desire to annex this property in order to provide water and sewer service to a proposed mixed use development. The concept plan provided by the developers indicates a .33-acre parcel at the corner of Rimrock Road and 54th Street West to be rezoned as Neighborhood Commercial. Extending to the south and the east are rows of condominium units in a proposed R-8,000 zoning district. The condominiums are located in two large lots, one 3.3 acres and the other 5.4 acres. The remainder of the property was not shown in the concept plan.

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 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. The property is contiguous to existing City limits.

The proposed annexation meets the goals of the Growth Policy and the West Billings Plan as discussed later in this report.

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, Yellowstone County and School District #2 were given the opportunity to comment on this annexation. All City departments responded favorably. No comments were received from Yellowstone County or School District #2.

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

Water: Water service is available in 54th Street West and can be extended to this property.

Sewer: Sewer service is available both in 54th Street West and Rimrock Road and can be extended to this property.

Stormwater: Future development will discharge stormwater into a stormwater detention facility located on site.

Transportation: The property is located at the southeast corner of the intersection of Rimrock Road and 54th Street West. Rimrock is classified as principal arterial and 54th Street West is a minor arterial. The roadway at 50th Street West is not paved but right-of-way currently exists from Rimrock Road to the property. .

The developer of this property will be required to install or contribute financially to the improvements along 54th Street West and Rimrock Road. 50th Street West will also be required to be built to City standards for that portion that fronts the subdivision.

Fire Station: The study area is within the Billings Urban Fire Service Area and currently served by the Billings Fire Department. Fire protection will be provided to this property after annexation from Fire Station No. 5 located on 24th Street near Rosebud Drive. Future fire protection service may originate from the new fire station proposed to be located at the corner of 54th Street West and Grand Avenue.

Parks: The land to be annexed also includes a County park parcel, Cynthia Park. This park is undeveloped and generally inaccessible. The County Park planner has notified City staff that County parkland will automatically become a City park upon annexation. This parkland will either be incorporated in the future development of the property in its original location or relocated within the future subdivision. The City Park Board will make a recommendation at the time the future subdivision is reviewed.

Bicycle and pedestrian facilities: The concept plan does not show any bicycle or pedestrian facilities. The Heritage Trail Plan does not recommend a trail through this property. The

nearest proposed trail is located just south of the property along the Big Ditch. An on-street bicycle trail is also recommended along Rimrock Road.

General City Services: General City Services are the services 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, including Fire, MET Transit, Finance, Legal and Planning, did not object to the annexation of this property. The Police Department responded that this annexation may adversely affect its ability to provide timely service. The Fire Department also indicated that additional manpower and equipment will be needed.

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 twice in the Billings Times. 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 2003 Growth Policy and the West Billings Plan. The proposed development is consistent with the applicable land use goals of these Plans in the following manner:

Growth Policy

Contiguous development focused in and around existing population centers separated by open space (Land Use Element Goal, page 6). *The property adjoins existing City limits at two locations.*

West Billings Plan

1. Establish Development Patterns that Use Land More Efficiently. *The future development will utilize available infrastructure that can service the proposed commercial development*
2. Plan for the Orderly and Efficient Urbanization of Agricultural Lands. *The property is currently in agricultural production but is zoned Residential-9,600. The proposed mixed use of the property for is desirable at this location because of the intersection of two arterials and the availability of City services. The surrounding land uses are a mix of medium and low density residential and agriculture. The agricultural use of the surrounding properties is diminishing as City services and utilities extend westward.*

RECOMMENDATION

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

1. 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 to Annex
- B. Photographs of Subject Property
- C. Concept Plan - preliminary

ATTACHMENT A
RESOLUTION TO ANNEX

RESOLUTION NO. 06-

**A RESOLUTION OF THE CITY OF BILLINGS
APPROVING PETITION 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:

Tracts of land situated in the N1/2 of Section 32, the NE1/4 of Section 31, the SE1/4 of Section 30 and the SW1/4 of Section 29, T.1N., R.25E., P.M.M., Yellowstone County, Montana, more particularly described as: Tracts 1 and 2 of Certificate of Survey 2054, Recorded March 2, 1981, Under Document No. 1191101, Records of Yellowstone County, Montana; Cynthia Park of Yerger Heights Subdivision, Recorded December 27, 1956, Under Document No. 575291, Records of Yellowstone County, Montana; including all adjacent right-of-way of Rimrock Road, 54th Street West, 50th Street West and Cynthia Park Drive. Containing 68.128 gross and 64.714 net acres.

(# 06-13) See Exhibit "A" Attached

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

1. 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

**ATTACHMENT A
RESOLUTION TO ANNEX**

-
-
- 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.
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 25th day of August, 2006.

THE CITY OF BILLINGS:

BY: _____

Ron Tussing, MAYOR

ATTEST:

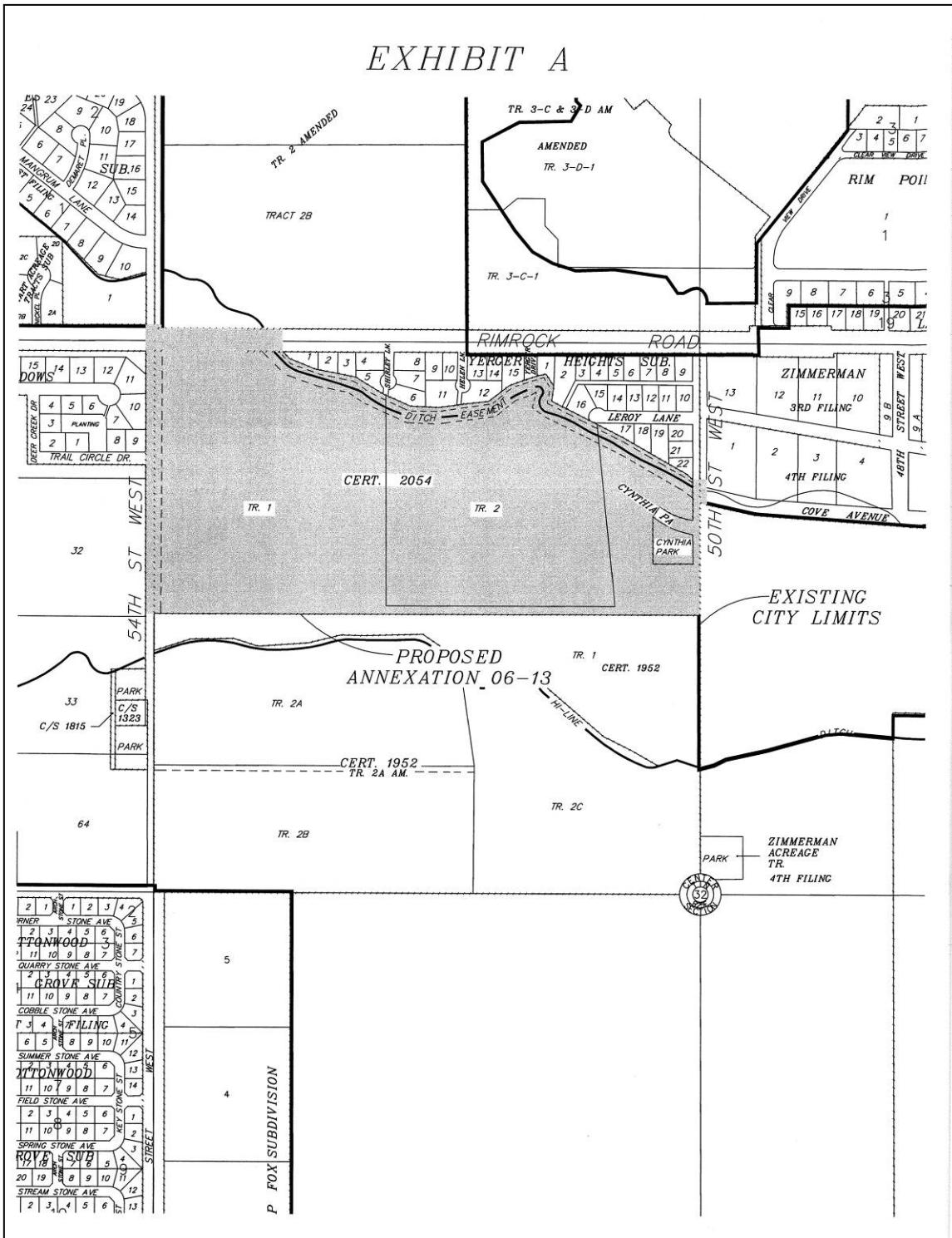
BY: _____

Marita Herold, CMC/AAE CITY CLERK

(AN 06-13)

ATTACHMENT A
RESOLUTION TO ANNEX

EXHIBIT A





View looking northeast across subject property from 54th Street West.

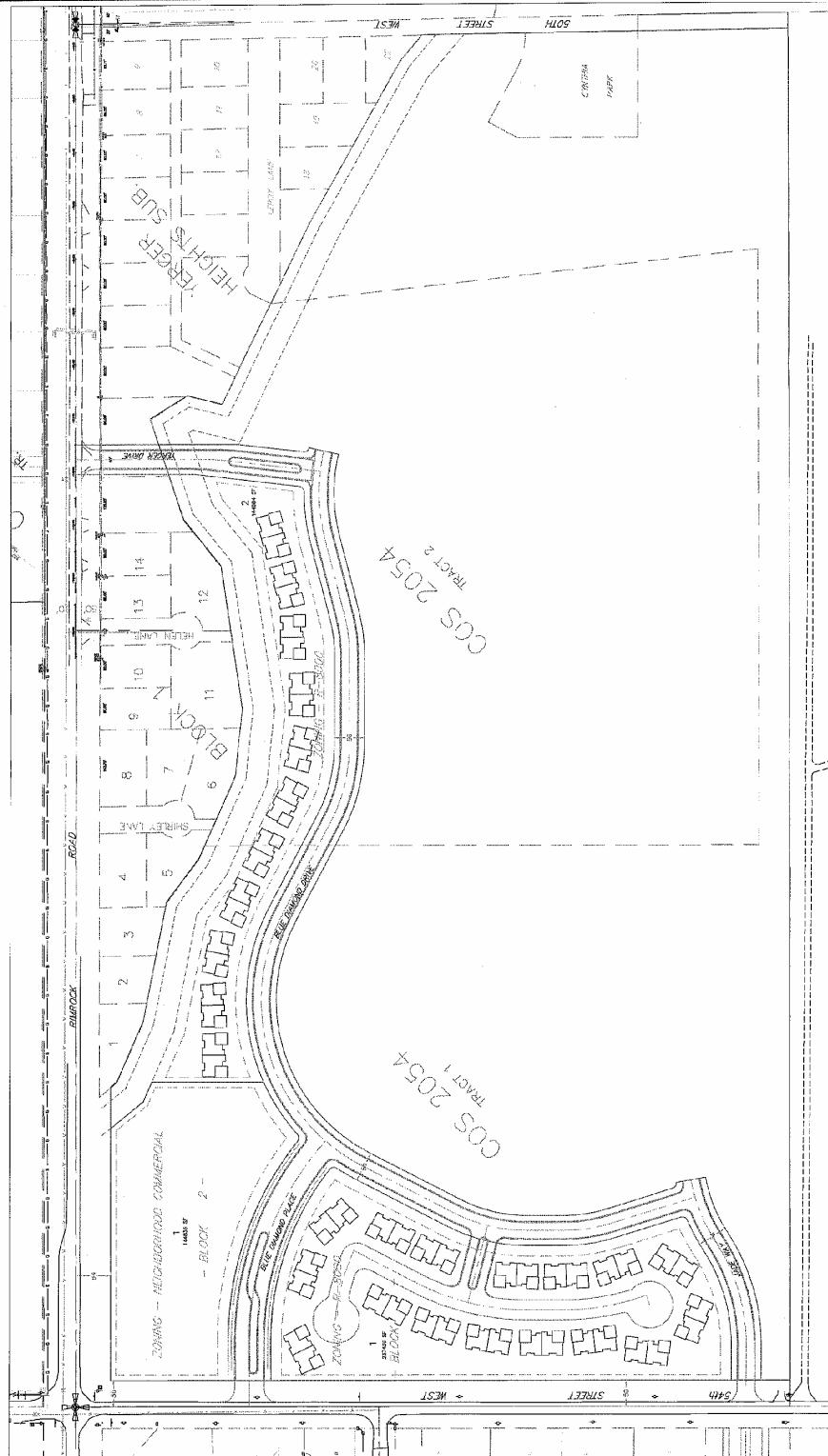


View looking southeast across subject property from 54th Street West.



View looking north along 54th Street West. Subject property is on right of photo.

PRELIMINARY PLAT OF BLUE DIAMOND RANCH SUBDIVISION
BEING TRACT 1 AND 2 OF CERTIFICATE OF SURVEY NO. 2054



**(Back Back to
Regular Agenda)**



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, September 25, 2006

SUBJECT: Annual Assessments for Fiscal Year 2007

DEPARTMENT: Administration – Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: The following annual assessment resolutions have been completed by the Finance Department and are ready to spread on the tax rolls.

Encroachment

Weed Cutting and Removal

Park Maintenance Districts

Encroachment fees are determined through an application process in Public Works. The application fee is \$50, then, the annual fee is \$1.00 per square foot of encroachment. Weed cutting and removal charges are determined by the cost to remove the weeds plus administrative fees for Code Enforcement. The assessments for Park Maintenance Districts are calculated using the budgeted expenditures assessed to each parcel by assessment method (per lot, square feet, etc.).

ALTERNATIVES ANALYZED

1. Not recover costs incurred
2. Recover costs through assessments

RECOMMENDATION

Staff recommends that a public hearing be held and that Council passes the resolutions on September 25, 2006.

Approved By: City Administrator _____ City Attorney _____

ATTACHMENTS

A-Encroachment Annual Assessment Resolution
B-Weed Cutting & Removal Annual Assessment Resolution
C-Park Maintenance Assessment Resolution

EXHIBITS

A-Encroachment Properties
B-Weed Listing

RESOLUTION 05-_____

A RESOLUTION FIXING THE AMOUNT OF THE ANNUAL SPECIAL ASSESSMENT TAX FOR THE FISCAL YEAR 2007 TO BE PAID BY PERSONS, FIRMS, AND CORPORATIONS, MAINTAINING ENCUMBRANCES, OBSTRUCTIONS, OR ENCROACHMENTS ON, OVER, ACROSS, OR ABOVE THE STREETS, AVENUES, SIDEWALKS, OR ALLEYS OF THE CITY OF BILLINGS AND LEVYING AND ASSESSING SAID SPECIAL ASSESSMENT TAX.

WHEREAS, Chapter 13 of the Billings, Montana City Code provides that every person, firm, or corporation that has or maintains any encumbrances, obstructions, or encroachments on, over, across, or above any street, avenue, sidewalk, or alley shall pay an annual rental, and

WHEREAS, Billings, Montana City Code, Section 13-303 provides that the City Council shall annually, by resolution, make a special assessment for such rental upon certain lots abutting on that part of the street, avenue, sidewalk, or alley upon which encumbrance, obstruction, or encroachment on the owner of such abutting lot or lots.

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

1. ANNUAL ASSESSMENT FOR RENTAL: That for the purposes of collecting said rents for the fiscal year 2007 for said encumbrances, obstructions, and encroachments on, over, across, or above the streets, avenues, alleys, and sidewalks of the City of Billings, there is hereby fixed, levied and assessed a special assessment tax upon the lots or parcels of land provided in the schedule attached, described as EXHIBIT "A" and by this reference made a part hereof.

2. DISPOSITION OF COLLECTIONS. All monies collected from said taxes shall be paid to the General Fund of the City of Billings, Montana.

3. NOTICE OF HEARING. That on Monday the 25th day of September, 2006 at 6:30 p.m. or as soon thereafter as the matter may be considered on the agenda in the council chambers of the city hall, Billings, Montana, the council will hear objections to the final adoption of this resolution. The City Clerk published notice hereof twice, on September 14 and September 21, 2006, in the Billings Times.

4. CERTIFICATION. The City Clerk is hereby directed upon final passage and approval of this resolution to certify a copy thereof to the city administrator of the city of Billings, Montana, who shall certify a copy to the Yellowstone County Clerk and a copy to the Yellowstone County Assessor.

5. EFFECTIVE DATE. This resolution shall be effective upon adoption.

ADOPTED and APPROVED by the City Council on the **25th** day of **September, 2006**

CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Marita Herold, CMC/AAE CITY CLERK

RESOLUTION 05-_____

A RESOLUTION LEVYING A SPECIAL TAX UPON PROPERTY WITHIN THE CITY OF BILLINGS, MONTANA, TO DEFRAY THE COST OF CUTTING AND/OR EXTERMINATING WEEDS.

WHEREAS, Billings, Montana City Code, Section 25-307, provides that the City Clerk shall prepare and present a resolution containing a list of all parcels of land in the City, from which and adjacent to which, the weeds were cut, exterminated and/or removed, and such list shall contain opposite the number of such lots or description of such parcels of land, the name of the owner, if known, and the amount of cost for cutting and removing such weeds.

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

1. LEVYING OF SPECIAL TAX. That for the purpose of collecting funds to defray the cost of cutting and removing of weeds, there is hereby levied and assessed a special tax upon the owners and the lots or parcels described in the schedule attached, described as EXHIBIT "B" and by this reference made a part hereof.

2. ASSESSMENT AND COLLECTION. Said tax shall be placed upon the assessment rolls and collected in the same manner as other taxes.

3. DISPOSITION OF COLLECTIONS. All monies collected from taxes shall be paid to the General Fund and the Street and Traffic Fund of the City of Billings.

4. NOTICE OF HEARING. That on Monday the 25th day of September, 2006 at 6:30 p.m. or as soon thereafter as the matter may be considered on the agenda in the

council chambers of the city hall, Billings, Montana, the council will hear objections to the final adoption of this resolution. The City Clerk published notice hereof twice, on September 14 and September 21, 2006, in the Billings Times.

5. CERTIFICATION. The City Clerk is hereby directed upon final passage and approval of this resolution to certify a copy thereof to the Finance Director of the City of Billings, Montana, who shall certify a copy to the Yellowstone County Clerk and a copy to the Yellowstone County Assessor.

6. EFFECTIVE DATE. This resolution shall be effective upon adoption.

ADOPTED and APPROVED by the City Council on the **25th** day of **September, 2006**

CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Marita Herold, CMC/AAE CITY CLERK

RESOLUTION 05-_____

A RESOLUTION LEVYING AND ASSESSING ALL PROPERTY WITHIN PARK MAINTENANCE DISTRICTS AN AMOUNT EQUAL TO THE COST OF MAINTAINING THE IMPROVEMENTS IN SAID PARK MAINTENANCE DISTRICTS WITHIN THE CITY OF BILLINGS, PROVIDING FOR NOTICE, HEARING AND FINAL ADOPTION.

WHEREAS, certain Park Maintenance Districts within the City have been created and constructed, and

WHEREAS, certain improvements within those Park Maintenance Districts require maintenance, and

WHEREAS, M.C.A. Section 7-12-4162 provides that the City may levy and assess the costs of maintenance against said districts.

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

1. MAINTENANCE OF IMPROVEMENTS. Certain improvements including trees, shrubs, grass and care thereof require maintenance with certain Park Maintenance Districts.

2. MAINTENANCE DISTRICT BOUNDARIES. The boundaries of the park maintenance districts are established by resolution and are on file in the City Clerk's office.

3. ASSESSMENT METHOD. The entire maintenance costs shall be assessed against the entire district, each lot or parcel of land within said district to be assessed for that part of the whole costs which its area bears to the area of the entire district exclusive of streets, avenues, alleys and public places all as provided in M.C.A. Section 7-12-4162.

4. COST OF MAINTENANCE. The City Council estimates that the cost of maintenance for the fiscal year 2007 for the following Park Maintenance Districts is:

PARK MAINT. DISTRICT	NUMBER	PER LOT	PROPERTY
KING'S GREEN	PMD 4030	\$100.18	57
COPPER RIDGE	PMD 4031	\$233.33	78
RIVERFRONT	PMD 4032	\$44.59	74
NEW FALCON	PMD 4033	\$366.24	29

5. DISPOSITION OF COLLECTIONS. The monies collected from the tax shall be paid into the respective Park Maintenance Funds.

6. NOTICE OF HEARING. That on Monday the 25th day of September, 2006 at 6:30 p.m. or as soon thereafter as the matter may be considered on the agenda in the council chambers of the city hall, Billings, Montana, the council will hear objections to the final adoption of this resolution. The City Clerk published notice hereof twice, on September 14 and September 21, 2006, in the Billings Times.

7. CERTIFICATION. The City Clerk is hereby directed upon final passage and approval of this Resolution to certify a copy thereof to the City Administrator of the City of Billings, Montana, who shall certify a copy to the Yellowstone County Treasurer and a copy to the Yellowstone County Assessor.

7. EFFECTIVE DATE. This Resolution shall be effective upon adoption.

ADOPTED and APPROVED by the City Council on the 25th day of **September , 2006**

CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Marita Herold, CMC/AAE CITY CLERK

Exhibit B

WEED ASSESSMENTS TO TAXES
SEPTEMBER 2006 - BY A/R #

9/7/2006
11:38

SEPT/OCT 2005
ASSESSMENTS:

<u>NAME</u>	<u>AR #</u>	<u>TAX CODE</u>	<u>AMOU NT</u>
Jennifer Mandt	175	A	
Stephen T. & Jennifer Toepfer	175	12057	276.62
	18	A 5117	255.99

Total Assessments from OCT '05			532.61
			=====
			====

JUNE-AUG 2006
ASSESSMENTS:

<u>NAME</u>	<u>AR #</u>	<u>TAX CODE</u>	<u>AMOU NT</u>
Sherwood D & Dorothy Duvall	113	A	
	52	12023	244.15
	120		
Yolanda Matt	43	D 1593	354.68
	156	A	
Angelica Shepard	61	14076	262.23
	181	A	
Steve C. & Lori R. Nelson	91	12016	216.01
	181	A	
Joseph Schillinger	92	15221	50.00
	181		
Benjamin Boyd	93	A 1832	308.46
	181		
Ronald Gerber	94	A 1751	430.30
	181	C 1750	
Beatrice V. Renner	96	A	354.73
	181		
Sage Tower Incorporated	97	A 591	239.12
	181	A	
Buscher Development Inc.	98	29594	317.23
	181	A	
James L. Pickens	99	26548	354.73
Eric E. Persson	182	A	

	00	18820	430.30
	182	A	
Nicholas Grammens	02	14996	430.30
	182	A	
Darryl L. Weber Trustee	05	18637	224.76
	182		
Vicki D. Thomas	06	A 2138	308.46
	182		
Robert L. Dalton	07	A 1782	257.85
	182		
Mary W. Wall	08	A 3782	354.68
	182	A	
Nelson V. Utter Jr.	47	15032	308.46
State of Montana-Dept of	182		
Transp	48	D 5213	400.96
		A	
	182	14806	
April M. Lapke	49	B	308.46
		A	
Charles H. Gilmor Family	182	14806	
Trust	50	E	308.46
HSBC C/O: Richard E. &	182		
Jenny Nava	51	A 1845	318.46
	182		
Robert & Kari Pearson	52	A 3521	415.30
Victor D. & Maybel	182		
Reichenbach	53	A 9445	393.78
Victor D. & Maybel	182		
Reichenbach	53	A 9446	393.78
		A	
	182	31446	
KW Holdings	56	A	892.13

Total Assessments JUN-		8,877.	
AUG '06		78	
		=====	
		====	
GRAND TOTAL ASSESSED			
SEPT 2006		9,410.39	
		=====	
		==	

Tax Code Zip	Assmt Amt Subd	Mailing Name Blk Lot-Unit	Mailing Address
A00001 59103	11.00 BLG 001	SEAL, LEVERN D 001-6	PO BOX 1119
A00010 59103	16.00 BLG 001	SEAL, LAVERN AKA LEVERN 019	PO BOX 1119
A00024 59101	.00 BLG 003	ERICKSON, GREGORY C 005,6	516 N 32ND ST
A00025 59101	.00 BLG 003	ERICKSON, GREGORY C 007,8	516 N 32ND ST
A00028 59101	10.00 BLG 003	ATWOOD, SCOTT 017-20&	207 YELLOWSTONE AVE
A00068A 59104	10.00 BLG 011	B L M TIRE CO 007-12	PO BOX 23509
A00074 59102	.00 BLG 013	MUTCH LLC 001	1016 PRINCETON AVE
A00096 59101	213.32 BLG 022	W B Y -LLC 001-6	1485 BLACK EAGLE TRL
A00243 59103	120.00 BLG 042	BLGS U S EMPLOYEES FED CR UNIO PO BOX 1779 011	PO BOX 1779
A00260 59102	273.00 BLG	RUFF, BILLIE	52 SHADOW PL
A00264 59101	125.00 BLG 046	MILLER, JOSEPH J (50%) ETAL 001	2303 ASH ST
A00269 59101	.00 BLG 047	HARBOUR TOWNE LIMITED PARTNERS 001	2906 2ND AVE N
A00279 STE 176248	.00 BLG 047	HILL LP 011	PMB 232 1540 KELLER PKWY
A00280 59106	.00 BLG 047	THREE DANCES LLC 013	4840 PIEGAN TRL
A00309 59101	.00 BLG 050	BP PROPERTIES LLC 009	3312 4TH AVE N
A00310 59101	.00 BLG 050	BP PROPERTIES LLC 011,12	3312 4TH AVE N
A00327 59108	.00 BLG 052	DANIELS, JAMES A 013-16	PO BOX 81188
A00339 59105	.00 BLG 053	PRICE, THOMAS E 015	2222 1/2 MAIN ST
A00347 59103	.00 BLG 055	HERMANSON, KEITH 005	PO BOX 2112
A00349 59403	137.00 BLG 055	ROMAN CATHOLIC BISHOP OF GRT F PO BOX 1399 013-18	PO BOX 1399
A00352 59103	18.00 BLG 056	BILLINGS MONTANA PARKING COMMI PO BOX 1178 007	PO BOX 1178
A00363 59101	500.00 BLG 057	CORMIER, PATRICK C-TRSTE 009	220 N BROADWAY
A00364 87102	334.00 BLG 057	GRAY, MICHAEL J 011	423 COPPER AVE NW
A00365 59101	20.00 BLG 057	TWO VALLEYS REALTY INC 013	2822 3RD AVE N STE 201

A00368		28.00 CITY OF BILLINGS	PO BOX 1178
59103	BLG	058 001-12	
A00374		48.00 LO, CHIA WEI	2310 REHBERG LN # 5
59102	BLG	058 017	
A00375		.00 BROADWAY PLACE LLC	PO BOX 472
59624	BLG	058 019-22	
A00394		.00 MCS, LLC	2407 MONTANA AVE
59101	BLG	061 001	
A00489		.00 BILLINGS FOOD BANK INC	2112 4TH AVE N
59101	BLG	069 007	
A00510		960.00 FRANK FAMILY LIMITED PARTNERSH	PO BOX 1497
59103	BLG	073 001	
A00517		.00 BIG SKY BOOKS INC	4508 W MONTROSE AVE
60641	BLG	077 001	
A00537		220.00 J & S PROPERTIES INC	PO BOX 31292
59107	BLG	081 001	
A00604		7.00 LEE, DONALD R 37% INT	110 N 24TH ST
59101	BLG	089 011	
A00616		24.00 BAD OSPREY INC	3113 40TH ST W
59106	BLG	090 013	
A00617		24.00 BAD OSPREY INC	3113 40TH ST W
59106	BLG	090 014	
A00618		.00 THUNDERBIRD PROPERTIES INC (50	1000 MARINA VLG PKWY STE
100 94501	BLG	090 015-24	
A00635		.00 LOU TAUBERT REAL ESTATE INC	125 E 2ND ST
82601	BLG	092 013	
A00637		388.00 ACME LIMITED PARTNERSHIP	PO BOX 986
59103	BLG	092 019	
A00639		48.00 DAVIDSON, LARRY	3106 CACTUS DR
59102	BLG	092 023	
A00641		.00 TOUCH OF SANTA FE LTD	112 N BROADWAY
59101	BLG	093 005	
A00642		162.00 BABCOCK BUILDING CO	PO BOX 20435
59104	BLG	093 006-12	
A00643		.00 MONTANA FARM & RANCH DEV CORP	PO BOX 64142
55164	BLG	093 013	
A00650		.00 TEMPLE, GARY L	118 N 29TH ST
59101	BLG	094 009	
A00651		.00 MCDONALD LAND COMPANY LMTD PTN	2906 2ND AVE N
59101	BLG	094 011-12	
A00656		59.58 FINK, TED G TRUSTEE	2541 MAGNOLIA PL
59102	BLG	094 021	
A00658		.00 MACINTYRE, BENNETT W	1106 1/2 POLY DR
59102	BLG	095 001	
A00687		3.00 MORGAN ELECTRIC CO	3301 1ST AVE N
59101	BLG	098 001	
A00708		5.00 RIMROCK II LLP	2540 PHYLLIS LN
59102	BLG	101 008	
A00710		5.00 RIMROCK II LLP	2540 PHYLLIS LN
59102	BLG	101 013	
A00715		.00 MYONG SUN KIM	10 N 34TH ST
59101	BLG	102 001	
A00735		25.00 MONTANA AVE LOFTS LLC	3553 SOURDOUGH RD
59715	BLG	104 009-12	

A00737		10.00	RIDER, THEODORE J & MARIAN COO	3301 1ST AVE N
59101	BLG	104 014		
A00763		.00	FIRST NATIONAL PROPERTIES LLC	2905 MONTANA AVE
59101	BLG	107 004		
A00765		224.34	MIGNONE, FRANCIS J & SHANNON L	2880 VIGILANTE TRL
59102	BLG	107 006A		
A00768		.00	BILLINGS TIMES INC	2919 MONTANA AVE
59101	BLG	107 010		
A00774		1720.00	LAFEVER, NEAL C & DIANNE M	PO BOX 365
59103	BLG	107 019,20		
A00776		105.00	BARBAZON APARTMENTS LP	2615 RIDGEWOOD LN
59106	BLG	107 023		
A00777		602.00	CITY OF BILLINGS	PO BOX 1178
59103	BLG	108 001,2		
A00781		126.00	NELSON, BERT A & ANDREW	2817 MONTANA AVE
59101	BLG	108 008		
A00783		108.00	LAFEVER, NEAL C & DIANNE M	PO BOX 365
59103	BLG	108 013		
A00788		160.00	FIRST CITIZENS BANK	PO BOX 2508
59103	BLG	108 023		
A00789		66.00	TG & F PROPERTIES INC	PO BOX 1913
59103	BLG	109 001		
A00791		12.00	LUND, RONALD M	3141 KING AVE W
59102	BLG	109 005		
A00792		4.00	T G & F PROPERTIES INC	PO BOX 1913
59103	BLG	109 006		
A00796		24.00	SECURITIES BUILDING LLC	2708 1ST AVE N
59101	BLG	109 019-24		
A00806		461.00	COMPUTER UNLIMITED	2407 MONTANA AVE
59101	BLG	111 001		
A00807		53.00	PETERSON, VICKI V B	1116 2ND ST W
59101	BLG	111 003		
A00809		.00	DALY, SHERRY	108 WYOMING AVE
59101	BLG	111 005		
A00812		.00	MERYCO PARTNERSHIP, LLP	17 N 26TH ST
59101	BLG	111 013		
A00813		.00	COMPUTERS UNLIMITED INC	2407 MONTANA AVE
59101	BLG	111 014		
A00817		50.00	REX HOTEL PARTNERSHIP	2401 MONTANA AVE
59101	BLG	112 001		
A00819A		.00	COMPUTERS PARTNERSHIP A MT GEN	2407 MONTANA AVE
59101	BLG	112 004		
A00822		114.00	SAHALEE LLC	3012 RYNIKER DR
59102	BLG	112 007		
A00823		25.00	COMPUTERS UNLIMITED	2319 MONTANA AVE
59101	BLG	112 008		
A00827		17.00	FOXLEY, SANDRA M TRUSTEE	375 GILPIN ST
80218	BLG	112 018		
A00832A		.00	BREWERY SQUARE ASSOCIATES	2407 MONTANA AVE
59101	BLG	113 003		
A00833		442.00	COMPUTERS UNLIMITED	2319 MONTANA AVE
59101	BLG	113 005		
A00838		.00	DEPOT ANTIQUE MALL LLP	2223 MONTANA AVE
59101	BLG	114 010		

A00840		.00 CTA BUILDING LLP	13 N 23RD ST
59101	BLG	114 019	
A00939		126.00 SOUTHERN FOODS GROUP LP	MAIL TO: ASSOC TAX
APPRAISERS	77256	BLG 140 013	
A00949		10.00 YELLOWSTONE HEALTH PARTNERSHIP	208 N BROADWAY STE 208
59101	BLG	141 001-12AND	
A00964		40.00 HATZELL, PAUL H	5515 RIMROCK RD
59106	BLG	143 001	
A01259		6.00 CITY OF BILLINGS	PO BOX 1178
59103	BLG	189 001-6	
A01264		42.00 CITY OF BILLINGS	PO BOX 1178
59103	BLG	189 007	
A01272		88.00 CITY OF BILLINGS	PO BOX 1178
59103	BLG	189 017	
A01273		207.00 L & L DEVELOPMENT VENTURE LP	PO BOX 2203
59103	BLG	189 018	
A01274		134.00 CITY OF BILLINGS	PO BOX 1178
59103	BLG	189 019-24	
A01281		27.00 MORLEDGE, KARL	PO BOX 44
59071	BLG	190 007,8	
A01285		46.00 MCKAY, TERRY & BARBARA J	3005 MARIGOLD DR
59102	BLG	190 012A	
A01293		30.00 YELLOWSTONE PAPER COMPANY	PO BOX 1557
59103	BLG	191 001	
A01294		421.00 LJR, LLC	2804 MINNESOTA AVE
59101			
A01638		.00 DIMICH, DANIEL W JR	15305 77TH AVENUE CT E
98375	BLG	220 023	
A01699		125.00 STATE OF MT DEPARTMENT OF ADMI	1539 11TH AVE
59601	BLG	227 001-24	
A01809		50.00 COMMUNITY LEADERSHIP DEVELOPM	PO BOX 3381
59103	BLG	239 001	
A02434A		15.00 BIG SKY FLORAL SUPPLY LLC	502 N 30TH ST
59101	A2S	000 002	
A02920		5.00 COFFMAN, STEPHEN L & VICTORIA	2720 BEARTOOTH DR
59102	BEA	002 013	
A03302		12.00 ZIMMERER, STEPHEN L & BRENDA &	928 BROADWATER AVE
59101	BDW	002 028	
A03492		10.00 MILLER, JANEL R	3819 KING AVE E
59101	BDW	012 009	
A04983A		25.00 WILGUS, MARK A & JOSI D	2010 VIRGINIA LN
59102	CCA	004 039	
A05812		25.00 ARAGON, KATHLEEN J	645 O MALLEY DR
59102	CDN	006 001	
A06751		6.50 DYE, CINDY D	1443 AVENUE D
59102	EVE	007 023	
A07017		15.00 JACOBSON, RICHARD LEE &	3511 SAINT JOHNS AVE
59102	FLA	000 007	
A07131		102.00 BILLINGS CLINIC	PO BOX 35100
59107	FOA	026 001	
A07194		20.00 BILLINGS CLINIC	PO BOX 35100
59107			
A07297		60.00 MILLER LAND CO	PO BOX 531
59103	FOA	044 010	

A07362		47.26	SOUTH CENTRAL MONTANA REGIONAL PO BOX 219	
59103	FOA	051 018		
A07370		17.00	KARLSEN, VIRGINIA G	2100 CORNELL AVE
59701	FOA	053 013-20		
A08646		25.00	BRYSON, JEFFERY A	4148 FRANCES AVE
59101	HRM	000 001		
A09085		3.00	DEAVER, FRANKLIN KENNEDY JR &	1918 PARKHILL DR
59102	HLI	005 001		
A09148		220.00	FRIED, WILLIAM JR & SALLY ANN	11 ANTELOPE TRL
59105	HLO	014 001		
A09171		50.00	MAIN STREET PARTNERS	PO BOX 80510
59108	HLR	000 001		
A10202		2813.00	LUTHERAN CHURCH OF THE GOOD SH	1108 24TH ST W
59102	LS2	001 001		
A10613		102.00	STOUGHTON, ALICE CASADY	1323 GRANITE AVE
59102	LER	000 013		
A11091		50.00	DARBY, RONALD L	1159 MOON VALLEY RD
59105	MVA	000 034		
A11193		5.00	EREKSON, MATTHEW L	2320 3RD AVE N
59101	MV2	001 001		
A11335		.00	SISTERS OF CHARITY OF LEAVENWO	PO BOX 35200
59107	NML	001 015		
A11354		9.00	STATE OF MT - DEPT OF INSTITUT	PO BOX 219
59103	NML	002 032		
A11565		633.34	SISTERS OF CHARITH OF LVNWRTH	PO BOX 35200
59107				
A11592		15.00	SISTERS OF CHARITY OF LVNWRTH	PO BOX 35200
59107	NEL	006 022		
A12971A		25.00	POPP, GREGORY A & SHELLY	2706 TREASURE DR
59102	PVT	004 029		
A13885		1.00	THOMAS, FRANK E & MARGARET G	2840 BETH DR
59102	SFF	000 001		
A13999		25.00	SCHAEFER, JOSHUA T & COREY R	2300 ELIZABETH ST
59102	STH	003 001		
A16557		15.00	MORSE, RODNEY L	1315 N 27TH ST
59101	SDS	021 002		
A16560		40.00	RIMROCK INN LLC	1203 N 27TH ST
59101	SDS	021 003		
A17196		25.00	MCISAAC, DOUGLAS N &	2916 1/2 1ST AVE N # A
59101	VLV	000 073		
A17942		9.00	HUSCHKA, MICHAEL J & LISA J	230 WYOMING AVE
59101	WID	015 031		
A17949		12.00	NEYRINCK, ORVILLE L & JEAN M	205 WYOMING AVE
59101	WID	016 001		
A19326		.00	JEWEL FOOD STORES INC	STATE & LOCAL TAX DEPT PO
BOX 83726	YEL	026 001-11&		
A19570		56.00	SIEMENS FAMILY LP	245 W SPOKANE FALLS BLVD
99201	LIQ	000 001		
A19680		50.00	COZZENS, LAWRENCE B & JEANNINE	2760 GREGORY DR S
59102	GR3	002 010		
A20220		.00	WICKUM, LANCE D	828 GOVERNORS PL
59105	KH3	021 011		
A20357		30.00	JONES, JAMES W & JOHN T TRUSTE	2112 PRYOR LN
59102	KNG	000 003		

A20713		1.00 BOGGS, JUSTIN DALE	215 W FALLON AVE
59313			
A20842		10.00 TEICHERT, LYLE W & VALERIE ROS	3218 LEE ANN BLVD
59102	W5A	003 141	
A20913		5.00 STINE, CAROL J	3310 LAREDO PL
59102	GOL	003 021	
A21196		10.00 WILTING, KYLE A	2902 SILVERWOOD ST
59102	SLW	001 022	
A22975		50.00 MOFFETT, DAVE	4103 JANSMA AVE
59101	SW4	012 011	
A23703		58.50 VALKENBURG, CORNELIUS A & LIND	322 CAMEL PL
59105	SS2	001 061	
A24268		25.00 COLLETT, GORDON C & SIV D	2901 SHADOW OAKS PL
59102	OKS	004 001	
A24843		50.00 KOHN, JAY A & JUDY K	1127 CALICO AVE
59105	TE2	009 024	
A28233		75.00 GRAND AVE INVESTOR LLC	2815 PALM DR
59102	SVM	001 001	
A28994		25.00 RYAN, WILLIAM O & BEVERLY R	2038 OVERLAND AVE
59102	MLC	001 001	
C03205		.00 BERLINER, IRA & LINDA M	3925 LAREDO PL
59106	WBS	003 001	
C03210		25.00 DAVIES, WILLIAM L & NANCY A	3815 WAR BONNET TRL
59102	WBS	3 11-A	
C06176		.00 ZIMNY, GERARD P & MICHELLE A	2323 32ND ST W APT 36
59102	MYP	004 002	
C08660		1.00 EGGBRECHT FAMILY LIMITED PTNR	PO BOX 21012
59104	SHI	000 000	
C10469A		10.00 WEBER PROPERTIES LLC	PO BOX 80127
59108	PIS	001 005B	
D00527		1000.00 RYAN, WILLIAM O	3703 HARRY COOPER PL
59106	0662	000 000	
D01375		.00 BIERNBAUM, MARK R	4626 CORRAL DR
59101	0571	000 000	
D01389		675.00 HANSER AUTOMOTIVE CO INC	430 S BILLINGS BLVD
59101	SRS	000 008	
D04718		20.00 ELLIS, SHELLEY M	4015 POLY DR
59106	3209	000 002	
D05641		5.00 LE BAR, JAMES H & ELINOR J	801 RIMROCK RD
59102	XXX	000 000	
D05665		.00 JOSEPH R LYMAN TRUST &	41 E BYRJUTT ST
82801	MVW	000 001	
D05750		.00 STATE OF MONTANA	2701 PROSPECT AVE
59601	T1N	R263 SEC 32N2NW4	
D05900		.00 B WHO U R, LLC	2519 ROTH LN
59102	0384	000 000 FRAC	
D05903		100.00 ROOKHUIZEN, EDWARD J & DIANNA	705 AGATE AVE
59105	1758	000 001	
E00018A		50.00 QWEST CORPORATION	1801 CALIFORNIA ST STE
2500	80202	2223 000 000	
E00097		.00 BURLINGTON NORTHERN INC.	
A31495		30.00 HUNTERS POINTE APARTMENTS LLC	2785 W 9000 S
84088	SRD	000 002	

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6A



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, SEPTEMBER 25, 2006

SUBJECT: Re-spread Resolution for a Property Split in Special Improvement Districts 1332 and 1341

DEPARTMENT: Administration – Finance Division

PRESENTED BY: Patrick M Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: The following assessment has been completed by the Finance Division and is ready to spread on the tax rolls. One (1) parcel is being split into four (4) parcels by request of the property owner. New tax codes have been assigned to each parcel. SID 1332 is for curb, gutter, sidewalk and street improvements located in Circle Fifty Sub. SID 1341 is for park improvements located in Circle Fifty Sub. This project, bond sale and the original spread on tax rolls were previously approved by council.

FINANCIAL IMPACT: The original assessment is re-spread over the new parcel for the same cost and interest rate.

RECOMMENDATION

Staff recommends that a public hearing be held and that Council passes the proposed resolution on September 25, 2006.

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

ATTACHMENT

A-Tax Code Description
B-Split Assessment Resolution

Attachment A

Circle Fifty Subdivision

Original tax codes A26428

New tax codes

A26428A
A26428B
A26428C
A26428D

RESOLUTION NO. 06 _____

A RESOLUTION RE-LEVYING AND RE-ASSESSING A TAX UPON A PORTION OF THE PROPERTY IN SID'S 1332 AND 1341, IN THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF RE-LEVYING AND RE-ASSESSING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS THEREIN.

WHEREAS, THE CITY CREATED IMPROVEMENTS AND

WHEREAS, IT IS NECESSARY TO RE-LEVY AND RE-ASSESS A TAX TO DEFRAY A PORTION OF THE COST AND EXPENSES OF SAID DISTRICT, NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA AS FOLLOWS:

LT 5 BLK 1 CIRCLE FIFTY SUB

1. RE-LEVY AND RE-ASSESSMENT

THAT FOR THE PURPOSE OF DEFRAYING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS IN SID'S 1332 AND 1341 OF THE CITY OF BILLINGS, MONTANA, THERE IS HEREBY LEVIED AND ASSESSED UPON EACH LOT OR PARCEL OF LAND DESCRIBED BELOW, OWNED BY PERSONS RESPECTIVELY INDICATED A TAX OR SPECIAL ASSESSMENT PAYABLE IN SEMI-ANNUAL INSTALLMENTS WITH INTEREST.

EACH LOT AND PARCEL ASSESSED AND THE OWNER THEREOF IS HEREINAFTER DESCRIBED:

COUNTRY MANOR OFFICE BLDG CONDO MASTER LTS 5 & 6 BLK 1 CIRCLE FIFTY SUB (06) (A26428)

UNIT 1 COUNTRY MANOR OFFICE BLDG CONDO 40% INT IN COMMON ELEMENTS LOC @ LTS 5 & 6 BLK 1 CIRCLE FIFTY SUB (06) (A26428A)

UNIT B COUNTRY MANOR OFFICE BLDG CONDO 15% INT IN COMMON ELEMENTS LOC @ LTS 5 & 6 BLK 1 CIRCLE FIFTY SUB (06) (A26428B)

UNIT C COUNTRY MANOR OFFICE BLDG CONDO 17% INT IN COMMON ELEMENTS LOC @ LTS 5 & 6 BLK 1 CIRCLE FIFTY SUB (A26428C)

UNIT D COUNTRY MANOR OFFICE BLDG CONDO 28% INT IN COMMON ELEMENTS LOC @ LTS 5 & 6 BLK 1 CIRCLE FIFTY SUB (06) (A26428D)

2. DISPOSITON OF COLLECTION

ALL MONIES COLLECTED FROM THE TAX SHALL BE PAID INTO SID'S 1332 AND 1341.

3. NOTICE AND HEARING.

THAT ON MONDAY THE 25TH DAY OF SEPTEMBER, 2006 AT 6:30 P.M. OR AS SOON THEREAFTER AS THE MATTER MAY BE CONSIDERED ON THE AGENDA IN THE COUNCIL CHAMBERS OF THE CITY HALL, BILLINGS, MONTANA, THE COUNCIL WILL HEAR OBJECTIONS TO THE FINAL ADOPTION OF THIS RESOLUTION. THE CITY CLERK IS HEREBY DIRECTED TO PUBLISH NOTICE THEREOF ONCE, AT LEAST FIVE (5) DAYS PRIOR TO THE HEARING, IN THE BILLINGS TIMES.

4. CERTIFICATION.

THE CITY CLERK IS HEREBY DIRECTED UPON FINAL PASSAGE AND APPROVAL OF THIS RESOLUTION TO CERTIFY A COPY THEREOF TO THE FINANCIAL SERVICES MANAGER OF THE CITY OF BILLINGS, MONTANA, WHO SHALL CERTIFY A COPY TO THE YELLOWSTONE COUNTY CLERK AND A COPY TO THE YELLOWSTONE COUNTY ASSESSOR.

5. EFFECTIVE DATE.

THIS RESOLUTION SHALL BE EFFECTIVE UPON ADOPTION.

The foregoing Resolution No. 06-_____ was FINALLY ADOPTED by the City Council and APPROVED this 25th day of **September, 2006**.

CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Marita Herold, CMC/AAE CITY CLERK

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CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, SEPTEMBER 25, 2006

SUBJECT: Re-spread Resolution for a Property Split in Special Improvement Districts 1332, 1341, and 1353

DEPARTMENT: Administration – Finance Division

PRESENTED BY: Patrick M Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: The following assessment has been completed by the Finance Division and is ready to spread on the tax rolls. One (1) parcel is being split into four (4) parcels by request of the property owner. New tax codes have been assigned to each parcel. SID 1332 is for curb, gutter, sidewalk and street improvements located in Circle Fifty Sub. SID 1341 is for park improvements located in Circle Fifty Sub. SID 1353 is for water, sewer, storm drain, curb, gutter, and street improvements located in Circle Fifty/Hancock Grand. This project, bond sale and the original spread on tax rolls were previously approved by council.

FINANCIAL IMPACT: The original assessment is re-spread over the new parcel for the same cost and interest rate.

RECOMMENDATION

Staff recommends that a public hearing be held and that Council passes the proposed resolution on September 25, 2006.

Approved By: City Administrator City Attorney

ATTACHMENT

A-Tax Code Description
B-Split Assessment Resolution

Attachment A

Circle Fifty Subdivision/Hancock Grand

Original tax codes A26434

New tax codes

A26434
C14723
C14724
C14725

RESOLUTION NO. 06_____

A RESOLUTION RE-LEVYING AND RE-ASSESSING A TAX UPON A PORTION OF THE PROPERTY IN SID'S 1332, 1341, AND 1353, IN THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF RE-LEVYING AND RE-ASSESSING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS THEREIN.

WHEREAS, THE CITY CREATED IMPROVEMENTS AND

WHEREAS, IT IS NECESSARY TO RE-LEVY AND RE-ASSESS A TAX TO DEFRAY A PORTION OF THE COST AND EXPENSES OF SAID DISTRICT, NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA AS FOLLOWS:

LT 6A BLK 2 CIRCLE FIFTY SUBD 40,002 SQ FT (OLD A26435) (05)

LT 6B BLK 2 CIRCLE FIFTY SUB AMD LT 6 39,379 SF (OLD A26435) (05)

LT 6C BLK 2 CIRCLE FIFTY SUB AMD LT 6 44,107 SF (OLD A26435) (05)

LT 6D BLK 2 CIRCLE FIFTY SUB AMD 45546 SQ FT (OLD #A26435) (05)

1. RE-LEVY AND RE-ASSESSMENT

THAT FOR THE PURPOSE OF DEFRAYING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS IN SID'S 1332, 1341, AND 1353, OF THE CITY OF BILLINGS, MONTANA, THERE IS HEREBY LEVIED AND ASSESSED UPON EACH LOT OR PARCEL OF LAND DESCRIBED BELOW, OWNED BY PERSONS RESPECTIVELY INDICATED A TAX OR SPECIAL ASSESSMENT PAYABLE IN SEMI-ANNUAL INSTALLMENTS WITH INTEREST. EACH LOT AND PARCEL ASSESSED AND THE OWNER THEREOF IS HEREINAFTER DESCRIBED:

2. DISPOSITION OF COLLECTION

ALL MONIES COLLECTED FROM THE TAX SHALL BE PAID INTO SID'S 1332, 1341, AND 1353.

3. NOTICE AND HEARING.

THAT ON MONDAY THE 25TH DAY OF SEPTEMBER, 2006 AT 6:30 P.M. OR AS SOON THEREAFTER AS THE MATTER MAY BE CONSIDERED ON THE AGENDA IN THE COUNCIL CHAMBERS OF THE CITY HALL, BILLINGS, MONTANA, THE COUNCIL WILL HEAR OBJECTIONS TO THE FINAL ADOPTION OF THIS RESOLUTION. THE CITY CLERK IS HEREBY DIRECTED TO PUBLISH NOTICE THEREOF ONCE, AT LEAST FIVE (5) DAYS PRIOR TO THE HEARING, IN THE BILLINGS TIMES.

4. CERTIFICATION.

THE CITY CLERK IS HEREBY DIRECTED UPON FINAL PASSAGE AND APPROVAL OF THIS RESOLUTION TO CERTIFY A COPY THEREOF TO THE FINANCIAL SERVICES MANAGER OF THE CITY OF BILLINGS, MONTANA, WHO SHALL CERTIFY A COPY TO THE YELLOWSTONE COUNTY CLERK AND A COPY TO THE YELLOWSTONE COUNTY ASSESSOR.

5. EFFECTIVE DATE.

THIS RESOLUTION SHALL BE EFFECTIVE UPON ADOPTION.

The foregoing Resolution No. 06-_____ was FINALLY ADOPTED by the City Council and APPROVED this 25th day of **September, 2006**.

CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Marita Herold, CMC/AAE CITY CLERK

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CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, SEPTEMBER 25, 2006

SUBJECT: Re-spread Resolution for a Property Split in Special Improvement District 1346

DEPARTMENT: Administration – Finance Division

PRESENTED BY: Patrick M Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: The following assessment has been completed by the Finance Division and is ready to spread on the tax rolls. One (1) parcel is being split into twenty-(20) parcels by request of the property owner. New tax codes have been assigned to each parcel. SID 1346 is streetscape improvements located in N Broadway: Montana Ave to 4th Ave N. This project, bond sale and the original spread on tax rolls were previously approved by council.

FINANCIAL IMPACT: The original assessment is re-spread over the new parcel for the same cost and interest rate.

RECOMMENDATION

Staff recommends that a public hearing be held and that Council passes the proposed resolution on September 25, 2006.

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

ATTACHMENT

A-Tax Code Description

B-Split Assessment Resolution

Attachment A

Stapleton Development Venture
N Broadway, Montana Avenue to 4th Avenue N

Original tax code A00640G

New tax codes A00640A
 A00640B
 A00640C
 A00640D
 A00640E
 A00640F
 A00640H
 A00640I
 A00640J
 A00640K
 A00640L
 A00640N
 A00640O
 A00640P
 A00640Q
 A00640R
 A00640S
 A00640T
 A00640U
 A00640V

RESOLUTION 06 _____

A RESOLUTION RE-LEVYING AND RE-ASSESSING A TAX UPON A PORTION OF THE PROPERTY IN SID 1346, IN THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF RE-LEVYING AND RE-ASSESSING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS THEREIN.

WHEREAS, THE CITY CREATED IMPROVEMENTS AND

WHEREAS, IT IS NECESSARY TO RE-LEVY AND RE-ASSESS A TAX TO DEFRAY A PORTION OF THE COST AND EXPENSES OF SAID DISTRICT, NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA AS FOLLOWS:

1. RE-LEVY AND RE-ASSESSMENT

THAT FOR THE PURPOSE OF DEFRAYING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS IN SID 1346 OF THE CITY OF BILLINGS, MONTANA, THERE IS HEREBY LEVIED AND ASSESSED UPON EACH LOT OR PARCEL OF LAND DESCRIBED BELOW, OWNED BY PERSONS RESPECTIVELY INDICATED A TAX OR SPECIAL ASSESSMENT PAYABLE IN SEMI-ANNUAL INSTALLMENTS WITH INTEREST.

EACH LOT AND PARCEL ASSESSED AND THE OWNER THEREOF IS HEREINAFTER DESCRIBED:

UNIT 101 STAPLETON BUILDING 6.0568% INT IN COMMON ELEMENTS LOC @ LTS 1-4 BLK 93

UNIT 102 STAPLETON BUILDING 2.9607% INT IN COMMON ELEMENTS LOC @ LTS 1-4 BLK 93

UNIT 103 STAPLETON BUILDING 4.2738% INT IN COMMON ELEMENTS LOC @ LTS 1-4 BLK 93

UNIT 104 STAPLETON BUILDING 6.1551% INT IN COMMON ELEMENTS LOC @ LTS 1-4 BLK 93

UNIT 105 STAPLETON BUILDING 3.2993% INT IN COMMON ELEMENTS LOC @ LTS 1-4 BLK 93

UNIT 201 STAPLETON BUILDING 27.3669% INT IN COMMON ELEMENTS LOC @ LTS 1-4 BLK 93

UNIT 301 STAPLETON BUILDING 3.9264% INT IN COMMON ELEMENTS LOC @ LTS 1-4 BLK 93
UNIT 302 STAPLETON BUILDING 3.3015% INT IN COMMON ELEMENTS LOC @ LTS 1-4 BLK 93
UNIT 303 STAPLETON BUILDING 3.0634% INT IN COMMON ELEMENTS LOC @ LTS 1-4 BLK 93
UNIT 304 STAPLETON BUILDING 2.7815% INT IN COMMON ELEMENTS LOC @ LTS 1-4 BLK 93
UNIT 305 STAPLETON BUILDING 3.4741% INT IN COMMON ELEMENTS LOC @ LTS 1-4 BLK 93
UNIT 306 STAPLETON BUILDING 2.7727% INT IN COMMON ELEMENTS LOC @ LTS 1-4 BLK 93
UNIT 307 STAPLETON BUILDING 2.2527% INT IN COMMON ELEMENTS LOC @ LTS 1-4 BLK 93
UNIT 308 STAPLETON BUILDING 3.3889% INT IN COMMON ELEMENTS LOC @ LTS 1-4 BLK 93
UNIT 401 STAPLETON BUILDING 4.5819% INT IN COMMON ELEMENTS LOC @ LTS 1-4 BLK 93
UNIT 402 STAPLETON BUILDING 4.4377% INT IN COMMON ELEMENTS LOC @ LTS 1-4 BLK 93
UNIT 403 STAPLETON BUILDING 3.9941% INT IN COMMON ELEMENTS LOC @ LTS 1-4 BLK 93
UNIT 404 STAPLETON BUILDING 3.7625% INT IN COMMON ELEMENTS LOC @ LTS 1-4 BLK 93
UNIT 405 STAPLETON BUILDING 2.622% INT IN COMMON ELEMENTS LOC @ LTS 1-4 BLK 93
UNIT 406 STAPLETON BUILDING 5.528% INT IN COMMON ELEMENTS LOC @ LTS 1-4 BLK 93

2. DISPOSITION OF COLLECTION

ALL MONIES COLLECTED FROM THE TAX SHALL BE PAID INTO SID 1346

3. NOTICE AND HEARING.

THAT ON MONDAY THE 25^H DAY OF SEPTEMBER, 2006 AT 6:30 P.M. OR AS SOON THEREAFTER AS THE MATTER MAY BE CONSIDERED ON THE AGENDA IN THE COUNCIL CHAMBERS OF THE CITY HALL, BILLINGS, MONTANA, THE COUNCIL WILL HEAR OBJECTIONS TO THE FINAL ADOPTION OF THIS RESOLUTION. THE CITY CLERK PUBLISHED NOTICE HEREOF TWICE, ON SEPTEMBER 14 AND SEPTEMBER 21, 2006, IN THE BILLINGS TIMES.

4. CERTIFICATION.

THE CITY CLERK IS HEREBY DIRECTED UPON FINAL PASSAGE AND APPROVAL OF THIS RESOLUTION TO CERTIFY A COPY THEREOF TO THE CITY ADMINISTRATOR OF THE CITY OF BILLINGS, MONTANA, WHO SHALL CERTIFY A COPY TO THE YELLOWSTONE COUNTY CLERK AND A COPY TO THE YELLOWSTONE COUNTY ASSESSOR.

5. EFFECTIVE DATE.

THIS RESOLUTION SHALL BE EFFECTIVE UPON ADOPTION.

ADOPTED and APPROVED by the City Council on the **25th** day of **September, 2006**

CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Marita Herold, CMC/AAE CITY CLERK

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6D



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, SEPTEMBER 25, 2006

SUBJECT: Re-spread Resolution for a Property Combine in Special Improvement District 1356

DEPARTMENT: Administration – Finance Division

PRESENTED BY: Patrick M Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: The following assessment has been completed by the Finance Division and is ready to spread on the tax rolls. One (1) parcel is being combined into one (1) parcel by request of the property owner. New tax codes have been assigned to each parcel. SID 1356 is for water, storm drain, curb, gutter, and street improvements located in Studer Acreage Tracts Sub. This project, bond sale and the original spread on tax rolls were previously approved by council.

FINANCIAL IMPACT: The original assessment is re-spread over the new parcel for the same cost and interest rate.

RECOMMENDATION

Staff recommends that a public hearing be held and that Council passes the proposed resolution on September 25, 2006.

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

ATTACHMENT

A-Tax Code Description

B-Combine Assessment Resolution

C. C. SPENCER REVOCABLE TRUST
Studer Acreage Tracts Sub

Original tax code C14764

New tax code
C14765

RESOLUTION NO. 06_____

A RESOLUTION RE-LEVYING AND RE-ASSESSING A TAX UPON A PORTION OF THE PROPERTY IN SID 1356, IN THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF RE-LEVYING AND RE-ASSESSING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS THEREIN.

WHEREAS, THE CITY CREATED IMPROVEMENTS AND

WHEREAS, IT IS NECESSARY TO RE-LEVY AND RE-ASSESS A TAX TO DEFRAY A PORTION OF THE COST AND EXPENSES OF SAID DISTRICT, NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA AS FOLLOWS:

1. RE-LEVY AND RE-ASSESSMENT

THAT FOR THE PURPOSE OF DEFRAYING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS IN SID 1356 OF THE CITY OF BILLINGS, MONTANA, THERE IS HEREBY LEVIED AND ASSESSED UPON EACH LOT OR PARCEL OF LAND DESCRIBED BELOW, OWNED BY PERSONS RESPECTIVELY INDICATED A TAX OR SPECIAL ASSESSMENT PAYABLE IN SEMI-ANNUAL INSTALLMENTS WITH INTEREST.

EACH LOT AND PARCEL ASSESSED AND THE OWNER THEREOF IS HEREINAFTER DESCRIBED:

LT 3 STUDER ACREAGE TRACTS SUB (C14764)

LT 3C & 3D STUDER ACREAGE TRACTS SUB AMD 60,099 SF (COMBO W/C14764) (06)

2. DISPOSITION OF COLLECTION

ALL MONIES COLLECTED FROM THE TAX SHALL BE PAID INTO SID 1356.

3. NOTICE AND HEARING.

THAT ON MONDAY THE 25TH DAY OF SEPTEMBER, 2006 AT 6:30 P.M. OR AS SOON THEREAFTER AS THE MATTER MAY BE CONSIDERED ON THE AGENDA IN THE COUNCIL CHAMBERS OF THE CITY HALL, BILLINGS, MONTANA, THE COUNCIL WILL HEAR OBJECTIONS TO THE FINAL ADOPTION OF THIS RESOLUTION. THE

CITY CLERK IS HEREBY DIRECTED TO PUBLISH NOTICE THEREOF ONCE, AT LEAST FIVE (5) DAYS PRIOR TO THE HEARING, IN THE BILLINGS TIMES.

4. CERTIFICATION.

THE CITY CLERK IS HEREBY DIRECTED UPON FINAL PASSAGE AND APPROVAL OF THIS RESOLUTION TO CERTIFY A COPY THEREOF TO THE FINANCIAL SERVICES MANAGER OF THE CITY OF BILLINGS, MONTANA, WHO SHALL CERTIFY A COPY TO THE YELLOWSTONE COUNTY CLERK AND A COPY TO THE YELLOWSTONE COUNTY ASSESSOR.

5. EFFECTIVE DATE.

THIS RESOLUTION SHALL BE EFFECTIVE UPON ADOPTION.

The foregoing Resolution No. 06-_____ was FINALLY ADOPTED by the City Council and APPROVED this 25th day of **September, 2006**.

CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Marita Herold, CMC/AAE CITY CLERK

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CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, SEPTEMBER 25, 2006

SUBJECT: Re-spread Resolution for a Property Combine in Special Improvement District 1360

DEPARTMENT: Administration – Finance Division

PRESENTED BY: Patrick M Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: The following assessment has been completed by the Finance Division and is ready to spread on the tax rolls. Two (2) parcels are being combined into one (1) parcel by request of the property owner. New tax codes have been assigned to each parcel. SID 1360 is for installing water, sanitary sewer, storm drain, and street improvements. This project, bond sale and the original spread on tax rolls were previously approved by council.

FINANCIAL IMPACT: The original assessment is re-spread over the new parcel for the same cost and interest rate.

RECOMMENDATION

Staff recommends that a public hearing be held and that Council passes the proposed resolution on September 25, 2006.

Approved By: City Administrator City Attorney

ATTACHMENT

A-Tax Code Description

B-Combine Assessment Resolution

Attachment A

KENNEDY PROPERTIES LLC
Millennium Market Sub

Original tax codes C13066
 C13067

New tax code
 C13065

RESOLUTION NO. 06 _____

A RESOLUTION RE-LEVYING AND RE-ASSESSING A TAX UPON A PORTION OF THE PROPERTY IN SID 1360, IN THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF RE-LEVYING AND RE-ASSESSING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS THEREIN.

WHEREAS, THE CITY CREATED IMPROVEMENTS AND

WHEREAS, IT IS NECESSARY TO RE-LEVY AND RE-ASSESS A TAX TO DEFRAY A PORTION OF THE COST AND EXPENSES OF SAID DISTRICT, NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA AS FOLLOWS:

1. RE-LEVY AND RE-ASSESSMENT

THAT FOR THE PURPOSE OF DEFRAYING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS IN SID 1360 OF THE CITY OF BILLINGS, MONTANA, THERE IS HEREBY LEVIED AND ASSESSED UPON EACH LOT OR PARCEL OF LAND DESCRIBED BELOW, OWNED BY PERSONS RESPECTIVELY INDICATED A TAX OR SPECIAL ASSESSMENT PAYABLE IN SEMI-ANNUAL INSTALLMENTS WITH INTEREST.

EACH LOT AND PARCEL ASSESSED AND THE OWNER THEREOF IS HEREINAFTER DESCRIBED:

LT 9 BLK 1 MILLENNIUM MARKET SUB (C13066)

LT 10 BLK 1 MILLENNIUM MARKET SUB (C13067)

LT 8-10 BLK 1 MILLENNIUM MARKET SUB 128548 SQ FT (COMBO W/C13066-67) (06)

2. DISPOSITION OF COLLECTION

ALL MONIES COLLECTED FROM THE TAX SHALL BE PAID INTO SID 1360.

3. NOTICE AND HEARING.

THAT ON MONDAY THE 25TH DAY OF SEPTEMBER, 2006 AT 6:30 P.M. OR AS SOON THEREAFTER AS THE MATTER MAY BE CONSIDERED ON THE AGENDA IN THE

COUNCIL CHAMBERS OF THE CITY HALL, BILLINGS, MONTANA, THE COUNCIL WILL HEAR OBJECTIONS TO THE FINAL ADOPTION OF THIS RESOLUTION. THE CITY CLERK IS HEREBY DIRECTED TO PUBLISH NOTICE THEREOF ONCE, AT LEAST FIVE (5) DAYS PRIOR TO THE HEARING, IN THE BILLINGS TIMES.

4. CERTIFICATION.

THE CITY CLERK IS HEREBY DIRECTED UPON FINAL PASSAGE AND APPROVAL OF THIS RESOLUTION TO CERTIFY A COPY THEREOF TO THE FINANCIAL SERVICES MANAGER OF THE CITY OF BILLINGS, MONTANA, WHO SHALL CERTIFY A COPY TO THE YELLOWSTONE COUNTY CLERK AND A COPY TO THE YELLOWSTONE COUNTY ASSESSOR.

5. EFFECTIVE DATE.

THIS RESOLUTION SHALL BE EFFECTIVE UPON ADOPTION.

The foregoing Resolution No. 06-_____ was FINALLY ADOPTED by the City Council and APPROVED this 25th day of **September, 2006**.

CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Marita Herold, CMC/AAE CITY CLERK

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CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, SEPTEMBER 25, 2006

SUBJECT: Re-spread Resolution for a Property Split in Special Improvement District 2203

DEPARTMENT: Administration – Finance Division

PRESENTED BY: Patrick M Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: The following assessment has been completed by the Finance Division and is ready to spread on the tax rolls. One (1) parcel is being split into two (2) parcels by request of the property owner. New tax codes have been assigned to each parcel. SID 2203 is for sidewalk, curb and gutter improvements. This project, bond sale and the original spread on tax rolls were previously approved by council.

FINANCIAL IMPACT: The original assessment is re-spread over the new parcel for the same cost and interest rate.

RECOMMENDATION

Staff recommends that a public hearing be held and that Council passes the proposed resolution on September 25, 2006.

Approved By: City Administrator City Attorney

ATTACHMENT

A-Tax Code Description

B-Split Assessment Resolution

Keirle Subdivision

Original tax codes A09568

New tax codes

A09569
A09570

RESOLUTION NO. 06_____

A RESOLUTION RE-LEVYING AND RE-ASSESSING A TAX UPON A PORTION OF THE PROPERTY IN SID 2203, IN THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF RE-LEVYING AND RE-ASSESSING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS THEREIN.

WHEREAS, THE CITY CREATED IMPROVEMENTS AND

WHEREAS, IT IS NECESSARY TO RE-LEVY AND RE-ASSESS A TAX TO DEFRAY A PORTION OF THE COST AND EXPENSES OF SAID DISTRICT, NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA AS FOLLOWS:

LT 7 BLK 9 KEIRLE SUBD (A09568)

LT 8A BLK 9 KEIRLE SUBD 3RDFIL AMD 7000 SQ FT (06) (A09569)

LT 9A BLK 9 KEIRLE SUB 3RD FIL AMD 7987 SQ FT (06) (A09570)

1. RE-LEVY AND RE-ASSESSMENT

THAT FOR THE PURPOSE OF DEFRAYING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS IN SID 2203 OF THE CITY OF BILLINGS, MONTANA, THERE IS HEREBY LEVIED AND ASSESSED UPON EACH LOT OR PARCEL OF LAND DESCRIBED BELOW, OWNED BY PERSONS RESPECTIVELY INDICATED A TAX OR SPECIAL ASSESSMENT PAYABLE IN SEMI-ANNUAL INSTALLMENTS WITH INTEREST.

EACH LOT AND PARCEL ASSESSED AND THE OWNER THEREOF IS HEREINAFTER DESCRIBED:

2. DISPOSITION OF COLLECTION

ALL MONIES COLLECTED FROM THE TAX SHALL BE PAID INTO SID 2203.

3. NOTICE AND HEARING.

THAT ON MONDAY THE 25TH DAY OF SEPTEMBER, 2006 AT 6:30 P.M. OR AS SOON THEREAFTER AS THE MATTER MAY BE CONSIDERED ON THE AGENDA IN THE COUNCIL CHAMBERS OF THE CITY HALL, BILLINGS, MONTANA, THE COUNCIL

WILL HEAR OBJECTIONS TO THE FINAL ADOPTION OF THIS RESOLUTION. THE CITY CLERK IS HEREBY DIRECTED TO PUBLISH NOTICE THEREOF ONCE, AT LEAST FIVE (5) DAYS PRIOR TO THE HEARING, IN THE BILLINGS TIMES.

4. CERTIFICATION.

THE CITY CLERK IS HEREBY DIRECTED UPON FINAL PASSAGE AND APPROVAL OF THIS RESOLUTION TO CERTIFY A COPY THEREOF TO THE FINANCIAL SERVICES MANAGER OF THE CITY OF BILLINGS, MONTANA, WHO SHALL CERTIFY A COPY TO THE YELLOWSTONE COUNTY CLERK AND A COPY TO THE YELLOWSTONE COUNTY ASSESSOR.

5. EFFECTIVE DATE.

THIS RESOLUTION SHALL BE EFFECTIVE UPON ADOPTION.

The foregoing Resolution No. 06-_____ was FINALLY ADOPTED by the City Council and APPROVED this 25th day of **September, 2006**.

CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Marita Herold, CMC/AAE CITY CLERK

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6G



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, SEPTEMBER 25, 2006

SUBJECT: Re-spread Resolution for a Property Split in Special Improvement Districts 2301 and 2399

DEPARTMENT: Administration – Finance Division

PRESENTED BY: Patrick M Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: The following assessment has been completed by the Finance Division and is ready to spread on the tax rolls. One (1) parcel is being split into twelve (12) parcels by request of the property owner. New tax codes have been assigned to each parcel. SID 2301 is for sidewalk, curb and gutter improvements and SID 2399 is for alley approach improvements. This project, bond sale and the original spread on tax rolls were previously approved by council.

FINANCIAL IMPACT: The original assessment is re-spread over the new parcel for the same cost and interest rate.

RECOMMENDATION

Staff recommends that a public hearing be held and that Council passes the proposed resolution on September 25, 2006.

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

ATTACHMENT

A-Tax Code Description

B-Combine Assessment Resolution

SoNoMa Development Venture

Original tax code	A00920
New tax codes	A00920A A00920B A00920C A00920D A00920E A00920F A00920G A00920H A00920I A00920J A00920K A00920L

RESOLUTION 06 _____

A RESOLUTION RE-LEVYING AND RE-ASSESSING A TAX UPON A PORTION OF THE PROPERTY IN SID'S 2301 AND 2399, IN THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF RE-LEVYING AND RE-ASSESSING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS THEREIN.

WHEREAS, THE CITY CREATED IMPROVEMENTS AND

WHEREAS, IT IS NECESSARY TO RE-LEVY AND RE-ASSESS A TAX TO DEFRAY A PORTION OF THE COST AND EXPENSES OF SAID DISTRICT, NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA AS FOLLOWS:

1. RE-LEVY AND RE-ASSESSMENT

THAT FOR THE PURPOSE OF DEFRAYING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS IN SID'S 2301 AND 2399 OF THE CITY OF BILLINGS, MONTANA, THERE IS HEREBY LEVIED AND ASSESSED UPON EACH LOT OR PARCEL OF LAND DESCRIBED BELOW, OWNED BY PERSONS RESPECTIVELY INDICATED A TAX OR SPECIAL ASSESSMENT PAYABLE IN SEMI-ANNUAL INSTALLMENTS WITH INTEREST.

EACH LOT AND PARCEL ASSESSED AND THE OWNER THEREOF IS HEREINAFTER DESCRIBED:

UNIT 101 SONOMA DEVELOPMENT 1/12 INT IN COMMON ELEMENTS LOC @ LTS 22 - 24 BLK 138

UNIT 102 SONOMA DEVELOPMENT 1/12 INT IN COMMON ELEMENTS LOC @ LTS 22 -24 BLK 138

UNIT 103 SONOMA DEVELOPMENT 1/12 INT IN COMMON ELEMENTS LOC @ LTS 22 - 24 BLK 138

UNIT 104 SONOMA DEVELOPMENT 1/12 INT IN COMMON ELEMENTS LOC @ LTS 22 -24 BLK 138

UNIT 105 SONOMA DEVELOPMENT 1/12 INT IN COMMON ELEMENTS LOC @ LTS 22 - 24 BLK 138

UNIT 106 SONOMA DEVELOPMENT 1/12 INT IN COMMON ELEMENTS LOC @ LTS 22 -24 BLK 138

UNIT 201 SONOMA DEVELOPMENT 1/12 INT IN COMMON ELEMENTS LOC @ LTS 22 - 24 BLK 138

UNIT 202 SONOMA DEVELOPMENT 1/12 INT IN COMMON ELEMENTS LOC @ LTS 22
-24 BLK 138
UNIT 203 SONOMA DEVELOPMENT 1/12 INT IN COMMON ELEMENTS LOC @ LTS 22
- 24 BLK 138
UNIT 204 SONOMA DEVELOPMENT 1/12 INT IN COMMON ELEMENTS LOC @ LTS 22
-24 BLK 138
UNIT 205 SONOMA DEVELOPMENT 1/12 INT IN COMMON ELEMENTS LOC @ LTS 22
- 24 BLK 138
UNIT 206 SONOMA DEVELOPMENT 1/12 INT IN COMMON ELEMENTS LOC @ LTS 22
-24 BLK 138

2. DISPOSITION OF COLLECTION

ALL MONIES COLLECTED FROM THE TAX SHALL BE PAID INTO SID'S 2301 AND 2399.

3. NOTICE AND HEARING.

THAT ON MONDAY THE 25^H DAY OF SEPTEMBER, 2006 AT 6:30 P.M. OR AS SOON THEREAFTER AS THE MATTER MAY BE CONSIDERED ON THE AGENDA IN THE COUNCIL CHAMBERS OF THE CITY HALL, BILLINGS, MONTANA, THE COUNCIL WILL HEAR OBJECTIONS TO THE FINAL ADOPTION OF THIS RESOLUTION. THE CITY CLERK PUBLISHED NOTICE HEREOF TWICE, ON SEPTEMBER 14 AND SEPTEMBER 21, 2006, IN THE BILLINGS TIMES.

4. CERTIFICATION.

THE CITY CLERK IS HEREBY DIRECTED UPON FINAL PASSAGE AND APPROVAL OF THIS RESOLUTION TO CERTIFY A COPY THEREOF TO THE CITY ADMINISTRATOR OF THE CITY OF BILLINGS, MONTANA, WHO SHALL CERTIFY A COPY TO THE YELLOWSTONE COUNTY CLERK AND A COPY TO THE YELLOWSTONE COUNTY ASSESSOR.

5. EFFECTIVE DATE.

THIS RESOLUTION SHALL BE EFFECTIVE UPON ADOPTION.

ADOPTED and APPROVED by the City Council on the **25th** day of **September, 2006**

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, September 25, 2006

TITLE: Proposed Street Name Change to Broadview Drive

DEPARTMENT: Public Works- Engineering

PRESENTED BY: Dave Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: At the request of the property owners, the City of Billings is proposing to change the name of Broadview Drive to Twin Oaks Drive, located within Uinta Park Subdivision. The property owners would like the name of the street to match the proposed future Twin Oaks Drive to the north. As shown in Attachment A, the property owners feel it would be more practical to name that portion of Broadview Drive north of Uinta Park Drive (the proposed Twin Oaks Drive) to something different than Broadview Drive to limit confusion, as the main portion of Broadview Drive is not in the general vicinity of that portion of Broadview Drive. No address changes will be required as a result of this request.

ALTERNATIVES ANALYZED

- Approve resolution allowing street name change.
- Do not approve resolution allowing street name change.

FINANCIAL IMPACT: There will be one new street name sign to be made. The new street name sign will be made and installed by the Street and Traffic Division for a total estimated cost of \$100. This cost will be the responsibility of the City.

RECOMMENDATION

It is hereby recommended that the City Council approve the resolution allowing the street name change of Broadview Drive to Twin Oaks Drive.

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

ATTACHMENTS

- A. Map (one page)
- B. Formal Request from Owner (one page)
- C. Resolution

RESOLUTION NO. 06-_____

A RESOLUTION PURSUANT TO BILLINGS, MONTANA CITY CODE ARTICLE 22-700, RENAMING THE STREET OF BROADVIEW DRIVE TO TWIN OAKS DRIVE.

WHEREAS, the City Council has authority to change the name of any street or avenue pursuant to Section 22-700, Billings, Montana City Code (BMCC); and

WHEREAS, the City Clerk published a notice of the public hearing in accordance with Section 22-702, Billings, Montanan City Code (BMCC); and

WHEREAS, the City Clerk mailed a notice of the public hearing to each property owner, or his agent abutting Broadview Drive, north of Uinta Park Drive, in accordance with Section 22-702, Billings, Montanan City Code (BMCC); and

WHEREAS, on Monday, September 25, 2006, the City Council held a public hearing on the renaming of the portion of Broadview Drive north of Uinta Park Drive; and

WHEREAS, the City Council of Billings finds that the renaming of Broadview Drive is acceptable; and

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

That once a copy of this resolution is filed with the Yellowstone County Clerk and Recorder, the street of Broadview Drive, north of Uinta Park Drive is deemed changed to TWIN OAKS DRIVE.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, this 25th day of September, 2006.

Mayor

Attest:

City Clerk

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 25, 2006

TITLE: Public Hearing and Resolution Relating to Petitions for Reduction of Arterial Construction Fee Assessments

DEPARTMENT: Public Works Department

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

PROBLEM / ISSUE STATEMENT: The City Council adopted Ordinance 05-5322 on April 11, 2005, in part to provide relief to commercially-zoned properties being used solely as owner-occupied single family residences. The ordinance states *“The City Council may provide an exemption to commercially zoned properties that are currently owner-occupied as a single-family residence. The property owner must annually request the exemption through the Public Works Department by August 31 of each year.”* The relief may be in the form of capping the parcel square footage at 9,600 square feet and calculating the assessment based on the R-9600 zoning rate instead of commercial zoning rates.

Public Works Administration staff developed a form for property owners meeting the criteria specified in Ordinance 05-5322 to annually petition the City Council for a reduction of their Arterial Construction Fee assessments. A copy of the form is available at the Public Works front counter, at the Finance Division front counter, at the City Administrator’s Office front counter, or by calling any of these offices.

As of August 31, 2006, the Public Works Department received eight (8) completed and signed petitions. Six (6) of the parcels meet the criteria specified in Ordinance 05-5322 and two (2) parcels do not meet the criteria. Last year, Public Works Department staff mistakenly recommended, and the City Council approved, a reduction to the Arterial Construction Fee assessments on these two parcels.

FINANCIAL IMPACT: Reducing the Arterial Construction Fee assessments on the six (6) parcels meeting the criteria of Ordinance 05-5322 means the City will collect \$1,929.85 less than if the City Council denied the petitions. However, if the City Council approves the denial of the two (2) parcels that do not meet the criteria of Ordinance 05-5322, the City of Billings will

generate \$670.68 more in Arterial Construction Fees than the City received for those two parcels last year.

RECOMMENDATION

Staff recommends that the City Council approve a Resolution reducing the Arterial Construction Fee assessments for the six (6) commercially-zoned parcels meeting the criteria of the ordinance by capping the parcel square footage at 9,600 square feet and calculating the assessments based on the R-9600 zoning rate instead of commercial zoning rates. We recommend no reduction to the Arterial Construction Fee assessments for the two (2) parcels that do not meet the criteria.

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

ATTACHMENTS:

- A – List of 2006 Petitions for Reduction of Arterial Construction Fee Assessments (1 pg)
- B – Copy of Petition for Reduction of Arterial Const. Fee Assessments Form (1 pg)
- C – Resolution (1 pg)

TAX CODE	ZONE	LAST NAME	FIRST NAME	PARCEL ADDRESS	PHONE	Comments	Assessment if Petition is NOT approved	Assessment if Petition IS Approved	Difference	Recommendation
C12313	HC	Himmelberger	Dennis	233 Swords Lane	406-259-8225		\$657.37	\$35.62	(\$621.75)	Approval
A03248	HC	Hirning	Rosa P	545 Judith Lane	406-245-7265		\$119.06	\$35.62	(\$83.45)	Approval
A05114	CI	Weisbeck	Peter P & Lucile V	107 S 8th Street West	406-259-2128		\$97.92	\$35.62	(\$62.30)	Approval
D05202	HC	Hatveldt	Art	2104 Bench Blvd	406-259-7090		\$515.03	\$35.62	(\$479.42)	Approval
D05200	HC	Moats	Melville & Vivian	2112 East Main Street	406-252-5049		\$472.39	\$35.62	(\$436.77)	Approval
						The parcel is zoned Residential Manufactured House (RMH). There is no provision within the ordinance allowing exemptions in RMH zoning. The Moats petitioned for, and received, a reduction last year because we missed the RMH zoning.				
D05201	RMH	Moats	Melville & Vivian	2112 East Main Street	406-252-5049		\$234.79	\$35.62	(\$199.18)	Denial
C01104	HC	Fisher	Lee E. & Patricia J.	704 Logan Lane	406-252-6033		\$281.78	\$35.62	(\$246.16)	Approval
D05199	HC	Kaufman	Austin	2111 Main Street	406-259-7653	Business Licence #05 00009704 issued 1/5/2006 and valid through 11/30/2006; "Americraft Lawn Ornaments" sign; one house; one trailer, one greenhouse w/sign that says "Plants Here"; 2+ other outbuildings; and 6' chain link fence around property. NOTE: Mr. Kaufman petitioned for, and received, a reduction last year, but we missed the business license and did not do a site visit.	\$507.12	\$35.62	(\$471.51)	Denial

Council approves the "approval" recommendations, the City will receive less in assessments.

the City Council approves the two denial recommendations, the City will receive more for those two parcels than we received last year.



Attachment B

Petition for Reduction of Arterial Construction Fee Assessments

The City Council adopted Ordinance 05-5322 on April 11, 2005, in part to provide relief to commercially zoned properties being used as owner-occupied single family residences. The ordinance states "*The City Council may provide an exemption to commercially zoned properties that are currently owner-occupied solely as a single-family residence. The property owner must annually request the exemption through the Public Works Department by August 31 of each year.*" The relief will be in the form of capping the parcel square footage at 9,600 square feet and calculating the assessment based on R-9600 zoning rates instead of commercial zoning rates. This ordinance change is not retroactive.

If your property meets the criteria above, and you wish to petition the City Council for a reduction of your Arterial Construction Fee assessments, please complete this form and return it to the Public Works Department, 510 N Broadway-4th Floor, Billings, MT 59101 **by August 31**.

.....

Date _____ Tax Code # _____ Taxable Year _____

Parcel street address _____

Parcel legal description _____

Parcel zoning classification _____

By signing below, I certify that I own the parcel identified above, that it is my primary residence, that I use the parcel solely as a single-family residence, and that all information provided on this form is true and correct. I understand that if the information supplied on this form is found to be false, I agree to pay back to the City of Billings the amount of the reduction to the Arterial Construction Fees on this parcel as a result of the false information PLUS penalty and interest. I further understand that I must apply annually for a reduction to the Arterial Construction Fee assessment by August 31. I agree to notify the Billings Public Works Department immediately should any information provided on this form change.

Property Owner Signature _____ Date _____

Property Owner Name (print legibly) _____

Mailing address _____

City _____ State _____ ZIP _____

Phone Number (optional) _____

RESOLUTION NO. 06- _____

**A RESOLUTION OF THE CITY OF BILLINGS RESPONDING TO
SUBMITTED PETITIONS FOR REDUCTION OF ARTERIAL
CONSTRUCTION FEE ASSESSMENTS THAT WOULD APPEAR ON THE
OCTOBER 2006 PROPERTY TAX STATEMENTS**

WHEREAS, the City Council adopted Ordinance 05-5322 on April 11, 2005, in part to provide relief to commercially-zoned properties being used solely as owner-occupied single family residences, and

WHEREAS, Ordinance 05-5322 states, "*The City Council may provide an exemption to commercially zoned properties that are currently owner-occupied as a single-family residence. The property owner must annually request the exemption through the Public Works Department by August 31 of each year.*.", and

WHEREAS, the City Council may provide relief to property owners meeting the criteria of Ordinance 05-5322 by capping the parcel square footage at 9,600 square feet and calculating the assessment based on R-9600 zoning rates instead of commercial zoning rates, and

WHEREAS, the Public Works Department received eight (8) completed and signed petitions by the August 31, 2006, deadline and

WHEREAS, the Public Works Department verified that six (6) of the eight (8) petitions involve properties meeting the criteria of Ordinance 05-5322, and

WHEREAS, reducing the assessments on these six (6) parcels would affect the Arterial Construction Fee assessments appearing on the tax statements Yellowstone County will print and mail in October 2006, and

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

1. **REDUCTION OF ASSESSMENTS:** The Arterial Construction Fees assessments on the following six (6) parcels shall be adjusted by Public Works Department staff and placed upon the assessment rolls and collected in the same manner as other City of Billings assessments.

TAX CODE #	ZONE	LAST NAME	FIRST NAME	PARCEL ADDRESS	Adjusted Assessment
C12313	HC	Himmelberger	Dennis	233 Swords Lane	\$35.62
A03248	HC	Hirning	Rosa P	545 Judith Lane	\$35.62
A05114	CI	Weisbeck	Peter P & Lucile V	107 S 8th Street West	\$35.62
D05202	HC	Hatveldt	Art	2104 Bench Blvd	\$35.62
D05200	HC	Moats	Melville & Vivian	2112 East Main Street	\$35.62

C01104	HC	Fisher	Lee E. & Patricia J.	704 Logan Lane	\$35.62
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2. **DENIAL OF ASSESSMENT REDUCTION:** There will be no reduction to the Arterial Construction Fee assessments on the following two (2) parcels.

TAX CODE	ZONE	LAST NAME	FIRST NAME	PARCEL ADDRESS
D05201	HC	Moats	Melville & Vivian	2112 East Main Street
D05199	HC	Kaufman	Austin	2111 Main Street

3. **NOTICE OF HEARING:** On Monday, **September 25, 2006**, at 6:30 p.m., or as soon thereafter as the matter may be considered on the agenda in the Council Chambers of the City Hall, Billings, Montana, the City Council will hear objections to the final adoption of this resolution. The City Clerk is hereby directed to publish notice thereof twice, at least five (5) days prior to the hearing, in the **Billings Times**.

4. **EFFECTIVE DATE:** This resolution shall be effective upon final adoption.

ADOPTED and APPROVED by the City Council this **25th** day of **September 2006**.

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, SEPTEMBER 25, 2006

TITLE: Public Hearing for Special Review #824
DEPARTMENT: Planning & Community Services
PRESENTED BY: Juliet Spalding, Planner II

PROBLEM/ISSUE STATEMENT: This is a Special Review to permit the construction of a wireless communication antenna support structure of 125 feet in a Community Commercial (CC) zone. The subject property is legally described as Tract 2A1 of Certificate of Survey 1965 and is located at the northeast corner of Highway 312 and 87. The entire parcel contains approximately 4.79 acres, although the area to be leased for the structure is 2,000 square feet. The owner is Ernie and Leanne Dutton and Verizon Wireless is the agent. The Zoning Commission conducted a public hearing on September 5, 2006, and is forwarding a recommendation to the City Council of conditional approval on a 2-1 vote.

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

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

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

RECOMMENDATION

The Zoning Commission is forwarding a recommendation of conditional approval to the City Council on a 2-1 vote on Special Review #824.

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

ATTACHMENTS

- A. Zoning Map
- B. Site Photographs
- C. Site Plan
- D. Letters from adjacent property owners

INTRODUCTION

The applicant is requesting a Special Review to permit the construction of a 125-foot wireless communication antenna support structure on a portion of a 4.7 acre tract legally described as Tract 2A1 of Certificate of Survey 1965. The subject property is zoned Community Commercial and is generally located at the northeast corner of Highway 87N and Highway 312 in the Heights. The structure is proposed to be located on a 40-foot by 50-foot enclosed area, approximately adjacent to the northwest corner of the Corral West Ranchwear store in the old K-mart plaza.

PROCEDURAL HISTORY

- A special review application to allow the construction of a 125-foot wireless communications antenna support structure was received on August 7, 2006.
- The City Zoning Commission held a public hearing on September 5, 2006, and voted 2-1 to forward a recommendation of conditional approval for this the special review request.
- The City Council will conduct a public hearing and consider this application on September 25, 2006.

BACKGROUND

A Special Review is required for the construction of new antenna support structures over fifty feet in height. Section 27-620(g), BMCC describes the general requirements for locating new antenna support structures within the Community Commercial zone. Some of those requirements include:

- meeting the setbacks for structures as designated in the underlying zoning district
- installation of a minimum 6-foot high fence of chain link or solid wood
- shielding the fence and any guy anchors with a minimum 4-foot high continuous evergreen shrub
- limiting the location of security lighting to only 20 feet in height, and pointed to the ground
- construction material of the tower either of galvanized steel or a material painted a neutral color; accessory buildings to be a neutral color
- separating towers that are greater than 50 feet in height from other towers that are greater than 50 feet in height by at least one (1) mile
- executing a collocation agreement prior to the building permit issuance that demonstrates that the tower can locate at least two (2) other antennas
- applicant must also obtain any applicable FAA & FCC permits, as well as a building permit within six (6) months of the special review approval; completion of construction shall be within one (1) year of special review approval.

As shown on the site plan and as documented in the support material, the proposed tower seems to meet the general requirements as outlined in the zoning code. It would be situated at the southwest corner of the subject property, within a 40-foot by 50-foot enclosed area to be leased to Verizon Wireless. It would meet the required setbacks for the CC zone, as well as the arterial setback requirements from Highways 87 & 312. The monopole tower is proposed to be constructed of galvanized steel, and a 12x26-foot prefabricated electronics shelter in an earth tone color is also proposed. Both the monopole and the shelter will be enclosed in a 40x50-foot

fenced area of chain-link with site obscuring slats, and a minimum 4-foot high continuous evergreen hedge surrounding the fence.

The two closest existing towers are further than one mile away from the proposed tower. There is a 180-foot tower approximately 1.2 miles to the south, at 637 Anchor St. and a 100-foot tower 2+ miles to the north at 2501 Highway 87 N. Also, a draft collocation agreement for two other antennas was submitted with the application. Structural feasibility of locating the other antennas will be reviewed at the time of the building permit review.

The Planning Department reviewed this application and recommended conditional approval. This appears to be an appropriate location of the proposed structure given the commercial character of the surrounding properties, and the existing uses in the area. The recommended conditions for this special review are based on the approval criteria for this type of special review use. The Zoning Commission conducted the public hearing and voted 2-1 to recommend conditional approval. Discussion on the public hearing proceedings is found below in the Stakeholders section of this report.

ALTERNATIVES ANALYSIS

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

1. Complies with all requirements of this Article (27-1500).

This application does comply with the requirements of the zoning regulations.

2. Is consistent with the objectives and purposes of Chapter 27 and the Growth Policy.

This application is generally consistent with the purposes of Chapter 27, the 2003 Growth Policy.

3. Is compatible with surrounding land uses or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.

The proposed use is compatible with the adjoining land uses, screening techniques will be used to minimize the ground-level aspects of the structure, and conditions of approval are recommended to ensure compatibility.

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

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

Based on the above criteria, the Zoning Commission is forwarding a recommendation of conditional approval on the special review request.

CONDITIONS OF APPROVAL

1. The antenna support structure shall be a monopole with a maximum height of 125 feet.
2. The chain link fence surrounding the site shall be a minimum of eight (8) feet in height if barbed wire is used, or a minimum of six (6) feet if the barbed wire is omitted.
3. Evidence shall be provided at the time of building permit review that the structure can accommodate at least two (2) additional comparable antennae.
4. A building permit shall be applied for within six (6) months of the special review approval and the project shall be completed within one (1) year of the special review approval unless an extension is otherwise granted in conformance with Section 27-620(L)(3), BMCC.
5. Development of the site shall be in substantial conformance with the site plan dated 8/15/06.
6. The proposed development shall comply with all other limitations of Section 27-620 of the Unified Zoning Regulations concerning wireless communications antennae, and other City regulations that apply.

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

STAKEHOLDERS

The public hearing was held on September 5, 2006, before the City Zoning Commission. The agent, Paul Slotemaker for Verizon Wireless, explained the project to the Zoning Commission. He indicated that the addition of this wireless communications antenna structure will help with the congestion on the Verizon network in the area, and provide new capacity for cell phone users. He stated that cell service in this area is "spotty" and the new tower location was selected based on its ability to off-load some of the current calls on the surrounding overloaded towers, but also not interfere with those existing towers. He also said that the zoning for the site was favorable and not too close to residential uses. Ernie Dutton, the landowner, also spoke in favor of the request, stating that he has met with the immediate business owners within the shopping plaza (American Pharmaceutical, the new Little Nevada casino being constructed, the book store, and others) and they were all favorable. He submitted 2 letters of support from adjacent landowners (see Attachment D). Connie Zug, Ernie Dutton's Property Manager, also spoke in favor of the project, stating that all of the tenants of the adjacent 'strip mall' were in support of increased cell service reception.

There was also testimony against the proposed project. Adjacent landowners, 4A's, LLC, represented by Blaine Poppler and Steve Kenney spoke in opposition to the new structure. They

stated that they did not know of the proposal until they received the notification letter sent by the Planning Department. They indicated that they have been working on a potential residential development directly adjacent to the subject property and did not have enough time to evaluate the potential effects of the new tower on their project. They requested that the Zoning Commission delay action on its recommendation for 30 days, to give them a chance to meet with the Dutton's and Verizon Wireless to evaluate the proposal. The Zoning Commission voted 2-1 to move forward with a recommendation to the City Council. The two members voting in favor of this action felt that the parties involved should have enough time to evaluate the project between when the notification was mailed 15 days prior to the Zoning Commission public hearing and when the City Council holds its public hearing.

CONSISTENCY WITH ADOPTED PLANS AND POLICIES

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

- Unobstructed views of the rimrocks surrounding the City of Billings (Aesthetics Goal #2)
- Improved public services (Economic Development Goal #4)

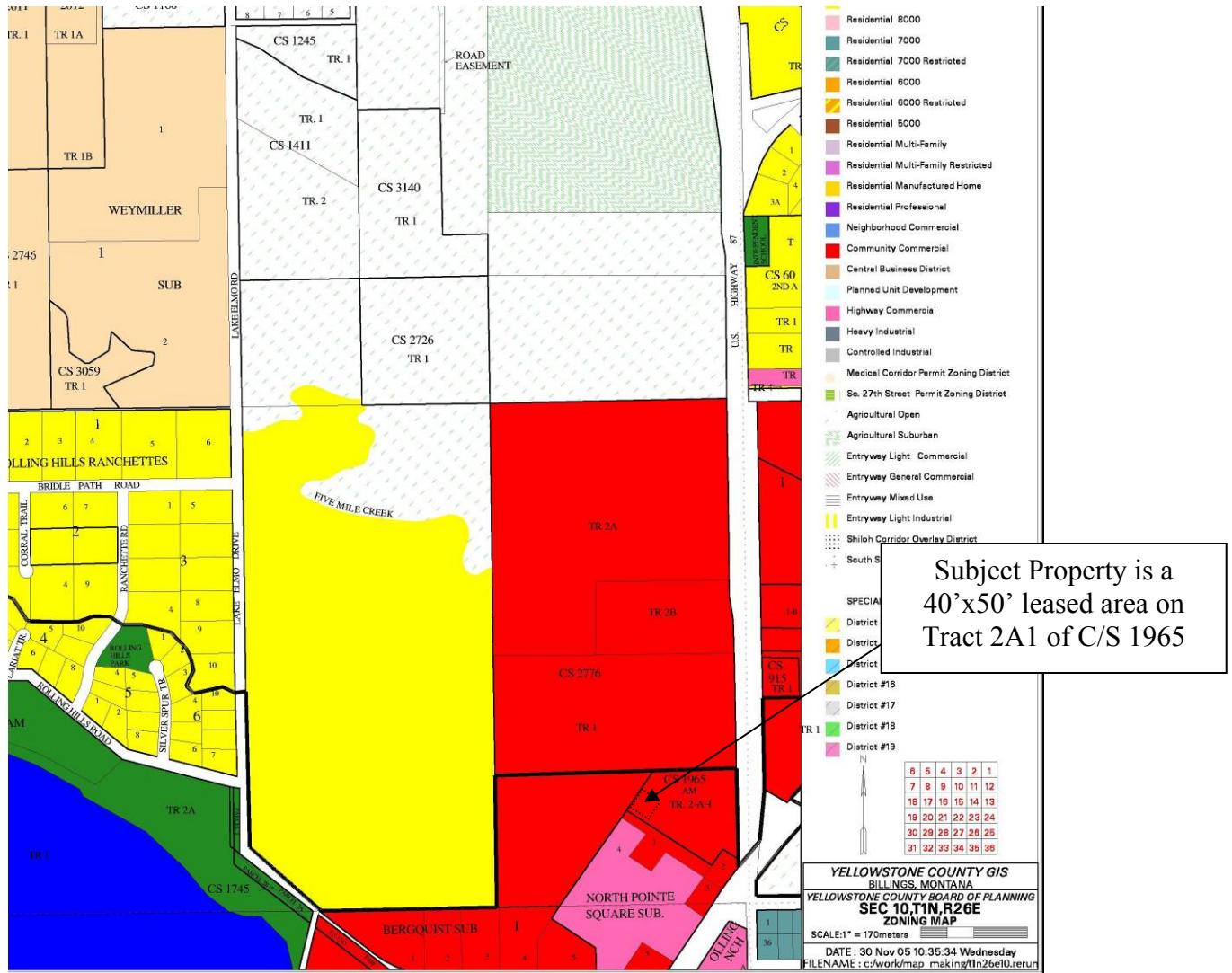
RECOMMENDATION

The Zoning Commission is forwarding a recommendation of conditional approval to the City Council on a 2-1 vote on Special Review #824.

ATTACHMENTS

- A. Zoning Map
- B. Site Photographs
- C. Site Plan
- D. Letters from adjacent property owners

ATTACHMENT A
Zoning Map – Special Review #824



ATTACHMENT B
Site photographs –Special Review #824

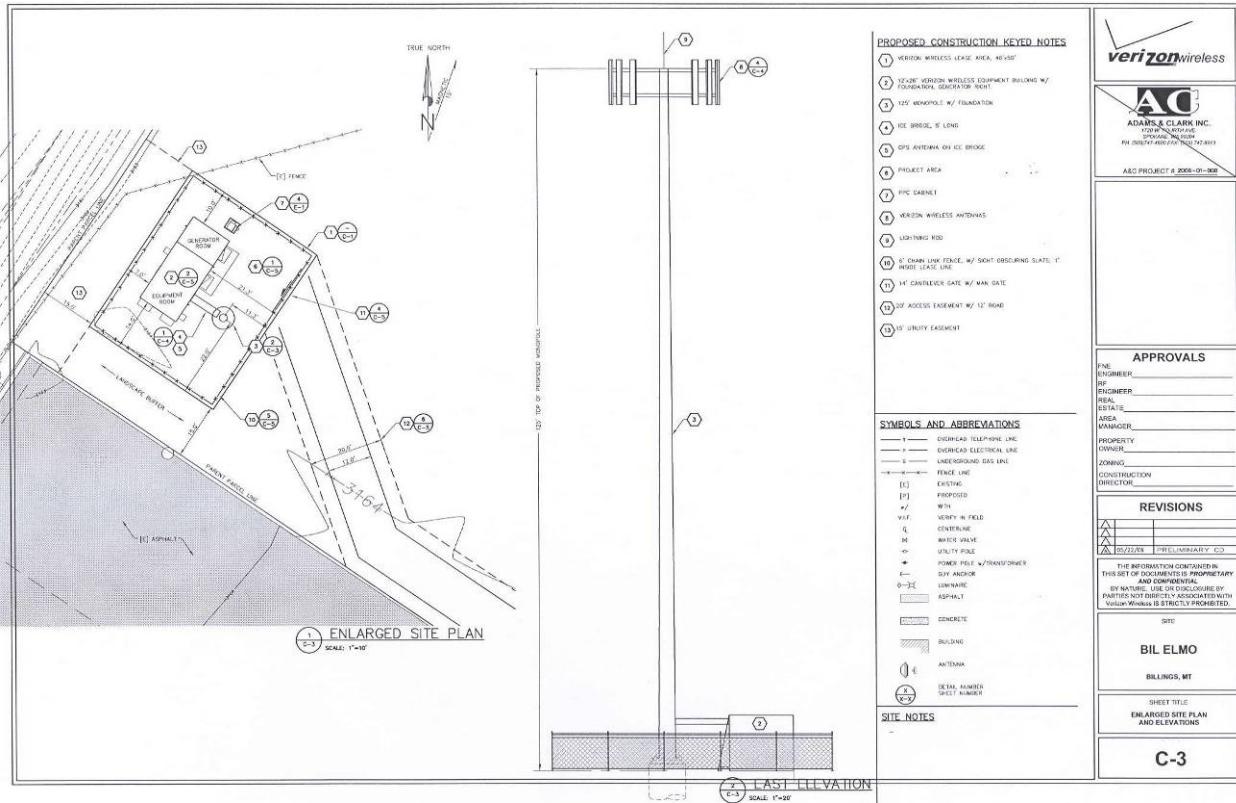


Looking west at subject property lease site.



Looking south across American Pharmaceuticals parking lot and adjoining shopping plaza.

ATTACHMENT C
Site Plan Special Review #824



ATTACHMENT D

09/05/06 TUE 15:39 FAX 406 256 2382

APPRAISERS INT'L, INC.

002

**SILVER FOX, INC.
DBA LITTLE NEVADA CASINO
1413 13th Street West
Billings, Montana 59102**

MEMO TO: City-County Planning

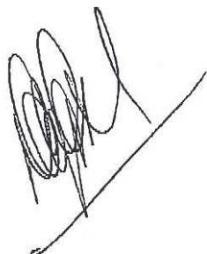
DATE: September 5, 2006

RE: PROPOSED CELL PHONE TOWER - OLD K-MART PROPERTY, HEIGHTS

We have been advised that a cell phone tower is proposed for this area. Throughout this area cell phone service seems to be deficient.

We are constructing a new facility on this property to house an enterprise. We believe the tower to be compatible with development in the area and not in the lease objectionable.

DAVID C. WASS
PRESIDENT & CEO



All American Pharmaceutical & Natural Foods Corporation
1845 Main Street
Billings, MT 59105 U.S.A.
406-245-5793 Fax 406-245-6157
jeffg@allamericanpharmaceutical.com
www.allamericanpharmaceutical.com

To: City Council
From: Jeff Golini
Date: 09-05-06

Ref: Cell phone tower

I am the owner of the K-mart property in the Heights and feel having a cell phone tower located on the property adjacent us would be an asset to the heights. To my knowledge, we do not have any towers out this way and could always use the extra reception..

Jeff Golini



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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, SEPTEMBER 25, 2006

TITLE: Public Hearing for Special Review #825

DEPARTMENT: Planning & Community Services

PRESENTED BY: Candi Beaudry, AICP, Interim Director

PROBLEM/ISSUE STATEMENT: This is a request for a special review to operate a 294-unit community residential facility for seniors in a Residential 9,600 zoning district on 14.07 acres. The property is also subject to the requirements of the Shiloh Corridor Overlay District. The parcel is located near the southwest corner of the intersection of Central Avenue and Shiloh Road, and is legally described as Tract 1, of corrected amendment of Tracts 1 and 3, and remainder Tract 2 to be amendment of Tracts 1, 2, and 3, Certificate of Survey 1648. The owners are Robert and Bonnie Bell, Trustees, and the agent is Mountain West Senior Housing, LLC. The property is currently used for agricultural purposes.

The Zoning Commission conducted a public hearing on September 5, 2006, and is forwarding a recommendation to the City Council of conditional approval on a 3-0 vote.

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

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

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

RECOMMENDATION

The Zoning Commission is forwarding a recommendation of conditional approval to the City Council on a 3-0 vote on Special Review #825.

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

ATTACHMENTS

- A. Photographs of the Site
- B. Zoning/Location Map
- C. Site Plan
- D. Photographs and Renderings of Similar Developments
- E. Eric Percy letter
- F. Mountain West Senior Housing, LLC letter

INTRODUCTION

The subject property was annexed to the City on August 28, 2006. Upon annexation, the zoning automatically converted from Agricultural Open-Space to Residential 9600. The property is also within the Shiloh Corridor Overlay District. Community housing facilities for seniors are allowed in an R-9,600 zone by Special Review only. The developer has worked with staff to ensure the proposed development meets the requirements for R-9,600 as well as the Shiloh Corridor Overlay District.

PROCEDURAL HISTORY

- August 7, 2006: Robert and Bonnie Bell submitted an application for Special Review on behalf of Mountain West Senior Housing.
- August 28, 2006: City Council approved the Resolution of Annexation for subject property.
- September 5, 2006: The City Zoning Commission held a public hearing and voted 3-0 to forward a recommendation of conditional approval for this the special review request.
- The City Council will conduct a public hearing and consider this application on September 25, 2006.

BACKGROUND

Mountain West Senior Housing, LLC, is proposing to develop a community campus that will provide a variety of housing options to senior residents. The proposed project will consist of 84 units of assisted living, 40 memory care beds, 144 units of congregate care and 26 senior cottage units. On-site amenities will include beauty and barber salon, exercise area, activity rooms, hospitality room, computer room and outdoor areas. The services to be provided include weekly housekeeping, 24-hour on-site staff, social, educational and recreational programs, scheduled transportation, emergency call system and meal plans.

With the exception of the cottages, all units will be housed in a multi-story building. The memory care facility will be a single-story wing with its own outdoor area. The remainder of the building will be three-stories. The north wing will provide independent or congregate care units for more active seniors. This wing is separated from the assisted living wing by a common dining and kitchen area, which also serves as the main entryway. The assisted living units are designed specifically for seniors who have a need for assistance with certain daily activities that can be delivered in a non-institutional environment. There are also 13 separate duplex structures with 26 units that provide a greater degree of independent living. All the structures are situated in a campus-like setting that is abundantly landscaped and provides sidewalk connections throughout the complex.

Community facilities are allowed in Residential 9,600 zoning districts by Special Review only. The adjoining zoning is primarily residential with the exception of Neighborhood Commercial at the intersection of Central and Shiloh. The property also lies within the Shiloh Corridor Overlay District and complies with the requirements of that district. The Overlay District requires a fence and a 15-foot bufferyard between residential and commercial uses. Outside lighting must be shielded and freestanding signs are restricted to 32 square feet and 15 feet high. These standards will help ensure that the development

is compatible with the surrounding residential facilities. There will be three accesses to the complex; one from Central Avenue and two from Bell Avenue. Bell Avenue intersects with Shiloh Road. Both Central and Shiloh are principal arterial that are designed to handle the increase in traffic volumes. At the development stage, the developers will be required to construct or financially guarantee the construction of improvements along Bell and Central. These improvements will include curb, gutter, and sidewalk, and 30 feet of pavement. The proposed number of parking spaces meets City site development standards. A bus stop will be provided on Bell Avenue for the campus and other local residents.

ALTERNATIVES ANALYSIS

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

1. Complies with all requirements of this Article (27-1500).
This application does comply with the requirements of the zoning regulations.
2. Is consistent with the objectives and purposes of Chapter 27 and the Growth Policy.
This application is generally consistent with the purposes of Chapter 27, the 2003 Growth Policy and the West Billings Neighborhood Plan.
3. Is compatible with surrounding land uses or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.
The proposed use is compatible with the adjoining land uses and conditions of approval are recommended to ensure compatibility.

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

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

Based on the above criteria, the Zoning Commission is forwarding a recommendation of conditional approval on the special review request.

CONDITIONS OF APPROVAL

1. The special review approval shall be limited to Tract 1, of corrected amendment of Tracts 1 and 3, and remainder Tract 2 to be amendment of Tracts 1, 2, and 3, Certificate of Survey 1648 as shown on the site plan dated August 3, 2006.
2. The special review approval is for Senior Housing and no other use or expansion of this use is approved or implied with this authorization.

3. Development of the site shall be in substantial conformance with the site plan dated August 3, 2006. Deviations from the approved site plan that change the location of buildings, parking lot access or parking areas will require additional special review approval.
4. Any expansion of the gross floor area of the buildings or number of parking stalls greater than 10 percent will require an additional special review approval as required by Section 27-613(c) of the Unified Zoning Regulations.

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

STAKEHOLDERS

Mountain West Senior Housing, LLC held a public meeting on August 29 at the College of Technology and invited all residents in Legends West and Bell Estates subdivisions in addition to the property owners within 300 feet of the property. About twelve people attended the meeting, which was primarily an informational meeting. At the meeting, no one spoke in opposition of the development.

The public hearing was held on September 5, 2006, before the City Zoning Commission. All property owners within 300 feet of the property were notified of the public hearing by mail and the property was posted in two separate locations. Two individuals spoke in favor of the development; Carl Sanders, representing Mountain West Senior Housing, and Charlie Yegen, realtor for the developer. Five individuals spoke in opposition. All five were residents of Bell Estates, the subdivision immediately to the south of the subject property. The five opponents raised the following concerns: 1) traffic along Bell Avenue and access to Shiloh Road, 2) height of building, and 3) notification of residents. A copy of a letter from one Bell Estates resident unable to attend the meeting is attached to this report.

In rebuttal, the representative stated that the highest point of the building was 43 feet and was centered on the property, surrounded by lower roof heights. The average height of the roof lines is 35 feet, a foot higher than allowed in Residential 9600 zoning. The height is necessary to create an attractive sloped roof and hide the mechanical equipment located on the roof. As for traffic, Bell Avenue will be improved to half street standards, including curb, gutter, sidewalk on the north side and 30 feet of pavement. These standards exceed the current road condition which is a 24 foot paved section with no curb, gutter or sidewalk. Based on ITE data, it is estimated that the traffic generated by the development will be on the order of 611 trips per day, far less than the volume generated by a residential development, which is estimated to be 750 trips per day. The developer notified all potentially affected residents living in Legends West Estates and Bell Estates subdivisions, as well as all property owners within 300 feet of the property. A letter from the developer describing the proposed project and the planning process is attached to this report.

CONSISTENCY WITH ADOPTED PLANS AND POLICIES

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

Growth Policy

- Contiguous development focused in and around existing population centers separated by open space (Land Use Element Goal, page 6). *The property adjoins existing City limits.*

West Billings Plan

- Establish Development Patterns that Use Land More Efficiently. *The development will utilize available infrastructure that can service the proposed development.*
- Plan for the Orderly and Efficient Urbanization of Agricultural Lands. *The development is located on the edge of the urban area where agricultural operations are least attractive. The development will act as a buffer between existing residential housing and a major arterial.*

RECOMMENDATION

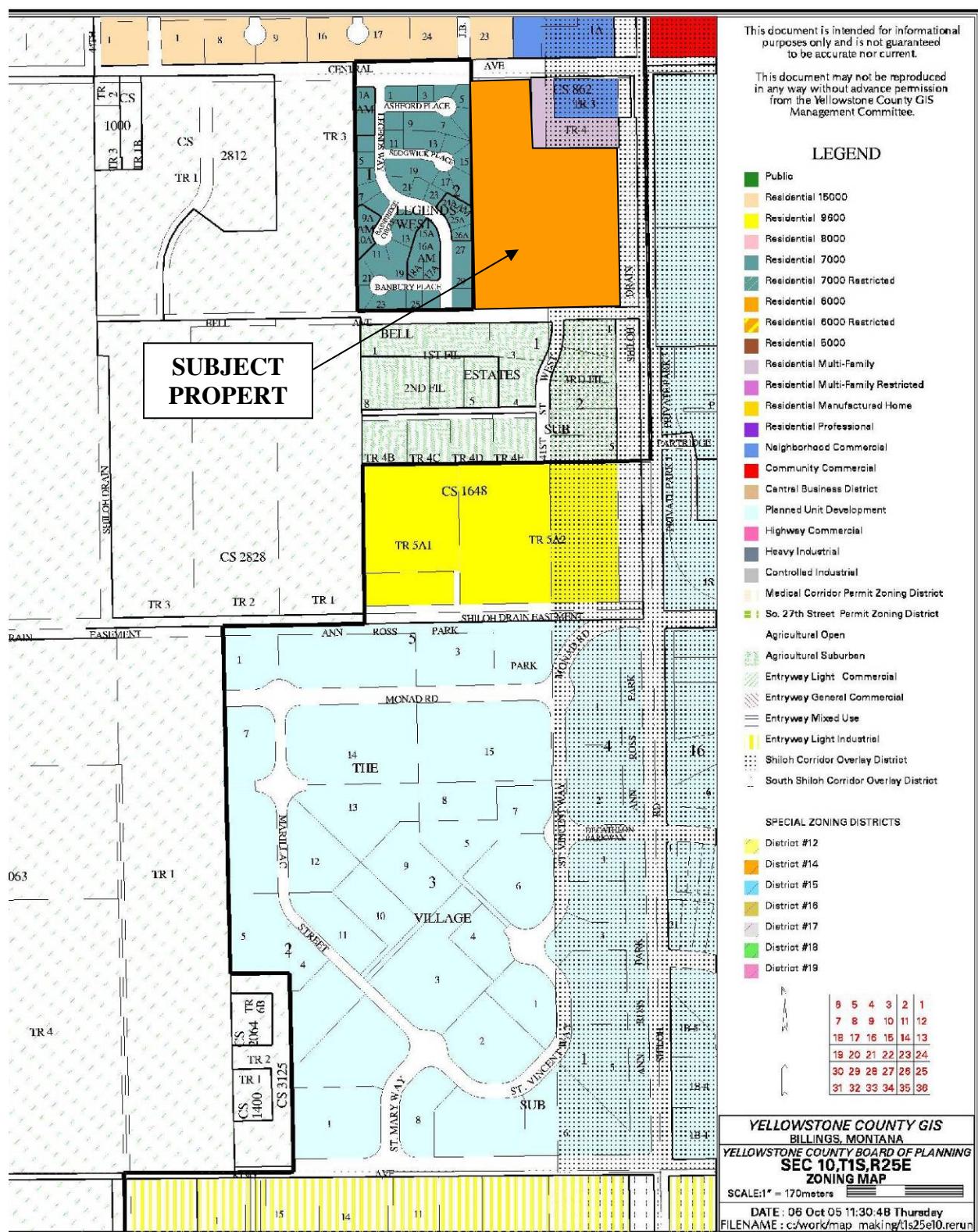
The Zoning Commission is forwarding a recommendation of conditional approval to the City Council on a 3-0 vote on Special Review #825.

ATTACHMENTS

- A. Zoning/Location Map
- B. Photographs of the Site
- C. Site Plan
- D. Photographs and Renderings of Similar Developments
- E. Eric Percy letter
- F. Mountain West Senior Housing, LLC letter

ATTACHMENT A

Zoning Map



ATTACHMENT C
Site Photographs



View looking north along east edge of subject property. Berming along Shiloh Drain is visible on right side of photo.



View looking northwest across subject property. Legends West Subdivision is visible in background.

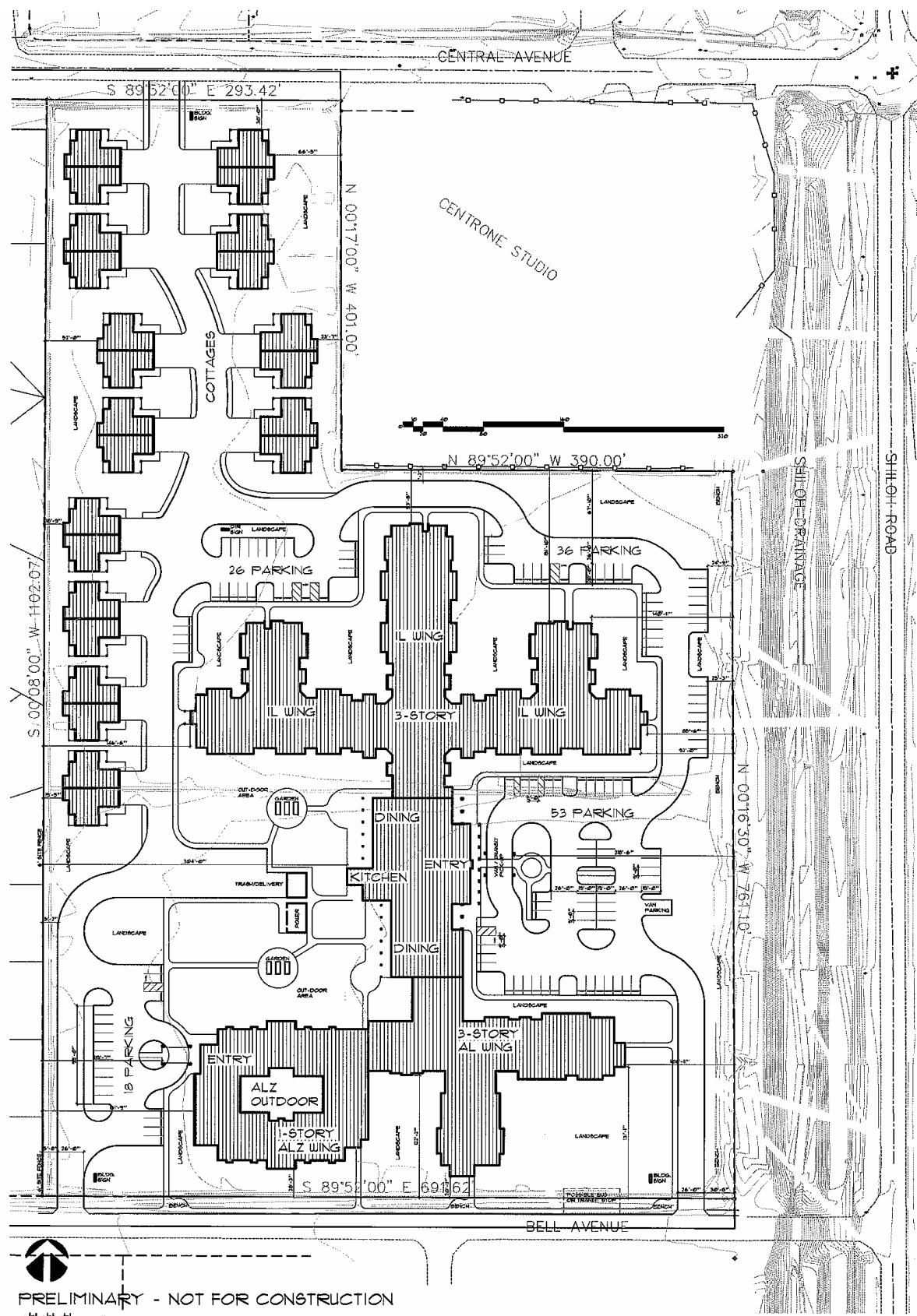
ATTACHMENT C
Site Photographs



View looking west along Bell Avenue. Subject property is on right of photo.

ATTACHMENT C

Site Plan



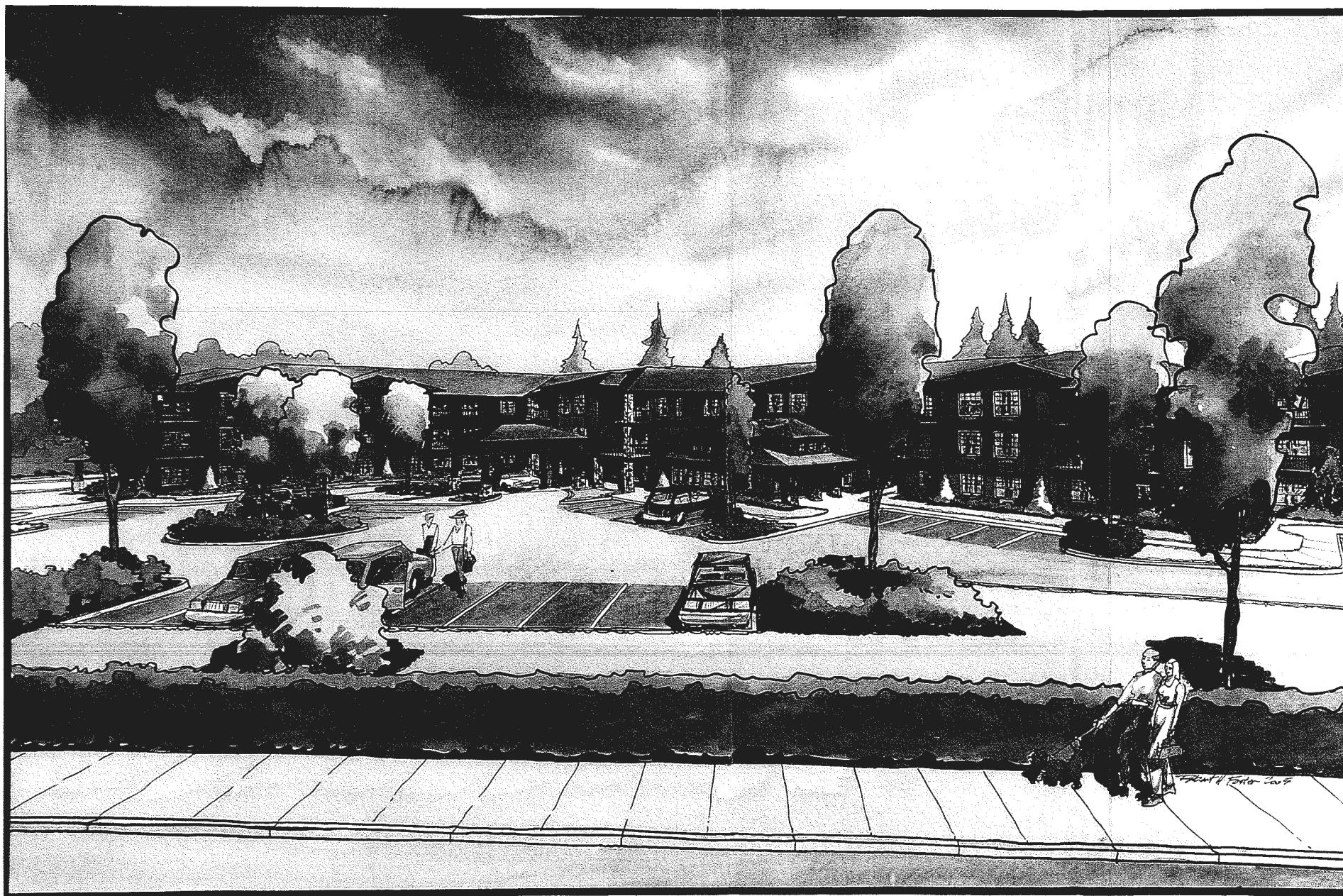
PRELIMINARY - NOT FOR CONSTRUCTION

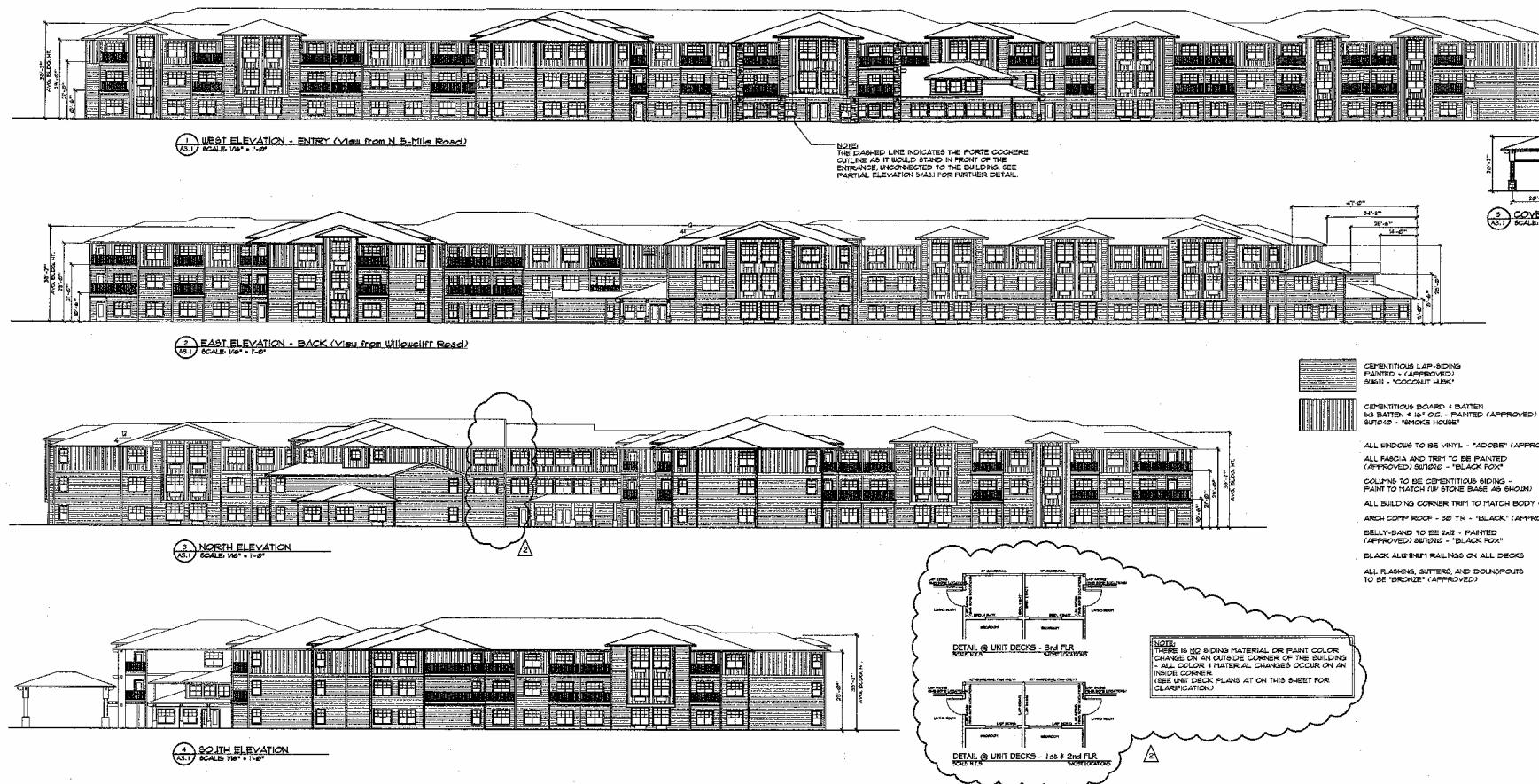
PROPOSED SENIOR COMMUNITY
BILLINGS
SENIOR COMMUNITY

MOUNTAIN WEST
3220 State Street
Suite 200
Salem, Oregon 97301

ATTACHMENT D
Photographs and Renderings of Similar Sites







To: Chairman, Zoning Commission
City of Billings

From: Eric R. Percy
Address: 4120 Obie Lane Billings MT 59106
Bell Estates Subdivision
Date: Sept. 4, 2006

Dear Mr/Ms. Chairman;

As a resident of the subdivision immediately adjacent to the proposed Mountain West Senior Housing complex, I am asking your Commission to table the discussion, pending further understanding of the impacts of the requested zoning. Below is the rationale for the request:

Property Valuation

There is little belief that this industrial complex will do anything to enhance property values in the adjacent subdivision. Traffic congestion, lighting impacts, building height issues, and viewshed degradation are inevitable. Conversely, the value of having subdivisions, such as Bell Estates, joined back to back, is something that this end of Billings' "West End" needs to provide residential stability to the area. This proposed zoning serves to take that possibility away. It is my opinion that this kind of development needs to be considered secondary to a well-placed subdivision if a city wants to maintain a solid foundation and tax base. **Residential zoning is absolutely requested.**

Traffic Safety

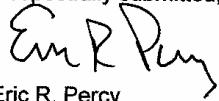
Currently, our subdivision access is from Shiloh. Between the hours of 6:30 am to 10:00 pm, there is already a problem of exiting onto Shiloh, particularly turning north out of Bell Estates. With the ever-increasing volume utilizing Shiloh, regardless of 32nd St, the existing situation is already a safety hazard. With the recently-installed traffic lights at Shiloh/Central, the "spacing" between cars has been eliminated, thereby causing higher speeds of traffic going south on Shiloh. To further exacerbate the situation by allowing a development of such magnitude, especially with an entrance/exit at Bell Ave, will cause fatalities, which the city will be party to by virtue of a ruling for Mountain West. A recommendation, if the proposed zoning request is granted: Only after the 4-lane is completed, and one-way traffic is mandated, would this access have some merit.

Community Input

In the spirit of community involvement, the developers of the proposed property could have contacted its proposed neighbors, such as Emmanuel Baptist has done when it considers any activities affecting us. Instead, the developers appear to be rushing it through your Zoning Commission before all the impacts are analyzed and addressed, and before you can make an informed decision. That's business, but not proper business, in my opinion.

I ask the commission to at least table the whole matter until all salient information has been received and answered.

Respectfully submitted,



Eric R. Percy



September 14, 2006

Mayor and City Council Members

City of Billings
P.O. Box 1178
Billings, MT 59103

Re: SR #825

Dear Mayor and City Council Members:

At the upcoming City Council Meeting on September 25, 2006 an application for special review (SR #825) will be on your agenda and I would like to provide you some background information which time constraints of the City Council Hearing may not allow. We greatly appreciate your time in reviewing this matter and hope that you approve our application for special review.

Mountain West Senior Housing LLC is seeking to develop a senior housing campus in Billings on a site just west of the NWC of Bell Ave. and Shiloh Rd. The property is approximately 14 acres which is currently undeveloped farm land zoned R9600. Adjacent to this site is Legends West subdivision to the west; Bell Ave. to the south and further south across Bell Ave. to the county subdivision of Bell Estates (Yellowstone County); Shiloh Drain property to Shiloh Rd. to the east and RMF ground to Centrone Studios to the northeast.

The proposed campus will include senior cottages, congregate care, assisted living and memory care. The design will be more residential than institutional, using materials and elements similar to surrounding homes. We estimate the community employing 75 FTE positions and having a significant impact on the property's value as related to property tax assessment.

We are pursuing this opportunity in order to provide needed services and housing for the seniors and frail elderly of Billings and Yellowstone County. The city and county's senior population is

currently growing and its rate of growth will substantially increase to over 14% between 2010 and 2015 and even more drastically to over 18% between 2015 and 2020².

Please see that attached Exhibits to give further clarity of our proposed project.

At this time I would like to also address some of the concerns which neighbors have raised and are likely to be brought up at the upcoming city council hearing. Please note that that all concerns brought before the Zoning Commission were only from residents of the county subdivision of Bell Estates and none were raised from residents from Legends West a subdivision located in the City of Billings.

Concern 1: The three story height of the main building

Mountain West's Response:

- A. The southerly portion of the main building includes single and three story elements which varies the building elevation and also minimizes the amount of three story exposure to Bell Ave.
- B. Substantial setbacks:
Average setback from property line to three story element: 133'
Westerly: Range from 151'6" to 308'6"
Northerly: Range from 53"8" to 151"10"
Easterly: Range from 80"6" to 213'6"
Southerly: Range from 20'11" to 131'1"
- C. The western property line (which abuts the residential subdivision of Legends West) is buffered by single story cottages.
- D. Substantial landscaping including screening trees on property lines and foundation planting to enhance the external appearance of the exterior facades.
- E. Substantial open space to decrease the impact of the large mass of the main building.
Total site landscape and open space: approximately 45% of site (272,903 SF or 6.26 acres)
- F. Building design incorporates varying finish materials, multiple paint colors, and a pitched roof design will all enhance the finished appearance and decrease the impact of its height.

Concern 2: Traffic, access and pedestrian safety impacts

2 Source: Census and Economic Information Center, Montana Department of Commerce
Page 238 of 306

Mountain West's Response:

Traffic: Of potential uses for the site, our development is perhaps the lowest traffic generator.

Traffic Estimates by use for this site in average daily trips:

Our development: 611 ADT

Single family homes developed to R7000 density: 750 ADT

Standard apartments (same number of units as our development): 1,915 ADT

Mix use of professional office and retail: Over 3,500 ADT

Access:

A. Our development will have three access points from two different streets. Due to the multiple access options, natural traffic patterns will allow that the route which creates the least amount of impact will be the one most often chosen by our residents and staff.

B Mountain West will improve our Bell Ave. frontage with a half street improvement including pavement and curb, gutter and sidewalk on the northern side which will mitigate traffic increases on Bell Ave.

C. As the Shiloh Rd. project is completed access onto Shiloh Rd. will improve for all residents along Bell Ave. and Central Ave.

Pedestrian Safety:

We will be constructing a pedestrian sidewalk along our Bell Ave. frontage to allow safe pedestrian traffic along this section of road. This improvement should offset any potential impact on local pedestrian safety our development may have. Pedestrian traffic in the area may actually be increased due to the lack of any sidewalks along Bell or adjacent streets to the south.

Concern 3: Perceived lack of notification of surrounding residents

Mountain West's Response:

Throughout the process of seeking approval for both the annexation of the property as well as for our special review application, the notification of surrounding residents has exceeded that required by the City of Billings.

Examples of notification to residents:

1. Signs on the property posting the land use actions requested and appropriate meetings involved.
2. A letter sent by city staff to neighboring residents within 300' of the property to notify them of the request for special review and the time and date of appropriate public hearings concerning the special review.

3. An invitation to a neighborhood meeting was sent by Mountain West to all residents within 300' as well as all residents in Bell Estates and Legends West (many of these residents live beyond 300' of the property line and we felt it appropriate to include all residents of these subdivisions). At this meeting the proposed development was discussed and an update as to the approvals we are seeking was given.
4. A description of the proposed development was included as part a large article in the Billings Gazette on 8- 27-06, in which the neighborhood meeting date was included.
5. The city's web site has included notification of the proposed project including the neighborhood meeting.

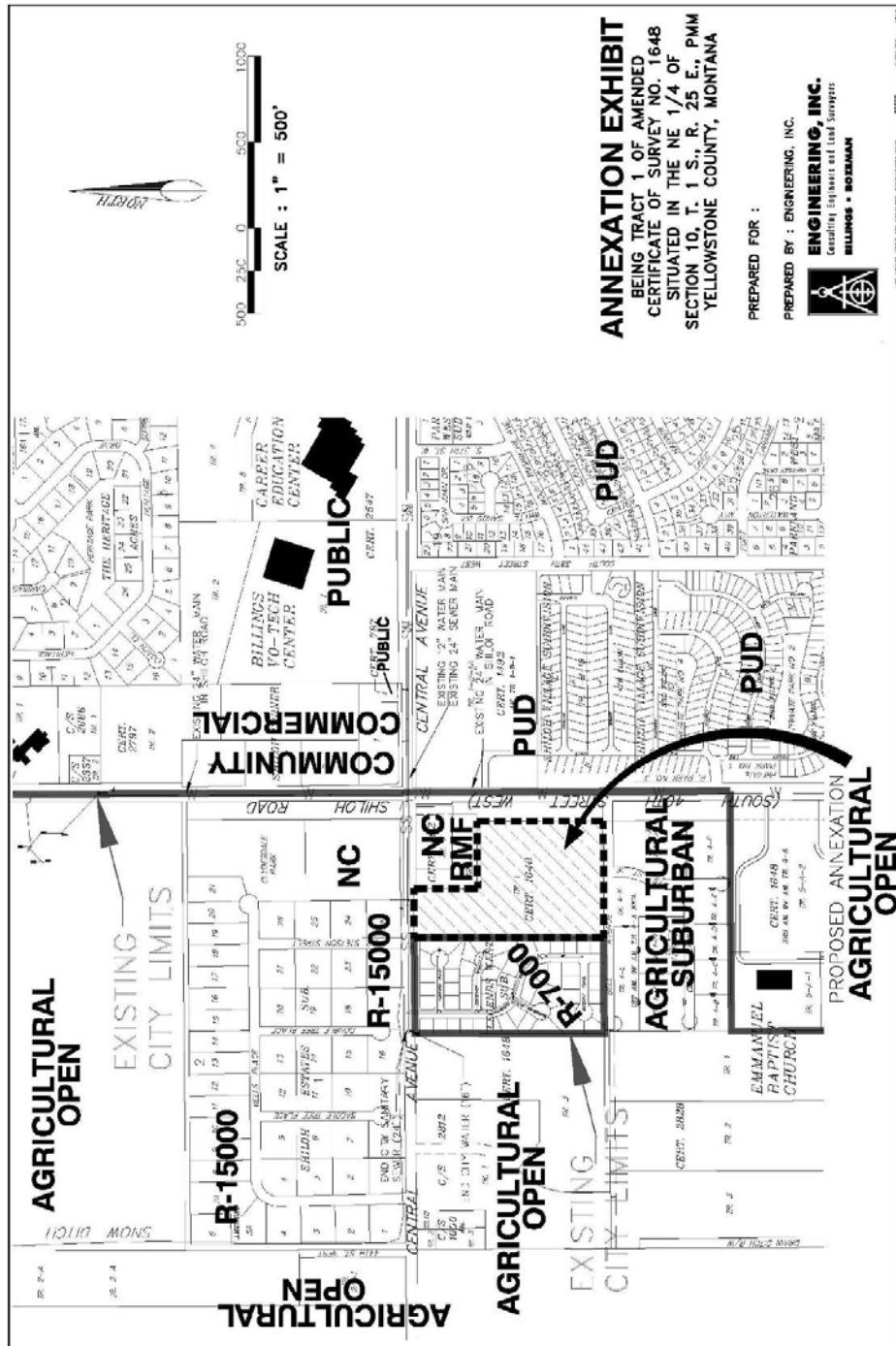
In closing, Mountain West is very enthusiastic about this proposed project and feel that it will be a benefit to all of the citizens of Billings. We hope that the above information is helpful in your consideration of this application for special review. We welcome any of your questions and look forward to moving forward with this development if you decide to approve this application.

Sincerely,

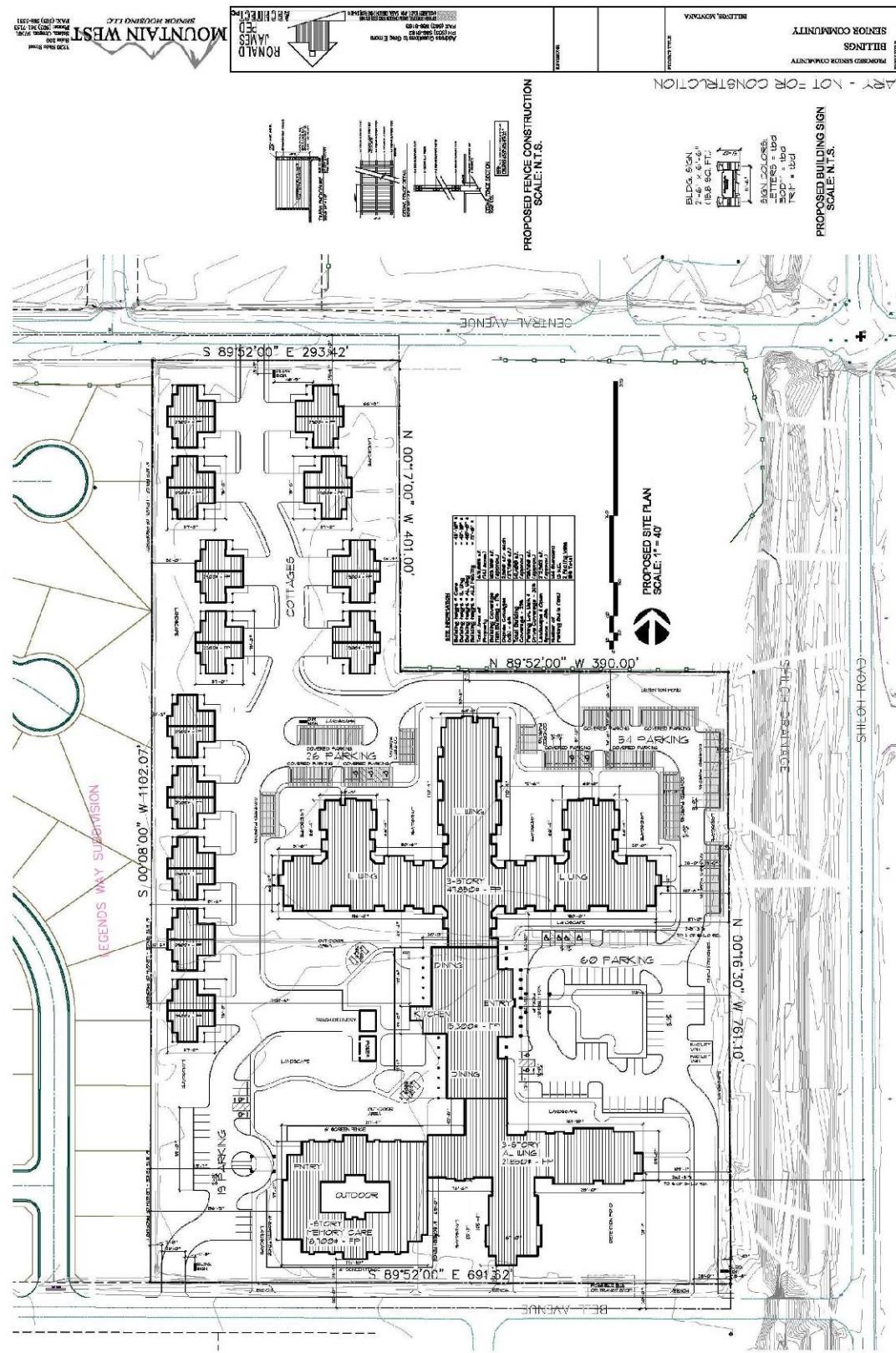
Carl Sanders
Development Specialist
Mountain West Senior Housing LLC

Exhibits:

Annexation Map



Site Plan
Page 241 of 306



Landscape Plan



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



ARMONIA HOLDING LLC



ENGINEERING, INC.
LANDSCAPE ARCHITECTURE • LAND PLANNING

Land Design, Inc.
LANDSCAPE ARCHITECTURE • LAND PLANNING

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, SEPTEMBER 25, 2006

TITLE: Public Hearing for Special Review #826

DEPARTMENT: Planning & Community Services

PRESENTED BY: Lora Mattox, AICP, Neighborhood Planner, Planner II

PROBLEM/ISSUE STATEMENT: This is a request for a special review to construct a fourplex in a Residential 6000 zone on a 11,850 square foot tract of land described as the West 79 feet of Lot 2, Block 1, Alego Subdivision and is addressed as 818 Avenue B. The owners are Derwood and Beverly Schrotberger and the agent is Michael Stock. The Zoning Commission conducted a public hearing on September 5, 2006, and is forwarding a recommendation to the City Council of conditional approval on a 3-0 vote.

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

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

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

RECOMMENDATION

The Zoning Commission is forwarding a recommendation of conditional approval to the City Council on a 3-0 vote on Special Review #826.

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

ATTACHMENTS

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

INTRODUCTION

This is a request to construct a four-plex on the West 79 feet of Lot 2, Block 1, Alego Subdivision. The property is zoned Residential 6000 and is located at 818 Avenue B. In the Residential 6000 zone a minimum of 10,000 square feet is required for the construction of a four-plex. This lot is 11,850 square feet and meets the minimum square footage.

PROCEDURAL HISTORY

- A special review application to construct a four-plex was received on August 7, 2006.
- The City Zoning Commission held a public hearing on September 5, 2006, and voted 3-0 to forward a recommendation of conditional approval for this the special review request.
- The City Council will conduct a public hearing and consider this application on September 25, 2006.

BACKGROUND

This property is surrounded on the east and north by residential housing units. To the west of this property is a casino/liquor store. To the south of this lot is the Grand Avenue corridor.

Pursuant to Section 27-308 of the Billings City Code, the R-6000 zoning district permits single-family residences and duplexes with the required square footage and permits residential structures containing 3-10 units with a special review. The minimum square footage required for a 4-plex is 10,000 square feet; the subject property contains approximately 11,850 square feet. Parking for the proposal is being provided through on-site parking with attached garages and parking area. Section 6-1203 of the Billings City Code specifies that 1.5 parking spaces are required for multi-family residential units containing one (1) or more bedrooms. The applicants are required to provide six (6) parking spaces as part of this application, which will be reviewed and approved by the Engineering Department with the required building permit

The Planning Department has reviewed this application and is recommending conditional approval. The proposed 4-plex is compatible with the surrounding neighborhood, as it contains mixed-use developments that include single-family, duplex, multi-family and commercial development. The Zoning Commission conducted the public hearing and voted 3-0 to recommend conditional approval.

ALTERNATIVES ANALYSIS

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

1. Complies with all requirements of this Article (27-1500).
This application does comply with the requirements of the zoning regulations.
2. Is consistent with the objectives and purposes of Chapter 27 and the Growth Policy.
This application is generally consistent with the purposes of Chapter 27, the 2003 Growth Policy.

3. Is compatible with surrounding land uses or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.

The proposed use is compatible with the adjoining land uses and conditions of approval are recommended to ensure compatibility.

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

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

Based on the above criteria, the Zoning Commission is forwarding a recommendation of conditional approval on the special review request.

CONDITIONS OF APPROVAL

1. The Special Review approval shall be limited to the West 79 feet of Lot 2, Block 1, Alego Subdivision as shown on the site plan submitted with the application on August 7, 2006.
2. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City regulations that apply.

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

STAKEHOLDERS

The public hearing was held on September 5, 2006, before the City Zoning Commission. The agent, Michael Stock, was present to present the proposed project and answer any questions from the Zoning Commission. There was no testimony against the proposed project.

CONSISTENCY WITH ADOPTED PLANS AND POLICIES

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

- Contiguous development focused in and around existing population centers.
- New developments that are sensitive to and compatible with the character of adjacent City neighborhoods.

RECOMMENDATION

The Zoning Commission is forwarding a recommendation of conditional approval to the City Council on a 3-0 vote on Special Review #826.

ATTACHMENTS

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

ATTACHMENT A
Zoning Map – Special Review #826



Subject Property

ATTACHMENT B
Site photographs –Special Review #826

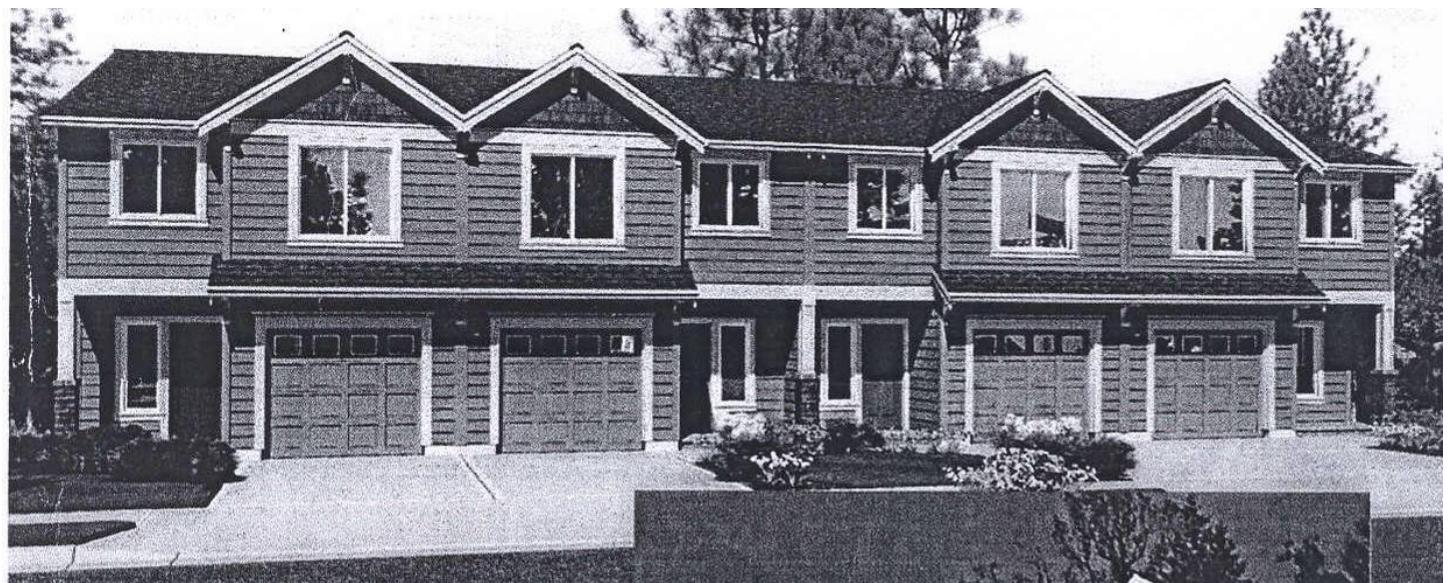
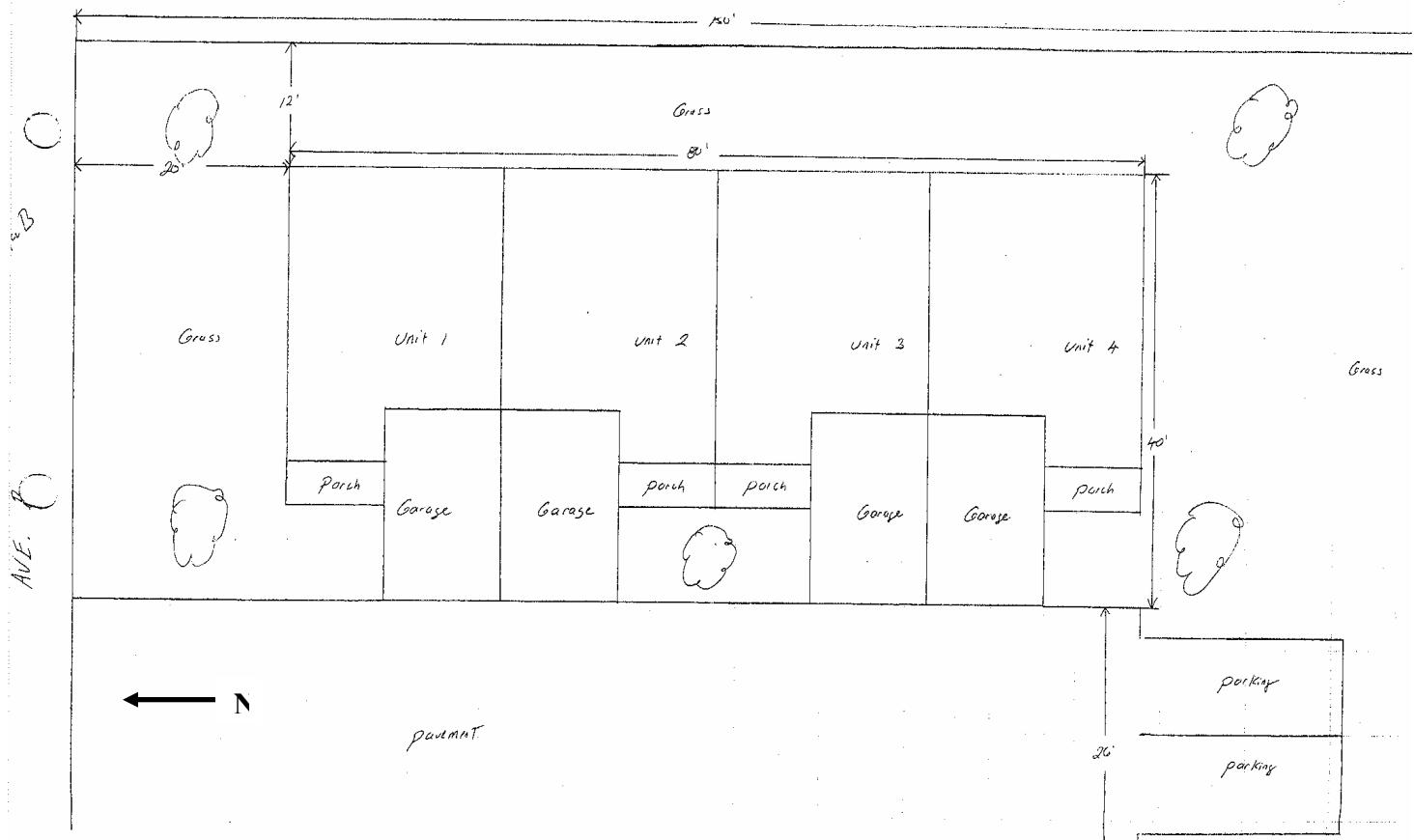


Subject property looking south from Avenue B



View southeast toward adjoining property

ATTACHMENT C
Site Plan and Proposed Structure Special Review #826



AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, SEPTEMBER 25, 2006

TITLE: Public Hearing for Special Review #827
DEPARTMENT: Planning & Community Services Department
PRESENTED BY: David Green, Planner I

PROBLEM/ISSUE STATEMENT: The applicant is requesting a special review to permit construction of a reinforcing steel fabrication facility on a parcel of land described as Lot 3 Block 5, Tierra Yellowstone Industrial Subdivision. The subject property is zoned Controlled Industrial (CI) and contains approximately 1.84 acres. The owner is Tony Creek, LLC and Engineering Incorporated is the representing agent. The Zoning Commission conducted a public hearing on September 5, 2006, and is forwarding a recommendation of conditional approval to the City Council by a 3-0 vote.

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

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

FINANCIAL IMPACT: The special review, if approved, would allow development of the vacant lot, which would increase the City's tax revenue on the property.

RECOMMENDATION

The City Zoning Commission recommends on a 3-0 vote that the City Council conditionally approve Special Review #827.

Approved By: City Administrator _____ City Attorney _____

ATTACHMENTS

1. Zoning Map
2. Site Photographs
3. Site Plan

INTRODUCTION

This is a Special Review to permit construction of a reinforcing steel fabrication facility on a parcel of land zoned Controlled Industrial (CI) and described as Lot 3 Block 5, Tierra Yellowstone Industrial Subdivision. The subject property is generally located on the south side of Gabel Road, just east of South 29th Street West. The proposed reinforcing steel fabrication facility is surrounded by CI zoning and the current uses around it are industrial with the exception of the Army National Guard building north of the subject property. The proposed use is consistent with current surrounding uses.

The Zoning Commission conducted a public hearing on September 5, 2006, and is forwarding a recommendation of conditional approval to the City Council by a 3-0 vote.

PROCEDURAL HISTORY

- On August 7, 2006, the special review application was received.
- On September 5, 2006, the City Zoning Commission unanimously voted to recommend conditional approval to the City Council for the special review.
- On September 25, 2006, the City Council will conduct a public hearing on the special review.

BACKGROUND

According to the applicant letter, Teton Steel of Montana is proposing to build a reinforcing steel fabrication shop with an office building in Billings to supply reinforcing steel to the Montana building industry. They currently supply steel to Montana from one of their existing facilities in Casper, Wyoming. They have had a small office in Billings since 1998 and now feel that there is enough market demand in Montana to have a fabrication facility in Montana with Billings being the preferred location for that facility. Access to the site is from an existing curb access off of Gabel road.

The Planning Department has reviewed this application and is recommending conditional approval. Staff finds that the proposed reinforcing steel fabrication facility is compatible with the surrounding industrial uses already in the Tierra Yellowstone Industrial Subdivision.

ALTERNATIVES ANALYSIS

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

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

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

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

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

1. The Special Review approval shall be limited to Lot 3 Block 5, Tierra Yellowstone Industrial Subdivision.
2. This special review approval is for a metal fabricating facility use and no other use or expansion of this use is approved or implied with this authorization.
3. Any expansion of the gross floor area of the building(s) or number of parking stalls greater than 10 percent will require an additional special review approval as required by Section 27-613(c) of the Unified Zoning Regulations.
4. The metal fabricating facility, shop and office shall be constructed in accordance with the submitted site plan and shall comply with standards set forth by the Unified Zoning Regulations. A building permit shall be obtained for all structures on the property

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

STAKEHOLDERS

A public hearing was conducted by the Zoning Commission on September 5, 2006; the applicant and applicant's representative were present to answer questions. There was no discussion by the Zoning Commission and no public comment received.

CONSISTENCY WITH ADOPTED PLANS AND POLICIES

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

- New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites.
- Predictable land use decisions that are consistent with neighborhood character and land use patterns.

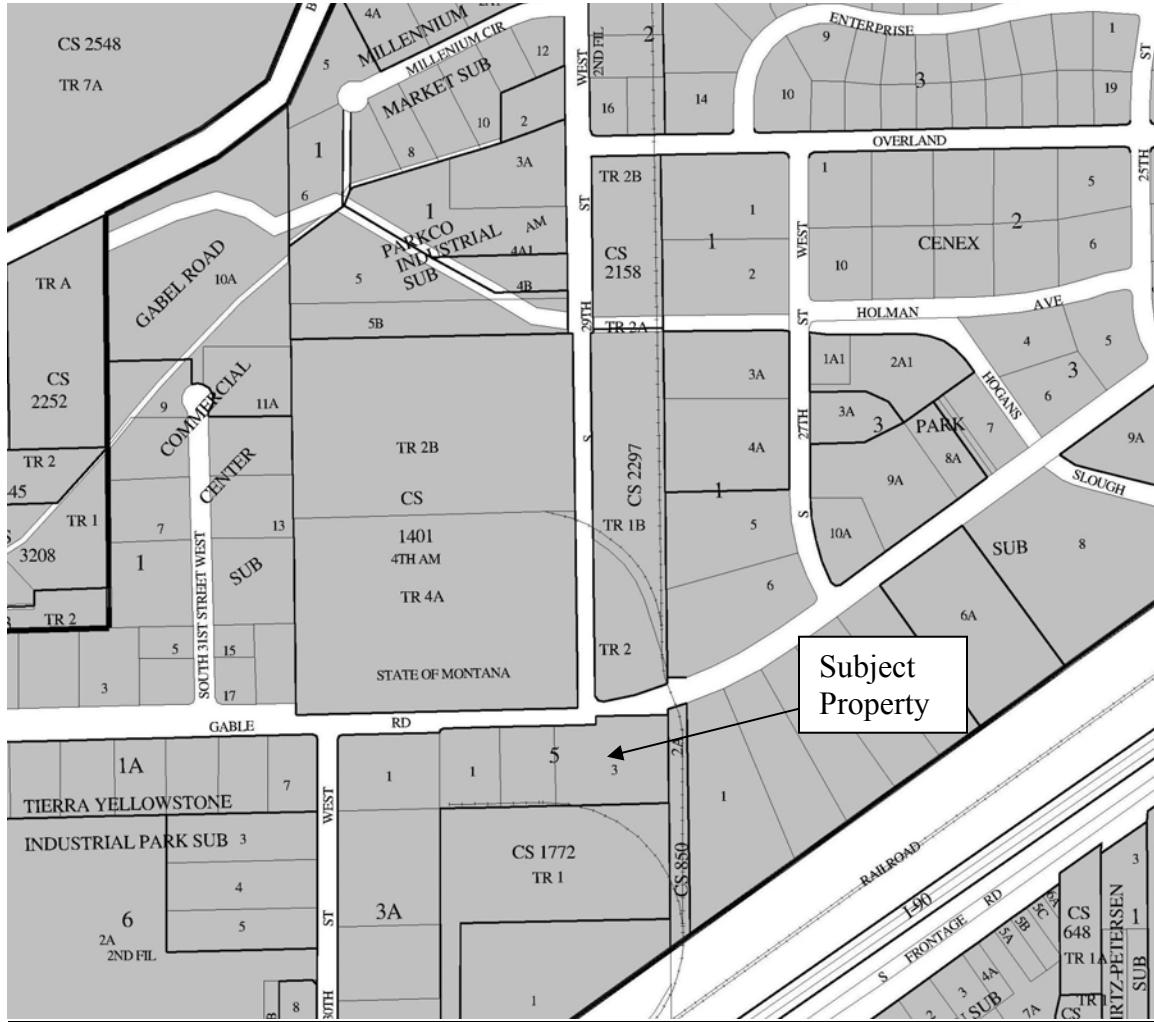
RECOMMENDATION

The City Zoning Commission recommends on a 3-0 vote that the City Council conditionally approve special review #827.

ATTACHMENTS

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

ATTACHMENT A
Zoning Map



ATTACHMENT B
Site Photos



Photo 1: Looking north from subject property on Gabel Road up S. 29th St. West



Photo 2: Looking south at subject property.

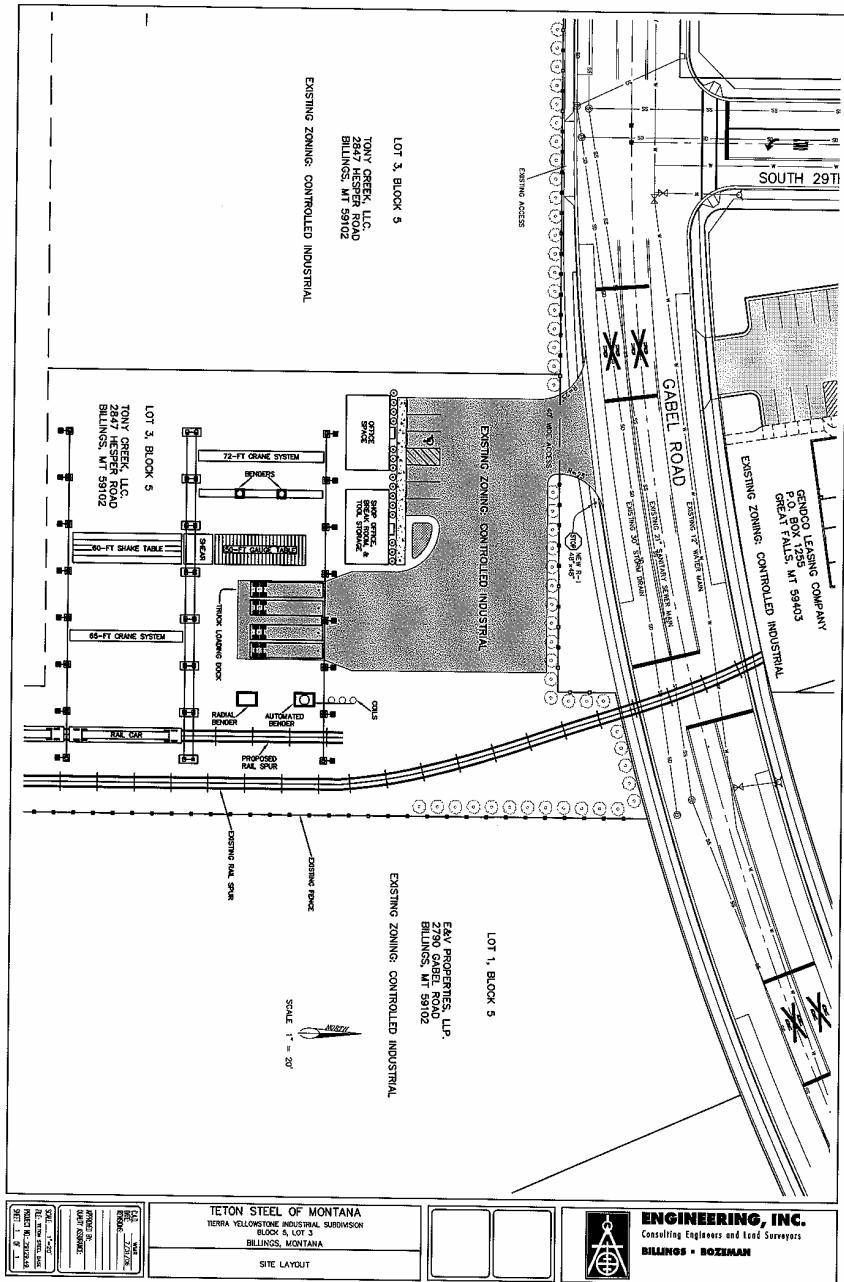


Photo 3: Looking east along Gabel Road adjacent to subject property.



Photo 4: Looking NE across Gabel Road toward General Distributing Building.

ATTACHMENT C



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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, SEPTEMBER 25, 2006

TITLE: Public Hearing for Special Review #828

DEPARTMENT: Planning & Community Services

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

PROBLEM/ISSUE STATEMENT: This is a Special Review to locate an all beverage liquor license with gaming in a Controlled Industrial zone, Lot 11 (to be lot 11A), Block 1 of Broso Valley Park Subdivision. The subject property is located at 3398 Broso Park Drive and is 4.14 acres. The owner is Big Horn Resorts, LLC, Brandon Legg and Doug Braham of Divide Development Company and Dennis Randall, P.E. of Engineering, Inc. are the agents. The Zoning Commission conducted a public hearing on September 5, 2006, and is forwarding a recommendation to the City Council of conditional approval on a 3-0 vote.

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

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

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

RECOMMENDATION

The Zoning Commission is forwarding a recommendation of conditional approval to the City Council on a 3-0 vote on Special Review #828.

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

 /

ATTACHMENTS

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

INTRODUCTION

This is a request for a special review to locate an all beverage liquor license with gaming for a proposed Montana Rib & Chop House on Lot 11 (to be 11A), Block 1 of Broso Valley Park Subdivision located at 3398 Broso Park Drive. The property is zoned Controlled Industrial and the South Shiloh Corridor Overlay District applies to this property. The subject lot is located just south of the intersection of Broso Park Drive and Majestic Lane. The new Wingate Hotel and Water Park is under construction just east of the proposed site. The building is proposed to be 7,593 square feet and includes an outdoor patio lounge of 2,810 square feet. The proposed facility will be primarily a restaurant, the Montana Rib & Chop House, with a separate gaming area.

PROCEDURAL HISTORY

1. A special review application to allow an all beverage liquor license with gaming was received on August 7, 2006.
2. The City Zoning Commission held a public hearing on September 5, 2006, and voted 3-0 to forward a recommendation of approval for this the special review request.
3. The City Council will conduct a public hearing and consider this application on September 25, 2006.

BACKGROUND

This property is surrounded by a mix of undeveloped property and new commercial uses. The Wingate Hotel is under construction to the east and new developments exist to the south, west and north. The Controlled Industrial district is meant to allow a variety of commercial and industrial uses. There are no schools, churches, or play grounds with equipment within 600 feet of the proposed location.

The Planning Department reviewed this application and recommended conditional approval. This appears to be an appropriate use considering the location of the property, the type of facility proposed, the character of the surrounding properties, and the existing uses in the area. Planning staff is recommending conditions for this special review based on the approval criteria for special review uses. This property is adjacent to Interstate-90 and Zoo Drive and will be developed as a major commercial area at this entryway into Billings. The Zoning Commission has recommended conditions to address light, traffic safety, noise, traffic flows and the aesthetics of the property. The Zoning Commission conducted the public hearing and voted 3-0 to recommend conditional approval.

ALTERNATIVES ANALYSIS

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

1. Complies with all requirements of this Article (27-1500).
This application does comply with the requirements of the zoning regulations.
2. Is consistent with the objectives and purposes of Chapter 27 and the Growth Policy.
This application is generally consistent with the purposes of Chapter 27, the 2003 Growth Policy and the West Billings Neighborhood Plan.

- 3 Is compatible with surrounding land uses or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.

The proposed use is compatible with the adjoining land uses and conditions of approval are recommended to ensure compatibility.

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

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

Based on the above criteria, the Zoning Commission is forwarding a recommendation of conditional approval on the special review request.

CONDITIONS OF APPROVAL

1. The special review approval shall be limited to Lot 11 (to be Lot 11A) of Block 1 of Broso Valley Park Subdivision as shown on the site plan dated August 7, 2006.
2. This special review approval is for an all beverage liquor license with gaming and an outdoor patio lounge and no other use or expansion of this use is approved or implied with this authorization.
3. Development of the site shall be in substantial conformance with the site plan dated August 7, 2006. Deviations from the approved site plan that change the location of buildings, parking lot access or parking areas will require additional special review approval.
4. Any expansion of the gross floor area, 7,593 square feet for the restaurant building and 2,810 square feet for the outdoor patio, or number of parking stalls greater than 10 percent will require an additional special review approval as required by Section 27-613(a) of the Unified Zoning Regulations.
5. The owner shall provide a fence of at least 4 feet in height around the outdoor patio lounge. The fence shall have at least one exit-only gate to provide an emergency exit. Access to the outdoor patio lounge area shall be through the main indoor area of the business.
6. The owner is allowed to have background music and un-amplified live outdoor entertainment on the outdoor patio lounge. Background music is amplified music that is not audible beyond the outdoor patio lounge.
7. There shall be no outdoor public address system or outside announcement system of any kind.

8. All exterior lighting with the exception of sign lighting shall have full cut-off shields so light is directed to the ground and not onto adjacent property. The owner shall also comply with lighting standards in Section 27-1435 of the Unified Zoning Regulations.
9. Signs on the property shall be limited to those allowed by Section 27-1443 of the Unified Zoning Regulations.
10. The solid waste storage area shall be enclosed on three (3) sides by a sight-obscuring fence or wall and by a sight-obscuring gate on the remaining side. This enclosure shall be constructed of normal fencing materials. No chain link or wire fencing will be used for sight-obscuring enclosure. The owner shall also comply with the waste storage requirements of Section 27-1435 of the Unified Zoning Regulations.
11. Landscaping shall be provided as shown on the site plan dated August 7, 2006, and as required by Section 27-1433 of the Unified Zoning Regulations.
12. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
13. Failure to comply with these conditions of approval of the special review use shall be deemed a violation of the zoning regulations. Enforcement of the regulations and conditions shall be as set forth in Section 27-1601 et seq. of the Unified Zoning Regulations.
14. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City regulations that apply.

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

STAKEHOLDERS

The public hearing was held on September 5, 2006, before the City Zoning Commission. The agent, Doug Braham of Divide Development Company, explained the project to the Zoning Commission. There was no testimony against the proposed project.

CONSISTENCY WITH ADOPTED PLANS AND POLICIES

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

- New Development that is sensitive to and compatible with the character of adjacent City neighborhoods.

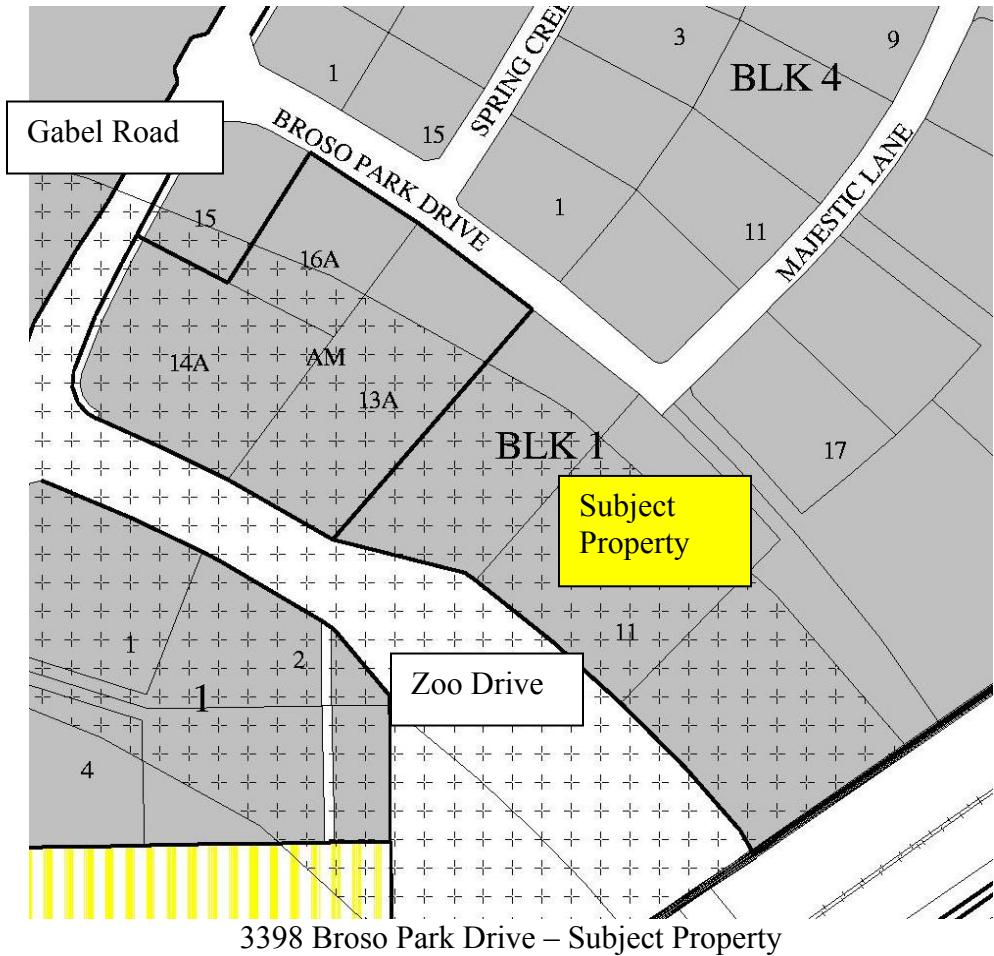
RECOMMENDATION

The Zoning Commission is forwarding a recommendation of conditional approval to the City Council on a 3-0 vote on Special Review #828.

ATTACHMENTS

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

ATTACHMENT A
Zoning Map – Special Review #828



ATTACHMENT B
Site photographs –Special Review #828

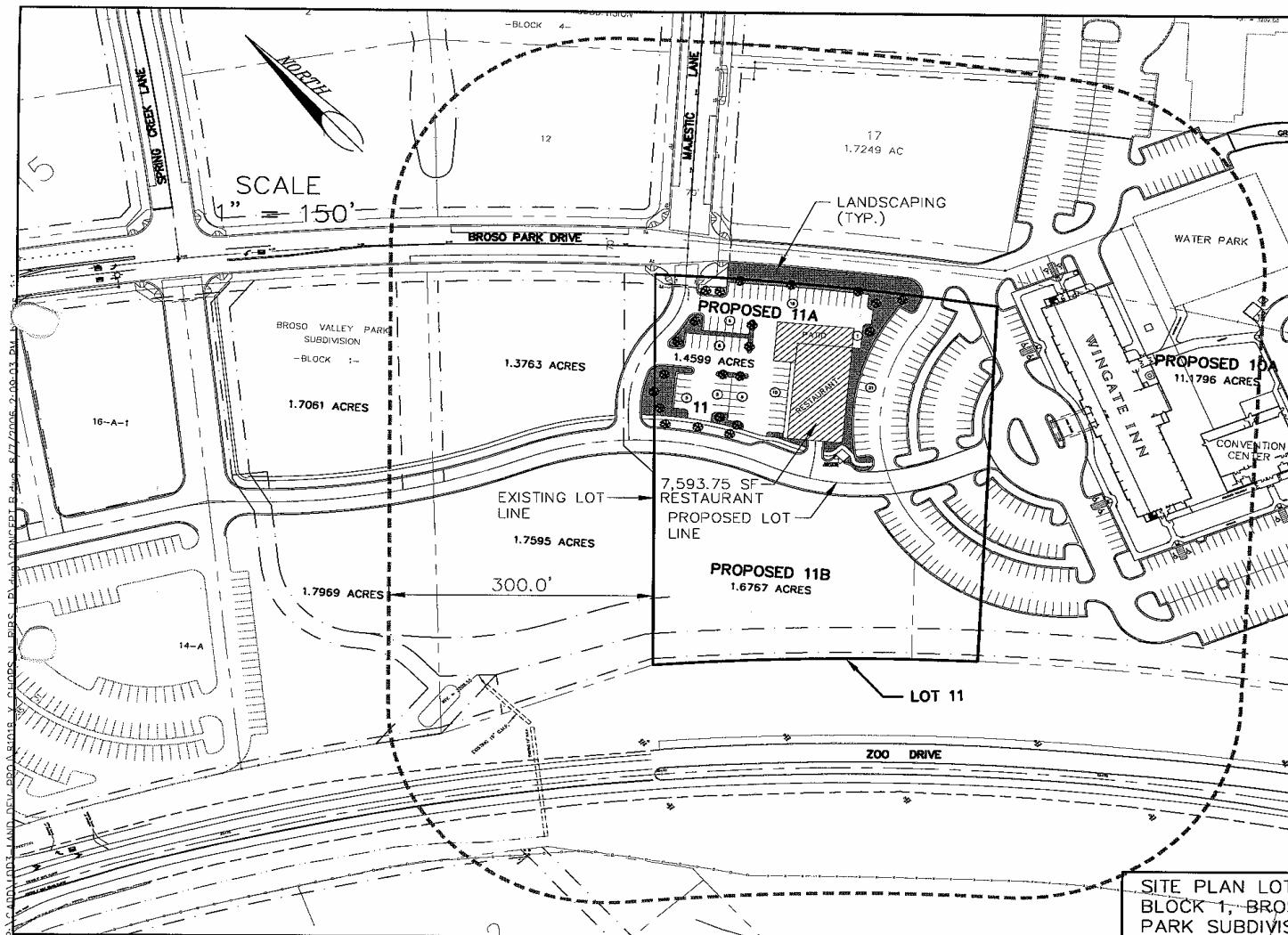


Subject property at 3398 Broso Park Drive



View west from subject property

ATTACHMENT C
Site Plan Special Review #828



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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 25, 2006

TITLE: Zone Change #790 Public Hearing and 1st Reading of Ordinance
DEPARTMENT: Planning and Community Services
PRESENTED BY: Lora Mattox, AICP, Neighborhood Planner, Planner II

PROBLEM/ISSUE STATEMENT: The applicant is requesting a zone change from Residential 9600 (R-9600) to Neighborhood Commercial (NC) on a portion of the North 1 acre (less 3,795 square feet for street) of the East ½ of Lot 2 in the Northeast ¼ of Section 9, Township 1 South, Range 26 East. The subject property is located at 4130 State Avenue. The entire parcel is 39,770 square feet. The applicant is proposing the zone change on approximately 14,190 square feet of the existing parcel. The owners are Guy and Lloyd Romero and the agents are Valerie Dangerfield and George Esparza. The Zoning Commission conducted a public hearing on September 5, 2006, and voted 3-0 to recommend approval to the City Council. Staff recommended approval of the proposed zone change and those determinations have been provided within this report.

ALTERNATIVES ANALYZED: State law at MCA 76-2-304 requires that all zone changes be reviewed in accordance with 12 criteria. Using the 12 criteria to determine the appropriateness of the zone change request, the City Council may:

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

FINANCIAL IMPACT: The proposed zone change could potentially increase the City's tax base upon development of the property.

RECOMMENDATION

The Zoning Commission recommends by a 3-0 vote that the City Council **approve** Zone Change #790 and adopt the determinations of the 12 criteria, as discussed within this report.

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

Page 270 of 306

ATTACHMENTS:

- A: Site Photographs
- B: Surrounding Zoning
- C: Ordinance

INTRODUCTION

The applicant is requesting a zone change from Residential 9600 (R-9600) to Neighborhood Commercial (NC) on a portion of the North 1 acre (less 3,795 square feet for street) of the East ½ of Lot 2 in the Northeast ¼ of Section 9, Township 1 South, Range 26 East. The subject property is located at 4130 State Avenue. The entire parcel is 39,770 square feet. The applicant is proposing the zone change on approximately 14,190 square feet of the existing parcel. The owners are Guy and Lloyd Romero and the agents are Valerie Dangerfield and George Esparza. The Zoning Commission conducted a public hearing on September 5, 2006, and voted 3-0 to recommend approval to the City Council. Staff recommended approval of the proposed zone change and those determinations have been provided within this report.

PROCEDURAL HISTORY

- On August 7, 2006, the Planning Department received an application for a zone change on the subject property.
- The Zoning Commission conducted a public hearing on September 5, 2006, and recommended approval to the City Council by a 3-0 vote.
- The City Council will conduct a public hearing and first reading on September 25, 2006, and take action on the zone change application.
- If the Zone Change Ordinance is approved on the first reading, the City Council will consider it for second reading on October 10, 2006.

BACKGROUND

This is a zone change request from Residential-9600 to Neighborhood Commercial on a portion of the North 1 acre (less 3,795 square feet for street) of the East ½ of Lot 2 in the Northeast ¼ of Section 9, Township 1 South, Range 26 East. Lots 8 & 9, Block 2 of Central Acres Subdivision, 2nd Filing. The subject property is located at 4310 State Avenue and has a residential unit and garage on the east portion. The remaining lot is vacant. The total area of the parcel is 39,770 square feet; the portion for the zone change request is 14,190 square feet. The owner has further plans to subdivide the property in the future. The portion to be re-zoned to Neighborhood Commercial would be divided into an individual lot.

The owners of this property are Guy and Lloyd Romero. The agent is Valerie Dangerfield and George Esparza. George Esparza is the CEO of Taco Burrito. This location will be the pilot restaurant for the Taco Burrito franchise. The restaurant will be a 10' x 22' kiosk with on-site parking and landscaping. Ace Hardware Store is directly west of the subject property and is zoned Neighborhood Commercial. To the east of south of the subject property, the zoning is Residential-9600 and to the north is Residential-6000.

The Southwest Corridor Task Force held their regular meeting on August 24, 2006 and voted unanimously to approve the request for the zone change. The task force members did not have concerns in regards to this application.

Planning staff reviewed the application and recommended approval to the Zoning Commission based on the attached 12 criteria for zone changes. The subject property is adjacent to Residential 9600 zoning to the east and south and Neighborhood Commercial to the west.

ALTERNATIVES ANALYSIS

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:

Prior to any recommendation to the City Council, the Zoning Commission shall consider the following:

1. *Is the new zoning designed in accordance with the Growth Policy?*
Yes, the new zoning will not increase urban sprawl by utilizing existing city services. The 2003 Growth Policy supports contiguous development in and around existing population centers. This is an appropriate development of an area with Neighborhood Commercial directly west of the subject property. Neighborhood Commercial zoning allows service and conveniences to the neighborhood.
2. *Is the new zoning designed to lessen congestion in the streets?*
The planned development will not appreciably alter the traffic patterns in the area. The entrance to the site will be from State Avenue at approximately mid-block between Van Buren Street and Hallowell Lane.
3. *Will the new zoning secure safety from fire, panic and other dangers?*
This lot has public street frontage on State Avenue and is served by the City Fire Department and Police Departments. No public health or safety issues have been raised with this application.
4. *Will the new zoning promote health and general welfare?*
The new zoning contains restrictions on uses allowed and provides protection for health and general welfare through setbacks.
5. *Will the new zoning provide adequate light and air?*
The new zoning provides for sufficient setbacks for structures to allow for adequate light and air.
6. *Will the new zoning prevent overcrowding of land?*
The new zoning, as do all districts, have limits on the maximum percentage of lot that can be covered with structures. The Neighborhood Commercial zone allows for maximum lot coverage of 50 percent, or 7,095 square feet on a 14,190 square foot lot. This limitation should prevent overcrowding of the land.
7. *Will the new zoning avoid undue concentration of population?*

The new zoning does not require a minimum amount of square footage per structure; therefore, there could be some concentration of commercial uses located on this property.

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

Transportation: The planned development will not appreciably alter the traffic patterns in the area. The entrance to the site will be from State Avenue at approximately mid-block between Van Buren Street and Hallowell Lane.

Water and Sewerage: The City will provide water and sewer service to the property and has adequate facilities to serve this property.

Schools and Parks: There should be no effect on parks or schools from this rezoning.

Fire and Police: The property is served by existing services and there should be no effect on these services from the new zoning.

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

The primary zoning in this area is Residential-9,600 to the east and south, to the west is Neighborhood Commercial and Controlled Industrial and to the north is Residential-6000. The existing neighborhood consists of a mix of single-family, multi-family and commercial development. The proposed Neighborhood Commercial zone should blend in with the neighborhood. The new zoning should not impact the character of the neighborhood.

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

The subject property is suitable for the requested zoning district.

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

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

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

Yes, the new zoning will encourage the most appropriate use of this land in the area.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

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

STAKEHOLDERS

The Zoning Commission conducted a public hearing on September 5, 2006, and forwarded a recommendation of approval to the City Council by a 3-0 vote. Agents Valerie Dangerfield and George Esparza were present and gave an overview of the project. Architect Chuck Goldie was also present to discuss the project. No other residents commented on the proposal.

RECOMMENDATION

The Zoning Commission recommends by a 3-0 vote that the City Council **approve** Zone Change #790.

ATTACHMENTS:

- A: Site Photographs
- B: Surrounding Zoning
- C: Ordinance

Attachment A
Site Photos – Zone Change #790



Subject site at 4130 State Avenue



View west at Ace Hardware

Attachment A
Site Photos – Zone Change #790 Continued

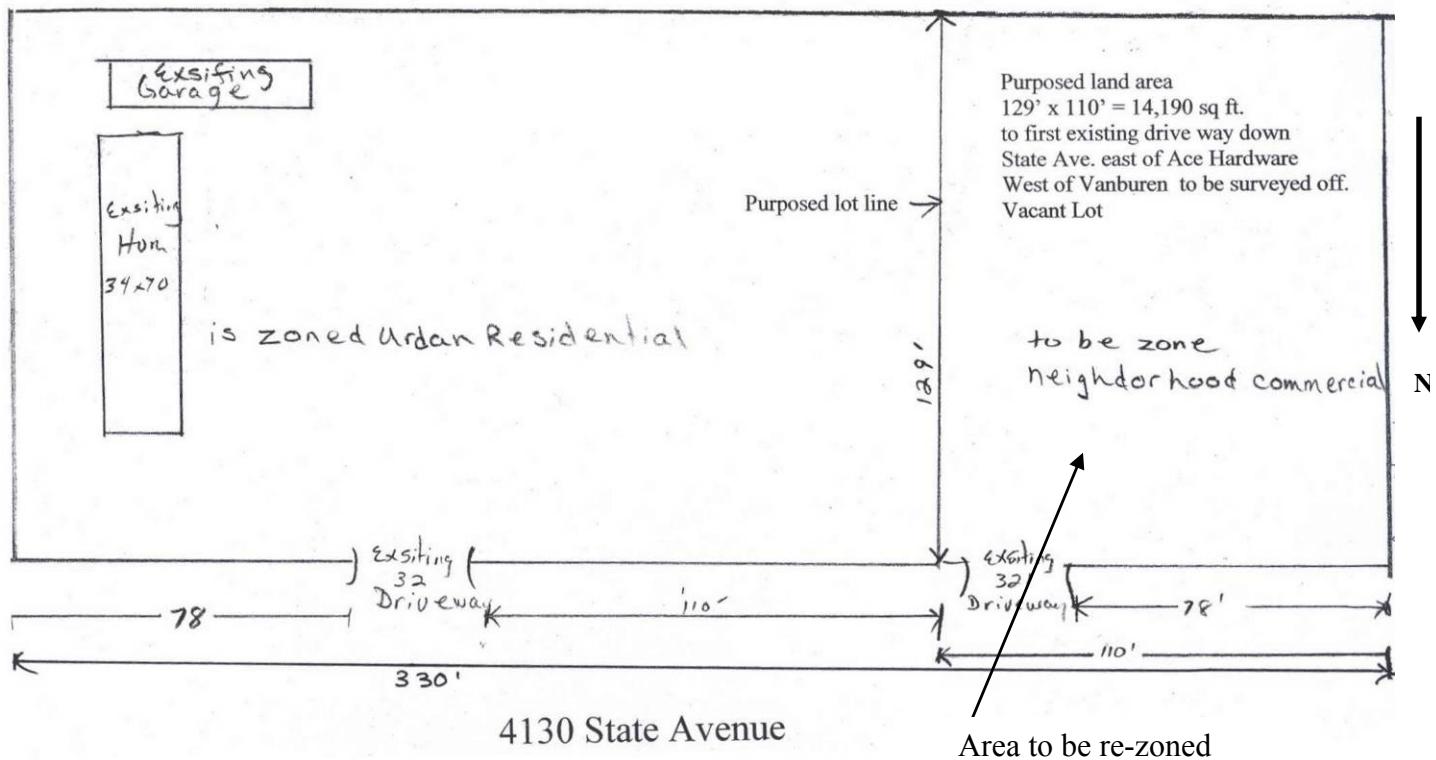
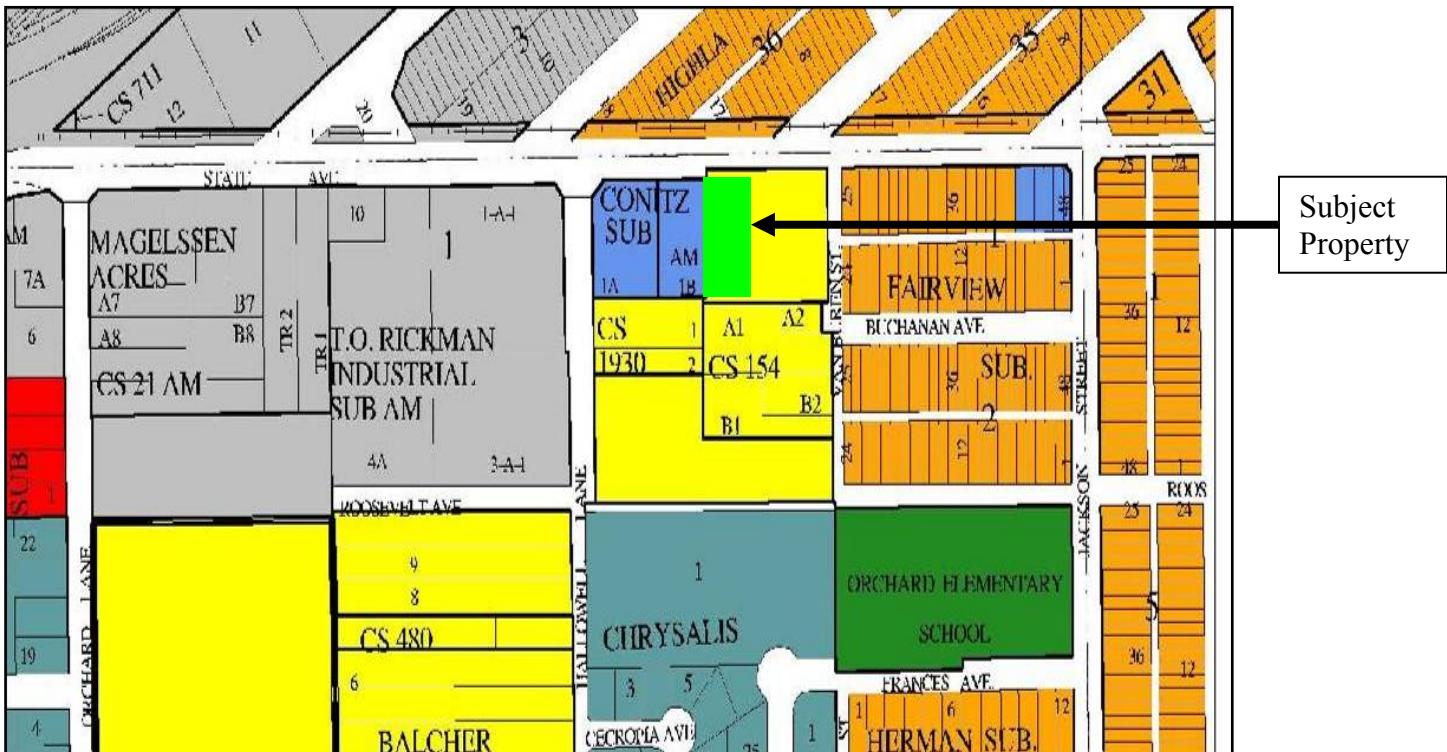


View west along State Avenue



View east along State Avenue

ATTACHMENT B
Surrounding Zoning – Zone Change #790



ATTACHMENT C
Zone Change #790

ORDINANCE NO. 06-

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION FOR the western 110' front portion of State Avenue by 129' south within the North 1 acre (less 3,795 square feet for street) of the East ½ of Lot 2 in the Northeast ¼ of Section 9, Township 1 South, Range 26 East, containing approximately 14,190 square feet

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 a portion of the North 1 acre (less 3,795 square feet for street) of the East ½ of Lot 2 in the Northeast ¼ of Section 9, Township 1 South, Range 26 East, containing approximately 14,190 square feet 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 **Neighborhood Commercial** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Neighborhood Commercial** as set out in the Billings, Montana City Code.

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

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

PASSED by the City Council on first reading September 25, 2006.

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

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY:
Marita Herold, CMC/AAE, City Clerk

ZC#790

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

AGENDA ITEM:

CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 25, 2006

TITLE: Zone Change #791 Public Hearing and 1st Reading of Ordinance

DEPARTMENT: Planning and Community Services

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

PROBLEM/ISSUE STATEMENT: This is a City Council initiated zone change request from Public to Residential-9,600 on Lots 19 and 20 of Block 61 Lake Hills Subdivision, 27th Filing located at 241 and 301 Glenhaven Drive. The City Council initiated the zone change to correct an error in the zoning map. The Zoning Commission conducted a public hearing on September 5, 2006, and voted 3-0 to recommend approval to the City Council.

ALTERNATIVES ANALYZED: State law at MCA 76-2-304 requires that all zone changes be reviewed in accordance with 12 criteria. Using the 12 criteria to determine the appropriateness of the zone change request, the City Council may:

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

FINANCIAL IMPACT: The proposed zone change will have a minimal effect on the City's tax base.

RECOMMENDATION

The Zoning Commission recommends by a 3-0 vote that the City Council approve Zone Change #791 and adopt the determinations of the 12 criteria, as discussed within this report.

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

ATTACHMENTS:

- A: Site Photographs
- B: Surrounding Zoning
- C: Ordinance

INTRODUCTION

This is a City Council initiated zone change request from Public to Residential-9,600 to correct a map error created in 1995. The subject properties are located at 241 and 301 Glenhaven Drive in the Lake Hills Subdivision. In 1993, two lots were created out of a portion of Tract B of Certificate of Survey 793. This certificate of survey is the Lake Hills Golf Course and is zoned Public. Public zoning districts do not allow residential uses.

PROCEDURAL HISTORY

- On August 14, the City Council initiated a zone change for the subject properties.
- The Zoning Commission conducted a public hearing on September 5, 2006, and recommended approval to the City Council by a 3-0 vote.
- The City Council will conduct a public hearing and first reading on September 25, 2006, and take action on the zone change application.
- If the Zone Change Ordinance is approved on the first reading, the City Council will consider it for second reading on October 10, 2006.

BACKGROUND

Lake Hills Subdivision, 27th Filing was approved in 1993 and filed with the Clerk and Recorder. The property was zoned Public and residential uses are not allowed. After the subdivision was approved the owner or developer failed to apply for a zone change to a residential zone. In 1995, the Building Division issued building permits for each lot and homes were constructed and sold. In 1995, the Planning Department did not review permits for compliance with zoning. The map error has not been an issue until this year. The owners of 241 Glenhaven Drive, Lloyd & Leona Irvine, applied for a building permit to add 300 square feet to their existing home. It was discovered the property had an incorrect zoning for single family residential use. The Planning Staff requested the City Council initiate a zone change for these two lots from Public to Residential-9,600. The City Council initiated the zone change on August 14, 2006.

The lots to the south, west and east are zoned Residential-9,600. The property to the north is the Lake Hills Golf Course and is appropriately zoned Public. The two lots were subdivided from the golf course in 1993 but the zoning was never changed. This is a map error that must be corrected. The subdivider stated in the subdivision application in 1993 the purpose for creation of the two lots was for residential uses.

The Planning Department reviewed this application and recommended approval based on the attached twelve (12) criteria for zone changes. The property is adjacent to Residential-9,600 zoning and the zone change is necessary to bring the property into conformity with zoning. Any new development will have to comply with all applicable zoning requirements. The Zoning Commission conducted a public hearing on September 5, 2006 and recommended approval of the zone change on a 3-0 vote.

ALTERNATIVES ANALYSIS

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 new zoning will not increase urban sprawl by utilizing existing city services. The 2003 Growth Policy supports contiguous development in and around existing population centers. The proposed zone will bring the properties into conformance with the Zoning Regulations.
2. *Is the new zoning designed to lessen congestion in the streets?*
The new zoning will not increase street congestion. The existing development will generate traffic based on the existing uses. No expansion of existing uses is proposed.
3. *Will the new zoning secure safety from fire, panic and other dangers?*
This lot has public street frontage on Glenhaven Drive. The property is served by the City Fire Department and Police Departments. No public health or safety issues have been raised with this application.
4. *Will the new zoning promote health and general welfare?*
The new zoning contains restrictions on uses allowed and provides protection for health and general welfare through setbacks.
5. *Will the new zoning provide adequate light and air?*
The new zoning provides for sufficient setbacks for structures to allow for adequate light and air.
6. *Will the new zoning prevent overcrowding of land?*
The new zoning, as do all districts, have limits on the maximum percentage of lot that can be covered with structures. The Residential-9,600 zone allows 30% lot coverage. This limitation should prevent overcrowding of the land.
7. *Will the new zoning avoid undue concentration of population?*
The new zoning of Residential-9,600 allows single family dwellings. The intended use of the property is for residential purposes. The new zoning should not create an undue concentration of population.
8. *Will the new zoning facilitate the adequate provisions of transportation, water, sewerage, schools, parks, fire, police, and other public requirements?*
Transportation: The new zoning should have no effect on the adjacent streets or traffic patterns.
Water and Sewerage: The City provides water and sewer service to the property and has adequate facilities to serve this property.
Schools and Parks: There should be no effect on parks or schools from this rezoning.

Fire and Police: The property is served by existing services and there should be no effect on these services from the new zoning.

9. *Does the new zoning give reasonable consideration to the character of the district?*
The primary zoning in this area is Residential-9,600 and Public. The current Public zone on the property does not allow residential uses. The proposed new zoning will bring the property into conformance and is appropriate to the character of the neighborhood.

10. *Does the new zoning give consideration to peculiar suitability of the property for particular uses?*
The subject property is suitable for the requested zoning district.

11. *Was the new zoning adopted with a view to conserving the value of buildings?*
The new zoning is not expected to appreciably alter the value of buildings in the area. It will increase the value of the existing single family dwellings on the lots.

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

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

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

STAKEHOLDERS

The Zoning Commission conducted a public hearing on September 5, 2006, and forwarded a positive recommendation to the City Council by a 3-0 vote. No one attended the public hearing to support or oppose the zone change.

RECOMMENDATION

The Zoning Commission recommends by a 3-0 vote that the City Council approve Zone Change #791 and adopt the determinations of the 12 criteria, as discussed within this report.

ATTACHMENTS:

- A: Site Photographs
- B: Surrounding Zoning
- C: Ordinance

ATTACHMENT A
Site photographs – Zone Change #791



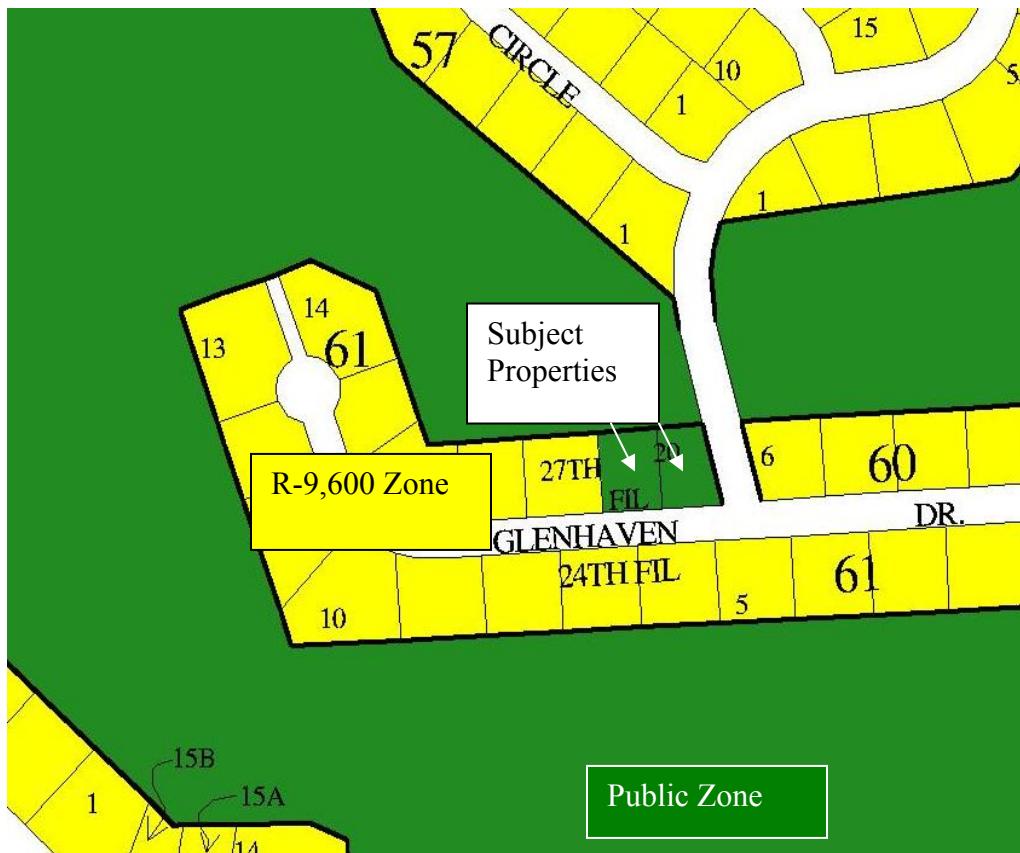
Subject Properties



View east along Glenhaven Drive
Page 285 of 306

ATTACHMENT B

Surrounding Zoning – Zone Change #791 - 241 & 301 Glenhaven Drive



ATTACHMENT C

Zone Change #791

ORDINANCE NO. 06-

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION
FOR Lots 19 & 20, Block 61 of Lake Hills Subdivision, 27th
Filing, containing approximately 20,022 square feet

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 Lots 19 & 20, Block 61 of Lake Hills Subdivision, 27th Filing, containing approximately 20,022 square feet and is presently zoned Public 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 **Public** to **Residential-9,600** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Residential-9,600** as set out in the Billings, Montana City Code.

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

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

PASSED by the City Council on first reading September 25, 2006.

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

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY:
Marita Herold, CMC/AAE, City Clerk

ZC#791– 241 & 301 Glenhaven Drive

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 25, 2006

TITLE: Zone Change #792 Public Hearing and 1st Reading of Ordinance

DEPARTMENT: Planning and Community Services

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

PROBLEM/ISSUE STATEMENT: This is a City Council initiated zone change request from Agriculture-Open Space to Public on C/S 2432, Tract 1 and C/S 2037, Tract 1 through 8 and Tract 11 located north and west of Billings Logan International Airport. The City Council initiated the zone change to correct an error in the zoning map. The Zoning Commission conducted a public hearing on September 5, 2006, and voted 3-0 to recommend approval to the City Council.

ALTERNATIVES ANALYZED: State law at MCA 76-2-304 requires that all zone changes be reviewed in accordance with 12 criteria. Using the 12 criteria to determine the appropriateness of the zone change request, the City Council may:

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

FINANCIAL IMPACT: The proposed zone change will have a minimal effect on the City's tax base.

RECOMMENDATION

The Zoning Commission recommends by a 3-0 vote that the City Council approve Zone Change #792 and adopt the determinations of the 12 criteria, as discussed within this report.

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

ATTACHMENTS:

- A: Site Photographs
- B: Surrounding Zoning
- C: Ordinance

INTRODUCTION

This is a City Council initiated zone change request from Agriculture-Open Space to Public to correct a zoning map error created in 1988. In August, 2006, the Planning Department was alerted to the possible map error by the County Geographic Information System Department. The subject properties are located north (C/S 2432, Tract 1) and west (C/S 2037, Tracts 1-8 & 11) of the Billings Logan International Airport. The property was purchased by the City of Billings for the abatement of noise around the airport. The parcels could have developed with up to twenty single family homes on ten-acre lots. After the property was purchased it was annexed into the City on October 3, 1988. In 1988, the zoning code did not have a “default” zoning district for property that was annexed in to the City. The Planning Department did not assign a new zoning district to the parcels and they remained zoned Agriculture-Open Space. The map is in error.

PROCEDURAL HISTORY

- On August 14, the City Council initiated a zone change for the subject properties.
- The Zoning Commission conducted a public hearing on September 5, 2006, and recommended approval to the City Council by a 3-0 vote.
- The City Council will conduct a public hearing and first reading on September 25, 2006, and take action on the zone change application.
- If the Zone Change Ordinance is approved on the first reading, the City Council will consider it for second reading on October 10, 2006.

BACKGROUND

The intended use of the property is part of the Billings Logan International Airport program to abate noise around the active runways. The Aviation Department does intend to sell, develop or extend new runways or other airport services on to these parcels of land. They will continue to be used for noise abatement. The zoning map should be corrected to show the intended use of the parcels for public purposes. The Agriculture-Open Space zoning district is not an allowed district within the City of Billings. The Planning Staff requested the City Council initiate a zone change for these lots from Agriculture-Open Space to Public. The City Council initiated the zone change on August 14, 2006.

The lots to the south, west and north are zoned Agriculture-Open Space and remain outside the city limits. The property to the east is the airport property and is zoned Public.

The Planning Department reviewed this application and recommended approval based on the attached twelve (12) criteria for zone changes. The property is adjacent to Public zoning and the zone change is necessary to bring the property into conformity with zoning. Any new development will have to comply with all applicable zoning requirements. Any use of the land contrary to zoning would require a public hearing and public notice to surrounding property owners. The Zoning Commission conducted a public hearing on September 5, 2006 and recommended approval of the zone change on a 3-0 vote.

ALTERNATIVES ANALYSIS

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 new zoning will not increase urban sprawl by utilizing existing city services. The 2003 Growth Policy supports contiguous development in and around existing population centers. The proposed zone will bring the properties into conformance with the Zoning Regulations.
2. *Is the new zoning designed to lessen congestion in the streets?*
The new zoning will not increase street congestion. No expansion of existing uses is proposed.
3. *Will the new zoning secure safety from fire, panic and other dangers?*
These lots do not have public street frontage. The property is served by the City Fire Department and Police Departments. No public health or safety issues have been raised with this application.
4. *Will the new zoning promote health and general welfare?*
The new zoning contains restrictions on uses allowed and provides protection for health and general welfare through setbacks.
5. *Will the new zoning provide adequate light and air?*
The new zoning provides for sufficient setbacks for structures to allow for adequate light and air. No structures are planned or proposed on these parcels at this time.
6. *Will the new zoning prevent overcrowding of land?*
The new zoning, as do all districts, have limits on the maximum percentage of lot that can be covered with structures. The Public zone allows up to 50% lot coverage. This limitation should prevent overcrowding of the land.
7. *Will the new zoning avoid undue concentration of population?*
The new zoning of Public does not allow residential uses. The intended use of the property is for noise abatement around active airport runways. The new zoning will not create an undue concentration of population.
8. *Will the new zoning facilitate the adequate provisions of transportation, water, sewerage, schools, parks, fire, police, and other public requirements?*
Transportation: The new zoning should have no effect on the adjacent streets or traffic patterns.
Water and Sewerage: The City provides water and sewer service to the property and has adequate facilities to serve this property.
Schools and Parks: There should be no effect on parks or schools from this rezoning.

Fire and Police: The property is served by existing services and there should be no effect on these services from the new zoning.

9. *Does the new zoning give reasonable consideration to the character of the district?*
The primary zoning in this area is Public and Agriculture-Open Space for parcels outside the city limits. The current Agriculture-Open Space is not an allowed zone within the city. The Public zone on the property does not allow residential uses. The proposed new zoning will bring the property into conformance and is appropriate to the character of the neighborhood.
10. *Does the new zoning give consideration to peculiar suitability of the property for particular uses?*
The subject property is suitable for the requested zoning district.
11. *Was the new zoning adopted with a view to conserving the value of buildings?*
The new zoning is not expected to appreciably alter the value of buildings in the area. It will correct an error in the zoning map.
12. *Will the new zoning encourage the most appropriate use of land throughout such county or municipal area?*
Yes, the new zoning will encourage the most appropriate use of this land in the area.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

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

STAKEHOLDERS

The Zoning Commission conducted a public hearing on September 5, 2006, and forwarded a positive recommendation to the City Council by a 3-0 vote. No one attended the public hearing to support or oppose the zone change.

RECOMMENDATION

The Zoning Commission recommends by a 3-0 vote that the City Council approve Zone Change #792 and adopt the determinations of the 12 criteria, as discussed within this report.

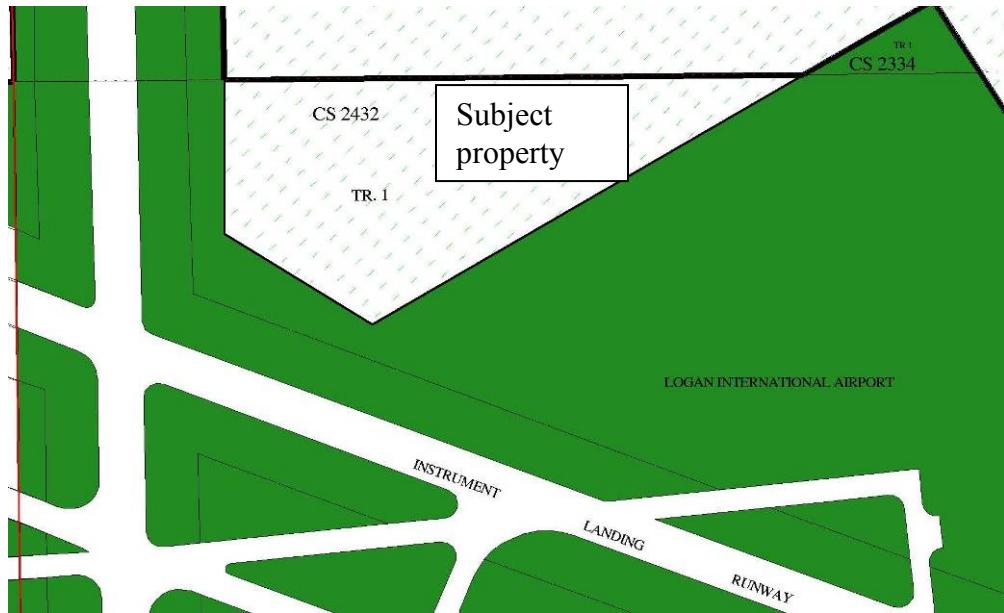
ATTACHMENTS:

- A: Site Photographs
- B: Surrounding Zoning
- C: Ordinance

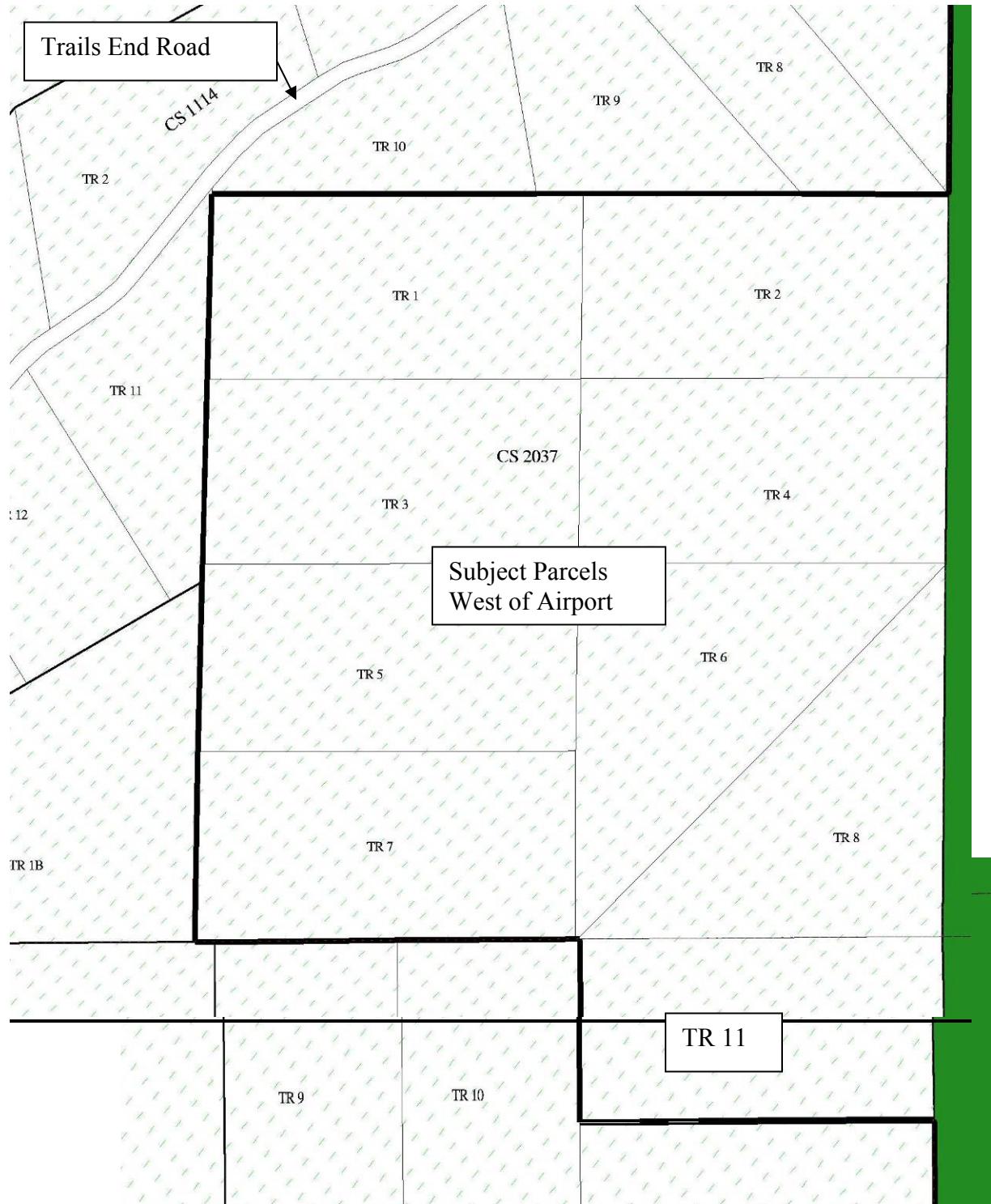
ATTACHMENT A
Site photographs – Zone Change #792



ATTACHMENT B
Surrounding Zoning – Zone Change #792 – Airport Property



ATTACHMENT B, continued
Surrounding Zoning – Zone Change #792 – Airport Property



ATTACHMENT C

Zone Change #792

ORDINANCE NO. 06-

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION
FOR C/S 2432, Tract 1 and C/S 2037, Tract 1 through 8 and
Tract 11, containing approximately 204.5 acres

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 C/S 2432, Tract 1 and C/S 2037, Tract 1 through 8 and Tract 11, containing approximately 204.5 acres and is presently zoned Agriculture-Open Space and is shown on the official zoning maps within this zone.

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

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

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

PASSED by the City Council on first reading September 25, 2006.

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

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY:
Marita Herold, CMC/AAE, City Clerk
ZC#792 – Airport Property

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

Employment Agreement

Introduction

This Agreement, made and entered into September __, 2006, by and between the City of Billings, Montana, a municipal corporation, (hereinafter called "Employer") and Christina F. Volek (hereinafter called "Employee"), an individual who has the education, training and experience in local government management and who, as a member of ICMA, is subject to the ICMA Code of Ethics, both of whom agree as follows:

Section 1: Term

The term of this agreement shall be for an initial period of two years, from September __, 2006 to October 1, 2008. This Agreement shall automatically be renewed on its anniversary date for an additional 2-year year term unless notice is given by the Employer is given at least 12 months before the expiration date that the Agreement shall be terminated. If the agreement is not renewed, all compensation, benefits and requirements of the agreement shall remain in effect until the expiration of the term of the Agreement unless Employee voluntarily resigns. If the Employee is terminated, as defined in Section 9 of this agreement, the Employee shall be entitled to all compensation including salary, accrued vacation and sick leave, car allowance paid in lump sum plus continuation of all benefits for the remainder of the term of this agreement.

Section 2: Duties and Authority

Employer agrees to employ Christina F. Volek as City Administrator to perform the functions and duties specified in Section 4.03 of the City Charter of the City of Billings, Montana.

Section 3: Compensation

A. Base Salary: Employer agrees to pay Employee in the first year of this Agreement an annual base salary of \$105,833 payable in biweekly installments at the same time that the other management employees of the Employer are paid.

B. This agreement shall be amended each subsequent October 1 to reflect a cost-of-living adjustment (COLA) and an increase in compensation as agreed by the Employer and Employee, dependent upon successful completion of the performance evaluation conducted under the provisions of Section 12 of this Agreement.

Section 4: Health, Disability and Life Insurance Benefits

A. Employer agrees to provide and to pay the premiums for health, hospitalization, surgical, vision, dental and comprehensive medical insurance for the Employee and her dependents equal to that which is provided to other employees of the City of Billings, Montana

B. Employer shall pay the amount of premium due for term life insurance in the amount of the Employee's two-year annual base salary. The Employee shall name the beneficiary of the life insurance policy.

C. Should Employee die while on travel for the Employer, the Employer shall cover the full cost of retrieving and transporting the Employee's remains back to the custody of the Employee's family.

Section 5: Vacation and Sick Leave

A. On the effective date of this agreement, Employee shall be credited with her existing sick and vacation leave earned to date. The Employee shall then accrue sick and vacation leave on an annual basis at the highest rate provided to any other employees.

B. Employee is entitled to accrue all unused leave, up to 500 hours, and in the event the Employee's employment is terminated, either voluntarily or involuntarily, the Employee shall be compensated for all accrued vacation time, and other benefits to date.

Section 6: Automobile

Employer agrees to pay to the Employee, during the term of this Agreement and in addition to other salary and benefits herein provided, the sum of \$4,800 per year, payable monthly, as a vehicle allowance to be used to purchase, lease, or own, operate and maintain a vehicle. The amount of the vehicle allowance may be increased in the future by mutual consent of the parties. The Employee shall be responsible for paying for liability, property damage, and comprehensive insurance coverage upon such vehicle and shall further be responsible for all expenses attendant to the purchase, operation, maintenance, repair, and regular replacement of said vehicle. The Employer shall reimburse the Employee on the basis of gasoline receipts for any business use of the vehicle beyond the greater Billings area. For purposes of this Section, use of the car within the greater Billings area is defined as travel to locations within a 50-mile radius of Billings.

Section 7: Retirement

A. Employer agrees to contribute 6.8% of the Employee's annual salary into the Montana Public Employees' Retirement System (MPERS) or its successor. Employee will contribute 6.9% of her annual salary to MPERS.

B. In addition to Employer's payment to MPERS as referenced above, Employer agrees to execute all necessary agreements provided by ICMA Retirement Corporation [ICMA-RC] or other Section 457 deferred compensation plan for Employee's continued participation in said supplementary retirement plan and, in addition to the base salary paid by the Employer to Employee, Employer agrees to pay ICMA-RC an amount equal to 6.8% of Employee's base salary, in equal proportionate amount each pay period. The parties shall fully disclose to each other the financial impact of any amendment to the terms of Employee's retirement benefit.

Section 8: General Business Expenses

A. Employer agrees to budget for and to pay for:

1. Professional dues and subscriptions of the Employee for continuation and full participation in national, regional, state, and local associations, and organizations necessary and desirable for the Employee's continued professional participation, growth, and advancement, and for the good of the Employer.
2. Reasonable travel and subsistence expenses of Employee for professional and official travel, meetings, and occasions to adequately continue the professional development of Employee and to pursue official functions for Employer, including but not limited to the ICMA Annual Conference, the state league of municipalities, and such other national, regional, state, and local governmental groups and committees in which Employee serves as a member.
3. Reasonable travel and subsistence expenses of Employee for short courses, institutes, and seminars for the Employee's professional development and for the good of the Employer.

B. Employer acknowledges the value of having Employee participate and be directly involved in local civic clubs or organizations reasonably related to Employee's duties. Accordingly, Employer shall pay for the reasonable membership fees and/or dues to enable the Employee to become an active member in local civic clubs or organizations.

Section 9: Termination

For the purpose of this agreement, termination shall occur when:

- A. The majority of the governing body votes to terminate the Employee at a duly authorized public

meeting.

B. If the Employer, citizens or legislature acts to amend any provisions of the City Charter pertaining to the role, powers, duties, authority, responsibilities of the Employee's position that substantially changes the form of government, the Employee shall have the right to declare that such amendments constitute termination.

C. If the Employee resigns following an offer to accept resignation, whether formal or informal, by the majority of the governing body, then the Employee may declare a termination as of the date of the suggestion.

Section 10: Severance Compensation

A. Severance compensation shall be paid to the Employee if employment is terminated as defined in Section 9.

B. If the Employee is terminated, the Employer shall provide a minimum severance compensation payment equal to one year salary at the current rate of pay. This severance shall be paid in a lump sum unless otherwise agreed to by the Employer and the Employee.

C. The Employee shall also be compensated for all accrued vacation leave and $\frac{1}{4}$ of accrued sick leave. The Employer agrees to make a contribution to the Employee's deferred compensation account on the value of this compensation calculated using the rate ordinarily contributed on regular compensation.

D. For a minimum period of one year following termination, the Employer shall pay the cost to continue the following benefits:

1. Health insurance for the employee and all dependents as provided in Section 4A;
2. Life insurance as provided in Section 4B;
3. Out-placement services should the employee desire them in an amount to be negotiated at time of separation.
4. Any other benefits as negotiated at the time of separation.

E. If the Employee is terminated for cause, the Employer is not obligated to pay severance under this section.

Section 11: Resignation

If the Employee voluntarily resigns his/her position with the Employer, the Employee shall provide a minimum of 30 days notice unless the parties agree otherwise.

Section 12: Performance Evaluation

Employer shall annually review the performance of the Employee in September, subject to a review form shown as Attachment A or to another process for the evaluation which shall be mutually agreed upon by the Employer and Employee. The process at a minimum shall include the opportunity for both parties to:

1. Prepare a written evaluation;
2. Meet and discuss the evaluation; and
3. Present a written summary of the evaluation results, along with specific suggestions for improvement. The final written evaluation shall be completed and delivered to the Employee within 30 days of the evaluation meeting.

Section 13: Hours of Work

It is recognized that the Employee must devote a great deal of time outside the normal office hours on business for the Employer, and to that end Employee shall be allowed to establish an appropriate work schedule.

Section 14: Residency

Employee agrees to maintain residence within the corporate boundaries of the City of Billings.

Section 15: Indemnification

Employer shall defend, save harmless and indemnify Employee as provided in the current version of Montana Code Annotated Section 2-9-305(2005) which is set forth in its entirety below. This obligation shall survive and extend beyond the Employee's separation from Employer and Employee shall be indemnified and held harmless for any post-separation costs or expenses incurred in connection with the investigation or defense of any claim related to her employment.

1. It is the purpose of this section to provide for the immunization, defense, and indemnification of public officers and employees civilly sued for their actions taken within the course and scope of their employment.
2. In any noncriminal action brought against any employee of a state, county, city, town, or other governmental entity for a negligent act, error, or omission, including alleged violations of civil rights pursuant to *42 U.S.C. 1983*, or other actionable conduct of the employee committed while acting within the course and scope of the employee's office or employment, the governmental entity employer,

except as provided in subsection (6), shall defend the action on behalf of the employee and indemnify the employee.

3. Upon receiving service of a summons and complaint in a noncriminal action against him, the employee shall give written notice to his supervisor requesting that a defense to the action be provided by the governmental entity employer. If the employee is an elected state official or other employee having no supervisor, the employee shall give notice of the action to the legal officer or agency of the governmental entity defending the entity in legal actions of that type. Except as provided in subsection (6), the employer shall offer a defense to the action on behalf of the employee. The defense may consist of a defense provided directly by the employer. The employer shall notify the employee, within 15 days after receipt of notice, whether a direct defense will be provided. If the employer refuses or is unable to provide a direct defense, the defendant employee may retain other counsel. Except as provided in subsection (6), the employer shall pay all expenses relating to the retained defense and pay any judgment for damages entered in the action that may be otherwise payable under this section.
4. In any noncriminal action in which a governmental entity employee is a party defendant, the employee shall be indemnified by the employer for any money judgments or legal expenses, including attorney fees either incurred by the employee or awarded to the claimant, or both, to which the employee may be subject as a result of the suit unless the employee's conduct falls within the exclusions provided in subsection 6.
5. Recovery against a governmental entity under the provisions of parts 1 through 3 of this chapter constitutes a complete bar to any action or recovery of damages by the claimant, by reason of the same subject matter, against the employee whose negligence or wrongful act, error, or omission or other actionable conduct gave rise to the claim. In any such action against a governmental entity, the employee whose conduct gave rise to the suit is immune from liability by reasons of the same subject matter if the governmental entity acknowledges or is bound by a judicial determination that the conduct upon which the claim is brought arises out of the course and scope of the employee's employment, unless the claim constitutes an exclusion provided in (b) through (d) of subsection (6).
6. In a noncriminal action in which a governmental entity employee is a party defendant, the employee may not be defended or indemnified by the employer for any money judgments or legal expenses, including attorney fees, to which the employee may be subject as a result of the suit if a judicial determination is made that:
 - (a) the conduct upon which the claim is based constitutes oppression, fraud, or malice, or for any other reason does not arise out of the course and scope of the employee's employment;

- (b) the conduct of the employee constitutes a criminal offense as defined in Title 45, chapters 4 through 7;
- (c) the employee compromised or settled the claim without the consent of the government entity employer; or
- (d) the employee failed or refused to cooperate reasonably in the defense of the case.

7. If no judicial determination has been made applying the exclusions provided in subsection (6), the governmental entity employer may determine whether those exclusions apply. However, if there is a dispute as to whether the exclusions of subsection (6) apply and the governmental entity employer concludes it should clarify its obligation to the employee arising under this section by commencing a declaratory judgment action or other legal action, the employer is obligated to provide a defense or assume the cost of the defense of the employee until a final judgment is rendered in such action holding that the employer had no obligation to defend the employee. The governmental entity employer has no obligation to provide a defense to the employee in a declaratory judgment action or other legal action brought against the employee by the employer under this subsection.

Section 16: Bonding

Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

Section 17: Other Terms and Conditions of Employment

A. Employer, only upon agreement with Employee, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City Charter or any other law.

B. Except as otherwise provided in this Agreement, the Employee shall be entitled to the highest level of benefits that are enjoyed by other exempt employees of the Employer as provided in the Charter, Code, Personnel Rules and Regulations or by practice.

Section 18: Notices

Notice required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 19: General Provisions

A. Integration. This Agreement sets forth and establishes the entire understanding between the Employer and the Employee relating to the employment of the Employee by the Employer. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provision of this agreement during the life of the agreement. Such amendments shall be incorporated and made a part of this agreement.

B. Binding Effect. This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.

C. Effective Date. This Agreement shall become effective on _____, ____.

D. Severability. The invalidity or partial invalidity of any portion of this Agreement will not effect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

Approved as to Form:

Brent Brooks, City Attorney

Approved this ____ day of _____, 2006,

The City of Billings

By:

Ron Tussing, Mayor

Attest:

Marita Herold, CMC/AAE, City Clerk

Christina F. Volek, Employee

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