

CITY OF BILLINGS

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

AGENDA

COUNCIL CHAMBERS

APRIL 23, 2007

6:30 P.M.

CALL TO ORDER – Mayor Tussing

PLEDGE OF ALLEGIANCE – Mayor Tussing

INVOCATION – Councilmember Richard Clark

ROLL CALL

MINUTES – March 26, 2007 and April 9, 2007.

COURTESIES

PROCLAMATIONS

- April 22-28, 2007: Administrative Professionals Week
- April 27, 2007: Arbor Day
- May 3, 2007: National Prayer Day

ADMINISTRATOR REPORTS – Tina Volek

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1 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. Change Order #10 - #W.O. 04-12: Alkali Creek Road Reconstruction, JTL Construction Group, \$78,720.00
[\(Corresponding Staff Memo A\)](#)

B. **Parking Security Contracts:**

(1) D-N-D Security, \$24,236.00/year, +\$15/hour extra call-out rate and a one-year security contract with a one-year option to renew at the same annual rate.

(2) Sundown Security, \$25,296/year + \$17/hour extra call-out rate a one-year security contract with a one-year option to renew at the same annual rate.

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

C. Briarwood Water Reservoir Site Use and Access Agreement on property located in the NE ¼ of Section 27, T.1S., R.26 E., Billings Motorcycle Club, and William and C. Diane Morrison, \$0.00.

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

D. W.O. 06-17: Contract for Professional Services with Kittleson & Associates for the 24th Street West Signal Timing, \$99,850.00.

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

E. Wells Fargo (Downtown) Encroachment Fee Variance for streetscape improvements by Wells Fargo Downtown Branch to the N. 27th Street frontage and 2nd Avenue North frontage, consisting of: three (3) planters and two (2) trash receptacles along the N. 27th Street frontage, \$420/year.

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

F. Grant Application Submittal for the Fair Housing Initiatives Program - U.S. Department of Housing and Urban Development (HUD), \$100,000.00.

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

G. W.O. 04-33: Lake Elmo Drive (Hilltop Rd. to Wicks Ln) Right-of-Way Acquisition:

(1) Parcel 11: Portion of Lot 1, Block 1, Croy Sub., Richard A. and Brenda K. Rogers, \$550.00.

[\(Corresponding Staff Memo G1\)](#)

(2) Parcel 18: Portion of Lot 1A, amended Lot 1, Lammers Sub., Minnie Tomicich and Nancy Rudio Tomicich, \$2,600.00.

[\(Corresponding Staff Memo G2\)](#)

(3) Parcel 71: Portion of Lot 5, Block 4, Arrowhead Sub., Mona Reichert, \$2,450.00.

[\(Corresponding Staff Memo G3\)](#)

H. Street Closures: Yellowstone Rimrunners request partial street closures for *Highland Family Fun Run* on Saturday, May 19, 2007 from 9:00 a.m. to 11:30 a.m. The closures are as follows: Parkhill from Highland School east to Virginia Lane,

through Pioneer Park then back on the north side of Parkhill to 6th Street West, O'Malley, 7th Street West, and Beverly Hill.

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

I. Acceptance of donations:

(1) Approval and Acceptance of Donation to the Billings Animal Shelter from the Greater Billings Animal Coalition for a Pet Lift Aqua Quest Stainless Steel Tub and Edemco Double Cage Dryer, \$5,000.00.

[\(Corresponding Staff Memo I1\)](#)

(2) Approval and Acceptance of Donation to the Police Department from Hardy Construction to help defray costs of sending an officer to the National Association of School Resource Officer Conference (NASRO) in July, 2007, \$800.00.

[\(Corresponding Staff Memo I2\)](#)

J. Acceptance of Quitclaim Deed of C/S 1952, Tract 2D, 54th Street West Right of Way from Yellowstone County, \$0.00.

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

K. Acceptance of Shiloh Drain Quitclaim Deed from the Shiloh Drain District for all rights-of-way and easements, \$0.00.

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

L. Resolution designating South 12th Street West a two-way street between Central Avenue and its terminus south of Kalmar Drive.

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

M. Resolution relating to \$12,100,000 General Obligation Bonds, Series 2007A and 2007B, Authorizing the Issuance and Calling for the Public Sale Thereof.

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

N. Second/final reading ordinance expanding Ward I (Annexation #07-03) for a .244-acre property described as: North ½, Lot 3, and all of Lot 4 and Lot 7, Sandra Subdivision, and located at 23, 63 and 65 Charlene Street, the City of Billings, owner.

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

O. Second/final reading ordinance expanding Ward I (Annexation #07-04) for C/S 598, in Lot 30, Clark Subdivision, containing 10,454 square feet and located at 307 Garden Avenue; Lana Jean Bittner, owner.

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

P. Bills and Payroll.

(1) March 23, 2007

[\(Corresponding Staff Memo P1\)](#)

(2) March 30, 2007

[\(Corresponding Staff Memo P2\)](#)

(Action: approval or disapproval of Consent Agenda.)

REGULAR AGENDA:

2. **PUBLIC HEARING AND RESOLUTION FOR ANNEXATION #07-06:** property described as Tracts 1 & 2 of C/S 1323; Tract 1 of C/S 1815; Tract 2D of Corrected Amended Tract 2 of C/S 1952; Yellowstone Meadows - Phase I and III Parkland; Lots 33, 34, 63, and 64 of Sunny Cove Fruit Farms, all adjacent right-of-way of 54th St. West, 56th St. West and Colton Blvd., and located at the NW corner of 54th St. West and Colton Blvd. Staff recommends approval. **(Action: approval or disapproval of Staff recommendation.)**
[\(Corresponding Staff Memo R2\)](#)
3. **PUBLIC HEARING AND RESOLUTION FOR ANNEXATION #07-07:** property described as Lots 1-5, Block 1, Western Sky Sub., and located SE of King Avenue West and 48th Street West, Cal Kunkel and Gareld Krieg, owners. . Staff recommends conditional approval. **(Action: approval or disapproval of Staff recommendation.)**
[\(Corresponding Staff Memo R3\)](#)
4. **PUBLIC HEARING AND RESOLUTION ORDERING IN W.O. 06-18:** Broadwater Subdivision – Phase V, curb/gutter and street reconstruction improvements for Broadwater Subdivision. Staff recommends approval. **(Action: approval or disapproval of Staff recommendation.)**
[\(Corresponding Staff Memo R4\)](#)
5. **PUBLIC HEARING FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) and HOME INVESTMENT PARTNERSHIP (HOME) PROGRAMS AND THE FY2007-2008 ANNUAL ACTION PLAN.** Staff recommends holding a public hearing to gather public input on the allocation of the City of Billings FY2007-2008 CDBG and HOME funding and scheduling action on May 14, 2007. **(Action: approval or disapproval of Staff recommendation.)**
[\(Corresponding Staff Memo R5\)](#)
6. **PUBLIC HEARING AND FIRST READING ORDINANCE** amending Article 18-1000 and Section 18-1001 re: aggressive solicitation. Staff recommends approval. **(Action: approval or disapproval of Staff recommendation.)**

[\(Corresponding Staff Memo R6\)](#)

7. **PUBLIC HEARING AND SPECIAL REVIEW #842:** A special review to permit an on-premise beer and wine license in a Controlled Industrial zone for the Marriott Residence Inn Hotel (currently under construction) on property described as: Lots 13A-1 and 13B, Block 3, Midland Subdivision, 5th Filing Amended and located at 956 South 25th Street West. LADS Hospitality Associates, LLC, owner. Zoning Commission recommends conditional approval. **(Action:** approval or disapproval of Zoning Commission recommendation.)

[\(Corresponding Staff Memo R7\)](#)

8. **PUBLIC HEARING AND SPECIAL REVIEW #843:** A special review to allow drive-in banking service in a Community Commercial and Controlled Industrial zone adjacent to a residential zone at 952 Central Avenue. Rimrock Credit Union, owner; A&E Architects, agent. Zoning Commission recommends conditional approval. **(Action:** approval or disapproval of Zoning Commission recommendation.)

[\(Corresponding Staff Memo R8\)](#)

9. **PUBLIC HEARING AND SPECIAL REVIEW #844:** A special review to permit the storage of vehicles used for parts in a Controlled Industrial (CI) zone on property described as an unplatted parcel in the SW¼ of Section 9, Township 1S, Range 26E and located at 2069 South Billings Blvd. Ralph Hanser, owner. Zoning Commission recommends conditional approval. **(Action:** approval or disapproval of Zoning Commission recommendation.)

[\(Corresponding Staff Memo R9\)](#)

10. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #802:** A zone change from Agricultural Open Space (AO) to Community Commercial (CC), Residential Multi-Family Restricted (RMF-R), Residential 5000 (R-50), and Residential 7000 (R-70) on property described as: Lots 1-5, Block 1, Western Sky Subdivision and located at the southeast corner of the intersection of King Avenue West and 48th Street West. Gareld Krieg and Cal Kunkel; owners, Engineering, Inc., agent. Zoning Commission recommends approval and acceptance of the determination of the 12 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)

[\(Corresponding Staff Memo R10\)](#)

11. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #803:** A zone change from Agricultural-Open Space (AO) and Residential-15,000 (R-150) to Public (P) on a 38-acre parcel located at the northwest corner of 54th St. West and Colton Blvd. City of Billings, owner; Parks, Recreation and Public Lands Department, agent. Zoning Commission recommends approval

and acceptance of the determination of the 12 criteria. **(Action:** approval or disapproval of Zoning Commission recommendation.)

(Corresponding Staff Memo R11)

- 12. 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>**

A

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 23, 2007

TITLE: W.O. 04-12 - Alkali Creek Road Reconstruction, Construction Contract, Approval of Change Order #10

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: Phases 1 and 2 of the Alkali Creek Road project developed and reconstructed Alkali Creek Road from Senators Boulevard to the BBWA inverted siphon crossing. Phase 1 of the Alkali Creek Road Reconstruction project was substantially complete in October 2005, and Phase 2 was substantially complete in September 2006. Once detailed design was underway, the estimated cost of the multi-use trail from Black Pine Street to Senators Boulevard exceeded the available budget for the item. Because an adequate sidewalk exists from Indian Trail (North) to Senators Boulevard, the decision was made to terminate the widening of the 5-foot wide sidewalk to a 10-foot wide multi-use trail standard at Indian Trail (North) under the original construction contract. The construction bid for the multi-use trail was considerably lower than estimated, so this change order is primarily the cost of widening the sidewalk to a multi-use trail standard from Indian Trail (North) to Senators Boulevard thereby providing a multi-use facility to the northerly terminus of the project. The other major item is placing landscape fabric and river rock in the boulevard along Alkali Creek Road between Indian Trail (North) and Teepee Trail. The said boulevard area is too narrow for tree placement and a difficult area in which to maintain grass, so river rock represents a low maintenance, aesthetically pleasing solution. The sidewalk widening and landscaping work is to be started after Memorial Day (when school is out) and completed not later than June 29, 2007. This Change Order #10 will cause the sum of the change orders to exceed \$100,000, so Council must approve this change order for the Contractor to perform the desired work on the project.

ALTERNATIVES ANALYZED:

1. Approve the proposed Change Order #10. Under this option, the multi-use trail will be extended from Indian Trail (North) to Senators Boulevard.
2. Do not approve the proposed Change Order #10. Under this option, the multi-use trail will not be extended from Indian Trail (North) to Senators Boulevard.

FINANCIAL IMPACT: A summary of the construction contract is as follows:

Total Budget Amount	\$2,247,381.00
Original Construction Contract	
+ Approved Change Orders #1 - #9	\$1,970,063.67
<u>Change Order #10</u>	<u>\$ 78,720.00</u> (this memo)
Remaining funds	\$ 277,317.33

Funding for this Change Order #10 is available from project funds. These work items are CTEP eligible, and the project's CTEP funding will be used to the fullest extent possible.

RECOMMENDATION

Staff recommends that Council approve and authorize the Mayor to execute Change Order #10 to the construction contract with JTL Group, Inc. in the amount of \$78,720.00.

Approved By: City Administrator _____ City Attorney _____

ATTACHMENT

A. Change Order #10 to Construction Contract (9 pages)

INTRODUCTION

Alkali Creek Road from Airport Road to Senators Boulevard is projected to carry up to 10,000 vehicles per day by 2010. Phases 1 and 2 of the Alkali Creek Road project developed and reconstructed Alkali Creek Road from Senators Boulevard to the BBWA inverted siphon crossing. Once detailed design was underway, the estimated cost of the multi-use trail from Black Pine Street to Senators Boulevard exceeded the available budget for the item. Because an adequate sidewalk exists from Indian Trail (North) to Senators Boulevard, the decision was made to terminate the widening of the 5-foot wide sidewalk to a 10-foot wide multi-use trail standard at Indian Trail (North) under the original construction contract. The construction bid for the multi-use trail was considerably lower than estimated, so this change order is primarily the cost of widening the sidewalk to a multi-use trail standard from Indian Trail (North) to Senators Boulevard thereby providing a multi-use facility to the northerly terminus of the project.

PROCEDURAL HISTORY

Completed Items

- February 16, 2004 – Proposals for professional services received by Engineering Division, in response to a Request for Proposals
- April 12, 2004 – Contract for Professional Services awarded to KLJ
- November 15, 2004 – Three phase plan for construction presented to Council
- January 10, 2005 – Contract Amendment #1 approved by Council
- March 28, 2005 – Contract Amendment #2 approved by Council
- July 11, 2005 – Contract Amendment #3 approved by Council
- October 28, 2005 – Phase 1 construction substantially complete
- September 15, 2006 – Phase 2 construction substantially complete

Future Items

- March 12, 2007 – Contract Amendment #4 approved (**this memo**)
- March 2007 – Phase 3 design begins
- October 2007 – Phase 3 design completed and ready to advertise for bids
- 2008 – Bidding and construction of Phase 3 with MDT Airport Road project
- 2009 – Phase 3 construction estimated completion

BACKGROUND

This Phase 3 will be constructed in conjunction with the MDT Airport Road project, scheduled to be ready for construction bids later this year. Phase 3 street improvements are anticipated to include a reconstructed street surface, minor curve realignment, storm improvements, new guard rails, and a multi-use path. Because the work items expected for this phase will be similar to the Airport Road project (e.g. rock excavation), it was determined that bidding this Phase 3 in conjunction with the MDT Airport Road project could result in cost savings for the City.

The purpose of Contract Amendment #4 is to develop Phase 3 project design plans and specifications using MDT's standards for inclusion in the MDT bid package for Airport Road. Design plans and specifications produced for MDT projects are significantly different than the plans typically produced for City of Billings projects. For this project, MDT will be utilizing metric units for all items, including bid item quantities. Also, MDT utilizes a standard rigid set of bid item naming and numbering conventions, different standard detailed drawings, and different contract provisions. Because this Phase 3 project will entail a whole separate set of design plans and contract documents beyond the scope and intent of the original services contract, Staff negotiated this proposed Contract Amendment #4 to compensate the consultant for these additional efforts.

The previous contract amendments were related to Phases 1 and 2 design work. Contract Amendment #1, approved on January 10, 2005, for \$25,394, was for additional alternative road sections analysis, additional stormwater analysis, and additional water main design. Contract Amendment #2, approved on March 28, 2005, for \$2,071, was for additional surveying due to development and for additional sanitary sewer services design. Contract Amendment #3, approved on July 11, 2005, for \$10,000, was for additional design services as necessary during Phases 1 and 2 construction.

RECOMMENDATION

Staff recommends that Council approve and authorize the Mayor to execute Contract Amendment #4 to the professional services contract with Kadrmas, Lee & Jackson, Inc. in the amount of \$113,720.

CHANGE ORDER

(Instructions on reverse side)

No. One(1)

PROJECT: W.O. 04-12
06/22/05

DATE OF ISSUANCE:

OWNER: City of Billings
NO. W.O. 04-12
(Name & Address) 510 N. Broadway, 4th Floor
Billings, MT 59101

OWNER'S PROJECT

CONTRACTOR: JTL Group, Inc.
City Engineer
P.O. Box 80066
Billings, MT 59108

ENGINEER: Office of the

**ENGINEER'S PROJECT
NO.**

W.O. 04-12

CONTRACT FOR: W.O. 04-12 – Alkali Creek Road Improvements, Includes STPE 1099(46),
Alkali Creek Bike/Ped – Billings, MDT CN 5713

You are directed to make the following changes in the Contract Documents.

Purposes of Change Order: (1)

(2) Increase contract time by three (3) calendar days during Phase 1.

Attachments:

**CHANGE IN CONTRACT PRICE:
TIME:**

CHANGE IN CONTRACT

Original Contract Price

Original Contract Time

\$ 435,730.70
09/01/07 days or date

90 calendar days and completion by

Previous Change Orders
Orders

Net Change from previous Change

\$ 0.00

Contract Price prior to this Change Order

\$ 435,730.70
09/01/04

Net Increase (decrease) of this Change
this Change

\$ 0.00
days

Contract Price with approved Change Order
Change Order

\$ 435,730.70
09/08/04

0
days

Contract Time prior to this Change

90 calendar days and completion by
days or date

Net Increase (decrease) of

Seven (7) calendar
days

Contract Time with approved

97 calendar days and completion by
days or date

RECOMMENDED:

By _____
Engineer

APPROVED:

By _____
Owner

APPROVED:

By _____
Contractor

CHANGE ORDER

INSTRUCTIONS

A. GENERAL INFORMATION

This document was developed to provide a uniform format for handling contract changes that affect Contract Price or Contract Time. Changes that have been initiated by a Work Directive Change must be incorporated into a subsequent Change Order if they affect price or time.

Changes that affect Contract Price or Contract Time should be promptly covered by a Change Order. The practice of accumulating Change Order items to reduce the administrative burden may lead to unnecessary disputes.

For supplemental instructions and minor changes not involving a change in the Contract Price or Contract Time, a Field Order may be used.

B. COMPLETING THE CHANGE ORDER FORM

Engineer initiates the form, including a description of the changes involved and attachments based upon documents and proposals submitted by Contractor, or requests from Owner, or both.

Once Engineer has completed and signed the form, all copies should be sent to Contractor for approval. After approval by Contractor, all copies should be sent to Owner for approval. Engineer should make distribution of executed copies after approval by Owner.

If a change only applies to price or to time, cross out the part of the tabulation that does not apply.

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

B

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 23, 2007

TITLE: Parking Security Contract
DEPARTMENT: Administrative Services – Parking Division
PRESENTED BY: Chris Mallow, Parking Supervisor

PROBLEM/ISSUE STATEMENT: The City's four (4) parking garages require 24-hour random patrol security to deter vagrants, vandals, transients, etc., with additional call-outs, as needed. The current security contract was approved by City Council effective May 1, 2005, for one year with one-year option to renew. The one-year renewal will expire April 30, 2007. The City advertised a Request for Proposals (RFP) on March 8 and 15, 2007. The RFP was for a one-year security contract with a one-year option to renew at the same annual rate. The proposals were received by Staff on April 6, 2007, and reviewed by an employee committee on April 10, 2007. The following proposals were received and reviewed by an employee committee:

1. D-N-D Security - \$24,236.00/year + \$15/hour extra call-out rate.
2. Sundown Security - \$25,296.00/year + \$17/hour extra call-out rate.

ALTERNATIVES ANALYZED:

- Approve contract with D-N-D Security.
- Approve contract with Sundown Security.
- Reject all proposals and request new proposals.
- Provide no security services for the parking garages.

FINANCIAL IMPACT:

- The expiring annual contract price is \$21,900.
- In FY07, \$22,800 has been budgeted for security and \$23,500 has been requested for the FY08 budget. Any additional cost will be absorbed within other line items of the budget.

RECOMMENDATION

Staff recommends that Council approve the security contract with D-N-D Security in the amount of \$24,236.00.

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

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

C

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 23, 2007

TITLE: Briarwood Water Reservoir Site Use and Access Agreements
DEPARTMENT: Public Works
PRESENTED BY: David Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT: The water reservoir serving Briarwood Subdivision and the access road to that reservoir are located on private property owned by two separate parties. When the City acquired these facilities in the Briarwood annexation, access arrangements were informal. The City has been working with the involved owners to establish formal access agreements. The Council approved an agreement for access across the property of one of the involved parties at its March 26, 2007 meeting. Now, the last two agreements are being presented to the Council for approval. These agreements with the Billings Motorcycle Club and William and C. Diane Morrison take the form of licenses for use of the reservoir site and a section of access road. The agreements have a three-year term with provisions for renewal. The form of the agreement and its relatively short term were established for two reasons. First, one of the owners intends to develop their property in the near future which could change the access road alignment. Secondly, more water storage will be required as the area develops and we are uncertain at this time about the usefulness of this site in the future.

FINANCIAL IMPACT: This agreement does not require any payment by the City. Costs associated with returning the site to a natural state should existing facilities be abandoned or moved are undefined.

RECOMMENDATION

Staff recommends that Council approve the agreements with the Billings Motorcycle Club and William and C. Diane Morrison for use of the Briarwood Reservoir site and access across their property to the reservoir and authorize the Mayor to execute the documents.

Approved By: City Administrator ____ City Attorney ____

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

D

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 23, 2007

TITLE: Work Order 06-17 – Contract for Professional Services: 24th Street West
Signal Timing
DEPARTMENT: Public Works Department – Engineering Division
PRESENTED BY: David D. Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT: This contract will provide for the development and implementation of updated traffic signal timing plans for the 24th Street West corridor. Due to staff vacancies and time constraints, City Staff has not been able to update these timing plans in-house.

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

<i>CIP Number</i>	Eng T004
<i>Budget Amount for Current Fiscal Year</i>	
Arterial Funds will be used for this project	\$ 100,000.00
<i>Previous Encumbrances</i>	\$ 0.00
<i>Encumbrances from this Council Memorandum</i>	<u>\$ 99,850.00</u>
<i>Budget Fund Balance after this Council Memorandum</i>	\$ 150.00

RECOMMENDATION

Staff recommends that Council authorize the Mayor to execute a Contract for Professional Services with Kittleson & Associates in the amount of \$99,850.

Approved By: City Administrator ____ City Attorney ____

INTRODUCTION

With continued commercial development and the extension of Zimmerman Trail between Poly Drive and Broadwater Avenue, traffic patterns in West Billings have changed over time. This contract will provide for review and updating of traffic signal timing plans for the 24th Street West corridor, one of the busiest streets in West Billings. Due to staff vacancies and time constraints, City Staff has not been able to update these timing plans in-house.

PROCEDURAL HISTORY

- November 2, 9, & 16, 2006 – Request for Proposals advertisement
- November 22, 2006 – Deadline for receipt of proposals by Engineering Division
- December 18, 2006 – Selection committee meeting

BACKGROUND

The purpose of this project is to collect current traffic data at all the signalized intersections along 24th Street West from Grand Avenue, south to King Avenue and develop updated traffic signal timing plans for the corridor. The project intent is to optimize traffic flow along 24th Street and at major intersections based on changes in signal timing, rather than physical improvements such as the construction of additional traffic lanes. Timing plans will be developed to account for typical daily and weekly variations in traffic flow. The consultants will also review signal timings to make sure that pedestrian crossing times consistent with current ADA guidelines are provided. A more detailed analysis of the King & 24th intersection is included to determine what changes in roadway configuration (additional lanes, dual turn lanes, etc) would provide the most cost effective traffic flow improvements at the intersection.

Proposals from five different firms or teams were received for the work: DKS w/ Marvin & Associates (Portland/Billings); HDR (Billings); Interstate Engineering (Billings); Kittleson w/ Engineering Inc. (Portland/Billings); and PBS&J (Bozeman)

A consultant selection committee comprised of Public Works staff and a representative of the Montana Department of Transportation reviewed the proposals and recommended that a contract be negotiated with the Kittleson & Associates team. Kittleson & Associates specializes in traffic engineering work and has worked throughout the United States. They have recently completed similar projects in Boise and in Portland. Kittleson will assist city staff in implementation, field monitoring, and fine tuning of the new signal timing plans that are developed.

RECOMMENDATION

Staff recommends that Council authorize the Mayor to execute a Contract for Professional Services with Kittleson & Associates in the amount of \$99,850.

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

E

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 23, 2007

TITLE: Wells Fargo (Downtown) Encroachment Fee Variance
DEPARTMENT: Public Works - Engineering
PRESENTED BY: David D. Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: The Wells Fargo Downtown Branch desires to make streetscape improvements to their N. 27th Street frontage and their 2nd Avenue North frontage. Three planters and two trash receptacles are proposed along the N. 27th Street frontage. As these planters and trash receptacles are in the right-of-way, Wells Fargo will need to obtain an encroachment permit. Pursuant to City Code Section 13-302 and Resolution 85-15136, any encroachment in the right-of-way shall be subject to a fee consisting of a \$50.00 application fee plus an annual fee of \$1.00 per square foot of encroachment. The owners of Wells Fargo wish to obtain a variance from the annual encroachment fee because they feel the proposed improvements of the planters and the added convenience of more trash receptacles add to the beautification of the downtown area and are a benefit to the City as a whole.

FINANCIAL IMPACT: The proposed planter islands and trash receptacle have a total area of approximately 420 square feet. This correlates to revenue generation of \$420 per year if the variance is denied and a revenue loss of \$420 per year if the variance is granted.

RECOMMENDATION

Staff recommends that Council grant a variance to Wells Fargo forgoing the annual encroachment fee.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENT

- A. Encroachment Permit
- B. City Code Section 13-300
- C. Resolution 85-15136

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

F

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 23, 2007

TITLE: Grant Application Submittal for the Fair Housing Initiatives Program
U.S. Department of Housing and Urban Development (HUD)

DEPARTMENT: Planning & Community Development Division

PRESENTED BY: Brenda Beckett, Community Development Manager
Vicki Lapp, CD Program Coordinator

PROBLEM/ISSUE STATEMENT: As a recipient of CDBG and HOME funds, the City of Billings is required to affirmatively further fair housing in our community. HUD has recently released its 2007 Fiscal Year - Notice of Funding Availability (NOFA) which provides an opportunity for organizations to apply for federal funds to facilitate HUD's long-term strategic goal for equal opportunity in housing. The City was awarded \$92,879 in 2005 and \$99,987 in 2006 of HUD Fair Housing Initiatives Program (FHIP) funding which provided funding for education and outreach activities.

In response to Council direction to fund fair housing activities through a competitive allocation process, staff issued a Request for Proposals to identify partners for this year's FHIP application. Community Development received five responses to the RFP. All were selected to partner with the City in this year's application. Partnering organizations for this year's application include homeWORD, Yellowstone County Council on Aging, Community Housing Resource Board, District 7 HRDC and Interfaith Hospitality Network, including more activities sponsored by the Community Development Division.

The City will be applying for \$99,907. The anticipated program period will be the 12 month period starting January 1, 2008. The grant application is due by May 3, 2007 and would fund educational and outreach activities in the Billings community.

ALTERNATIVES ANALYZED: If unable to pursue this grant, the above named partners will need to limit their fair housing educational opportunities for the upcoming fiscal year.

FINANCIAL IMPACT: City Council approval would allow the City of Billings to assist in grant preparation and administration of funded activities.

RECOMMENDATION

Staff recommends that the City Council authorize the submission of the FHIP grant and authorize City staff to negotiate and finalize the grant if awarded.

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

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

G1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 23, 2007

TITLE: W.O. 04-33, Lake Elmo Drive (Hilltop Road to Wicks Lane) - Right-of-Way Acquisition, Approval of Right-of-Way Agreement and Warranty Deed for Parcel #11, a Portion of Lot 1, Block 1 of Croy Subdivision with Richard A. and Brenda K. Rogers

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: Lake Elmo Drive improvements from Hilltop Road to Wicks Lane are Phases III & IV (combined) of a five-phase plan to complete street improvements of Lake Elmo Drive between Main Street and Pemberton Lane. The existing right-of-way between Hilltop and Wicks is too narrow to allow the needed street improvements, and it will be necessary to acquire right-of-way from approximately 78 parcels along this one-mile length of street. This memo represents Parcel #11 of the parcels to be acquired (there are some numbered parcels within the project limits from whom right-of-way does not need to be acquired). The appraisal for this acquisition made a conclusion of value for the land, any appurtenant features, and the construction permit at a value of \$550.00. A copy of the right-of-way agreement; deed; appraisal; tax and land transfer documents; file memoranda; and negotiation history for this property is on file with the City Clerk.

FINANCIAL IMPACT: The total payment for this acquisition is \$550.00. The cost of this acquisition is equal to the sum of the appraised value of the land, any appurtenant features, the cost to cure, and the construction permit. Funding is available for this acquisition from project funds.

RECOMMENDATION

Staff recommends that Council approve the Right-of-Way Agreement and the Warranty Deed for right-of-way acquisition for parcel #11, a Portion of Lot 1, Block 1 of Croy Subdivision with Richard A. and Brenda K. Rogers in the amount of \$550.00, and authorize the Mayor to execute these documents.

Approved By: City Administrator ____ City Attorney ____

INTRODUCTION

Lake Elmo Drive improvements from Hilltop Road to Wicks Lane are Phases III & IV (combined) of a five-phase plan to complete street improvements of Lake Elmo Drive between Main Street and Pemberton Lane. The existing right-of-way between Hilltop and Wicks is too narrow (typically 60 feet wide) to allow these necessary street improvements. The street improvements are anticipated to include full-depth street reconstruction, curb & gutter, sidewalks, a multi-use trail, accessibility ramps, crosswalks, and storm drain improvements. This right-of-way acquisition project will provide a new right-of-way width of 70 feet along Lake Elmo Drive. It will be necessary to acquire right-of-way from approximately 78 parcels along this one-mile length of street.

PROCEDURAL HISTORY

Completed Items

- January 9, 2006 – Award of Contract for Professional Services for Right-of-Way Acquisition to Right-of-Way Acquisition Group, LLC
- January 23, 2006 – Award of Contract for Professional Services for Land Surveying services related to right-of-way acquisition to Engineering, Inc.
- February 27, 2006 – Council selection of proposed improvements street section
 - March 10, 2006 – Public meeting with adjoining property owners
 - June 2006 – Initial design completed using the chosen street section
 - November 2006 – Appraisals completed on parcels to be acquired
- December 2006 – Right-of-way negotiations began with property owners

Future Items

- June 2007 – Estimated completion of right-of-way acquisition
- 2009-2010 – Design and construction of street improvements (in draft CIP)

BACKGROUND

Lake Elmo Drive improvements from Hilltop Road to Wicks Lane are Phases III & IV (combined) of a five-phase plan to complete street improvements of Lake Elmo Drive between Main Street and Pemberton Lane. The five-phases and their improvement status are as follows:

<u>Phase</u>	<u>Status</u>
Phase I – Wicks Lane to Angel Drive	Completed in 1999.
Phase II – Main Street to Hansen Lane	Project opened bids in Sept 2005. Bids exceeded the budget. Re-scoping to re-bid in early 2007.
Phase III – Sioux Lane to Wicks Lane	Right-of-way acquisition (this memo)
Phase IV – Hilltop Road to Rice Lane	Right-of-way acquisition (this memo)
Phase V – Angel Drive to Pemberton Lane	Not scheduled in the 2006-2011 CIP

Current traffic counts along the section of Lake Elmo Drive between Hilltop and Wicks show approximately 6,200 vehicles per day. By 2015, 7,500 vehicles per day are expected to use this stretch of Lake Elmo; and by 2025, 9,950 vehicles per day are expected to use this stretch.

The right-of-way width of 70 feet was chosen as a width that would accommodate the necessary improvements with the minimum intrusion onto existing features. A wider right-of-way width (e.g., 76 feet or 80 feet) would almost assuredly require the purchase of several entire parcels due to the proximity of the wider right-of-way to existing houses.

RECOMMENDATION

Staff recommends that Council approve the Right-of-Way Agreement and the Warranty Deed for right-of-way acquisition for parcel #11, a Portion of Lot 1, Block 1 of Croy Subdivision with Richard A. and Brenda K. Rogers in the amount of \$550.00, and authorize the Mayor to execute these documents.

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

G2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, April 23, 2007

TITLE: W.O. 04-33, Lake Elmo Drive (Hilltop Road to Wicks Lane) - Right-of-Way Acquisition, Approval of Right-of-Way Agreement and Warranty Deed for Parcel #18, a Portion of Lot 1A, Amended Lot 1 of Lammers Subdivision with Minnie Tomicich and Nancy Rudio Tomicich

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: Lake Elmo Drive improvements from Hilltop Road to Wicks Lane are Phases III & IV (combined) of a five-phase plan to complete street improvements of Lake Elmo Drive between Main Street and Pemberton Lane. The existing right-of-way between Hilltop and Wicks is too narrow to allow the needed street improvements, and it will be necessary to acquire right-of-way from approximately 78 parcels along this one-mile length of street. This memo represents Parcel #18 of the parcels to be acquired (there are some numbered parcels within the project limits from whom right-of-way does not need to be acquired). The appraisal for this acquisition made a conclusion of value for the land, any appurtenant features, and the construction permit at a value of \$2,600.00. A copy of the right-of-way agreement; deed; appraisal; tax and land transfer documents; file memoranda; and negotiation history for this property is on file with the City Clerk.

FINANCIAL IMPACT: The total payment for this acquisition is \$2,600.00. The cost of this acquisition is equal to the sum of the appraised value of the land, any appurtenant features, the cost to cure, and the construction permit. Funding is available for this acquisition from project funds.

RECOMMENDATION

Staff recommends that Council approve the Right-of-Way Agreement and the Warranty Deed for right-of-way acquisition for parcel #18, a Portion of Lot 1A, Amended Lot 1 of Lammers Subdivision with Minnie Tomicich and Nancy Rudio Tomicich in the amount of \$2,600.00, and authorize the Mayor to execute these documents.

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

INTRODUCTION

Lake Elmo Drive improvements from Hilltop Road to Wicks Lane are Phases III & IV (combined) of a five-phase plan to complete street improvements of Lake Elmo Drive between Main Street and Pemberton Lane. The existing right-of-way between Hilltop and Wicks is too narrow (typically 60 feet wide) to allow these necessary street improvements. The street improvements are anticipated to include full-depth street reconstruction, curb & gutter, sidewalks, a multi-use trail, accessibility ramps, crosswalks, and storm drain improvements. This right-of-way acquisition project will provide a new right-of-way width of 70 feet along Lake Elmo Drive. It will be necessary to acquire right-of-way from approximately 78 parcels along this one-mile length of street.

PROCEDURAL HISTORY

Completed Items

- January 9, 2006 – Award of Contract for Professional Services for Right-of-Way Acquisition to Right-of-Way Acquisition Group, LLC
- January 23, 2006 – Award of Contract for Professional Services for Land Surveying services related to right-of-way acquisition to Engineering, Inc.
- February 27, 2006 – Council selection of proposed improvements street section
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Future Items

- June 2007 – Estimated completion of right-of-way acquisition
- 2009-2010 – Design and construction of street improvements (in draft CIP)

BACKGROUND

Lake Elmo Drive improvements from Hilltop Road to Wicks Lane are Phases III & IV (combined) of a five-phase plan to complete street improvements of Lake Elmo Drive between Main Street and Pemberton Lane. The five-phases and their improvement status are as follows:

<u>Phase</u>	<u>Status</u>
Phase I – Wicks Lane to Angel Drive	Completed in 1999.
Phase II – Main Street to Hansen Lane	Project opened bids in Sept 2005. Bids exceeded the budget. Re-scoping to re-bid in early 2007.
Phase III – Sioux Lane to Wicks Lane	Right-of-way acquisition (this memo)
Phase IV – Hilltop Road to Rice Lane	Right-of-way acquisition (this memo)
Phase V – Angel Drive to Pemberton Lane	Not scheduled in the 2006-2011 CIP

Current traffic counts along the section of Lake Elmo Drive between Hilltop and Wicks show approximately 6,200 vehicles per day. By 2015, 7,500 vehicles per day are expected to use this stretch of Lake Elmo; and by 2025, 9,950 vehicles per day are expected to use this stretch.

The right-of-way width of 70 feet was chosen as a width that would accommodate the necessary improvements with the minimum intrusion onto existing features. A wider right-of-way width (e.g., 76 feet or 80 feet) would almost assuredly require the purchase of several entire parcels due to the proximity of the wider right-of-way to existing houses.

RECOMMENDATION

Staff recommends that Council approve the Right-of-Way Agreement and the Warranty Deed for right-of-way acquisition for parcel #18, a Portion of Lot 1A, Amended Lot 1 of Lammers Subdivision with Minnie Tomicich and Nancy Rudio Tomicich in the amount of \$2,600.00, and authorize the Mayor to execute these documents.

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

G3

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 23, 2007

TITLE: W.O. 04-33, Lake Elmo Drive (Hilltop Road to Wicks Lane) - Right-of-Way Acquisition, Approval of Right-of-Way Agreement and Warranty Deed for Parcel #71, a Portion of Lot 5, Block 4 of Arrowhead Subdivision with Mona Reichert

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: Lake Elmo Drive improvements from Hilltop Road to Wicks Lane are Phases III & IV (combined) of a five-phase plan to complete street improvements of Lake Elmo Drive between Main Street and Pemberton Lane. The existing right-of-way between Hilltop and Wicks is too narrow to allow the needed street improvements, and it will be necessary to acquire right-of-way from approximately 78 parcels along this one-mile length of street. This memo represents Parcel #71 of the parcels to be acquired (there are some numbered parcels within the project limits from whom right-of-way does not need to be acquired). The appraisal for this acquisition made a conclusion of value for the land, any appurtenant features, and the construction permit at a value of \$2,450.00. A copy of the right-of-way agreement; deed; appraisal; tax and land transfer documents; file memoranda; and negotiation history for this property is on file with the City Clerk.

FINANCIAL IMPACT: The total payment for this acquisition is \$2,450.00. The cost of this acquisition is equal to the sum of the appraised value of the land, any appurtenant features, the cost to cure, and the construction permit. Funding is available for this acquisition from project funds.

RECOMMENDATION

Staff recommends that Council approve the Right-of-Way Agreement and the Warranty Deed for right-of-way acquisition for parcel #71, a Portion of Lot 5, Block 4 of Arrowhead Subdivision with Mona Reichert in the amount of \$2,450.00, and authorize the Mayor to execute these documents.

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

INTRODUCTION

Lake Elmo Drive improvements from Hilltop Road to Wicks Lane are Phases III & IV (combined) of a five-phase plan to complete street improvements of Lake Elmo Drive between Main Street and Pemberton Lane. The existing right-of-way between Hilltop and Wicks is too narrow (typically 60 feet wide) to allow these necessary street improvements. The street improvements are anticipated to include full-depth street reconstruction, curb & gutter, sidewalks, a multi-use trail, accessibility ramps, crosswalks, and storm drain improvements. This right-of-way acquisition project will provide a new right-of-way width of 70 feet along Lake Elmo Drive. It will be necessary to acquire right-of-way from approximately 78 parcels along this one-mile length of street.

PROCEDURAL HISTORY

Completed Items

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Future Items

- June 2007 – Estimated completion of right-of-way acquisition
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BACKGROUND

Lake Elmo Drive improvements from Hilltop Road to Wicks Lane are Phases III & IV (combined) of a five-phase plan to complete street improvements of Lake Elmo Drive between Main Street and Pemberton Lane. The five-phases and their improvement status are as follows:

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Current traffic counts along the section of Lake Elmo Drive between Hilltop and Wicks show approximately 6,200 vehicles per day. By 2015, 7,500 vehicles per day are expected to use this stretch of Lake Elmo; and by 2025, 9,950 vehicles per day are expected to use this stretch.

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RECOMMENDATION

Staff recommends that Council approve the Right-of-Way Agreement and the Warranty Deed for right-of-way acquisition for parcel #71, a Portion of Lot 5, Block 4 of Arrowhead Subdivision with Mona Reichert in the amount of \$2,450.00, and authorize the Mayor to execute these documents.

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

H

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 23, 2007

TITLE: Yellowstone Rimrunners Street Closures for Highland Family Fun Run
DEPARTMENT: Parks, Recreation and Public Lands
PRESENTED BY: Mike Whitaker, Parks, Recreation and Public Lands Director

PROBLEM/ISSUE STATEMENT:

The Yellowstone Rimrunners request partial street closures on Saturday, May 19, 2007, from 9:00 am to 11:30 am, for their Highland Family Fun Run. Closures are as follows: Course guards will stop traffic on Parkhill as the runners exit the Highland School grounds at the beginning of race. Runners will be in the street from Highland School east to Virginia Lane. Course guards will stop traffic at the intersection of Parkhill and Virginia as runners cross Virginia. Runners will be on the sidewalk and the service road around and through Pioneer Park. Course guards will again stop traffic as runners cross Virginia headed east. Course guards will direct runners to the sidewalk on the north side of Parkhill. Runners will be in the street on 6th Street West, O'Malley, 7th Street West, and Beverly Hill. No barricades will be placed in the street and traffic will be stopped only long enough to allow runners to reach Virginia and to cross Virginia safely. Map is attached.

Recommended conditions of approval include that the Yellowstone Rimrunners:

1. Have no alcohol consumption in the public right of way
2. Clean area to be used and provide and empty waste cans
3. Notify all emergency facilities, bus lines and media at least two weeks in advance of the event
4. Provide and install adequate traffic barricades and signs directing motorists around closure
5. Provide a certificate of insurance naming the City of Billings as additional insured

ALTERNATIVES ANALYZED:

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

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

RECOMMENDATION

Staff recommends that Council approval the temporary closure of the streets named above.

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

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 23, 2007

TITLE: Acceptance and Recognition of Donation to the Billings Animal Shelter
DEPARTMENT: Police Department, Animal Shelter Division
PRESENTED BY: Rich St. John, Chief of Police

PROBLEM/ISSUE STATEMENT: On March 22, 2007 a letter of intent was received from the Greater Billings Animal Coalition about their wish to donate a Pet Lift Aqua Quest Stainless Steel Tub and Edemco Double Cage Dryer and Tub rack to the Billings Animal Shelter at a value of approximately \$5,000.00. Currently the Billings Animal Shelter has a grooming tub that is rusting and a pet dryer that is so noisy it causes stress for the animals being groomed. Basic grooming services provided to pets involved in some cruelty cases is necessary and providing these services to animals available for adoption can greatly increase their chances of finding a new home. We now come before City Council for authorization to accept the generous donation from the Greater Billings Animal Coalition, of a Pet Lift Aqua Quest tub and Edemco dryer and tub with an approximate value of \$5,000.

ALTERNATIVES ANALYZED:

- Approval and acceptance of the donation.
- Denial and return of the donation.

FINANCIAL IMPACT: This donation will provide the Billings Animal Shelter with state of the art equipment for volunteers and staff when providing pets in need of grooming care. Donation funds available from the Billings Animal Shelter General Account will be used for the costs associated with plumbing and installation of the equipment.

RECOMMENDATION

Staff recommends City Council's approval and acceptance of this generous donation to the Billings Animal Shelter.

Approved By: City Administrator ____ City Attorney ____

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 23, 2007

TITLE: Approval and Acceptance of \$800 Donation from Hardy Construction to Help Defray Costs of sending Officer Pat Curry to the National Asso. of School Resource Officer Conference (NASRO) in July, 2007

DEPARTMENT: Billings Police Department

PRESENTED BY: Rich St. John, Chief of Police

PROBLEM/ISSUE STATEMENT: Officer Pat Curry is the School Resource Officer at Will James and Lewis & Clark Middle Schools. He recently spoke at a local meeting of the Safe Schools Committee regarding the School Resource Officer Program. This committee is comprised of school principals, law enforcement, judicial representatives and interested citizens of the community. During the presentation, Officer Curry talked about the benefits of the SRO National Conference, this year being held in Orlando, Florida. Since this conference was not budgeted in the Police Department budget, Hardy Construction has donated \$800 for the cost of the lodging to send Officer Curry to the National Conference in July, 2007. The School District is funding his registration and airfare. The Police Department will pay per diem expenses. Staff is requesting City Council approval to accept the \$800 donation to help defray the cost of sending Officer Curry to the National Conference in July, 2007. Upon his return, Officer Curry will share the information learned at the Conference with other School Resource Officers.

ALTERNATIVES ANALYZED:

- ▶ Accept the \$800 donation from Hardy Construction to help defray the cost of sending Officer Curry to the National Conference in July.
- ▶ Return the \$800 donation from Hardy Construction to the donor and do not send Officer Curry to the National Conference in July.

FINANCIAL IMPACT: The \$800 will be placed in a donation account and budget authority will be requested to expend the funds to send Officer Curry to the National Conference in July, 2007. The donation will pay for his lodging while at the conference. The School District is purchasing his airline ticket and paying for his registration. The Police Department agrees to fund the balance of the expenses, which will be per diem estimated to be \$308.

RECOMMENDATION

Staff recommends that Council accept the \$800 donation from Hardy Construction to help defray the cost of sending Officer Pat Curry to the National SRO Conference in July, 2007.

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

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

J

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 23, 2007

TITLE: C/S 1952, Tract 2D, 54th Street West Right of Way Quitclaim Deed
DEPARTMENT: Public Works
PRESENTED BY: David D. Mumford, PE, Public Works Director

PROBLEM/ISSUE STATEMENT: Within the proposed annexation of the parkland west of 54th Street West and North of Colton Boulevard is 54th Street West. Currently, 54th Street West along the parkland is a street tract, Tract 2D of Certificate of Survey 1952, which is owned by Yellowstone County. The County has agreed to quitclaim this street tract to the City of Billings.

FINANCIAL IMPACT: With acceptance of the quitclaim, the City will have to maintain this section of 54th Street West.

RECOMMENDATION

Staff recommends that Council accept the quitclaim deed of Tract 2D, Certificate of Survey 1952 to the City of Billings.

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

ATTACHMENT

A. Resolution

RESOLUTION NO. 07-_____

A RESOLUTION DESIGNATING SOUTH 12TH STREET WEST
A TWO-WAY STREET BETWEEN CENTRAL AVENUE AND
ITS SOUTHERN TERMINUS SOUTH OF KALMAR DRIVE

WHEREAS, a request to designate the entire length of South 12th Street West south of Central Avenue as a two-way street has been submitted to the City Traffic Engineer, and

WHEREAS, said two-way street designation will reduce driver confusion, and

WHEREAS, the Traffic Control Board has reviewed the request and recommends approval of the two-way designation,

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

1. South 12th Street West from Central Avenue south to its terminus south of Kalmar Drive is hereby designated a two-way street.
2. All resolutions and regulations in conflict herewith are hereby repealed.

PASSED by the City Council and APPROVED this 23rd day of April 2007.

CITY OF BILLINGS

By _____
Ron Tussing Mayor

ATTEST:

By _____
Cari Martin City Clerk

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

K

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 23, 2007

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

PROBLEM/ISSUE STATEMENT: The Shiloh Drain is an irrigation waste, groundwater control, and storm drainage channel located west of Shiloh Road. The drain serves an area encompassing about 1600 acres and discharges into the Hogan Slough. The drain was controlled by the Shiloh Drain District. Under contract with the City, Engineering, Inc. has been assisting the City in obtaining rights to the Shiloh Drain. With full control of the Shiloh Drain, the City will have an option to provide more pedestrian corridors along Shiloh Road, and the drain will become a major means of conveyance of storm water within the west end. An acquisition agreement between the City and the Shiloh Drain District was approved at the April 10, 2006, City Council Meeting. Within the Agreement, the Shiloh Drain District was required to convey all rights-of-way and easements associated with the Shiloh Drain to the City in deed form.

ALTERNATIVES ANALYZED:

3. Accept the quitclaim deed of the Shiloh Drain to the City of Billings.
4. Do not accept the quitclaim deed of the Shiloh Drain to the City of Billings.

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

RECOMMENDATION

Staff recommends that Council accept the quitclaim deed of the Shiloh Drain to the City of Billings.

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

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



AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 23, 2007

TITLE: Resolution Designating S. 12th Street West a two-way street
DEPARTMENT: Public Works Department – Engineering Division
PRESENTED BY: David D. Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT: South 12th Street West is currently a two-way street between Central and Concord, one-way southbound from Concord to Juneau, and a two-way street south of Juneau. This mixture of one-way and two-way street segments can be confusing to drivers unfamiliar with the area.

FINANCIAL IMPACT: The costs for the signing changes necessary to make S. 12th Street West a two-way street would be nominal and would be absorbed in the operating budget for the Street-Traffic Division.

RECOMMENDATION

Staff and the Traffic Control Board recommend Council approval of a resolution designating South 12th Street West as a two-way street between Central Avenue and its terminus south of Kalmar Drive.

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

INTRODUCTION

South 12th Street West is currently a two-way street between Central and Concord, one-way southbound from Concord to Juneau, and a two-way street south of Juneau. This mixture of one-way and two-way street segments can be confusing to drivers unfamiliar with the area.

PROCEDURAL HISTORY

- March 20, 2007 notice of proposal to for two-way street distributed to all residents living along S. 12th Street West and mailed to non-resident property owners. Notice included a request for comments and an invitation to Traffic Control Board meeting
- March 27, 2007, Traffic Control Board considered request

BACKGROUND

South 12th Street West is currently a two-way street between Central and Concord, one-way southbound from Concord to Juneau, and a two-way street south of Juneau. Although staff has been unable to determine when or why this portion of 12th St. West was designated as a one-way street, we think it is because only the west half of the street existed for many years between Central and the first alley. We believe the one-way designation may have been made when a traffic signal was installed at 12th and Central for the school crossing. Making 12th one-way south of Central discouraged people from driving the wrong way on the “half-street” to access Central at the signal. Juneau may have been selected as the southern limit of the one-way segment because it is the last full width street running between 12th & Plainview. Now that 12th Street West has been widened south of Central, some people believe it is confusing to have a mixture of one-way and two-way street segments. Some residents of the area report that this segment of 12th Street West was originally constructed as a one-way street because it operated as part of a one-way couplet with Plainview Drive before Plainview was made a two-way street.

A petition was received from residents of the area with 75 signatures supporting designation as a two-way street. Only 5 signers preferred the street remain one-way, and an additional 13 signers had no preference between one-way or two-way traffic. Seven residents attended the March 27th Traffic Control Board meeting. None spoke against the two-way street designation. After considering the staff report and comments from the citizens present, the Traffic Control Board voted to recommend making the entire segment of 12th south of Central a two-way street.

Traffic volume counts taken between Eldorado and Fairview show about 300 cars per day using S. 12th St. West. About one third of this traffic was found to be driving northbound, even though this is in the one-way southbound segment. Field checks show that one-way signing is in place at all intersections. It appears many drivers knowingly violate the one-way designation as a matter of convenience. Even though some segments of 12th are very narrow, staff feels that eliminating the confusion caused by the partial one-way designation outweighs the concerns over

two-way traffic on a narrow street, especially at such low traffic volumes. Making the entire street two-way *may* increase traffic on 12th because more people will use it to access Central at the traffic signal. Staff has offered to work with a steering committee of neighborhood residents to develop a Special Improvement District to construct a wider street with curb, gutter, and sidewalks.

RECOMMENDATION

Staff and the Traffic Control Board recommend Council approval of a resolution designating South 12th Street West as a two-way street between Central Avenue and its terminus south of Kalmar Drive.

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



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, April 23, 2007

SUBJECT: Resolution Relating to \$12,500,000 General Obligation Bonds, Series 2007A and 2007B, Authorizing the Issuance and Calling for the Public Sale Thereof

DEPARTMENT: Administrative Services

PRESENTED BY: Patrick Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: The electors of the City at an election held on November 7, 2007, authorized the Council to issue and sell general obligation bonds of the City for the purpose of paying the costs of designing, constructing, and equipping a new baseball stadium. The following resolution authorizes the sale of \$10,700,000 in bonds for Series 2007A and up to \$1,800,000 in bonds for Series 2007B financing of the above stated project. The final dollar amount for Series 2007B will be determined by the donations received at the bond sale date.

FINANCIAL IMPACT: Debt service on the bonds will be provided by approximately 6.57 additional mills. The sale of the bonds will be held on May 14, 2007 and a recommendation for award of bid will be made at the regularly scheduled Council meeting that evening.

RECOMMENDATION

It is recommended that the City Council approve the attached resolution.

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

ATTACHMENTS

A - Resolution prepared by Dorsey & Whitney

ATTACHMENT A

CERTIFICATE AS TO RESOLUTION

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the "City"), hereby certify that the attached resolution is a true copy of a Resolution entitled: "RESOLUTION RELATING TO \$10,700,000 GENERAL OBLIGATION BONDS, SERIES 2007A AND UP TO \$1,800,000 GENERAL OBLIGATION BONDS, SERIES 2007B; AUTHORIZING THE ISSUANCE AND CALLING FOR THE PUBLIC SALE THEREOF" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council at a regular meeting on April 23, 2007, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution at said meeting, the following Council Members voted in favor thereof: _____
_____; voted against the same: _____
_____; abstained from voting thereon: _____
_____; or were absent: _____.

WITNESS my hand and seal officially this ____ day of April, 2007.

(SEAL)

Cari Martin

City Clerk

RESOLUTION NO. _____
RESOLUTION RELATING TO \$10,700,000 GENERAL
OBLIGATION BONDS, SERIES 2007A AND UP TO \$1,800,000
GENERAL OBLIGATION BONDS, SERIES 2007B;
AUTHORIZING THE ISSUANCE AND CALLING FOR THE
PUBLIC SALE THEREOF

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

Section 1. Recitals. The electors of the City at an election duly called, noticed and held on November 7, 2006, at which 59,616 of the 92,179 registered electors voted (64.67% of the registered electors voted), by a vote of 21,871 in favor, 19,410 opposed (52.98% of the votes cast were in favor), authorized this Council to issue and sell \$12,500,000 principal amount of general obligation bonds of the City for the purpose of paying the costs of designing, constructing and equipping a new professional baseball stadium and related improvements in athletic park (the "Project"), and paying costs associated with the sale and issuance of the bonds. The City has determined that it is necessary and desirable and in the best interests of the City to issue general obligation bonds in two series, one in the aggregate principal amount of \$10,700,000 (the "Series 2007A Bonds"), and one in an aggregate principal amount of up to \$1,800,000 (the "Series 2007B Bonds"), to fund the Project. (The Series 2007A Bonds and the Series 2007B Bonds are referred to as the "Bonds.")

The indebtedness to be evidenced by the Bonds and all other indebtedness of the City does not exceed the limitation set forth in Title 7, Chapter 7, Part 4201, M.C.A.

Section 2. Term of the Bonds. Pursuant to the authority described in Section 1, this Council hereby authorizes the issuance and sale of the Series 2007A Bonds of the City in the aggregate principal amount of \$10,700,000 and the Series 2007B Bonds in an aggregate principal amount of up to \$1,800,000 for the purpose of financing the costs of the Project and paying costs associated with the sale and issuance of the Bonds. The Series 2007A Bonds shall be dated, as originally issued, as of June 1, 2007, and shall bear interest payable semiannually on January 1 and July 1 of each year, commencing January 1, 2008, at a rate or rates designated by the successful bidder at public sale and approved by this Council; provided that each rate must be in level or ascending order and the difference between the highest and lowest rates of interest shall not exceed one and one-half percent (1.50%) per annum and no supplemental or additional interest shall be permitted. The Series 2007B Bonds shall be dated, as originally issued, as of June 1, 2007, and shall bear interest payable semiannually on January 1 and July 1 of each year, commencing January 1, 2008, at a rate or rates designated by the successful bidder at public sale and approved by this Council; provided that each rate must be in level or ascending order. The Series 2007A Bonds and the Series 2007B Bonds shall be offered and sold in accordance with the terms and conditions of sale which are set forth on Exhibit A hereto (the "Official Terms and Conditions"), which is incorporated by reference and made a part hereof.

The Series 2007A Bonds shall mature, subject to redemption as hereinafter provided, on July 1 in each of the following years and amounts (unless combined into one or more term bonds):

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2008	\$325,000	2018	\$530,000
2009	375,000	2019	550,000
2010	390,000	2020	575,000
2011	400,000	2021	600,000
2012	420,000	2022	625,000
2013	435,000	2023	650,000
2014	450,000	2024	680,000
2015	470,000	2025	710,000
2016	490,000	2026	740,000
2017	510,000	2027	775,000

Bidders will have the option of combining the series maturities of the Series 2007A Bonds into one or more term bonds. If any Series 2007A Bonds are issued as term bonds, such term bonds will be subject to annual mandatory sinking fund redemption in the principal amounts in the debt service schedule shown above.

The Series 2007A Bonds with stated maturities on or after July 1, 2018 will be subject to redemption on July 1, 2017, and any day thereafter, at the option of the City, in whole or in part, and if in part from such stated maturities and in such principal amounts as the City may designate in writing to the Registrar (or, if no designation is made, in inverse order of maturities and within a stated maturity in \$5,000 principal amounts selected by the Registrar by lot or other manner it deems fair), at a redemption price equal to the principal amount thereof to be redeemed plus interest accrued to the redemption date.

The Series 2007B Bonds shall mature, subject to redemption as hereinafter provided, on July 1 in each of the following years and amounts (unless combined into one or more term bonds):

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2008	\$145,000	2013	\$185,000
2009	155,000	2014	190,000
2010	165,000	2015	195,000
2011	170,000	2016	205,000
2012	175,000	2017	215,000

Bidders will have the option of combining the series maturities of the Series 2007B Bonds into one or more term bonds. If any Series 2007B Bonds are issued as term bonds, such term bonds will be subject to annual mandatory sinking fund redemption in the principal amounts in the debt service schedule shown above.

The Series 2007B Bonds with stated maturities on or after July 1, 2013 will be subject to redemption on July 1, 2012, and any day thereafter, at the option of the City, in whole or in part, and if in part from such stated maturities and in such principal amounts as the City may designate in writing to the Registrar (or, if no designation is made, in inverse order of maturities and within a stated maturity in \$5,000 principal amounts selected by the Registrar by lot or other manner it deems fair), at a redemption price equal to the principal amount thereof to be redeemed plus interest accrued to the redemption date.

The Bonds shall be issuable only as fully registered bonds and shall be executed by the manual or facsimile signatures of the Mayor, the City Administrator and the City Clerk. The Bonds shall be issued only in "book entry" form.

The City Administrator and City Financial Services Manager are authorized to reduce the principal amount of the Series 2007B Bonds if donations for construction of the Project are received prior to the sale.

Section 3. Public Sale. The Bonds shall be sold at a competitive sale which is hereby called and shall be held on May 14, 2007, at 11:00 a.m., M.T. Bids for the Bonds may be submitted by written sealed bids or by electronic transmission through Parity™. The City will receive sealed bids or bids transmitted through Parity™ in accordance with the Terms and Conditions of Sale. The City Clerk is hereby authorized and directed to cause notice of the sale to be published, as required by Montana Code Annotated, Sections 7-7-4252 and 17-5-106, in *The Billings Times*, a newspaper of general circulation in Yellowstone County, Montana, once each week for two successive weeks preceding the week which contains the date of sale. The notice of sale shall be published in substantially the form set forth as Exhibit B to this resolution, which is hereby incorporated herein and made a part hereof.

Section 4. Official Statement. The Financial Services Manager and other officers of the City, in cooperation with Springsted Incorporated, of St. Paul, Minnesota, financial consultants to the City, are hereby authorized and directed to prepare on behalf of the City an official statement to be distributed to potential purchasers of the Bonds. Such official statement shall contain the Official Terms and Conditions and such other information as shall be advisable and necessary to describe accurately the City and the security for, and terms and conditions of, the Bonds.

Section 5. Continuing Disclosure. In order to permit bidders for the Bonds and other participating underwriters in the primary offering of the Bonds to comply with

paragraph (b)(5) of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (the “Rule”), the City will covenant and agree, for the benefit of the registered holders and beneficial owners from time to time of the outstanding Bonds, in the resolution prescribing the terms of the Bonds, to provide annual reports of specified information and notice of the occurrence of certain events, if material. The City is the only “obligated person” in respect of the Bonds within the meaning of the Rule for the purposes of disclosing information on an ongoing basis. A description of the undertaking is set forth in the Official Statement. Failure of the City to enter into an undertaking substantially similar to that described in the Official Statement would relieve the successful bidder of its obligation to purchase the Bonds. The City has complied in all material respects with any undertaking previously entered into by it under the Rule.

Section 6. Proceedings to the Attorney General. The City Clerk is hereby authorized and directed to furnish a certified copy of all proceedings taken by the City with respect to the issuance of the Bonds, including proceedings through the date hereof, to the Attorney General for examination and request a report as to the validity of the Bonds, as required by Montana Code Annotated, Section 7-7-101.

PASSED by the City Council of Billings, Montana, this 23rd day of April, 2007.

City of Billings

Ron Tussing Mayor

Attest: _____
Cari Martin City Clerk

(SEAL)

EXHIBIT A
TERMS AND CONDITIONS OF SALE
\$10,700,000 General Obligation Bonds, Series 2007A, and
up to \$1,800,000 General Obligation Bonds, Series 2007B
City of Billings, Montana

NOTICE IS HEREBY GIVEN by the City Council (the "Council") of the City of Billings, Montana (the "City"), that the City will receive sealed bids for the purchase of two series of general obligation bonds, one in the aggregate principal amount of \$10,700,000 (the "Series 2007A Bonds"), and one in an aggregate principal amount of not to exceed \$1,800,000 (the "Series 2007B Bonds") (the Series 2007A Bonds and the Series 2007B bonds, together, the "Bonds"), in the City Clerk's office, 1st Floor of Park III, at 210 North 27th Street, Billings, Montana, or bids for the purchase of the Series 2007 Bonds will be received by electronic transmission through Parity™, in either case until 11:00 a.m., M.T., on May 14, 2007, at which time the bids will be opened and tabulated. The City Council of the City will meet at 6:30 p.m., M.T., on the same day in Council Chambers, 2nd Floor of the Police Facility, 220 North 27th Street, Billings, Montana, to consider the bids, and if a responsive and acceptable bid is received, award sale of the Bonds to the responsive bidder whose bid reflects the lowest true interest cost (TIC).

THE BONDS

The Series 2007A Bonds and the Series 2007B Bonds will bear an original issue date of June 1, 2007, and will bear interest payable semiannually on January 1 and July 1 of each year, commencing January 1, 2008, to the registered owners of the Bonds as such appear in the bond register as of the close of business on the 15th day (whether or not a business day) of the immediately preceding month, at a rate or rates designated by the successful bidder at public sale and approved by the Council; in respect of the Series 2007A Bonds, provided that each rate must be in level or ascending order and the difference between the highest and lowest rates of interest shall not exceed one and one-half percent (1.50%) per annum and no supplemental or additional interest shall be permitted, and, in respect of the Series 2007B Bonds, provided that each rate must be in level or ascending order. No supplemental or "B" coupons or additional interest certificates are permitted. All Bonds of the same stated maturity must bear interest from date of original issue until paid at a single, uniform rate. Interest will be calculated on the basis of a 360-day year consisting of twelve 30-day months.

The Series 2007A Bonds shall mature, subject to redemption as hereinafter provided, on July 1 in each of the following years and amounts (unless combined into one or more term bonds):

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2008	\$325,000	2018	\$530,000
2009	375,000	2019	550,000
2010	390,000	2020	575,000
2011	400,000	2021	600,000
2012	420,000	2022	625,000
2013	435,000	2023	650,000
2014	450,000	2024	680,000
2015	470,000	2025	710,000
2016	490,000	2026	740,000
2017	510,000	2027	775,000

Bidders will have the option of combining the series maturities of the Series 2007A Bonds into one or more term bonds. If any Series 2007A Bonds are issued as term bonds, such term bonds will be subject to annual mandatory sinking fund redemption in the principal amounts in the debt service schedule shown above.

The Series 2007A Bonds with stated maturities on or after July 1, 2018 will be subject to redemption on July 1, 2017, and any day thereafter, at the option of the City, in whole or in part, and if in part from such stated maturities and in such principal amounts as the City may designate in writing to the Registrar (or, if no designation is made, in inverse order of maturities and within a stated maturity in \$5,000 principal amounts selected by the Registrar by lot or other manner it deems fair), at a redemption price equal to the principal amount thereof to be redeemed plus interest accrued to the redemption date.

The Series 2007B Bonds shall mature, subject to redemption as hereinafter provided, on July 1 in each of the following years and amounts (unless combined into one or more term bonds):

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2008	\$145,000	2013	\$185,000
2009	155,000	2014	190,000
2010	165,000	2015	195,000
2011	170,000	2016	205,000
2012	175,000	2017	215,000

Bidders will have the option of combining the series maturities of the Series 2007B Bonds into one or more term bonds. If any Series 2007B Bonds are issued as term bonds, such term bonds will be subject to annual mandatory sinking fund redemption in the principal amounts in the debt service schedule shown above.

The Series 2007B Bonds with stated maturities on or after July 1, 2013 will be subject to redemption on July 1, 2012, and any day thereafter, at the option of the City, in whole or in part, and if in part from such stated maturities and in such principal amounts as the City may designate in writing to the Registrar (or, if no designation is made, in inverse order of maturities and within a stated maturity in \$5,000 principal amounts selected by the Registrar by lot or other manner it deems fair), at a redemption price equal to the principal amount thereof to be redeemed plus interest accrued to the redemption date.

The Bonds will be issued as fully registered bonds only and shall be executed by the manual or facsimile signatures of the Mayor, City Administrator and the City Clerk.

The City Administrator and City Financial Services Manager are authorized to reduce the principal amount of the Series 2007B Bonds if donations for construction of the Project are received prior to the sale.

BOOK ENTRY

The Bonds will be issued by means of a book entry system with no physical distribution of Bonds made to the public. The Bonds will be issued in fully registered form and one Bond, representing the aggregate principal amount of the Bonds maturing in each year, will be registered in the name of Cede & Co. as nominee of The Depository Trust Company ("DTC"), New York, New York, which will act as securities depository of the Bonds. Individual purchases of the Bonds may be made in the principal amount of \$5,000 or any multiple thereof of a single maturity, through book entries made on the books and records of DTC and its participants. Principal and interest are payable by the registrar to DTC or its nominee as registered owner of the Bonds. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC; transfer of principal and interest payments to beneficial owners by participants will be the responsibility of such participants and other nominees of beneficial owners. The purchaser, as a condition of delivery of the Bonds, will be required to deposit the Bonds with DTC.

PURPOSE AND SECURITY

The Bonds will be issued for the purpose of paying the costs of designing, constructing and equipping a new professional baseball stadium and related improvements in athletic park, and paying costs associated with the sale and issuance of the bonds. The Bonds will be general obligations of the City to the payment of which the full faith, credit and taxing power of the City will be pledged. Bidders should consult a copy of the Preliminary Official Statement for a discussion of the security for the Bonds and the form of opinion of bond counsel relating to the Bonds.

CONTINUING DISCLOSURE

In order to permit bidders for the Bonds and other participating underwriters in the primary offering of the Bonds to comply with paragraph (b)(5) of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (the "Rule"), the City will covenant and agree, for the benefit of the registered holders and beneficial owners from time to time of the outstanding Bonds, in the resolution prescribing the terms of the

Bonds, to provide annual reports of specified information and notice of the occurrence of certain events, if material. The City is the only “obligated person” in respect of the Bonds within the meaning of the Rule for the purposes of disclosing information on an ongoing basis. A description of the undertaking is set forth in the Official Statement. Failure of the City to enter into an undertaking substantially similar to that described in the Official Statement would relieve the successful bidder of its obligation to purchase the Bonds. The City has complied in all material respects with any undertaking previously entered into by it under the Rule.

BIDDING AND SALE PROCEDURES

Submission of Bids. Unless bids are transmitted electronically as hereafter provided, bids must be on the Official Bid form, a copy of which may be obtained from the Financial Advisor and enclosed in a sealed envelope marked as follows: "Bid for \$10,700,000 General Obligation Bonds, Series 2007A, City of Billings, Montana, and Bid for up to \$1,800,000 General Obligation Bonds, Series 2007B, City of Billings, Montana" and delivered to the City Clerk. Bidders may bid on one or both series of Bonds. Each envelope when delivered must indicate on the outside the name and address of the bidder, or in the case of a group of bidders, of the representative. Bids may be transmitted electronically through Parity™ in accordance with these terms and conditions. The bids shall be delivered to the City no later than 11:00 a.m., M.T., on May 14, 2007.

Basis of Award. The Series 2007A Bonds will be sold for not less than \$10,571,600 (98.8% of par) with accrued interest to the date of delivery, and the Series 2007B Bonds will be sold for not less than \$1,388,800 (99.2% of par) with accrued interest to the date of delivery, and all bidders must state the lowest rate or rates of interest at which they will purchase the Bonds at par. Bids will be compared on the basis of true interest cost (TIC) and awarded to the responsive bidder whose bid reflects the lowest TIC. The TIC is the net present value of total interest on all Bonds from their dated date to their maturities, less any premium or plus any discount. In the event that two or more bids state the lowest true interest cost, the sale of the Bonds will be awarded by lot. The City will accept sealed bids or bids transmitted electronically through the Parity™ system only. The City reserves the right to reject any and all bids and to sell the Bonds at private sale and to waive any informality and irregularity in any and all bids. Each bid must be unconditional (or conditioned on only those items specified in these Official Terms and Conditions of Sale). No bid may be altered or withdrawn after the time specified above for opening bids without the express consent of the Council.

Electronic Transmission. To the extent any instructions or directions set forth in Parity™ conflict with these Terms and Conditions of Sale, the terms of these Terms and Conditions of Sale shall control. For further information about Parity™, potential bidders may contact the Financial Advisor, Springsted Incorporated at (651) 223-3030 (Bond Services Division), or Parity™ at (212) 849-5021. In the event of a malfunction in the electronic bidding process, bidders may submit their bids by sealed bid including facsimile transmission to the City's Financial Services Manager, Pat Weber, at facsimile number (406) 247-8608 (phone (406) 657-8209) or to Springsted Incorporated at facsimile number (651) 223-3046 (phone (651) 223-3000).

Good Faith Deposit. A good faith deposit (the "Deposit") in the form of money, cashier's check, certified check, bank money order, or bank draft drawn and issued by a federally chartered or state chartered bank insured by the Federal Deposit Insurance Corporation or a financial surety bond in the sum of \$214,000 for the Series 2007A Bonds and two percent (2%) of the principal amount of the Series 2007B Bonds payable to the order of the City of Billings, Montana is required for each bid to be considered. If money, cashier's check, certified check, bank money order, or bank draft is used, it must accompany each bid and be delivered to the City Clerk. If a financial surety bond is used, it must be from an insurance company licensed and qualified to issue such a bond in the State of Montana and such bond must be submitted to the

City Clerk prior to the opening of the bids. The financial surety bond must identify each bidder whose Deposit is guaranteed by such financial surety bond. If the Bonds are awarded to a bidder utilizing a financial surety bond, then that purchaser is required to submit its Deposit to the City in the form of a cashier's check (or wire transfer such amount as instructed by the City or its financial advisor) not later than 11:00 A.M., M.T., on the next business day following the award. If such Deposit is not received by that time, the financial surety bond may be drawn by the City to satisfy the Deposit requirement. No interest on the Deposit will accrue to the purchaser. The Deposit will be applied to the purchase price of the Bonds. In the event the purchaser fails to honor its accepted bid, the Deposit will be retained by the City as liquidated damages. The Deposit of the unsuccessful bidders will be returned immediately on award of sale of the Bonds or after rejection of all bids.

Instructions for wiring the Deposit may be obtained from the City's Financial Services Manager, Pat Weber, 210 North 27th Street, Billings, Montana 59101, telephone (406) 657-8209) or from the City's Financial Advisor, Springsted Incorporated, 380 Jackson Street, Suite 300, St. Paul, Minnesota 55101-2887, (651) 223-3000.

BOND REGISTRAR, TRANSFER AGENT AND PAYING AGENT

The City will designate and contract with a suitable bank or trust company to act as bond registrar, transfer agent and paying agent (the "Registrar"). The bond register will be kept, transfers of ownership will be effected and principal of and interest on the Bonds will be paid by the Registrar. The City will pay the charges of the Registrar for such services. The City reserves the right to remove the Registrar and to appoint a successor.

LEGAL OPINION

As a condition to the City's obligation to deliver the Bonds, an opinion as to the validity of the Bonds and the exclusion from gross income for federal and Montana income tax purposes of the interest thereon will be furnished by Dorsey & Whitney LLP, of Missoula, Montana, and Minneapolis, Minnesota, as Bond Counsel. The legal opinion will be delivered at the time of closing. The legal opinion will state that the Bonds are valid and binding general obligations of the City enforceable in accordance with their terms, except to the extent to which enforceability thereof may be limited by the exercise of judicial discretion or by state or federal laws relating to bankruptcy, reorganization, moratorium or creditors' rights.

DELIVERY

Not less than 15 days nor more than 30 days after the sale, the City will deliver to the Registrar the Bonds ready for completion and authentication. The original purchaser of the Bonds must notify the Registrar, at least five business days before issuance of the Bonds, of the persons in whose names the Bonds will be initially registered and the denominations of the Bonds to be originally issued. If notification is not received by that date, the Bonds will be registered in the name of the original purchaser and will be issued in denominations corresponding to the principal maturities of the Bonds. On the day of closing, the City will furnish to the purchaser the opinion of Bond Counsel described above, an arbitrage certification and a certificate stating that no litigation in any manner questioning the validity of the Bonds is then pending or, to the best knowledge of officers of the City, threatened. Payment for the

Bonds must be received by the City in immediately available funds at its designated depository on the day of closing. The successful bidder shall submit to the City Clerk not earlier than 48 hours after the award of sale and not later than the date of closing a certificate, in form satisfactory to Bond Counsel, as to the initial reoffering prices of each stated maturity of the Bonds and stating that at least ten percent of the principal amount of such Bonds of each stated maturity has been sold at such respective prices.

OFFICIAL STATEMENT

The City will prepare an Official Statement relating to the Bonds which the City will deem, for purposes of SEC Rule 15c2-12, to be final as of its date. The City will deliver, at closing, a certificate executed by the Mayor, City Administrator and the City Clerk to the effect that, to the best of their knowledge, as of the date of closing, the information contained in the Official Statement, including any supplement thereto, does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances in which they are made, not misleading; provided that no comment will be made with respect to any information provided by the successful bidder for inclusion in any supplement to the Official Statement.

By submitting a bid for the Bonds, the successful bidder agrees: (1) to disseminate to all members of the underwriting syndicate copies of the Official Statement, including any supplements prepared by the City, (2) to file promptly a copy of the Official Statement, including any supplement prepared by the City, with a nationally recognized municipal securities repository, and (3) to take any and all other actions necessary to comply with applicable rules of the Securities and Exchange Commission and the Municipal Securities Rulemaking Board governing the offering, sale and delivery of the Bonds to ultimate purchasers.

Within seven business days after the sale the City will furnish to the successful bidder without charge up to 250 copies of the final Official Statement relating to the Bonds. The successful bidder must notify the City Clerk in writing within three business days after the award of sale of the Bonds if it requires additional copies of the Official Statement. The cost of additional copies shall be paid by the successful bidder.

COSTS; CUSIP NUMBERS

The City shall be responsible for the cost of printing the Bonds, any delivery agent charges and the legal opinion. The City will assume no obligation for the assignment or printing of CUSIP numbers on the Bonds or for the correctness of any numbers printed thereon, but will permit such numbers to be assigned and printed at the expense of the purchaser, if the original purchaser waives any delay in delivery occasioned thereby.

RATING

The City will apply for and obtain a rating on the Bonds from Moody's Investors Service. Rating agency fees of Moody's will be the responsibility of the City.

BOND INSURANCE AT PURCHASER'S OPTION

The City will provide information concerning the Bonds and the City to insurers. If the Bonds qualify for issuance of any policy of municipal bond insurance or commitment therefor at the option of the bidder, the purchase of any such insurance policy or the issuance of any such commitment shall be at the sole option and expense of the purchaser of the Bonds. Any increased costs of issuance of the Bonds, such as ratings besides the rating of Moody's Investors Service to extent obtained by the City, resulting from such purchase of insurance shall be paid by the purchaser.

Failure or refusal of a municipal bond insurer to issue the policy after the Bonds have been awarded to the purchaser shall not constitute cause for failure or refusal by the purchaser to accept delivery of the Bonds.

Dated: April 23, 2007.

BY ORDER OF THE CITY COUNCIL

Ron Tussing, Mayor
City of Billings, Montana

EXHIBIT B
NOTICE OF BOND SALE
\$10,700,000 General Obligation Bonds, Series 2007A, and
up to \$1,800,000 General Obligation Bonds, Series 2007B
City of Billings, Montana

NOTICE IS HEREBY GIVEN that the City Council (the “Council”) of the City of Billings, Montana (the “City”), will receive sealed bids for the purchase of two series of general obligation bonds, one in the aggregate principal amount of \$10,700,000 (the “Series 2007A Bonds”), and one in an aggregate principal amount of up to \$1,800,000 (the “Series 2007B Bonds”) (the Series 2007A Bonds and the Series 2007B bonds, together, the “Bonds”) in the City Clerk’s office, 1st Floor of Park III, at 210 North 27th Street, Billings, Montana, 59103, or bids for the purchase of the Series 2007 Bonds will be received by electronic transmission through Parity™, in either case until 11:00 a.m., M.T., on May 14, 2007, at which time the bids will be opened and tabulated. The Council will meet at 6:30 p.m., M.T., on the same day in the City Council Chambers to consider the bids. The Bonds will be awarded to the responsive bidder whose bid reflects the lowest true interest cost (TIC).

The Bonds will be issued for the purpose of paying the costs of designing, constructing and equipping a new professional baseball stadium and related improvements in athletic park, and paying costs associated with the sale and issuance of the bonds.

The Series 2007A Bonds shall mature, subject to redemption as hereinafter provided, on July 1 in each of the following years and amounts (unless combined into one or more term bonds):

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2008	\$325,000	2018	\$530,000
2009	375,000	2019	550,000
2010	390,000	2020	575,000
2011	400,000	2021	600,000
2012	420,000	2022	625,000
2013	435,000	2023	650,000
2014	450,000	2024	680,000
2015	470,000	2025	710,000
2016	490,000	2026	740,000
2017	510,000	2027	775,000

Bidders will have the option of combining the series maturities of the Series 2007A Bonds into one or more term bonds. If any Series 2007A Bonds are issued as term bonds, such term bonds will be subject to annual mandatory sinking fund redemption in the principal amounts in the debt service schedule shown above.

The Series 2007B Bonds shall mature, subject to redemption as hereinafter provided, on July 1 in each of the following years and amounts (unless combined into one or more term bonds):

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2008	\$145,000	2013	\$185,000
2009	155,000	2014	190,000
2010	165,000	2015	195,000
2011	170,000	2016	205,000
2012	175,000	2017	215,000

Bidders will have the option of combining the series maturities of the Series 2007B Bonds into one or more term bonds. If any Series 2007B Bonds are issued as term bonds, such term bonds will be subject to annual mandatory sinking fund redemption in the principal amounts in the debt service schedule shown above.

The Bonds will be issued in “book entry” only form.

The Bonds shall be issuable as fully registered bonds only, shall bear an original issue date of June 1, 2007, and shall bear interest payable semiannually on January 1 and July 1 of each year, commencing January 1, 2008, to the registered owners of the Bonds as such appear in the bond register as of the close of business on the 15th day (whether or not a business day) of the immediately preceding month. For the Series 2007A Bonds, each rate must be in level or ascending order and the difference between the highest and lowest rates of interest shall not exceed one and one-half percent (1.50%) per annum and no supplemental or additional interest shall be permitted. For the Series 2007B Bonds, each rate must be in level or ascending order. No supplemental or “B” coupons or additional interest certificates are permitted. The Series 2007A Bonds maturing on or after July 1, 2018 will be subject to redemption on July 1, 2017, and any date thereafter, at the option of the City, in whole or in part, and if in part from such stated maturities and in such principal amounts as the City may designate in writing to the Registrar (or, if no designation is made, in inverse order of maturities and within a stated maturity in \$5,000 principal amounts selected by the Registrar by lot or other manner it deems fair), at a redemption price equal to the principal amount thereof to be redeemed plus interest accrued to the redemption date, without premium. The Series 2007B Bonds with stated maturities on or after July 1, 2013 will be subject to redemption on July 1, 2012, and any day thereafter, at the option of the City, in whole or in part, and if in part from such stated maturities and in such principal amounts as the City may designate in writing to the Registrar (or, if no designation is made, in inverse order of maturities and within a stated maturity in \$5,000 principal amounts selected by the Registrar by lot or other manner it deems fair), at a redemption price equal to the principal amount thereof to be redeemed plus interest accrued to the redemption date.

The Series 2007A Bonds will be sold for not less than \$10,571,600 (98.8% of par) with accrued interest to the date of delivery, and the Series 2007B Bonds will be sold for not less than

\$1,388,800 (99.2% of par) with accrued interest to the date of delivery. The Council reserves the right to reject any and all bids and to sell the Bonds at private sale.

A good faith deposit in the form of money, cashier's check, certified check, bank money order, or bank draft drawn and issued by a federally chartered or state chartered bank insured by the Federal Deposit Insurance Corporation or a financial surety bond in the sum of \$214,000 for the Series 2007A Bonds and two percent (2%) of the principal amount of the Series 2007B Bonds payable to the order of the City of Billings, Montana, is required for each bid to be considered, as further specified in the Official Terms and Conditions of Sale.

Copies of a statement of the Official Terms and Conditions of Sale and additional information may be obtained from Springsted Incorporated, Springsted Incorporated, 380 Jackson Street, Suite 300, St. Paul, Minnesota 55101-2887, (651) 223-3000. Prospective bidders should consult the Official Terms and Conditions of Sale and the Preliminary Official Statement for a description of the Bonds, the security therefor, and the form of legal opinion proposed to be rendered by Dorsey & Whitney LLP, of Missoula, Montana, as bond counsel. To the extent any instructions or directions set forth in ParityTM conflict with this Notice of Bond Sale, the terms of this Notice of Bond Sale shall control. For further information about ParityTM, potential bidders may contact the Financial Advisor, Springsted Incorporated at (651) 223-3030 (Bond Services Division), or ParityTM at (212) 849-5021. In the event of a malfunction in the electronic bidding process, bidders may submit their bids by sealed bid including facsimile transmission to the City's Financial Services Manager, Pat Weber, at facsimile number (406) 247-8608 (phone (406) 657-8209) or to Springsted Incorporated at facsimile number (651) 223-3046 (phone (651) 223-3000).

Dated: April 23, 2007.

BY ORDER OF THE CITY COUNCIL

Ron Tussing, Mayor
City of Billings, Montana

Publish: April 26, 2007
May 3, 2007

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

N

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM **CITY OF BILLINGS, MONTANA** **Monday, April 23, 2007**

TITLE: Second Reading of an Ordinance Expanding Ward I (Annexation #07-03)
DEPARTMENT: Planning and Community Services Department
PRESENTED BY: Wyeth Friday, AICP, Planning Division Manager

PROBLEM/ISSUE STATEMENT: On March 26, 2007, the City Council approved the annexation of the North 1/2, Lot 3, and all of Lot 4 and Lot 7, Sandra Subdivision (Annexation #07-03) containing 2.44 acres. The property is located at 23, 63 and 65 Charlene Street. The City of Billings owns the property and requested the annexation. After annexation, the property must be added to one of the City's election wards. Council held a public hearing and approved on first reading the ordinance to add the property to Ward I on April 9, 2007. A second reading of the ordinance is the final step in the procedure to expand the ward boundaries.

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

RECOMMENDATION

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

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

ATTACHMENT

A. Ward Ordinance and Exhibit A

ORDINANCE NO. 07-_____

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 I 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:

Tracts of land situated in the SW1/4 of Section 2, T.1S., R.26E., P.M.M., Yellowstone County, Montana, more particularly described as:

The N ½ Lot 3, Lots 4 and 7, of Sandra Subdivision, Recorded December 13, 1946, Under Document No. 421189, Records of Yellowstone County, Montana. Including all adjacent Right-Of-Way of Charlene Street. Containing 2.927 gross acres, and 2.440 net acres.

(# 07-03) 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 9th day of April, 2007.

PASSED by the City Council on the second reading this 23rd day of April, 2007.

THE CITY OF BILLINGS

Ron Tussing, MAYOR

ATTEST:

BY: _____
Cari Martin City Clerk

[illegible]

O

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 23, 2007

TITLE: Second Reading of an Ordinance Expanding Ward I (Annexation #07-04)
DEPARTMENT: Planning and Community Services Department
PRESENTED BY: Wyeth Friday, AICP, Planning Division Manager

PROBLEM/ISSUE STATEMENT: On March 26, 2007, the City Council approved the annexation of Certificate of Survey 598, in Lot 30, Clark Subdivision, (Annexation #07-04) containing 10,454 square feet. The property is located at 307 Garden Avenue. Property owner Lana Jean Bittner petitioned for the annexation. After annexation, the property must be added to one of the City's election wards. Council held a public hearing and approved on first reading the ordinance to add the property to Ward I on April 9, 2007. A second reading of the ordinance is the final step in the procedure to expand the ward boundaries.

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

RECOMMENDATION

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

Approved by: City Administrator _____ City Attorney _____

ATTACHMENT

B. Ward Ordinance and Exhibit A

ORDINANCE NO. 07-_____

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 I PROVIDING FOR CERTIFICATION AND REPEALING OF ALL ORDINANCES AND RESOLUTIONS INCONSISTENT THEREWITH.

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

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

A tract of land situated in the NE1/4 and the NW1/4 of Section 11, T.1S., R.26E., P.M.M., Yellowstone County, Montana, more particularly described as:

Certificate of Survey 598, Recorded June 8, 1953, Under Document No. 508159, Records of Yellowstone County, Montana. Including all adjacent Right-Of-Way of Garden Avenue.

Containing 0.243 gross acres, and 0.172 net acres.

(# 07-04) See Exhibit "A" Attached

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

PASSED by the City Council on the first reading this 9th day of April, 2007.

PASSED by the City Council on the second reading this 23rd day of April, 2007.

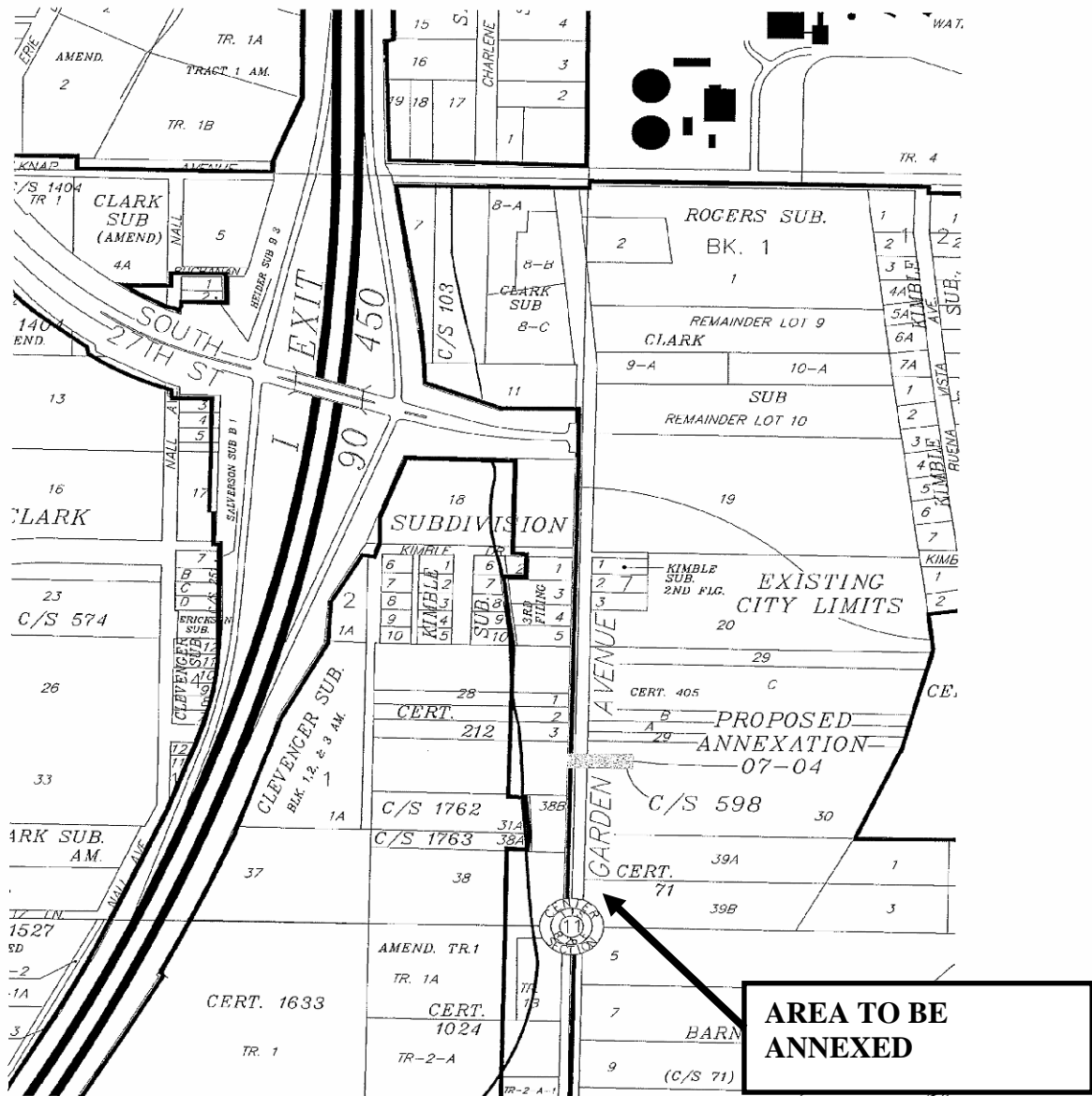
THE CITY OF BILLINGS:

Ron Tussing, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK

EXHIBIT A



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

P1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, April 23, 2007

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

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$1,026,722.08 have been audited and are presented for your approval for payment. A complete listing of the claims dated March 23, 2007, is on file in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

Approved By: City Administrator ____ City Attorney ____

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, April 23, 2007

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

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$832,178.51 have been audited and are presented for your approval for payment. A complete listing of the claims dated March 30, 2007, is on file in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

Approved By: City Administrator ____ City Attorney ____

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, April 23, 2007

TITLE: Public Hearing and Resolution for Annexation #07-06

DEPARTMENT: Planning and Community Services Department

PRESENTED BY: Juliet Spalding, AICP, Planner II

PROBLEM/ISSUE STATEMENT: The City of Billings, property owner, submitted a letter of request to annex land to the City of Billings under 7-2-4403 MCA. There are several parcels of land the City wishes to annex totaling 42.26 gross acres and 38.3 net acres. The subject property is located at the northwest corner of 54th St. West and Colton Blvd. and is the future site of the Cottonwood Park and a proposed School District #2 elementary school. The City Council's policy and the state regulations for this type of annexation require consideration of the annexations at two separate meetings. At its meeting on March 26, 2007, the Council acknowledged the annexation request and approved a resolution of intent (Resolution No. 07-*****) to annex the property, and set a public hearing date for April 23, 2007.

To comply with State Law in also requesting a rezoning of the property, the City has filed a zone change application to rezone the properties from Residential-15,000 and Agricultural-Open Space to Public. The City Council may hear the annexation request and zone change request at the same public hearing. Staff is coordinating these two processes to allow the dual hearing to take place. The Council will conduct a public hearing on April 23, to decide if it will annex the property. This public service report describes the City's capacity to serve the property.

ALTERNATIVES ANALYZED: MCA, Section 7-2-4403 allows government officials to request annexation of government-owned property on behalf of the city. The only alternative that is consistent with City Council policy and State Law is to conduct a public hearing and review the request before taking action.

FINANCIAL IMPACT: Since the City already owns the subject properties, and the City plans to retain ownership of the properties for its own use, there is not expected to be any negative financial impact to the City.

RECOMMENDATION

Staff recommends that City Council approve the Resolution of Annexation.

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

ATTACHMENTS

- A.** Resolution
- B.** Exhibit A Map

INTRODUCTION

On March 5, 2007, The City of Billings submitted a request for annexation of property totaling 42.262 acres located at the northwest corner of 54th St. West and Colton Blvd. This property is in an area that has been specified in the City's Annexation Policy for annexation in the short term and in the Urban Planning Area. The property is bordered by the City Limits on the south side along Colton Blvd. and is eligible for annexation.

PROCEDURAL HISTORY

- March 5, 2007 – The Planning and Community Services Department received a signed letter of request to annex the subject property into the City of Billings.
- March 26, 2007 – The City Council acknowledged the request to annex, approved a resolution of intent to annex the property, and set a public hearing date for the City Council meeting on April 23, 2007.
- March 29-April 20 – As advertised, a 20-day comment period is available for written public comment, in accordance with 7-2-4405, MCA.
- April 23, 2007 – City Council holds public hearing and acts on the request to annex the subject property.

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 at this time.
3. Any proposed improvements would meet City standards.
4. Given the size of the property and the request to zone the property to Public, it is the City's intention to use the property for the development of Cottonwood Park and for a new elementary school site.
5. The proposed annexation meets several goals of the City-County Growth Policy.

Although MCA 7-2-4400-4407 does not specify the need to prepare a public services plan, it is the City's custom to have staff prepare a brief analysis of predicted impacts to services and facilities. Since this property is owned by the City, staff has abbreviated this report to reflect the City's ownership and proposed use of the property.

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

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

Water: Water service can be provided to the park and school sites from 12-inch mains found in either Colton Blvd. or 54th St. West. As the developer, the City will be required to extend the water main in Colton to the west edge of the subject property.

Sewer: Sanitary sewer service can be provided to the park and school sites from a 15-inch main found in 54th St. West. As the developer, the City may be required in the future to install the sanitary sewer in Colton Blvd. to the west edge of the subject property.

Stormwater: There are no City stormwater facilities directly adjacent to the property. The property will have to retain storm water on site at this time. Park development plans have storm water management features built in to serve this and possibly other surrounding sites.

Transportation: The subject property has frontage on 54th St. West, Colton Blvd, and what will be 56th St. West and Poly Drive. All of these rights-of-way will be platted to their appropriate dimensions with the subdivision, and constructed over time according to a phasing plan. At this time, 54th St. West is considered a Minor Arterial street and Colton Blvd. is a proposed Collector street. The other streets are unclassified residential-type-streets. Access to the park and school will be worked out at the time of subdivision and site development when a Traffic Accessibility Study will be completed.

Section 7-2-4211, MCA, requires that in all cases of annexations of property, the city “shall include the full width of any public streets or roads, including the rights-of-way that are adjacent to the property being annexed.” This requires that the entirety of 54th Street West bordering the east side of the property be annexed. In this location, a portion of 54th Street West is a petitioned county road, which means that there is one property owner on the east side of 54th Street West has a 30-foot wide easement across his property for the county road (the west 30 feet of Tract 1, C/S 1952). On March 26, 2007, planning staff sent a letter to the affected property owner explaining the annexation process and the options of either dedicating this easement to the public for city right-of-way or keeping the right-of-way easement. The letter also informed the property owner that he would be assessed city taxes on the portion of their property within the 30-foot easement along the 54th Street West should he choose to retain ownership. The Engineering Division has already prepared Quit Claim Deeds for this property should he decide to dedicate the easement for the right-of-way on 54th Street West.

Another portion of the 54th St. West right-of-way is owned by Yellowstone County as a road tract (Tract 2D, C/S 1952). In conjunction with this annexation, the County has agreed to Quit Claim Deed the road tract to the City. The City Council will review this transfer of right-of-way also at the April 23, 2007 meeting.

General City Services: These are the City services that are provided to all residents and businesses in the City, such as police and fire protection, street and storm drain maintenance, and garbage collection and disposal. The service providers that responded did not object to the annexation of this property. Since the City owns the property and plans to use it as a park and school site, some of these services would not be necessary or experience any change in service needs.

Transit: MET Transit had no negative comments on this annexation request.

Fire: The property is within the Billings Urban Fire Service Area and is currently served by the Billings Fire Department. Fire protection will be provided to this property after annexation most directly from the new Fire Station near the corner of 54th St. West and Grand Ave.

Police: The Police Department staff stated that continued annexation without adding resources will affect ability to respond to calls for service. Response here will increase.

Ambulance Service: This annexation is within the area of acceptable response time.

Legal and Finance: No negative impact.

Other Departments: City/County services such as Library, Planning, and Environmental Health foresee no negative impact.

STAKEHOLDERS

A request for annexation by a municipality does not require notification of adjoining landowners but does require the City Council to hold a public hearing. Notice of the public hearing was posted on the property and published in the Billings Times to provide the legally required 20-day comment period on this annexation request.

In addition, as stated above in the Transportation section, Section 7-2-4211, MCA, requires that in all cases of annexations of property, the city “shall include the full width of any public streets or roads, including the rights-of-way that are adjacent to the property being annexed.” This requires that the entirety of 54th Street West bordering the east side of the property be annexed. In this location, a portion of 54th Street West is a petitioned county road, which means that there is one property owner on the east side of 54th Street West has a 30-foot wide easement across his property for the county road (the west 30 feet of Tract 1, C/S 1952). On March 26, 2007, planning staff sent a letter to the affected property owner explaining the annexation process and the options of either dedicating this easement to the public for city right-of-way or keeping the right-of-way easement. The letter also informed the property owner that he would be assessed city taxes on the portion of their property within the 30-foot easement along the 54th Street West should he choose to retain ownership. The Engineering Division has already prepared Quit Claim Deeds for this property should he decide to dedicate the easement for the right-of-way on 54th Street West. We have not received any comment from this property owner at the time this memo was drafted.

Yellowstone County Board of County Commissioners have signed the Quit Claim Deed that reassigns ownership of the road tract, Tract 2D, C/S 1952, to the City.

The Planning Division has not received any other public comment regarding the annexation to date.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

This annexation petition meets the following goals, objectives and policies of the *Yellowstone County and City of Billings 2003 Growth Policy*:

- Predictable land use decisions that are consistent with neighborhood character and land use patterns (Land Use Element Goal #1). *The proposed park and school site have been planned for a number of years, and will add nicely to the neighborhood character.*
- Contiguous development focused in and around existing population centers (Land Use Element Goal #4). *This property is in an area that is in close proximity to urban services and is a logical area to include within the City of Billings service area*
- Recreational facilities that serve the diverse recreational needs of Billings and Yellowstone County (Open Space and Recreation Goal #2). *The property will be the site of a new regional park and elementary school that will serve a wide area of City and County residents.*

RECOMMENDATION

Staff recommends that City Council approve the Resolution of Annexation to annex this property.

ATTACHMENTS

- A. Resolution
- B. Exhibit A Map

ATTACHMENT A

RESOLUTION NO. 07-

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

WHEREAS, the City Council of the City of Billings has determined that it is in the best interest of the City of Billings to annex the territory hereinafter described; and

WHEREAS, the City of Billings is the owner of the territory; and

WHEREAS, the City Council has considered annexing said territory pursuant to Title 7, Chapter 2, Part 44 of the Montana Code Annotated.

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

1. TERRITORY ANNEXED. Pursuant to Request filed as provided M.C.A., Title 7, Chapter 2, Part 44, the following territory is hereby annexed to the City of Billings:

Tracts of land situated in the E1/2 of Section 31, and the NW1/4 Section 32, T.1N., R.25E.,

P.M.M., Yellowstone County, Montana, more particularly described as:

Tracts 1 & 2, of Certificate of Survey 1323, Recorded June 27, 1973, under Document No.

9397800, Records of Yellowstone County;

Tract 1, of Certificate of Survey 1815, Recorded September 7, 1978, under Document No.

1103210, Records of Yellowstone County;

Tract 2D, of Corrected Amended Tract 2 of Certificate of Survey 1952, Recorded September 22,

1988, under Document No. 1498658, Records of Yellowstone County;

Park land, Yellowstone Meadows-Phase One, Recorded December 15, 1970, under Document

No. 873104, Records of Yellowstone County;

Park land, Yellowstone Meadows-Phase Three, Recorded December 6, 1976, under Document No. 1035948, Records of Yellowstone County;

Lots 33, 34, 63 and 64 of Sunny Cove Fruit Farms, Recorded April 27, 1910, under Document No. 21540, Records of Yellowstone County.

Including that portion of adjoining Yellowstone County Road easement for 54th Street West, also described as a portion County Road Petition Number 49, filed April 20, 1892, Notice of Opening Road filed June 14, 1892, and all adjacent right-of-way of 54th Street West, 56th Street West and Colton Boulevard.

Containing 42.262 gross acres, and 38.334 net acres.

(# 07-06) See Exhibit "A" Attached

2. PROCEDURE. To comply with all procedures as required under M.C.A., Title 7, Chapter 2, Part 44, this resolution shall become effective 30 days after its passage and approval, and thereafter the boundary of the City of Billings shall be as set forth in this resolution.

PASSED by the City Council and APPROVED this 23rd day of April, 2007.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

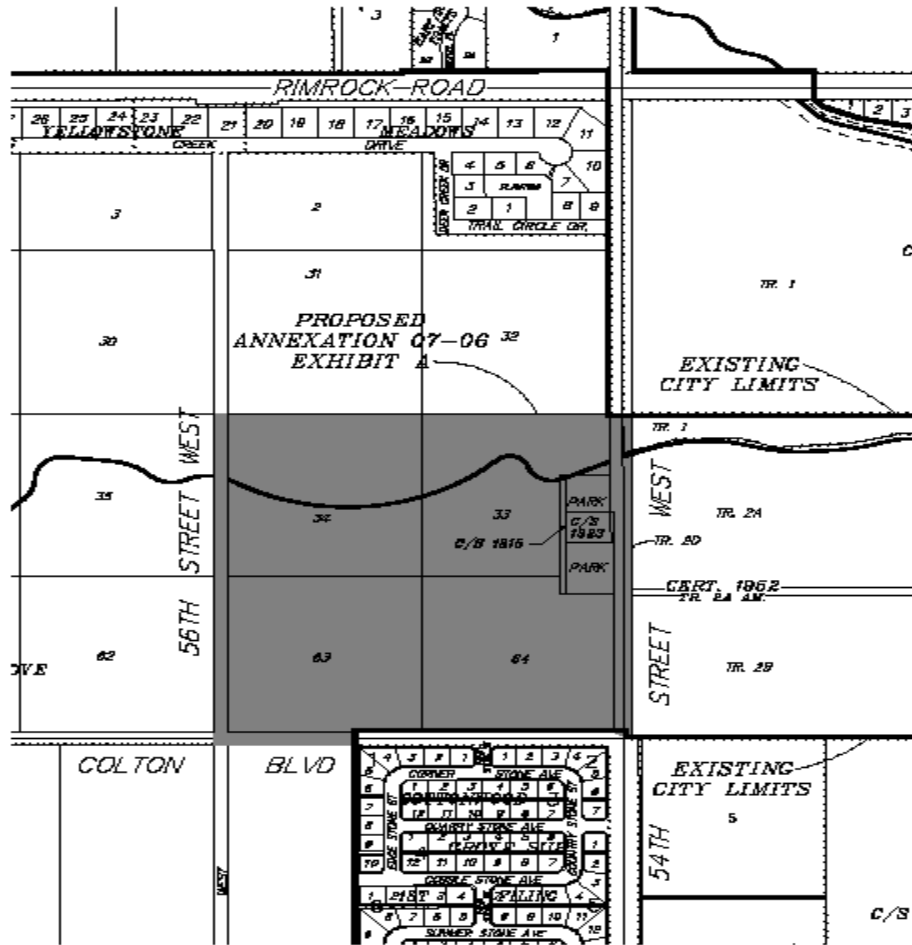
ATTEST:

BY: _____
Cari Martin, CITY CLERK

(AN #07-06)

ATTACHMENT B

EXHIBIT A



INTRODUCTION

On March 5, 2007, The City of Billings submitted a request for annexation of property totaling 42.262 acres located at the northwest corner of 54th St. West and Colton Blvd. This property is in an area that has been specified in the City's Annexation Policy for annexation in the short term and in the Urban Planning Area. The property is bordered by the City Limits on the south side along Colton Blvd. and is eligible for annexation.

PROCEDURAL HISTORY

- March 5, 2007 – The Planning and Community Services Department received a signed letter of request to annex the subject property into the City of Billings.
- March 26, 2007 – The City Council acknowledged the request to annex, approved a resolution of intent to annex the property, and set a public hearing date for the City Council meeting on April 23, 2007.
- March 29-April 20 – As advertised, a 20-day comment period is available for written public comment, in accordance with 7-2-4405, MCA.
- April 23, 2007 – City Council holds public hearing and acts on the request to annex the subject property.

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 at this time.
3. Any proposed improvements would meet City standards.
4. Given the size of the property and the request to zone the property to Public, it is the City's intention to use the property for the development of Cottonwood Park and for a new elementary school site.
5. The proposed annexation meets several goals of the City-County Growth Policy.

Although MCA 7-2-4400-4407 does not specify the need to prepare a public services plan, it is the City's custom to have staff prepare a brief analysis of predicted impacts to services and facilities. Since this property is owned by the City, staff has abbreviated this report to reflect the City's ownership and proposed use of the property.

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

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

Water: Water service can be provided to the park and school sites from 12-inch mains found in either Colton Blvd. or 54th St. West. As the developer, the City will be required to extend the water main in Colton to the west edge of the subject property.

Sewer: Sanitary sewer service can be provided to the park and school sites from a 15-inch main found in 54th St. West. As the developer, the City may be required in the future to install the sanitary sewer in Colton Blvd. to the west edge of the subject property.

Stormwater: There are no City stormwater facilities directly adjacent to the property. The property will have to retain storm water on site at this time. Park development plans have storm water management features built in to serve this and possibly other surrounding sites.

Transportation: The subject property has frontage on 54th St. West, Colton Blvd, and what will be 56th St. West and Poly Drive. All of these rights-of-way will be platted to their appropriate dimensions with the subdivision, and constructed over time according to a phasing plan. At this time, 54th St. West is considered a Minor Arterial street and Colton Blvd. is a proposed Collector street. The other streets are unclassified residential-type-streets. Access to the park and school will be worked out at the time of subdivision and site development when a Traffic Accessibility Study will be completed.

Section 7-2-4211, MCA, requires that in all cases of annexations of property, the city “shall include the full width of any public streets or roads, including the rights-of-way that are adjacent to the property being annexed.” This requires that the entirety of 54th Street West bordering the east side of the property be annexed. In this location, a portion of 54th Street West is a petitioned county road, which means that there is one property owner on the east side of 54th Street West has a 30-foot wide easement across his property for the county road (the west 30 feet of Tract 1, C/S 1952). On March 26, 2007, planning staff sent a letter to the affected property owner explaining the annexation process and the options of either dedicating this easement to the public for city right-of-way or keeping the right-of-way easement. The letter also informed the property owner that he would be assessed city taxes on the portion of their property within the 30-foot easement along the 54th Street West should he choose to retain ownership. The Engineering Division has already prepared Quit Claim Deeds for this property should he decide to dedicate the easement for the right-of-way on 54th Street West.

Another portion of the 54th St. West right-of-way is owned by Yellowstone County as a road tract (Tract 2D, C/S 1952). In conjunction with this annexation, the County has agreed to Quit Claim Deed the road tract to the City. The City Council will review this transfer of right-of-way also at the April 23, 2007 meeting.

General City Services: These are the City services that are provided to all residents and businesses in the City, such as police and fire protection, street and storm drain maintenance, and garbage collection and disposal. The service providers that responded did not object to the annexation of this property. Since the City owns the property and plans to use it as a park and school site, some of these services would not be necessary or experience any change in service needs.

Transit: MET Transit had no negative comments on this annexation request.

Fire: The property is within the Billings Urban Fire Service Area and is currently served by the Billings Fire Department. Fire protection will be provided to this property after annexation most directly from the new Fire Station near the corner of 54th St. West and Grand Ave.

Police: The Police Department staff stated that continued annexation without adding resources will affect ability to respond to calls for service. Response here will increase.

Ambulance Service: This annexation is within the area of acceptable response time.

Legal and Finance: No negative impact.

Other Departments: City/County services such as Library, Planning, and Environmental Health foresee no negative impact.

STAKEHOLDERS

A request for annexation by a municipality does not require notification of adjoining landowners but does require the City Council to hold a public hearing. Notice of the public hearing was posted on the property and published in the Billings Times to provide the legally required 20-day comment period on this annexation request.

In addition, as stated above in the Transportation section, Section 7-2-4211, MCA, requires that in all cases of annexations of property, the city “shall include the full width of any public streets or roads, including the rights-of-way that are adjacent to the property being annexed.” This requires that the entirety of 54th Street West bordering the east side of the property be annexed. In this location, a portion of 54th Street West is a petitioned county road, which means that there is one property owner on the east side of 54th Street West has a 30-foot wide easement across his property for the county road (the west 30 feet of Tract 1, C/S 1952). On March 26, 2007, planning staff sent a letter to the affected property owner explaining the annexation process and the options of either dedicating this easement to the public for city right-of-way or keeping the right-of-way easement. The letter also informed the property owner that he would be assessed city taxes on the portion of their property within the 30-foot easement along the 54th Street West should he choose to retain ownership. The Engineering Division has already prepared Quit Claim Deeds for this property should he decide to dedicate the easement for the right-of-way on 54th Street West. We have not received any comment from this property owner at the time this memo was drafted.

Yellowstone County Board of County Commissioners have signed the Quit Claim Deed that reassigns ownership of the road tract, Tract 2D, C/S 1952, to the City.

The Planning Division has not received any other public comment regarding the annexation to date.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

This annexation petition meets the following goals, objectives and policies of the *Yellowstone County and City of Billings 2003 Growth Policy*:

- Predictable land use decisions that are consistent with neighborhood character and land use patterns (Land Use Element Goal #1). *The proposed park and school site have been planned for a number of years, and will add nicely to the neighborhood character.*
- Contiguous development focused in and around existing population centers (Land Use Element Goal #4). *This property is in an area that is in close proximity to urban services and is a logical area to include within the City of Billings service area*
- Recreational facilities that serve the diverse recreational needs of Billings and Yellowstone County (Open Space and Recreation Goal #2). *The property will be the site of a new regional park and elementary school that will serve a wide area of City and County residents.*

RECOMMENDATION

Staff recommends that City Council approve the Resolution of Annexation to annex this property.

ATTACHMENTS

- A. Resolution
- B. Exhibit A Map

ATTACHMENT A

RESOLUTION NO. 07-

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

WHEREAS, the City Council of the City of Billings has determined that it is in the best interest of the City of Billings to annex the territory hereinafter described; and

WHEREAS, the City of Billings is the owner of the territory; and

WHEREAS, the City Council has considered annexing said territory pursuant to Title 7, Chapter 2, Part 44 of the Montana Code Annotated.

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

1. TERRITORY ANNEXED. Pursuant to Request filed as provided M.C.A., Title 7, Chapter 2, Part 44, the following territory is hereby annexed to the City of Billings:

Tracts of land situated in the E1/2 of Section 31, and the NW1/4 Section 32, T.1N., R.25E.,

P.M.M., Yellowstone County, Montana, more particularly described as:

Tracts 1 & 2, of Certificate of Survey 1323, Recorded June 27, 1973, under Document No.

9397800, Records of Yellowstone County;

Tract 1, of Certificate of Survey 1815, Recorded September 7, 1978, under Document No.

1103210, Records of Yellowstone County;

Tract 2D, of Corrected Amended Tract 2 of Certificate of Survey 1952, Recorded September 22,

1988, under Document No. 1498658, Records of Yellowstone County;

Park land, Yellowstone Meadows-Phase One, Recorded December 15, 1970, under Document

No. 873104, Records of Yellowstone County;

Park land, Yellowstone Meadows-Phase Three, Recorded December 6, 1976, under Document No. 1035948, Records of Yellowstone County;

Lots 33, 34, 63 and 64 of Sunny Cove Fruit Farms, Recorded April 27, 1910, under Document No. 21540, Records of Yellowstone County.

Including that portion of adjoining Yellowstone County Road easement for 54th Street West, also described as a portion County Road Petition Number 49, filed April 20, 1892, Notice of Opening Road filed June 14, 1892, and all adjacent right-of-way of 54th Street West, 56th Street West and Colton Boulevard.

Containing 42.262 gross acres, and 38.334 net acres.

(# 07-06) See Exhibit "A" Attached

2. PROCEDURE. To comply with all procedures as required under M.C.A., Title 7, Chapter 2, Part 44, this resolution shall become effective 30 days after its passage and approval, and thereafter the boundary of the City of Billings shall be as set forth in this resolution.

PASSED by the City Council and APPROVED this 23rd day of April, 2007.

THE CITY OF BILLINGS:

BY: _____

Ron Tussing, MAYOR

ATTEST:

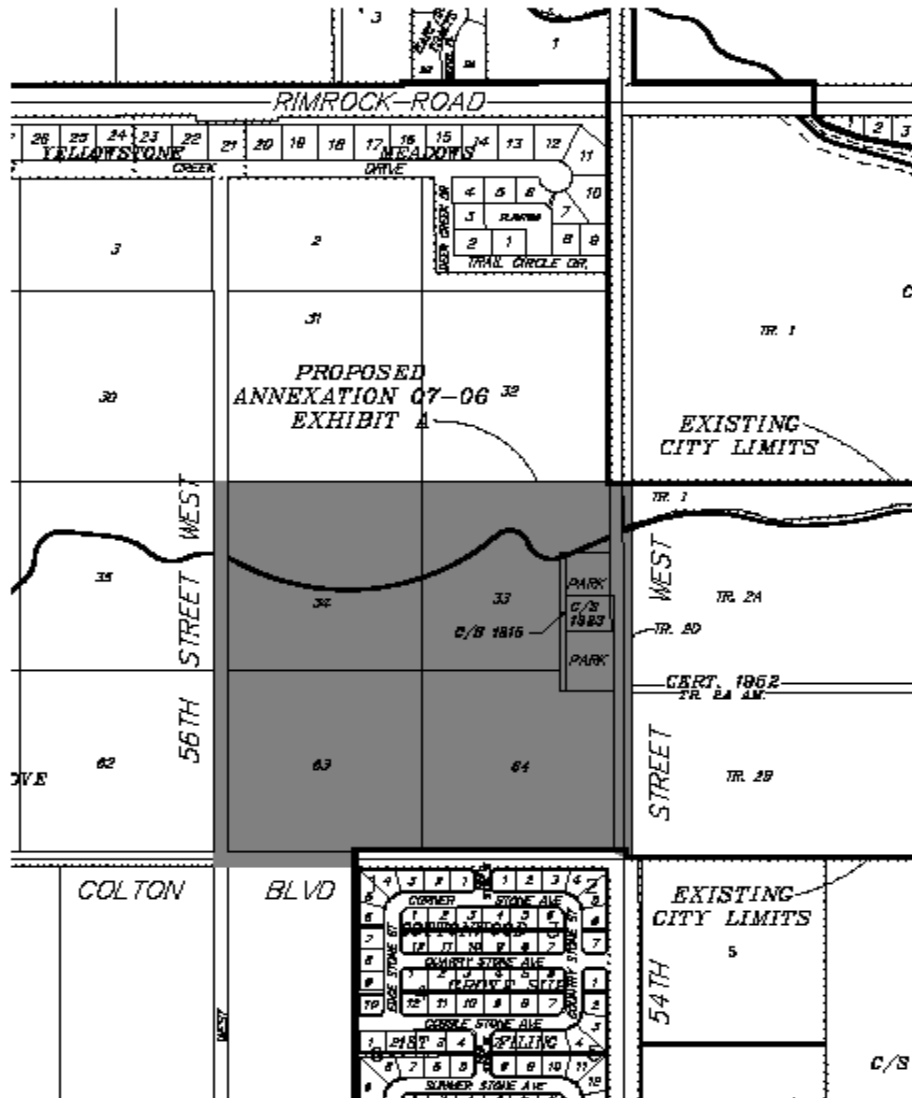
BY: _____

CITY CLERK

(AN #07-06)

ATTACHMENT B

EXHIBIT A



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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, April 23, 2007

TITLE: Public Hearing and Resolution for Annexation #07-06

DEPARTMENT: Planning and Community Services Department

PRESENTED BY: Juliet Spalding, AICP, Planner II

PROBLEM/ISSUE STATEMENT: The City of Billings, property owner, submitted a letter of request to annex land to the City of Billings under 7-2-4403 MCA. There are several parcels of land the City wishes to annex totaling 42.26 gross acres and 38.3 net acres. The subject property is located at the northwest corner of 54th St. West and Colton Blvd. and is the future site of the Cottonwood Park and a proposed School District #2 elementary school. The City Council's policy and the state regulations for this type of annexation require consideration of the annexations at two separate meetings. At its meeting on March 26, 2007, the Council acknowledged the annexation request and approved a resolution of intent (Resolution No. 07-18544) to annex the property, and set a public hearing date for April 23, 2007.

To comply with State Law in also requesting a rezoning of the property, the City has filed a zone change application to rezone the properties from Residential-15,000 and Agricultural-Open Space to Public. The City Council may hear the annexation request and zone change request at the same public hearing. Staff is coordinating these two processes to allow the dual hearing to take place. The Council will conduct a public hearing on April 23, to decide if it will annex the property. This public service report describes the City's capacity to serve the property.

ALTERNATIVES ANALYZED: MCA, Section 7-2-4403 allows government officials to request annexation of government-owned property on behalf of the city. The only alternative that is consistent with City Council policy and State Law is to conduct a public hearing and review the request before taking action.

FINANCIAL IMPACT: Since the City already owns the subject properties, and the City plans to retain ownership of the properties for its own use, there is not expected to be any negative financial impact to the City.

RECOMMENDATION

Staff recommends that City Council approve the Resolution of Annexation.

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

ATTACHMENTS

- C.** Resolution
- D.** Exhibit A Map

INTRODUCTION

On March 5, 2007, The City of Billings submitted a request for annexation of property totaling 42.262 acres located at the northwest corner of 54th St. West and Colton Blvd. This property is in an area that has been specified in the City's Annexation Policy for annexation in the short term and in the Urban Planning Area. The property is bordered by the City Limits on the south side along Colton Blvd. and is eligible for annexation.

PROCEDURAL HISTORY

- March 5, 2007 – The Planning and Community Services Department received a signed letter of request to annex the subject property into the City of Billings.
- March 26, 2007 – The City Council acknowledged the request to annex, approved a resolution of intent to annex the property, and set a public hearing date for the City Council meeting on April 23, 2007.
- March 29-April 20 – As advertised, a 20-day comment period is available for written public comment, in accordance with 7-2-4405, MCA.
- April 23, 2007 – City Council holds public hearing and acts on the request to annex the subject property.

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:

6. The area is located within the Limits of Annexation and within the Urban Planning Area.
7. The City is able to provide adequate services at this time.
8. Any proposed improvements would meet City standards.
9. Given the size of the property and the request to zone the property to Public, it is the City's intention to use the property for the development of Cottonwood Park and for a new elementary school site.
10. The proposed annexation meets several goals of the City-County Growth Policy.

Although MCA 7-2-4400-4407 does not specify the need to prepare a public services plan, it is the City's custom to have staff prepare a brief analysis of predicted impacts to services and facilities. Since this property is owned by the City, staff has abbreviated this report to reflect the City's ownership and proposed use of the property.

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

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

Water: Water service can be provided to the park and school sites from 12-inch mains found in either Colton Blvd. or 54th St. West. As the developer, the City will be required to extend the water main in Colton to the west edge of the subject property.

Sewer: Sanitary sewer service can be provided to the park and school sites from a 15-inch main found in 54th St. West. As the developer, the City may be required in the future to install the sanitary sewer in Colton Blvd. to the west edge of the subject property.

Stormwater: There are no City stormwater facilities directly adjacent to the property. The property will have to retain storm water on site at this time. Park development plans have storm water management features built in to serve this and possibly other surrounding sites.

Transportation: The subject property has frontage on 54th St. West, Colton Blvd, and what will be 56th St. West and Poly Drive. All of these rights-of-way will be platted to their appropriate dimensions with the subdivision, and constructed over time according to a phasing plan. At this time, 54th St. West is considered a Minor Arterial street and Colton Blvd. is a proposed Collector street. The other streets are unclassified residential-type-streets. Access to the park and school will be worked out at the time of subdivision and site development when a Traffic Accessibility Study will be completed.

Section 7-2-4211, MCA, requires that in all cases of annexations of property, the city “shall include the full width of any public streets or roads, including the rights-of-way that are adjacent to the property being annexed.” This requires that the entirety of 54th Street West bordering the east side of the property be annexed. In this location, a portion of 54th Street West is a petitioned county road, which means that there is one property owner on the east side of 54th Street West has a 30-foot wide easement across his property for the county road (the west 30 feet of Tract 1, C/S 1952). On March 26, 2007, planning staff sent a letter to the affected property owner explaining the annexation process and the options of either dedicating this easement to the public for city right-of-way or keeping the right-of-way easement. The letter also informed the property owner that he would be assessed city taxes on the portion of their property within the 30-foot easement along the 54th Street West should he choose to retain ownership. The Engineering Division has already prepared Quit Claim Deeds for this property should he decide to dedicate the easement for the right-of-way on 54th Street West.

Another portion of the 54th St. West right-of-way is owned by Yellowstone County as a road tract (Tract 2D, C/S 1952). In conjunction with this annexation, the County has agreed to Quit Claim Deed the road tract to the City. The City Council will review this transfer of right-of-way also at the April 23, 2007 meeting.

General City Services: These are the City services that are provided to all residents and businesses in the City, such as police and fire protection, street and storm drain maintenance, and garbage collection and disposal. The service providers that responded did not object to the annexation of this property. Since the City owns the property and plans to use it as a park and school site, some of these services would not be necessary or experience any change in service needs.

Transit: MET Transit had no negative comments on this annexation request.

Fire: The property is within the Billings Urban Fire Service Area and is currently served by the Billings Fire Department. Fire protection will be provided to this property after annexation most directly from the new Fire Station near the corner of 54th St. West and Grand Ave.

Police: The Police Department staff stated that continued annexation without adding resources will affect ability to respond to calls for service. Response here will increase.

Ambulance Service: This annexation is within the area of acceptable response time.

Legal and Finance: No negative impact.

Other Departments: City/County services such as Library, Planning, and Environmental Health foresee no negative impact.

STAKEHOLDERS

A request for annexation by a municipality does not require notification of adjoining landowners but does require the City Council to hold a public hearing. Notice of the public hearing was posted on the property and published in the Billings Times to provide the legally required 20-day comment period on this annexation request.

In addition, as stated above in the Transportation section, Section 7-2-4211, MCA, requires that in all cases of annexations of property, the city “shall include the full width of any public streets or roads, including the rights-of-way that are adjacent to the property being annexed.” This requires that the entirety of 54th Street West bordering the east side of the property be annexed. In this location, a portion of 54th Street West is a petitioned county road, which means that there is one property owner on the east side of 54th Street West has a 30-foot wide easement across his property for the county road (the west 30 feet of Tract 1, C/S 1952). On March 26, 2007, planning staff sent a letter to the affected property owner explaining the annexation process and the options of either dedicating this easement to the public for city right-of-way or keeping the right-of-way easement. The letter also informed the property owner that he would be assessed city taxes on the portion of their property within the 30-foot easement along the 54th Street West should he choose to retain ownership. The Engineering Division has already prepared Quit Claim Deeds for this property should he decide to dedicate the easement for the right-of-way on 54th Street West. We have not received any comment from this property owner at the time this memo was drafted.

Yellowstone County Board of County Commissioners have signed the Quit Claim Deed that reassigns ownership of the road tract, Tract 2D, C/S 1952, to the City.

The Planning Division has not received any other public comment regarding the annexation to date.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

This annexation petition meets the following goals, objectives and policies of the *Yellowstone County and City of Billings 2003 Growth Policy*:

- Predictable land use decisions that are consistent with neighborhood character and land use patterns (Land Use Element Goal #1). *The proposed park and school site have been planned for a number of years, and will add nicely to the neighborhood character.*
- Contiguous development focused in and around existing population centers (Land Use Element Goal #4). *This property is in an area that is in close proximity to urban services and is a logical area to include within the City of Billings service area*
- Recreational facilities that serve the diverse recreational needs of Billings and Yellowstone County (Open Space and Recreation Goal #2). *The property will be the site of a new regional park and elementary school that will serve a wide area of City and County residents.*

RECOMMENDATION

Staff recommends that City Council approve the Resolution of Annexation to annex this property.

ATTACHMENTS

6. Resolution
7. Exhibit A Map

ATTACHMENT A

RESOLUTION NO. 07-

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

WHEREAS, the City Council of the City of Billings has determined that it is in the best interest of the City of Billings to annex the territory hereinafter described; and

WHEREAS, the City of Billings is the owner of the territory; and

WHEREAS, the City Council has considered annexing said territory pursuant to Title 7, Chapter 2, Part 44 of the Montana Code Annotated.

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

1. TERRITORY ANNEXED. Pursuant to Request filed as provided M.C.A., Title 7, Chapter 2, Part 44, the following territory is hereby annexed to the City of Billings:

Tracts of land situated in the E1/2 of Section 31, and the NW1/4 Section 32, T.1N., R.25E.,

P.M.M., Yellowstone County, Montana, more particularly described as:

Tracts 1 & 2, of Certificate of Survey 1323, Recorded June 27, 1973, under Document No.

9397800, Records of Yellowstone County;

Tract 1, of Certificate of Survey 1815, Recorded September 7, 1978, under Document No.

1103210, Records of Yellowstone County;

Tract 2D, of Corrected Amended Tract 2 of Certificate of Survey 1952, Recorded September 22,

1988, under Document No. 1498658, Records of Yellowstone County;

Park land, Yellowstone Meadows-Phase One, Recorded December 15, 1970, under Document

No. 873104, Records of Yellowstone County;

Park land, Yellowstone Meadows-Phase Three, Recorded December 6, 1976, under Document No. 1035948, Records of Yellowstone County;

Lots 33, 34, 63 and 64 of Sunny Cove Fruit Farms, Recorded April 27, 1910, under Document No. 21540, Records of Yellowstone County.

Including that portion of adjoining Yellowstone County Road easement for 54th Street West, also described as a portion County Road Petition Number 49, filed April 20, 1892, Notice of Opening Road filed June 14, 1892, and all adjacent right-of-way of 54th Street West, 56th Street West and Colton Boulevard.

Containing 42.262 gross acres, and 38.334 net acres.

(# 07-06) See Exhibit "A" Attached

2. PROCEDURE. To comply with all procedures as required under M.C.A., Title 7, Chapter 2, Part 44, this resolution shall become effective 30 days after its passage and approval, and thereafter the boundary of the City of Billings shall be as set forth in this resolution.

PASSED by the City Council and APPROVED this 23rd day of April, 2007.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

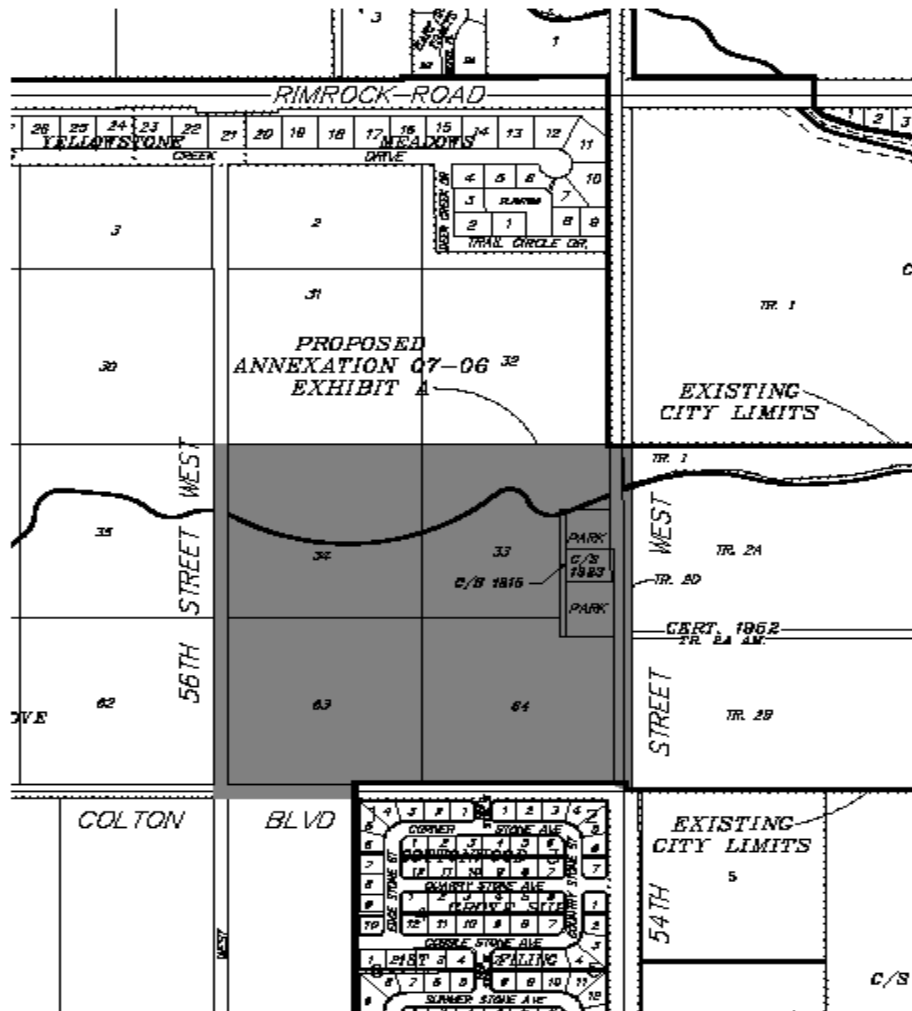
ATTEST:

BY: _____
Cari Martin CITY CLERK

(AN #07-06)

ATTACHMENT B

EXHIBIT A



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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, April 23, 2007

TITLE: W.O. 06-18, Broadwater Subdivision – Phase V, Curb/Gutter and Street Reconstruction

DEPARTMENT: Public Works - Engineering

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

PROBLEM/ISSUE STATEMENT: On March 26, 2007, Council passed a Resolution of Intent for this project and established a Public Hearing date of April 23, 2007. After conducting the Public Hearing, in order to proceed with construction of the project, Council must pass a resolution ordering construction of the improvements.

FINANCIAL IMPACT: The proposed project is funded through multiple sources, including direct property assessments for a total estimated project cost of \$721,047, as follows:

Estimated Assessed Costs	\$251,000
Curb and Gutter Funds	\$ 92,390
Corner Lot Funds	\$146,728
Gas Tax Funds	\$227,929
Public Works Belknap Funds	\$ 3,000

Funding for the proposed project has already been authorized in the Capital Improvement Plan and is identified in the Fiscal Year 2007 budget.

RECOMMENDATION

Staff recommends that Council pass a resolution ordering construction of the improvements identified in W.O. 06-18 Broadwater Subdivision – Phase V, Curb/Gutter and Street Reconstruction.

Approved By: City Administrator _____ City Attorney ____

ATTACHMENT

A. Resolution Ordering Improvements

INTRODUCTION

This project, Broadwater Subdivision – Phase V, as further described in Attachment A, was part of comprehensive plan between the residents in and around Broadwater Subdivision and the City of Billings to improve curbs/gutters, sidewalks and streets within their area. Phase V is the final phase of this comprehensive plan and is identified as an area where the streets are in poor condition and non-maintainable. Furthermore, various concrete improvements such as curbs/gutters, drive approaches, alley approaches and sidewalks are needed to replace damaged, deteriorated, displaced, missing or generally non-ADA compliant sections, which are considered present walking hazards to the public. This project would improve the streets to a maintainable condition and eliminate hazards. In order to construct these improvements, Council must pass a resolution ordering construction of the improvements.

PROCEDURAL HISTORY

- Phases I – IV Constructed – 1998-2002
- Project requested by property owners – Fall 1997 (All Phases)
- Field inventory completed – 2000 & 2001
- Project Design and Cost Estimate – March 2007
- Resolution of Intent (Phase V) – March 26, 2007
- Notify affected property owners of proposed project – April 5, 2007
- Public Hearing and Resolution Ordering Improvements – April 23, 2007
- Construction – Summer 2007

BACKGROUND

Consistent with the previous phases, various City funding, as described above, will be utilized to reduce the amount of direct property assessment. This project is identified in the Fiscal Year 2007 approved budget.

This project will benefit both the general public and the individual property owners, as both parties will receive drivable streets and walkable sidewalks. Feedback from the previous four phases has been positive and residence of this phase are eager to get their improvements as well.

With the passage of the Resolution of Intent on March 26, 2007, staff notified each property owner within the assessed project area. This notification included a detailed listing of the proposed work fronting each property, the estimated direct property assessment, and the date, time and place of the Public Hearing. The average estimated assessment for the proposed project is \$5,980.60 assessed over a 12-year period.

RECOMMENDATION

Staff recommends that Council pass a resolution ordering construction of the improvements identified in W.O. 06-18 Broadwater Subdivision – Phase V, Curb/Gutter and Street Reconstruction.

ATTACHMENT

A. Resolution Ordering Improvements

RESOLUTION NO. 07 - _____

A RESOLUTION RELATING TO W.O. 06-18 BROADWATER SUBDIVISION – PHASE V IMPROVEMENTS; ORDERING THE PROGRAM FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SIDEWALK, CURB AND GUTTER IMPROVEMENT BONDS SECURED BY THE CITY’S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND AND ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE.

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

Section 1. Passage of Resolution of Intention. This Council, on March 26, 2007, adopted Resolution No. 07-18540 (the “Resolution of Intention”), pursuant to which this Council declared its intention to order in certain sidewalks, curb, gutter and street improvements, designated as W.O. 06-18 (the “Project”) of the City, under Montana Code Annotated, Title 7, Chapter 14, Part 41, as amended, for the purpose of financing the costs of certain local improvements described generally therein (the “Improvements”) and paying costs incidental thereto, including costs associated with the sale and the security of sidewalk, curb and sidewalk, curb and gutter improvement bonds drawn on the Project (the “Bonds”), the creation and administration of the Project, and the funding of a deposit to the City’s Special Improvement District Revolving Fund (the “Revolving Fund”).

Section 2. Notice and Public Hearing. Notice of passage of the Resolution of Intention was duly published and mailed in all respects in accordance with law, and on April 5, 2007, this Council conducted a public hearing on the ordering in of the Project and the making of the Improvements.

Section 3. Order. It is hereby ordered that the following improvements shall be constructed, reconstructed, repaired, or replaced:

See Exhibit “A” attached hereto.

Section 4. Affected Properties. All properties which will be required to pay any portion of the costs of the improvements identified herein are identified in Exhibit “B” attached hereto.

Section 5. Reimbursement Expenditures.

5.01. Regulations. The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City for project expenditures paid by the City prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the “Regulations”) require that the City adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within 18 months (or three years, if the reimbursement bond issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

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

5.03. Declaration of Intent. The City reasonably expects to reimburse the expenditures made for costs of the Improvements out of the proceeds of Bonds in an estimated maximum aggregate principal amount of \$251,000 after the date of payment of all or a portion of the costs of the Improvements. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

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

5.05. Reimbursement Allocations. The City’s financial officer shall be responsible for making the “reimbursement allocations” described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the bonds to reimburse the source of temporary financing used by the City to make prior payment of the costs of the Improvements. Each allocation shall be

evidenced by an entry on the official books and records of the City maintained for the Bonds or the Improvements and shall specifically identify the actual original expenditure being reimbursed.

Section 6. Property Owner Option to Construct Improvements. Notice of passage of this Resolution shall be mailed to all affected property owners and said owners shall have thirty (30) days from the date of said Notice in which to install the ordered improvements at their cost and expense. In the event the owners do not take said action within the said thirty (30) day period, the City will install the improvements and will assess the costs thereof, all costs of administration and engineering and all bond issuance costs against the real property.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, this 23rd day of April 2007.

THE CITY OF BILLINGS:

BY _____
Ron Tussing MAYOR

ATTEST:

BY _____
Cari Martin CITY CLERK

Location of Work
Work Order 06-18
Broadwater Subdivision Improvements
Exhibit "A"

- A) Sidewalk, Curb & Gutter, Drive Approaches, Alley Approaches and Street Reconstruction: North and south side of Cook Avenue between 12th Street West and 13th Street West * North and south side of St. Johns Avenue between 12th Street West and 13th Street West * North and south side of Lynn Avenue between 12th Street West and 13th Street West * East and west side of Plainview Street between Central Avenue and Cook Avenue.

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, April 23, 2007

TITLE: Public Hearings for Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME) Programs and the FY2007-2008 Annual Action Plan

DEPARTMENT: Planning and Community Services Department

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

PROBLEM/ISSUE STATEMENT: The City Council is scheduled to hold a public hearing on the allocation of the City of Billings FY2007-2008 CDBG and HOME funding and the third year Consolidated Plan Annual Action Plan for FY2007-2008 on Monday, April 23, 2007. Council action is scheduled on May 14, 2007.

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

FINANCIAL IMPACT: The public hearing will result in additional public input on the use of CDBG & HOME resources in Billings. In FY2007-2008, the City has \$726,175 in new CDBG funding and \$500,839 in HOME funding available for allocation. An additional \$196,236 in CDBG funding is available to allocate this year from projects that have been canceled or completed and \$183,105 from completed HOME projects, resulting in a total of \$922,411 available for allocation in CDBG funding and \$683,944 in HOME funding. Federal revenues received for the CDBG and HOME programs are provided through the U.S. Department of Housing and Urban Development. The Community Development Board recommendations are attached and comply with funding limitations.

RECOMMENDATION

Staff recommends that the City Council hold a public hearing on April 23, 2007 to gather public input on the allocation of CDBG and HOME funds in the community for FY2007-2008 and the FY2007-2008 Annual Action Plan as the third year of the Consolidated Plan for FY2005-2009.

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

ATTACHMENTS

- A. FY2007-2008 Annual Action Plan (10)
- B. Community Development Board Recommendation (2)
- C. CDBG / HOME Programs FY2007-2008 Project Summaries (6)
- D. Task Force Priorities (4)
- E. FY2007-2008 Revenue (1)

INTRODUCTION

The Community Development Board has made recommendations to City Council on the allocation of CDBG and HOME funding for FY2007-2008. On April 23, the City Council will hold a public hearing to provide public input on the recommendations and the allocation of CDBG and HOME resources in the community. Additional background on the Community Development Board's recommendation will be provided to the City Council prior to the public hearing during a work session on April 16, 2007.

Also for consideration is the FY2007-2008 Annual Action Plan representing the third year of planning for the FY2005-2009 Consolidated Plan. The purpose of the Consolidated Plan is to identify the housing and community development needs of low-income households in Billings and develop strategies for addressing those needs in a comprehensive, coordinated fashion utilizing available federal and non-federal resources. The Annual Action Plan for FY2007-2008 will serve as the planning tool for the City's CDBG and HOME Programs.

The Consolidated Plan is required for participation by the City of Billings in the U.S. Department of Housing and Urban Development (HUD) CDBG and HOME Programs and also for homeless programs funded under the McKinney Act and the Housing for Persons with AIDS (HOPWA) Program. The City of Billings does not receive McKinney funds or HOPWA funds and the City's Consolidated Plan is focused on CDBG and HOME activities. The Consolidated Plan combines the planning and application requirements for the CDBG and HOME Programs. Consolidation of the submission requirements for the CDBG and HOME programs allows program planning and citizen participation to take place in a comprehensive context covering both programs. A separate Consolidated Plan is prepared by the City of Great Falls, the City of Missoula, and the State of Montana for urban and rural areas of Montana outside of Billings, Great Falls, and Missoula.

The City Council is asked to consider the input that is received and make a final decision on the FY2007-2008 CDBG and HOME budgets and FY2007-2008 Annual Action Plan on Monday, May 14, 2007.

PROCEDURAL HISTORY

The City of Billings has been receiving CDBG funds since the mid-1970s and HOME funds since the early 1990s. These funds are provided by the federal government and are primarily targeted in Billings to address the affordable housing and neighborhood revitalization needs of the community. The FY2007-2008 budget represents the third year Action Plan to implement the City's 5-Year Consolidated Plan. The Consolidated Plan identifies strategies for the use of housing and community development resources in the community.

In allocating CDBG and HOME resources, the City of Billings goes through an extensive process to gather public input on the use of the funds. This year's applications were available at

the beginning of December and due at the end of January 2007. Task force input was requested in February and March. The Community Development Board held budget hearings on the use of the CDBG and HOME resources on March 22 and 23 and prepared its recommendation on April 3. A copy of the priorities of the task forces, as received during this process, is included in Attachment D.

The City Council public hearing is required by the Federal government and is part of the 30-day public comment period on the program beginning April 3 and extending to May 7. The City Council is scheduled to act on the CDBG and HOME programs on May 14. An application will then be submitted to HUD for its review and the program year will begin July 1, 2007.

BACKGROUND

The April 23 public hearing on the FY2007-2008 CDBG / HOME budget and the FY2007-2008 Annual Action Plan is part of the public input process for the use of these funds in the community. Each year the City of Billings requests application for the use of these funds for housing and community development activities. These applications are then forwarded to the Community Development Board, which prepares its recommendation for the City Council consideration.

The City is required to provide no more than 20% of its CDBG funding for administration, fair housing and planning type activities (\$168,592) and must provide 15% (\$75,126) of its annual HOME allocation for activities carried out by nonprofit housing development organizations or CHDOs (Community Housing Development Organizations). The City is required to provide no more than 10% of HOME funding for administration activities (\$67,489). The City can allocate up to 15% of CDBG resources (\$136,112) to nonprofit organizations or other projects classified as public service activities, ranging from daycare to crime prevention activities.

The City received 18 applications for housing and neighborhood activities and 20 applications for public service funding. Project summaries for activities proposed this year are included as Attachment C. CDBG and HOME resources represent the main federal commitment to communities to address the need to preserve the existing supply of affordable housing and promote the development of new affordable housing. Few other federal, state or local resources are available to address these housing needs.

Comments of the speakers at the public hearings may relate to the significant decrease in funding including the inability for the CDBG administration budget to fund activities traditionally supported including fair housing, historic preservation, and task force planning activities. Last year funding available for public services totaled \$132,602. This year's available funding is \$136,112. The total request for funding in public services was \$301,091 for FY2007-2008.

ALTERNATIVES ANALYZED

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

STAKEHOLDERS

Stakeholders for the CDBG and HOME programs include:

1. Applicants for funding - The City receives applications from a variety of nonprofit organizations which apply for public service funding or for housing funding, such as, Living Independently for Today and Tomorrow and Yellowstone County Council on Aging. A summary of the applicants is included as Attachment C and the complete applicants are available online at <http://www.ci.billings.mt.us/Living/cdd/applications.php>.
2. Neighborhood Task Forces – The task forces are consulted throughout the year regarding neighborhood needs and solutions to those needs utilizing both CDBG and HOME resources. Task forces are asked to comment on or prioritize the applications. These priorities have been provided in Attachment D for your review.
3. The Community Development Board, as an advisory body to the City Council, provides detailed oversight to both the CDBG and HOME programs throughout the year and has gone through an extensive process to prepare its recommendations for the City Council consideration at the April 23 meeting. Additional information of the Community Development Board's recommendation will be provided to the City Council prior to the April 23 Public Hearing.

CONSISTENCY WITH ADOPTED POLICIES OR PLAN

Projects proposed for consideration are consistent with the goals and objectives of the adopted FY2005-2009 Consolidated Plan for the use of CDBG & HOME resources in Billings. Five primary strategies are proposed in the FY2005-FY2009 Consolidated Plan to meet the diverse needs of Billings' lower-income households. These needs have been primarily identified through the 2005 Billings Housing Needs Assessment completed for the City of Billings by Montana State University-Billings Center for Applied Economic Research. This needs assessment was undertaken utilizing focus groups, individual interviews, a community survey, and an examination of census and housing market data.

This work and input from neighborhood groups and community partners resulted in the identification of the following four characteristics of the community that the City of Billings will attempt to address with housing and community development activities: (1) increasing housing

cost compared to income and its effect on low income renters and homeowners in achieving safe, decent & affordable housing; (2) An aging population and the associated increase in the percentage of the population with disabilities; (3) A slight decrease in the price of rental housing and short term concern over the number of multi-family units scheduled to be constructed; and (4) The age and condition of the community's affordable housing stock, particularly in the older neighborhoods surrounding the City's Central Business District.

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

Strategy #1

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

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

Strategy #2

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

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

Strategy #3

Promote new affordable housing opportunities by:

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

Strategy #4

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

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

Strategy #5

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

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

Proposed goals and objectives for each of these strategies for FY2007-2008 are identified in the Annual Action Plan included as Attachment A. The complete Draft FY 2005-2009 Consolidated Plan including the 2005 MSU-B Housing Needs Assessment is available for review at <http://www.ci.billings.mt.us/Online/PDF/Living/cdd/reports/2005%20Housing%20Needs%20Analysis.pdf>

RECOMMENDATION

Staff recommends that the City Council hold a public hearing on April 23 to gather public input on the allocation of CDBG and HOME funds in the community for FY2007-2008 and **the FY2007-2008 Annual Action Plan as the third year of the Consolidated Plan for FY2005-2009.**

* The Draft 2007-2008 Annual Action Plan is available for review online at:

<http://www.ci.billings.mt.us/Living/cdd/reports.php>

** Each application is available for review on line at:

<http://www.ci.billings.mt.us/Living/cdd/applications.php>

ATTACHMENTS

A. FY2007-2008 Annual Action Plan

- B. Community Development Board Recommendation (2)
- C. CDBG / HOME Programs FY2007-2008 Project Summaries (7)
- D. Task Force Priorities (4)
- E. FY2007-2008 Revenue (1)

City of Billings, Montana
ANNUAL ACTION PLAN FY 2007-2008
CDBG / HOME Programs

K. EXECUTIVE SUMMARY

This is the City of Billings' third year Action Plan of a 5-year strategic plan that identifies activities it will undertake in 2007-2008 to address priority needs in the community. The draft Annual Action Plan was open for public comment extending from April 3rd through May 7th, 2007. A public hearing was held on April 23, 2007 during the Billings City Council meeting to accept public comments on the Annual Action Plan and Community Development Board recommendations for funding. The Action Plan for FY 2007-2008 serves as the budget for the City's FY 2007-2008 Community Development Block Grant (CDBG) Program and HOME Investment Partnerships Program (HOME). Projects proposed for this year are found in Appendix A and funded projects can be found in Appendix G.

The Consolidated Plan is required for participation by the City of Billings in the U.S. Department of Housing and Urban Development (HUD) CDBG and HOME Programs and also for homeless programs funded under the McKinney-Vento Homeless Assistance Act and the Housing for Persons with AIDS (HOPWA) Program. The City of Billings does not receive McKinney funds or HOPWA funds. Focused on CDBG and HOME activities, the Consolidated Plan combines the planning and application requirements for the CDBG and HOME Programs. Consolidation of the submission requirements for the CDBG and HOME Programs allows program planning and citizen participation to take place in a comprehensive context covering both programs. A separate Consolidated Plan is prepared by the City of Great Falls, the City of Missoula, and the State of Montana for urban and rural areas of Montana outside of Billings, Great Falls, and Missoula.

The CDBG and HOME programs covered by the Consolidated Plan have three basic goals:

1. To provide decent housing which includes maintaining the affordable housing stock in the community, increasing the availability of permanent housing that is affordable to lower-income households without discrimination, increasing support of housing which enables persons with special needs to live independently, and to assist homeless persons to obtain affordable housing.
2. To provide a suitable living environment which includes improving the safety and livability of neighborhoods, increasing access to quality facilities and services, reducing the isolation of income groups within areas by deconcentrating housing opportunities and revitalizing deteriorating neighborhoods, restoring and preserving natural and physical features of special value for historic, architectural, or aesthetic reasons, and conserving energy resources.

3. To expand economic opportunities including creating jobs accessible to lower-income individuals, providing access to credit for community development activities which promote long-term economic and social viability and empowering lower-income persons in federally assisted and public housing to achieve self-sufficiency.

Activities under these programs must primarily benefit low and moderate income persons. The 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 plan builds on local assets to meet the needs of the community and sets forth goals, objectives, and performance measures to assure progress in achieving the strategies described in the plan.

The structure and content of this plan are based on specific requirements of the U.S. Department of Housing and Urban Development for the preparation of the Consolidated Plan. Many terms used in this document are specific to the Consolidated Plan process and HUD programs, and the reader may consult the Community Development Office for assistance.

Available Funding, Expenditure Limits and Match Requirements

CDBG administration and planning activities are budgeted at \$168,592 which is 20% of our new CDBG allocation (\$726,175) and program income (\$116,786). The proposed budget also includes \$79,450 in projects which have been cancelled or completed. 100% of available funding will be used to benefit the low to moderate income.

The amount of funding available for Public Service Activities is \$136,112. This amount represents 15% of prior year income (15% of \$181,239 is \$27,186) and the new CDBG allocation (15% of \$726,175 is \$108,926), and no additional reprogrammed funding from Public Services from prior years. Declining federal resources limit our ability to provide funding for Public Service activities (see Appendix A).

HOME administration activities are budgeted at \$67,489 which includes 10% of new HOME revenue (10% of \$500,839 is \$50,084) and program income (10% of \$174,049 is \$17,405).

The City of Billings meets HOME matching requirements through low-interest financing available for First Time Homebuyer Loans issued through the Montana Board of Housing (MBOH) and matching funds provided for other affordable housing projects undertaken with HOME funds, such as private contributions and other local bank financing. MBOH contributed \$5.3 million in set-aside financing during FY2006-2007.

Past Performance

The City of Billings received comments from the U.S. Department of Housing and Urban Development regarding Comprehensive Annual Performance Evaluation Report (CAPER) in

January 2007. The overall evaluation concluded the City of Billings CDBG and HOME programs are making strides in providing affordable housing and addressing community needs.

FFY2005-2009 CONSOLIDATED PLAN SUMMARY

The FFY2005-2009 Consolidated Plan followed a plan development process which included the development of the 2005 Billings Housing Needs Assessment completed by Montana State University-Billings, input from neighborhood groups, and public hearings on housing and community development needs. The plan was adopted by the Billings City Council on May 9, 2005.

The purpose of the Consolidated Plan is to identify the housing and community development needs of low-income households in Billings and develop strategies for addressing those needs in a comprehensive, coordinated fashion utilizing available federal and nonfederal resources. Five primary strategies are proposed in the FY2005-FY2009 Consolidated Plan to meet the diverse needs of Billings' lower-income households. These needs have been primarily identified through the 2005 Billings Housing Needs Assessment. This needs assessment was undertaken utilizing focus groups, individual interviews, a community survey, and an examination of census and housing market data. This work and input from neighborhood groups and community partners resulted in the identification of the following four characteristics of the community that the City of Billings will attempt to address with housing and community development activities:

1. Increasing housing cost compared to income and its effect on low income renters and homeowners in achieving safe, decent and affordable housing;
2. An aging population and the associated increase in the percentage of the population with disabilities;
3. A slight decrease in the price of rental housing and short-term concern over the number of multi-family units scheduled to be constructed in 2005; and
4. The age and condition of the community's affordable housing stock, particularly in the older neighborhoods surrounding the City's Central Business District.

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

L. FFY 2005-2009 STRATEGIC PLAN

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

Strategy #1

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

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

Strategy #2

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

- 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 FY2005-2009 Consolidated Plan can be viewed online:

<http://www.ci.billings.mt.us/Online/PDF/Living/cdd/reports/5%20Year%20Consolidated%20Plan%20FY2005-2009.pdf>

M. FFY 2007-2008 ANNUAL PLAN		
N. Strategy #1 - Promote the preservation of the existing supply of affordable housing in the community.		
O.		
<i>Objective</i>	<i>Implementation Plan</i>	<i>2007-2008 Goals</i>
Provide affordable financing to lower income homeowners to perform needed repairs.	Complete substantial rehabilitation ¹ work through the Housing Rehabilitation Loan Program.	10 homes
	Complete minor rehabilitation work through the Minor Home Repair Program.	15 homes
	Provide funding for single purpose rehabilitation projects targeted to elderly and special needs lower income homeowners. Providing funding to organizations increases the total leveraged funding available for repair programs.	Assist with repairs for the elderly and disabled by working with non-profit organizations such as: LIFTT (6 ramps), YCCOA (40 repairs), and Rebuilding Together (5 homes).
	Pursue grant and private funding to support activities that increase resources available for housing rehabilitation activities.	Staff support & coordination to Rebuilding Together and other organizations performing rehabilitation.
Provide affordable financing to rehabilitate rental units affordable to lower income residents.	Complete substantial rehabilitation work to rental units for occupancy by lower income, elderly and special needs households through the Rental Rehabilitation Program.	5 rental units
	Pursue private resources to support rental rehabilitation activities.	Utilize Fannie Mae's America's Community Fund for rental rehabilitation activities to complete 1 project.
Reduce the loss of existing standard housing units affordable to lower income households due to redevelopment activities.	Continue to work with organizations involved with redevelopment activities to promote the preservation of the existing supply of affordable housing and to mitigate the effects of demolition or conversion when it does occur.	Continue working with the Housing Needs Analysis Subcommittee of the Affordable Housing Task Force to continue work on housing guidelines ² .

¹ For the purposes of this plan, 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 Housing is being lost due to redevelopment activities separate from CDBG and HOME activities. This work group has been established to study housing needs including the loss of housing units due to demolition or redevelopment activities and to develop local housing guidelines acceptable to the community. This initiative will increase local awareness of the negative cumulative effect resulting in the loss of affordable housing units. Local guidelines will be developed which balance the expansion needs of our community with affordable housing.

Strategy #2 - Promote the preservation and revitalization of the community's older neighborhoods where the affordable housing stock is located.		
<i>Objective</i>	<i>Implementation Plan</i>	<i>2007-2008 Goals</i>
Preserve the housing stock in older lower income neighborhoods.	See also implementation plan for strategy #1.	-
	Support house painting program for lower income homeowners.	5 homes
	Support Tree Program to remove and replace diseased or dangerous trees for lower income homeowners.	12 trees through public service activity
	Support activities that help preserve historic properties.	Implement annual YHPB work plan.
Provide incentives to encourage development of vacant lots and redevelopment of substandard properties in lower income neighborhoods.	See also implementation plan for strategy #3.	-
	Provide support for the Affordable Housing Task Force to make recommendations for a developer incentive program in conjunction with the Planning Department's Smart Growth initiative.	The Barriers to Affordable Housing Subcommittee of the Affordable Housing Task Force will propose an incentive program for infill and affordable housing development for consideration by the City Council.
	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
Support activities that provide amenities and address the infrastructure needs of older lower income neighborhoods.	Support planned neighborhood improvements included in City's Capital Improvement Plan.	Implement City's FY2007-2008 CIP and projects funded through CDBG such as the Central Park Playground.
	Provide Special Assessment Grants for lower income households to help pay for SID's resulting from the City's public improvement projects.	10 homeowners
	Encourage the redevelopment of the South 27 th Street Corridor.	Complete 1 new redevelopment project (800 block South 28 th , 500 & 700 blocks of South 27th).
	Encourage the implementation of the Heritage Trail Bike Plan in lower income areas in conjunction with the Healthy Communities "Built Environment" initiative.	Plan and seek funding for needed improvements in task force neighborhoods.
	Promote historic preservation activities in a coordinated manner through Historic Preservation Organizations.	Implement annual YHPB work plan.

Support efforts of residents of lower income neighborhoods to work together to address needs and respond to opportunities.	Support Neighborhood Planning efforts and provide on-going support for monthly task force meetings.	Complete Neighborhood Plans in South Side, Southwest Corridor, and Garden Avenue neighborhoods.
		Staff support for newsletter monthly mailings.
		Facilitate task force initiatives.

Strategy #3 - Promote new affordable housing opportunities.		
<i>Objective</i>	<i>Implementation Plan</i>	<i>2007-2008 Goals</i>
Encourage the development of new affordable single family, and multi family, special needs housing in the community through private developers and non-profits.	Provide funding through the CDBG / HOME, and Other Affordable Housing Funds to encourage the development of new affordable housing in the community emphasizing new / converted: <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 	20 units
Promote homeownership.	Provide funding to Community Development Housing Development Organizations (CHDOs) to undertake activities to meet priority affordable housing needs.	20 units
	Complete Phase II & III of the Kings Green Affordable Housing Project.	15 units Complete Phase II of Kings Green, utilize the Affordable Housing Task force to make recommendations regarding infrastructure development post Phase II.
	Work to address loss of mobile / manufactured housing affordable to lower income households.	Establish work groups through the Affordable Housing Task Force to study & make recommendations for housing options.
	Work with Affordable Housing Task Force to identify and address barriers to affordable housing and to encourage infill development.	
	Support activities of the Housing Authority of Billings (HAB) and other assisted housing providers to meet the needs of very low-income households.	Support implementation of HAB's 5-Year Plan.

	Provide funding for support services to address the needs of the homeless, elderly, and special needs populations.	Provide staff support for the new Mayor's Committee on Homelessness.
	Assist lower income households achieve home ownership through the City's First Time Homebuyer program in partnership with Montana Board of Housing (MBOH).	50 homebuyers & \$4 million in set aside financing.
	Participate with Montana Homeownership Network to increase First Time Homebuyer opportunities in the City leveraging resources available through Fannie Mae, MBOH etc.	20 homebuyers
	Support homebuyer education in partnership with Montana Homeownership Network.	150 households
	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.
	Support the Hispanic Development Outreach Committee to increase homeownership rates for Hispanic Americans and other minorities in the community.	Provide staff support increase economic opportunities and homeownership for Hispanic Americans in Billings.

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

<i>Objective</i>	<i>Implementation Plan</i>	<i>2007-2008 Goals</i>
Encourage housing & community and development organizations to work together to build strong community structures to better address needs and respond to opportunities.	Sponsor the Affordable Housing Task Force which brings together organizations such as the Housing Authority of Billings, Habitat for Humanity, HRDC, Big Sky EDA, homeWORD, realtors and lenders to address affordable housing issues of common concerns.	Complete work on the new strategic plan and implement the plan through subcommittees.
	Sponsor the Adjacent Neighborhood Committee which brings together the City's neighborhood task forces and Downtown Billings Partnership.	Host bi-monthly meetings and provide staff support for task force initiatives.

	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.
	Support Neighborhood Task Forces to identify and address neighborhood needs.	Complete neighborhood plans & support distribution of monthly newsletters.
	Support the Hispanic Development Outreach Committee's efforts.	Staff support to establish new group to increase economic opportunities and homeownership for Hispanic Americans in Billings.
Support activities and organizations promoting fair housing and increase awareness of the rights and responsibilities of protected classes.	Undertake fair housing activities in a coordinated manner with organizations with an interest in promoting fair housing.	Implement existing FY2003-2007 Fair Housing Plan through the FY 2007-2008 Fair Housing Action Plan.
		Apply for Fair Housing Initiatives Program (FHIP) funding through HUD in 2007 for calendar year 2008.
	Complete new Analysis of Impediments to Fair Housing Choice for the Billings community in 2007 and develop new Fair Housing Plan for FY2008-2012 ³ .	Develop new fair housing plan in 2007 based on results of the Analysis of Impediments to Fair Housing Choice.
P. Strategy #5 - Improve the economic conditions of		
Q. lower income households in the community.		
<i>Objective</i>	<i>Implementation Plan</i>	<i>2007-2008 Goals</i>
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.	Continue to implement performance measures to determine impact of assisted activities.
Support the efforts of economic development and non-profit agencies to undertake strategies that will result in job	Provide technical assistance to lower income households interested in starting or expanding an existing business.	Provide technical assistance to 100 lower income households.
		Implement performance measures to determine impact of assisted activities.

³ The City of Billings follows a separate five-year cycle for fair housing planning. The most recent Analysis of Impediments to Fair Housing Choice was completed in 2002, resulting in the 2003-2007 Fair Housing Plan.

training and employment opportunities for lower income households.	Support the Hispanic American Homeownership & Economic Development Committee.	Provide staff support to establish new group to increase economic opportunities and homeownership for Hispanic Americans in Billings.
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COMMUNITY DEVELOPMENT BOARD RECOMMENDATIONS

FY 2007-2008

CDBG/HOME GRANT HISTORY			2005-2006	2006-2007	2007-2008 <i>Requested</i>	<i>Staff Recommendations</i>	
						<i>CDBG</i>	<i>HOME</i>
Admin / Planning	HN-1	CDBG Administration	\$173,800	\$175,000	\$175,000	\$168,592	-
	HN-2	HOME Administration	\$66,000	\$57,247	\$56,947	-	\$67,000
	HN-3	Professional Services	\$0	\$9,014	\$12,500	\$0	\$0
	HN-4	Yellowstone Historic Preservation Board	\$6,500	\$0	\$1,469	\$0	\$0
	HN-5	HRDC - Mobile Home Renovation Assessment Project	\$0	\$0	\$15,000	\$0	\$0
Affordable Housing Activities	HN-7	Housing Rehabilitation Loan Program	\$250,000	\$243,216	\$300,000	\$287,207	\$0
	HN-8	Minor Home Repair Program	\$60,000	\$60,000	\$100,000	\$60,000	\$0
	HN-9	HOME/CDBG Affordable Housing Support	\$346,133	\$299,112	\$400,000	\$100,000	\$200,000
	HN-10	First Time Home Buyer Program	\$375,000	\$435,000	\$426,850	\$0	\$341,000
	HN-11	Acquisition / Rehab Program	\$0	\$0	\$30,000	\$30,000	\$0
	HN-12	Set-Aside for CHDOs - must be 15% of HOME funds	\$80,310	\$75,670	\$75,670	\$0	\$75,000
	HN-13	Living Independently for Today & Tomorrow	\$10,000	\$10,000	\$12,500	\$10,000	\$0
	HN-14	Yellowstone County Council on Aging - MHR Program	\$5,000	\$5,000	\$5,000	\$5,000	\$0
	HN-15	Rebuilding Together	\$5,000	\$10,000	\$10,000	\$10,000	\$0
	HN-16	Property Management	\$8,000	\$8,000	\$8,000	\$8,000	\$0
	HN-17	Special Assessment Grants	\$40,000	\$50,000	\$50,000	\$50,000	\$0
	HN-18	Young Families Early Head Start - Building Fund	\$0	\$0	\$50,000	\$50,000	\$0
Econ Dev	HN-19	Big Sky Economic Development Authority	\$7,500	\$7,500	\$10,000	\$7,500	\$0
Totals:					\$1,738,936	\$786,299	\$683,000

PUBLIC SERVICE ACTIVITIES

FY 2007-2008

CDBG GRANT HISTORY			2005-2006	2006-2007	<i>Amount Requested</i>	<i>CD Board Recommends</i>
Public Service Activities	PS-1	Big Brothers Big Sisters	\$0	\$0	\$45,000	\$8,250
	PS-2	Big Sky Prevention of Elder Abuse	\$9,025	\$9,000	\$12,000	\$7,425
	PS-3	Big Sky Senior Helping Hands Program	\$19,000	\$19,000	\$20,000	\$15,675
	PS-4	Boys & Girls Club - Homework Completion Program	\$5,000	\$4,000	\$12,000	\$3,300
	PS-20	Community Housing Resource Board	\$15,000	\$0	\$14,220	\$6,600

PS-5	Family Service, Inc.	\$20,000	\$19,000	\$30,000	\$20,625
PS-6	Forever Families Resource Center	\$0	\$0	\$20,000	\$8,250
PS-7	Friendship House - Summer Enrichment	\$12,000	\$10,000	\$15,000	\$8,250
PS-8	homeWORD - Financial Fitness	\$0	\$0	\$4,771	\$2,063
PS-9	HRDC - Families Saving for Tomorrow IDAs	\$10,000 <i>Hsg Couns.</i>	\$0	\$10,000	\$4,123
PS-10	HRDC - Growth Thru Art	\$11,771	\$10,000	\$25,000	\$6,600
PS-11	Southgate Cop Shop	\$0	\$0	\$6,000	\$4,125
PS-12	St. Vincent de Paul - Vehicle Replacement	\$0	\$0	\$15,000	\$8,250
PS-13	Task Force Enhancement Fund	\$0	\$0	\$5,000	\$4,125
PS-14	Tree Trimming, Planting & Removal	\$10,000	\$8,802	\$10,000	\$3,300
PS-15	Yellowstone County Council on Aging - Resource Center	\$0	\$2,000	\$2,000	\$1,650
PS-16	Yellowstone Health Partnership - Med Assistance Program	\$9,500	\$9,000	\$9,000	\$7,425
PS-17	Young Families Early Head Start	\$10,000	\$9,000	\$32,000	\$7,425
PS-18	YWCA of Billings Children's Services	\$2,100	\$2,100	\$2,100	\$2,050
PS-19	YWCA Gateway House	\$8,000	\$8,000	\$12,000	\$6,600
				\$301,091	\$136,111

HOUSING & NEIGHBORHOOD ACTIVITIES

FY 2007 – 2008 APPLICATIONS

	ADMINISTRATION/PLANNING	<u>Amount</u>
1.	CDBG Administration	\$175,000
2.	HOME Administration	\$ 56,947
3.	Professional Services	\$ 12,500
4.	Yellowstone Historic Preservation Board	\$ 1,469
5.	HRDC Mobile Home Renovation Assessment Project	\$ 15,000
	FAIR HOUSING ACTIVITIES	
6.	Community Housing Resource Board – CDBG	\$ 14,220
	AFFORDABLE HOUSING ACTIVITIES	
7.	Housing Rehabilitation Loan Program	\$300,000
8.	Minor Home Repair Program	\$100,000
9.	HOME/CDBG Affordable Housing Support Program	\$400,000
10.	HOME First Time Home Buyer Program	\$426,850
11.	Acquisition / Rehab Program	\$ 30,000
12.	Set-Aside for CHDOs – Must be 15% of HOME funds	\$ 75,670
13.	Living Independently For Today & Tomorrow	\$ 12,500
14.	Yellowstone County Council on Aging – Minor Home Repair	\$ 5,000
15.	Rebuilding Together – Home Rehabilitation	\$ 10,000
	NEIGHBORHOOD PROJECTS	
16.	Property Management	\$ 8,000
17.	Special Assessment Grants	\$ 50,000
18.	Young Families Early Head Start – Building Renovation	\$ 50,000
	ECONOMIC DEVELOPMENT	
19.	Big Sky Economic Development Authority	\$ <u>10,000</u>
	Total Requested	<u>\$1,738,936</u>

HOUSING & NEIGHBORHOOD ACTIVITIES
FY 2007 – 2008 PROJECT SUMMARIES

ADMINISTRATION / PLANNING / FAIR HOUSING ACTIVITIES		
HN - 1	CDBG Administration	\$175,000
	Funds are requested for general administration expenditures for CDBG Program including office space, salaries and benefits for various staff positions. CDBG also provides the resources for administration for other grant programs related to Community Development received by the City.	
HN - 2	HOME Administration	\$56,947
	Funds are requested for general HOME administration expenditures For HOME Program.	
HN - 3	Professional Services	\$12,500
	Funds are used to contract for professional services on an as-needed basis. In 2007, funds will be needed to conduct the Analysis of Impediments to Fair Housing Choice as a HUD requirement, to match VISTA salary, and to assist with the Mayor’s Committee on Homelessness.	
HN - 4	Yellowstone Historic Preservation Board	\$1,469
	Funds will be used to match \$5,500 in grant funding made available to Certified Local Governments for historic preservation activities through the Montana State Historic Preservation Office. This funding is used to carry out historic preservation activities in Billings and Yellowstone County.	
HN - 5	HRDC – Mobile Home Renovation Assessment Project	\$15,000
	Funds are requested for salaries and supplies for HRCDC staff to conduct a mobile home survey of 11 trailer parks in Billings to assess needs and interest in decommissioning pre-1976 mobile homes and to prepare a business plan to reduce substandard housing.	
AFFORDABLE HOUSING ACTIVITIES		
HN - 7	Housing Rehabilitation Loan Program	\$300,000
	Funds are requested to rehabilitate up to 12 homes throughout the City of Billings. The program is intended to provide affordable financing to low / moderate income applicants to provide substantial improvements that help preserve the City’s affordable housing stock and revitalize older neighborhoods. Funds will be used to partially fund the CD Grants Coordinator position.	
HN - 8	Minor Home Repair Program	\$100,000
	Funds are requested to assist approximately 20 low-income homeowners with emergency repairs related to basic systems or accessibility for a physically disabled occupant. The program is available for mobile / manufactured mobile homes and for owner / occupied homes that are not appropriate for the Housing Rehabilitation Loan Program.	
HN - 9	HOME / CDBG Affordable Housing Support Program	\$400,000
	Funds are requested to encourage the development of affordable housing for lower-income households in the City of Billings. Applicants for this program can be for-profit developers or non-profit agencies.	

HN - 10	HOME First Time Home Buyer Program	\$426,850
	Funds are requested to assist approximately 40 low-income families in the purchase of their first home. The program is designed to provide financial assistance to help qualify for traditional housing financial programs to purchase a home. Funds will be used to provide down payment assistance, closing costs, and minor repairs and for related project administration expense.	
HN - 11	Acquisition / Rehab Program	\$30,000
	Funding would be used for a pilot project in partnership with Montana Board of Housing (MBOH). MBOH conducts an open bid process on houses which have been foreclosed on. The City proposes to purchase one of these houses during FY07-08 and renovate the property in order to maintain affordable housing pricing on the property.	
HN - 12	HOME Set-Aside Community Development Organizations (CHDO)	\$75,670
	As a recipient of HOME funds, the City of Billings must provide at least 15% of its funding for CHDO activities. This funding is requested for CHDOs to develop affordable housing in the community.	
HN - 13	Living Independently for Today and Tomorrow (LIFTT)	\$12,500
	Funds are requested to construct or provide maintenance work on ramps for low-income persons with disabilities to access their homes. Approximately six households will be assisted.	
HN - 14	Yellowstone County Council on Aging – Minor Home Repair Program	\$5,000
	Funds are requested for this Minor Home Repair program which assists low-income persons over the age of 60 with safety-related repairs.	
HN - 15	Rebuilding Together – Home Rehabilitation	\$10,000
	Funds are requested for building materials and construction costs to assist up to five low-income households. Volunteers paint, clean, weatherize, and do carpentry, plumbing, roofing, and electrical work.	
NEIGHBORHOOD PROJECTS		
HN - 16	Property Management	\$8,000
	Funds are requested to pay existing SIDs and maintain weeds and snow on property previously acquired through the CDBG program. These properties are primarily located along South 27 th Street.	
HN - 17	Special Assessment Grants	\$50,000
	Funds are requested to provide grant funds to lower-income households impacted by Special Improvement District assessments for public improvements such as curb, gutter, and sidewalk projects in lower income areas.	
HN – 18	Young Families Early Head Start – Building Renovation	\$50,000
	Funds are requested to pay for necessary renovations in a facility which will be used for day care services for teenagers attending high school with children.	
ECONOMIC DEVELOPMENT		
HN - 19	Big Sky Economic Development Authority (BSEDA) – Small Business Development Center	\$10,000

	Funds would be used to supplement the operational expense of the program and provide training materials free of charge to clients attending pre-business workshops.	
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PUBLIC SERVICE ACTIVITIES

FY 2007 – 2008 APPLICATIONS

1.	Big Brothers Big Sisters	\$ 45,000
2.	Big Sky Prevention of Elder Abuse – Social Work	\$ 12,000
3.	Big Sky Senior Helping Hands Program	\$ 20,000
4.	Boys & Girls Club of Yellowstone Co. – Homework Completion Program	\$ 12,000
5.	Community Housing Resource Board	\$ 14,220
6.	Family Service, Inc.	\$ 30,000
7.	Forever Families Resource Center	\$ 20,000
8.	Friendship House – Summer Enrichment	\$ 15,000
9.	homeWORD – Financial Fitness	\$ 4,771
10.	HRDC – Families Saving for Tomorrow IDAs	\$ 10,000
11.	HRDC – Growth Thru Art	\$ 25,000
12.	Southgate Cop Shop	\$ 6,000
13.	St. Vincent de Paul – Vehicle Replacement	\$ 15,000
14.	Task Force Enhancement Fund	\$ 5,000
15.	Tree Trimming, Planting, & Removal Program	\$ 10,000
16.	Yellowstone County Council on Aging – Resource Center	\$ 2,000
17.	Yellowstone Health Partnership – Medication Assistance Program	\$ 9,000
18.	Young Families Early Head Start	\$ 32,000
19.	YWCA - Children's Services	\$ 2,100
20.	YWCA - Gateway House	\$ <u>12,000</u>

Total Requested

\$301,091

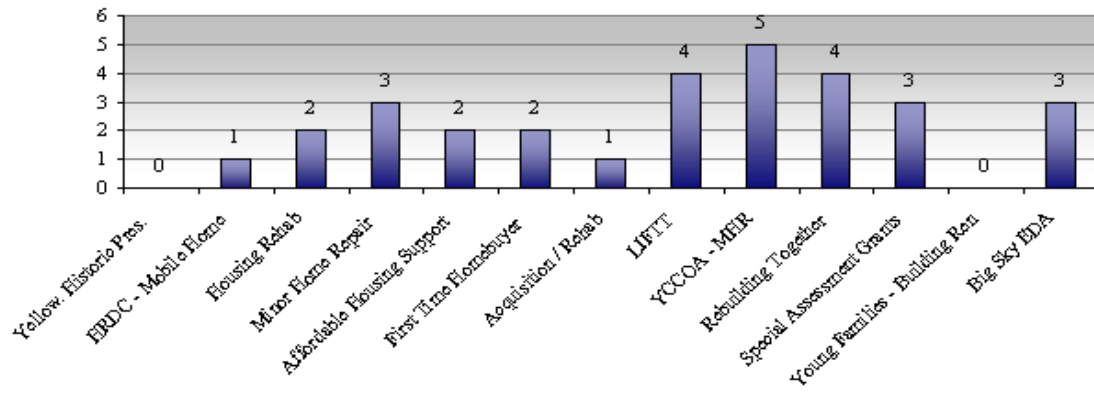
PUBLIC SERVICE ACTIVITIES

FY 2007 – 2008 PROJECT SUMMARIES

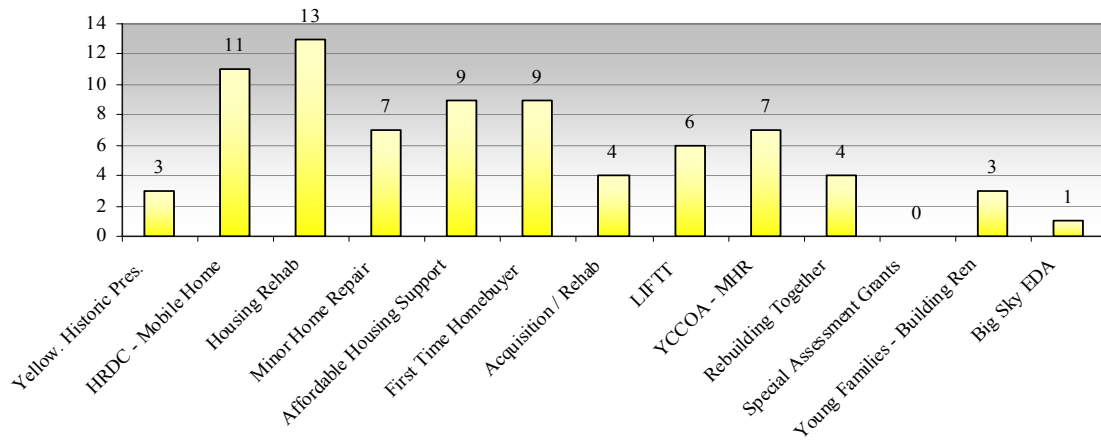
PS - 1	Big Brothers Big Sisters	
	Funds are requested for salary and administrative costs for a program called, “Mentoring Youth for the Future” to provide mentoring services to children.	\$45,000
PS – 2	Big Sky Prevention of Elder Abuse – Social Work	
	Funds are requested to help pay the salary of the Elder Support Social Worker who works with elders and disabled adults to prevent abuse and remediate effects of abuse by resorting economic stability to clients and helping them continue to live safely and independently at home.	\$12,000
PS – 3	Big Sky Senior Helping Hands Program	
	Funds are requested for in-home staff salaries providing in-home services to very low-income, vulnerable elders in the Billings community. Services include homemaking, shopping, transportation, socialization, assistance with personal care and hygiene, medication management, health monitoring and health care.	\$20,000
PS - 4	Boys & Girls Club of Yellowstone County	
	Funds are requested to pay for wages for a portion of the Education Coordinator to provide assistance with homework completion and tutoring at the club.	\$12,000
PS-20	Community Housing Resource Board (CHRB)	
	Funds are requested to finance the contract labor position, supplies, and postage to further fair housing opportunity through community education and outreach.	\$14,220
PS - 5	Family Service, Inc.	
	Funds are requested to prevent homelessness of families living in low-income situations. Services are available to help with rents, mortgages, utilities, and deposits.	\$30,000
PS - 6	Forever Families Resource Center	
	Funds will be used for office rent and utilities, insurance, furnishings and materials for the Resource Center.	\$20,000
PS - 7	Friendship House - Summer Enrichment Program	
	Funds are requested for personnel and administrative costs associated with the Summer Enrichment Program (SEP). SEP is a comprehensive program that addresses the multi-needs of youth ages 4 - 12 and provides basic human service needs.	\$15,000
PS - 8	homeWORD – Financial Fitness	
	Funds are requested to support the salary of the Financial Fitness Coordinator who would provide the Financial Fitness education course.	\$4,771
PS - 9	HRDC – Families Saving for Tomorrow Individual Development Accounts	
	Funding is requested for program operation and match for participant savings in IDA accounts.	\$10,000
PS - 10	HRDC - Growth Thru Art	

	Funds are requested to fund personnel and art supplies allowing the organization to continue to provide ongoing studio experiences, workshops, presentations and exhibitions, and opportunities to celebrate artists' personal growth through artistic expression for adults with disabilities.	\$25,000
PS - 11	<i>Southgate Cop Shop</i>	
	Funding is requested to assist with rent, utilities and insurance for this neighborhood cop shop.	\$6,000
PS - 12	<i>St. Vincent de Paul – Vehicle Replacement</i>	
	Funding is requested to purchase a replacement vehicle which will be used to pick up donations to the organization and to make deliveries of food and clothing.	\$15,000
PS - 13	<i>Task Force Enhancement Fund</i>	
	Funding is requested to provide support to neighborhood task forces for their newsletter mailings, officer insurance, leadership training, and organizational development.	\$5,000
PS - 14	<i>Tree Trimming, Planting, & Removal Program</i>	
	Funding is requested to remove diseased or dangerous trees and to plant new trees for low-income households throughout the City of Billings.	\$10,000
PS - 15	<i>Yellowstone County Council on Aging – Resource Center</i>	
	Funds are requested for staff salaries to manage the Resource Center. This program assists the elderly, adults with physical disabilities in identification of needs, accessing services, completing program assistance applications, and advocacy.	\$2,000
PS - 16	<i>Yellowstone Health Partnership - Medication Assistance Program</i>	
	Funds are requested for salaries of staff for the Medication Assistance Program (MAP) at the Deering Clinic site.	\$9,000
PS - 17	<i>Young Families Early Head Start - Child Care for High School Parents</i>	
	Funding is requested to support salaries and benefits for staff who provide comprehensive child care and development services to infants and toddlers whose parents are teenagers, completing their high school education.	\$32,000
PS - 18	<i>YWCA - Children's Services</i>	
	Funding is requested to provide partial scholarships to low and moderate income families accessing YWCA Children's Services programs for affordable and quality care / educational experiences. The programs include preschool, child care, and after-school care.	\$2,100
PS - 19	<i>YWCA - Gateway House Domestic Violence & Sexual Assault Services</i>	
	Funding is requested to support general operating expenses of the program, which includes utilities, phones, taxes, supplies, security, building repairs, and accountant contracted services. Gateway services include housing, support, education, and advocacy for victims of domestic violence and sexual assault.	\$12,000

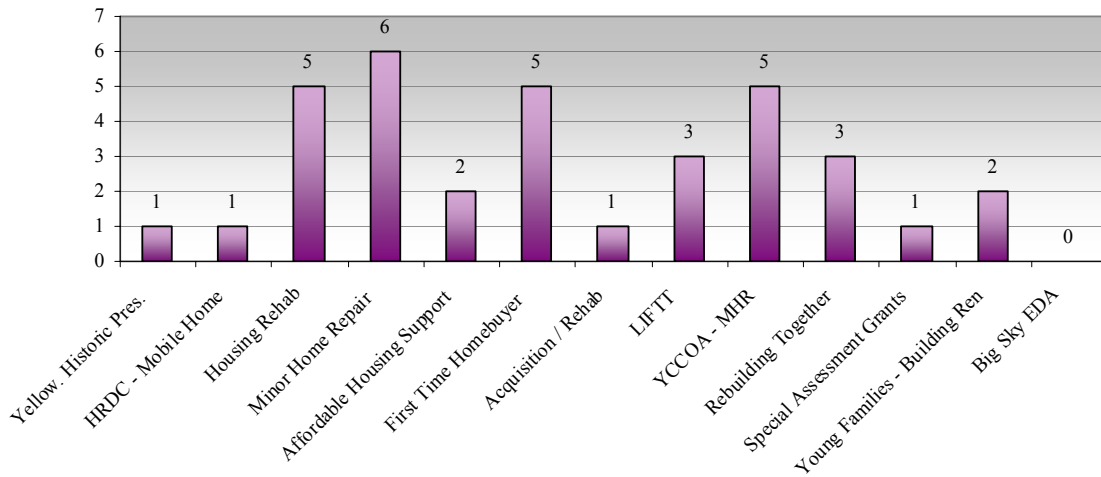
Central - Terry Priorities - 7 Respondents



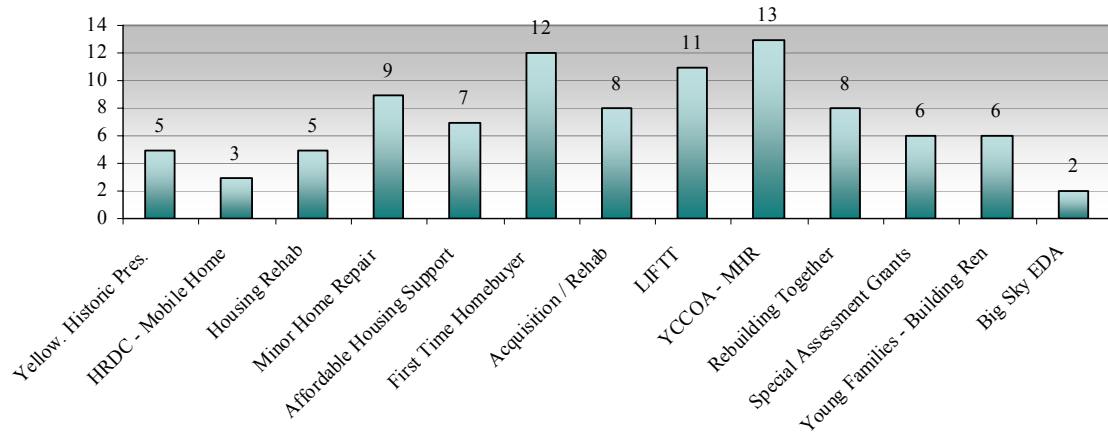
North Park Priorities - 16 Respondents



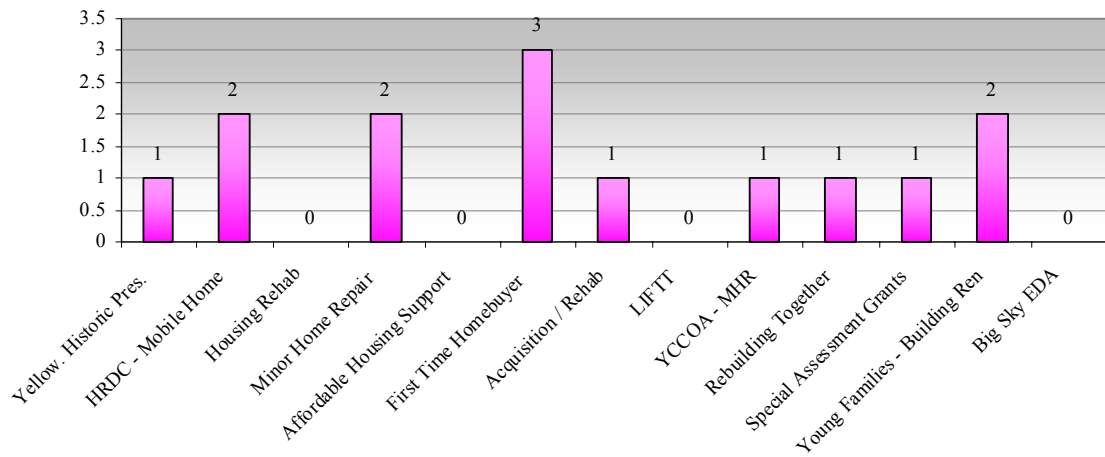
West End Priorities - 7 Respondents

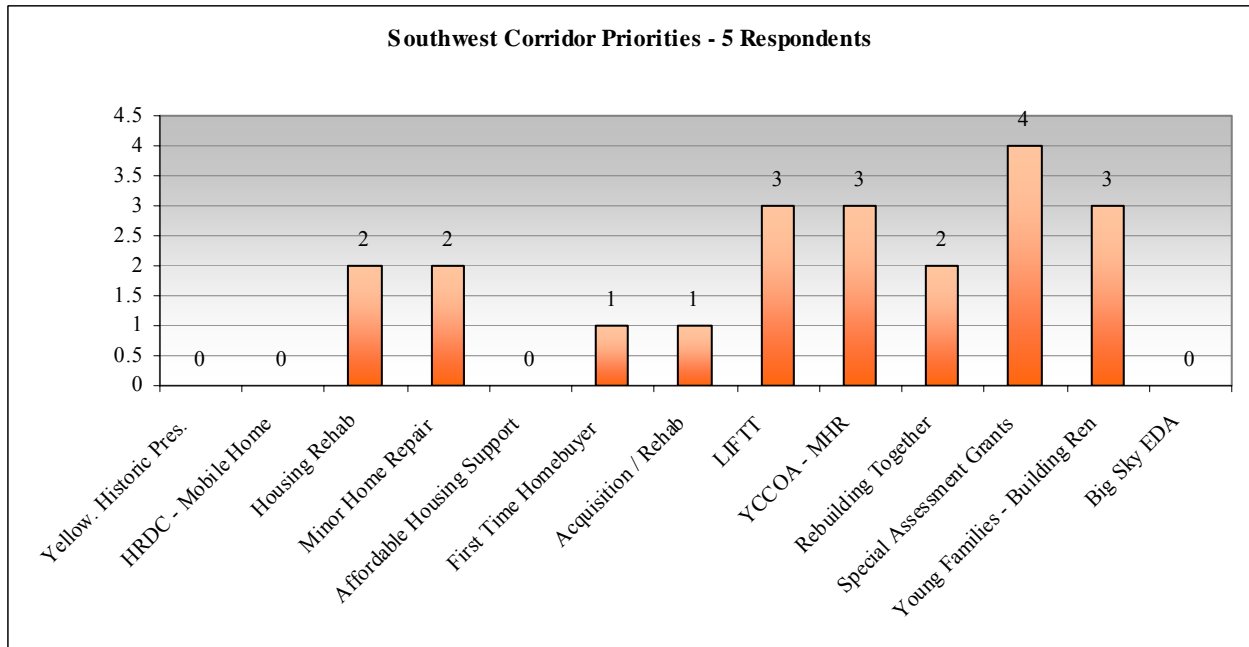
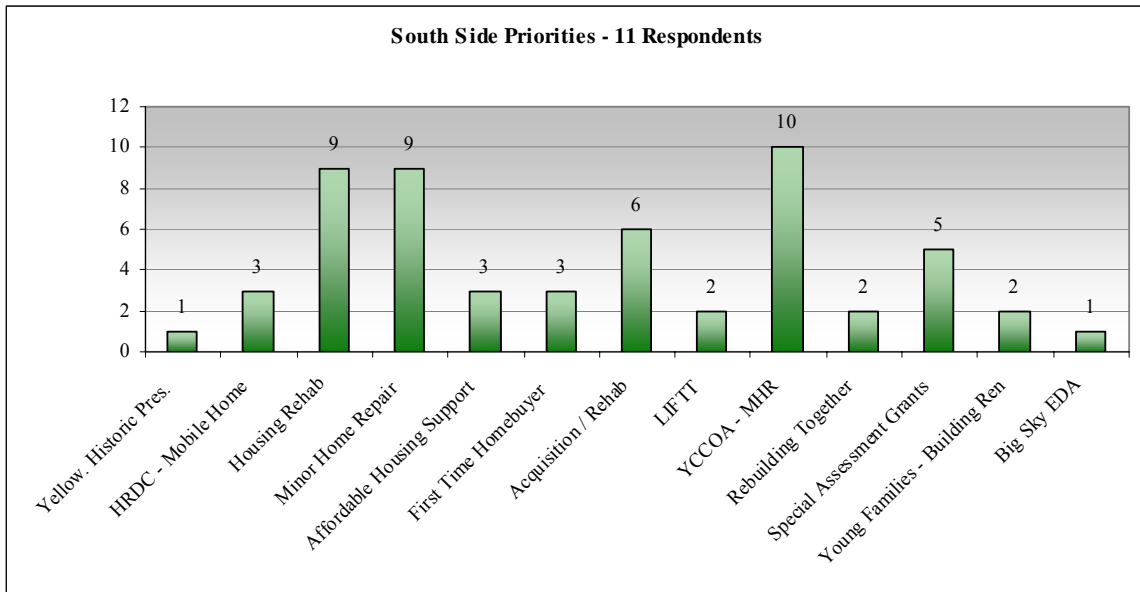


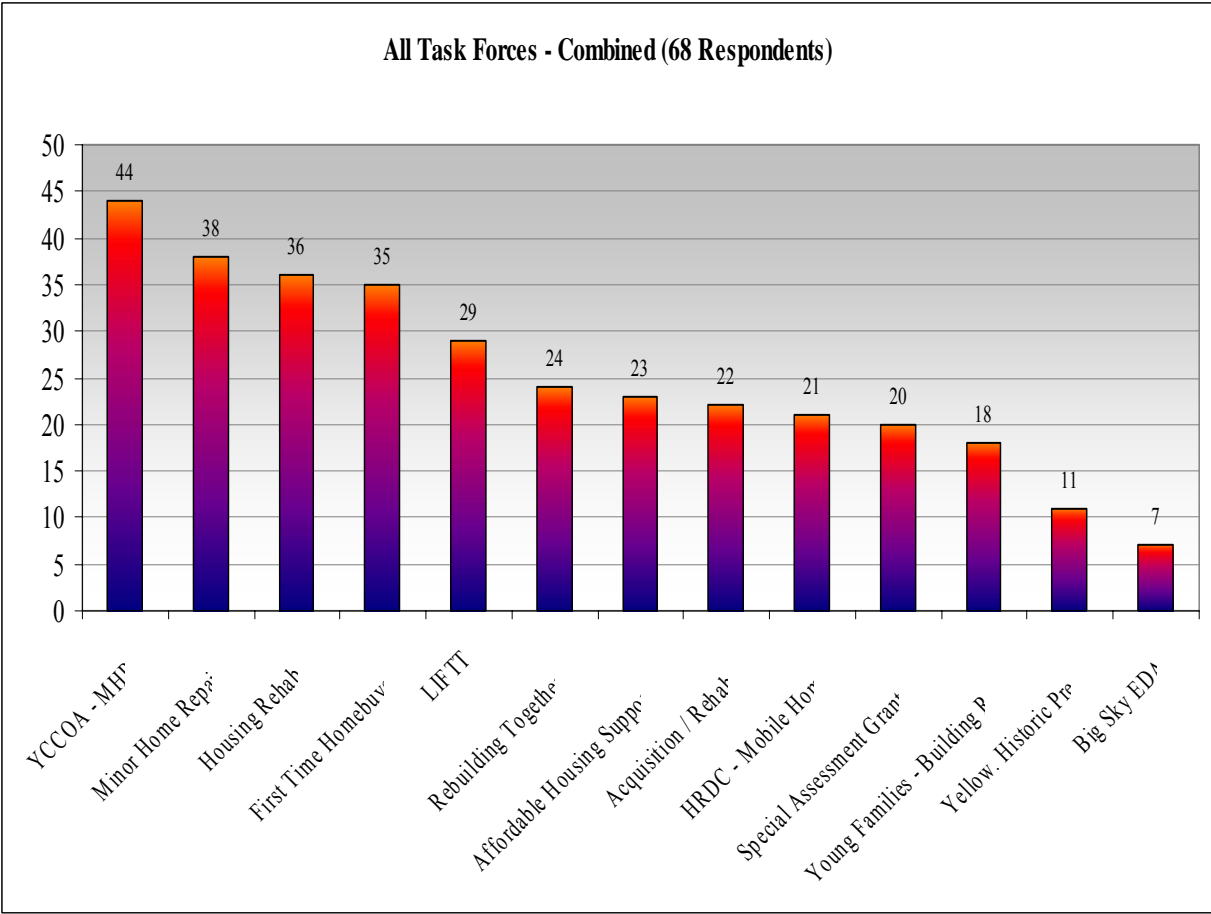
Heights Priorities - 19 Respondents



North Elevation Priorities - 3 Respondents







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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, April 23, 2007

TITLE: First Reading and Public Hearing Amending the Aggressive Solicitation Ordinance

DEPARTMENT: Police Department

PRESENTED BY: Rich St. John, Chief of Police

PROBLEM/ISSUE STATEMENT: A review of the existing Aggressive Solicitation Ordinance has resulted in the submittal of these recommended changes to the Aggressive Solicitation Ordinance of the City of Billings, Montana. The original Ordinance was approved on February 9, 2004. The Aggressive Solicitation Ordinance needs to be revised because it is weak and difficult to enforce; therefore, Council is being asked to approve the proposed Aggressive Solicitation Ordinance as amended on first reading.

ALTERNATIVES ANALYZED:

- Approval of the Ordinance as presented.
- No action.

FINANCIAL IMPACT: There are no obvious budget implications; the financial impact would be minimal with a slight revenue increase to Municipal Court of fines collected.

RECOMMENDATION

Staff recommends that Council approve the changes to the Aggressive Solicitation Ordinance as presented on first reading.

Approved By: City Administrator ____ City Attorney ____

INTRODUCTION

Panhandling is a challenging issue faced by cities of all sizes and Billings is no exception. While some panhandlers go about their business in a passive manner, others are much more aggressive, making loud, sometimes repeated demands, or persistently following the pedestrian down the street after a request has been denied. Additionally, some choose to solicit in places that are particularly intimidating such as near ATM machines, public parking structures, outdoor cafes, on public transportation, etc. Unfortunately, panhandling is often used as a tool of deception and is fraudulent. Residents, property owners, and merchants in our City expressed fear that the panhandling problem was increasing and deterring business, scaring employees, and discouraging tourism.

BACKGROUND

In the fall of 2005, the Downtown Billings Office and the Billings Police Department facilitated meetings, with broad representation, to discuss the issue and examine the law. A subcommittee was formed. The action decided upon by the committee was to amend the current ordinance. Lisa Harmon, Director of the Business Improvement District, researched other cities and strategies used to deter panhandling while protecting individual freedom of speech, and, together with stakeholder input, drafted an amendment to the current ordinance.

ALTERNATIVES ANALYSIS

- Approval of the Ordinance as presented.
- No action

STAKEHOLDERS

Stakeholders involved with these meeting included merchants/retailers, property owners/residents, members of the Billings Police Department, Community Resource agencies, downtown faith leaders and the media. There was an overwhelming consensus to amend the current ordinance.

RECOMMENDATION

Staff recommends that Council approve the changes to the Aggressive Solicitation Ordinance as presented on first reading.

ATTACHMENTS

Attachment A – Aggressive Solicitation Ordinance (5 pages)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING ARTICLE 18-1000 AND SECTION 18-1001; LIMITING PLACES FOR COMMERCIAL SOLICITATION; PROHIBITING AGGRESSIVE SOLICITATION, NIGHTTIME COMMERCIAL SOLICITATION, AND FALSE OR MISLEADING SOLICITATION; AND AMENDING THE PENALTY.

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

Section 1. That Article 18-1000 of the Billings, Montana City Code be amended so that such section shall read as follows:

ARTICLE 18-1000. AGGRESSIVE SOLICITATION

WHEREAS, the City of Billings wants to protect the well-being of its citizens, tourists and visitors and provide substantive services to those in need; and

WHEREAS, the City of Billings is a vital citizen, tourist, and visitor attraction area; and

WHEREAS, the City of Billings wants to protect and enhance the City's attractions to citizens, tourists and visitors; and

WHEREAS, the City of Billings wants to continue to attract businesses to, and retain the current businesses in Billings; and

WHEREAS, aggressive solicitation causes a sense of fear and intimidation, particularly at night or in confined areas; and

WHEREAS, aggressive solicitation, through solicitation despite refusals, obscene behavior and language, unwanted physical contact or obstruction of traffic, vehicular or pedestrian, creates fear in visitors and residents of Billings; and

WHEREAS, aggressive and commercial solicitation in Billings impacts tourism and retail business and causes a decrease in generated revenues to the City and its business community; and

WHEREAS, aggressive and commercial solicitation has a negative impact on the retention of businesses in Billings; and

WHEREAS, aggressive and commercial solicitation contributes to the negative perceptions of the City of Billings, which discourages tourism and retail and contributes to the lack of enjoyment of public places; and

WHEREAS, aggressive and commercial solicitation throughout Billings is a common presence, especially in the Central Business District, and disturbance to residents and businesses; and

WHEREAS, aggressive and commercial solicitation drives customers away from businesses in Billings, affecting business transactions and threatening potential economic growth; and

WHEREAS, in other cities that rely heavily on tourism for generating revenues, aggressive and commercial solicitation have been restricted; and

WHEREAS, the City is cognizant of the need to make available alternate channels for communication for commercial solicitation and will permit such activity as set forth below; and

WHEREAS, the City of Billings is sensitive to the plight of individuals who must commercially solicit and has been actively engaged in providing support services to address homelessness in Billings; and

WHEREAS, the City of Billings is committed to protecting the rights and freedoms of all, including the First Amendment rights, and

WHEREAS, with due regard to protecting the rights and freedoms of all, the City of Billings is also committed to providing a safe and livable community, and seeks to address the problems associated with commercial and aggressive solicitation.

Sec. 18-1001. Commercial Solicitation, Aggressive sSolicitation, and pPenalty.

~~(a) —Criminal offense. A person commits the offense of aggressive solicitation if he knowingly disturbs the peace by aggressively soliciting.~~

(1) Definitions:

- a. “Commercial Solicitation” or “to commercially solicit” is any request made in person on a street, sidewalk, or public place, asking for an immediate donation of money or other things of value, including the purchase of an item or service for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is a donation. Commercial Solicitation shall not include passively standing or sitting with a sign or other indication that one is seeking donations without addressing the request to any specific person.

~~Aggressively soliciting~~ means to beg with the intent to intimidate another person into giving money or goods. It shall not include the act of passively standing or sitting with a sign or other indication that a donation is being sought, without any vocal request other than in response to an inquiry to another person.

~~Soliciting~~ means to ask for money or goods as a charity, whether by words, bodily gestures, signs, or other means. (b)

~~Intimidate~~ means to engage in soliciting by following or pursuing a person, to continue to solicit a person who has made a negative response, either verbally or by physical sign, or to engage in other conduct that would cause a reasonable person to feel compelled or to be fearful.

- (2) **Commercial Solicitation in Certain Areas.** It shall be unlawful for any person to commercially solicit when the person solicited is in any of the following places within the City of Billings:
- a. On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property;
 - b. Within 20 feet of the entrance to or exit from any public toilet facility, which includes any temporary use site (port-a-toilet);
 - c. Within 20 feet of an automatic teller machine (ATM), provided that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility;
 - d. Within 20 feet of any parking lot pay box;
 - e. Within 20 feet of any pay telephone, provided that when a pay telephone is located within a telephone booth or other facility, such distance shall be measured from the entrance or exit of the telephone booth or facility;
 - f. In any public transportation vehicle, or in any bus, or within 20 feet of any bus stop or taxi;
 - g. From any operator of a motor vehicle that is in traffic on a public street; provided, however, that this paragraph shall not apply to services rendered in connection with emergency repairs requested by the owner for passengers of such vehicle;
 - h. In a parking lot or garage owned or operated by the City of Billings, including entryways or exits and pay stations connected therewith;
 - i. Within 20 feet of any vendor's location when the vendor has a valid permit under Articles 19-400 or 7-1200 location.
- (3) **Nighttime Commercial Solicitation.** It shall be unlawful for any person to commercially solicit after sunset and before sunrise.
- (4) **Aggressive Solicitation.** It shall be unlawful for any person to commercially solicit in any of the following manners:
- a. By blocking the path of the person solicited; or

- b. By following or walking alongside the person solicited; or
- c. By using profane or abusive language, either during the solicitation or following refusal; or
- d. By accosting or forcing oneself upon the company of another;
- e. By continuing to solicit a person who has made a negative response, either verbally or by physical sign;
- f. By any statement, gesture, or other communication which a reasonable person in the situation of the person solicited would perceive to be a threat.
- g. By engaging in any conduct that would cause a reasonable person to feel compelled or to be fearful.

(5) **False or misleading Solicitation.** It shall be unlawful for any person to knowingly make any false or misleading representation in the course of soliciting a donation. False or misleading representations include, but are not limited to, the following:

- a. Stating that the solicitor is from out of town and stranded when such is not true;
- b. Stating or suggesting falsely that the solicitor is either a present or former member of the armed service indicated;
- c. Wearing or displaying an indication of physical disability, when the solicitor does not suffer the disability indicated;
- d. Stating that the solicitor is homeless, when he or she is not.

(6) **Exemption.** The city council may by resolution temporarily suspend the requirements and restrictions imposed by this section in order to accommodate charitable fund raising events. The granting of such an exemption is discretionary with the City Council, may include conditions, and is limited to a duration of 24 hours.

(7) **Penalty.** A person convicted of ~~aggressive solicitation~~ a violation of this section shall be punished by a fine of not more than \$500 or by imprisonment not to exceed 6 months, or by both such fine and imprisonment. ~~not to exceed one hundred dollars (\$100.00) or be imprisoned in the county jail for a term not to exceed three (3) days, or both.~~

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

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

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

PASSED by the City Council on first reading this _____ day of _____, 2007.

PASSED, ADOPTED and APPROVED on second reading this _____ day of _____, 2007.

CITY OF BILLINGS

By _____
Ron Tussing Mayor

ATTEST:

By _____
Cari Martin City Clerk

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

R7

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, APRIL 23, 2007

TITLE: Public Hearing for Special Review #842, 956 South 26th Street West
DEPARTMENT: Planning & Community Services
PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: This is a special review to permit an on-premise beer and wine license at the Marriott Residence Inn Hotel (currently under construction) located at 956 South 25th Street West. The subject property is legally described as Lots 13A-1 and 13B, Block 3, Midland Subdivision, 5th Filing Amended and is zoned Controlled Industrial (CI). The owner is LADS Hospitality Associates, LLC. The Zoning Commission conducted a public hearing on April 3, 2007, and is forwarding a recommendation of conditional approval on a 4-0 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 of Special Review #842 on a 4-0 vote.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENTS

- A. Zoning Map
- B. Site Photographs

INTRODUCTION

This is a special review to permit an on-premise beer and wine license at the Marriott Residence Inn Hotel (currently under construction) located at 956 South 25th Street West. The subject property is legally described as Lots 13A-1 and 13B, Block 3, Midland Subdivision, 5th Filing Amended and is zoned Controlled Industrial (CI).

PROCEDURAL HISTORY

- On March 5, 2007, the special review application was submitted to the Planning Department.
- On April 3, 2007, the Zoning Commission conducted a public hearing on this request and the City Zoning Commission forwarded a recommendation of Conditional Approval on a 4-0 vote.
- On April 23, 2007, the City Council will vote to approve, conditionally approve, or deny the special review.

BACKGROUND

The applicant is requesting a special review to permit on-premise consumption of beer and wine within a building under construction (Marriott Residence Inn Hotel) on a CI zoned property. The letter submitted by the applicant for the special review application states that the beer and wine will be served within the onsite restaurant and as a courtesy service to guests.

The Planning Department did not receive any comments from city departments. There are no schools, churches or public parks with playground equipment within 600 feet of this proposed location. The Little Gym, which is a fitness center for children, is located approximately 615 feet northeast of the subject property; Old Chicago Pizza is located within approximately 200 feet of the Little Gym and was approved for an all beverage license with gaming in 2005. The nearest park is Valley View Acres Subdivision Park approximately $\frac{3}{4}$ miles northeast of the subject property.

Section 27-612.A. Supplemental Commercial Development Standards specifies that a special review is necessary for any commercial establishment that serves alcoholic beverages as a primary or accessory use. The Zoning Commission finds that this application satisfies the requirements set forth for the special review and is recommending 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 complies with the requirements of the zoning regulations.

2. Is consistent with the objectives and purposes of Chapter 27 and the Growth Policy.

This application is consistent with the purposes of Chapter 27 and 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 as a hotel and restaurant is compatible with the surrounding commercial development.

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.

CONDITIONS OF APPROVAL

The following conditions are recommended if the Zoning Commission recommends approval to the City Council:

1. The special review approval shall be limited to Lots 13A-1 and 13B, Block 3, Midland Subdivision, 5th Filing Amended.
2. No outdoor seating, outdoor music or outdoor public announcement systems shall be permitted.
3. All other limitations on expansion shall apply in accordance with Section 27-613 of the Billings Montana City Code.

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

STAKEHOLDERS

The Zoning Commission conducted a public hearing on April 3, 2007, and forwarded a recommendation of conditional approval to the City Council on a 4-0 vote. David Veeder, with

LADS Hospitality Associates, LLC, was present at the meeting. There was no public comment and no discussion by the Zoning Commission.

CONSISTENCY WITH ADOPTED PLANS AND POLICIES

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

- Predictable land use decisions that are consistent with neighborhood character and land use patterns (Land Use Element Goal, page 5)

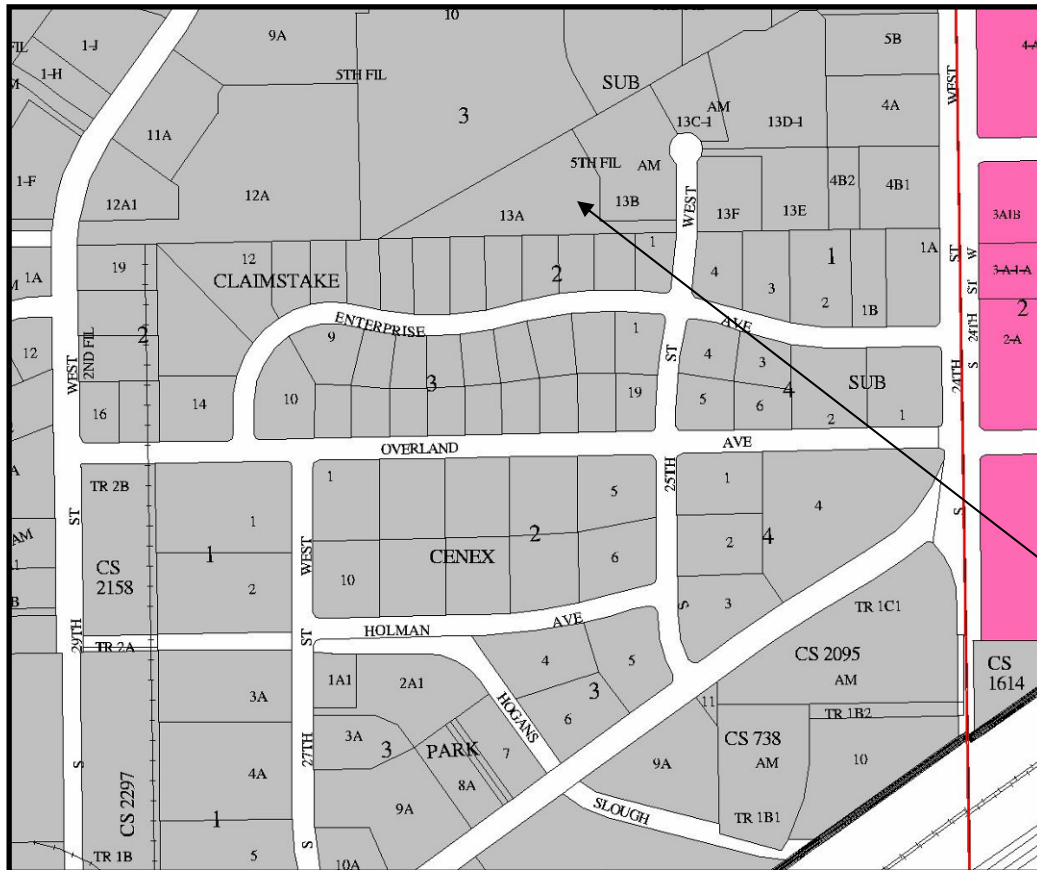
RECOMMENDATION

The Zoning Commission is forwarding a recommendation of conditional approval of Special Review #842 on a 4-0 vote.

ATTACHMENTS

- A. Zoning Map
- B. Site Photographs

ATTACHMENT A
Zoning Map – Special Review #842



**Subject
Property**

ATTACHMENT B
Site Photographs – Special Review #842



Photo 1: View east along Grant Road from the southeast corner of the property.



Photo 2: View south along Grant Road and developing adjacent properties.



Photo 3: View west across the subject property currently under construction.



Photo 4: View northwest across the subject property toward Home Depot.

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



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, APRIL 23, 2007

TITLE: Public Hearing for Special Review #843, 952 Central Avenue
DEPARTMENT: Planning & Community Services
PRESENTED BY: David Green, Planner I

PROBLEM/ISSUE STATEMENT: This is a request for special review to allow drive in banking service adjacent to residential zoning at 952 Central Avenue in a Community Commercial and Controlled Industrial zone. The subject property is legally description as follows; **A.** 87.5 x 220 feet in NW corner Lot 4, Flanagan Subdivision and West 13 feet of Lot 1 Horton Subdivision. (Lot 4, Block 0 Flanagan Subdivision) **B.** North 80 feet, east 53 feet lot 2, Horton Subdivision. (Lot 2, Block 0, Horton Subdivision) **C.** Less West 13 feet Lot 1, Block 0, Horton Subdivision. (Lot 1, Block 0, Horton Subdivision) **D.** South 58.9 feet of North 140 feet of East 100 feet Lot 4 Flanagan Subdivision. (Lot 4, Block 0, Flanagan Subdivision) **E.** North 81.1 feet of North 140 feet of East 100 feet of Lot 4. (Lot 4, block 0, Flanagan Subdivision). (See Attachment A). Rimrock Credit Union has plans to construct a new building on the property including drive in banking service. The owner is Rimrock Credit Union and the representing agent is A&E Architects. The Zoning Commission conducted a public hearing on April 3, 2007, and is forwarding a recommendation of conditional approval to the City Council on a 4-0 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 of Special Review #843 on a 4-0 vote.

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

ATTACHMENTS

- A. Legal Description Map
- B. Zoning Map
- C. Proposed Site
- D. Site photos
- E. Letter of Support

INTRODUCTION

This is a special review to allow banking drive in service adjacent to residentially zoned property described as, see Attachment A, addressed as 952 Central Avenue zoned Community Commercial (CC) and Controlled Industrial (CI).

PROCEDURAL HISTORY

- On March 2, 2007, the special review application was submitted to the Planning Department.
- On April 3, 2007, the Zoning Commission conducted a public hearing on this request and forwarded a recommendation of Conditional Approval to the City Council on a 4-0 vote.
- On April 23, 2007, the City Council will vote to approve, conditionally approve, or deny the special review.

BACKGROUND

This is a request for a special review to allow a banking drive in service adjacent to residential zoning at 952 Central Avenue. The property is zoned Community Commercial and Controlled Industrial. The properties on the east and west are commercial properties; to the north there are baseball fields belonging to School District #2. To the south is single family residential. The new Rimrock Credit Union building is proposed to be a 6,300 square foot building on the 1.22 acre parcel located on the south west corner of Central Avenue and Prickett Lane and will have drive in banking as one of the services offered with the new building.

This property is surrounded by a mixture of uses, including commercial, public and residential uses. On Central Avenue east of Rimrock Credit Union there is Car Quest Auto parts store and the former County Market is located to the west; residential uses are located to the south across the alley where the proposed drive up banking area will be. Section 27-612(b)(1) BMCC requires a special review when a drive in service adjoins a residentially zoned property (including any location across an alley).

ALTERNATIVES ANALYSIS

Section 27-1503(D) specifies that all special reviews shall comply with the following three (3) criteria: 1) the application complies with all parts of the Unified Zoning Regulations, 2) the application is consistent with the objectives and purposes of the Unified Zoning Regulations and the 2003 Growth Policy, and 3) is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts. This application conforms to the first criteria, in so far, that it is within a Community Commercial and Controlled Industrial zone and a Credit Union is an allowed use.

The application also conforms to the second and third criteria. The submitted drawing with this application appears to meet all zoning requirements for setbacks and landscaping. This is the current location of the Rimrock Credit Union and they are proposing to stay in the neighborhood, build a new building with site improvements and well laid out landscape on their property that will greatly enhance the appearance of the area instead of moving to a new location leaving

behind an empty building for the neighborhood. The proposed New Rimrock Credit Union building is consistent with goals of the 2003 Growth Policy specifically the goals of “Coordinated economic development efforts that target business recruitment, retention, and expansion” and “Visually appealing communities”.

The existing use has been at this location since the early 1980’s. The Community Commercial zoning of this property is intended for concentration of commercial properties along the arterial street to provide a buffer zone from traffic for the residential uses behind the commercial uses.

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.

CONDITIONS OF APPROVAL

1. The special review approval shall be limited to the 1.22 acres on the south west corner of Central Avenue and Prickett Lane as shown on the site plan submitted and dated 03-07-07 (Attachment E).
2. Any expansion of the proposed building or parking lot greater than 10 percent will require an additional special review approval as per BMCC 27-613(c).
3. The development of the property shall be in accordance with all provisions of Section 27-309 building height and setbacks, 27-602 arterial setbacks, and 27-1100 landscaping.
4. Rimrock Credit Union shall install a six (6) foot site obscuring fence on the south property line across the alley from the residentially zoned property and the property line that runs north and south across the alley from the residentially zoned property.
5. Lighting shall be provided in the ‘backyard’ area on the building and in the backyard for security purposes. All lighting except signage shall have full cut-off shields to direct light to the ground.
6. Dumpster enclosure location shall be coordinated with the solid waste division.
7. Rimrock Credit Union shall obtain a reciprocal access agreement for the proposed access between Rimrock Credit Union and the former County Market property to the west.
8. Rimrock Credit Union shall provide the City of Billings Engineering Division with a Traffic Accessibility Study (TAS).
9. The developer shall install all landscaping and site improvements as shown on the drawing dated 03-07-07. (Attachment E)

****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 or zoning compliance permit level. This

application is for a Special Review as noted above and no other request is being considered with this application. The use and development of the property must be in accordance with the submitted site plan.

STAKEHOLDERS

The City Zoning Commission conducted a public hearing on April 3, 2007.

The Planning Division was contacted by the residential property owner that is directly south, across the alley, from the proposed Rimrock Credit Union. The property owners concerns were headlights from the cars using the drive-in service after hours shining in the windows of their home; the desire to keep a clear separation from the credit union and their home to limit trespassing issues and the loss of privacy with the removal of buildings to the north of them. The property owner felt that their concerns would be addressed with the installation of a six (6) foot site obscuring fence between their property and the credit union property to shield them from the commercial uses and vehicle traffic on the adjoining lot.

The Planning Division also received a letter from a property owner about this special review see Attachment E.

CONSISTENCY WITH ADOPTED PLANS AND POLICIES

In addition to the above discussion in the Alternatives Analysis section, this application does conform to the following goal of the 2003 City of Billings/Yellowstone County Growth Policy:

- Predictable land use decisions that are consistent with neighborhood character and land use patterns (Land Use Element Goal, page 5)
- Contiguous development focused in and around existing population centers separated by open space. (Land Use Element Goal, page 6)
- Coordinate economic development efforts that target business recruitment, retention, and expansion. (Economic Development Goal, page 6)

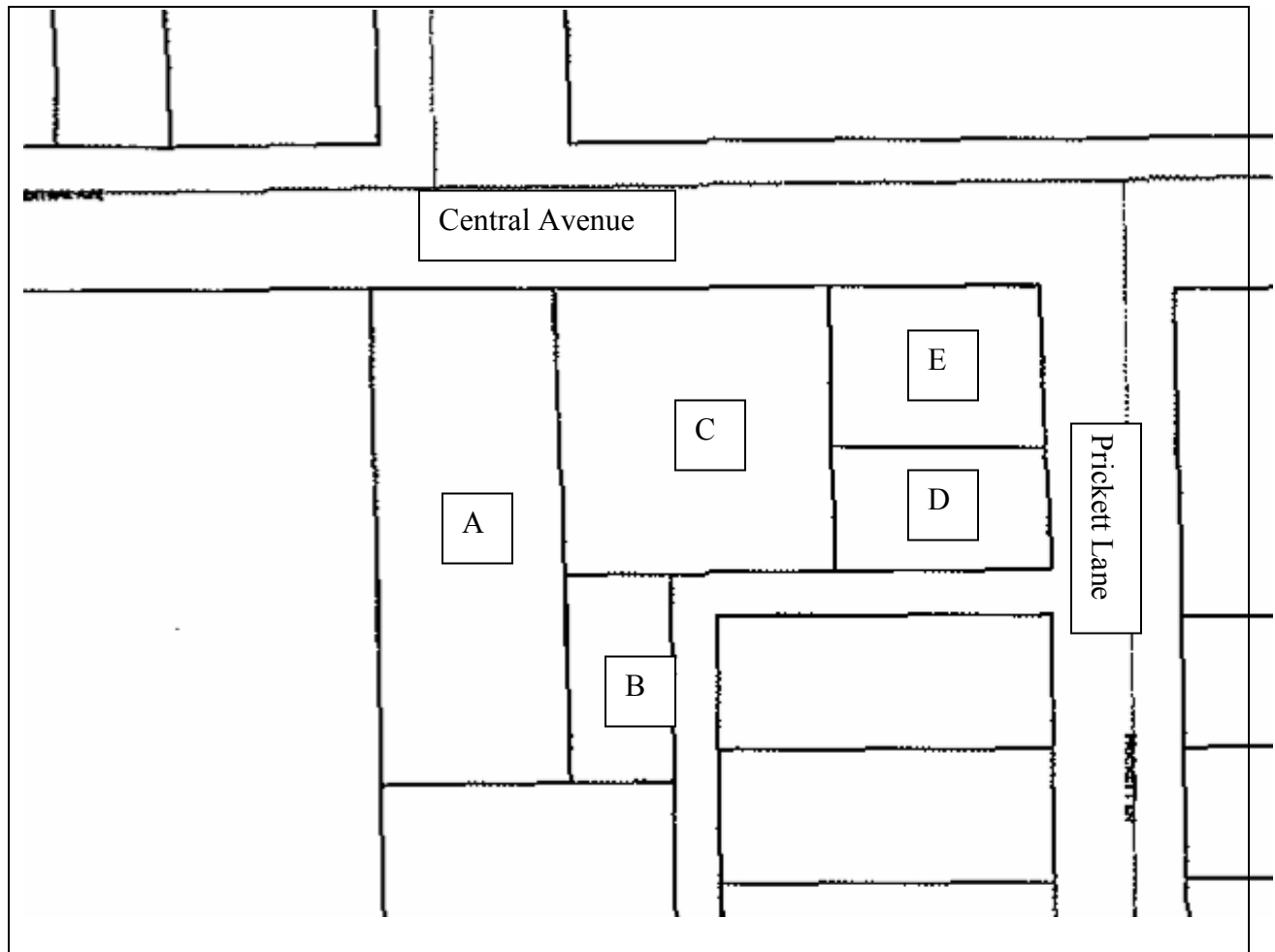
RECOMMENDATION

The Zoning Commission is forwarding a recommendation of conditional approval of special review #843 on a 4-0 vote.

ATTACHMENTS

- A. Legal Description Map
- B. Zoning Map
- C. Proposed Site
- D. Site photos
- E. Letter of Support

Attachment A
Legal Description Map - Special Review #843



A. 87.5 x 220 feet in NW corner Lot 4, Flanagan Subdivision and West 13 feet of Lot 1 Horton Subdivision. (Lot 4, Block 0 Flanagan Subdivision)

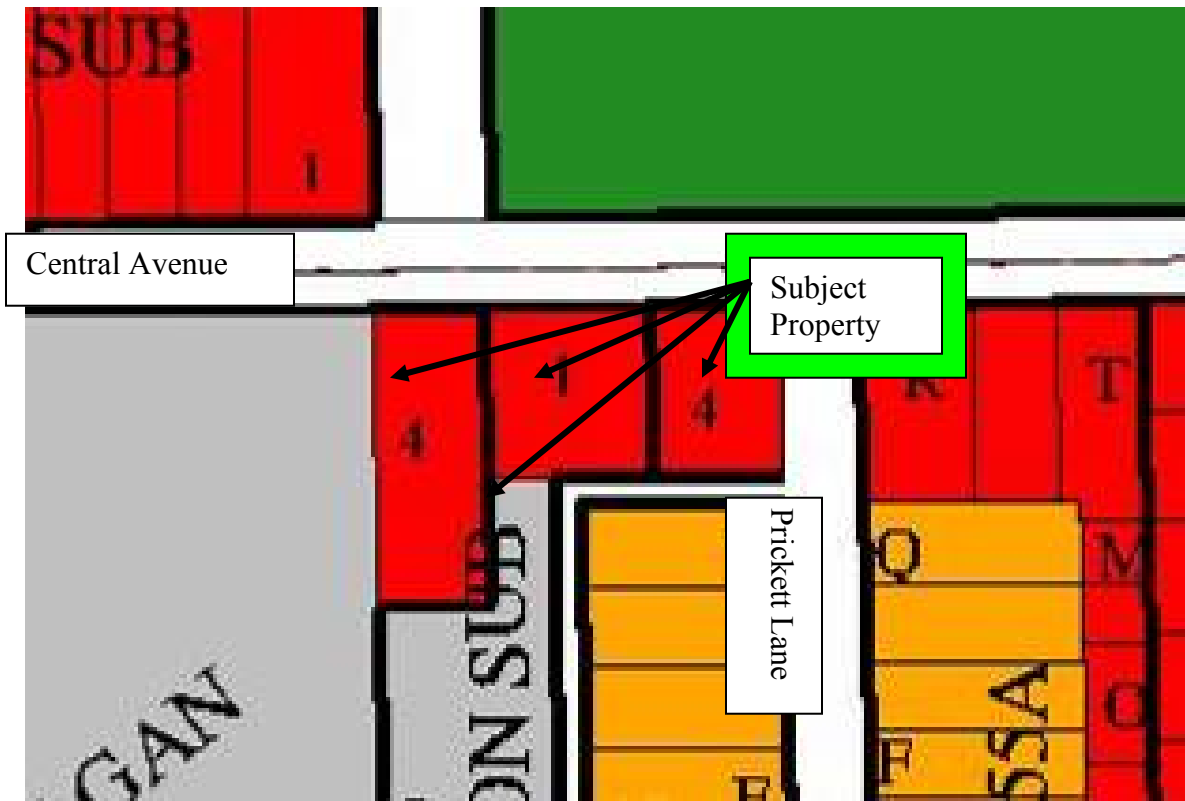
B. North 80 feet, east 53 feet lot 2, Horton Subdivision. (Lot 2, Block 0, Horton Subdivision)

C. Less West 13 feet Lot 1, Block 0, Horton Subdivision. (Lot 1, Block 0, Horton Subdivision)

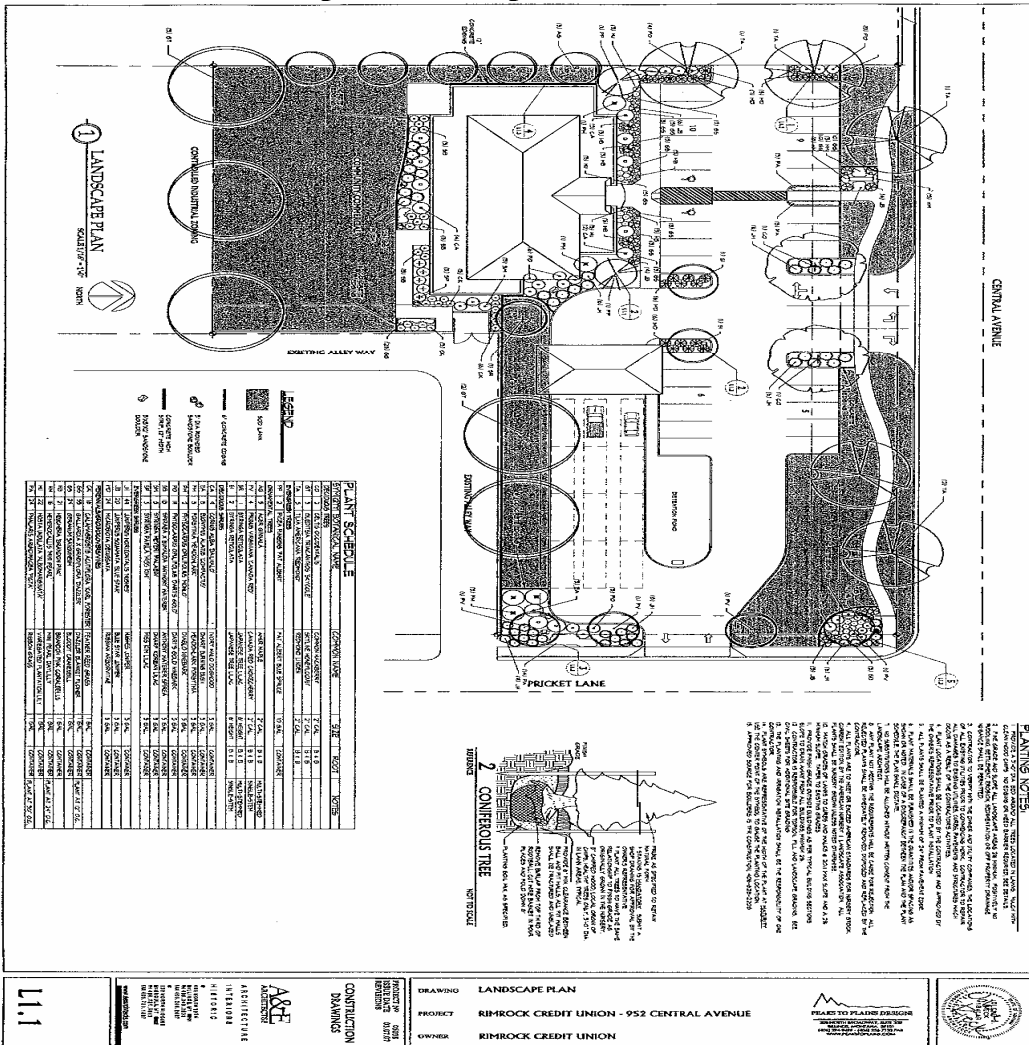
D. South 58.9 feet of North 140 feet of East 100 feet Lot 4 Flanagan Subdivision. (Lot 4, Block 0, Flanagan Subdivision)

E. North 81.1 feet of North 140 feet of East 100 feet of Lot 4. (Lot 4, block 0, Flanagan Subdivision).

Attachment B
Zoning Map – Special Review #843



Attachment C **Proposed Site – Special Review #843**



L1.1

Attachment D
Site photos – Special Review #843



Subject property at 952 Central Avenue



View east from subject property across Prickett Lane



View west from subject property.



View north from subject property across Central Avenue.



View south west from subject property to residential property.

Attachment E
Letter of Support – Special Review #843

Planning & Community Services Department
510 North Broadway, 4th Floor
Billings, Montana 59101



Dear Planning Board Staff;

In response to your letter of March 16, 2007 concerning
City Special Review #843
Project Number: 07-0146

As the property owner of 920 Central, I have examined the
proposed plan sent to me by your department, and I have
absolutely no objections to the request.

The plan would have a positive influence on the
surrounding area.

I would like to submit something for your consideration,
if the plan is approved, and work goes forward.

At the southwest corner of the lot at 920 Central, the
drainage is currently being inadequately serviced by a
French drain. If curbs, gutters and pavement in that area
will be a part of the work done... Please consider connecting
the French drain into the city sewage system. I consider, at
this time, the inadequacy of the French drain has an
adverse effect on the pavement around it.

Sincerely,

Lana M. Craig
Lana M. Craig
6507 North 82nd Way
Scottsdale, AZ. 85250

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, APRIL 23, 2007

TITLE: Public Hearing for Special Review #844, 2069 S. Billings Blvd.

DEPARTMENT: Planning & Community Services

PRESENTED BY: Juliet Spalding, AICP, Planner II

PROBLEM/ISSUE STATEMENT: This is a Special Review to permit the storage of vehicles used for parts in a Controlled Industrial (CI) zone on property located at 2069 South Billings Blvd. The subject property is legally described as an unplatted parcel in the SW ¼ of Section 9, Township 1S, Range 26E. The owner is Ralph Hanser. The Zoning Commission conducted a public hearing on April 3, 2007, and is forwarding a recommendation of conditional approval on a 4-0 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 of Special Review #844 on a 4-0 vote.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENTS

- C. Zoning Map
- D. Site Plan
- E. Site photos
- F. Example of letter of support

INTRODUCTION

This is a special review to permit the storage of vehicles used for parts in a CI zone, on a 4.75-acre property located at 2069 South Billings Blvd.

PROCEDURAL HISTORY

- On March 5, 2007, the special review application was submitted to the Planning Department.
- On April 3, 2007, the Zoning Commission conducted a public hearing on this request and the City Zoning Commission forwarded a recommendation of Conditional Approval on a 4-0 vote.
- On April 23, 2007, the City Council will vote to approve, conditionally approve, or deny the special review.

BACKGROUND

The subject property is located across the street from Hanser's existing automotive salvage and wrecker service headquarters. It is currently being utilized as a storage area for inoperable "parts" vehicles, and also has a 330'x90' parking lot along the S. Billings Blvd. frontage for Hanser's employee parking. A steel 9-foot high site obscuring fence surrounds the perimeter of the parts vehicles parking area.

Planning staff and the City Zoning Commission have reviewed the Special Review and are recommending **conditional approval**. The main reason the applicant has requested this Special Review is to obtain a State Motor Vehicle Wrecking Facility License. This license is required for dealers or wrecking yard owners who pull parts from inoperable vehicles. Under the purview of the state license, a lot owner could sell used vehicle parts from the lot and crush vehicles onsite. However, the city has the ability to place restrictions on the use of the state license. In this case, the restriction would specify that there shall be no crushing of vehicles at this site (recommended Condition #5). This condition is necessary due to the location of the property in close proximity to residential uses located to the north, east and south. Other conditions that are recommended to help mitigate potential impacts on the surrounding residences include that all outdoor lighting on the site shall be equipped with full cutoff shields so that no light spills onto the adjacent properties, hours of operation shall be limited to between 7:00 am and 9:00 pm, and the automobiles shall not be stacked in such a way that they are visible above the fence line (required by Conditions #2, 3, and 4). Also, currently there are around 20 salvaged "semi" trailers in the storage yard. These appear above the 9-foot fence line. Staff is recommending that these be removed or somehow lowered so that they are not visible over the fence (Condition #6). Also, the sight-obscuring entry gates shall remain closed (Condition #7). The last two recommended conditions of approval deal with the City's site development ordinance that is triggered whenever a business expands. The employee parking lot located on the front 90 feet of the property along S. Billings Blvd. shall be paved. Also storm water for the entire site shall be retained on-site unless otherwise approved by the City of Billings and/or Montana Department of Environmental Quality. This is important when dealing with inoperable vehicles that may leak oils or other fluids onto the ground. Approval of a storm water management plan for the site shall be obtained prior to the City's sign off on the state license.

ALTERNATIVES ANALYSIS

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

1. Complies with all requirements of this Article (27-1500).

This application complies with the requirements of the zoning regulations.

2. Is consistent with the objectives and purposes of Chapter 27 and the Growth Policy.

This application is consistent with the purposes of Chapter 27 and 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.

This area is becoming more and more developed in commercial and industrial uses. However, there are a large number of existing residences to the north, east and south of the property. The conditions of approval are recommended in order to mitigate any adverse effects the wrecking yard use may have on the adjacent residences.

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

9. Street and road capacity;
10. Ingress and egress to adjoining streets;
11. Off-street parking;
12. Fencing, screening and landscaping;
13. Building bulk and location;
14. Usable open space;
15. Signs and lighting; and/or
16. Noise, vibration, air pollution and similar environmental influences.

CONDITIONS OF APPROVAL

The following conditions of approval are recommended by the Zoning Commission to mitigate the possible impacts of this use on the adjacent properties:

10. The special review approval shall be limited to the property described in the application as an unplatted parcel in the SW ¼ of S9, T1S, R26E.
11. All outdoor lighting for the salvage yard area shall be equipped with full cut-off shields so that the lighting does not spill onto surrounding properties.

12. All inoperable vehicles shall be stored within the fenced area and shall not be stacked in such a way that they are visible above the fence line.
 13. Business hours shall be limited to between 7:00 am and 9:00 pm.
 14. A State Motor Vehicle Wrecking License shall be obtained within six months of the approval of this special review. A copy of the license shall be provided to the Planning Department. There will be special restrictions placed on the state licensure during the written document period of the state application process, which can take up to 120 days, specifying that there shall be no crushing of vehicles. They shall be hauled to a licensed wrecking yard when no longer needed.
 15. The existing “semi” trailers that are visible above the fence shall be removed or somehow lowered so that they are not visible over the fence.
 16. The sight-obscuring entry gates shall remain closed except when in immediate use.
 17. The unfenced employee parking area located on the west 90 feet of the subject property shall be paved or financially secured prior to City sign-off on the state license, in accordance with the site development standards for parking lots in the City of Billings.
 18. All storm water shall be retained on-site, and not discharged into the City’s storm drain line, unless otherwise approved by the City of Billings. Approval of the storm water management plan for the site shall be received by the City and/or MDEQ, whichever is appropriate, prior to City sign-off on the state license.
- **NOTE**** Approval of this special review does not constitute approval of a building permit, sign permit or fence permit. Compliance with all applicable local codes will be reviewed at the building permit level. This application is for a special review as noted above and no other request is being considered with this application. The Planning Department points out that the use and development of the property must be in accordance with the submitted site plan.

STAKEHOLDERS

The Zoning Commission conducted a public hearing on April 3, 2007, and forwarded a recommendation of conditional approval to the City Council on a 4-0 vote. Applicants, Ralph and Scott Hanser spoke about the proposal, and addressed the proposed conditions of approval. Ralph Hanser noted that he already has received MDEQ approval for the storm water management on the site. This will be verified by staff. He also noted that they would prefer to have the hours of operation from 7AM to 9PM. Originally, planning staff had proposed a closing time of 7PM. However, Mr. Hanser noted that many of their customers who would be visiting the yard during the summer hours may prefer to come out after work/dinner in the evening. The Zoning Commission concurred with this request, and is recommending as a condition of approval that the hours of operation be limited to 7am-9pm. Additionally, Mr. Hanser requested the ability to continue storing the wrecked ‘semi’ trailers on the site, even

though they are visible above the fence line. He explained that they do not dismantle these trailers on this site, but just store them for clients while their insurance claims come through. This storage could be for up to a month. The Zoning Commission discussed this request at length, but decided that based on the zoning code, the salvaged vehicles and trailers should remain out of sight. There was no other public comment at the hearing. However, the applicant submitted 30 letters/petitions of support (see Attachment D) that they had collected and submitted with the Special Review application from property owners in the area.

CONSISTENCY WITH ADOPTED PLANS AND POLICIES

This Special Review request conforms to the following goals of the 2003 City of Billings/Yellowstone County Growth Policy:

- Contiguous development focused in and around existing population centers. (Land Use Element, Goal #4)
- More housing and business choices within each neighborhood. (Land Use Element, Goal#6)
- Coordinated economic development efforts that target business recruitment, retention and expansion. (Economic Development, Goal #1)
- Sanitary and safe properties. (Public Services, Goal #2)

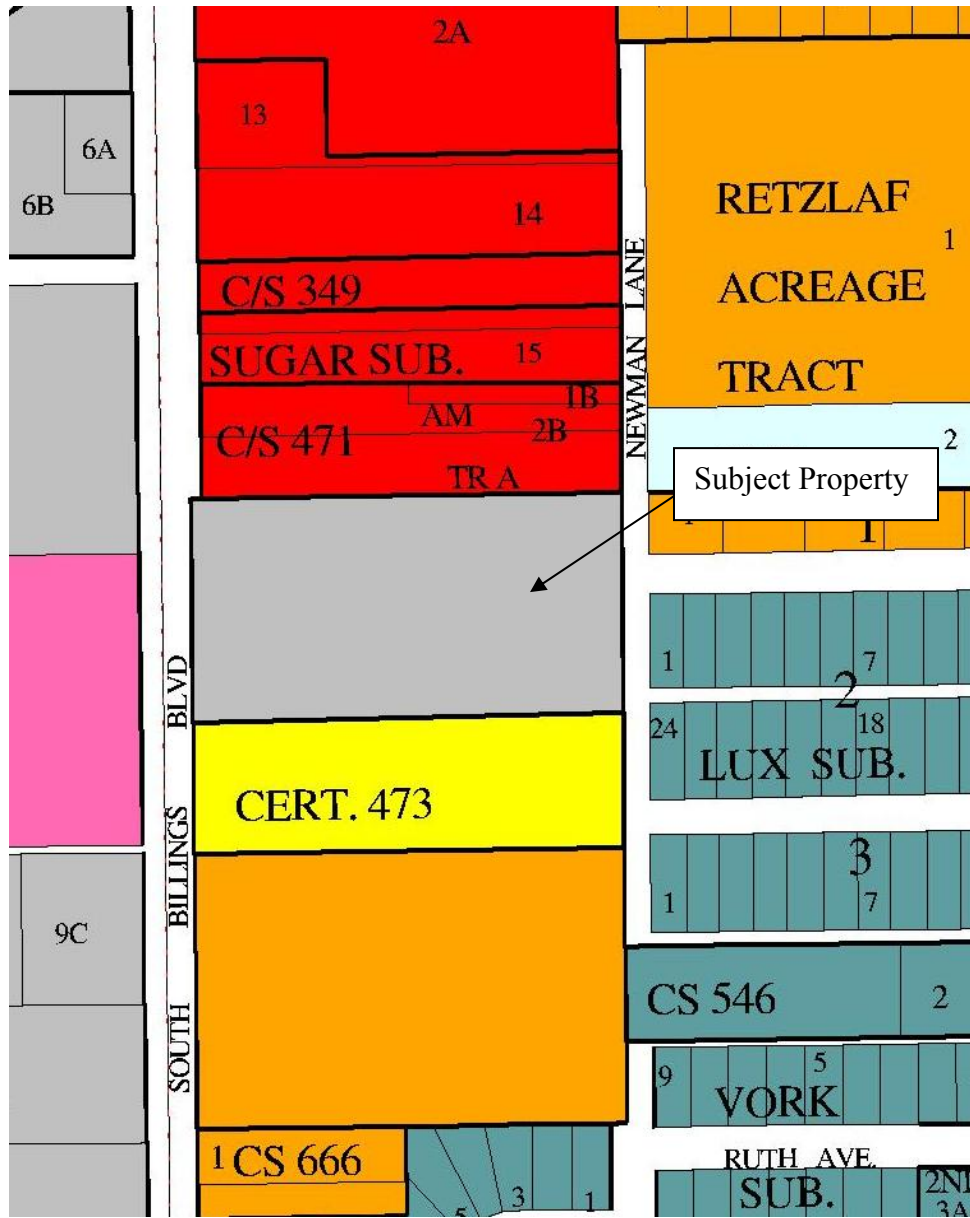
RECOMMENDATION

The Zoning Commission is forwarding a recommendation of conditional approval of Special Review #844 on a 4-0 vote.

ATTACHMENTS

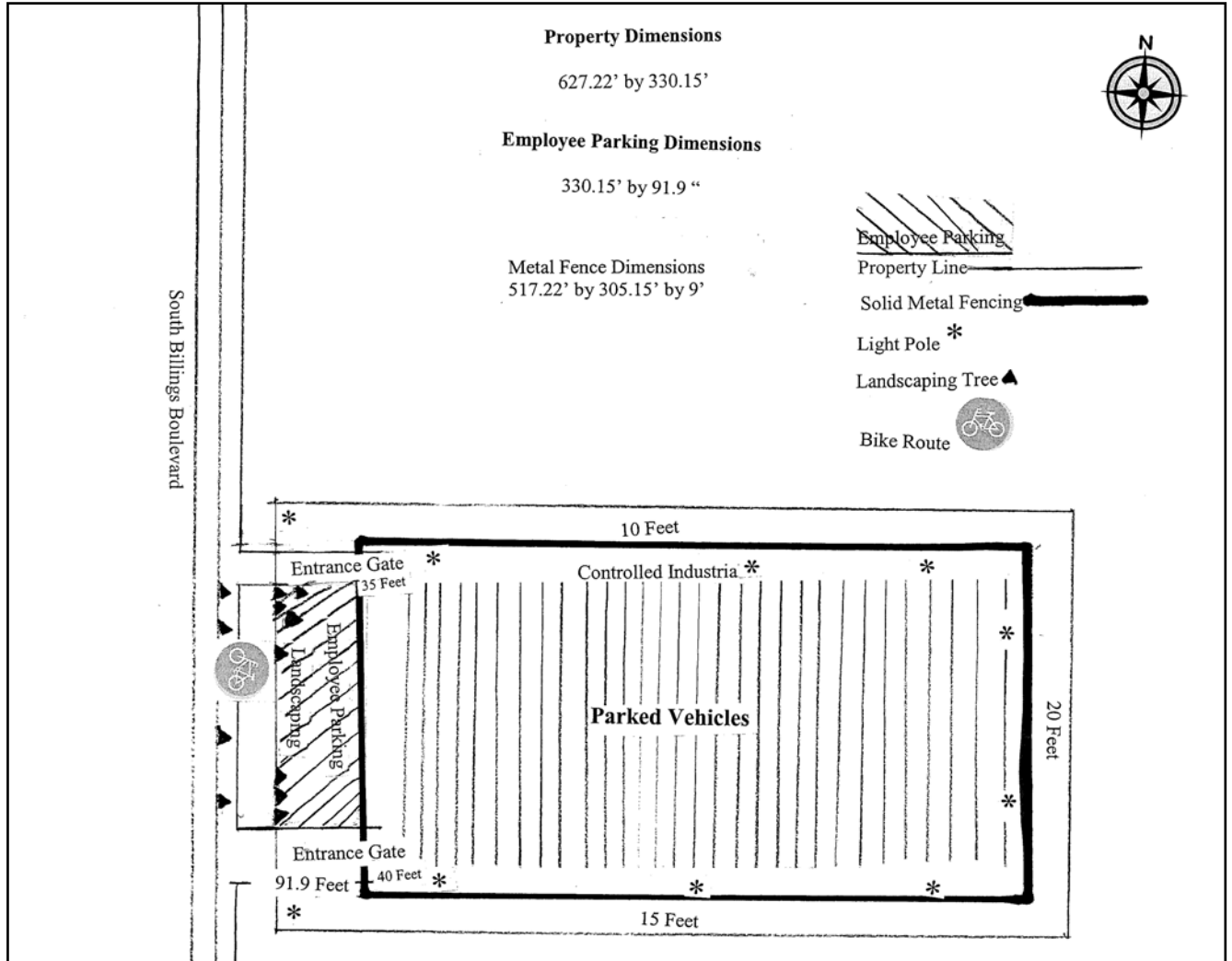
- A. Zoning Map
- B. Site Plan
- C. Site Photos
- D. Example of letter of support

ATTACHMENT A
Zoning Map – Special Review #844



ATTACHMENT B

Site Plan



ATTACHMENT C





Photo 1: View to south of employee parking area to be paved and fenced wrecking yard.



Photo 2: View of metal fence enclosure and north gate.



Photo 3: View of fence line with open gate and semi trailers visible from across adjacent property.

ATTACHMENT D

Example of Letter signed by 30 area neighbors

In August of 2004 we visited with you and our neighbors requesting a zone change for our property on 2069 South Billings Blvd. from multi-family residential zoning to controlled industrial zoning. Everyone agreed that this was a sensible change. We explained to everyone at the time that we would fence the property, landscape it, and use it to park wrecked vehicles in while they were being processed for stripping.

The State of Montana defines that an area where vehicles with no license plates are stored for a certain period of time falls into dismantling and requires a Motor Vehicle Wrecking Facility License. Once a vehicle is deemed inoperable, by definition of the Montana Vehicle Recycling Disposal Program, it becomes a junk vehicle. So just by parking these vehicles, they become junk vehicles and we are required to obtain the proper licensing. In order for the State of Montana to issue us this license we need the Planning and Community Services Department of the City of Billings to sign off. The only way they can sign off is with a special review and approval by the Billings City Council.

We would also like to make you aware that with this license we would like to have the option of making this yard a place where people can come in and remove smaller parts off these vehicles and save themselves a considerable amount of money. We feel that this would be a great enhancement to the consumers in Billings who are capable of doing their own repairs.

We are once again contacting all of our neighbors to explain to them that we need their support to comply with the state's Department of Environmental Quality and the city's zoning requirements.

I am in support of the Billings City Council giving Hanser's approval for the Department of Environmental Quality to issue Hanser's a Motor Vehicle Wrecking Facility License at their address on 2069 South Billings Blvd.

Name: Arline B. Jerome
Address: 4636 Lark Av

Phone #: 259-9397
Date: 3-1-'07

Thank you,

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

R10

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, April 23, 2007

TITLE: Zone Change #802 Public Hearing and 1st Reading of Ordinance
DEPARTMENT: Planning and Community Services
PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: The applicant is requesting to rezone Lots 1-5, Block 1, Western Sky Subdivision from Agricultural Open Space (AO) to Community Commercial (CC), Residential Multi-Family Restricted (RMF-R), Residential 5000 (R-50), and Residential 7000 (R-70). The subject property located at the southeast corner of the intersection of King Avenue West and 48th Street West. The owners are Gerald Krieg and Cal Kunkel; the developer is Land Equity Partners; and the agent is Engineering, Inc. There is an annexation request in the process for this property, which will be heard by the Council with the zone change at this meeting. A major preliminary plat containing approximately 410 lots on the 164-acre property was submitted on April 2, 2007. The Zoning Commission conducted a public hearing on April 3, 2007, and forwarded a recommendation of approval on 4-0 vote.

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: Upon development, the proposed zone change should increase the City's tax base.

RECOMMENDATION

The Zoning Commission is forwarding a recommendation of approval to the City Council for Zone Change #802 and adoption of the 12 Zoning Commission Determinations on a 4-0 vote.

Approved by: _____ City Administrator _____ City Attorney

ATTACHMENTS:

- A: Site Photographs
- B: Zoning Exhibit
- C: Ordinance

INTRODUCTION

The applicant is requesting to rezone Lots 1-5, Block 1, Western Sky Subdivision from Agricultural Open Space (AO) to Community Commercial (CC), Residential Multi-Family Restricted (RMF-R), Residential 5000 (R-50), and Residential 7000 (R-70). The subject property located at the southeast corner of the intersection of King Avenue West and 48th Street West.

PROCEDURAL HISTORY

- On February 26, 2007, a pre-application meeting was conducted for proposed major plat.
- On February 21, 2007, the Annexation Petition was submitted to the Planning Department.
- On March 5, 2007, the rezone application was submitted to the Planning Department.
- On April 2, 2007, the preliminary major plat application was submitted to the planning department.
- On April 3, 2007, the City Zoning Commission conducted a public hearing for several zone changes on the subject property including CC, RMF-R, R-50, and R-70, in which they forwarded a recommendation of approval to the City Council on a 4-0 vote.
- On April 9, 2007, the City Council acknowledged the annexation petition and set a public hearing date for April 23, 2007.
- On April 19, 2007, the departmental review meeting for the preliminary plat was conducted.
- On April 23, 2007, the City Council will conduct the public hearing for the annexation and the zone change.
- On May 14, 2007, if the annexation is approved by the City Council, a public hearing for the first reading to expand Ward Boundary I will be conducted; if approved on the first reading, the second reading of the zone change will be conducted.
- On May 29, 2007, if the expansion of the ward boundary is approved, the City Council will conduct the second and final reading for ward boundary expansion.
- On May 15, 2007, the Planning Board will conduct a plat review on the proposed major subdivision.
- On May 30, 2007, the Planning Board will conduct a public hearing on the proposed major subdivision.
- On June 25, 2007, the preliminary plat will be approved, conditionally approved, or denied by the City Council.

BACKGROUND

The applicant is requesting to rezone Lots 1-5, Block 1, Western Sky Subdivision from AO to CC, RMF-R, R-50, and R-70. The subject property located at the southeast corner of the intersection of King Avenue West and 48th Street West. It is the property owner's intent to create approximately 400 lots for commercial and mixed residential uses on the subject property.

The Zoning Commission is forwarding a recommendation of approval for this application and has based this recommendation on the 12 criteria for zone changes discussed below.

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 following are the Zoning Commission's determinations.

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

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?*

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

- *Predictable land use decisions that are consistent with neighborhood character and land use patterns. (Land Use Element Goal, page 5)*

This property is in an area of West Billings that is experiencing rapid commercial and residential growth. The rezoning of this parcel will focus new growth in a developing and expanding population center.

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

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

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

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

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

The new zoning is expected to generate more traffic than current agricultural uses. A Traffic Accessibility Study (TAS) will be submitted with the subdivision application. Monetary contributions for intersection and street improvements will be determined with the subdivision review.

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

There is one access to the subdivision from King Avenue West, located adjacent to the existing farmstead. King Avenue West is a state maintained right-of-way at this location, therefore the Montana Department of Transportation (MDT) controls where accesses to properties can be located. A second access will be from 44th Street West located along the eastern border of the subdivision, which will be improved to a city street standard with curb, gutter and sidewalk for a 30-foot half width; several accesses to the subject property will be provided along this street. Three accesses are proposed along 48th Street West, which is located along the western border of the subject property. The fire department and police department have been involved with determining access to the property with both the subdivision pre-application meeting and the annexation; the accesses are adequate where proposed.

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

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

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

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

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

The proposed zoning, as well as all zoning districts, contain limitations on the maximum percentage of the lot area that can be covered with structures. This requirement will help prevent overcrowding of land.

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

The proposed density for the subject property is approximately 642 residential units. This may cause an undue concentration of population in this portion of Billings until surrounding properties further develop.

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

Transportation: A TAS will be submitted with the subdivision. Any improvements identified by the TAS and the City Engineering Department will be required with the subdivision approval.

Water and Sewer: The applicant is in the process of annexing the property. Water and sewer lines will be located within King Avenue West and will be extended from the east by the applicant.

Schools and Parks: The proposed zoning could result in an overcrowding of West High School which is currently over capacity. The middle and elementary schools that serve this property have capacity for additional students. Further review of the parks and schools will be completed with the subdivision.

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

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

The proposed zoning will be similar in character with the adjacent commercial to the east. However, the properties to the north, south, and west are still rural in nature.

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 applicant has proposed the RMF-R and CC zoning along King Avenue West, which is a principle arterial, and along the eastern portion of the property. The lower density residential uses will be located along the western and southern borders to create a buffer area between the high densities and the adjacent single-family residences and agricultural land.

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

The proposed zoning will permit more dense development than what currently exists in the area. However, the applicant has proposed zoning that complies with the West Billings Plan, which does identify the intersection of King Avenue West and 48th Street West as a Neighborhood Center with approximately 5-acres of commercial at each corner of the intersection. The areas surrounding the Neighborhood Center are proposed as residential development.

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 April 3, 2007, and forwarded a recommendation of approval to the City Council on a 4-0 tie vote. Spencer Thunell with Land Equity Partners and Rick Leuthold with Engineering, Inc. were present to discuss the proposed zone change. There was no public comment received at the hearing.

The Zoning Commission discussion focused on the proposed number of units to be located on the property, as well as how the development would be phased. The developer explained that the subdivision would be developed in approximately six phases in accordance with how the property is being purchased. Dependent on the market, the developer hopes to have one phase completed each year over the next seven years. Another point of discussion was in regard to schools. West High School is currently over capacity, as stated in their review for the annexation; however, the high school has stated that they will continue to accommodate additional students from these subdivisions. While the impacts to schools will be discussed further with the subdivision, Section 76-3-608, MCA, does state that a governing body may not deny approval of a subdivision based solely on impacts to educational services.

On April 3, 2007, after the Zoning Commission meeting, the developer conducted a Neighborhood Meeting at the Engineering, Inc. building on Transtech Way. There were approximately 15 people in attendance, mostly surrounding property owners. An overview of the subdivision was given by the developer and agent and they answered general questions regarding the development.

RECOMMENDATION

The Zoning Commission is forwarding a recommendation of approval to the City Council for Zone Change #802 and adoption of the 12 Zoning Commission Determinations on a 4-0 vote.

ATTACHMENTS:

- A: Site Photographs
- B: Zoning Exhibit
- C: Ordinance

Attachment A
Site Photos – Zone Change #802



Figure 1: View from the northwest corner of the property east toward the existing house on Lot 3. The existing farm access road along the western boundary is depicted in the photo.



Figure 2: View west along the northern border of the property, King Avenue West.

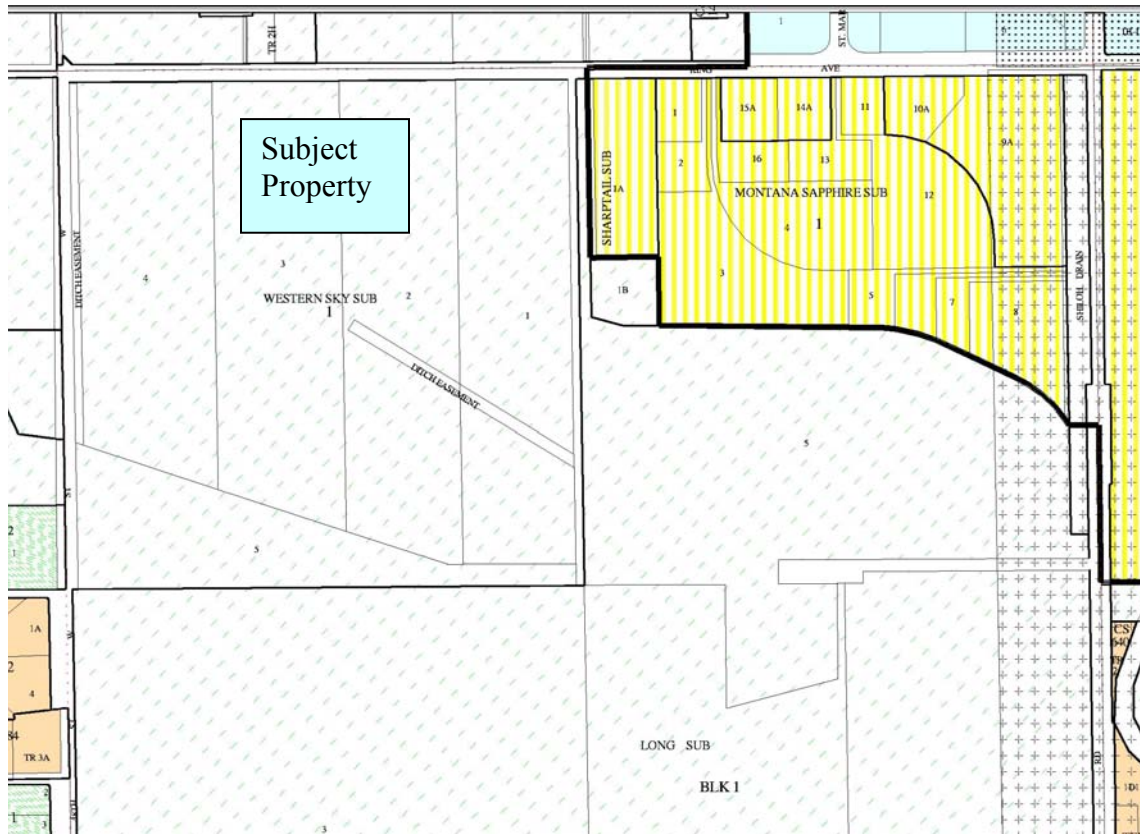


Figure 3: View southeast toward Hogan's Slough located along the southern portion of the property.



Figure 4: View south along 44th Street West and the eastern boundary of Lot 1.

ATTACHMENT B
Zoning Map – Zone Change #802



ATTACHMENT C

Zone Change #802

ORDINANCE NO. 06-

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION
FOR Lots 1-5, Western Sky Subdivision, Containing
approximately 164.13 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 Lots 1-5, Western Sky Subdivision Containing approximately 164.13 acres and is presently zoned Agricultural 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 **Agricultural Open Space to Community Commercial, Residential Multi-Family Restricted, Residential 5000, and Residential 7000** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Community Commercial, Residential Multi-Family Restricted, Residential 5000, and Residential 7000** as set out in the Billings, Montana City Code.

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

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

PASSED by the City Council on first reading April 23, 2007.

PASSED, ADOPTED AND APPROVED on second reading May 14, 2007.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY: _____
Cari Martin City Clerk

ZC #802

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

R11

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, April 23, 2007

TITLE: Zone Change #803 Public Hearing and 1st Reading of Ordinance
DEPARTMENT: Planning and Community Services
PRESENTED BY: Juliet Spalding, AICP, Planner II

PROBLEM/ISSUE STATEMENT: This is a zone change request from Agricultural-Open Space (AO) and Residential-15,000 (R-150) to Public (P) on a 38-acre property at the northwest corner of 54th St. West and Colton Blvd. The City of Billings is the owner; Parks, Recreation and Public Lands Department is the agent. The Zoning Commission conducted a public hearing on April 3, 2007, and voted 4-0 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 should not affect the City's tax base because the subject property will be exempt from taxes.

RECOMMENDATION

The Zoning Commission recommends by a 4-0 vote that the City Council approve Zone Change #803 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 zone change request from AO and R-15 to P on a 38-acre parcel of land owned by the City of Billings. The property was donated to the City Parks, Recreation and Public Lands Department (PRPL) in 2002 for the purposes of establishing a future regional park on the site to be known as Cottonwood Park. In addition, a portion of the property will be deeded to School District #2 (SD2) for a future elementary school.

PROCEDURAL HISTORY

- A zone change request was received on March 5, 2007, for the subject properties.
- The Zoning Commission conducted a public hearing on April 3, 2007, and recommended approval to the City Council by a 4-0 vote.
- The City Council will conduct a public hearing and first reading on April 23, 2007, and take action on the zone change application.
- Also at the April 23, 2007 meeting, Council will act on the resolution to annex the property into the City limits.
- If the Zone Change Ordinance is approved on the first reading, the City Council will consider it for second reading on May 14, 2007.

BACKGROUND

The subject property is located at the northwest corner of 54th St. West and Colton Blvd. Since the City accepted the property in 2002, the land has remained vacant, and the area around it (specifically to the south and east) has begun to develop at urban densities. PRPL and SD2 have decided that it is now time to start the master planning process on the park and school site, so they have requested that the property be annexed into the City limits, zoned for public use, and subdivided to separate the school site from the parkland. The annexation request will be presented to the Council concurrently with the Zone Change on April 23, 2007 and the subdivision will follow in the coming months.

The Planning Department reviewed this application and recommended approval based on the attached twelve (12) criteria for zone changes. The new zoning will facilitate the development of a much needed regional park in this area, as well as allow SD2 to proceed with the request of the voters for a mill levy to help fund a new elementary school on the site. The Zoning Commission conducted a public hearing on April 3, 2007, and recommended approval of the zone change on a 4-0 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 support many of the land use and open space and recreation goals and objectives of the Growth Policy. The proposed zoning will allow the land to be used for

public facilities only, which will serve the recreational and educational needs of the citizens in the surrounding area.

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

Simply rezoning the site to Public will not increase street congestion; development will. As with any development of the property, traffic to and from the site will increase. However, a Traffic Accessibility Study (TAS) will be completed upon site development to identify necessary mitigation measures for the increased traffic flow.

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

This property has public street frontage on Colton Blvd. and 54th St. West. The property is served by the City Fire Department and Police Departments which will soon be located at the new fire station at 54th St. West and Grand Ave. The property will also be served by City water and sewer services when development occurs. 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 will allow the development of a future school and regional park. It will definitely promote health and general welfare of the citizens of the City and County who use these facilities.

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 will allow the development of a future school and regional park. This will provide large amounts of open space and recreational facilities for the surrounding area.

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

No residences or businesses are proposed on the site with the new zoning. It should not provide for undue concentrations of people.

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

All of the public requirements will be provided as necessary, as the site develops.

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

The new zoning will compliment the changing character of the area. In recent years, areas to the south and east have been zoned and subdivided for urban density housing and commercial developments. A regional park and school use will be a perfect added amenity to the area.

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 will conserve the value of the surrounding land and property.
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. A regional park for Billings' west end and the surrounding county area has been planned for many years. This site will become a valuable amenity to the neighborhood as it develops.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

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

STAKEHOLDERS

The Zoning Commission conducted a public hearing on April 3, 2007, and forwarded a positive recommendation to the City Council by a 4-0 vote. There was no public testimony either in favor of or opposition to the proposed zone change.

RECOMMENDATION

The Zoning Commission recommends by a 4-0 vote that the City Council approve Zone Change #803 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 #803



Looking NW from intersection of 54th St. W. and Colton Blvd.
Fill dirt is being stored on the property for future site grading and park features.



View of properties to the south (across Colton Blvd.) in Cottonwood Grove Subdivision.



View looking north along 54th St. W.



View looking south along 54th St. W.

[illegible]

ATTACHMENT C

Zone Change #803

ORDINANCE NO. 07-_____

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION FOR Tract 1, C/S 1815; Tract 1, C/S 1323; Parkland of Yellowstone Meadows- Phase One and Two; Lots 33, 34, 63, and 64 of Sunny Cove Fruit Farms containing approximately 38 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 Tract 1, C/S 1815; Tract 1, C/S 1323; Parkland of Yellowstone Meadows- Phase One and Two; Lots 33, 34, 63, and 64 of Sunny Cove Fruit Farms, containing approximately 38 acres of land and is presently zoned Residential-15000 and Agricultural-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 **Tract 1, C/S 1815; Tract 1, C/S 1323; Parkland of Yellowstone Meadows- Phase One and Phase Two; and Lots 33, 34, 63, and 64 of Sunny Cove Fruit Farms** is hereby changed from **Residential-15000 and Agricultural-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 April 23, 2007.

PASSED, ADOPTED AND APPROVED on second reading May 14, 2007.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY: _____
Cari Martin City Clerk

ZC#803 – Cottonwood Park

(Back to Consent Agenda)

