

**Note: Supporting Documents follow agenda.**

# **CITY OF BILLINGS**

## **CITY OF BILLINGS VISION STATEMENT:**

***“THE MAGIC CITY – A VIBRANT, WELCOMING PLACE WHERE  
PEOPLE FLOURISH AND BUSINESS THRIVES.”***

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## **AGENDA**

**COUNCIL CHAMBERS**

**November 24, 2008**

**6:30 P.M.**

**CALL TO ORDER – Mayor Tussing**

**OATH OF OFFICE CEREMONY – Larry Brewster**

**PLEDGE OF ALLEGIANCE – Mayor Tussing**

**INVOCATION – Councilmember Ronquillo**

**ROLL CALL**

**MINUTES – November 10, 2008**

**November 13, 2008 Special Meeting - pending**

**COURTESIES**

**PROCLAMATIONS**

**ADMINISTRATOR REPORTS – Tina Volek**

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

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

## **CONSENT AGENDA:**

**1. A. Bid Awards:**

**(1) Crime Scene Investigation Vehicle.** (Opened 11/12/08)  
Recommend Emergency Vehicles, Inc., \$298,385.

**(2) W.O. 03-07, Alkali Creek Multi-Use Path-Segment 1B (Main Street Tunnel).** (Opened 9/30/08)(Delayed until 10/27/08)(Delayed until 11/24/08)  
Recommend rejection of all bids received.

**(3) W.O. 04-12, Alkali Creek Road Slope Improvements, Schedule I.** (Opened 10/28/08)(Delayed until 11/24/08). Recommend COP Construction, \$1,762,687.50.

**B. Contract** with Rich & Associates, Inc. for Downtown Billings Parking Study, \$68,500.

**C. Amendment No. 2, W.O. 08-01 2008 Water and Sewer Replacement Project.** Professional Services Contract, Morrison-Maierle, Inc., \$1,108,435.50.

**D. Amendment No. 6, W.O. 03-25 Rimrock Road.** Professional Services Contract, DOWL HKM, \$10,000.

**E. Acknowledging receipt of petition to vacate** Boundary Waters Circle located within Riverfront Pointe Subdivision; Cal Kunkel, owner and petitioner, and setting a public hearing for December 15, 2008.

**F. Approval** of support for Yellowstone County's FEMA PDM Plan update grant application submittal; and **Authorization** for the Mayor to sign letter of support.

**G. Preliminary Plat** of Amended Lots 1-8, Block 2; Lots 1-8, Block 3; and Lots 1-9, Block 4, of Reflections at Copper Ridge Subdivision, located approximately one quarter of a mile northwest of the Molt Road and Rimrock Road intersection; Reflections at Copper Ridge, LLC, owner; Engineering, Inc., agent; conditional approval of the plat and adoption of the Findings of Fact.

**H. Preliminary Plat** of Housing Authority of Billings Subdivision, located on the west side of Lake Elmo Drive north of Uinta Park Drive in Billings Heights; Housing Authority of Billings, owner; Engineering, Inc., agent; conditional approval of the plat and adoption of the Findings of Fact.

**I. Final Plat Approval**

- (1) Superior Homes Subdivision
- (2) Shiloh Crossing Subdivision, Amended Lot 5E, Block 1
- (3) Tierra Yellowstone Industrial Park Subdivision, Amended Lot 1, Block 1A

**J. Payment of Claims**

- (1) October 24, 2008
- (2) October 31, 2008

**REGULAR AGENDA:**

2. **SETTLEMENT AGREEMENT** with Police Officers Hagen, Leonard, and Gauthier. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)
3. **PUBLIC HEARING** approving the Mayor's Committee on Homelessness' recommendation to provide a \$465,000 zero interest, deferred payment loan to Interfaith Hospitality Network for purchase and rehabilitation of two duplex housing units located at 1427 Avenue C. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)
4. **PUBLIC HEARING AND FIRST READING ORDINANCE** expanding the North 27<sup>th</sup> Street Urban Renewal Area – 2008. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)
5. **PUBLIC HEARING ON MODIFIED URBAN RENEWAL PLAN AND FIRST READING ORDINANCE** for the Modified South Billings Boulevard Urban Renewal District. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)
6. (a) **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #851:** A zone change from Residential 9600 to Community Commercial, Residential Multi-Family, Residential Multi-Family Restricted, Residential 6000, Residential 7000, Residential 7000 Restricted, and Public on a 63.89-acre parcel of land legally described as Tracts 1 and 2, Certificate of Survey 2054, generally located on the southeast corner of the intersection of Rimrock Road and 54<sup>th</sup> Street West and known as the Mont Vista Subdivision. Krutzfeldt Ranch, LLC, owner; Tom Llewellyn, agent. Zoning Commission recommends approval, with the exclusion of Community Commercial and Public zoning, and adoption of the determinations of the 12 criteria. (**Action:** approval or disapproval of Zoning Commission recommendation.)  
  
(b) **PUBLIC HEARING FOR SPECIAL REVIEW #870:** A special review to allow multi-family residential uses in a Residential 6000 zoning district within the proposed Mont Vista Subdivision on property legally described as proposed Lots 1-4, Block 4; and Lots 2 and 3, Block 5, generally located on the southeast corner of the intersection of Rimrock Road and 54<sup>th</sup> Street West. Krutzfeldt Ranch, LLC, owner; Tom Llewellyn, agent. Zoning Commission recommends denial. (**Action:** approval or disapproval of Zoning Commission recommendation.)
7. **PUBLIC HEARING AND RESOLUTION** approving a tax incentive for RSP Holdings, LLC, dba Carrie's Quilts and Iron, 1737 King Avenue West, for building remodel, expansion, or reconstruction. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)

8. **PUBLIC HEARING AND RESOLUTION** approving a tax incentive for Golini Real Estate, LLC, dba All American Pharmaceutical, 2376 Main Street, for building remodel, expansion, or reconstruction. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)
9. **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**

*Additional information on any of these items is available in the City Clerk's Office.*

*Reasonable accommodations will be made to enable individuals with disabilities to attend this meeting. Please contact Cari Martin, City Clerk, at 657-8210.*

# A1

**AGENDA ITEM:**



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## **CITY COUNCIL AGENDA ITEM**

**CITY OF BILLINGS, MONTANA**

**Monday, November 24, 2008**

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**TITLE:** Bid Award – Crime Scene Investigation Vehicle

**DEPARTMENT:** Billings Police Department

**PRESENTED BY:** Tim O'Connell, Deputy Chief of Police

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**PROBLEM/ISSUE STATEMENT:** The City has received a Technology Grant from the U. S. Department of Justice, COPS Office, for the purchase of a Crime Scene Investigation (CSI) Vehicle. City Council accepted this grant at their June 9, 2008 meeting. An Invitation for Bid was prepared and a Notice to Bidders was advertised in the Billings Times on October 23 and October 30, 2008 with bid opening on Wednesday, November 12, 2008. Only one (1) bid was received:

1. Emergency Vehicles, Incorporated in the amount of \$298,385.

**FINANCIAL IMPACT:** The amount of the Technology Grant is \$177,707. The balance of \$120,678 will be taken from the Fund 718 drug forfeiture fund.

**RECOMMENDATION**

Staff recommends that Council award the bid for the CSI Vehicle to Emergency Vehicles, Incorporated in the amount of \$298,385.

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

# A2

## AGENDA ITEM:



### CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, November 24, 2008

**TITLE:** W.O. 03-07, Alkali Creek Multi-Use Path—Segment 1B (Main Street Tunnel), Construction Contract Award

**DEPARTMENT:** Public Works

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

**PROBLEM/ISSUE STATEMENT:** This project would provide another segment to the city-wide pedestrian/bike trail system and featured a grade separated crossing of Main Street. It included construction of approximately 610 lineal feet of concrete path, a tunnel under Main Street, and all associated site work (grading, drainage, lighting, signing, planting, etc.). The project location is near the crossing point of Alkali Creek and Main Street. Ultimately, this segment of path would allow the existing paths along Alkali Creek, through Sword's Park, and by METRA Park to be tied together, thus greatly enhancing the City's network of trails. The project was designed by HKM Engineering, with whom the City has a contract for professional services. No bids were received when the project was initially bid July 1, 2008, so the project was broken into two schedules—one for primarily the tunnel work and one for the majority of the path work—for rebidding. Bids were opened for the project September 30, 2008, and action was delayed at the October 14 Council meeting.

**FINANCIAL IMPACT:** The project is being funded by CTEP, TCSP, and some local grants. There is currently \$833,931.00 in the total project budget. \$258,495.00 has been allocated to HKM Engineering for their professional services, leaving \$575,436.00 available.

Bids were opened September 30, 2008, with the following results:

Firm(s)	Schedule I (tunnel)	Schedule II (path)	

<b>Riverside Sand &amp; Gravel</b>		\$2,132,167.00	\$107,198.00	
<b>Knife River Const.</b>		NO BID	\$124,198.00	
<b>Western Municipal Const.</b>		\$1,966,076.00	NO BID	
<b>Don Kelly Construction</b>		\$2,073,461.00	\$221,381.00	
<b>Engineer's Estimate</b>		\$779,561.75	\$117,007.00	

Due to the low bid for Schedule I being so much higher than the available budget, Staff has investigated the availability of additional funds. At the October 27 Council meeting, Staff recommended Council formulate a recommendation related to CTEP funding for presentation at the Policy Coordinating Committee meeting. Council voted to delay action on this recommendation until after the December 1, 2008, work session. Per bidding specifications, the bids for W.O. 03-07 are valid for 60 days after the bid opening, and the City has that same time period to act on the bids. Bids were opened September 30, 2008, so 60 days past then is November 29, 2008. The bids will expire before a funding recommendation is made to the Policy Coordinating Committee, so adequate funding will not be available in the required time frame.

### **RECOMMENDATION**

Staff recommends to reject all bids received for W.O. 03-07, Alkali Creek Multi-Use Path—Segment 1B (Main Street Tunnel).

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

**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, November 24, 2008**

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**TITLE:** W.O. 04-12—Alkali Creek Road Slope Improvements, Construction Contract Award

**DEPARTMENT:** Public Works

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

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**PROBLEM/ISSUE STATEMENT:** The original plan for W.O 04-12 was to reconstruct Alkali Creek Road between Senators Blvd. and Airport Road. In addition to a reconstructed street section, the project was also to include storm drainage, water and sewer mains, a multi-use path, sidewalk and curb & gutter improvements. The first two phases of the project were started in the summer of 2005 and completed in the summer of 2006. These phases encompassed the stretch between Senators and the BBWA Canal siphon crossing near Black Pine Street. The multi-use path constructed during these phases stretches from Alkali Creek Elementary School to Black Pine Street.

During a preliminary design field review in July 2007 for phase 3 (Black Pine to Airport Rd.), a major slope failure was discovered. This failure was quickly corrected, but the failure caused Staff to re-examine the conclusion of a previous geotechnical report done for the affected area. A “second opinion” was received from a different geotechnical firm. The second report, dated December 17, 2007, determined that 385 linear feet of actual failed slopes exist along this stretch of road, which represents over one-fourth of the total stretch (approximately 1,350 linear feet). The recommendation was to fix these failed areas as soon as possible, as they could have a very negative impact to the integrity of Alkali Creek Road.

Amendment No. 6 to the Professional Services Agreement with Kadrmas, Lee & Jackson (KLJ), approved July 28, 2008, includes the design and bidding services for the slope stability improvements. The design was completed for the entire stretch of roadway between Black Pine Street and Airport Road. Due to budget constraints, only those areas that represent the greatest and most imminent danger have been bid at this time to be constructed in 2009. All remaining portions will be constructed in the future when funding is available. The current bid package is broken into separate schedules—Schedule I, improvements to three critical areas west of Morningside Lane, and Schedule II, improvements to one area east of Morningside Lane. The work generally consists of the construction of a soldier pile retaining wall system with lagging and grouted tiebacks,

replacement of guardrail, installation of storm water piping, revegetation of affected areas, and all related work.

This phase of the project has been designed by KLJ, with whom the City has a contract for these professional services. Bids were opened October 28, 2008, and Council delayed action at the November 10 Council meeting.

**FINANCIAL IMPACT:** The project is being funded by Arterial fees and Storm Water funds. The associated FY 2009 CIP has been approved by the Mayor and City Council.

Funding Sources: Arterial Road Improvements (account #845-3186-431-9310)  
Storm Water Funds

Approved Dollar Amount:

Arterial Road Improvements:	\$ 1,000,000.00
Storm Water Funds:	\$ 600,000.00
<b>Spent (and obligated) to date:</b>	<b>(\$ 156,700.00)</b>
Remaining Funding:	\$ 1,443,300.00

Bids were opened October 28, 2008, with the following results:

<b>Firm(s)</b>	<b>Schedule I</b>	<b>Schedule II</b>
Coleman Construction	\$1,897,835.73	\$740,063.75
COP Construction	\$1,762,687.50	\$460,650.00
Western Municipal Construction	\$1,850,330.50	\$560,548.50
Engineer's Estimate	\$1,056,624.50	\$365,913.00

Even though COP's bid for Schedule I greatly exceeds the amount of funding available, Staff has come up with an option of possibly eliminating some large line items of the bid via an initial change order (processed at the same time the Notice to Proceed is issued) that will reduce the contract amount at least \$400,000, thus lowering the contract amount within the budget limits. The eliminated items are not integral to reaching the project goal of improving slope stability, but rather relate to aesthetic features and the City providing a more work-friendly construction site. During discussions with Staff, COP is amenable to these changes and allowing the project to proceed.

## **RECOMMENDATION**

Staff recommends that Council award a construction contract for W.O. 04-12—Alkali Creek Road Slope Improvements, Schedule I only, to COP Construction for \$1,762,687.50.

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



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**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, November 24, 2008**

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**SUBJECT:** Downtown Billings Parking Study Contract**DEPARTMENT:** Administrative Services – Parking Division**PRESENTED BY:** Chris Mallow, Parking Supervisor

**PROBLEM/ISSUE STATEMENT:** The Parking Division budgeted funds in FY09 for an updated Parking Study to be conducted. This Study will determine the availability and utilization of existing downtown parking, to identify the area(s) of highest demand for additional parking and to provide preliminary design and financial analysis for the preferred parking option. The City advertised a Request for Proposals (RFP) on October 9 and 16, 2008. The proposals were received by Staff on October 31, 2008, and reviewed by a selection committee on November 6, 2008. The following proposals were received and reviewed by a selection committee:

**Consultant:**

1. Desman Associates
2. Carl Walker, Inc.
3. Rich and Associates, Inc.
4. Walker Parking Consultants
5. Parking Design Group, LLP.
6. Kimley-Horn and Associates, Inc.

The selection committee eliminated all but Rich and Associates, Inc. during the RFP evaluation process. Project cost was not used as a deciding factor during the selection process.

**ALTERNATIVES ANALYZED:**

- Approve contract with Rich and Associates, Inc.
- Reject all proposals and request new proposals.
- Reject all proposals and cancel the Downtown Parking Study project.

**FINANCIAL IMPACT:**

- The Parking Division budgeted this project as part of the Capital Improvements Plan, at an estimate of \$75,000.00. The full contract amount will be paid by Parking Division reserves.

**RECOMMENDATION**

The selection committee recommends awarding a contract to Rich and Associates, Inc., in the amount \$68,500.00, of based on their evaluation of the proposals on November 6, 2008.

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

**ATTACHMENTS:**

A – Downtown Parking Study contract

## **AGREEMENT**

**THIS AGREEMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, by and between the **CITY OF BILLINGS, MONTANA**, a municipal corporation organized and existing under the laws of the State of Montana, P.O. Box 1178, Billings, Montana 59103, hereinafter referred to as "City," and Rich and Associates, Inc. hereinafter referred to as "Consultant."

In consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree as follows:

**1. Purpose:** City agrees to hire Consultant as an independent contractor to determine the availability and utilization of existing downtown parking, to identify the area(s) of highest demand for additional parking and to provide preliminary design and financial analysis for the preferred parking option, described in the Scope of Work attached hereto as Exhibit "A" and by this reference made a part hereof.

**2. Effective Date:** This Agreement is effective upon the date of its execution and will terminate on April 1<sup>st</sup>, 2009. The parties may extend this agreement in writing prior to its termination.

**3. Scope of Work:** The Consultant shall perform the services outlined in Exhibit A. In performing these services, the Consultant shall at all times comply with all federal, state and local statutes, rules and ordinances applicable. These services and all duties incidental or necessary therefor, shall be performed diligently and completely and in accordance with professional standards of conduct and performance.

**4. Payment:** City agrees to pay the Consultant Sixty Eight Thousand Five Hundred Dollars (\$68,500). Any alteration or deviation from the described work that involves extra costs will be executed only upon written request by the City to Consultant and will become an extra charge over and above the contract amount. The parties must agree upon any extra charges in writing.

**5. Independent Contractor Status:** The parties agree that Consultant is an independent contractor for purposes of this Agreement and is not to be considered an employee of the City for any purpose. Consultant is not subject to the terms and provisions of the City's personnel policies handbook and may not be considered a City employee for workers' compensation or any other purpose. Consultant is not authorized to represent the City or otherwise bind the City in any dealings between Consultant and any third parties.

Consultant shall maintain workers' compensation insurance coverage for all members and employees of Consultant's business, except for those members who are exempted as independent contractors under the provisions of §39-71-401, MCA.

Consultant shall furnish City with copies showing one of the following: (1) a binder for workers' compensation coverage by an insurer licensed and authorized to provide workers' compensation insurance in the State of Montana; or (2) proof of exemption from workers' compensation granted by law for independent contractors.

**6. Indemnity and Insurance:** Consultant agrees to indemnify, defend and save City, its officers and employees harmless from any and all losses, damages, judgments, costs, expenses and liability including reasonable attorneys fees and related litigation expenses arising or resulting from the Consultant's negligent performance of professional services under this Agreement and that of its sub consultants or anyone for whom the Consultant is legally liable. For this purpose, Consultant shall provide City with proof of Commercial General liability insurance issued by a reliable company or companies for personal injury and property damage, in an amount not less than \$750,000 per claim, and in an amount not less than \$1.5 million per occurrence and naming the City as an additional insured. The Consultant shall also provide proof of professional liability insurance is the minimum amount of \$1.5 million per claim. The insurance must be in a form suitable to City.

**7. Compliance with Laws:** Consultant agrees to comply with all current federal, state, and local laws, ordinances, rules and regulations. Consultant agrees to purchase a City business license.

**8. Nondiscrimination:** Consultant agrees that all hiring by Consultant of persons performing this Agreement will be on the basis of merit and qualification and will not discriminate on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin.

**9. Default and Termination:** If either party fails to comply with any condition of this Agreement at the time or in the manner provided for, the other party may, at its option, terminate this Agreement and be released from all obligations if the default is not cured within ten (10) calendar days after written notice is provided to the defaulting party. Said notice shall set forth the items to be cured. Additionally, the non-defaulting party may bring suit for damages, specific performance, and any other remedy provided by law. These remedies are cumulative and not exclusive. Use of one remedy does not preclude use of the others. Notices shall be provided in writing and hand-delivered or mailed to the parties at the addresses set forth in the first paragraph of this Agreement.

**10. Liaison:** City's designated liaison with Consultant is Chris Mallow, Parking Supervisor, and Consultant's designated liaison with City is John Revell, Project Manager.

**11. Governing Law and Venue:** This Agreement shall be construed and enforced in accordance with the laws of the State of Montana. Venue for any suit between

the parties arising out of this Agreement shall be the State of Montana Thirteenth Judicial District Court, Yellowstone County.

**12. Severability:** Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the City and the Consultant, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

**13. Successors and Assigns:** Neither the City nor the Consultant shall assign, transfer or encumber any rights, duties or interests accruing from this Agreement without the written consent of the other.

**14. Ownership; Publication, Reproduction and Use of Material.**

- A. Except as otherwise provided herein, all data, documents and materials produced by the Consultant under this Contract shall be the property of Billings, which shall retain the exclusive right to publish, disclose, distribute and otherwise use, in whole or in part, any such data, documents, or other materials. Exclusive rights shall not be attributed to portions of such materials presently in the public domain or which are not subject to copyright.
- B. Equipment purchased by the Consultant with Contract funds shall be the sole property of Billings, marked and inventoried as such with a copy of the inventory forwarded to Billings.
- C. Should Billings elect to reuse Work products provided under this Contract for other than the original project and/or purpose, Billings will not hold Consultant liable for any damages resulting from Billings's reuse of work products for an unintended purpose. Additionally, any reuse of design drawings or specifications provided under this Contract must be limited to conceptual or preliminary use for adaptation, and the original Consultant's or subcontractor's signature, professional seals and dates removed. Such reuse of drawings and specifications, which require professional seals and dates removed, will be signed, sealed, and dated by the professional who is in direct supervisory control and responsible for adaptation.

**IN WITNESS WHEREOF**, the parties hereto have executed this instrument the day and year first above written.

**CITY OF BILLINGS, MONTANA**

**CONSULTANT (Print Name Above)**

By \_\_\_\_\_

By \_\_\_\_\_

**Ron Tussing, Mayor** Print Name \_\_\_\_\_

Print Title \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
**Cari Martin, City Clerk**

**APPROVED AS TO FORM:**

By \_\_\_\_\_  
**BRENT BROOKS, City Attorney**

## EXHIBIT A

**Purpose:** to determine the availability and utilization of existing downtown parking, to identify the area(s) of highest demand for additional parking and to provide preliminary design and financial analysis for the preferred parking option.

### Phase I- Existing and Future Parking Conditions

**Task 1- Review Existing Data.** Review pertinent parking and traffic studies, master plans, statistical data, annual reports, base maps, etc. provided by the city.

**Task 2- Initial Meeting.** Meet with city officials to clarify study objectives, confirm the study area, define parking analysis zones, and to discuss the work plan and study schedule.

**Task 3- Verification of Parking and Review of Policies.** Verify and breakdown the current parking supply by type, allocation, restrictions and rates. Parking polices will be reviewed to determine if they restrict the maximum usage of the parking supply.

**Task 4- Parking Surveys and Existing Parking Conditions.** Prepare and coordinate parking occupancy surveys to be completed on a bi-hourly basis for the parking within the study area. The data on parking occupancy will be adjusted as necessary to reflect conditions during a normally busy period downtown and compared to the *effective* parking supply. Parking demand ratios will be developed by land use category for the downtown area. Determine parking duration and turnover for all marked on-street and off-street spaces within the study area, including, but not limited to the following:

1. The number of vehicles parking on and off street
2. The average parking duration.
3. The average turnover of each space during the survey period.
4. The number of short-term parkers (3 hours or less) versus long-term parkers (more than 3 hours).
5. The number/percentage of parkers violating time limits.

**Task 5- Interviews.** Interview key property owners, business owners, developers and city staff to determine key parking issues and concerns, determine probable future development activities, and gather their opinions on the best Downtown locations for future parking.

Distribute questionnaires to downtown workers and patrons to determine trip purpose, origin, destination, parking location, walking distance, perceptions of parking, and other parking/transportation characteristics.

**Task 6- Future Parking Conditions.** Parking demand ratios will be used to determine the demand for parking associated with new, planned, and proposed projects and any other changes within the study area. The future demand for parking will be compared to the adjusted supply, parking surpluses and deficiencies calculated, and the best location(s) for parking expansion determined.

**Task 7- Interim Report.** Prepare an interim report detailing existing and future parking conditions for review and comment by city officials.

## Phase II- Site Evaluation and Schematic Design

**Task 1- Evaluation of Parking Expansion Sites.** Various sites for parking will be identified and evaluated by the consultant. Evaluation criteria will include, but not necessarily limited to, the following:

- ◆ Parking Needs
- ◆ Distance to Primary Destinations
- ◆ User Groups Served
- ◆ Size, Current Use and Topography of the Site
- ◆ Parking Efficiencies and Spaces Replaced
- ◆ Site Access and the Intermixing of Vehicles and Pedestrians
- ◆ Visual Impact/Architectural Compatibility/Historic Integrity
- ◆ Shared-Use Capabilities
- ◆ Development Potential of the Site
- ◆ Mixed-Use Possibilities

**Task 2-. Site Selection.** Based on the Task 1 evaluation, up to two preferred sites for parking development will be selected.

**Task 3- Schematic Parking Layouts.** Schematic designs for parking facilities will be developed for each site.

The schematic designs will depict the parking footprint and relationship to the site, number of parking bays, space layout, circulation, entry/exit locations, parking control equipment, accessible spaces, ramping, elevators and stairs (if applicable), and commercial space (if applicable).

**Task 4- Final Designs and Cost Estimate.** Review the plans with client and discuss any modifications to be incorporated into final schematic designs. Provide schematic cost estimates for each design.

**Task 5- Interim Report.** An interim report will be prepared by the consultant outlining all of the above and will include a recommended parking improvement plan.

## Phase III- Financial Feasibility Analysis

**Task 1- Users of Facilities.** Determine the probable hours of operation as this will influence patron characteristics, utilization, and turnover rates. Estimate utilization and turnover for all users of the parking facilities (transients, daily, monthly).

**Task 2- Fee Structure.** Existing private and public parking rates in an area of influence surrounding the facilities will be surveyed and an initial rate structure recommended. The impact of higher/lower rates on utilization will be evaluated.

**Task 3- Operating Method and Costs.** A preferred method of operation will be identified and annual expenses, including labor, utilities, supplies, insurance and maintenance will be determined for each facility.

**Task 4- Mixed-Use Evaluation.** Evaluate the potential for including retail or other commercial space within the parking facilities. Revenue projections for the space will be included in the evaluation.

**Task 5- Size of Bond Issue.** In conjunction with the city, determine the terms and conditions of facility financing.

**Task 6- Ten-Year Projection of Project Revenues and Expenditures.** Develop a ten-year projection of project revenues and expenses for each facility. Debt service coverage ratios will be calculated each year, and a report summarizing the financial feasibility of the facilities.

**Task 7- Additional Revenues.** If it is determined the projects are not self-sustaining, additional revenue sources to support debt retirement will be examined.

**Task 8- Interim Report.** An interim report will be prepared by the consultant outlining all of the above and will include a recommended parking improvement plan.

## Phase IV- Final Report and Presentation of Study Findings

**Task 1- Draft Final Report.** A draft final report will be prepared and will include a priority plan for the development of the parking facilities. Consultant and client will meet to discuss findings and recommendations in the report.

**Task 2- Final Report.** A final report will be prepared detailing the parking improvement plan. All issues discussed in the review meeting will be incorporated into the final report. 20 copies of the report will be issued to the city, as well as a CD or other storage medium containing the full report and recommendations.

**Task 3- Presentation of Study Findings.** Consultant will make a final presentation to the City Council. A PowerPoint presentation will be developed to aid in the presentation of study findings.

**AGENDA ITEM:****CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, November 24, 2008**

**TITLE:** WO 08-01; Contract for Professional Engineering Services, 2008 Water and Sewer Replacement Project, Contract Amendment No. 2

**DEPARTMENT:** Public Works - Engineering Division

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

**PROBLEM/ISSUE STATEMENT:** Mayor and Council are asked to consider authorizing Amendment No. 2 to the City's Professional Services Contract with Morrison Maierle, Inc. to enable additional design and construction contract administration services to be performed on the 2008 Water and Sewer Replacement Project. Engineering work performed under this amendment constitutes work that would otherwise be sought for approval under a 2009 Water and Sewer Replacement Project. Morrison Maierle, Inc. was selected in 2006 to perform these services according to the City's Request for Proposals and Consultant Selection policy for a period of up to three years.

**ALTERNATIVES ANALYZED:**

1. Authorize the Mayor to sign a contract amendment with Morrison-Maierle, Inc. as set forth in this staff memorandum.
2. Do not authorize the Mayor to sign a contract amendment with Morrison-Maierle, Inc. as set forth in this staff memorandum.

**FINANCIAL IMPACT:** Funding for this project has been approved in the CIP projects – Water Main Replacement (FY09 \$4 million) and Sanitary Sewer Replacement (FY09 \$4 million). The sanitary sewer portion of this construction project will be backed in its entirety by a State Revolving Fund loan. The water portion of the project will be paid for with water funds.

Amendment No. 2 would *increase* the current engineering services contract amount of \$978,415.50 by \$1,108,435.00 to a new total contract amount of \$2,086,886.50.

**RECOMMENDATION**

Staff recommends that Council authorize the Mayor to sign Amendment No. 2 to the professional services contract with Morrison Maierle in the amount of \$1,108,435.00. This increase would bring the total contract price from its previous amount of \$978,415.50 to a not to exceed value of \$2,086,886.50.

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

**ATTACHMENT**

A.      Amendment No. 2 (5 pages)

## **INTRODUCTION**

This project would replace water and sanitary sewer lines in various areas of Billings. The water and sewer main replacement program is a long-standing annual program that was developed to maintain the integrity of the utility lines serving the residents of Billings.

## **PROCEDURAL HISTORY**

Completed Items:

- Morrison-Maierle, Inc. was chosen by a selection committee in 2006 to perform engineering services on City water and sewer replacement projects for up to three consecutive years; this selection was completed utilizing the Request for Proposals and Consultant Selection policy.

Items to be Completed:

- Council authorizes a contract amendment with Morrison Maierle, Inc. to complete the design and perform construction administration of the project once it is bid and awarded.

## **BACKGROUND**

Due to unforeseen delays in the process of receiving project approval under the State Revolving Fund Program during the spring and summer of 2008, construction of the 2008 Water and Sewer Replacement Project was delayed. Under Contract Amendment No. 2., an additional 15,525 linear feet of sewer main and 5,250 feet of water main will be designed for construction under what would otherwise constitute a 2009 Replacement Project. Design work completed under the delayed 2008 Project as well as work to be designed under Amendment No. 2 (2009 Projects) will be bid for construction in late February to early March 2009.

The 2008 Water and Sewer Replacement Projects as amended would include almost 27,000 linear feet of sewer main and 11,900 feet of water main design. It would include about 23,400 feet of sewer main and 16,100 feet of water main construction. Construction of approximately 5,900 feet of sewer main that was designed under the original contract will be delayed until right-of-way and easement issues are researched and resolved.

## **ALTERNATIVES ANALYSIS**

If the annual rehabilitation project is not constructed, the City runs the risk of failed utility lines and interruption of services to the residents of Billings.

## **RECOMMENDATION**

Staff recommends that Council authorize the Mayor to sign Amendment No. 2 to the professional services contract with Morrison Maierle in the amount of \$1,108,435.00. This increase would bring the total contract price from its previous amount of \$978,415.50 to a not to exceed value of \$2,086,886.50.

**ATTACHMENT**

A.      Amendment #2 (5 pages)

**AMENDMENT NO. 2**  
**TO**  
**PROFESSIONAL SERVICES**  
**W.O. 08-01, 2008 CITY OF BILLINGS WATER AND SEWER**  
**REPLACEMENT PROJECT**

THIS AGREEMENT, made and entered into on November 13, 2007, by and between the following:

CITY OF BILLINGS, a Municipal Corporation,  
Billings, Montana 59103,  
Hereinafter designated the City

and

Morrison-Maierle, Inc.  
315 N. 25<sup>th</sup> St., Suite 102  
Billings, Montana 59101  
Hereinafter designated the Consultant

**WITNESSETH:**

WHEREAS, the City and Consultant have entered into a contract dated November 13, 2007 for Consultant to provide engineering services to the City for Work Order 08-01, 2008 City of Billings Water and Sewer Replacement Projects and;

WHEREAS, the City has need for additional engineering services, and;

WHEREAS, the City has authority to contract for consulting engineering, and;

WHEREAS, the Consultant represents that he is qualified to perform such services, is in compliance with Montana Statutes relating to the registration of professional engineers and is willing to furnish such services to the City;

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein, or attached and incorporated herein, the Parties hereto agree to amend the original contract, as previously amended, as follows:

- 1) Owner-requested addition of design and construction administration services for 6,875 linear feet of water main construction and 15,525 linear feet of sewer main construction (2009 Rehab Project). Total increase = \$1,121,600.
- 2) Delete 3,495 linear feet of sewer main construction administration from the 2008 work. Total decrease = \$60,600.

Page 1 of 3

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- 3) Update contract costs to accommodate hourly rate increases for work that was scheduled to be performed in 2008, but will now be performed in 2009. Total increase = \$24,550.
- 4) Separate a portion of the Orchard Avenue water main work for inclusion into another unrelated contract. Total increase = \$5,472
- 5) Added costs to dovetail the existing 2008 project into the 2009 documents and bid as a comprehensive package in up to four (4) prime contracts (primary schedules). Total increase = \$17,413.

**Amend Section 3.C of the Agreement to read:**

This Contract shall terminate at midnight, March 31, 2010.

**Amend Section 1.K. of Appendix A to read:**

Name a Task Director who shall be the liaison between Billings and the Engineer. For this project, the Task Director designated for the Engineer is Casey Hanson, P.E.

**Amend Section 3 of Appendix A to read:**

The Engineer shall perform the work outlined within this agreement that includes the completion of design and construction administration phase services for Utility Replacement and Rehabilitation; Engineer shall assist Billings in identifying areas where utility alignments best serve the needs of the project area. Engineer will coordinate work efforts with other related or unrelated improvement projects expected to be completed concurrently in the project area.

**2008 Project**

Design – 11,400 lineal feet of sewer main and 6,650 lineal feet of water main

Construction Administration – 8,905 lineal feet of sewer main and 12,500 lineal feet of water main

**2009 Project**

Design – 15,525 lineal feet of sewer main and 5,250 lineal feet of water main

Construction Administration – 15,525 lineal feet of sewer main and 6,875 lineal feet of water main

**Amend Section 1.A. of Appendix B to read:**

- A. For services rendered prior to construction, Appendix A, the Engineer shall be paid based on the actual time accrued, but not to exceed \$2,086,886.50; based on the following tasks:

1. Survey: \$ 177,231.00

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2. Materials Testing and Geotechnical:	\$ 104,000.00
3. Design:	\$ 840,217.00
4. Construction Administration:	\$ 926,068.50
5. Closeout Services:	\$ 44,370.00

TOTAL INCREASE THIS AMENDMENT: \$1,108,435.50.

**Replace the schedule of fees in Appendix D with Attachment #1.**

**Add the following to Appendix E immediately below schedule Item 3:**

Based on a notice to proceed with this amendment no later than November 24, 2008, the completion date for the Engineer's work through final design for the 2009 project shall be:

1. Preliminary Engineering Services (30% Design):	<u>January 2, 2009</u>
2. Preliminary Engineering Services (70% Design):	<u>January 23, 2009</u>
3. Final Engineering Services (100% Design):	<u>February 13, 2009</u>

All other terms and conditions of the contract to which this amendment applies shall remain in full effect.

CONSULTANT - Morrison-Maierle, Inc.

NAME: Carl J. Anderson, P.E.

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

TITLE: Vice-President

DATE: \_\_\_\_\_

CITY OF BILLINGS, MONTANA

BY: \_\_\_\_\_  
Mayor, City of Billings

DATE: \_\_\_\_\_

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**MORRISON-MAIERLE, INC.**  
**STANDARD BILLING RATES SCHEDULE**

RATES EFFECTIVE THROUGH APRIL 30, 2009

PROFESSIONAL SERVICES	STANDARD RATE	OVERTIME RATE
Principal:	\$180.00	\$180.00
Engineer:		
Supervising Engineer III	\$153.00	\$153.00
Supervising Engineer II	136.00	136.00
Supervising Engineer I	123.00	123.00
Senior Engineer II	116.00	116.00
Senior Engineer I	107.00	107.00
Design Engineer II	97.00	97.00
Design Engineer I	90.00	90.00
Staff Engineer	82.00	82.00
Engineer Intern	74.00	74.00
Scientist:		
Senior Environmental Scientist	\$116.00	\$116.00
Environmental Scientist	92.00	92.00
Environmental Professional II	76.00	76.00
Environmental Professional I	62.00	62.00
Environmental Technician	52.00	78.00
Senior Geologist	132.00	132.00
Geologist II	116.00	116.00
Geologist I	92.00	92.00
Staff Geologist	72.00	72.00
Engineering Technician:		
Senior Engineering Technician	\$97.00	\$97.00
Engineering Technician II	86.00	86.00
Engineering Technician I	73.00	73.00
Technician III	65.00	97.50
Technician II	51.00	76.50
Technician	42.00	63.00
Resident Project Representative II	\$95.00	\$95.00
Resident Project Representative I	84.00	84.00
Expert Witness	Quote per Job	
Clerical, Graphics, and Reproduction:		
Administrative Manager	\$68.00	\$68.00
Administrative Coordinator	57.00	85.50
Administrative Specialist II	52.00	78.00
Administrative Specialist I	46.00	69.00
Administrative Technician	37.00	55.50
IS Technician	81.00	81.00
Printer	67.00	100.50
Graphics Technician	67.00	100.50
SURVEYING SERVICES	STANDARD RATE	OVERTIME RATE
Senior Survey Manager	\$124.00	\$124.00
Survey Manager	117.00	117.00
Land Surveyor III	90.00	90.00
Land Surveyor II	81.00	81.00
Land Surveyor I	75.00	75.00
Survey Technician III	66.00	99.00
Survey Technician II	57.00	85.50
Survey Technician I	41.00	61.50
Survey Crew:		
3-Person Crew	Quote per Job	Quote per Job
2-Person Crew	Quote per Job	Quote per Job

**MORRISON-MAIERLE, INC.**  
**STANDARD BILLING RATES SCHEDULE**

RATES EFFECTIVE THROUGH APRIL 30, 2009

<b>EQUIPMENT RATES</b>	
Company Vehicle: highway miles - Pickups/SUV/4WD highway miles - Sedans on-site mileage	\$.70/mile \$.55/mile .55/mile plus 5.00/hour Prevailing Federal Rate
Private Vehicle ATV/Snowmobile	35.00/day
Electronic Distance Measuring	5.00/hr, 25.00/day
Total Station	10.00/hr, 55.00/day
Nuclear Densometer	10.00/hr, 35.00/day, 650.00/mo.
Traffic Counter	50.00/day
RTK/Static GPS Systems:	Quote per Job
<b>HYDROLOGICAL EQUIPMENT</b>	
Blue White Flow Meter	20.00/day, 50.00/wk
Checkvalve Pump (Brainard-Kilman)	10.00/day
Combustible Gas Indicator, Explosimeter	45.00/day, 130.00/wk, 400.00/mo
Conductivity Meter	15.00/day
Dissolved Oxygen Meter	20.00/day
Hermit Data Logger/Probe	100.00/day, 400.00/wk
MiniTroll Data Logger	80.00/day, 260.00/wk
Oil/Water Interface Well Probe	40.00/day, 150.00/wk
PH Meter	15.00/day
PH/Temp/Conductivity Meter	25.00/day
Photo-Ioniz. Detector (HNU)	85.00/day, 250.00/wk, 800.00/mo
Stream Flow Meter	25.00/day
Submersible Pump (Redi Flo 2)	155.00/day
Turbidity Meter	25.00/day
Well Bailer 2" Stainless Steel	5.00/day
Well Bailer 4" PVC	5.00/day
Well Bailing Unit, Gas Powered	100.00/day
Well Probe, 500 Ft. with Temperature Sensor	50.00/day, 150.00/wk
Well Probe, SINCO 300 Ft.	15.00/day
<b>MISCELLANEOUS EXPENSE</b>	
Lodging	Current Rates
Meals	25.00/day
Technology and Communications	4.50 per labor hour
Copier Reproduction (Reduced rates for volume copying)	.10/page
Prints (Blue, Black, Brownline)	.10/sq.ft.

Materials and other direct costs will be invoiced at current rates plus a 10% handling fee. Included as direct costs are the following:

- \* Approved employee meals, lodging, transportation
- \* Premium delivery service (UPS, Federal Express, etc.)
- \* Field and office supplies
- \* Premiums for Special Insurance, Performance Bonds, etc.
- \* Other out-of-pocket expenses
- \* Consultants

The cost of Professional Liability Insurance coverage is included in the hourly rates of personnel.

**D**

**AGENDA ITEM:**



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**CITY COUNCIL AGENDA ITEM**

**CITY OF BILLINGS, MONTANA**  
**Monday, November 24, 2008**

---

**TITLE:** Amendment #6 to Professional Services Contract for WO 03-25  
Rimrock Road

**DEPARTMENT:** Public Works/Engineering

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

---

**PROBLEM/ISSUE STATEMENT:** The Urban Highway Pilot Involvement Program is a collaboration between the City of Billings and the Montana Department of Transportation to construct an Urban System project. The project that is being constructed is the widening of Rimrock Road between Shiloh Road and 54<sup>th</sup> Street West. Amendment #6 is to allow HKM to be available during construction to answer design questions. There is approximately \$31,000 unspent on HKM's contract, and HKM has been billing on this unspent money for construction for design questions. The Montana Department of Transportation has asked that the city complete a contract amendment instead of a scope of work amendment.

**FINANCIAL IMPACT:** The professional services contract with HKM Engineering, Inc. was approved at the July 12, 2004, City Council Meeting for the amount of \$364,986. Per the Rimrock Road Urban Highway City State Agreement, the City is obligated to pay 13.42% of the professional services contract.

	Amount	City Share
Original Contract	\$364,986.00	\$ 48,981.12
Amendment #1	\$ 39,199.00	\$ 5,260.50
Amendment #2	\$ 33,994.00	\$ 4,561.99
Amendment #3	\$ 29,023.00	\$ 3,894.89
Amendment #4	\$ 40,920.00	\$ 40,920.00
Amendment #5	\$ 32,243.00	\$ 4,327.01
Amendment #6	<u>\$ 10,000.00</u>	<u>\$ 1,342.00</u>
Total	\$550,365.00	\$109,287.50

**RECOMMENDATION**

Staff recommends that Council approve Amendment #6 in the amount of \$10,000.00 to the professional services contract for WO 03-25 with HKM.

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

**ATTACHMENT**

A. Amendment #6 to Professional Services Contract with HKM

**AMENDMENT NO. 6**  
**TO**  
**CONTRACT FOR PROFESSIONAL ARCHITECTURAL AND**  
**ENGINEERING SERVICES**  
**CITY OF BILLINGS WORK ORDER 03-25**  
**RIMROCK ROAD**

THIS AGREEMENT made and entered into on November 24, 2008 by and between the following:

**CITY OF BILLINGS, a Municipal Corporation**  
**Billings, Montana 59103**  
Hereinafter designated the City

And

**DOWL HKM**  
**222 N. 32<sup>nd</sup> Street, Suite 700**  
**Billings, Montana 59101**  
Hereinafter designated the Contractor

**WITNESSETH:**

WHEREAS, the City and Contractor have entered into a contract dated July 12, 2004, for Contractor to provide engineering services to the City for Work Order 03-25, Rimrock Road, and:

WHEREAS, the City has need for additional engineering services, and;

WHEREAS, the Contractor was selected to perform engineering services for a period determined by the Montana Department of Transportation, and;

WHEREAS, the City has need for engineering services associated with the reconstruction of Rimrock Road, and;

WHEREAS, the City has authority to contract for consulting engineering services, and;

WHEREAS, the Contractor and the Contractor's Subconsultant represent that they are qualified to perform such services, is in compliance with Montana Statutes relating to the registration of professional engineers and is willing to furnish such services to the City;

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein, or attached and incorporated herein, the Parties hereto agree as follows:

Appendix B, Section 3 Scope of Work. Add the following:

**Construction Engineering**

Provide engineering support services during construction as requested to address questions regarding the design package. This additional service is limited to the amount defined in Appendix C, Section 1.D, and includes interpretation of the design plans and field visits. Additional services beyond the defined amount and scope can be provided on a time and material basis, or through an additional contract amendment.

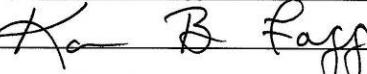
Appendix C, Section 1 Payments for Basic Services, item B. Add the following:

- D. For additional services related to Amendment No. 6, the Engineer shall be paid an additional **Ten Thousand and No/100 Dollars (\$10,000.00)** for construction engineering support.

All other terms and conditions of the contract to which this amendment applies shall remain in full effect.

CONSULTANT

NAME: Karen B. Fagg

BY: 

TITLE: Vice - President

DATE: 10-29-08

CITY OF BILLINGS, MONTANA

NAME: \_\_\_\_\_

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

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, November 24, 2008**

---

**TITLE:** Acknowledge Receipt of Petition to Vacate Boundary Waters Circle and Set a Public Hearing

**DEPARTMENT:** Public Works/Engineering

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

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**PROBLEM/ISSUE STATEMENT:** Cal Kunkel, owner of the property fronting Boundary Waters Circle, has petitioned to vacate Boundary Waters Circle located within Riverfront Pointe Subdivision. All of this land and the street are undeveloped. The street was originally dedicated with Riverfront Point Subdivision but not developed as of yet. Mr. Kunkel is proposing to develop the area into a condominium complex with a private street. The total amount of right of way to be vacated is 27,697 square feet.

**ALTERNATIVES ANALYZED:**

1. Approve acknowledgement of petition to vacate the above-mentioned right-of-way and set a public hearing for December 15, 2008.
2. Do not approve acknowledgement of petition.

**FINANCIAL IMPACT:** Attached is a letter from Mr. Kunkel's agent requesting that the right of way be vacated at no charge to the developer. Also attached is a letter from Blaine Poppler establishing the value of the right of way proposed to be vacated at \$15,885.

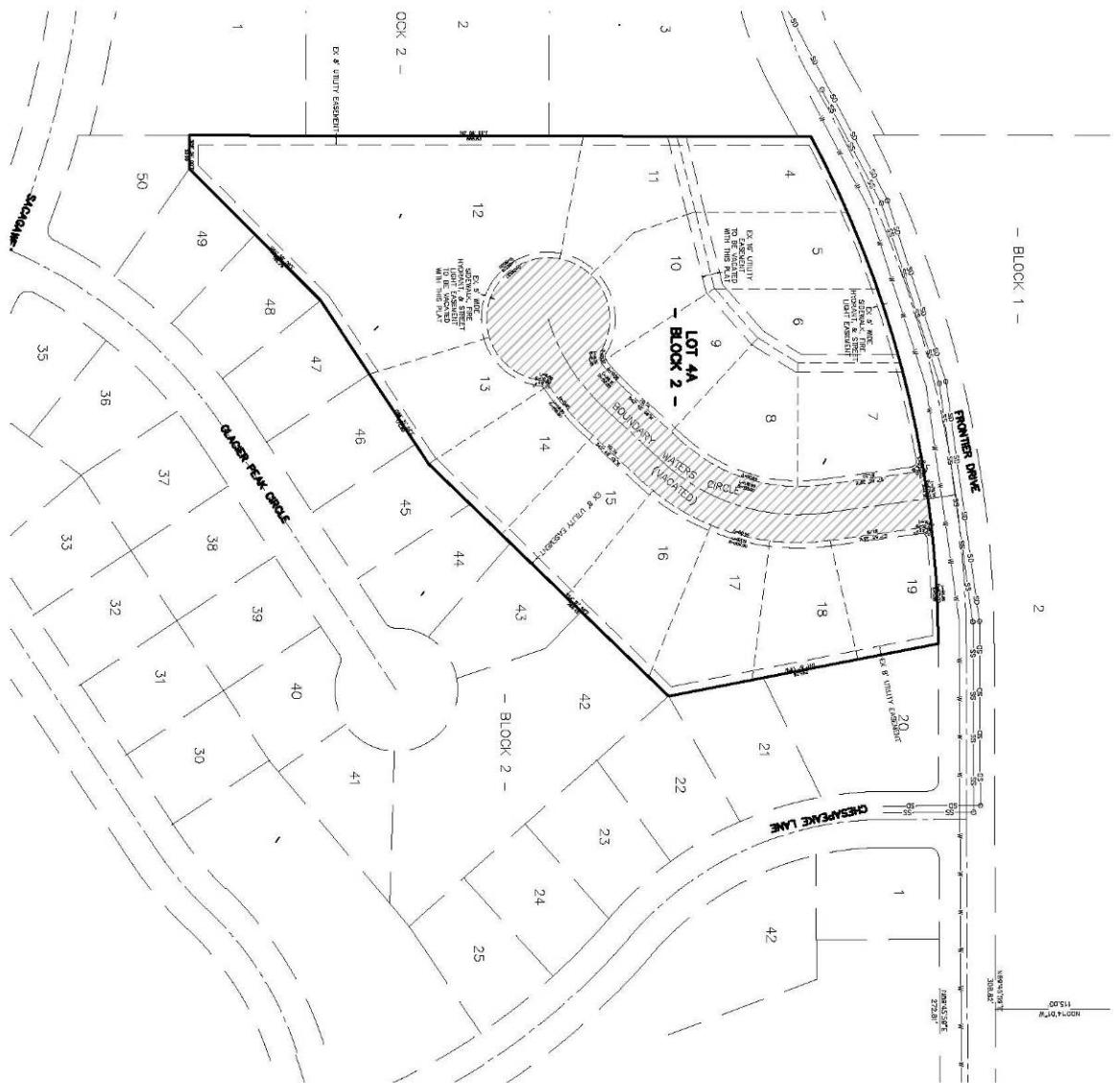
**RECOMMENDATION**

Staff recommends that Council acknowledge the receipt of petition to vacate Boundary Waters Circle and set a public hearing for December 15, 2008.

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

**ATTACHMENTS:**

- A. Map Depicting Areas to be Vacated
- B. Letter from Marshall Phil
- C. Letter from Blaine Poppler





2110 Overland Avenue, Suite 119B  
Billings, MT 59102  
Work: 406-294-2294  
Fax: 406-294-2295

October 31, 2008

Chris Hertz  
City of Billings Engineering  
2224 Montana Avenue  
Billings, MT 59105

Re: Right-of-Way Vacation for Boundary Waters Circle

Dear Chris:

In the sale of the land, it was understood by both parties that the road would be vacated and private utilities and roadways would be built within the property. We have been informed that if the original landowner requested the vacation of the right-of-way then the cost to do so would be set at zero. This vacation was agreed to by both parties in the sale of Lots 4-19, Block 2, Riverfront Pointe Subdivision and as such is being requested by the original owner and the current owner. The applicant is therefore requesting the value of the right-of-way be placed at zero dollars.

The road to the north of this property is Frontier Drive and all of the right-of-way improvements to that street are not yet installed. The improvements to the subdivision all lie to the south of this part of the subdivision. The right-of-way and land we are discussing is essentially vacant alfalfa fields.

This project will remove several hundred feet of roads and utilities that would be maintained by the City and place the maintenance on the landowner, reducing long-term costs to the City.

We are asking that you consider the nature of the land sale and vacant land use in your consideration for the zero land value of this right-of-way.

Sincerely,

Marshall Phil

[www.blueline-eng.com](http://www.blueline-eng.com)



November 12, 2008

Blaine A. Poppler  
1215 24<sup>th</sup> West  
Billings, MT 59102  
406-869-0565 Direct  
406-671-0399 Cell  
blaine@cbthebrokers.com

To Chris Hertz  
City of Billings Engineering  
RE: value of vacated street.

Dear Mr. Hertz:

This Tract of land on Mulowney Lane was purchased for \$25,000 per acre. A similar tract just south of this property (Josephine Crossing) reportedly was purchased for \$22,500 per acre. These are the best comparable values to apply to the subject vacated Boundary Waters Circle land (approx 27,679 sq ft). This property has no frontage on Mulowney Lane, therefore it is not appropriate to add any value for size. With no other usable function of this particular tract I would place the value at \$25,000 per acre or \$15,885 dollars.

Sincerely,

A handwritten signature in black ink that reads "Blaine A. Poppler".

**AGENDA ITEM:****CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, November 24, 2008**

---

**TITLE:** Support for FEMA Grant Application for County Pre-Disaster Mitigation Plan Update

**DEPARTMENT:** Planning and Community Services Department

**PRESENTED BY:** Wyeth Friday, AICP, Planning Division Manager

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**PROBLEM/ISSUE STATEMENT:** Yellowstone County is seeking a Federal Emergency Management Agency (FEMA) grant to fund a required update to the Yellowstone County Pre-Disaster Mitigation Plan (PDM Plan). The PDM Plan must be updated every five years to remain current with State and Federal requirements to ensure the County is eligible to apply for federal grants and emergency funding in the event of a natural or manmade disaster in the City of Billings or anywhere else in Yellowstone County. As a component of the update to the PDM Plan, a mitigation feasibility study is being proposed to address the flood hazard areas identified in West Billings by the recent West Billings Flood Hazard Mitigation Study. The FEMA Grant would be for up to \$400,000 in federal Funding and \$100,000 in local matching funding to complete the PDM Plan update. The \$100,000 in local funding may be as in-kind contributions or in cash. The County is currently proposing to leverage a \$100,000 Department of Natural Resources and Conservation (DNRC) Renewable Resource Grant and/or in kind contributions of labor and resources to make the local match. The DNRC grant has already been submitted for consideration and will be decided during the 2009 Montana Legislative Session.

**ALTERNATIVES ANALYZED:** If the City does not support the County's grant application for the County PDM Plan update it may reduce the chances for the County to secure these grant funds. The PDM Plan update is needed to enable the City and County to be eligible for federal grant funds for studies and projects.

**FINANCIAL IMPACT:** The City is not committing any direct cash funding by supporting this application. Depending on award of the DNRC grant for the \$100,000 local match, the City might contribute staff time and resources toward completion of the PDM Plan update. If the grant is awarded and City staff time is needed, the City Council will be presented with information and a request to provide in-kind match, and may decide at that time at what level it wishes to participate.

**RECOMMENDATION**

Staff recommends that the City Council support the FEMA PDM Plan update grant application submittal by the County and approve the Mayor signing the attached letter of support for the grant application.

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

**ATTACHMENT**

- A. Letter of Support for FEMA PDM Grant Application

November 24, 2008

Jim Kraft, Director  
Yellowstone County Disaster and Emergency Services  
Room 312, County Courthouse  
217 North 27<sup>th</sup> Street  
Billings, MT 59101

RE: FEMA Grant for Yellowstone County PDM Plan Update

Dear Jim Kraft,

It is our understanding that Yellowstone County intends to apply to the Federal Emergency Management Agency for a Hazard Mitigation Grant to update the Yellowstone County Pre-Disaster Mitigation Plan (PDM Plan). The purpose of this grant is to complete the required update to the PDM Plan that is required every five years. As a component of this PDM Plan update, the grant also will provide a West Billings Flood and Stormwater Mitigation Study to provide specific mitigation strategies and feasibility for mitigating flood and storm water impacts to West Billings. The City Council and I support this grant application for the numerous benefits resulting from this plan update, specifically including property protection and hazard management and mitigation in the community.

Previous studies conducted by the Montana Bureau of Mines and Geology on the characteristics of groundwater in this area, as well as a recent flood hazard study prepared for Yellowstone County, indicate that existing and future development can be negatively impacted by groundwater levels and flooding. The component of this PDM Plan update to jointly mitigate the flood and stormwater hazards in West Billings by developing a feasible engineering solution demonstrates remarkable foresight to address an eminent problem.

The City Council and I are very aware of the rapid development in the City and County and the natural and manmade hazards that existing and new development is exposed to in some areas of the community. Specifically, the flood hazard study prepared by Yellowstone County in the West Billings area indentified significant flood and stormwater hazards with collection of new data and with new analysis. As this area grows, there is an increased risk to property from flooding. Natural drainages in the area were smoothed over by agricultural activity and periodic flooding is shallow, but wide-spread. The proposal for a combined solution for both updating the County-wide PDM Plan and adding this important West Billings Flood and Stormwater Mitigation Study as a component of the PDM Plan is an economic and efficient approach to these problems.

The City of Billings appreciates the opportunity to support this grant application to update the Yellowstone County PDM Plan. We look forward to coordinating with you in the future if these grant funds are secured.

Mayor Ron Tussing

**AGENDA ITEM:****CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, November 24, 2008**

**TITLE:** Preliminary Plat of Amended Lots 1-8, Block 2; Lots 1-8, Block 3; Lots 1-9, Block 4, Reflections at Copper Ridge Subdivision

**DEPARTMENT:** Planning and Community Services

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

**PROBLEM/ISSUE STATEMENT:** On September 2, 2008, the subdivider applied for preliminary major plat approval for the Amended Reflections at Copper Ridge Subdivision. The subdivider is proposing to rearrange lot lines for 25 lots within the existing subdivision to create 10 additional lots for a total of 35 lots. The subject property is located approximately a quarter of a mile northwest of the intersection of Molt Road and Rimrock Road, is zoned Residential 7000 (R-70), and is proposed for single-family residences. The owner is Reflections at Copper Ridge, LLC and the agent is Engineering, Inc. The Planning Board conducted a public hearing for this application on October 28, 2008, and is forwarding a recommendation of conditional approval to the City Council.

**ALTERNATIVES ANALYZED:** In accordance with state law, the City Council has 60 working days to act upon this major plat; the 60 working day review period for the proposed plat ends on December 2, 2008. State and City subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated. Within the 60 day review period, the City Council is required to:

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

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

**RECOMMENDATION**

The Planning Board recommends that the City Council conditionally approve the preliminary plat of Amended Lots 1-8, Block 2; Lots 1-8, Block 3; Lots 1-9, Block 4,

Reflections at Copper Ridge Subdivision and adopt the Findings of Fact as presented in the staff report.

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

**ATTACHMENTS**

- A: Plat
- B: Mayor's Approval Letter
- C: Findings of Fact

## **INTRODUCTION**

On September 2, 2008, the subdivider applied for preliminary major plat approval for the Amended Reflections at Copper Ridge Subdivision. The subdivider is proposing to rearrange lot lines for 25 lots within the existing subdivision to create 10 additional lots for a total of 35 lots. The subject property is located approximately a quarter of a mile northwest of the intersection of Molt Road and Rimrock Road, is zoned Residential 7000 (R-70), and is proposed for single-family residences.

## **PROCEDURAL HISTORY**

- The subject property was annexed into the City of Billings in May of 2002.
- The subject property was rezoned from Residential 9600 (R-9600) to Residential 7000 (R-7000) in December of 2004 (Zone Change #744).
- Copper Ridge Subdivision, First Filing, located to the west of the subject property, was approved by the City Council on September 12, 2005.
- Copper Ridge Subdivision, Second Filing, also located to the west of the subject property, was approved by the City Council on December 12, 2005.
- Copper-Falcon Subdivision, a minor subdivision that splits the ownership between Reflections at Copper Ridge (on the west) and Falcon Ridge Estates Subdivision, 2nd Filing (on the east), was approved by the City Council on December 12, 2005.
- Reflections at Copper Ridge Subdivision was filed with the Clerk and Recorder on September 27, 2007.
- A pre-application meeting to discuss the proposed major plat was conducted by staff on August 14, 2008.
- An application for preliminary plat approval was received by the Planning Division on September 2, 2008.
- The department review meeting was conducted on September 18, 2008.
- The Planning Board conducted the Plat Review on October 15, 2008.
- The Planning Board conducted the Public Hearing on October 28, 2008, and forwarded a recommendation of conditional approval to the City Council.
- The City Council will vote to approve, conditionally approve, or deny the plat based on the Planning Board's recommendation on November 24, 2008.

## **BACKGROUND**

The subject property is bordered on the north by the Burlington Northern Railroad right-of-way and the Rimrocks, on the south by agricultural land and single family residences within Sunny Cove Fruit Farms Tracts, on the west by developing land within Copper Ridge Subdivision, First and Second Filings, and on the east by developing land within Falcon Ridge Estates and Falcon Ridge Estates, Second Filing.

General location:

One-quarter mile northwest of the intersection of Molt Road and Rimrock Road.

Legal Description:

Amended Lots 1-8, Block 2; Lots 1-8, Block 3; Lots 1-9, Block 4, Reflections at Copper Ridge Subdivision

Subdivider:	Reflections at Copper Ridge, LLC
Owner:	Same
Engineer and Surveyor:	Engineering, Inc.
Existing Zoning:	R-70
Existing land use:	Vacant
Proposed land use:	Single-Family Residences and Twin Homes
Gross area:	8.24 acres
Net area:	8.05 acres
Proposed number of lots:	35 (25 original and 10 additional)
Lot size:	Max: 13,524 square feet Min.: 7,026 square feet
Parkland requirements:	Parkland dedication for the entire subdivision was met by the original subdivision.

### **ALTERNATIVES ANALYSIS**

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

### **RECOMMENDED CONDITIONS**

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

1. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
2. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of Yellowstone County, and the laws and Administrative Rules of the State of Montana.

## **VARIANCES**

The following variances were approved with the original subdivision. The streets have been constructed in accordance with the original approval. No new variances are being requested for this amended plat:

A variance to permit 50-feet of right-of-way for the internal streets, where Section 23-601(k), BMCC, requires 60-feet of right-of-way for local residential streets. Engineering staff is supportive of this variance, as a 50-foot width is adequate to accommodate the proposed traffic generation for the subdivision. Similar variances have been approved by the City Council, provided that 5-foot easements for sidewalks, street lights, and fire hydrants are provided on both sides of the right-of-way. These easements have been depicted on the plat. The proposed variance will not be detrimental to the public, will not cause an increase in public costs, and will not create any nonconformities with the zoning regulations.

A variance to permit 34-feet of back of curb to back of curb width for local residential streets, where Section 23-601(k), BMCC, requires 37-feet. Engineering, Fire, and Planning staff are supportive of this variance, as the proposed width is adequate to accommodate emergency vehicles and vehicular traffic generated for this subdivision. Similar variances have been approved by the City Council, specifically when a reduced right-of-way width is requested. The proposed cove design will promote more of a neighborhood feel by lessening the width of asphalt and in many cases lots will maintain longer driveways, which will limit the need for on-street parking. The proposed variance will not be detrimental to the public, will not cause an increase in public costs, and will not create any nonconformities with the zoning regulations.

## **STAKEHOLDERS**

A public hearing is not scheduled for the City Council meeting; however nearby property/business owners may attend the City Council meeting. The Planning Division has received no public comments or questions regarding the proposed subdivision. The subdivider and his representative were present at the Planning Board Public Hearing. There were no public comments received at the hearing aside from the subdivider and his representatives.

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

The subdivision is consistent with the 2003 Yellowstone County/City of Billings Growth Policy, the 2000 Transportation Plan and the Heritage Trail Plan. Specific conformance is discussed within the Findings of Fact.

## **RECOMMENDATION**

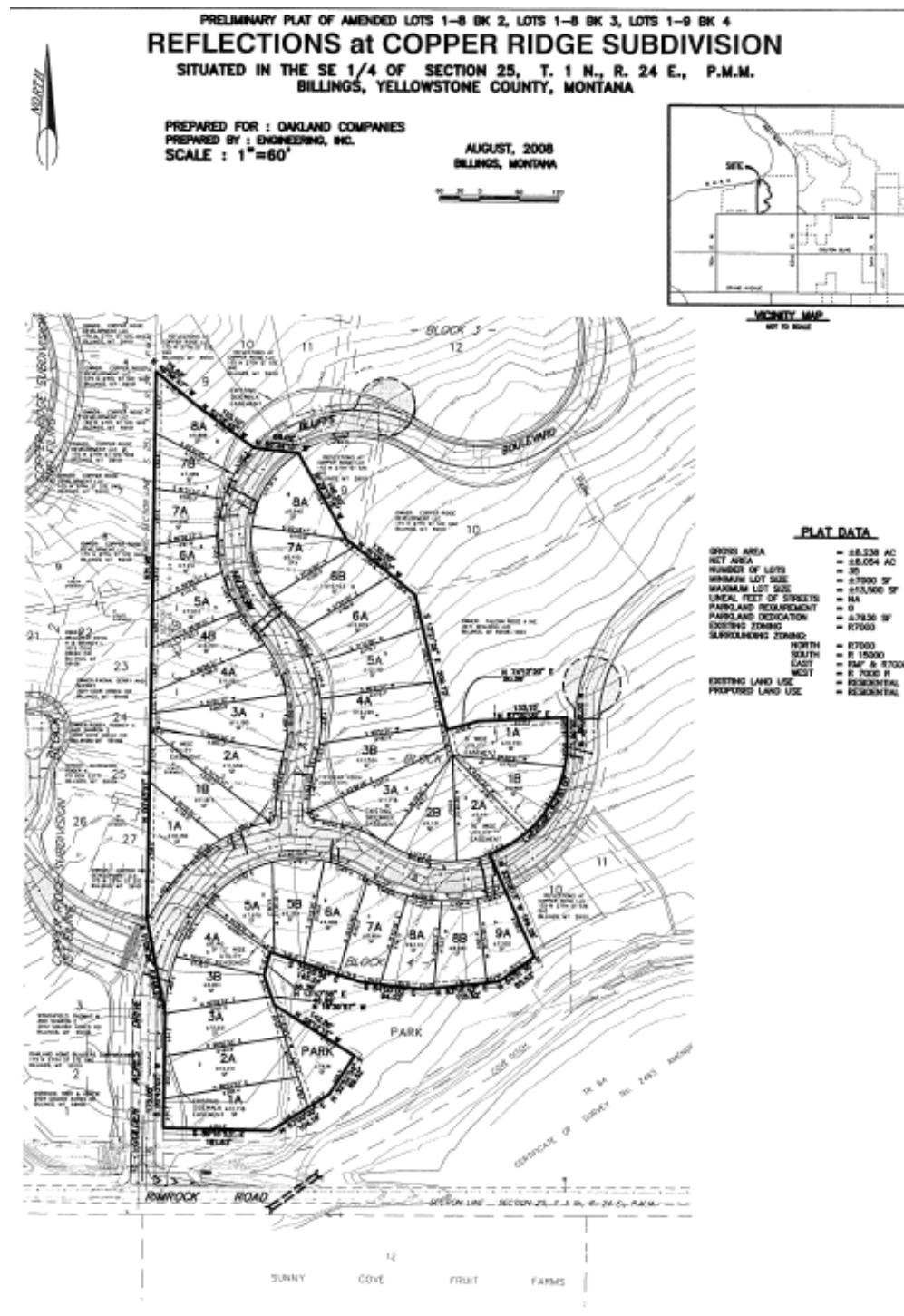
The Planning Board recommends that the City Council conditionally approve the preliminary plat of Amended Lots 1-8, Block 2; Lots 1-8, Block 3; Lots 1-9, Block 4, Reflections at Copper Ridge Subdivision and adopt the Findings of Fact as presented in the staff report.

## **ATTACHMENTS**

- A: Preliminary Plat
- B: Mayor's Approval Letter
- C: Findings of Fact

## ATTACHMENT A

Preliminary Plat of Amended Lots 1-8, Block 2; Lots 1-8, Block 3; Lots 1-9, Block 4,  
Reflections at Copper Ridge Subdivision



## **ATTACHMENT B**

### Findings of Fact

The Findings of Fact for Amended Lots 1-8, Block 2; Lots 1-8, Block 3; Lots 1-9, Block 4, Reflections at Copper Ridge Subdivision have been prepared by the Planning Board for review and approval by the City Council. These findings are based on the preliminary plat application and address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the City of Billings Subdivision Regulations.

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

##### **1. Effect on agriculture and agricultural water user facilities**

The land to be subdivided has historically been utilized for agricultural crops. There are no ditches located on the subject property. The Cove Ditch lies to the south of the property proposed for amendment and is located within a 60-foot wide ditch easement.

##### **2. Effect on local services**

- a. **Utilities** – Water and sewer lines have already been installed within the constructed internal subdivision streets. Individual services will be installed to the proposed lots. The Subdivision Improvements Agreement (SIA) does specify that water distribution system pressure may fall below the accepted level for residential fixtures for some lots within the subdivision. The assessment and mitigation of these conditions, including possible installation of a booster pump, shall be the responsibility of the individual lot owner.
- b. **Stormwater** – Stormwater detention facilities have been installed in accordance with the *City of Billings Stormwater Management Manual*.
- c. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- d. **Streets** - Access to the proposed subdivision will be via internal roads from Rimrock Road bordering the southern boundary of the property. Rimrock Road is classified as a collector street by the 2005 Transportation Plan Update and is within the city's jurisdiction. Sixty feet of right-of-way has been previously dedicated for Rimrock Road and the road was paved to a 24-feet width with 2-foot gravel shoulders on each side in accordance with County road standards.

Within the subdivision, Golden Acres Road is 60-feet wide with 37-feet back of curb to back of curb width that will eventually provide a connection within the future filing of Falcon Ridge Estates to the east and will provide a connection with Cove Creek Drive within Copper Ridge, First Filing to the west. Western

Bluffs Way, Butte Ridge Drive, and Reflections Circle have 50-feet right-of-ways with 34-feet back of curb to back of curb widths. Butte Ridge Drive will provide an additional connection into Copper Ridge, Second Filing to the west and Western Bluffs Way will provide a connection into the future filing of Falcon Ridge Estates to the east. A variance to permit 50-feet of right-of-way where 60-feet is required and a variance to permit 34-feet of pavement width for these streets was approved by the City Council with the original subdivision. The street widths and layout will remain unchanged by the proposed amended subdivision.

As originally proposed, the subject property was to be developed in two phases. The amended subdivision affects only the first phase. All improvements are proposed to be completed by private contract and no further phasing is requested for the amended subdivision.

A Traffic Accessibility Study (TAS) was submitted with the original subdivision. All required improvements have been satisfied.

- d. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 1501 54<sup>th</sup> Street West (Station #7), approximately 3 miles east of the subject property. The subdivision is located within the ambulance service area of American Medical Response (AMR).
- e. **Schools** – The subdivision is located within School District #2. No comments have been received from School District #2.
- f. **Parks and Recreation** – As part of the original plat approval, the subdivider was required to provide 2.61 acres of dedicated parkland. The subdivider dedicated 3.25 acres of parkland, which is interspersed throughout the subdivision with a majority of the land (2.14 acres) located along the southern boundary of the property. A Park Master Plan and Park Maintenance District was completed for the subdivision.

There is no parkland dedication required for this subdivision, as the original property boundary assessed is not being revised. However, the subdivider is proposing an additional 7,936 square feet for parkland dedication. The Park Maintenance District created with the original subdivision will provide for maintenance of this additional parkland.

- g. **Mail Delivery** – Centralized delivery will be provided for the subdivision. Central mail boxes have already been installed.

### **3. Effect on the natural environment**

A geotechnical report was submitted with the original subdivision and indicated that there are variable soil conditions throughout the subdivision with a potential for

collapsible soils. Due to the soils, there may be construction restrictions for the lots within the subdivision. As specified in the SIA, lot specific geotechnical reports may be required with building permits and will be the responsibility of the individual lot owner.

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

There are no known endangered or threatened species on the property. As indicated within the General Conditions the Run with the Land section of the submitted SIA, future property owners should be aware that the proposed subdivision is located near prime wildlife habitat and adjacent to open agricultural areas, therefore conflicts with wildlife may occur. Any damage caused by wildlife is the responsibility of the owner.

#### **5. Effect on the public health and safety**

There are five (5) conditions that exist on the subject property that may potentially create problems for future landowners, which were identified with the original subdivision. All of the following potential effects on public health and safety have been noted within the “Conditions that Run with the Land” section of SIA:

- The subdivision contains collapsible soils, which may require a geotechnical study prior to construction.
- The subdivision is being located within close proximity to prime wildlife habitat and a possible migratory route; therefore conflicts with wildlife are likely to occur.
- There is a high pressure gas pipeline located along the northern portion of the site. Future lot owners should be aware that it may be necessary for the pipeline company to inspect, test, maintain, and possibly replace the pipeline at times.
- The Burlington Northern Railroad right-of-way is located along the northern boundary of the site, which is in active operation. The noise from the moving trains is clearly audible within the subdivision. Furthermore, the right-of-way is private property and lot owners, visitors, and children within Reflections at Copper Ridge Subdivision shall be required to respect the property lines.

#### **B. Was an Environmental Assessment required? (76-3-210, MCA) (23-901, BMCC)**

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-210, MCA.

#### **C. Does the subdivision conform to the Yellowstone County-City of Billings 2003 Growth Policy, the Urban Area 2000 Transportation Plan and the Heritage Trail Plan? (23-301, BMCC)**

## **1. Yellowstone County-City of Billings 2003 Growth Policy**

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

- a. **Goal: More housing and business choices within each neighborhood (Land Use Element Goal, Page 6).**

*The proposed subdivision would provide for more housing choices within this portion of the city.*

- b. **Goal: Safe and efficient transportation system characterized by convenient connections and steady traffic flow (Transportation Goal, Page 10).**

*The proposed subdivision will provide public streets improved to city standards that connect with existing streets, thus creating more efficient transportation connections and ease of traffic flow.*

The subdivision conflicts with the following goals of the Growth Policy:

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

*The subject property, though annexed, is approximately three (3) miles from urbanized portions of the city.*

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

*The subject property is located outside of the urbanized portion of the city. While the subdivision is surrounded on two (2) sides by property being developed within the city, the area is still highly rural in nature.*

## **2. The 2005 Transportation Plan Update**

Rimrock Road, bordering the southern boundary of the subject property, is classified as a collector road by the 2005 Transportation Plan Update and would require 80-feet of right-of-way. Prior to the plan update, Rimrock Road at this location was classified as a local residential street, only requiring 60-feet of right-of-way, which was previously dedicated. At this location, Rimrock Road is within city's jurisdiction and has been improved to the county paved road standard of a 24-feet wide travel way with 2-feet wide gravel shoulders on each side.

## **3. Heritage Trail Plan**

The proposed subdivision lies within the jurisdiction of the Heritage Trail Plan. Trails will be completed in accordance with the original subdivision plat. The proposed amended plat will not affect the existing or proposed trails on the property.

#### **4. West Billings Plan**

The proposed subdivision satisfies the following policies of the West Billings Plan:

- Development in the West End planning area shall provide for a variety of residential types and densities.
- Condition approval of new development in the West Billings Plan area on the ability to provide infrastructure and public services, including streets, sidewalks, curb, gutter or alternative standards, police, fire, public water and sewer services.

The proposed subdivision is in conflict with the following goal of the West Billings Plan:

- Medium and high-density residential development should be located nearby and within walking distance to commercial centers, medical facilities, and parks.

#### **5. Northwest Shiloh Area Plan**

The proposed subdivision satisfies the following goals and policies of the Northwest Shiloh Area Plan:

- Require public/community water and sewer for all development on parcels one acre or smaller.
- Promote connectivity among subdivisions with multiple points of access.
- Create neighborhood parks designed to meet the needs of the neighborhood and, to the extent possible, the overall community park and linear open space system.
- Create park areas linking neighborhoods through a linear open-space network.

The proposed subdivision is in conflict with the following goals and policies of the Northwest Shiloh Area Plan:

- Reduce commuting and the number and length of daily vehicle trips.
- Reduce sprawl and development pressure on agricultural lands.

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

The proposed subdivision satisfies the requirements of the Montana Subdivision and Platting Act and conforms to the design standards specified in the local subdivision regulations. The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local and state subdivision regulations.

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

The subdivision will utilize City water and sanitary sewer, and City solid waste collection and disposal services. Water and sanitary sewer lines have been installed for this subdivision.

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

The subject property is located within the Residential 7000 (R-7000) zoning district and shall comply with the standards set forth in Section 27-308, BMCC.

**G. Does the proposed plat provide easements for the location and installation of any utilities? (76-3-608 (3) (c), MCA) (23-410(A) (1), BMCC)**

All utilities have been installed within the existing internal subdivision streets.

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

Legal and physical access to the proposed subdivision will be provided through an internal road system from Rimrock Road along the southern border of the property.

**CONCLUSIONS OF FINDING OF FACT**

- The preliminary plat of Amended Lots 1-8, Block 2; Lots 1-8, Block 3; Lots 1-9, Block 4, Reflections at Copper Ridge Subdivision does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2003 Growth Policy and does not conflict with the 2005 Transportation Plan Update or the Heritage Trail Plan.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

Approved by the Billings City Council, November 24, 2008.

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Ron Tussing, Mayor

**ATTACHMENT C**  
Mayor's Approval Letter

November 24, 2008

Reflections at Copper Ridge, LLC  
Attention: Gary Oakland  
175 North 27<sup>th</sup> Street, Suite 900  
Billings, Montana 59101

Dear Mr. Oakland:

On November 24, 2008, the Billings City Council conditionally approved the preliminary plat of Amended Lots 1-8, Block 2; Lots 1-8, Block 3; Lots 1-9, Block 4, Reflections at Copper Ridge Subdivision, subject to the following conditions of approval:

1. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
  
2. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of City of Billings, and the laws and Administrative Rules of the State of Montana.

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

Sincerely,

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Ron Tussing, Mayor

pc: Mac Fogelsong, PE, Engineering, Inc.

**AGENDA ITEM:**

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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, November 24, 2008**

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**TITLE:** Preliminary Plat of Housing Authority of Billings Subdivision  
**DEPARTMENT:** Planning and Community Services  
**PRESENTED BY:** Juliet Spalding, AICP, Planner II

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**PROBLEM/ISSUE STATEMENT:** On October 15, 2008, the subdivider, Housing Authority of Billings, applied for preliminary minor plat approval for Housing Authority of Billings Subdivision. The proposed subdivision creates 5 lots from a 14-acre tract of land. The subject property is located on the west side of Lake Elmo Drive, just north of Uinta Park Drive in the Heights. The vacant property has been in the City limits since 1984 and is zoned Residential Multi-Family (RMF). The 5 lots will be developed in phases as affordable housing. The City Council will review the preliminary plat, and approve, conditionally approve, or deny the proposed subdivision at the November 24, 2008, meeting. The representing agent is Engineering, Inc.

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

**FINANCIAL IMPACT:** The owner of the subject property is a non-profit organization, so development of the new lots will not generate additional tax revenue.

**RECOMMENDATION**

Planning staff recommends conditional approval of the preliminary plat of Housing Authority of Billings Subdivision, and adoption of the Findings of Fact as presented in the staff report to the City Council.

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

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

**ATTACHMENTS**

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

## **INTRODUCTION**

On October 15, 2008, the subdivider, Housing Authority of Billings, applied for preliminary minor plat approval for Housing Authority of Billings Subdivision. The proposed subdivision creates 5 lots from a 14-acre tract of land. The subject property is located on the west side of Lake Elmo Drive, just north of Uinta Park Drive in the Heights.

## **PROCEDURAL HISTORY**

- A pre-application meeting was held on September 18, 2008, to discuss the proposal.
- The preliminary plat application was submitted to the Planning Division on October 15, 2008.
- The City Council will consider the preliminary plat on November 24, 2008.

## **BACKGROUND**

The proposed subdivision will create 5 lots ranging in size from 1.7 to 3 acres in size. The applicants intend to develop the lots in phases with duplex and possibly multi-family affordable housing. The property is bordered on the north by multi-family residential uses and on other sides by single-family residential.

General location:	Northwest corner of Lake Elmo Drive and Uinta Park Drive in the Heights.
Legal Description:	Tract 2, of Certificate of Survey 1113, located in Section 22, T1N, R26E
Subdivider/Owner:	Housing Authority of Billings
Engineer and Surveyor:	Engineering, Inc.
Existing Zoning:	RMF
Existing land use:	vacant
Proposed land use:	duplex and multi-family residential
Gross area:	13.96 acres
Proposed number of lots:	5
Lot sizes:	Max: 3.02 acres Min.: 1.78 acres
Parkland requirements:	1.35 acres of private parkland is proposed

## **ALTERNATIVES ANALYSIS**

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

### **RECOMMENDED CONDITIONS OF APPROVAL**

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

1. Utility easements shall be shown on the face of the final plat as requested by Montana-Dakota Utilities (MDU) and NorthWestern Energy (NWE). *(Required by 23-410.A., BMCC)*
2. In order to mitigate impacts on local services, mail delivery to the proposed subdivision shall be accomplished using centralized mailboxes. Location(s) and design of proposed centralized mailbox unit(s) and any required pull-out(s) shall be approved by the United States Postal Service (USPS) prior to final plat approval. *(Required by 23-406.A.17, BMCC)*
3. In order to mitigate impacts on local services, Section III.A.2. of the Subdivision Improvements Agreement (SIA) shall be amended to reflect that the property owner will be assessed in the Lake Elmo Drive Project for curb, gutter, and 5-foot boulevard sidewalk, and necessary street widening. *(Required by 23-406.B.6., BMCC)*
4. In order to mitigate impacts on local services, a one-foot no-access strip shall be shown along the Lake Elmo Drive frontage with the exception of the Sioux Lane access.
5. In order to mitigate impacts on local services, the subdivider shall confirm that there is adequate storage length provided in the northbound left-turn lane at the intersection of Main Street and Sioux Lane to service the proposed subdivision at full build-out. If the existing storage is found inadequate, the subdivider will be required to contribute to the lengthening of that turn lane. Final details of any required contributions and timing shall be approved by City Engineering and addressed in the final SIA. *(Required by 23-406.B.4. in order to mitigate impact identified by the Traffic Accessibility Study)*
6. In order to mitigate impacts on local services and provide two access roads to the development, Sioux Lane must be built to connect Lake Elmo Drive to Twin Oaks Drive. To ensure the connection to Twin Oaks Drive across Twin Oaks Park, the

subdivider shall secure the necessary right of way prior to final plat approval. *(Required by 23-406.A.5., BMCC)*

7. In order to mitigate impacts on local services, language found in the Section VI. of the SIA should be amended to reflect that this development may be serviced by the County Water District of Billings Heights (CWDBH), and not by the City of Billings.
8. A Homeowners' Association shall be established and the parkland ownership and maintenance provisions shall be specified within the proper documents prior to final plat approval. *(Required by 23-1009.A., BMCC)*
9. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
10. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

#### **VARIANCES REQUESTED**

None

#### **STAKEHOLDERS**

A public hearing is not required for minor subdivisions. However, any interested party may review the proposal and make comments. The Planning Division has received no public input on this proposal at the time this staff report was completed.

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

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

#### **RECOMMENDATION**

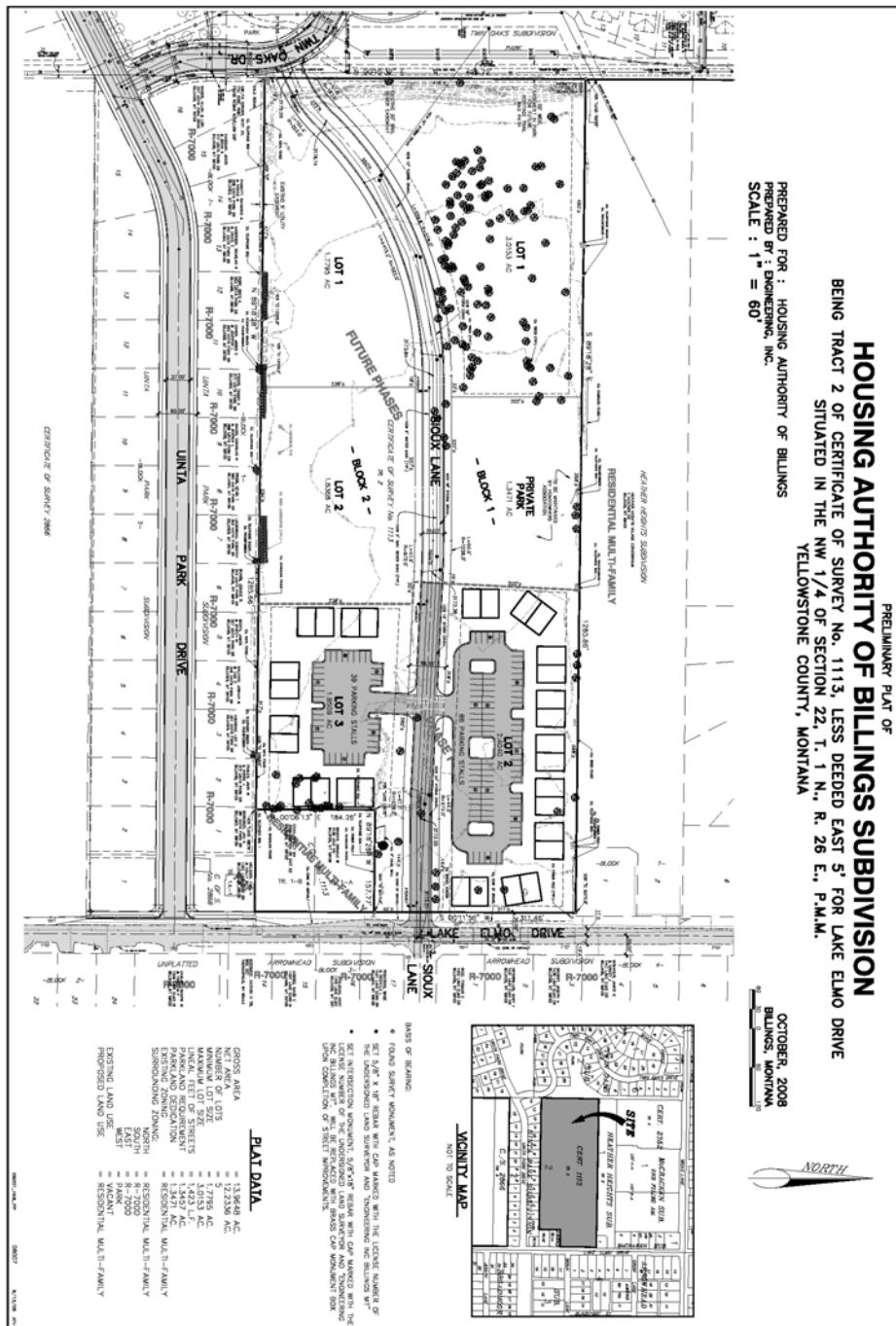
Planning staff recommends conditional approval of the preliminary plat of Housing Authority of Billings Subdivision, and adoption of the Findings of Fact as presented in the staff report to the City Council.

#### **ATTACHMENTS**

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

## ATTACHMENT A

### Preliminary Plat of Housing Authority of Billings Subdivision



## **ATTACHMENT B**

### **Findings of Fact**

The Planning staff is forwarding the recommended Findings of Fact for Housing Authority of Billings Subdivision for review and approval by the City Council. These findings are based on the preliminary plat application and supplemental documents and address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the City of Billings Subdivision Regulations (23-303(H)(2), BMCC).

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

**1. Effect on agriculture and agricultural water user facilities**

The subject property is located in the City limits and is surrounded by urban density development. The proposed future use will not displace any existing agricultural activity, and therefore should have a minimal effect on the agricultural industry.

The BBWA irrigation ditch is located approximately ¼ mile northeast of the property. This subdivision does not contain any ditches or water shares, and therefore will not have an effect on agricultural water user facilities.

**2. Effect on local services**

- e. **Utilities** – Water services can be provided by the County Water District of Billings Heights. The subdivider will extend water mains from the existing 12-inch main line in the Lake Elmo Drive. Language found in the SIA should be amended to reflect that this development will be serviced by CWDBH, and not the City of Billings. This is recommended as a condition of approval (**Condition #7**).

Sanitary sewer service can be provided by the City of Billings by connecting to the existing sewer main Lake Elmo Drive. The subdivider will extend sewer mains from the existing main lines at the time of lot development.

MDU will provide gas services, and NWE will provide electric services to the subdivision in the future. Utility easements shall be provided along lot boundaries as requested by the utility providers and shall be shown on the face of the final plat (**Condition #1**).

- f. **Storm water** – Storm water drainage will be collected in a new storm drain line constructed in Sioux Lane and discharged into the existing storm water drainage line found in Lake Elmo Drive. The new storm drain improvements will also eventually (on full build out) facilitate the movement of storm water originally retained in Twin Oaks Park out to Lake Elmo. All improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual* and will be subject to review and approval by the Engineering Department.

- g. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- h. **Streets** – The eastern portion of proposed subdivision fronts Lake Elmo Drive, which is a Collector road. At this time, the required right-of-way is platted, so no additional dedication is with this plat. However, the subdivider will be required to improve the frontage by bringing it up to current City collector street standards. This includes the installation of curb, gutter and five-foot wide boulevard sidewalk, and the necessary street widening as required by Section 23-406.B.6. of the City Subdivision Regulations. These improvements will be accomplished through an assessment to the property owner at the time that the upcoming Lake Elmo Drive project is initiated (**Condition #3**). Access to the proposed lots will be gained by construction of a new street extension for Sioux Lane. No other access is to be obtained off of Lake Elmo Drive, to maintain the integrity of it as a collector road (**Condition #4**).

Sioux Lane will connect Lake Elmo Drive and Twin Oaks Drive and will be constructed to a City local street standard in two or more phases. The first phase will include street frontage along Lot 2, Block 1 and Lot 3, Block 2 as specified in the SIA. In order to complete the connection of Sioux Lane to Twin Oaks Drive, the subdivider will have to secure arrangements from the City of Billings Parks Department to use a small portion Twin Oaks Park as street right-of-way. Parks Department staff is agreeable with this arrangement, specifically because the connection will allow a storm drain line to be constructed out to Lake Elmo Drive, which will drain water retained in the park land. In order to ensure the arrangement is solidified, staff recommends that the necessary right of way is secured prior to final plat approval (**Condition #6**).

- i. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 1601 St. Andrews Drive (Station #6). The subdivision is located within the ambulance service area of American Medical Response (AMR).
- j. **Schools** –School District #2 provides educational services to elementary through high school students. Sandstone Elementary School, Castle Rock Middle School, and Skyview High School will serve the children in this subdivision. Responses from these schools were not received at the time this report was written.
- k. **Parks and Recreation** –Parkland requirements specified in 23-1002.B. for multi-family subdivisions are being met through the creation of a 1.35 acre private park area between Lots 1 & 2, Block 1. The parkland is owned and maintained by a Homeowners' Association to be established for this subdivision. It is recommended as a condition of approval that the Homeowners' Association is established and the parkland ownership and maintenance provisions are specified within the proper documents prior to final plat approval (**Condition #8**).

- I. **Mail Delivery** - The United States Postal Service will provide postal service to the subdivision. Upon review of the proposal, USPS has requested that centralized mailboxes are installed to facilitate mail delivery. It is recommended as a condition of approval that the location and design of proposed centralized mailbox units and any required pull-outs shall be approved by the USPS prior to final plat approval.

### **3. Effect on the natural environment**

The subject property is entirely surrounded by urban density development in the Billings Heights. Creation of these lots and subsequent development of residential units on the vacant property should have minimal effects on the natural environment.

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

There are no known endangered or threatened species on the property. There is a note in the SIA that warns future lot owners of the possible presence of wildlife in the area. This subdivision should have a minimal effect on wildlife and wildlife habitat, as it is in the middle of an urbanized area.

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

The subdivision is located in an area with no known natural hazards.

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

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-210, MCA.

### **C. Does the subdivision conform to the Yellowstone County-City of Billings 2003 Growth Policy, the Urban Area 200 Transportation Plan Update and the Heritage Trail Plan? [BMCC 23-304 (c) (3)]**

#### **1. Yellowstone County-City of Billings 2003 Growth Policy**

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

- b. Goal: More housing and business choices within each neighborhood (p. 6).
- c. Goal: New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites (p. 6).
- d. Goal: Contiguous development focused in and around existing population centers separated by open space (p. 6).

- e. Goal: Safe and efficient transportation system characterized by convenient connections and steady traffic flow (p. 10).
- f. Goal: Affordable housing for all income levels dispersed throughout the City and County (p. 6).

## **2. Urban Area 2005 Transportation Plan Update**

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

## **3. Heritage Trail Plan**

The proposed subdivision lies within the jurisdiction of the Heritage Trail Plan. No trail corridors are identified on the plan within this subdivision.

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

The proposed subdivision satisfies the requirements of the Montana Subdivision and Platting Act and conforms to the design standards specified in the local subdivision regulations. The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local and state subdivision regulations.

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

The subdivision will eventually utilize the Heights Water District system, the City's sanitary sewer system, and the City's solid waste collection and disposal services. All services are approved and regulated by state and federal authorities.

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

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

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

The subdivider shall provide utility easements as requested by MDU and NWE (**Condition #1**).

## **H. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? [MCA 76-3-608 (3) (d) and BMCC 23-304 9 (c) (8)]**

Legal and physical access is provided to the proposed lots from Sioux Lane, which will connect to Lake Elmo Drive and Twin Oaks Drive.

## **CONCLUSIONS OF FINDING OF FACT**

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

Approved by the Billings City Council, November 24, 2008.

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Ron Tussing, Mayor

**ATTACHMENT C**  
Mayor's Approval Letter

November 25, 2008

Housing Authority of Billings  
2415 1<sup>st</sup> Ave. N.  
Billings, MT 59101

Dear Applicant:

On November 24, 2008, the Billings City Council conditionally approved the preliminary plat of Housing Authority of Billings Subdivision. The conditions of approval are as follows:

1. Utility easements shall be shown on the face of the final plat as requested by Montana-Dakota Utilities (MDU) and NorthWestern Energy (NWE).
2. In order to mitigate impacts on local services, mail delivery to the proposed subdivision shall be accomplished using centralized mailboxes. Location(s) and design of proposed centralized mailbox unit(s) and any required pull-out(s) shall be approved by the United States Postal Service (USPS) prior to final plat approval.
3. In order to mitigate impacts on local services, Section III.A.2. of the Subdivision Improvements Agreement (SIA) shall be amended to reflect that the property owner will be assessed in the Lake Elmo Drive Project for curb, gutter, and 5-foot boulevard sidewalk, and necessary street widening.
4. In order to mitigate impacts on local services, a one-foot no-access strip shall be shown along the Lake Elmo Drive frontage with the exception of the Sioux Lane access.
5. In order to mitigate impacts on local services, the subdivider shall confirm that there is adequate storage length provided in the northbound left-turn lane at the intersection of Main Street and Sioux Lane to service the proposed subdivision at full build-out. If the existing storage is found inadequate, the subdivider will be required to contribute to the lengthening of that turn lane. Final details of any required contributions and timing shall be approved by City Engineering and addressed in the final SIA.
6. In order to mitigate impacts on local services and provide two access roads to the development, Sioux Lane must be built to connect Lake Elmo Drive to Twin Oaks Drive. To ensure the connection to Twin Oaks Drive across Twin Oaks Park, the subdivider shall secure the necessary right of way prior to final plat approval.
7. In order to mitigate impacts on local services, language found in the Section VI. of the SIA should be amended to reflect that this development may be serviced by the

County Water District of Billings Heights (CWDBH), and not by the City of Billings.

8. A Homeowners' Association shall be established and the parkland ownership and maintenance provisions shall be specified within the proper documents prior to final plat approval.
9. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
10. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

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

Sincerely,

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Ron Tussing, Mayor

Pc: Will Ralph, PE, Engineering, Inc.  
Brenda Beckett, Community Development Division Manager

## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA**  
**Monday, November 24, 2008**

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**TITLE:** Final Plat of Superior Homes Subdivision  
**DEPARTMENT:** Planning and Community Services  
**PRESENTED BY:** David Green, Planner I

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**PROBLEM/ISSUE STATEMENT:** The final plat of Superior Homes Subdivision is being presented to the City Council for approval. The subject property is zoned Residential 7000 (R-70) and is located on the south side of Jaque Lane and east of Lake Elmo Drive. On September 8, 2008, the City Council conditionally approved the 2-lot subsequent minor plat on 19,203 square feet of land. The subject property contains one duplex and one single family residence. The property owners are Curtis J. and Greta White, and the surveyor is Soelter Survey.

The City Council conditions of approval have been satisfied and the City Attorney has reviewed and approved the subdivision plat and the associated documents. Upon City Council approval, these documents are appropriate as to form for filing with the Yellowstone County Clerk and Recorder.

**FINANCIAL IMPACT:** Because the subject property is currently developed there will be no additional tax revenues for the City.

**RECOMMENDATION**

Staff recommends that the City Council approve the final plat of Superior Homes Subdivision.

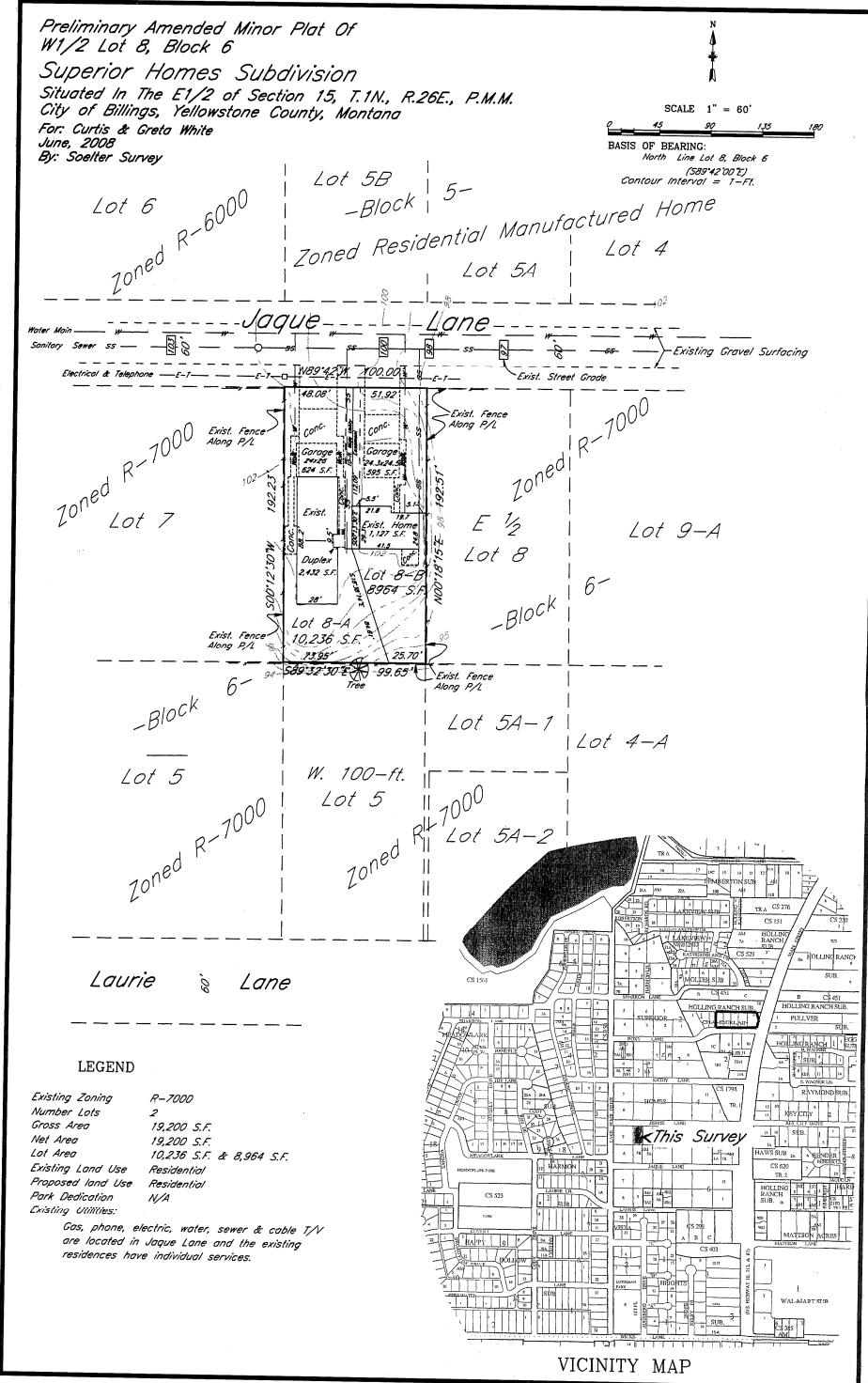
**Approved By:**      **City Administrator** \_\_\_\_\_      **City Attorney** \_\_\_\_\_

**ATTACHMENT**

A:      Plat

**ATTACHMENT A**

Plat



## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, November 24, 2008**

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**TITLE:** Final Plat of Amended Lot 5E, Block 1, Shiloh Crossing Subdivision  
**DEPARTMENT:** Planning and Community Services  
**PRESENTED BY:** Aura Lindstrand, Planner II

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**PROBLEM/ISSUE STATEMENT:** The final plat for Amended Lot 5E, Block 1, Shiloh Crossing Subdivision is being presented to Council for approval. On August 25, 2008, the City Council conditionally approved three lots on approximately 5.41 acres for commercial development. The subject property is located on the southeast corner of the intersection of Shiloh Road and King Avenue West. The owner is Shiloh Crossing, LLC, and Engineering, Inc. is the agent. The subject property is currently under construction and is zoned Controlled Industrial. Upon City Council approval, these documents are appropriate as to form for filing with the Clerk and Recorder.

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

**RECOMMENDATION**

Staff recommends that the City Council approve the final plat of Amended Lot 5E, Block 1, Shiloh Crossing Subdivision.

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

**ATTACHMENT**

A: Plat



## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, November 24, 2008**

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**TITLE:** Final Plat of Amended Lot 1, Block 1A, Tierra Yellowstone Industrial Park Subdivision

**DEPARTMENT:** Planning and Community Services

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

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**PROBLEM/ISSUE STATEMENT:** The final plat for Amended Lot 1, Block 1A, Tierra Yellowstone Industrial Park Subdivision Council for approval. On May 27, 2008, the City Council conditionally approved the plat which contains one lot on approximately 1.91 acres. The purpose of this minor plat is to remove a 30-foot wide section of a 1-foot no access strip on 32<sup>nd</sup> Street West for access to proposed Lot 1A. The subject property is located on the southeast corner of 32<sup>nd</sup> Street West and Gabel Road and is zoned Controlled Industrial. The owner is Copper King Resources, Inc, and Engineering, Inc. is the agent.

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

**RECOMMENDATION**

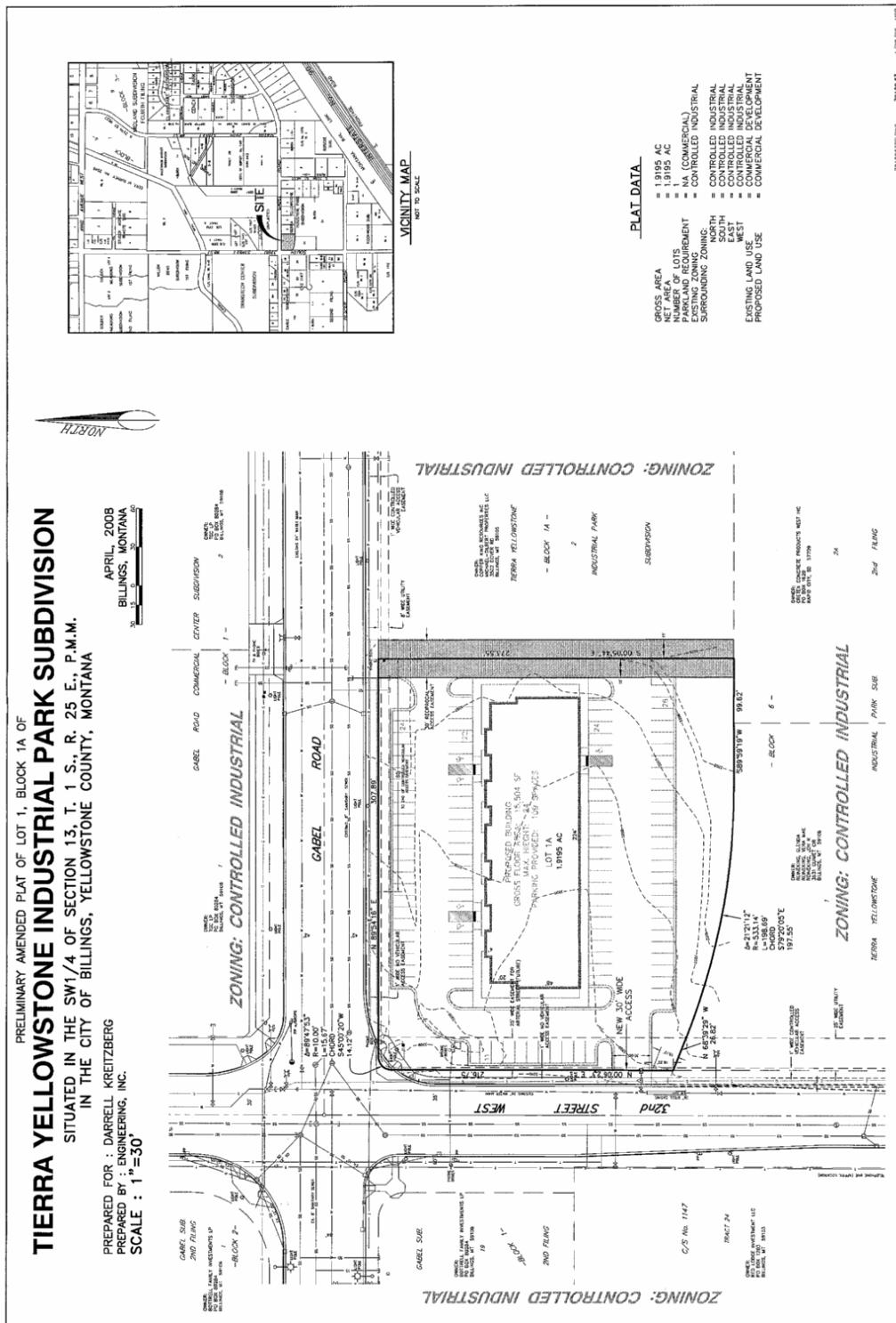
Staff recommends that the City Council approve the final plat of Amended Lot 1, Block 1A, Tierra Yellowstone Industrial Park Subdivision

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

**ATTACHMENT**

A: Plat

**ATTACHMENT A**  
Subdivision Plat



**J1**

**AGENDA ITEM:**



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**CITY COUNCIL AGENDA ITEM**

**CITY OF BILLINGS, MONTANA**

**Monday, November 24, 2008**

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**TITLE:** Payment of Claims

**DEPARTMENT:** Administration – Finance Division

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

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**PROBLEM/ISSUE STATEMENT:** Claims in the amount of \$1,369,116.73 have been audited and are presented for your approval for payment. A complete listing of the claims dated October 24, 2008, are on file in the Finance Department.

**RECOMMENDATION**

Staff recommends that Council approve Payment of Claims.

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

**J2**

**AGENDA ITEM:**



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**CITY COUNCIL AGENDA ITEM**

**CITY OF BILLINGS, MONTANA**

**Monday, November 24, 2008**

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**TITLE:** Payment of Claims

**DEPARTMENT:** Administration – Finance Division

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

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**PROBLEM/ISSUE STATEMENT:** Claims in the amount of \$2,178,208.01 have been audited and are presented for your approval for payment. A complete listing of the claims dated October 31, 2008, are on file in the Finance Department.

**RECOMMENDATION**

Staff recommends that Council approve Payment of Claims.

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

## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, November 24, 2008**

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TITLE: Settlement and Conciliation Agreement

DEPARTMENT: Billings Police Department

PRESENTED BY: Chief Rich St. John

**PROBLEM/ISSUE STATEMENT:** In March of 2005, Officers Sandy Leonard, Gaye Gauthier, and Detective Becky Hagen applied for Background Investigator positions within the Police Department. None of the three females were selected and they later filed a discrimination complaint with the Human Rights Bureau. Several complaints were filed against the City of Billings and individual city employees asserting discrimination in a variety of circumstances. Only one complaint was found to be supported by the evidence by the investigator assigned to the case.

**ALTERNATIVES ANALYZED:** Continued litigation before Human Rights Bureau and possible appeal to District Court if an adverse decision is issued by the HRB.

**FINANCIAL IMPACT:** \$135,000 from Billings Police Department personnel budget. Funds made available through vacancy savings of a Deputy Chief position. To be identified as account number 150-2111-421.81-35.

**RECOMMENDATION:** Staff recommends that Council approve the Settlement and Conciliation agreement.

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

## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, November 24, 2008**

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**TITLE:** Housing First Project Loan Approval - Public Hearing and Action**DEPARTMENT:** Planning & Community Services**PRESENTED BY:** Brenda Beckett, Community Development Manager

Candi Beaudry, Planning &amp; Community Services Director

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**PROBLEM/ISSUE STATEMENT:**

The Community Development Division received two proposals in response to a Request for Proposals for \$465,000 in funding for a Housing First project. Funding for this project has been garnered through the State Department of Public Health and Human Services and a federal appropriation through the U.S. Department of Housing and Urban Development. Following extensive proposal review, the Mayor's Committee on Homelessness made the recommendation to fully fund the proposal submitted by the Interfaith Hospitality Network.

The project's proposed location, 1427 Avenue C, contains two duplex housing units. The property would be purchased for \$320,000 and \$145,000 would be used for rehabilitation. Funding would be contingent on Interfaith Hospitality Network's ability to successfully complete a zoning lot size variance. No increase in units is proposed, the lot currently has two duplexes which are legally non-conforming. City staff also recommends offering the \$465,000 in financing as a zero interest, deferred payment loan with no expiration for repayment (due upon sale of property) and 20 years of monitored affordability. A complete copy of the proposal is available for review at the City Clerk's office.

**ALTERNATIVES ANALYZED:** 1) Fund the request and secure the City's affordable housing investment to serve homeless families in Billings; 2) to not assist with funds for the project. By not funding this project, the City would need to reject the federal appropriation and renegotiate terms of funding with the State Department of Health and Human Services.

**FINANCIAL IMPACT:**

There is no match funding required for the funding sources. Grant administration costs have been allocated to cover project management.

**RECOMMENDATION**

Staff recommends City Council hold a public hearing and approve the Mayor's Committee on Homelessness' recommendation to provide a \$465,000 zero interest, deferred payment

loan to the Interfaith Hospitality Network. Funding will be used to acquire and rehabilitate four units of affordable rental housing to serve homeless families.

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

## **INTRODUCTION**

The Mayor's Committee on Homelessness supports the following funding and action priorities: expanding available housing for the homeless; decreasing barriers to obtaining housing; and expanding supportive services including mental health and substance abuse services. Funding has been provided by the State Department of Health and Human Services and a federal appropriation through the U.S. Department of Housing and Urban Development for the project. Final application for the federal appropriation is due by December 31, 2008.

Staff recommends Council hold a public hearing and approve loan funding for the proposal submitted by the Interfaith Hospitality Network.

## **PROCEDURAL HISTORY**

- *January 29, 2008:* The City of Billings – Community Development Division received a contract for a Housing First project funded through the State Department of Public Health and Human Services.
- *February 25, 2008:* City Council approved the Housing First contract from the Department of Public Health and Human Services.
- *April 25, 2008:* The City of Billings – Community Development Division received official application materials for a Housing First project through the U.S. Department of Housing and Urban Development.
- *July 31, 2008:* Public notifications are published through the Billings Times for the Request for Proposals for the Housing First project. Deadline for the proposals are established on September 5<sup>th</sup>, 2008.
- *August 15, 2008* - Technical assistance meeting is provided to applicants to review proposal and project requirements as advertised. No proposals are received by the deadline.
- *September 11, 2008:* Public notifications are published through the Billings Times for the Request for Proposals project with an extended deadline. New proposal deadline was set for October 10, 2008.
- *October 10, 2008:* Two proposals are received for the Housing First project. A request to the Mayor's Committee on Homelessness is made for proposal reviewers. Proposals are distributed with ranking sheets and certification of non-conflict of interest.
- *October 29, 2008:* Project review team meets to discuss proposals, rankings and additional information provided by the proposal authors. A recommendation is made to fund Interfaith Hospitality Network.
- *October 30, 2008* – Recommendation is forwarded to the Mayor's Committee on Homelessness for City Council consideration. The Committee approves the Interfaith Hospitality Network's proposal for loan funding.

## **BACKGROUND**

The City of Billings was chosen as a pilot project by the Montana Council on Homelessness to begin a ten-year planning process with the ultimate goal of creating a replicable plan to end chronic homelessness in Billings. A resolution was drafted to support the initiative and the City Council appointed twenty committee members in April 2006 to spearhead efforts to develop a ten-year plan to impact homelessness in Billings. Over 300 cities in the United States have joined in a collective effort to develop plans to end homelessness. The Mayor's Committee on Homelessness accomplishments to date include:

- Creation of the *Billings Area Resource Network* – a group of homeless service providers working together to increase service collaboration and grant coordination;
- *Billings Addendum* to the Continuum of Care point-in-time survey in January 2007;
- *Understanding Homelessness in the American Indian Population:* Roundtable Discussion in February 2007, the first of its kind in the nation;
- *Project Homeless Connect* events – March 31, 2007 and March 28, 2008;
- *Cultural Competency Training: Understanding the American Indian Perspective* – June 2007;
- Creation of the Mayor's Committee ten-year planning priorities;
- *Social Enterprise Conference* featuring Pioneer Human Services, February 13 & 14, 2008; and
- Writing on the ten-year plan has begun and a draft is expected to be available for further development and review in early 2009.

### ***Housing First Project Objectives***

The Community Development Division's objective for this initiative is to provide funding to encourage the development of a Housing First project for occupancy by individuals and / or families currently experiencing homelessness. The project is expected to assist in determining the cost-benefit of housing homeless individuals and / or families who frequently utilize high-cost services such as emergency room care, hospitalization, incarceration in jail / prison, substance abuse detoxification and ambulance services. The cost of serving these individuals and / or families is expected to decrease if housing is provided first, followed by comprehensive services including (but not limited to) case management, addiction treatment, workforce development, mental health treatment, medication management, etc.

Data requirements for the Housing First project include basic demographic information as well as the cost / type of services utilized for a twelve-month period prior to and post placement in housing. Other performance measurements are required and all data is subject to federal privacy regulations. Initial occupancy of the rental units must be facilitated using

one-year leases. All of the units must be occupied by individuals / families considered “homeless” as defined by the Mayor’s Committee on Homelessness.

### ***Homeless Families in Billings***

The overall assessment of the potential housing situation in Billings for homeless families substantiates a tremendous need for projects like Housing First. The population to be served with this project must present with *high-cost needs* which are expected to be reduced over time with housing placement and subsequent service delivery. Homeless families and the chronically homeless are estimated to consume more than 50% of available public resources.

The Montana Continuum of Care Coalition conducts a statewide survey of the homeless consistent with the HUD’s homeless survey protocol as part of a nationwide survey. The purpose of this *point-in-time* survey is to annually determine the number of unduplicated homeless individuals on one given day. According to this survey, there are at least **80 families** in Billings at any one point in time.

Mental health issues, substance abuse and lifestyle choice make up the top causes of homelessness for families in Billings. Domestic abuse is listed as the fourth cause of homelessness, affecting 12% of the family cohort. In the overall homeless population, domestic abuse is the sixth leading cause of homelessness in Billings.

Families are more likely to stay with others than to live in a shelter, although 28 family members, on average over the past four years, were staying outside during the point-in-time survey. Many families stay in motels with or without assistance vouchers. The number of families staying in a motel dropped from a three-year average of nine to only one in 2008. Families are also more likely in immediate jeopardy of losing their current living situation, as 16% are being asked to leave their current living situation within one week compared to 12% overall. Homeless families are slightly more likely to be lifetime residents of Billings at 24% compared to 21% of the overall homeless population.

There are more American Indian homeless families in Billings than any other race / ethnicity, totaling over 42%. This is statistically significant, as American Indians comprise 30% of the overall homeless population in Billings. Members of families self-identifying as Caucasian make up 40% of the homeless family population. Eight percent, or 13 people, were pregnant on the date of the survey and **24% are employed either full or part time**.

The number of homeless children being served in the Billings school system through the homeless education liaison is rising dramatically. Sue Runkle served 70 homeless children last year in this position and has a current caseload of **145 students**.

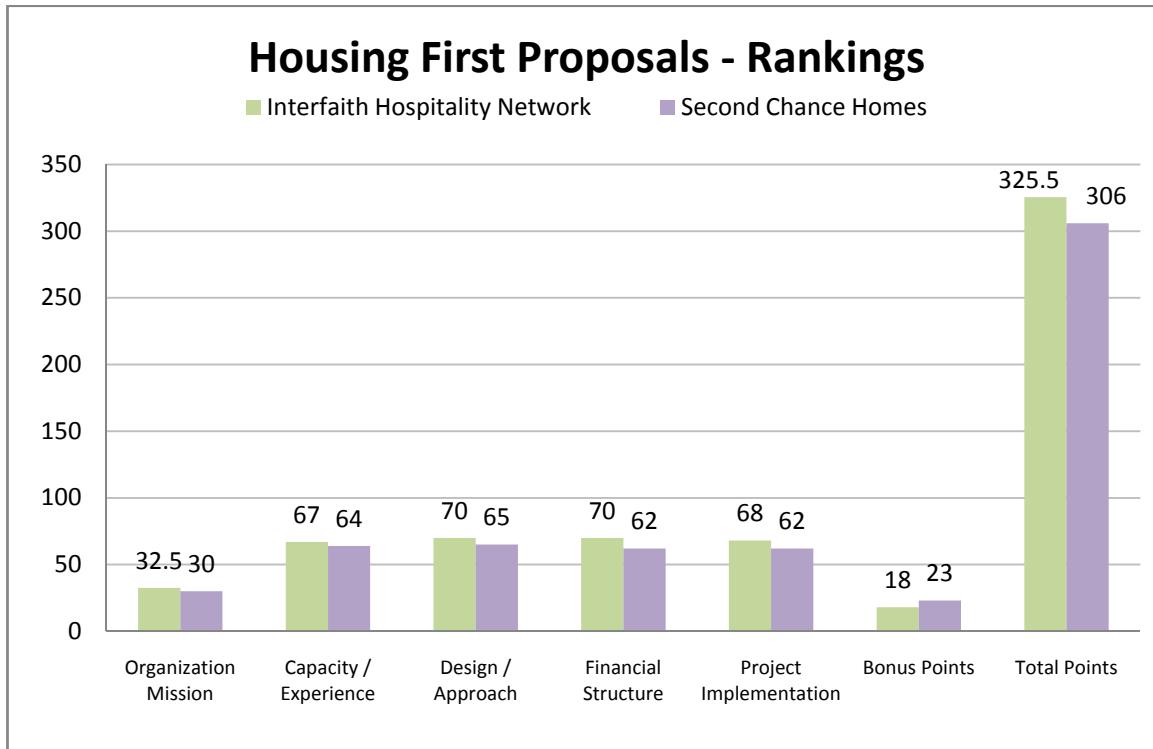
## **DISCUSSION**

A proposals review team was formed including four members of the Mayor’s Committee on Homelessness, three Community Development staff members and a City Planner. All

members of the Mayor's Committee on Homelessness were invited to participate in the proposal review process and the City's Purchasing Agent participated in the proposal process. Ranking team members were required to sign a non-conflict of interest certification prior to review. The members of the review team ranked the proposals on criteria established in the original Request for Proposals.

When comparing proposals for recommendation, the determining factors for the proposal review team included the following:

- New affordable housing units were proposed to expand the capacity of Billings' affordable housing base;
- Families would be placed into housing directly from homelessness, immediately ending homelessness;
- Four separate living quarters were proposed, offering each family personal and leisure space;
- Residents required to pay rent establishing positive rental history;
- Men, women and their children are included in programming;
- Sustainable, ongoing financing structure for the period of affordability;
- Longevity of the organization to date;
- Bridge financing secured prior to application;
- Leveraging for construction and rehabilitation at 15%; and
- Loan versus grant application.



### ***Project Review***

The project's proposed location, 1427 Avenue C, contains two duplex housing units and each unit has two bedrooms. Two of the units have one bathroom and two have one and a half bathrooms. The property would be purchased for \$320,000 and \$145,000 would be used for rehabilitation. One of the units would be made handicap accessible, meeting 504 accessibility standards. Energy efficiencies, green building components and universal design elements will be implemented for the rehabilitation.

The property is located within the City limits. Parking and landscaping are required and are being included in the site plan and utilities are available at the site. Environmental Review issues are not anticipated at the site as the lot is located in a fully developed residential area, is not located adjacent to the airport, PCE contamination site, or a four-lane street. Historic review will take place for one of the units depending on the rehabilitation plan. The rehabilitation plan will contain lead-based paint management strategies as both units were built prior to 1978.

### ***Organizational Strengths***

Interfaith Hospitality Network has been providing temporary housing and services for the homeless since 2004 and served 15 families (50 people) in 2007. Staff members include a director, case manager, driver and accountant. Key Board members, with the assistance of a consultant, will prepare the management plan and implement acquisition and rehabilitation. Nineteen local faith congregations make up the basic support and structure of the network and include 1,800 registered and active volunteers. Financial support for Interfaith Hospitality Network is continual and generated through donations. The most recent event, Cardboard Box City held at ZooMontana, generated \$66,000 in donations.

### ***Financial Plan***

Bridge financing has been secured for the acquisition / rehabilitation project through Little Horn Bank. Interfaith Hospitality Network has secured 15% in financing for project acquisition and construction as leveraging, and has committed approximately \$19,125 per year for ongoing support costs to maintain residents through supportive services. Prospective tenants are currently homeless, moving to a new church each week while receiving supportive services to prepare for housing placement. Insurance requirements have been met through certification provided in the application and the project has been proposed as a loan product rather than a grant.

#### ***Sources of funds to complete the project financing are as follows:***

City of Billings Housing First Funding	\$465,000
Collaborative Design Architects	\$ 10,000
Interfaith Hospitality Network	\$ 62,900
<u>Little Horn State Bank</u>	<u>\$ 6,975</u>
<b>Total Sources:</b>	<b>\$544,875</b>

Funding would be contingent on Interfaith Hospitality Network's ability to successfully complete a zoning lot size variance. Funding expended for the project would have to be repaid to the City if the zoning lot size variance was denied by the City Board of Adjustment. City staff also recommends offering the \$465,000 in financing as a zero interest, deferred payment loan with no expiration and 20 years of monitored affordability.

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

This project meets the following strategies in the City's Consolidated Plan for HUD funding:

- Promote new affordable housing opportunities;
- Promote the preservation of the existing supply of affordable housing in the community;
- Promote the preservation and revitalization of the community's older neighborhoods where the affordable housing stock is located,
- Work as an active partner with non-profits, neighborhood groups and others to address housing, community and neighborhood needs; and
- Improve the economic conditions of lower income households in the community.

The project also meets the following priorities adopted by the Mayor's Committee on Homelessness:

- Expand available housing for the homeless;
- Decrease barriers to obtaining housing;
- Expand supportive services; and
- Expand mental health and substance abuse services.

### **SUMMARY**

Total project review substantiates providing a loan to the Interfaith Hospitality Network for the proposed Housing First project.

### **RECOMMENDATION**

Staff recommends City Council hold a public hearing and approve the Mayor's Committee on Homelessness' recommendation and authorize a \$465,000 zero interest, deferred payment loan to the Interfaith Hospitality Network. Funding will be used to acquire and rehabilitate four units of affordable rental housing to serve homeless families.

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

**AGENDA ITEM:****CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, November 24, 2008**

**TITLE:** Public Hearing and Ordinance Adopting the Expanded N. 27<sup>th</sup> Street Urban Renewal Area - 2008

**DEPARTMENT:** Administration

**PRESENTED BY:** Bruce McCandless, Asst. City Administrator

**PROBLEM/ISSUE STATEMENT:** The Council will conduct a public hearing and consider adopting an Ordinance that adopts the Modified Plan and establishes the Expanded N. 27<sup>th</sup> Street Urban Renewal Area (District) - 2008. It is important that the district be expanded this calendar year in order to take advantage of the property improvements that have taken place in 2008 and the resulting higher taxable value. It is that increase in taxable value that produces the tax increment that is needed to complete the public improvement projects anticipated by the modified plan. The Council must act at this meeting because, in order to comply with new Department of Revenue (DOR) Rules, the expansion and all documentation must be reported and submitted to the DOR by February 1, 2009.

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

- adopt the ordinance that approves the Modified Plan and expands the boundaries of the Extended N. 27<sup>th</sup> Street District
- modify the ordinance and proposed boundary
- not approve the ordinance and allow the Extended N. 27<sup>th</sup> Street District that was established in 2006 to remain in place.

**FINANCIAL IMPACT:** The financial impact is unknown. However, the taxable value is approximately \$3.5 million. All of the expansion area was in the 1976 Downtown Urban Renewal Area that expired in March, 2008 but the expansion area does not include all of the property that was in that earlier downtown district. The purpose of an urban renewal and tax increment district is for the city to invest in infrastructure and thereby encourage private investment that increases the taxable value. Without the public investment, it is assumed that the private investment would not occur and property values would stagnate or decline.

**RECOMMENDATION**

Staff recommends that Council adopt the ordinance that approves the Modified Plan for the Expanded North 27<sup>th</sup> Street Urban Renewal Area (District) - 2008, including proposed projects, authority to collect tax increment within the district and authority to issue tax increment urban renewal revenue bonds to finance the proposed projects.

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

**ATTACHMENT**

A:      Ordinance, including Modified Plan

## **INTRODUCTION**

The Council will conduct a public hearing and consider adopting an Ordinance that adopts the Modified Plan and establishes the Expanded N. 27<sup>th</sup> Street Urban Renewal Area (District) - 2008. It is important that the district be expanded this calendar year in order to take advantage of the property improvements that have taken place in 2008 and the resulting higher taxable value. It is that increase in taxable value that produces the tax increment that is needed to complete the public improvement projects anticipated by the modified plan. The Council must act at this meeting because, in order to comply with new Department of Revenue (DOR) Rules, the expansion and all documentation must be reported and submitted to the DOR by February 1, 2009.

## **PROCEDURAL HISTORY**

- Downtown Billings Partnership makes two presentations about the expansion at 2008 Council work sessions
- Modified Plan reviewed by the Yellowstone County Board of Planning for conformance with the Growth Policy.
- Resolution of Intent and statement of blight – November 10, 2008
- Public Hearing and Ordinance adoption – November 24, 2008
- 2<sup>nd</sup> reading Ordinance – December 15, 2008
- Notice and document submittal to DOR – by February 1, 2009
- 

## **BACKGROUND**

Twice this year, the Council heard presentations about expanding the existing N. 27<sup>th</sup> Street tax increment district. The Downtown Billings Partnership (DBP) took the lead and wrote a modified urban renewal plan for this area of the central downtown that expands the existing N. 27<sup>th</sup> Street district that was created in 2005 and amended in 2006. The area is roughly bounded by N. 22<sup>nd</sup> Street, 6<sup>th</sup> Avenue North, N. 31<sup>st</sup> Street and 1<sup>st</sup> Avenue South. A more exact boundary description is included in the plan and the attached ordinance.

On November 10, 2008, the City Council approved a resolution that describes and declares blight or blighting conditions in the proposed District and establishes the necessity to create an urban renewal area with tax increment in order to mitigate the negative conditions. On **October \_\_**, the Yellowstone County Board of Planning reviewed the Modified Plan and has issued its opinion that it is consistent with the City/County Growth Policy. On November 24, the Council will conduct a public hearing and consider the ordinance that adopts the plan, expands the boundary and allows the City to use tax increment financing for public improvements.

## **ALTERNATIVES ANALYSIS**

The City Council may approve or disapprove the ordinance and it may alter the proposed boundaries. If the Council changes the Modified Plan or the proposed boundaries, staff recommends that it be referred to the Planning Board for it to consider its continued conformance with the Growth Policy.

## **STAKEHOLDERS**

- The DBP initiated this project and endorses it.

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

Consistency with the Growth Policy is one requirement for adopting an urban renewal plan. Growth Policy compliance is outlined in the body of the urban renewal plan. The Yellowstone County Board of Planning reviewed the plan and issued its opinion that the Modified Plan conforms to the Growth Policy.

### **RECOMMENDATION**

Staff recommends that Council adopt the ordinance that approves the Modified Plan for the Expanded North 27<sup>th</sup> Street Urban Renewal Area (District) - 2008, including proposed projects, authority to collect tax increment within the district and authority to issue tax increment urban renewal revenue bonds to finance the proposed projects.

### **ATTACHMENT**

A:      Ordinance, including Modified Plan

**ATTACMENT A**

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

AN ORDINANCE MODIFYING THE URBAN RENEWAL PLAN OF THE NORTH 27<sup>TH</sup> STREET DISTRICT URBAN RENEWAL AREA; MODIFYING THE BOUNDARIES OF THE DISTRICT; ADOPTING A MODIFIED URBAN RENEWAL PLAN INCLUDING A TAX INCREMENT PROVISION; APPROVING URBAN RENEWAL PROJECTS THEREIN AND AUTHORIZING THE ISSUANCE OF TAX INCREMENT URBAN RENEWAL REVENUE BONDS OF THE CITY TO FINANCE COSTS THEREOF

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

WHEREAS, on July 11, 2005 the City Council adopted Ordinance No. 05-5333, which created the North 27<sup>th</sup> Street District Urban Renewal Area (hereafter "North 27<sup>th</sup> Street District") and adopted the Urban Renewal Plan of the North 27<sup>th</sup> Street District Urban Renewal Area ("N. 27<sup>th</sup> Street Plan") that included a tax increment provision and endorsed urban renewal projects.

WHEREAS, on November 13, 2006 the City Council adopted Ordinance No. 06-5394 which expanded the boundaries and amended the N. 27<sup>th</sup> Street Plan to create the Extended N. 27<sup>th</sup> Street District that included a tax increment provision and endorsed urban renewal projects.

WHEREAS, it has been determined that the Extended North 27<sup>th</sup> Street District and the N. 27<sup>th</sup> Street Plan should be modified to include additional property contiguous to the Extended North 27<sup>th</sup> Street District.

WHEREAS, this Council on November 24, 2008, conducted a public hearing on a proposal to modify the N. 27<sup>th</sup> Street Plan by adopting the Urban Renewal Plan of the Expanded North 27<sup>th</sup> Street District Urban Renewal Area - 2008, thereby establishing a modified urban renewal area to be formally designated as the Expanded North 27th Street District Urban Renewal Area - 2008 (the "Expanded North 27<sup>th</sup> Street District - 2008" or "the Property"), and to undertake urban renewal projects therein, all as authorized by Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the "Act").

WHEREAS, the Expanded North 27<sup>th</sup> Street District - 2008 is depicted on Attachment 1 (depicting the relationship of the Expanded North 27<sup>th</sup> District – 2008 to the Extended N. 27<sup>th</sup> Street District) and which is hereby incorporated herein and made a part hereof. Pursuant to this Ordinance, the boundaries of the Redevelopment Area are

modified to reflect the addition of the Property depicted on the map on Attachment 1. The Redevelopment Area, as modified, is depicted on Attachment 1 and legally described on Attachment 2 (the “Resulting Redevelopment Area”) (each of which is hereby incorporated herein and made a part hereof). The Resulting Redevelopment Area is contiguous.

WHEREAS, opportunities have been presented to the City that makes it desirable for the City to consider urban renewal projects within the Expanded North 27<sup>th</sup> Street District - 2008 consisting of demolishing certain blighted structures within the district; improving such properties with new construction, landscaping, utilities, and other similar improvements; and making the properties so improved available for private redevelopment in accordance with the Act (the “Projects”). Development proposals to be considered for funding include mixed use projects, building renovations, services for the District and the construction or expansion of City owned parking structures within the District.

WHEREAS, the proposed modified urban renewal plan titled the Urban Renewal Plan of the Expanded North 27th Street District - 2008 is attached hereto as Attachment 3 (which is hereby incorporated herein and made a part hereof) (the “Modified Plan”). The Modified Plan contains a tax increment provision and will govern the operation and administration of the Expanded North 27<sup>th</sup> Street District - 2008.

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

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

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

b. If Projects require relocation of displaced persons, a detailed relocation plan is required and will be prepared.

c. The Modified Plan conforms to the 2003 Billings and Yellowstone County Growth Policy and the City's Downtown Framework Plan.

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

e. A sound and adequate financial program is required for the financing of Projects, which program includes substantial private investment and financing and the sale and issuance by the City of Tax Increment Bonds in proportions yet to be determined, for the purpose of financing a portion of the costs of the Projects as set forth above.

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

2. Plan Adoption. The Modified Plan is hereby adopted and approved in all respects, including without limitation, the segregation and application of tax increments as provided in Sections 7-15-4282 through 7-15-4293 of the Act as provided therein. For purposes of allocating taxes according to the Act, the "prior assessed value" of taxable property within the Expanded North 27<sup>th</sup> Street District - 2008 is that value shown on the assessment rolls as of January 1, 2008.

3. Project Approval. Authorized Projects are hereby approved.

4. Bonds. This Council approves financing the costs of Urban Renewal Projects, or a portion thereof, with proceeds of the Bonds. The City is hereby authorized and directed to undertake activities and analysis ordinarily prerequisite to the issuance of tax increment urban renewal revenue bonds in a principal amount not to exceed \$10 million for financing of the costs of Urban Renewal Projects or a portion thereof.

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

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

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

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

ADOPTED by the City Council of the City of Billings, Montana, on second reading this 8<sup>th</sup> day of December, 2008.

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Ron Tussing, Mayor

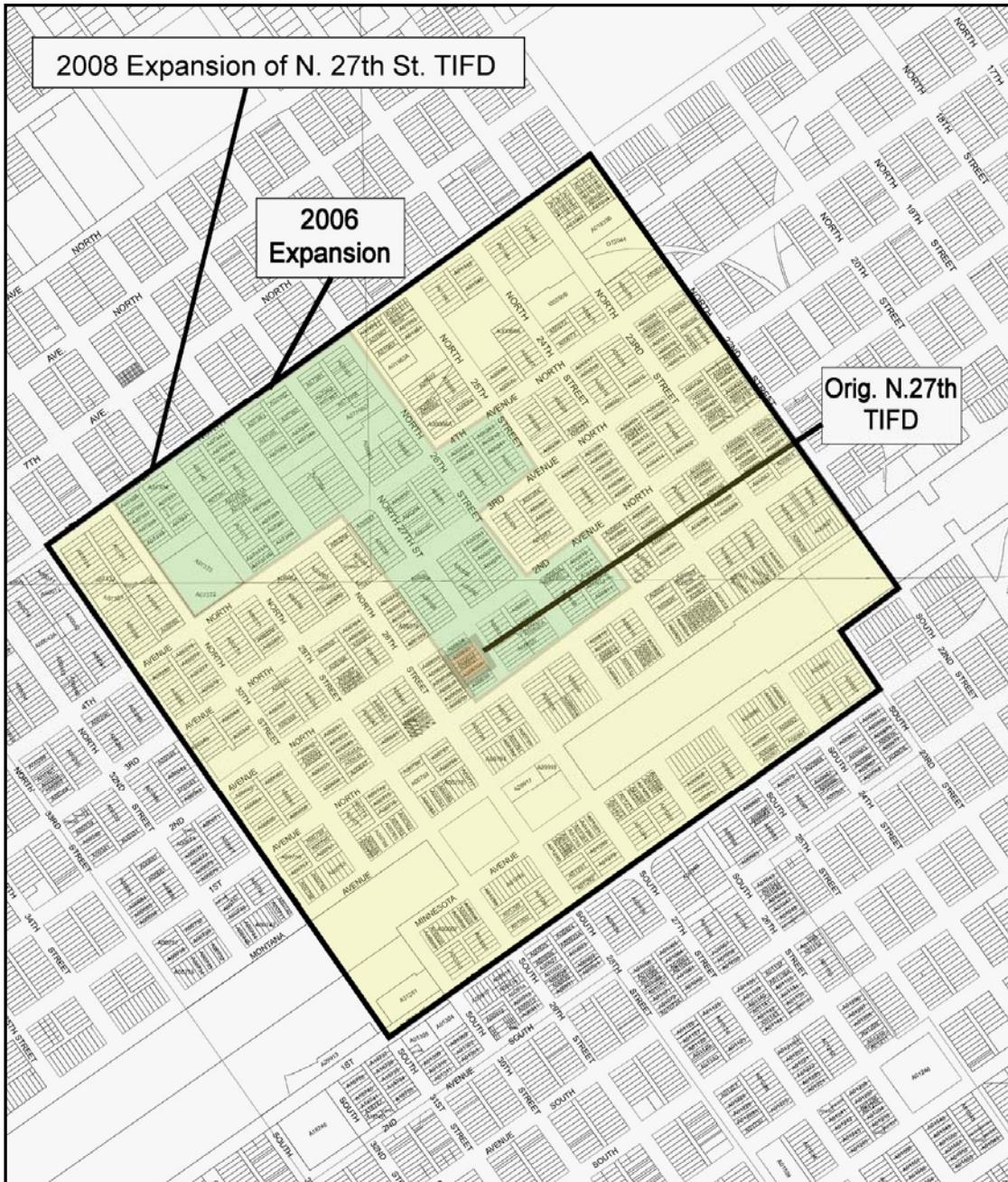
ATTEST:

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Cari Martin, City Clerk

**ATTACHMENT 1**

**Expanded North 27<sup>th</sup> Street Urban Renewal District – 2008 Boundaries, Boundaries of the Extended N. 27<sup>th</sup> Street District (2006) and the Boundaries of the N. 27<sup>th</sup> Street District (2005)**



**ATTACHMENT 2**  
**Expanded North 27<sup>th</sup> Street Urban Renewal District – 2008**  
**Boundary Description**

Beginning at a point at the intersection of the centerlines of 6<sup>th</sup> Avenue North and North 31<sup>st</sup> St. proceeding east along the centerline of 6<sup>th</sup> Ave. North to a point at the intersection of the centerlines of 6<sup>th</sup> Avenue North and N. 22<sup>nd</sup> Street proceeding south along the centerline of North 22<sup>nd</sup> Street, crossing the centrally assessed Burlington Northern Railroad property, to a point at the intersection of South 22<sup>nd</sup> Street and Minnesota Avenue proceeding west along the centerline of Minnesota Avenue to a point at the intersection of Minnesota Avenue and South 23<sup>rd</sup> Street proceeding south along the centerline of South 23<sup>rd</sup> Street to a point at the intersection of South 23<sup>rd</sup> Street and 1st Avenue South proceeding west along the centerline of 1<sup>st</sup> Avenue South to a point at the intersection of the centerlines of 1<sup>st</sup> Avenue South and South 31<sup>st</sup> Street proceeding north along the centerline of South 31<sup>st</sup> Street, crossing the centrally assessed Burlington Northern Railroad property, to the starting point at the intersection North 31<sup>st</sup> Street and 6<sup>th</sup> Avenue North encompassing all parcels and tax codes therein.

ATTACHMENT 3

**EXPANSION OF THE BILLINGS, MONTANA  
NORTH 27<sup>TH</sup> STREET URBAN RENEWAL  
AREA, WITH TAX INCREMENT, AND  
AMENDMENT TO THE URBAN RENEWAL  
PLAN**

**FOR CITY OF BILLINGS AND PLANNING REVIEW**  
**October 14, 2008**

Prepared by



Downtown Billings Partnership, Inc  
2815 2<sup>nd</sup> Ave. North – Billings, MT 59101 – [gregk@downtownbillings.com](mailto:gregk@downtownbillings.com)

## **SECTION 1 – INTRODUCTION**

On July 11, 2005, the City Council adopted an ordinance that (a) created the North 27<sup>th</sup> Street District Urban Renewal Area (“North 27<sup>th</sup> Street District”) and (b) adopted an urban renewal plan for the district. On November 13, 2006 the City Council adopted an ordinance that (a) expanded the North 27<sup>th</sup> Street District and (b) modified the urban renewal plan for the district. For reasons discussed in this Amendment to the Urban Renewal Plan of the North 27th Street District (“Plan”), it has been determined that the North 27<sup>th</sup> Street District should be expanded again to include other contiguous blighted properties in need of redevelopment. Further, it has been determined that this area, known as the Central Business District of Billings, has been and is in need of expanded public parking, enhanced pedestrian connections and experiences, improved public safety, and infrastructure improvements to public and private properties that will lead to increased taxable values. The existing urban renewal plan may be modified by ordinance in accordance with the procedure described in M.C.A. § 7-15-4221. The Urban Renewal Plan of the North 27th Street District approved by the City Council on July 11, 2005 and modified on November 13, 2006 is hereby included by reference as part of this amended Plan and shall remain applicable hereto except to the extent the original plan is explicitly or impliedly amended by this Plan. It is recognized as part of this Plan that the basic vision of the document known as Downtown Billings Framework Plan, adopted by the Billings City Council on December 22, 1997 and by the Yellowstone County Commissioners on December 23, 1997, is still valid and should be considered a part hereof. The terms defined in “Part I – DEFINITIONS” of the North 27th Street District Plan shall have the same meanings in this Plan unless a contrary meaning is expressed herein. The expanded district proposed in this Plan is hereafter referred to as the Expanded North 27<sup>th</sup> Street District - 2008 or the “District.”

## **SECTION 2 – BACKGROUND**

The original Downtown Redevelopment District, a downtown tax increment finance district, was created on December 20, 1975 by a resolution which cited hazardous

conditions existing in the district due to overhead utility wires, inefficient land use, problems of access and circulation, physical constraints to development, random location of mixed uses and deteriorated building conditions, and found that rehabilitation and redevelopment of the District would be in the public interest. That original district (hereafter “1975 District”) comprised one hundred and twenty four (124) blocks in the city center after the 1985 south expansion and the 2004 east expansion. The 1975 District expired March 1, 2008 but the Urban Renewal Plan and the Framework Plan used for that district, in many parts and in relation to this District remain valid.

Because the 1975 District has terminated, but many of the undesirable conditions continue to exist, it was determined that it would be in the best interest of the City to expand the North 27<sup>th</sup> Tax Increment District to assist the construction of public improvements, stabilize and grow the tax base, increase the parking inventory, increase the inventory of downtown residential property, stimulate multi-use development (“Multi-Use Facility Projects”), fill street level vacancies, provide expanded security, develop safe event locations with appropriate traffic control devices, expand the Business Improvement District, make modifications to street and intersection lighting, increase traffic calming and reduce the noise in the district through Quiet Zone management and further implement the vision of the Downtown Framework Plan.

Currently, there is a need to expand the North 27<sup>th</sup> Street District to encompass development needs on the North 27<sup>th</sup> Street corridor, the North Broadway corridor, the Old Town Neighborhood and the Montana Avenue Historic District (including expansion of the Historic District to include areas south of the railroad tracks), the Civic District, areas adjacent to the Medical Corridor, adjacent to the East Billings Urban Renewal Area and other underutilized properties within the Central Business District of Billings. Although there has been significant improvement in the valuation of property in much of the 1975 District, the area defined by this proposed expanded tax increment district has major properties that have been neglected for many years and continue to show signs of serious blight and tax base decline. Many parcels have been removed from the tax rolls and/or are delinquent on payments of taxes and fees. The Expanded North 27<sup>th</sup> Street District creates

an opportunity to continue redevelopment of the center of downtown with a mixture of public and private investment in a roughly seventy-one-square-block district (just over half of the size of the 1975 expanded district) encompassing the existing North 27<sup>th</sup> Street District.

The area has several pockets of low taxable value, with several lots of the land being owned by government and other non-profit entities and several buildings that are over 50% vacant.

The creation of the Expanded North 27<sup>th</sup> Street District is essential to any planned development at 4<sup>th</sup> Avenue North and North Broadway, redevelopment of the vacant Northern Hotel, improving security and expanding the clean safe and vibrant programs of the Business Improvement District, continuing redevelopment of the Civic Plaza area, developing the boundary areas of the Medical Corridor and the East Billings Urban Renewal Area, and expanding the Historic District. It could also assist with the essential remodeling of the Northern Hotel, the Babcock Theatre, the Westwood Building, the Lincoln Hotel Building. Public infrastructure construction within this expanded District could assist with the renovation and/or relocation of various City facilities, such as the public library. It is currently expected that the expanded North 27<sup>th</sup> Street District may help fund the following projects:

## **I. Business Programs and Projects**

- a. Business Retention
  - i. Targeted assistance and review of existing street level businesses
  - ii. Retail market survey
- b. Business Recruitment
  - i. Development of a “chainlet” network
  - ii. Business plan development assistance
  - iii. Association networking
  - iv. Business Improvement District support
  - v. Business cluster analysis
  - vi. Pedestrian study
    - 1. demographics
    - 2. directions
    - 3. linkages
    - 4. destinations

5. wayfinding

**II. Parking and Transportation**

- a. Increase use of public transit
- b. Parking structures to support current and future needs
- c. Explore parking linkages to adjacent destinations
- d. Explore parking management practices and programs
  - i. Off street parking
  - ii. On street parking

**III. Crime Prevention and Public Safety**

- a. Cooperative Security Program
- b. Business Watch Program
- c. Crime and Fraud prevention programs
  - i. Geared towards street level businesses

**IV. Management, Implementation and Maintenance**

- a. Downtown Billings Partnership, Inc. or its successor, management agreement
  - i. Project development
  - ii. Public awareness
  - iii. Advocacy and liaison between public and private sectors
- b. Business Improvement District expansion and development
  - i. Cooperative work agreements with PMDs
  - ii. Development and promotion of Conference Corridor
  - iii. BID expansion
  - iv. “Green” Management
    - 1. Recycling programs
    - 2. Tree management

**V. Infrastructure Improvements**

- a. Public
  - i. Expansion of Historic District
  - ii. New Library
  - iii. New Planning Department Offices
  - iv. Public Parking and Greenspace
  - v. Intersection Lighting by Public Works
  - vi. New SILMDs for mid-block lighting
  - vii. Streetscapes and traffic calming plans
  - viii. Sidewalks, curbs and gutter improvements
    - 1. stabilization of vaults
  - ix. Relocation of public and private utility lines

- b. Public infrastructure improvements that would support the following development projects/programs
  - i. Workforce housing development
  - ii. Loft and Condo development
  - iii. Lodging development
  - iv. Conference Facilities
  - v. Entertainment venues

### **SECTION 3 – SUMMARY OF BLIGHT FINDINGS**

The area in the proposed expansion of the North 27th Street District contains a great deal of blight. Within the district there is substantial structural deterioration, long-term land vacancy, a railroad spur line that has been abandoned and a major rail line that continues to divide the Central Business District. Several of the commercial buildings in the district are deteriorated and/or vacant and need demolition or renovation. Many of the storefronts and upper floors are vacant or under-occupied. Sidewalks are cracked; alleys are deteriorated, and, in general, much of the area is below accepted standards. In contrast to the above, there are certain properties within the district in good repair but included in the district to allow for a contiguous block of land within the district and because pockets of revitalization cannot be sustained if areas of neglect and blight surround them. Over time, without continued managed urban renewal, even these success stories will once again decline in taxable value. Most of the district falls into the blighted, neglected and under-utilized categories.

### **SECTION 4 – DESCRIPTION OF BLIGHTED AREA**

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

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

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

- (a) the substantial physical dilapidation; deterioration; defective construction, material, and arrangement; or age obsolescence of buildings or improvements, whether residential or nonresidential;*
- (b) inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined by competent appraisers on the basis of an examination of the building standards of the municipality;*
- (c) inappropriate or mixed uses of land or buildings;*
- (d) high density of population and overcrowding;*
- (e) defective or inadequate street layout;*
- (f) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;*
- (g) excessive land coverage;*
- (h) unsanitary or unsafe conditions;*
- (i) deterioration of site;*
- (j) diversity of ownership;*
- (k) tax or special assessment delinquency exceeding the fair vale of the land;*
- (l) defective or unusual conditions of title;*
- (m) improper subdivision or obsolete platting;*
- (n) the existence of conditions that endanger life or property by fire or other causes; or*
- (o) any combination of the factors listed in this subsection (2).*

The land being added to the Plan area includes 405 (Exhibit A) property tax codes plus a segment of centrally assessed BN Railroad property. The complete, expanded Urban Renewal Area will have 481 property tax codes plus the segment of BN Railroad property. Within that total area, and as noted in the 2006 approved Urban Renewal Plan, there are many "target areas" that should be immediately considered for redevelopment. The properties on N. Broadway between 4<sup>th</sup> Avenue North and 6<sup>th</sup> Avenue North will need additional parking to facilitate the construction of a Stockman Bank facility. The area adjacent to the Northern Hotel on North Broadway is in need of parking due to the closure of the privately owned parking structure in that area due to unsafe and blighted conditions

of the structure. The area east of the Yellowstone County Courthouse Lawn is targeted for a new federal courthouse and will need additional parking and green spaces. The area between the new MET transit facility on N. 25<sup>th</sup> Street and to the east boundary of the East Billings Urban Renewal Area (N. 22<sup>nd</sup> Street) is in need of redevelopment that could include workforce housing and parking. The status of the Battin Federal Courthouse is still unclear. The facility is contaminated with asbestos and is destined to become vacant with the completion of a new federal courthouse and office building. This vacancy will present a redevelopment opportunity in the near future. The area surrounding City of Billings Park IV contains many surface parking lots that could be developed if Park IV is sold to a private developer. This area lacks high-rise housing with mixed use occupancy on the first floor. The future use of the Lincoln Center is unclear and it could be a redevelopment opportunity if the school district ceases its administrative and continuing education functions in the building. The properties on 1<sup>st</sup> Ave. S. and Minnesota Avenue are not currently in a Historic District and values remain stagnant as compared to the Montana Avenue area. The redevelopment of the south side of the railroad tracks has not kept up with the redevelopment north of the tracks and should be a target area. Several properties located between Montana Avenue and 1<sup>st</sup> Avenue North are severely underutilized and in need of redevelopment. Without attention to some of this blight, over time, the value of the Montana Avenue redevelopment will most likely be negatively impacted.

## **SECTION 5 – DETERMINATION OF BLIGHT**

The proposed expansion area of the North 27<sup>th</sup> Street District contains a number of underdeveloped properties. The Council previously determined that the property included in the North 27<sup>th</sup> Street District was “blighted” within the meaning of the Act in Resolution 05-18276 adopted June 13, 2005 and Resolution 06-18488, adopted September 25, 2006. The Redevelopment Area, including the portion that is to be expanded to form the Expanded North 27<sup>th</sup> Street District - 2008, was previously determined to be blighted and an appropriate area for an urban renewal project in Resolution No. 12107 dated January 5, 1976. Deficiencies in public and private properties located in the district lead to a

determination that the area continues to be blighted, as defined by state statute. Specific areas of blight on the site are listed below:

**Deficient Structures in Expanded Area**

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

**Deficient Public Facilities in Extended Area**

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

**Deficient Land Use in Extended Area**

In general, the area is under-utilized due to the significant amount of surface parking areas and a large number of single-story structures. The taxable value of this district must be stabilized and encouraged to grow.

**SECTION 6 – THE SITE AND ITS RELATIONSHIP TO THE CITY**

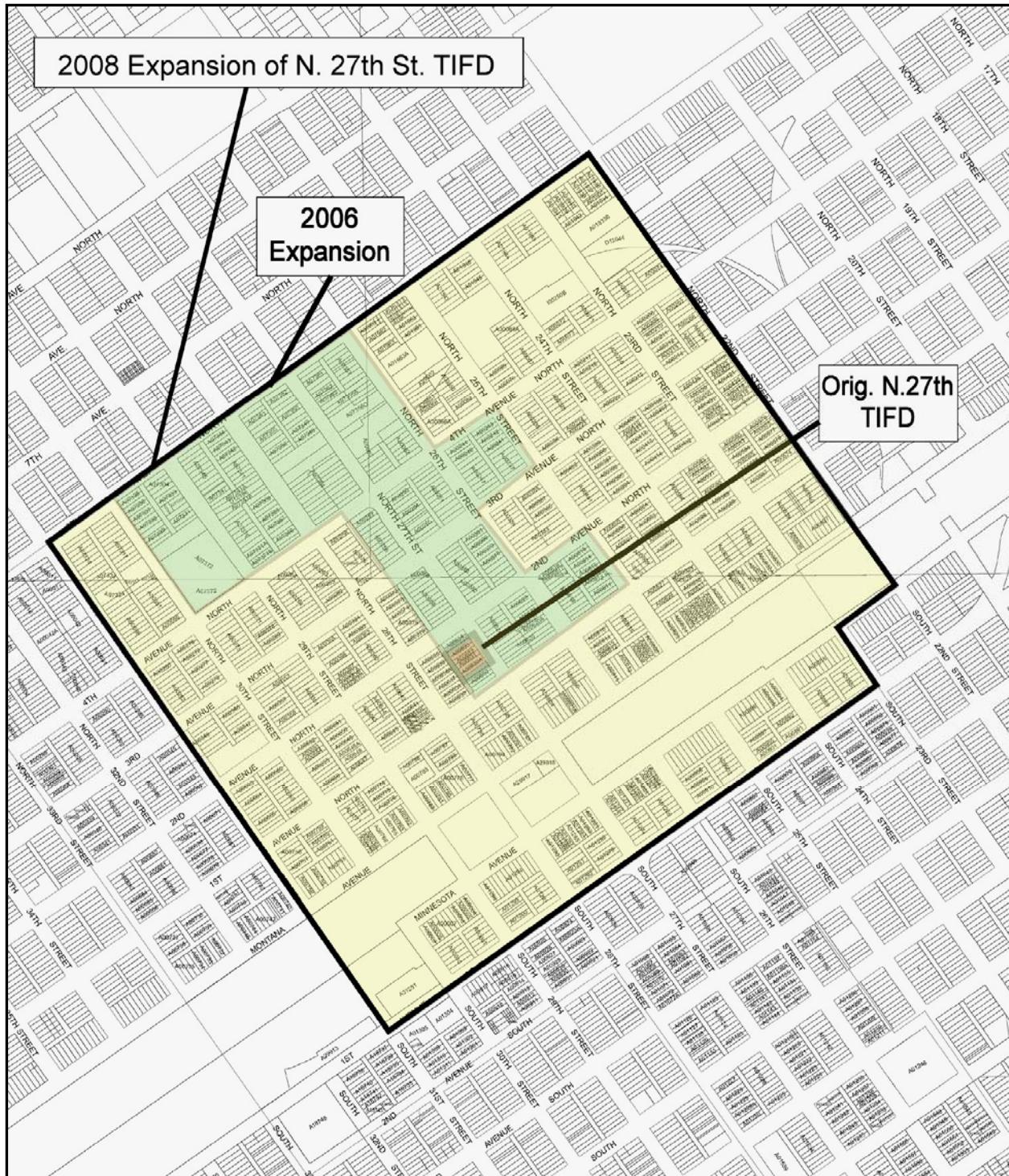
As noted, the expanded North 27<sup>th</sup> Street Urban Renewal Area comprises most of the Central Business District (CBD) of the City of Billings.

## **SECTION 7 – LEGAL DESCRIPTION**

The legal description of the proposed Expanded North 27<sup>th</sup> Street District – 2008 is as follows:

**Beginning at a point at the intersection of the centerlines of 6<sup>th</sup> Avenue North and North 31<sup>st</sup> St. proceeding east along the centerline of 6<sup>th</sup> Ave. North to a point at the intersection of the centerlines of 6<sup>th</sup> Avenue North and N. 22<sup>nd</sup> Street proceeding south along the centerline of North 22<sup>nd</sup> Street, crossing the centrally assessed Burlington Northern Railroad property, to a point at the intersection of South 22<sup>nd</sup> Street and Minnesota Avenue proceeding west along the centerline of Minnesota Avenue to a point at the intersection of Minnesota Avenue and South 23<sup>rd</sup> Street proceeding south along the centerline of South 23<sup>rd</sup> Street to a point at the intersection of South 23<sup>rd</sup> Street and 1st Avenue South proceeding west along the centerline of 1<sup>st</sup> Avenue South to a point at the intersection of the centerlines of 1<sup>st</sup> Avenue South and South 31<sup>st</sup> Street proceeding north along the centerline of South 31<sup>st</sup> Street, crossing the centrally assessed Burlington Northern Railroad property, to the starting point at the intersection North 31<sup>st</sup> Street and 6<sup>th</sup> Avenue North encompassing all parcels and tax codes therein, all inclusive.**

Map of entire Expanded N. 27<sup>th</sup> District



## **SECTION 8 – PROPERTY DEVELOPERS**

New development in the proposed tax increment district will also be accomplished through the implementation of the Downtown Framework Plan. These Projects are described in Section 2 of this plan.

## **SECTION 9 – PROJECT RELATIONSHIP TO THE FRAMEWORK PLAN**

The proposed urban renewal area and expanded tax increment district is located generally in the center of the City and encompasses most of the “districts” as defined by the Billings Framework Plan (“Framework Plan”). One goal of the Framework Plan was to remove barriers to downtown circulation and development created by 4<sup>th</sup> Avenue North and 6<sup>th</sup> Avenue North and establish the area between the avenues as both a discreet district and a recognized extension of the CBD, thereby allowing potential ties to the medical corridor and MSU-Billings from the CBD. Generally, the Framework Plan stressed the downtown’s ability to make a positive impact on the entire city. The Framework Plan also recommended a private non-profit organization to assist the City of Billings with the management of the Tax Increment District through an annual work plan and contract. This Expanded N 27<sup>th</sup> Street District may be managed in a similar manner and could make use of the redevelopment and facilitation established through that management entity.

### **Framework Plan Recommendation: Housing**

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

The formation of an expanded tax increment district will help to raise funds that can be used for construction or rehabilitation of public infrastructure necessary to attract and retain housing in the area.

## Framework Plan Recommendation: Priorities

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

- Development incentives, including business retention and recruitment
- Housing – demonstration projects
- Streetscape Kit of Parts – expand kit to include Minnesota Avenue
- Events Kit of Parts – Modern and safer traffic control devices may be needed
- Paring configuration adjustments – several one-way streets could be converted to 2-way
- 5<sup>th</sup> Avenue North Corridor preservation and enhancement

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

## **SECTION 10 – CONFORMANCE TO THE GROWTH POLICY**

One of the requirements of Montana’s Urban Renewal Law (Title 7, Chapter 15, Parts 42 and 43) is that the urban renewal plan must conform to the community’s growth policy. The Yellowstone County and City of Billings Growth Policy (“Growth Policy”) refers to and promotes downtown redevelopment in a variety of ways. This amendment to the Plan is consistent with the current Growth Policy.

## **SECTION 11 – CERTAIN PLAN FEATURES AND FINANCIAL MATTERS**

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

1. Most of the District contains no existing dwelling units or housing, and planned projects would not displace any persons from housing. Accordingly, there is no need to have a workable and feasible plan for substitute housing until and unless such a project is developed in the future.

2. This amended Plan conforms to the Growth Policy for the City as a whole and to the Framework Plan.
3. This Modified Plan affords maximum opportunity, consistent with the needs of the City as a whole, for the rehabilitation or redevelopment of the Expanded North 27<sup>th</sup> Street District by private enterprise. It is unreasonable to expect that the district will be remain stabilized and/or redeveloped without substantial public support. Numerous properties within the area are dilapidated. As presently constituted, property in the district is not conducive to any sort of uniform or integrated development and, as presently existing, cannot compete with other areas of the City for substantial developments, particularly areas at the outskirts of the City. Experience has validated the foregoing facts and observations. This amended Plan is intended to facilitate the identification and construction of significant Urban Renewal Projects, which would not be possible without this Plan.
4. A sound and adequate financial program exists for financing projects, which include the sale and issuance by the City of the Bonds in an amount not to exceed the costs of the project, including administration costs and costs of issuance of the Bonds. Any approved Development Project will require commitments of substantial private financing that will provide the primary means for funding construction of the improvements.
5. This Expanded N. 27<sup>th</sup> Street District - 2008 may be modified at any time by the City Council as necessary to eliminate and prevent the development or spread of blighted areas, and encourage urban rehabilitation. The process for plan modification shall follow the procedures set forth in 7-15-4212 through 7-15-4219 MCA, with respect to initial adoption of this plan. For purposes of urban renewal district boundary changes only, the notice of public hearing, as described in 7-15-4215 MCA, may be mailed only to those owners whose properties are situated within the area of expansion or contraction of the Urban Renewal District boundaries. In cases where the boundaries

are not modified, but the contents of the urban renewal plan are substantially modified, notification shall be mailed to all owners of property within the Urban Renewal District area.

#### **SECTION 12 – TAX INCREMENT**

Tax increment financing is necessary to encourage private reinvestment within the District, which will further encourage economic growth in the District and Downtown Billings, create substantial employment opportunities, and increase the tax base of the City and other taxing jurisdictions. The expanded North 27<sup>th</sup> Street District is hereby established as a tax increment financing urban renewal area within the meaning of the Act, and, in particular, Section 7-15-4282 through 7-15-4293 of the Act. This Section constitutes a tax increment provision within the meaning of the Act. In connection therewith:

1. For the purpose of calculating the incremental taxable value each year for the life of the district, the base taxable value shall be calculated as current base taxable value of the district plus the base taxable value of all real and personal property added to the district by this amended plan and as show in Exhibit B as of **January 1, 2008.**
2. The City is hereby authorized to segregate the tax increment derived in the district and use and deposit such increment into the tax increment fund of the district for use as authorized by the Act and as authorized herein from time to time, including, without limitation, pledging the tax increment to repayment of Bonds.
3. The tax increment received from the district may be used to pay directly costs of an approved Development Project as may from time to time be approved by the Council. The Council also hereby authorizes the use of tax increment in the district to pay debt service on Bonds issued to finance a portion of the costs of these Development Projects, and costs associated with the sale and security of such Bonds in compliance with the Act, subject to any limitations imposed by the Montana Constitution and federal law.
4. The tax increment provision of the district will terminate upon the latter of:

- a. The fifteenth (15<sup>th</sup>) year following the original creation of the district; or
- b. The payment or provision for payment in full or discharge of all Bonds, and the payment of interest thereon, for which the tax increment has been pledged.

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

### **SECTION 13 – CONCLUSIONS**

The creation of this expanded North 27th Street Urban Renewal District will have a positive impact on Downtown Billings and no impact on the total taxable value flowing to the taxing entities from the now expired 1975 Urban Renewal District.

Expansion of the North 27<sup>th</sup> Street District is an essential first-step in completing what may be a number of urban renewal projects. If completed, mixed use projects approved within the first two years could stimulate over \$30 million in new construction, and possibly as much as \$15 million in re-sales and redevelopment. Approximately 500 new employees and new downtown residents could be located on the commercial and upper floors of possible mixed use projects. Thus, expansion of the district, in addition to further stabilizing the tax base, eliminating blight and providing renaissance to the CBD, will also bring new employees and residents to the CBD.

Mixed use development within the Expanded District ties in favorably with and actually stimulates the remodeling plans that are currently underway for several downtown properties.

Additionally, like any major new development, the anticipated Stockman Bank construction at 4<sup>th</sup> Avenue North and North Broadway will have a stimulating effect on the surrounding area. Specific examples of this are:

1. It will tie the CBD to the medical corridor located immediately to the north of the development.
2. The Billings Clinic has purchased the Underriner property to the north and west of the Library. The Clinic's plans at this point have not been determined; however, the development proposed in this amended Plan will enhance and encourage future development by this group.
3. The Framework Plan encourages the development of the 5<sup>th</sup> Avenue North corridor. An enhanced Library, as accomplished by projects described in this Plan, will provide an excellent entrance to this corridor.
4. Future redevelopment and revitalization of structures like the Northern Hotel and the Babcock Theatre Building are enabled by this district.
5. This expanded district may assist with the completion of and continued modernization of City owned downtown parking structures.

In conclusion, expansion of the North 27<sup>th</sup> Street Urban Renewal District to include the property described in this amended Plan will have a positive effect on the CBD and the City.

## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, November 24, 2008**

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**TITLE:** Public Hearing on First Reading of Ordinance for the Modified South Billings Boulevard Urban Renewal District and Urban Renewal Plan

**DEPARTMENT:** Planning and Community Services Department

**PRESENTED BY:** Lora Mattox, AICP, Planner II

---

**PROBLEM/ISSUE STATEMENT:** The Council will hold a public hearing and consider adopting an ordinance modifying the South Billings Boulevard Urban Renewal District. On November 10, 2008, Council adopted a resolution of intent to modify the district, which also included tax increment authority, a description of the property involved and a determination of blight. The resolution also set a public hearing date to receive testimony on the modified Urban Renewal Plan and ordinance. The modifications added three properties, a description of a plan to relocate displaced residents, and a process to modify the Urban Renewal Plan.

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

- reject the ordinance
- modify the proposed boundary
- adopt the ordinance with the proposed boundary

**FINANCIAL IMPACT:** The financial impact is unknown. However, the 2008 taxable market value of the three properties to be included in the modified TIFD is approximately \$207,500. The purpose of an urban renewal and tax increment district is for the public to invest in infrastructure and thereby encourage private investment that increases the taxable value. Without the public investment, it is assumed that the private investment would not occur, thus there is no "loss" of taxes from freezing the taxable value base because all taxing entities continue to collect taxes on the base value.

**RECOMMENDATION**

Staff recommends that City Council hold a public hearing on the modified Urban Renewal Plan and adopt on first reading, the ordinance modifying the South Billings Boulevard Urban Renewal District.

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

**ATTACHMENTS**

A.      Ordinance

## **INTRODUCTION**

The Council will hold a public hearing and consider adopting an ordinance modifying the South Billings Boulevard Urban Renewal District. On November 10, 2008, Council adopted a resolution of intent to modify the district, which also included tax increment authority, a description of the property involved and a determination of blight. The resolution also set a public hearing date to receive testimony on the modified Urban Renewal Plan and ordinance. The modifications added three properties, a description of a plan to relocate displaced residents, and a process to modify the Urban Renewal Plan.

## **PROCEDURAL HISTORY**

- On April 26, 2007, Planning Division staff attended the Southwest Corridor Task Force to discuss and answer questions on urban renewal districts and tax increment financing.
- May through August, 2007, Planning Division staff attended monthly Southwest Corridor Task Force meetings to continue discussions on the urban renewal district and to gather input from residents on potential public improvement projects.
- On August 30, 2007, Planning Division staff mailed 2,032 letters of invitation to property owners to two public meetings on the urban renewal district.
- On September 13, 2007, the first public meeting was held to discuss the urban renewal district and tax increment financing to property owners. In addition, property owners identified potential public improvement projects within the district.
- On October 11, 2007, the second public meeting was held to review the draft urban renewal plan for the district.
- On October 23, 2007, Yellowstone Planning Board voted on a 6-0 vote to recommend approval of the South Billings Urban Renewal Plan with corrections to the Billings City Council.
- On November 5, 2007, City Council at its work session heard a presentation and discussion on the South Billings Boulevard Urban Renewal Plan and District.
- On November 13, 2007, City Council considered and passed a Resolution on South Billings Boulevard Urban Renewal District, Declaring Blight, Intent to Create the District and Setting a Public Hearing.
- On November 26, 2007, City Council conducted a public hearing and first reading of an ordinance to create the district.
- On December 10, 2007, City Council adopted on the ordinance on second and final reading. The ordinance became effective 30 days.
- On March 10, 2008, City Council adopted a resolution that corrected the legal description of the South Billings Boulevard Urban Renewal District Area. This resolution amended Resolution 07-18687.
- On or around March 20, 2008, the Planning Division realized an error in the public notification process.
- On March 25, 2008, the Yellowstone County Planning Board on a 7-0 vote reaffirmed its recommendation of approval of the South Billings Urban Renewal Plan to the Billings City Council.
- On April 14, 2008, City Council considered and passed a Resolution on the South Billings Boulevard Urban Renewal District Area, Declaring Blight, Intent to Create the District and Setting a Public Hearing.

- On April 28, 2008, City Council conducted a public hearing and first reading of an ordinance to create the district.
- On May 12, 2008, City Council considered the ordinance on second and final reading. If approved, the ordinance will become effective in 30 days.
- On November 10, 2008, City Council passed a Resolution on the South Billings Boulevard Urban Renewal District Area, declaring blight, intent to modify the District and setting a public hearing.
- On November 12, 2008, the Yellowstone Board of Planning forwarded a recommendation to the City Council as to the modified Urban Renewal Plan's consistency with the Growth Policy.

## **BACKGROUND**

The South Billings Boulevard Urban Renewal District Area was created on May 12, 2008. Since its creation, a 4.3-acre parcel along King Avenue East, and a 54-acre property along the South Frontage Road were annexed to the City. These properties, and a vacant residential property on Washington Street, are adjacent to the existing District. The property located east of Washington meets the statutory definition of blight because it is not served by municipal water and may be considered in a condition that endangers life or property. The properties along King Avenue East and South Frontage Road contain an inappropriate mix of land uses for the zoning districts in which they are located. The City desires to improve the quality of land use and economic development potential of these properties by including them in the South Billings Boulevard Urban Renewal District Area.

Changes to the text of the Urban Renewal Plan are also proposed. These changes include adding a residential relocation plan. This section describes the process the City would follow in the event residents need to be relocated as a result of right-of-way acquisition and/or a public infrastructure construction project that is partially or fully funded with federal assistance (Housing and Urban Development, Federal Highway, etc). In these cases, the City of Billings would abide by the Uniform Relocation Assistance Act. Another section was also added describing the process for modifying the Plan. Specifically, if the district boundaries were to be modified, only the property owners within the modified area would be notified. If the Plan underwent substantial changes, all owners would be notified.

On November 10, 2008, City Council passed a Resolution on the South Billings Boulevard Urban Renewal District Area, declaring blight, intent to modify the District and setting a public hearing.

## **ALTERNATIVES ANALYSIS**

Modifying this district is discretionary. The City Council may:

- reject the ordinance
- modify the proposed boundary
- adopt the ordinance with the proposed boundary

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

The Yellowstone County Planning Board determined that the plan was consistent with the 2003 Growth Policy on November 12, 2008. The Board found that the plan is instrumental in achieving the goals and objectives of the Growth Policy.

**RECOMMENDATION**

Staff recommends that City Council hold a public hearing on the modified Urban Renewal Plan and adopt on first reading, the ordinance modifying the South Billings Boulevard Urban Renewal District.

**ATTACHMENTS**

A. Ordinance

**ATTACHMENT A**  
**ORDINANCE**

ORDINANCE NO. 08 \_\_\_\_\_

**AN ORDINANCE RELATING TO THE MODIFICATION OF THE  
SOUTH BILLINGS BOULEVARD URBAN RENEWAL AREA; AND  
ADOPTING A MODIFIED URBAN RENEWAL PLAN, INCLUDING A  
TAX INCREMENT PROVISION.**

**Recitals:**

WHEREAS, this Council on November 24, 2008, conducted a public hearing on a proposal to modify an urban renewal area on specified property (as hereinafter defined, the "Property") to be designated "The South Billings Boulevard Urban Renewal Area", and to adopt a modified urban renewal plan, as authorized by Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the "Act").

WHEREAS, the Property is depicted on the attached Exhibit A and legally described on the attached Exhibit B (each of which is hereby incorporated herein and made a part hereof).

WHEREAS, opportunities have been presented to the City that make it desirable for the City to consider an urban renewal project within the District consisting of the acquisition of certain vacant or blighted properties, demolishing the blighted structures thereon, improving such properties with, landscaping, utilities, and other similar improvements, assembling such properties, and making the properties so improved available for private redevelopment in accordance with the Act.

WHEREAS, an urban renewal plan entitled the South Billings Boulevard Urban Renewal Plan is attached hereto as Exhibit C (which is hereby incorporated herein and made a part hereof) (the "Plan"). The Plan contains a tax increment provision and will govern the operation and administration of the District.

WHEREAS, the Plan has been reviewed and approved by the Yellowstone County Planning Board, as evidenced by the Board meeting minutes of November 12, 2008.

**Ordinance:**

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

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

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

Property will help to foster a more dynamic, livable, and vibrant area.

- b. No housing element or structure is disturbed by this District making no relocation necessary;
- c. The modified Plan conforms to the Growth Policy or parts thereof of the City for the municipality as a whole;
- d. The modified Plan will afford maximum opportunity, consistent with the needs of the City as a whole, for the rehabilitation or redevelopment of the District by private enterprise;

2. Plan Adoption. The modified Plan is hereby adopted and approved in all respects, including without limitation, the segregation and application of tax increments as provided in Sections 7-15-4282 through 7-15-4293 of the Act as provided therein.

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

PASSED by the City Council on first reading November 24, 2008.

PASSED, ADOPTED AND APPROVED on second reading December 8, 2008.

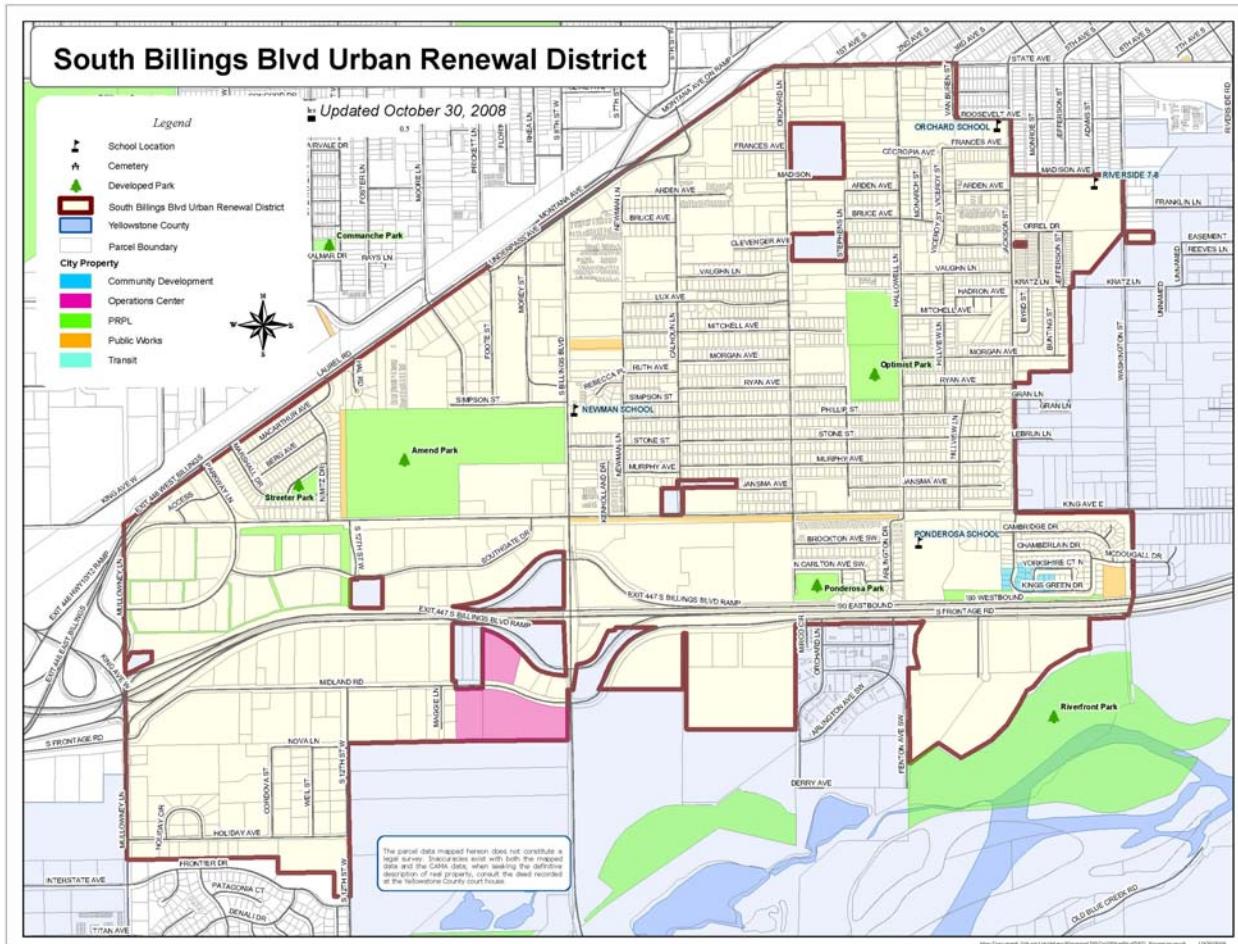
CITY OF BILLINGS:

BY: \_\_\_\_\_  
Ron Tussing, Mayor

ATTEST:

BY: \_\_\_\_\_  
Cari Martin, City Clerk

**EXHIBIT A**  
**MAP OF THE MODIFIED URBAN RENEWAL AREA**



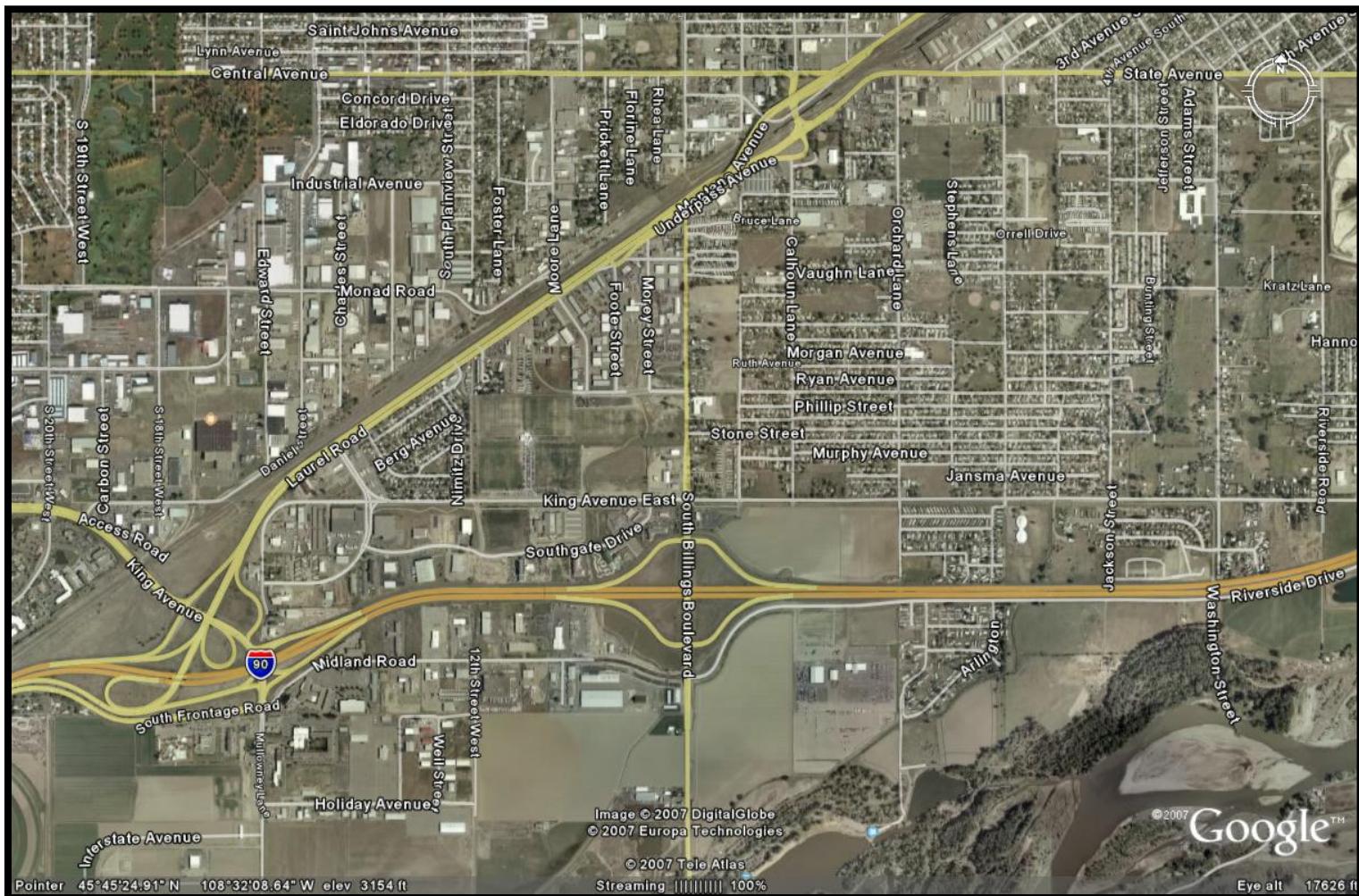
**EXHIBIT B**  
**LEGAL DESCRIPTION OF MODIFIED URBAN RENEWAL AREA**

*Starting at the intersection of State Avenue and Van Buren Street, extending south down the centerline of Van Buren Street to the intersection of Van Buren Street and Roosevelt Avenue, extending east down the centerline of Roosevelt Avenue to the intersection of Roosevelt Avenue and Jackson Street, extending south down the centerline of Jackson Street to the intersection of Jackson Street and Madison Avenue, extending east down the centerline of Madison Avenue to the intersection of Madison Avenue and Washington Street, extending south down the centerline of Washington Street to the intersection of the centerline of Washington Street and the extension of the northern boundary of Lot 7, Willis Subdivision, extending east along said boundary to the eastern boundary of said lot, extending south along said boundary to the southern boundary of said lot, extending westerly along said boundary and its extension to the centerline of Washington Street, extending north to the existing City of Billings city limit boundary, extending southerly and westerly along the existing city limit boundary to the intersection of Jackson Street and King Avenue East, extending east along the centerline of King Avenue East to the intersection of King Avenue East and Washington Street, extending south along the centerline of Washington Street and its projection across the Interstate 90 right-of-way, to its intersection with South Frontage Road, thence in a westerly direction following the south right-of-way boundary of the South Frontage Road to the intersection of an extension of the east boundary of Riverfront Business Park Subdivision, extending south along eastern boundary of said subdivision to the south boundary of said subdivision, extending southerly and westerly along said boundary to the west boundary of said subdivision, extending northerly and easterly along said boundary and its extension to the south right-of-way boundary of South Frontage Road, extending westerly to the northeast corner of Lot 1, Block 1, Willowbrook Subdivision, thence in a southerly and westerly direction following the existing city limit boundary to a point which intersects with the extension of the southern boundary of Tract 1, C/S 2834, then west along said southern boundary of Tract 1, C/S 2834 and southern boundary of Block 4 of Weil Subdivision to the intersection with the centerline of Mullowney Lane, extending north along the centerline of Mullowney Lane and its projection to the centerline of Laurel Road, extending northeast along the centerline of Laurel Road to its intersection with State Avenue, extending northeast and east along the centerline of State Avenue to the ending point at the intersection of State Avenue and Van Buren Street. Excluding all nonincorporated land within the boundary.*

**EXHIBIT C**  
**MODIFIED SOUTH BILLINGS BOULEVARD URBAN RENEWAL PLAN**

# Modified Urban Renewal Plan

## South Billings Boulevard Urban Renewal Area



**K. Prepared by the Planning & Community Services Department**  
Adopted by the Billings City Council on November 24, 2008

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## Acknowledgements

## Participants and Stakeholders

### City of Billings

- Ron Tussing, Mayor

### City Council Members:

- Richard (Dick) Clark
- Mark Astle
- Peggy Denney Gaghen
- Jim Ronquillo
- Vince Ruegamer
- Chris "Shoots" Veis
- Ed Ulledalen
- Jani McCall
- Denis Pitman
- **Ward 2 Vacant**

### Planning and Community Services Department

#### Southwest Corridor Task Force Officers

- Tom Ruschkewicz, Chair
- Floyd Martin, Vice Chair
- Alan Ponrick, Treasurer
- Debbie Rowe, Secretary

### Big Sky Economic Development Authority

### Downtown Billings Partnership

#### Stakeholders

Alene Malloy	Casey Ryan	Edythe Davis
Allen Krenz	Charles Duenow	Eleanor Aukshun
Alta Dean	Cindy Linse	Elissa Linse
Arlene Bierwagen	Cindy Reid	Elsie Arntzen
Barbara Kipp	Clarence Perkins	Floyd Martin
Barbara Prewett	Clifton Burns	Gary Cooper
Barry Willson	Colleen Apps	Gary Tipton
Beth Kirkwood	Connie Wagner	Gene Frank
Betty Hofstad	Connie Wittman	Gerald Apps
Betty Kegley	Cris Ruckman	Gerogia Kembel
Beverly Bennetts	Dale Kiel	Glen Kibbee
Bob Franks	Daryle Young	Gloria Krenz
Brandy Porter	David Mora	Greg Sennett
Brenda Estill	Dean Haley	Harriet Conklin
Brenda Ryan	Dean Miller	Ida Stuart
Brian Reid	Dennis Randall	Irene Aure
Bruce Burrows	Don Pett	James Lasater
Candice Reinschmidt	Dorothy Plouffe	Jay Hanson
Carl Howard	Doug Toomey	Jean Randall
Carol Atchley	Duane Bender	Jeannine Swoboda

## Stakeholders Continued

Carol Dale	Ed Gabbo	Jed Porter
Jerald Mohr	Kevin Nelson	Mary Ann Kraske
Jerry Driscoll	Larry Estill	Mary Duenow
Jimmie Frasch	Leonard Bierwagen	Maurice Muth
Joan Dosch	Linda Furlong	Mavis Schultz
JoAnne Mollet	Linda Hayworth	Mavis Wilkinson
Joe Morin	Linda Pettengill	Mel Maier
John Hoffmann	Linda Vansky	Michele Johnson
John Hurless	Loren Bice	Michelle Grasswick
Jon Gowan	Louis Plouffe	Mike Kenney
Jon Rupprecht	Lynn Toomey	Mike Vinton
Joyce Kenney	Marc Swoboda	Neal Armfield
Joyce Pirrie	Margaret Schantz	Nelda Reinschmidt
Judy Coles	Margo Allen	Paige Tipton
Judy Martin	Margo Smith	Partice Schuman
Julie Bender	Marian Lelidowicz	Pat Jensen
Karen Hergett	Marjorie Bishop	Pat Morin
Katherine Gowan	Marlene Anderson	Pat Newbury
Kathy Doty	Marlis Brodsack	Pat Perkins
Kathy Wilkinson	Marlis Bufford	Patsy Kahler
Kelly Handley	Martha Sheldon	Patty Nordlund
Kerri Tallerico	Marvin Forquer	Paul Hartman
Paul Hendershot	Rebekah Wales	Richard Deis
Richard Ruff	Rick Leuthold	Robbin Ostrum
Robert Neal	Robert Popelka	Robyn Rupprecht
Roger Mollett	Ron Hergett	Ron Kaneski
Ron Kirkwood	Ronald Schultz	Roy Linse
Sammy Handley	Sandra Fiscus	Shane Keehn
Shanna Fredrickson	Sharon Franks	Sharon Young

## **Section 1 - Introduction**

On May 12, 2008 the City of Billings adopted an ordinance creating the South Billings Boulevard Urban Renewal District (SBBURD) and established a Tax Increment Finance District. As part of this ordinance, an urban renewal plan and the boundaries of the tax increment finance district were adopted.

Public participation for preparing the urban renewal plan involved public meetings and participation with the City of Billings, the Southwest Corridor Neighborhood Task Force, residents and property owners, Downtown Billings Partnership, and Big Sky Economic Development Authority.

In October of 2008, the City began a modification of the SBBURD to include three additional properties. Two of these properties were recently annexed and contiguous to the existing SBBURD; therefore, the properties are now eligible to be included within the SBBURD. The third property is contiguous and requested an expansion of the district boundary. The modification of the urban renewal plan will reflect the addition of those properties.

The modification of the urban renewal plan will:

- Serve as a framework for the official urban renewal plan
- Fulfill Montana state law
- Update and define district boundaries
- Classify blight
- Set forth the protocol for its authorization, execution, and management
- Illustrate the development opportunities
- Document baseline taxable property values and potential areas for redevelopment

## **Section 2 – Definitions**

The following terms have the following meanings unless a different meaning is clearly indicated by the context:

1. “Agency” or “urban renewal agency” means a public agency created by Section 7-15-4232 of the Montana Code Annotated.
2. “Blighted area” means an area that is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime; substantially impairs or arrests the sound growth of the city or its environs; retards the provision of housing accommodations; or constitutes an economic or social liability or is detrimental or constitutes a menace to the public health, safety, welfare, and morals in its present condition and use, by reason of:
  - a. The substantial physical dilapidation; deterioration; defective construction, material, and arrangement; or age obsolescence of buildings or improvements, whether residential or nonresidential;
  - b. Inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined by competent appraisers on the basis of an examination of the building standards of the municipality;
  - c. Inappropriate or mixed uses of land or buildings;
  - d. High density of population and overcrowding;
  - e. Defective or inadequate street layout;
  - f. Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

- g. Excessive land coverage
- h. Unsanitary or unsafe conditions;
- i. Deterioration of site;
- j. Diversity of ownership;
- k. Tax or special assessment delinquency exceeding the fair value of the land;
- l. Defective or unusual conditions of title;
- m. Improper subdivision or obsolete platting;
- n. The existence of conditions that endanger life or property by fire or other causes; or
- o. Any combination of the factors listed in the subsection (2).

3. “Bonds” means any bonds, notes, or debentures (including refunding obligations) authorized to be issued pursuant to part 43 or this part.
4. “Clerk” means the clerk or other official of the municipality who is the custodian of the official records of the municipality.
5. “Local governing body” means the council or other legislative body charged with governing the municipality.
6. “Mayor” means the chief executive of a city or town.
7. “Municipality” means any incorporated city or town in the state.
8. “Redevelopment” may include:
  - a. acquisition of a blighted area or portion of the area;
  - b. demolition and removal of buildings and improvements;
  - c. installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban renewal provisions of this part in accordance with the urban renewal plan; and
  - d. making the land available for development or redevelopment by private enterprise or public agencies, including sale, initial leasing, or retention by the municipality itself, at its fair value for uses in accordance with the urban renewal plan. If the property is condemned pursuant to Title 70, chapter 30, the private enterprise or public agencies may not develop the condemned area in a way that is not for a public use.
9. “Urban renewal area” means a blighted area that the local governing body designates as appropriate for an urban renewal project or projects.
10. “Urban renewal plan” means a plan for one or more urban renewal areas or for an urban renewal project. The plan:
  - a. must conform to the growth policy if one has been adopted pursuant to Title 76, chapter 1; and;
  - b. must be sufficiently complete to indicate, on a yearly basis or otherwise:
    - i: any land acquisition, demolition, and removal of structures; redevelopment; improvements; and rehabilitation that is proposed to be carried out in the urban renewal area;
    - ii: zoning and planning changes, if any, including changes to the growth policy if one has been adopted pursuant to Title 76, chapter 1;
    - iii: land uses, maximum densities, building requirements; and
    - iv: the plan’s relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.

## **Section 3 - Background**

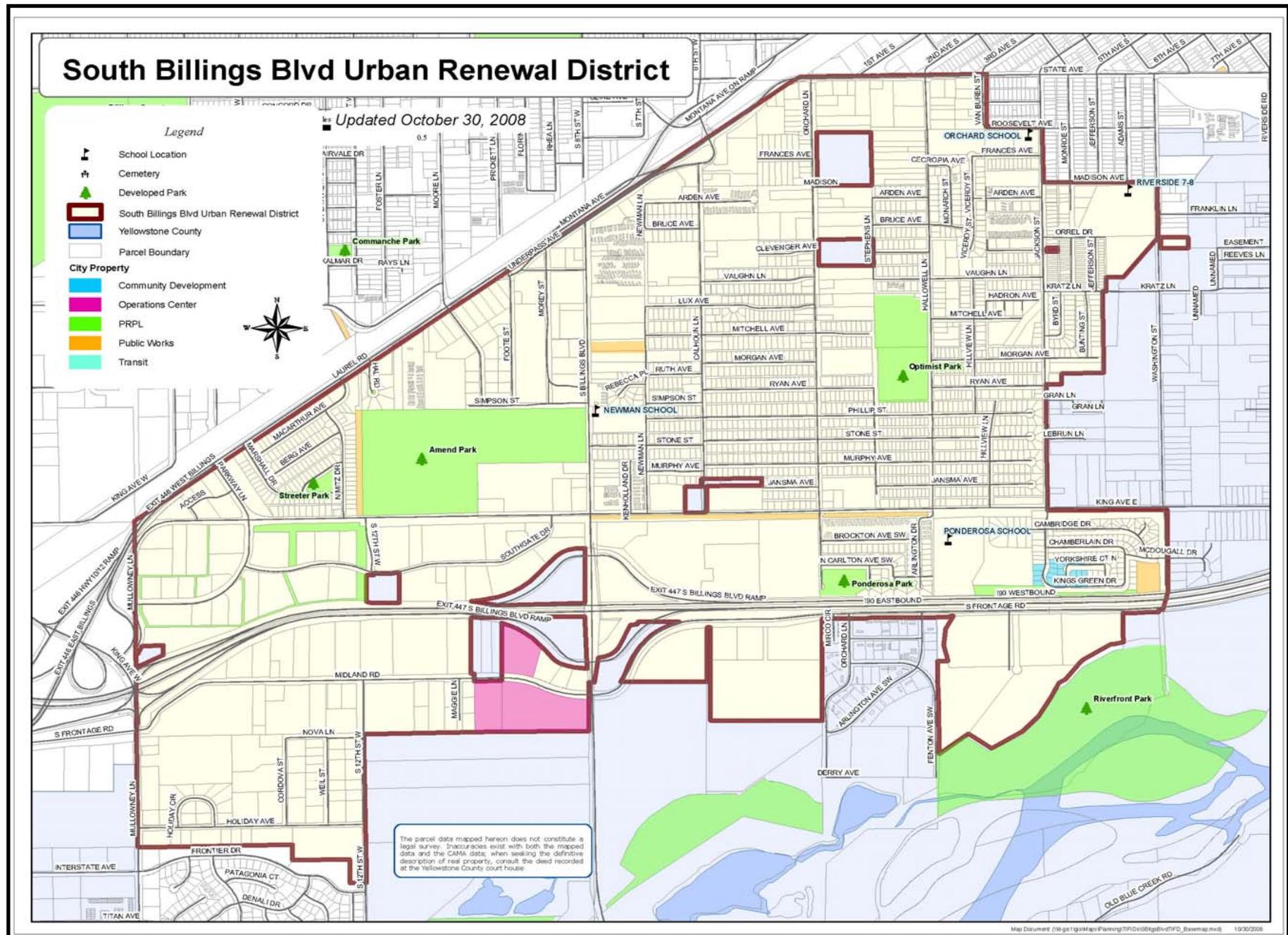
The South Billings Boulevard Urban Renewal District lies within city boundaries, is situated between major transportation routes, and stretches from the east side of the King Avenue Overpass east to Washington Street and from State Avenue South to the city limit boundaries. Located within the district is the I-90/94 Interstate and adjacent north is the major railway line through the city. Map 1 shows the boundaries of the SBBURD.

This district lies within the Southwest Corridor Neighborhood Task Force. The task force was created in the early 1990's in response to the growing problem with the roadway interchanges and associated issues. Since that time, the Task Force has become a more diverse body that handles many issues for the Southwest Billings community. Recent neighborhood issues include the re-opening of the Southgate Cop Shop and the development of Amend Park. Existing land uses and current zoning are shown on Maps 2 and 3.

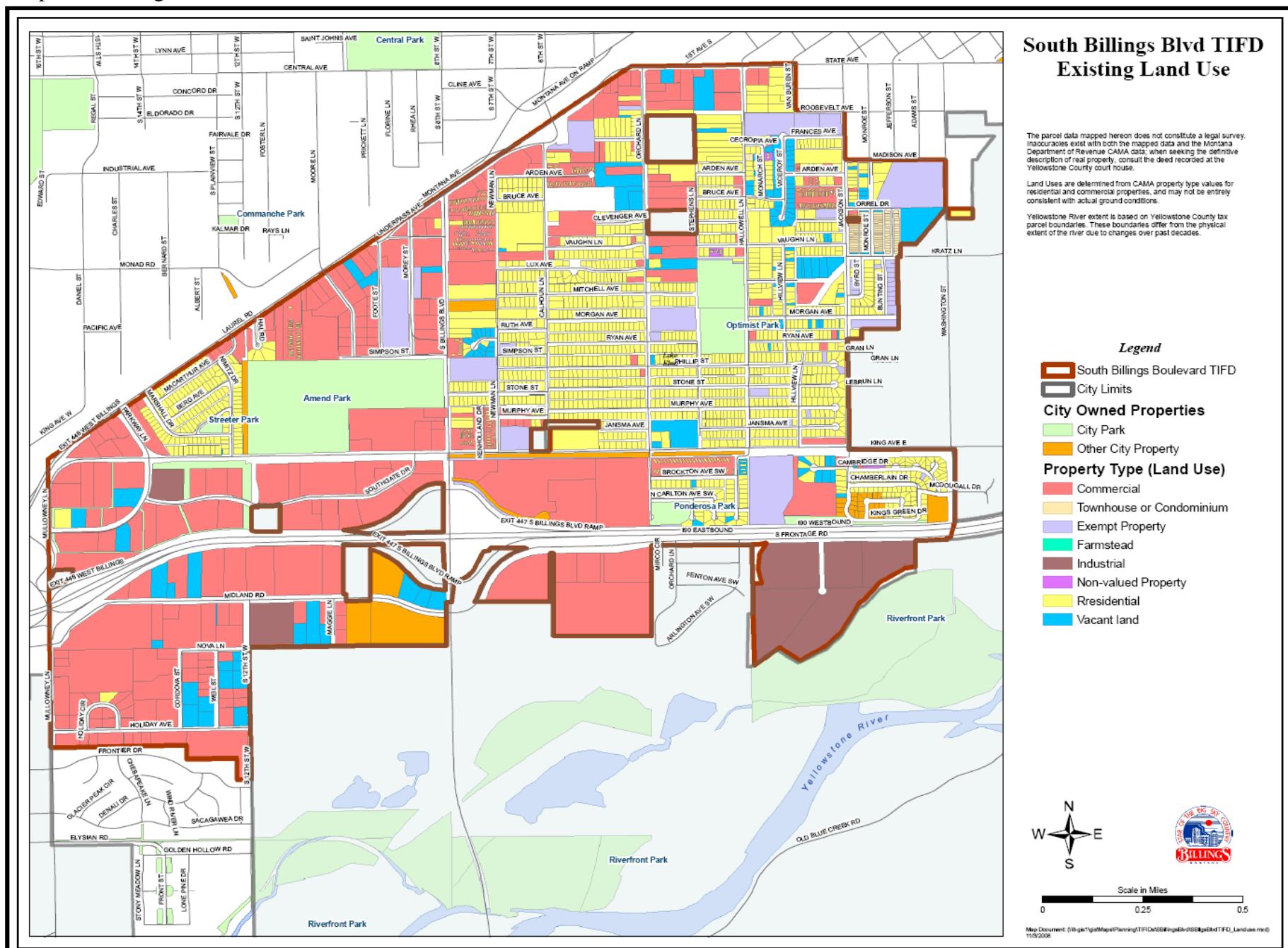
A closer look at this neighborhood shows an established area of mixed residential and commercial uses. This area also includes four schools. Some areas include unimproved streets, no sidewalk, curbs or gutters. In addition, many areas are not served by municipal water and sewer or there is old, inadequate water and sewer infrastructure. Many of the concerns raised by residents within the district center around routes for children to get to school, including bus routes that run on unimproved streets and children walking down the street instead of sidewalks to get to school.

Due to the location, the South Billings Boulevard Urban Renewal District has a tremendous amount of potential to become a major economic force. With the interstate corridor located in this district, the potential exists for this area to become a major destination place for retail, goods and services, manufacturing, and entertainment.

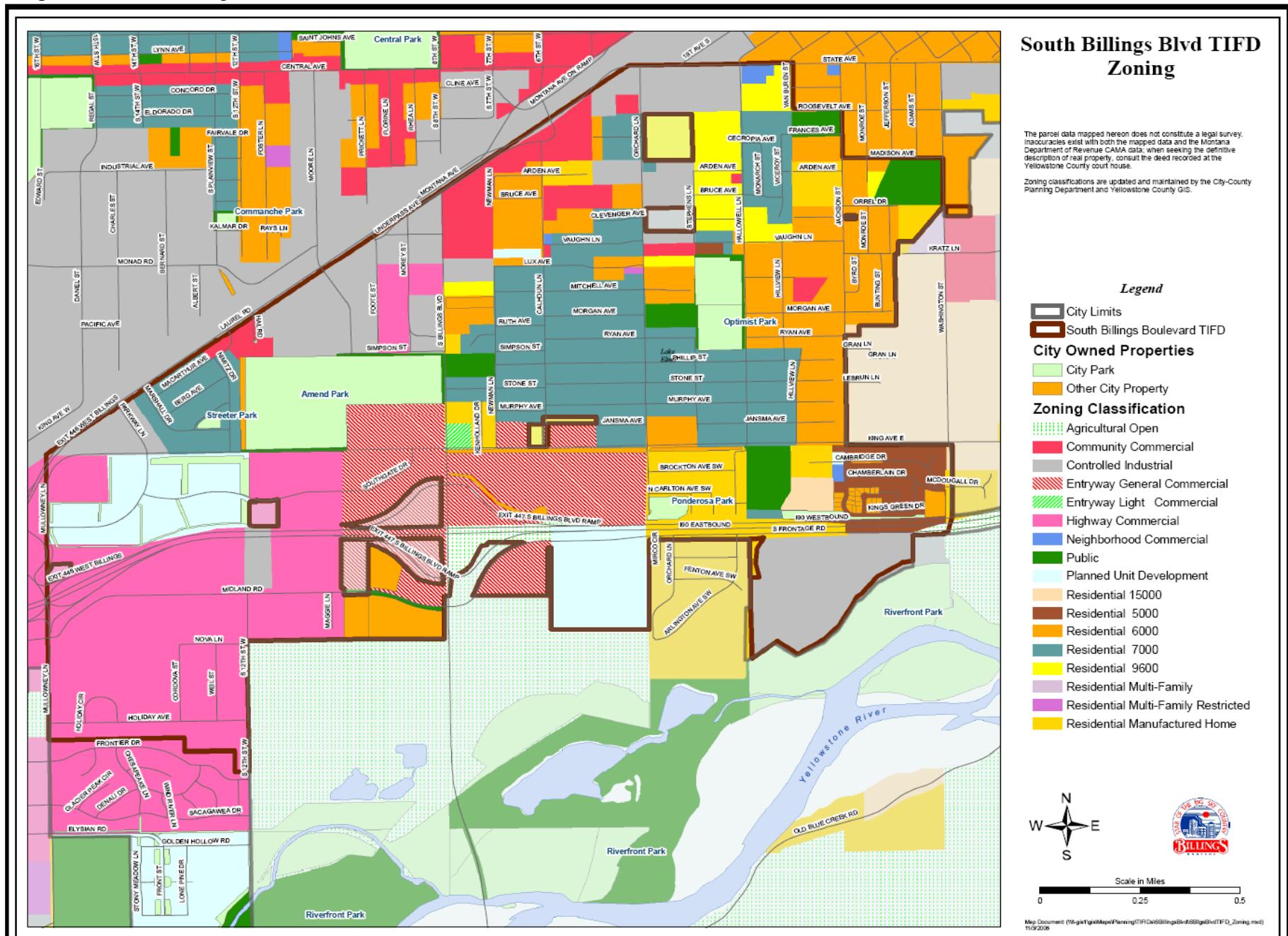
## Map 1 – Proposed Boundaries of the District



Map 2 – Existing Land Uses



Map 3 – Current Zoning





## Section 4 – Description of Blight

A requirement of Montana Annotated Code 2005 is to justify an urban renewal plan supported through a tax increment finance district through the determination of *blight*. Blight is defined as an area that is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime; substantially impairs or arrests the sound growth of the city or its environs; retards the provision of housing accommodation; or constitutes an economic or social liability or is detrimental or constitutes a menace to the public health, safety, welfare, and morals in its present condition and use, by reason of:

- the substantial physical dilapidation; deterioration; defective construction, material, and arrangement; or age obsolescence of buildings or improvements, whether residential or nonresidential;
- inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined by competent appraisers on the basis of an examination of the building standards of the municipality;
- inappropriate or mixed uses of land or buildings;
- high density of population and overcrowding;
- defective or inadequate street layout;
- faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- excessive land coverage;
- unsanitary or unsafe conditions;
- deterioration of site;
- diversity of ownership
- tax or special assessment delinquency exceeding the fair value of the land;
- defective or unusual conditions of title;
- improper subdivision or obsolete platting;
- the existence of conditions that endanger life or property by fire or other causes;
- any combination of the factors listed

## Section 5 – Summary of Blight

The area in the proposed district contains a great deal of blight. Within the district there is substantial structural deterioration, long-term land vacancy, and significant infrastructure needs. Several of the commercial buildings in the district are vacant or deteriorated and need demolition. Many of the sidewalks are cracked or nonexistent, alleys are deteriorated, and, in general, much of the area is below city standards. In contrast to the above, there are certain properties within the district in good repair but included in the district to allow for a contiguous block of land within the district; and because pockets of revitalization cannot be sustained if areas of neglect and blight surround them. Over time, without continued managed urban renewal, even these success stories will once again decline in taxable value. Portions of the district fall into the blighted, neglected and under-utilized categories. Maps 4 and 5 show the current infrastructure conditions within the district.

Map 4 – Water Distribution System

*Urban Renewal  
Plan  
for  
South Billings Blvd  
TIFD*

**PW-Belknap  
Utilities Division  
Water Distribution  
System**

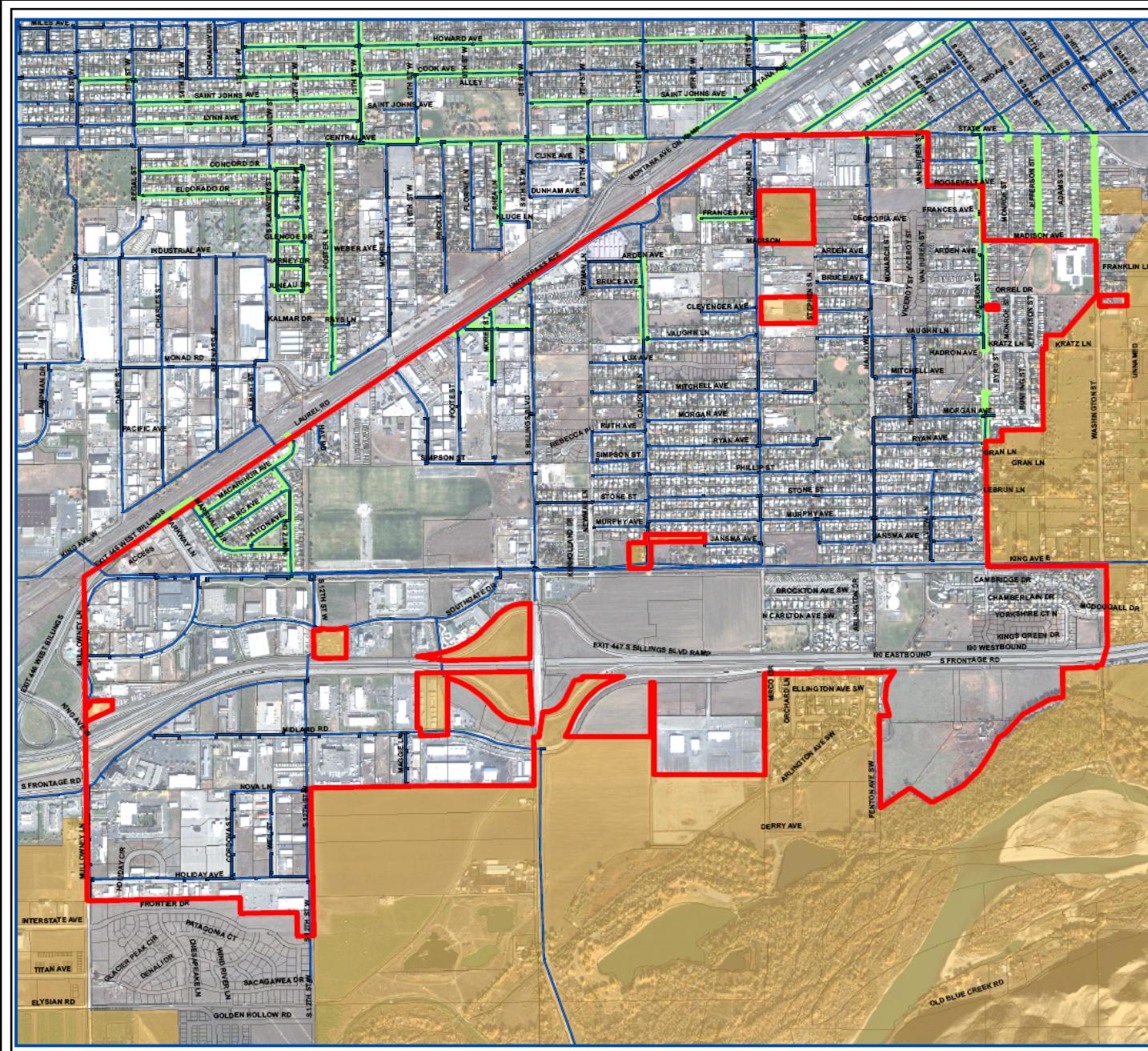
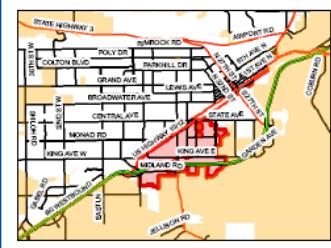
**Symbols Legend**

- South Billings Blvd TIFD
- Distribution Main
- Water Mains Replaced
- Outside City Limits

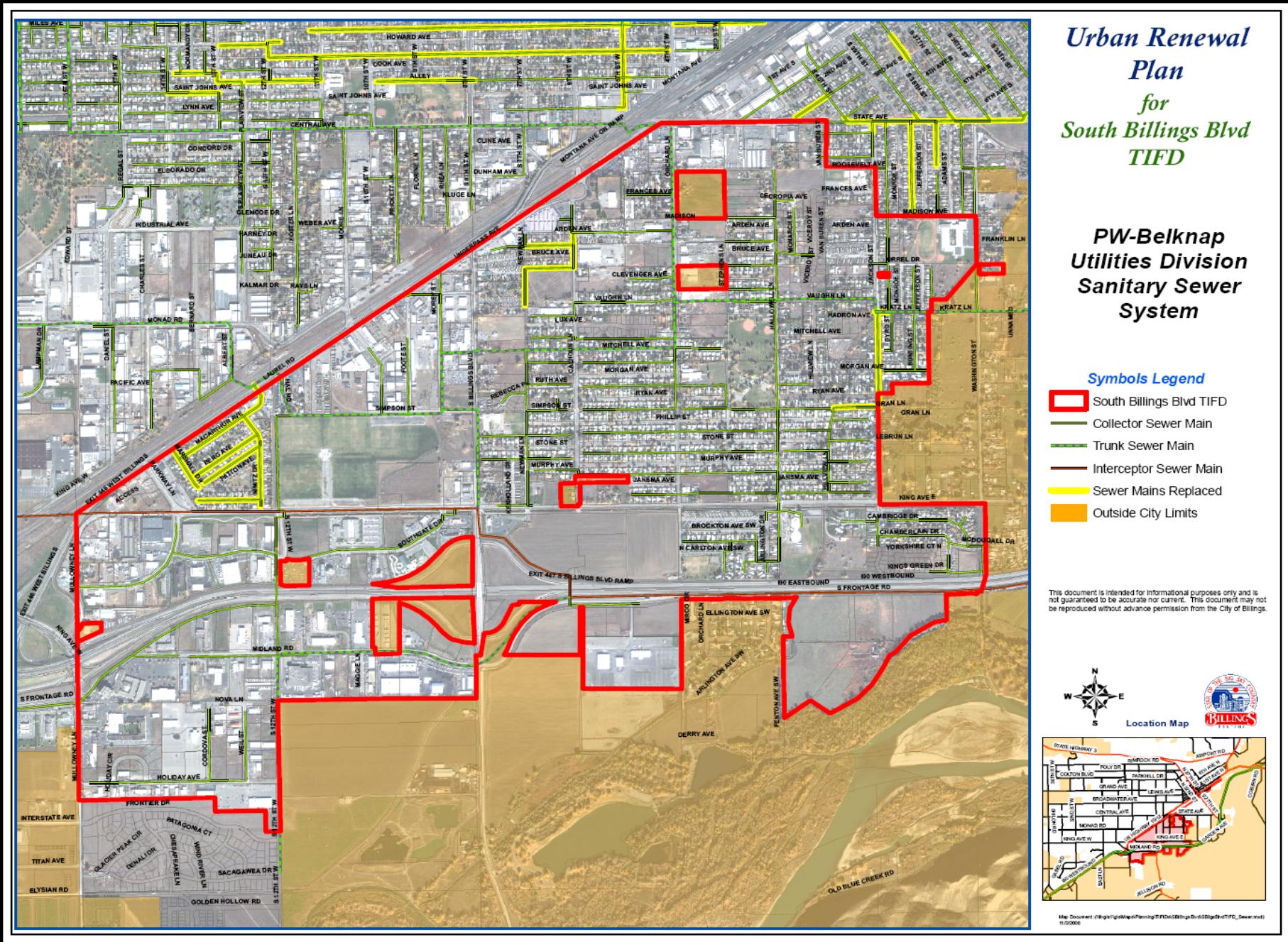
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Location Map



Map 5 – Sanitary Sewer System





## **Section 6 – The Site and Its Relationship to the City**

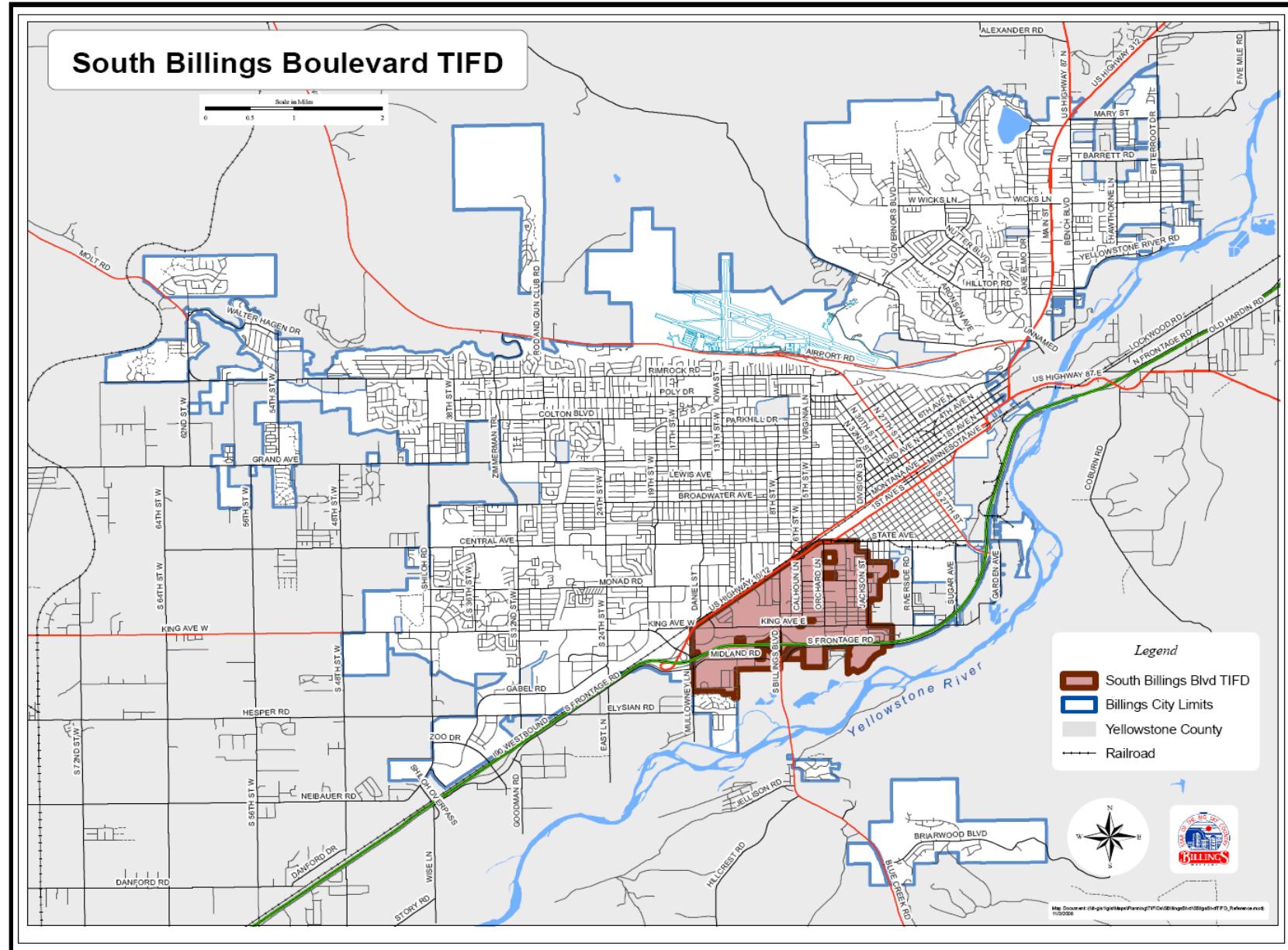
The South Billings Boulevard TIFD and Urban Renewal District is located in the south center region of the City of Billings. Bordered by the Interstate Corridor, the main railroad line and principal transportation routes, it is an area where economic development opportunities are numerous. In addition, numerous service, commercial, industrial, parks and recreation and housing choices are located within the district. Map 6 shows the TIFD boundary in relationship to the rest of the city.

## **Section 7 – Description of the District Boundary**

Starting at the intersection of State Avenue and Van Buren Street, extending south down the centerline of Van Buren Street to the intersection of Van Buren Street and Roosevelt Avenue, extending east down the centerline of Roosevelt Avenue to the intersection of Roosevelt Avenue and Jackson Street, extending south down the centerline of Jackson Street to the intersection of Jackson Street and Madison Avenue, extending east down the centerline of Madison Avenue to the intersection of Madison Avenue and Washington Street, extending south down the centerline of Washington Street to the intersection of the centerline of Washington Street and the extension of the northern boundary of Lot 7, Willis Subdivision, extending east along said boundary to the eastern boundary of said lot, extending south along said boundary to the southern boundary of said lot, extending westerly along said boundary and its extension to the centerline of Washington Street, extending north to the existing City of Billings city limit boundary, extending southerly and westerly along the existing city limit boundary to the intersection of Jackson Street and King Avenue East, extending east along the centerline of King Avenue East to the intersection of King Avenue East and Washington Street, extending south along the centerline of Washington Street and its projection across the Interstate 90 right-of-way, to its intersection with South Frontage Road, thence in a westerly direction following the south right-of-way boundary of the South Frontage Road to the intersection of an extension of the east boundary of Riverfront Business Park Subdivision, extending south along eastern boundary of said subdivision to the south boundary of said subdivision, extending southerly and westerly along said boundary to the west boundary of said subdivision, extending northerly and easterly along said boundary and its extension to the south right-of-way boundary of South Frontage Road, extending westerly to the northeast corner of Lot 1, Block 1, Willowbrook Subdivision, thence in a southerly and westerly direction following the existing city limit boundary to a point which intersects with the extension of the southern boundary of Tract 1, C/S 2834, then west along said southern boundary of Tract 1, C/S 2834 and southern boundary of Block 4 of Weil Subdivision to the intersection with the centerline of Mullowney Lane, extending north along the centerline of Mullowney Lane and its projection to the centerline of Laurel Road, extending northeast along the centerline of Laurel Road to its intersection with State Avenue, extending northeast and east along the centerline of State Avenue to the ending point at the intersection of State Avenue and Van Buren Street. Excluding all nonincorporated land within the boundary.



### Map 6 – Tax Increment Finance District in Relationship to City



## **Section 8 – Planning Process**

### **Stakeholder and Community Participation**

The initial concept of developing a Tax Increment Finance District and an Urban Renewal Plan in the South Billings Boulevard area was brought forward by the City of Billings, Big Sky Economic Development Authority and the Downtown Billings Partnership. After discussions and meetings with the Southwest Corridor Task Force, it was determined that a steering committee would be established to move forward with the development of an Urban Renewal Plan for the creation of the South Billings Boulevard TIF District. After discussions with the participating members, it was apparent that direct communication with business owners, landowners and public participation was critical for the project to be a success. Two public meetings were scheduled to open dialogue on the proposed Urban Renewal Plan and TIF District process, and to set goals and objectives of the project. It also became clear that a grass-roots effort conducted and led by the property owners themselves was needed.

In October of 2008, the city began an urban renewal plan modification process to include 3 additional properties to the district pursuant to Montana Code section 7-15-4221. All property owners affected by the urban renewal plan modification were notified by mail of the public hearing on the Urban Renewal Plan held November 24, 2008.

### **Urban Renewal Plan**

The Urban Renewal Plan is the tool that governs what public improvements are needed and desired within the district. Through public meetings and meetings at the Southwest Corridor Task Force, neighborhood needs and projects were identified.

With input from property owners and the identification of goals and objectives, the City of Billings moved forward with the completion of the Urban Renewal Plan. A draft was reviewed with the property owners and the Southwest Corridor Task Force prior to review by the City of Billings City Council.

The high level of transparency and frequency of meetings has ensured that a large local constituency has been involved, and as many stakeholders as possible participate and approve of the plan.

### **Eminent Domain**

In no case shall eminent domain be used as a tool in the redevelopment of the South Billings Boulevard Urban Renewal District except as a last resort in the case of needed public infrastructure improvements and/or rights-of way.

### **Residential Relocation Plan**

If a residential structure requires relocation as a result of right-of-way acquisition and/or a public infrastructure construction project, that is partially or fully funded with federal assistance (Housing and Urban Development, Federal Highway, etc), the City of Billings shall abide by the Uniform Relocation Assistance Act.

### **Planning, City Administration and Legal Review**

During the many meetings with the local property owners and the Southwest Neighborhood Task Force, it was decided to begin the process of finalizing the urban renewal plan and take it to the city council before the end of 2007. The urban renewal plan was sent to the City Legal Department and City Administration for review and comments. Comments and recommendations from both City Legal and City Administration were taken into account and incorporated into this plan.

The plan was also sent to the Yellowstone County Board of Planning for its review and recommendations regarding the plan's conformity to the 2003 Growth Policy Plan. A recommendation of approval was passed by the Planning Board on October 23, 2007. The plan was then presented at a City Council Work Session on November 5, 2007. The public hearing and first reading of the Ordinance was held by the City Council on November 26, 2007 with the second reading and final adoption on December 10, 2007.

The modification to the SBBURD plan began in October of 2008. On November 10, 2008, the Billings City Council passed a Resolution Declaring Blight, Intent to Modify the District, and Setting a Public Hearing Date. The Yellowstone County Board of Planning reviewed the modified Urban Renewal Plan and made recommendations to the City Council with regard to the plan's conformity with the 2003 Growth Policy on November 12, 2008. The affected property owners were notified of the plan's modification and public hearing notices were published on November 6, 2008 and November 13, 2008 for the first reading and public hearing on the modification of the plan.

### **Financial Programming**

The City of Billings to ensure a sound and adequate financial program to fund projects has concluded the following: For every \$1 million dollars of increased market value, assuming Class 4 (commercial) property @ 3.01 % taxable rate and a mill levy of \$.55, it is anticipated that an increment value of \$14,500 will be generated yearly.

### **Modification of SBBURD Plan**

The SBBURD may be modified at any time by the City Council as necessary to eliminate and prevent the development or spread of blighted areas, and encourage urban rehabilitation. The process for plan modification shall follow the procedures set forth in 7-15-4212 through 7-15-4219 MCA, with respect to initial adoption of this plan. For purposes of urban renewal district boundary changes only, the notice of public hearing, as described in 7-15-4215 MCA, may only be mailed to those owners whose properties are situated within the area of expansion or contraction of the Urban Renewal District

boundaries. In cases where the boundaries are not modified, but the contents of the urban renewal plan are substantially modified, notification shall be mailed to all owners of property within the Urban Renewal District area.

## **Section 9 - Housing (Conservation of existing affordable housing)**

Housing is an important element to the district. Providing the district with housing opportunities is vital to the sustainability of the district. With housing opportunities, individuals and families can live and work within the district. This provides a dual benefit, first the commute to work for individuals will be reduced and second the businesses within the district will have a local work force to draw from.

Current housing in the area consists of single-family, duplex, and multi-family units and include rental units and owner-occupied. Also, manufactured home parks are located within the district. The main concentration of housing is located in the central and eastern portion of the district. During the summer of 2007, the Planning Division developed a map of existing housing conditions within the City of Billings. The information was generated through the Yellowstone County CAMA (Computer Assisted Mass Appraisal) detail system. Properties were queried that were labeled as either unsound, poor, fair or incomplete. This resulted in approximately 2,390 properties within the city limits that met this query. Out of the 2,390, 562 or 24% were located in the SBBURD. Of the 562 residential structures, 7 were rated as unsound, 184 as poor and 371 as fair.

Future housing for the district is encouraged to be developed for the goal of ownership. When rental housing occurs, such facilities shall be developed in connection with mixed-uses and managed by a company that will provide active policy measures to eliminate crime and blight. Approval of multi-family housing will require either a Zone Change or Special Review request that requires approval by the City Council.

Housing in the area shall also be designed to cater to a variety of income demographics as well. All current affordable housing needs in the district shall be accounted for through the development of owned and rental housing that remain within the district. Housing for mid- and higher level income groups shall also be encouraged. To avoid creation of substandard housing or encourage further blight, mixed-use housing developments shall incorporate all income demographics within the same project in a safe and positive way.

## **Section 10 - Transportation and Pedestrian Circulation**

The transportation and circulation situation in the TIF district should be a major focus during redevelopment of the area. Traffic patterns and access issues can affect the function and livability of a community or neighborhood.

During discussions and public meetings, it was apparent the current street conditions and lack of adequate transportation and pedestrian facilities was a high priority for property owners. The majority of traffic that comes into the district is either pass-through or destination traffic to the major transportation routes located within the district. In addition, the lack of sidewalk and pedestrian routes is a concern with the number of schools and

parks located in the district. Safe and attractive pedestrian amenities, such as sidewalks, boulevards, crosswalks, improved signage and shelters or benches would greatly enhance pedestrian experiences.

## **Section 11 - Public Services and Facilities**

Currently there are four public schools located within the district; three elementary schools and one middle school. A concern mentioned many times by residents was the lack of sidewalks for school children to get to school. It was observed that many students are walking directly in the street due to a lack of sidewalks. The creation of a Safe Routes to School Plan should be created to address this concern. In addition to schools, there are several developed parks located in the district. Amend Park provides a multi-use facility for soccer and rugby as well as picnic sites and shelters. Optimist Park has a variety of amenities that include basketball courts, jogging trails, playground, softball and baseball fields and picnic areas. Ponderosa Park provides horseshoe courts, playground, softball and baseball fields and soccer and rugby fields. The City of Billings also provides services to the district with MET Transit and the Southgate Cop Shop. Currently two MET routes serve the neighborhood; the Central and the Southside Loop. Both of these routes travel to and from the Stewart Park and Downtown Transfer Centers. The Southgate Cop Shop was reopened in May of 2007 and operates on Monday, Wednesday and Friday from 4 – 7 p.m. The station is a neighborhood police contact center currently staffed by volunteers. Residents are encouraged to use the Cop Shop to report crimes, suspicious activities or obtain information and assistance.

## **Section 12 - Infrastructure and Utilities**

The district has infrastructure and utilities deficiencies that need to be addressed prior to any large influx of redevelopment or new building construction. Water and sewer conditions need to be addressed due to out of date installations, inadequate lines, or increases in impacts to existing structures.

The storm water drainage situation is particularly troublesome as many areas either have inadequate storm water facilities or none at all.

By upgrading infrastructure and utilities, therein lies the opportunity for more attractive development opportunities.

## **Section 13 - Urban Renewal Projects**

The Urban Renewal Projects were identified by property owners within the district during the public meetings, the Southwest Corridor Task Force meetings and delivery through comments mailed to the Planning Division. It is the City's intent to use Tax Increment to finance public improvement projects. In addition to TIF financing, the City may also use Special Improvement District financing as well as grant funding through but not limited to, the Community Development Block Grant Program. By combining funding opportunities, more projects will be able to be completed.

Project: Traffic calming measures on Calhoun and Orchard Streets.

Project: Street improvements on Newman Drive between Simpson and Stone Streets, install curb and gutter.

Project: Pave, curb and gutter on Simpson from Calhoun to Newman.

Project: Widen, curb and gutter (where needed) and repave Calhoun the full length.

Project: Widen, curb and gutter (where needed) and repave Orchard the full length.

Project: Widen, curb and gutter (where needed) and repave Hallowell the full length.

Project: Widen, curb and gutter and install bike path or sidewalk the full length of King Avenue East from Parkway to Riverside Drive.

Project: Safety to school plan.

Project: Crosswalks within the district (where needed).

Project: Sidewalks within the district (where needed).

Project: Street lights along King Avenue East.

Project: Street widening at Optimist Park.

Project: 4100 Block of Vaughn Street – sidewalk.

Project: 4100 Block of Vaughn – public sewer needed, drainfields failing.

Project: Bike/pedestrian routes along King Avenue.

Project: Sewer improvements on South Billings Boulevard from Mitchell north to Underpass Road. Sewer line currently runs east under adjoining residential development.

Project: Repave Morgan Avenue between Hallowell Lane and Jackson Street include sidewalks, street lights.

Project: Install public sewer along Morgan Avenue that includes storm water improvements.

Project: More bike trails throughout neighborhood.

Project: Park improvements for Little League and soccer leagues.

Project: Community Resource Officer within the neighborhood to steer kids away from drugs and promote a safe neighborhood.

Project: Pave Newman Lane behind Newman Elementary School.

Project: Storm water improvement at the Northeast corner of Phillip and Hallowell.

Project: Need school zone signage at Newman Elementary School.

Project: Installation and improvement of municipal water and sewer lines within the district.

Project: Installation of sidewalks on Jackson Street (where needed).

Project: Stop light at South Billings Boulevard and Midland Road.

Project: Neighborhood wide traffic study for traffic calming strategies.

Project: Assess adequacy of fire hydrants throughout the neighborhood and add fire hydrants as needed.

Project: Traffic light at State Avenue and Hallowell Lane.

Project: Continuation of street lights on Jackson to King Avenue.

In addition to property owner identification of projects for the district, the City of Billings Public Works Department has several ongoing or future infrastructure projects scheduled. These projects include the following:

- Orchard Lane – Replacement of a water main in Orchard Lane from just south of King Avenue East to Underpass Avenue. This project is scheduled for the spring or fall of 2009.
- Calhoun Lane – Replacement of water main in Calhoun Lane from King Avenue East to Underpass Avenue. This project could be scheduled for 2010 or 2011.
- Jackson Street - Jackson Street is split into two phases. The first phase will provide sidewalk and drive approaches on the west side of Jackson Street from King Avenue East to Ryan Avenue. The second phase will provide drive approaches, sidewalk, curb and gutter, and ADA ramps along both sides of Jackson Street from State Avenue to Kratz Lane. These phases are programmed in the FY 2009 Budget
- Newman Lane and Bruce Avenue – Sanitary sewer rehabilitation work was completed in the TIF district in 2007 at Newman Lane and Bruce Avenue.

## **Section 14 – Identified Projects in Relationship to the Goals and Objectives Respective to the City-County Growth Policy Plan**

One of the requirements of Montana's Urban Renewal Law (Title 7, Chapter 15, Parts 42 and 43, MCA) is that the urban renewal plan must conform to the community's growth

policy. The Yellowstone County and City of Billings 2003 Growth Policy Plan (“Growth Policy”) refers to and promotes economic development and urban renewal in a variety of ways. The preceding list of urban renewal goals listed in Section 13 are relevant to the goals identified in the Growth Policy in the following elements:

Land Use Element:

Goal: Predictable land use decisions that are consistent with neighborhood character and preferred land use patterns.

Objectives: Preserve neighborhood integrity. Empower neighborhood groups.

Goal: New developments that are sensitive to and compatible with the character of adjacent city neighborhoods.

Objectives: Maintain a high quality of life for new and existing residents. Reduce conflict between neighbors. Improve the appearance of land uses.

Goal: Contiguous development focused in and around existing population centers separated by open space.

Objectives: Ensure the continued functionality of natural systems. Use city resources in a cost effective manner. Create attractive communities.

Goal: Affordable housing for all income levels.

Objectives: Improve the quality of life of low income people. Preserve and rehabilitate the existing supply of affordable housing. Promote social equity and diversity. Create more affordable housing and work towards new and replacement housing.

Goal: More housing and business choices within each neighborhood.

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

Economic Development:

Goal: Coordinated economic development efforts that target business recruitment, retention and expansion.

Objectives: Improve the quality of life for residents. Strengthen area economy. Create living- wage jobs.

Goal: Attractive and accessible communities.

Objectives: Encourage new businesses to locate in Billings and gateway areas. Reduce travel time through town. Convey a business friendly attitude. Increase the visual appeal of our highways and railroad corridors.

Aesthetics:

Goal: Visually appealing communities.

Objectives: Improve the image of the community. Instill pride in the community. Improve the quality of life for residents.

### Transportation:

Goal: City streets maintained at safe standards.

Objectives: Equitable share the cost of maintaining roadways. Timely response to public needs.

Goal: Well maintained network of safe and interconnected sidewalks.

Objectives: Improved public safety. Promote healthy lifestyle. Reduce traffic.

### Public Services:

Goal: Sanitary and safe properties.

Objectives: Provide helpful and responsive public services. Improve the community image. Increase property values.

Goal: Adaptive reuse of vacant structures.

Objectives: Conserve resources. Preserve historic or cultural landmarks. Take advantage of economic development opportunities. Preserve neighborhood integrity.

### Open Space and Recreation:

Goal: A multi-purpose trail network integrated into the community infrastructure that emphasizes safety, environmental preservation, resource conservation and cost effectiveness.

Objectives: Develop non-motorized connections between residential neighborhoods and work places. Provide convenient access to bicycle and pedestrian facilities. Improve quality of life for residents.

## **Section 15 – Neighborhood Planning**

Another tool that is expected to be used in the future to address current conditions within the district and the identification of neighborhood needs will be accomplished through the creation of a Neighborhood Plan. A neighborhood plan may be drafted for this area of Billings in the next three or four years based on available funding. The purpose of the neighborhood plan is to assist residents, governing agencies, planners and developers in making the right choices when determining future growth patterns and development within the neighborhood. The plan also encourages local government, developers and businesses to discuss future land use decisions with neighborhood residents and business owners prior to the proposed land use change. The neighborhood plan is not a regulatory document; instead, it is adopted by the City Council and the Board of County Commissioners as an implementation strategy and is part of the City of Billings and Yellowstone County Growth Policy as an advisory document. The neighborhood plan would be implemented through the City's Capital Improvement Program Planning and by the Southwest Corridor Neighborhood Task Force.

The plan would include general and specific recommendations that reflect the values of the community, encourage sound decision-making, and empower people to take action. The

plan also includes realistic implementation strategies that involve both private and public actions, as well as regulatory decisions.

## **Section 16 – Conclusion**

The South Billings Boulevard Urban Renewal District has a tremendous amount of potential to become a viable and reliable economic engine. The district has a great potential to become a destination place where Billings residents, business owners, and visitors will purposefully go to conduct business, have goods and services manufactured and enjoy recreation and leisure activities. At the end of the life of this TIFD program it is the hope of all involved that this area of Billings will be a wonderful place to live, work and play far into the future.



## CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, November 24, 2008

**TITLE:** Public Hearing and 1<sup>st</sup> Reading of Ordinance, Zone Change #851, Proposed Mont Vista Subdivision

**DEPARTMENT:** Planning and Community Services

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

**PROBLEM/ISSUE STATEMENT:** The applicant is requesting a zone change from Residential 9,600 (R-96) to Community Commercial (CC), Residential Multi-Family (RMF), Residential Multi-Family Restricted (RMF-R), Residential 6000 (R-60), Residential 7000 (R-70), Residential 7000 Restricted (R-70R), and Public (P) on the subject property. The property is located on the southeast corner of the intersection of Rimrock Road and 54<sup>th</sup> Street West and is a 63.89 acre parcel of land described as Tracts 1 and 2 of Certificate of Survey 2054. The property is owned by the Krutzfeldt Ranch, LLC and Tom Llewellyn is the agent. A neighborhood meeting was held at The Yellowstone Country Club on September 29, 2008. The Zoning Commission conducted a public hearing on November 5, 2008, and is forwarding a recommendation of approval with exclusions on a 3-0 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:** The proposed zone change, if approved, could increase the City's tax base when the property is developed. Denial of the proposed zone change should have no effect on the City's tax base.

### **RECOMMENDATION**

The Zoning Commission is forwarding a recommendation of approval to the City Council for Zone Change #851 with the exclusion of the CC and P zoning and adoption of the 12 Zoning Commission Determinations on a 3-0 vote.

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

**ATTACHMENTS:**

- A: Surrounding Zoning
- B: Applicant's Submittal
- C: Ordinance

## **INTRODUCTION**

The applicant, William Krutzfeldt, is requesting a zone change from Residential 9,600 (R-96) to Community Commercial (CC), Residential Multi-Family (RMF), Residential Multi-Family Restricted (RMF-R), Residential 6000 (R-60), Residential 7000 (R-70), Residential 7000 Restricted (R-70R), and Public (P) on the subject property. The property is located on the southeast corner of the intersection of Rimrock Road and 54<sup>th</sup> Street West and is a 63.89 acre parcel of land described as Tracts 1 and 2 of Certificate of Survey 2054.

## **PROCEDURAL HISTORY**

- **The subject property was annexed on October 5, 2006.**
- On January 17, 2008, a pre-application for Mont Vista Subdivision was conducted between the staff and the subdivider regarding the proposed subdivision.
- On March 3, 2008, a preliminary plat for Mont Vista Subdivision was submitted for preliminary plat review. The application was delayed and withdrawn before the Planning Board Plat Review.
- A zone change from R-96 to Planned Development (PD) with several underlying zoning districts was granted withdrawal by the Zoning Commission on June 3, 2008. It was determined that the proposed application did not meet the intent of the PD zoning regulations.
- On August 28, 2008, a pre-application meeting was conducted for the proposed subdivision.
- On October 1, 2008, the preliminary major plat application was submitted to the Planning Division.
- On October 6, 2008, a special review for to permit multi-family residential uses on the portion of the subject property proposed for Residential 6000 zoning was submitted to the Planning Division. In addition, a zone change from Residential R-96 to CC, RMF, RMF-R, R-60, R-70, R-70R, and P was submitted for the subject property
- On October 16, 2008, the departmental review meeting for the preliminary plat was conducted.
- On November 12, 2008, the Planning Board will conduct a plat review on the proposed major subdivision.
- On November 5, 2008, the Zoning Commission conducted a public hearing on the proposed zone change and special review for the subject property. The zoning commission voted to approve the zone change with exclusions recommended by staff on a 3-0 vote. The special review was denied on a 2-1 vote.
- On November 24, 2008, the City Council will conduct a public hearing and vote to approve or deny the zone change on first reading. The Council will also vote to approve, conditionally approve, or deny the special review for the subject property.
- On November 25, 2008, the Planning Board will conduct a public hearing on the proposed major subdivision.
- On December 15, 2008, the preliminary plat will be approved, conditionally approved, or denied by the City Council.
- On December 8, 2008, if approved on first reading, the City Council will vote to approve or deny the 2<sup>nd</sup> reading of the zone change.

## **BACKGROUND**

This is a zone change request from R-96 to CC, R-70, R-70-R, R-60, RMF, RMF-R and P. The property was annexed by the City on October 5, 2006, and was placed in the “default” zoning district of R-96. The property is two tracts in a certificate of survey totaling approximately 64 acres of land. The applicant has proposed Protective Covenants and Restrictions for the proposed subdivision to further regulate the architecture and uses on the property.

The proposed CC zoning district is located on the 4.7 acres of land on the southeast corner of the intersection of Rimrock Road and 54<sup>th</sup> Street West (See Attachment B). The Northwest Shiloh Area Plan depicts this portion of the property as a preferred area for Neighborhood Commercial (NC) zoning. The proposed zoning map indicates this portion as CC, which includes more intense uses not permitted in NC. On several occasions, staff met with the applicant and his representative regarding the revision of this portion of the property to NC, in order to comply with the Northwest Shiloh Plan. The Plan envisions allowing light commercial uses at the intersection of 54<sup>th</sup> Street West and Rimrock Road and higher density residential uses along 54<sup>th</sup> Street West between major intersections. The CC zoning also conflicts with the West Billings Plan that identifies commercial centers at arterials street intersections in some areas. The intersection of 54<sup>th</sup> Street West and Rimrock Road is not one of those locations. There is a commercial center, zoned CC, located at 54<sup>th</sup> Street West and Grand Avenue located approximately one mile to the south of the subject property. There is also a CC zoned property west of this property at the intersection of 62<sup>nd</sup> Street West and Rimrock Road. Based on the close distance of commercial centers to the south and west, as well as the residential nature of the surrounding properties, Planning staff did not support a zone change to CC and recommended excluding this portion of the property from the zone change request. If the property is excluded from the zone change it would remain as R-9600.

As part of the major subdivision, the applicant is required to dedicate approximately 4.58 acres of parkland. The applicant is proposing an area located along the northern boundary of the property, containing the Cove Ditch, a portion of property to the south of the ditch, as well as a platted alley for Public zoning (See Attachment B). Planning staff has conducted several meetings with the applicant and his representative regarding the proposed parkland for the subject property. The City of Billings has not accepted ditch easements for parkland in the past and has specified that the ditch easement and alley will not be accepted as dedicated parkland in this case. Zoning this area parkland is premature since the City staff has indicated to the applicant that the area will not be accepted as parkland during the subdivision process. During the subdivision review process, City staff has provided the applicant and his agent with several options to meet the park land dedication for the proposed subdivision. Therefore, staff recommended that the portion of the zoning proposed for Public zoning be excluded from the zone change. If the property is excluded from the zone change it would remain as R-9600.

The Zoning Commission has reviewed the proposed zone change and is recommending approval with the two exclusions outlined above. The recommendation is based on the attached twelve (12) criteria for zone changes and Section 27-1303 Planned Development

Guidelines. The remaining zoning districts proposed comply with both the West Billings Plan and the Northwest Shiloh Plan for land uses. The applicant is proposing high density multi-family residential along 54<sup>th</sup> Street West, which is a principal arterial. Additional multi-family uses are located on the eastern portion of the property contained in both the RMF-R and R-60 zoning districts. There is a concurrent special review on a portion of the property to permit multi-family residential uses in the R-60 zoning district.

## **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?*

The Growth Policy, the West Billings Plan and the Northwest Shiloh Area Plan support higher density residential uses along arterial streets between intersections and an area of Neighborhood Commercial at the intersection of 54<sup>th</sup> Street West and Rimrock Road.

While the Zoning Commission finds the proposed residential uses in compliance with the plans, the proposed CC zoning at the intersection of Rimrock Road and 54<sup>th</sup> Street West does not comply with the proposed uses for this area. There is a community commercial node located to the south of the subject property at the intersection of Grand Avenue and 54<sup>th</sup> Street West. There is also a CC node located west of this property at the intersection of 62<sup>nd</sup> Street West and Rimrock Road. Therefore, this portion of the property is being excluded from the Zoning Commission recommendation and would remain R-96.

As indicated in the applicant's submittal (See Attachment E), Policy IV of the Growth Policy, a multi-purpose trail should emphasize safety, environmental preservation, resource conservation, and cost effectiveness. The applicant is proposing the Cove Ditch and an alley as a linear park and trail with the subdivision. The City Parks and Recreation Department has reviewed this dedication and determined it is not acceptable. The City, as a practice, does not accept ditch easements or alleys as parkland dedication, as the easement has an intended use of maintenance for the ditch and the alley is for access to properties north of the subject property. Therefore, the portion of the property proposed for Public zoning is being excluded from the Zoning Commission recommendation and would remain R-96.

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

The proposed zoning is not designed to lessen congestion in the streets but does locate zoning districts that generate the highest number of vehicle trips on arterial streets that are designed to handle the increase in traffic. A

Traffic Accessibility Study has been completed for the subdivision. Impacts will be reviewed with the preliminary plat application.

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

The property has public street frontage on 54<sup>th</sup> Street West, Rimrock Road and 50<sup>th</sup> Street West. The zoning master plan shows a proposed road layout that provides physical access to all proposed lots. The proposed zoning will protect from fire, panic and other dangers.

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

The proposed zoning will permit multi-family 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 Residential zones allow single family and multi-family dwellings. The proposed RMF zone could allow up to 128 dwelling units on one of the 2.7 acre lots designated as RMF. However, other restrictions such as the proposed maximum lot coverage and the requirement for off-street parking would significantly reduce this maximum density. The proposed zoning may concentrate population in areas adjacent to lower density neighborhoods.

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

*Transportation:* The new zoning will have an effect on the adjacent streets and traffic patterns. A traffic study has been submitted with the subdivision and is being reviewed by the City

Engineering Division. Mitigation for traffic impacts will be required with the subdivision.

*Water and Sewerage:* The City will provide water and sewer service to the property and has adequate facilities to serve this property.

*Schools and Parks:* There will be an effect on parks and schools from this rezoning. Cottonwood Park is west across 54<sup>th</sup> Street West. The applicant may provide a minimal amount of parkland onsite, if accepted by the Parks Department. The remaining parkland dedication will be provided in a cash-in-lieu. This cash-in-lieu may or may not be contributed toward improvements for Cottonwood Park. The school district will be impacted by this development. The potential increase in school age population will require additional classroom space and staff. This may be partially offset by the overall increase in mill levy to the School District.

*Fire and Police:* The property is within the Billings Fire Service area and Fire Station #7 is approximately 1 mile south of the development. The Billings Police Department will provide law enforcement.

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

The primary zoning in this area is R-96 to the east, north and west. The areas north and west have been developed with lower density single family residences in the County. The R-96 to the east is a new city subdivision for single family homes. South of the subject property is land zoned A-1 in the County and has active agricultural uses. The proposed density and mixed uses are not entirely compatible with the existing and planned land uses to the east, north, west and south. The proposed CC zoning district is not compatible with the surrounding neighborhood nor is it in compliance with the Northwest Shiloh Plan and West Billings Plan for this area.

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

The subject property may be suitable for the requested zoning district, with the exceptions of the CC zoning on the northwest corner of the property and the Public zoning bordering the property to the north.

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

The applicant is proposing single-family residences in R-70R along the northern portion of the property in order to maintain compatibility with the single-family

residences located to the north. This should help preserve property values along this portion of the property.

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

The proposed zoning is mostly in compliance with the Growth Policy, West Billings Plan and Northwest Shiloh Plan. The CC zoning located on the northwest corner of the property should be excluded from the zone change. The proposed CC zoning district is not compatible with the surrounding neighborhood nor is it in compliance with the Northwest Shiloh Plan and West Billings Plan for this area. Neighborhood Commercial does not permit the wide range of uses allowed in CC and would be better suited for the surrounding residential uses and comply with the West Billings Plan and the Northwest Shiloh Plan. However, this zone change application cannot be changed to NC zoning at this point in the process.

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

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

## **STAKEHOLDERS**

A neighborhood meeting was conducted on September 29, 2008, at the Yellowstone Country Club. Nine people signed the sign in sheet. Tom Llewellyn, the developer's representative, was present at the meeting to provide information. There were concerns regarding the proposed CC zoning on the northwestern portion of the property. The developer discussed the covenants for the subject property and how uses would be governed. Other concerns were expressed regarding the parkland located on the northern portion of the property. Mr. Llewellyn specified that the developer is proposing the ditch easement as parkland dedication with the subdivision, therefore, they are requesting Public zoning. Planning staff has not received any phone calls or letters regarding the proposed zone change application.

The Zoning Commission conducted a public hearing on November 5, 2008, and forwarded a recommendation of approval with the exclusions of the CC and Public zoning to the City Council on a 4-0 vote. The Zoning Commission had concerns with the proposed CC zoning. They questioned why the developer did not choose NC, as recommended by staff. The developer offered the following list of uses **not permitted** in the NC zone that might be considered uses for the northwest corner of the subdivision: veterinarian clinics, dog grooming, enclosed storage, bakeries, food preparation, small printing businesses, coffee roasting businesses, laundromats, service stations are only permitted with a special review, car washes, restaurants with beer and wine, casinos, RV parks, auto repair, microbreweries, etc. Mr. Krutzfeldt stated that the strict covenants proposed for the subdivision would prohibit any type of use that would be "unattractive" and a nuisance for the neighborhood. The Commission members requested clarification of the proposed parkland. Planning staff stated that if the City Council chooses to accept the area along the northern border of the subdivision as parkland, it is not required to be zoned Public. The developer will still be able to dedicate parkland with the subdivision.

Tom Llewellyn, the representing agent for the developer, was present at the meeting and gave a general overview of the proposed zoning. William Krutzfeldt was also present at the meeting and discussed the proposed CC zoning.

There were nine people who spoke in opposition to the proposed zone change. Their main concerns were with the proposed density of the multi-family residential zoning districts and the proposed uses for the commercial portion of the site located at the northwest corner of the property. They further stated that this kind of high density residential and commercial development would increase traffic on the surrounding two lane streets and would not be compatible with the surrounding single-family residential uses in both the city and county.

Tom Llewellyn, the representing agent for the developer, gave a rebuttal to the traffic concerns by stating that with the subdivision, the developer will be required to provide a

turn lane and cash contributions toward traffic lights at the intersection of Rimrock Road and 54<sup>th</sup> Street West. He further stated that the covenants for the property would provide restrictions for any proposed commercial development.

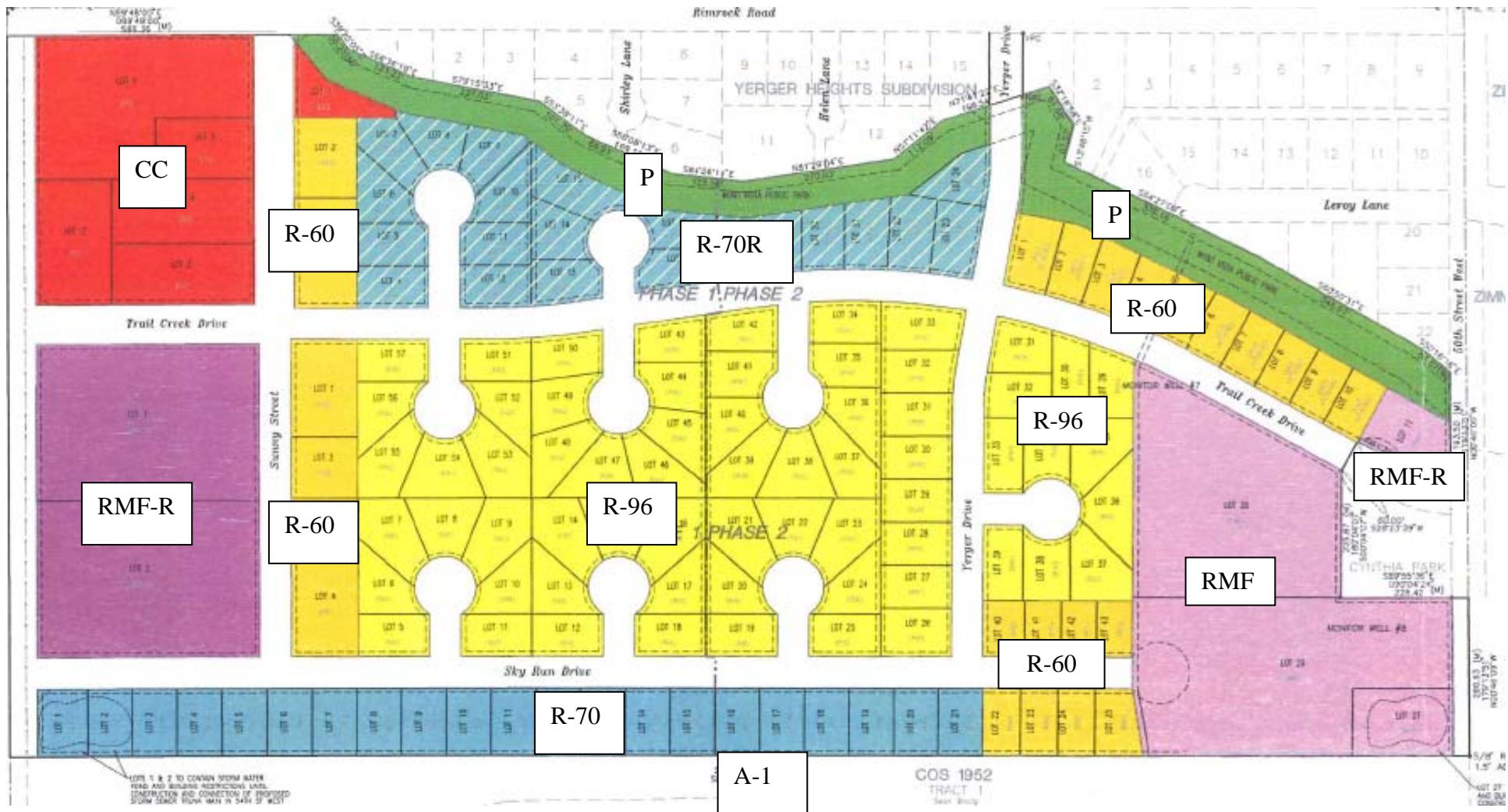
**RECOMMENDATION**

The Zoning Commission is forwarding a recommendation of approval to the City Council for Zone Change #851 with the exclusion of the CC and P zoning and adoption of the 12 Zoning Commission Determinations on a 3-0 vote.

**ATTACHMENTS:**

- A: Surrounding Zoning
- B: Applicant's Submittal
- C: Ordinance

**Attachment A**  
Zone Change #851



**Attachment B**  
Applicant's Submittal

**Mont Vista Subdivision**

**Answers to Zoning Application Questions**

Proposed zoning is consistent with the 2003 Growth Policy for the following reasons.

**1. Whether the new zoning was designed in accordance with the comprehensive plan:**

Yes, the new zoning is in accordance with the Growth Policy. The density is an increase thus keeping costs down for the homes and matching the values closer to those in the adjacent neighborhoods.

**2. Whether the new zoning was designed to lessen congestion in the streets:**

There will be increase in traffic due to new residences. Access to and from the subdivision will be limited to 5 locations, 2 on Rimrock, 2 on 54<sup>th</sup> Street West and 1 on 50<sup>th</sup> Street West. We have designed the project to keep the higher density closer to the outside keeping the traffic at a lesser rate internally. The increased density is primarily in the area of 54<sup>th</sup> Street West is a minor arterial street with a higher traffic count and less desirability for single family homes.

**3. Whether the new zoning will promote health and general welfare;**

The new subdivision and the requested park area is good for the general welfare of the area. We have a natural park so not to disrupt the birds, natural vegetation and watercourse which are comforting.

**4. Whether the new zoning will secure safety from fire, panic and other dangers;**

The new subdivision will have all of the safety consideration such as hydrants and access routes out of the subdivision.

**5. Whether the new zoning will provide adequate light and air;**

The new subdivision is designed not to disrupt the light and air of the area. There will be sufficient open area with the houses and other living units.

**6. Whether the new zoning will prevent the overcrowding of land;**

The lots are of various sizes so that the land is not over crowded, this is accomplished by having different zoning classifications dispersed throughout the project.

7. Whether the new zoning will avoid undue concentration of land;

The lots with the highest density have been spread throughout the development so that there is not a concentration all in one area and yet provide an overall increased density.

8. Whether the new zoning will facilitate the adequate provisions of transportation, water, sewage, schools, parks, fire, police and other public requirements.

This property has been annexed into the city and is located within a mile of the new fire station, police substation, with water and sewer along the 54<sup>th</sup> Street side. In addition Cottonwood Park is across the street which also has a school planned as part of the park.

9. Whether the new zoning gives reasonable consideration to the character of the district;

The property to the south, east and west are mostly vacant land. Only one house (large) is on the south area and to the west there is a vacant corner before a row of homes begin. On the north the neighbor will have a market value less than the anticipated cost of the housing in Mont Vista. There is also a separation of that housing by the park area and Cove Ditch.

10. Whether the new zoning gives reasonable consideration to peculiar suitability of the property for particular uses;

Yes, in that the lineal park along Cove Ditch was enhanced in order to maintain a natural area with the density of the trees.

11. Whether the new zoning was adopted with a view to conserving the value of buildings;

There were no buildings on the property to preserve.

12. Whether the new zoning will encourage the most appropriate use of land throughout the City of Billings.

This is a mixed land use proposal to provide for a higher density which will pay its way with taxes for services. It is also infill as the trunk water and sewer lines were installed a few years ago to provide a plan for growth of the City.

## MONT VISTA SUBDIVISION ZONE CHANGE

2. The following zone change is requested:

Community Commercial:	198,910 s.f.	or 4.5663 acres
RMF-R	222,157 s.f.	or 5.1000 acres
RMF	300,856 s.f.	or 6,9067 acres
R70	202,759 s.f.	or 4.6547 acres
R70-R	200,296 s.f.	or 4.5982 acres
R6000	251,475 s.f.	or 5.7731 acres
R9600	663,994 s.f.	or 15.2432 acres
P (public)	174,686 s.f.	or 4.0102 acres

This will be a mixed use subdivision that is now in process of being subdivided. The size of the lots has determined some of the zoning such as R70-R will be single however; the lot size is not 9600 s.f. The multi family zoning is for patio homes and this will allow for a better opportunity to design a nice project. The R70 zone will be for both single and attached homes particularly in areas that have high ground water. Thought is that it will allow for downsizing and yet be able to take care of others (parents). The R60 zone will allow for townhomes with more 2 attached units. A variance is being presented for this zone classification at this time as well as this change. The public zone is for the park donation. The R9600 is the default zoning from when the property was annexed into the City of Billings.

Growth Plan  
Requires Aggressive Use of Canal System

The natural park system with a trail corridor is exactly what is in the growth plan.

We have an area that complies with the 2003 Growth Plan, page 159, policy IV which provides a multi purpose trail should emphasize safety, environmental preservation, resource conservation and cost effectiveness.

Our proposed park dedication along the Cove Ditch meets this policy of the 2003 Growth Plan because:

1. The park is safe since the park is not next to the heavy Rimrock or subdivision street traffic.
2. We are preserving the environment of poplar and cottonwood trees, birds, small animals.
3. We are conserving resources since no land disturbance or resource use is needed to maintain the natural area,
4. The park is cost effective because City Parks expense is minimal since the park is being left natural. Further, the Cove Ditch Co. maintains the area for purposes of its irrigation canal.
5. The park does use the Cove Ditch "Canal System" for a walking trail corridor which under the policy is to be "Aggressively" pursued. Krutzfeldt Ranch, LLC does not need Cove Ditch consent to dedicate this area as park but it would be subject to the Cove Ditch easement right to use, access and maintain the ditch.
6. The park has multi-purpose uses of birds, small animals, walking, and the irrigation canal just as required by the policy.

**Attachment C**  
Zone Change #851

**ORDINANCE NO. 08-**

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION FOR  
Tracts 1 & 2, Certificate of Survey 2054, containing  
approximately 63.89 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 Tracts 1 & 2, Certificate of Survey 2054, containing approximately 63.89 acres and is presently zoned Residential 9600 and is shown on the official zoning maps within this zone.

3. **ZONE AMENDMENT.** The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Residential 9600** to **Residential 9600, Residential 7000, Residential 7000-Restricted, Residential 6000, Residential Multi-Family-Restricted, and Residential Multi-Family** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Residential 9600, Residential 7000, Residential 7000-Restricted, Residential 6000, Residential Multi-Family-Restricted, and Residential Multi-Family** 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 November 24, 2008.

PASSED, ADOPTED AND APPROVED on second reading December 8, 2008.

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Ron Tussing, Mayor

ATTEST:

BY:  
City Clerk

ZC #851



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## CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, November 24, 2008

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**TITLE:** Public Hearing for Special Review #870 - Proposed Lots 1-4, Block 4, and Lots 2 and 3, Block 5, Mont Vista Subdivision

**DEPARTMENT:** Planning and Community Services

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

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**PROBLEM/ISSUE STATEMENT:** The applicant, is requesting a special review to allow multi-family residential uses in a Residential 6000 (R-60) zoning district. The subject property is located within the proposed Mont Vista Subdivision located on the southeast corner of the intersection of Rimrock Road and 54<sup>th</sup> Street West. The special review will be specifically located on proposed Lots 1-4, Block 4, and Lots 2 and 3, Block 5, Mont Vista Subdivision. The special review is following a zone change application (Zone Change #851) on the property which is being processed concurrently with this application. The property is owned by the Krutzfeldt Ranch, LLC and Tom Llewellyn is the agent. The Zoning Commission held a public hearing on this request on November 5, 2008, and is forwarding a recommendation of denial to the City Council on a 2-1 vote.

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

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

**FINANCIAL IMPACT:** The special review, if approved, will allow further development of the property which should increase the City's tax base.

### **RECOMMENDATION**

The Zoning Commission is forwarding a recommendation of denial of Special Review #870 on a 2-1 vote.

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

**ATTACHMENTS**

- A: Zoning Map
- B: Site Plan
- C: Applicant's Submittal

## **INTRODUCTION**

The applicant, is requesting a special review to allow multi-family residential uses in a R-60 zoning district. The subject property is located within the proposed Mont Vista Subdivision located on the southeast corner of the intersection of Rimrock Road and 54<sup>th</sup> Street West. The special review will be specifically located on proposed Lots 1-4, Block 4, and Lots 2 and 3, Block 5, Mont Vista Subdivision. The property contains approximately 2.41 acres and is proposed for three 10-plexes, one 7-plex, and two 5-plexes for a total of 47 units. The special review is following a zone change application (Zone Change #851) on the property which is being processed concurrently with this application.

## **PROCEDURAL HISTORY**

- **The subject property was annexed on October 5, 2006.**
- On January 17, 2008, a pre-application for Mont Vista Subdivision was conducted between the staff and the subdivider regarding the proposed subdivision.
- A zone change from R-96 to Planned Development (PD) with several underlying zoning districts was granted withdrawal by the Zoning Commission on June 3, 2008. It was determined that the proposed application did not meet the intent of the PD zoning regulations.
- On March 3, 2008, a preliminary plat for Mont Vista Subdivision was submitted for preliminary plat review. The application was delayed and withdrawn before the Planning Board Plat Review.
- On August 28, 2008, a pre-application meeting was conducted for the proposed subdivision.
- On October 1, 2008, the preliminary major plat application was submitted to the Planning Division.
- On October 6, 2008, a special review for to permit multi-family residential uses on the portion of the subject property proposed for Residential 6000 zoning was submitted to the Planning Division. In addition, a zone change from Residential R-96 to CC, RMF, RMF-R, R-60, R-70, R-70R, and P was submitted for the subject property
- On October 16, 2008, the departmental review meeting for the preliminary plat was conducted.
- On November 5, 2008, the Zoning Commission conducted a public hearing on the proposed zone change and special review for the subject property. The zoning commission voted to approve the zone change with exclusions noted by staff on a 3-0 vote. The special review was denied on a 2-1 vote.
- On November 12, 2008, the Planning Board will conduct a plat review on the proposed major subdivision.
- On November 25, 2008, the Planning Board will conduct a public hearing on the proposed major subdivision.
- On November 24, 2008, the City Council will conduct a public hearing and vote to approve or deny the zone change on first reading. The Council will also vote to approve, conditionally approve, or deny the special review for the subject property.
- On December 15, 2008, the preliminary plat will be approved, conditionally approved, or denied by the City Council.

- On December 8, 2008, if approved on first reading, the City Council will vote to approve or deny the 2<sup>nd</sup> reading of the zone change.

## **BACKGROUND**

This is a special review to allow multi-family residential uses in a Residential 6000 (R-60) zoning district. The subject property is located within the proposed Mont Vista Subdivision located on the southeast corner of the intersection of Rimrock Road and 54<sup>th</sup> Street West. The special review will be specifically located on proposed Lots 1-4, Block 4, and Lots 1 and 2, Block 5, Mont Vista Subdivision. The property contains approximately 2.41 acres and is proposed for three 10-plexes, one 7-plex, and two 5-plexes for a total of 47 units.

The Planning Division reviewed this application and recommended conditional approval. Before a recommendation of approval or conditional approval can be made, each special review request must demonstrate conformance with three primary 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. The Planning Division staff found the application conforms to the first criteria, in so far, that it meets required setbacks and does not exceed maximum lot coverage. The use is consistent with the objectives of the Growth Policy, West Billings Plan, and the Northwest Shiloh Plan, which specifies high density residential uses for this property. The proposed multi-family units will provide a buffer between the single-family residences to the east and the commercial and multi-family residences proposed along 54<sup>th</sup> Street West.

During the Design Review Committee meeting for this special review, the Engineering Division expressed concerns regarding the number of driveway accesses off of the proposed Sunny Street. Section 6-1208(h) (5), BMCC, specifies that no more than two driveways are permitted per any single property tract or business. Therefore, each lot shall be limited to two access points off of Sunny Street per Condition #3.

The Zoning Commission is forwarding a recommendation of denial of the special review on a 2-1 vote based on the approval criteria for special review uses. The Zoning Commission before making a recommendation for each special review request must determine if the application is in conformance with three primary 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. The Zoning Commission found that the application conforms to the first criteria, in so far, that it meets required setbacks and does not exceed maximum lot coverage. The Zoning Commission did not find that the use is consistent with the objectives of the Growth Policy, West Billings Plan, and the Northwest Shiloh Plan, in terms of the level of density proposed for residential uses for this portion of the property. The Zoning Commission also found that the proposed multi-family units in this portion of the subdivision would not provide an adequate buffer between the single-family residences to the east and the commercial and multi-family residences proposed

along 54<sup>th</sup> Street West. The Commission found that the existing R-60 zoning that allows single family or duplex uses was a better density in this area of the property and would provide more of a transition from the multifamily and commercial uses to the west to the single family residential uses on the portion of the subdivision to the east.

### **ALTERNATIVES ANALYSIS**

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

1. Complies with all requirements of this Article (27-1500).  
*This application does comply with the requirements of the zoning regulations.*
2. Is consistent with the objectives and purposes of Chapter 27 and the Growth Policy.  
*This application is consistent with the Growth Policy and Chapter 27, however, the proposed density of units will not provide an appropriate buffer between the R-96 to the east and the R-60 zoning. As proposed, the applicant is requesting to build 47 units on 2.41 acres directly adjacent to single-family residential lots with a minimum lot size of 9600 square feet. This use would be better suited for the RMF-R located to the west along 54<sup>th</sup> Street West.*
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 use would not be compatible with the R-96 zoning to the east, as there is no buffer between the large multi-family units and the single-family residences.*

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

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

Based on the above criteria, the Zoning Commission is forwarding a recommendation of denial of Special Review #870 on a 2-1 vote.

### **CONDITIONS OF APPROVAL**

Should the City Council recommend approval of the special review, staff recommends the following conditions of approval.

1. The special review approval shall be limited to proposed Lots 1-4, Block 4, and Lots 1 and 2, Block 5, Mont Vista Subdivision upon approval of Zone Change #851 and approval of the final plat by the City Council.
2. Development of the site shall be in substantial conformance with the site plan that is Attachment C in this staff report. Deviations, with the exception of relocated driveways,

from the approved site plan that change the layout will require additional special review approval.

3. Pursuant to Section 6-1208(h)(5), BMCC, there shall be no more than two driveway accesses per platted lot. Prior to construction, the accesses shall be reviewed and approved by the City Engineering Division.

**\*\*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 November 5, 2008, and forwarded a recommendation of denial to the City Council on a 2-1 vote. Tom Llewellyn, the applicant's agent, and William Krutzfeldt, the applicant were present at the meeting.

The Zoning Commission discussion focused on the density of the proposed multi-family uses on the subject property. As calculated, the proposed density for this special review is approximately 19.5 units per acres. The applicant and his agent stated that the density on the RMF-R zoning to the west would be approximately 8-12 units per acre. Staff has calculated the maximum density for the RMF-R property to the west, which does not take into account streets, setbacks, lot coverage, etc, as 28 units per acre. The Zoning Commission found that the proposed density did not provide a significant buffer for the R-96 zoning to the east of the proposed special review.

The only public comment received on this hearing was to clarify the difference between RMF and RMF-R zoning. The differences between the two zoning districts is the height limitation, which is 40-feet in RMF-R and unlimited in the RMF zoning district, and the density allowed as more units are added.

The Zoning Commission recommended denial of the special review to the City Council on a 2-1 vote.

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

In addition to the above discussion in the Alternatives Analysis section, this application does not conform to the goals of the 2003 City of Billings/Yellowstone County Growth Policy, specifically:

- New Development that is sensitive to and compatible with the character of adjacent City neighborhoods.
- The project does not encourage predictable land use decisions that are consistent with the neighborhood character and land use patterns.

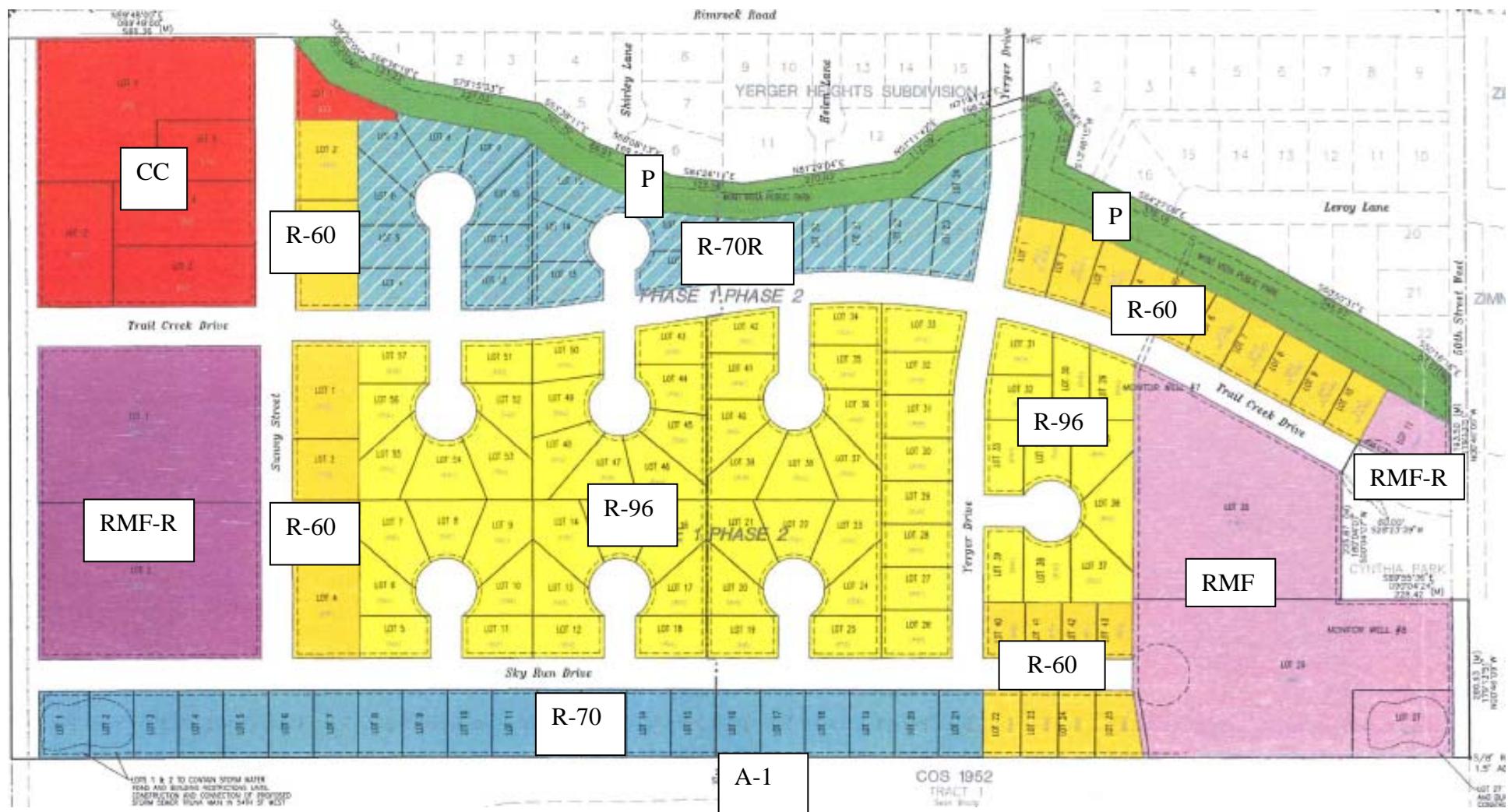
**RECOMMENDATION**

The Zoning Commission is forwarding a recommendation of denial of Special Review #870 on a 2-1 vote.

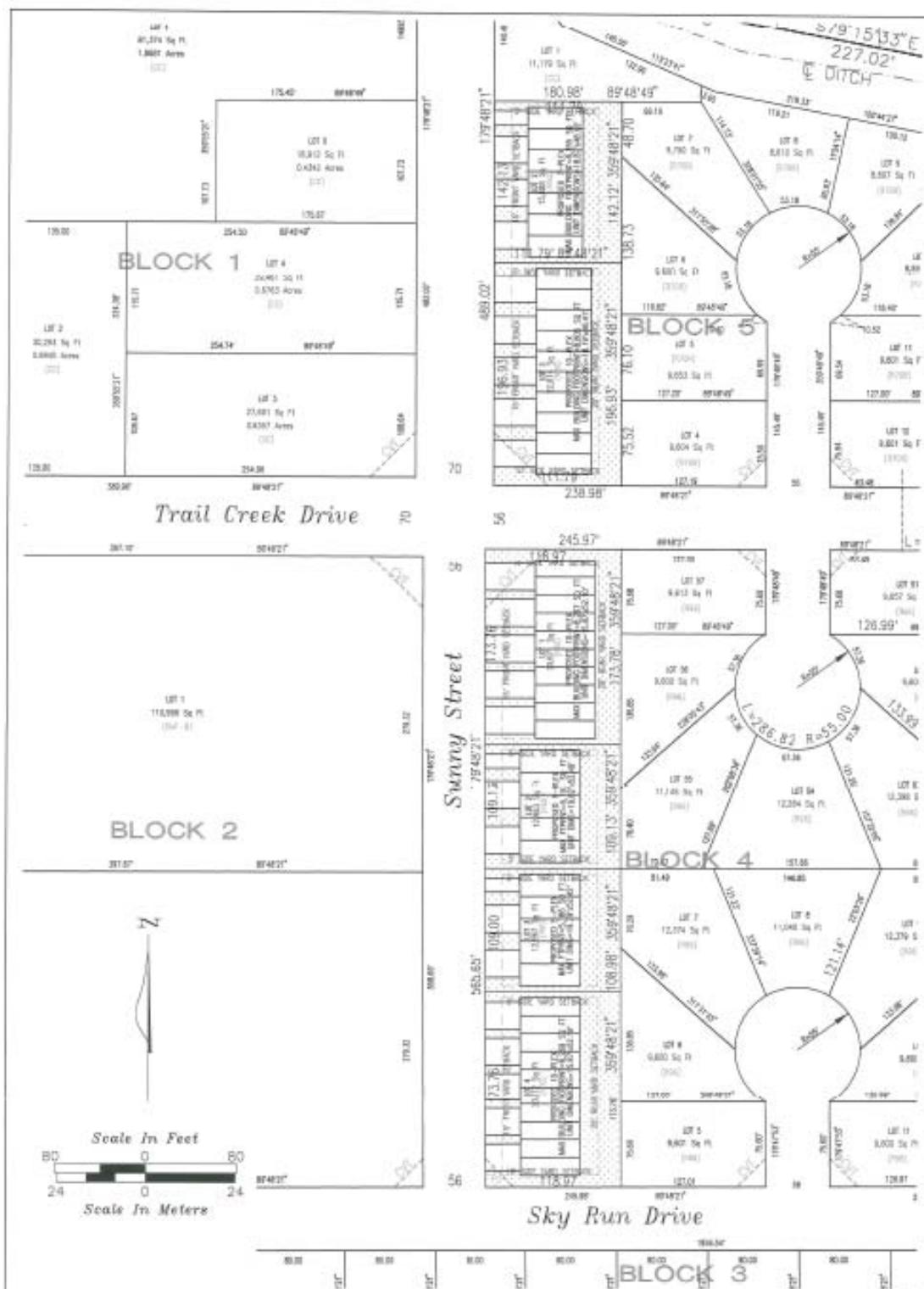
**ATTACHMENTS**

- A: Zoning Map
- B: Site Plan
- C: Applicant's Submittal

**ATTACHMENT A**  
**Zoning Map - Special Review #870**



**ATTACHMENT B**  
**Site Plan Special Review #870**



Applicant's Submittal

**Special Review  
Mont Vista Subdivision  
R 6000 lots**

1. Answer the following questions:

- A. In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy?

The Growth Policy encourages development with greater density in the city limits. This property has been annexed to the city and the proposal will increase density in the subdivision. We are desirous of having an area for Townhomes which will be a buffer between the commercial lots and the single family residential lots. This is consistent with owned units.

- B. Why is there a need for the intended use of the property at this location?

This will be a good buffer between a higher density land to the west and the single family lots to the east and yet provide a good mix of housing in the new subdivision.

- C. How will the public interest be served if this application is approved?

It allows for the neighbors to know what is planned prior to their purchase of a home or patio home. In addition it will save costs to a purchaser because the special review process will be complete saving time and money with certainty of use.

- D. Prepare a written statement addressing what is intended to be done with the property, including new construction or change in the use of the property, and why the special review is being sought.

New town homes are intended to be constructed for the new Mont Vista Subdivision. Townhomes are part of the plan to have a total housing mix including single family, patio homes, townhomes, and twin homes. This will increase density which is supported by the Growth Plan. In order to get the R6000 use, a special review is necessary. We believe that it is better to obtain the approval in the beginning so everyone knows what to expect.

Mont Vista Subdivision

Special Review

R-6000

	Square feet	units requested
Block 5		
Lot 2	15,888	7
Lot 3	22,014	10
Block 4		
Lot 1	20,671	10
Lot 2	12,983	5
Lot 3	12,967	5
Lot 4	20,672	10
	105,195	47

## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, November 24, 2008**

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**TITLE:** Public Hearing and Resolution Approving Tax Incentive for RSP Holdings, LLC, DBA Carries Quilts and Iron

**DEPARTMENT:** Administration

**PRESENTED BY:** Bruce McCandless, Asst. City Administrator

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**PROBLEM/ISSUE STATEMENT:** In 2006, RSP Holdings, LLC remodeled an existing commercial building located at 1737 King Avenue West. In 2007 the company applied for property tax abatement on the improvements. The applicant states that the improvements add \$1.5 million to the property value. In 2005, the City Council adopted Resolution No. 05-18377 establishing tax incentives for remodeling, reconstructing or expanding structures within the city. The process and approval criteria comply with state law that is codified at 15-24-1501 MCA. The City Council must conduct a Public Hearing to consider testimony related to granting the incentive and then consider a Resolution that grants or conditionally grants the tax incentive.

**ALTERNATIVES ANALYZED:** The City Council may:

- Approve the resolution granting the tax incentive
- Modify and approve the resolution
- Deny the tax incentive application

**FINANCIAL IMPACT:** 15-24-1501 MCA and city resolution grant this property tax abatement for up to five years. The value of the property improvement is exempt from city and local school district property taxes during construction and through the 4<sup>th</sup> year following construction. After that period, the improvements become fully taxable. If the RSP improvements are valued at \$1.5 million, the estimated annual tax abatement is worth \$15,735 (\$1,500,000 X 85% X 3.01% X 410 mills).

**RECOMMENDATION**

Staff recommends that Council conduct a public hearing and approve the attached resolution that grants RSP Holdings, LLC building remodel, expansion or reconstruction tax incentives on property located at 1737 King Avenue West.

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

**ATTACHMENTS**

- A: RSP Holdings application
- B: Resolution approving tax incentive
- C: City Resolution #05-18377

## **INTRODUCTION**

In 2006, RSP Holdings, LLC remodeled an existing commercial building located at 1737 King Avenue West. In 2007 the company applied for property tax abatement on the improvements. The applicant states that the improvements add \$1.5 million to the property value. In 2005, the City Council adopted Resolution No. 05-18377 establishing tax incentives for remodeling, reconstructing or expanding structures within the city. The process and approval criteria comply with state law that is codified at 15-24-1501 MCA. The City Council must conduct a Public Hearing to consider testimony related to granting the incentive and then consider a Resolution that grants or conditionally grants the tax incentive.

## **BACKGROUND**

In 2005 the City Council adopted Resolution 05-18377, which established property tax incentives for properties that are remodeled, reconstructed or expanded. The Resolution implements state statute that is codified at 15-24-1501 MCA. The incentive program is designed to encourage reinvestment in older buildings by eliminating property tax on the value of the improvements. Yellowstone County has a similar program. By City Resolution and state law, the entire taxable value of a property improvement is exempt from city and local school district levies. The abatement term is during construction and for the four (4) tax years following completion. In the fifth and subsequent tax years, 100% of the improvement value is subject to these taxes. In order to qualify, the property improvement has to cost at least \$500,000 and increase the property's value by at least 2.5%.

RSP Holdings, LLC, DBA Carries Quilts and Iron, is a retail furniture sales store that occupies a remodeled commercial building at 1737 King Avenue West. The property's assessed value was \$2.1 million before the improvements and according to the application, the remodeling cost \$1.5 million. The company planned to add up to 20 employees following the remodel at pay ranging from \$8 to \$15 per hour. The company started the remodeling in 2006 and applied to BSEDA for the tax abatement in 2007. The application was transmitted to the City in October, 2008. Because of these delays, the property tax abatement will probably be for two years instead of the allowable four years following construction.

## **RECOMMENDATION**

Staff recommends that Council conduct a public hearing and approve the attached resolution that grants RSP Holdings, LLC building remodel, expansion or reconstruction tax incentives on property located at 1737 King Avenue West.

## **ATTACHMENTS**

- A: RSP Holdings application
- B: Resolution approving tax incentive
- C: City Resolution #05-18377

**ATTACHMENT A****RSP Holdings LLC Application****APPLICATION FORM FOR TAX REDUCTION  
BUILDING REMODEL, EXPANSION OR RECONSTRUCTION**

(As allowed under Yellowstone County Resolution 89-56, City Council Resolution and 15-24-1501, 15-24-1502 or 15-24-1601 MCA)

1. Name of business: RSP Holdings LLC (Carries Quilts and Iron)
2.  Building Remodel or Reconstruction: Start of construction (date) May 2006  
End of construction (date) December 2006
3.  Building Expansion: Start of construction (date) \_\_\_\_\_  
End of construction (date) \_\_\_\_\_
4. Address of business: 1737 King Ave  
Actual location of business: 1737 King Ave  
Tax Code: D01349 D01349A
5. Person representing business and responsible for application:  
Name: Robert Peterson Title: \_\_\_\_\_ Owner \_\_\_\_\_  
Address: 2520 58<sup>th</sup> Street West Telephone: 860-5000
6. Amount of capital investment for Expansion, Remodel or Reconstruction in Billings / Yellowstone County: \$ 1,500,000.00 (attach detailed costs of materials and labor and dates of construction. County Commissioners and/or City Council may request further information, such as financial statements, business references, or other documents prior to acting on this request).
7. Describe how the capital investment dollars were used: \_\_\_\_\_  
Dollars were used for the remodel of the RE improvements located at 1737 King Ave.
8. Approximate market value of building prior to remodel, reconstruction, or expansion:  
\$ 2,250,000.00
9. Explain business activity – what business does: Retail furniture sales.  
\_\_\_\_\_  
\_\_\_\_\_
10. How long has this business been located in Billings and/or Yellowstone County?  
6 years
11. As of the date of this application, how many employees does the business have:  
4 Full-time 2 Part-time
12. How many employees will the applicant have within 2 years after completion of construction:  
18 Full-time 8 Part-time

13. Describe job skills required for all new employees both full and part-time: Sales, general labor, office/clerical skills, management experience

14. What is the hourly pay scale of both full and part-time employees to include benefits (new employees only): \$8.00 - \$15.00 / hour

15. Other Economic impacts of capital investment: Interior and exterior improvements completed on an older, run down building – revitalize an otherwise unimproved area of town.

16. Planned hiring schedule: Immediate

17. List other property tax benefits business currently receives or has applied for: None

18. Building permit (attach copy or explain absence): \_\_\_\_\_

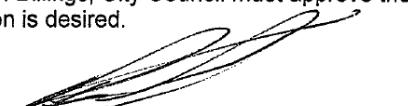
19. A non-refundable fee of \$500 must accompany this application to cover the cost of application administration. Make checks payable to the Big Sky Economic Development Authority.

20. All items on this application must be addressed. Upon completion and accompanied by the application fee, the original can be submitted to the Big Sky Economic Development Authority, 222 N. 32<sup>nd</sup> Street, Suite 200, Billings, Montana 59101 (telephone 256-6871). If the application is complete, a duly advertised public hearing will be scheduled, after which the Commissioners and/or City Council, in their discretion, will decide whether to approve or deny the application. The applicant, or a representative of the applicant, must appear in person at the public hearing.

21. The application to the Department of Revenue, which is part of this application, must also be completed and signed by the applicant.

22. The Board of County Commissioners and/or City Council may review this applicant's tax incentive program at any time and terminate further reductions at their discretion if they find the provisions of Resolution are not being met.

23. In order for this incentive program to apply to the applicant's current year taxes, Yellowstone County must receive the properly completed application by March of the year in which the reduction is desired. If within the city of Billings, City Council must approve the application by March of the year in which the reduction is desired.

24. Signature of applicant/representative: 

25. Date of application: \_\_\_\_\_

26. County Commissioner's Public hearing held (date): \_\_\_\_\_

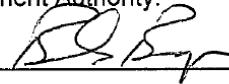
27. City Council's Public hearing held (date): \_\_\_\_\_

Recommendation by the Big Sky Economic Development Authority:

Approve

Deny

Signature:



Date: 5/15/07

County Board of Planning or Laurel-Yellowstone City-County Planning Board certifies that business conforms to zoning regulations:

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

If a non-public water or sewer system is used (i.e., septic tank and water well) County Health Department certifies that system conforms to acceptable standard, or will do so on completion of construction:

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

County Treasurer's Office certifies that City and County taxes have been paid in full or otherwise satisfied:

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

City Finance office certifies that the business has applied for the appropriate City business license:

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

Action by Board of County Commissioners:

Approve  Deny Chair: \_\_\_\_\_ Date: \_\_\_\_\_

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

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

**ATTACHMENT B**

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BILLINGS,  
MONTANA, APPROVING TAX BENEFITS FOR RSP HOLDINGS, LLC, DBA  
CARRIES QUILTS AND IRON**

WHEREAS, Resolution 05-18377 provides for granting tax incentives for remodeling, reconstructing or expanding existing buildings in the city, pursuant to Section 15-24-1501, M.C.A. and establishes a procedure for applying for said tax incentives; and

WHEREAS, RSP Holdings, LLC, DBA Carries Quilts and Iron, has applied for said tax incentives for the property described herein; and

WHEREAS, The City Council of the City of Billings, Montana held a public hearing and duly considered the application of RSP Holdings, LLC and has determined that said application meets all qualifications for the tax incentive and should be approved

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

That the application for tax benefits made by RSP Holdings, LLC, DBA Carries Quilts and Iron, dated May, 2007 is APPROVED. The tax benefits approved are those provided in Resolution 05-18377. The property receiving the tax benefits is described as follows:

Tax Code #D01349, Tract 1B, Certificate of Survey 1551

PASSED AND APPROVED by the City Council this 24<sup>th</sup> day of November, 2008.

**CITY OF BILLINGS**

By:

---

Ron Tussing, Mayor

ATTEST:

By: \_\_\_\_\_  
Cari Martin, City Clerk

**ATTACHMENT C**

**RESOLUTION 05-18377**

**A RESOLUTION CREATING A CITY OF BILLINGS TAX INCENTIVE PROGRAM  
FOR REMODELING, RECONSTRUCTING OR EXPANDING BUILDINGS OR  
STRUCTURES AND REPEALING CITY RESOLUTION #89-16126**

**WHEREAS**, the City Council of the City of Billings believes that it is in the public interest that the community's existing buildings and structures be remodeled, reconstructed or expanded, thereby improving the community's appearance, expanding employment and increasing the tax base; and

**WHEREAS**, the Montana Legislature has approved, in Section 15-24-1501, MCA, a means for Montana cities to provide tax incentives for certain remodeling, reconstruction or expansion of existing buildings; and

**WHEREAS**, the City Council desires to offer those property tax incentives to existing building owners that remodel, reconstruct or expand their buildings.

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

1. That it is in the public interest to encourage existing building remodeling, reconstruction or expansion in the city of Billings through property tax incentives.
2. A tax incentive program is hereby established that meets the requirements set forth in Section 15-24-1501, MCA and applicable Administrative Rules of Montana.
3. The incentive applies only to the taxable value of the improvements made to the building due to the remodeling, reconstruction or expansion. The percentage of the increased taxable value that is subject to taxation during the construction period and for the five years following construction shall be as follows:

Construction period	0%
First year through the fourth year following construction	0%
Fifth year following construction	100%
Following years	100%

4. Each applicant shall meet the following minimum criteria:
  - a. the construction increases the property's value by at least 2.5% as determined by the Montana Department of Revenue;
  - b. the construction costs meet or exceed \$500,000;
  - c. provide documentation that all property taxes on the property have been paid, except that taxes paid under protest do not preclude application approval;
  - d. provide information on the number and pay ranges of jobs that are created or retained by the construction project; and

- e. the applicant has completed the application procedures outlined in attached Exhibit A.
5. The tax incentive is limited to the number of mills levied by the local high school district, the local elementary school district and the City of Billings.
6. The City Council must authorize the granting of the tax incentive to any applicant by passing a resolution approving the application of the schedule of tax incentives set forth above in Paragraph or some other schedule, for each existing building or structure as to which the tax incentive is granted.
7. City of Billings Resolution No. 89-16126 is hereby repealed.

**BE IT FURTHER RESOLVED** that property owners are hereby encouraged to apply to the City of Billings for consideration of tax incentives authorized pursuant to Section 15-24-1501, M.C.A. for the remodeling, reconstruction or expansion of buildings and structures where the remodeling, reconstruction or expansion of buildings and structures will increase the taxable value by at least 2 ½% and the cost of the remodeling, reconstruction or expansion exceeds \$500,000, as determined by the State of Montana Department of Revenue or its agents.

**PASSED AND APPROVED** by the City Council this 12<sup>th</sup> day of December, 2005.

CITY OF BILLINGS

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

ATTEST:

By: \_\_\_\_\_  
Marita Herold, CMC/AAE, City Clerk

## EXHIBIT A

### APPLICATION PROCEDURES FOR CITY OF BILLINGS, MONTANA TAX INCENTIVE PROGRAM FOR REMODELING, RECONSTRUCTING OR EXPANDING EXISTING BUILDINGS

- Prospective clients contact Big Sky Economic Development Authority (BSEDA) who acts as the intermediary in the application process, and an initial meeting is scheduled.
- At the initial meeting, prospective client project is discussed to determine if the project meets the tax incentive application criteria. If the project appears to qualify for an incentive, the client is given tax incentive applications, copies of the tax incentive program cited in the *Montana Code Annotated* and copies of the adopting resolutions.
- Clients then complete and return applications and supporting documentation and the applicable processing fee to BSEDA. BSEDA reviews the application for completeness.
- An appointment is then scheduled with the designated City staff to review the project documentation and perform a site visit if needed. This leads to either staff endorsement of the project or a determination that the project does not meet the program criteria.
- City staff will prepare and submit a staff report, accompanied by the application documentation, and schedule a public hearing with the City Council. The staff report will advise the Council why the application should be approved, conditionally approved, including recommended conditions, or denied.
- City staff will prepare a resolution for Council consideration that contains the elements required by state law and administrative rules.
- The City Council will conduct a public hearing on the application at its next available regular meeting and will approve, conditionally approve or disapprove the application.
- BSEDA will send a letter to the applicant regarding the Council's decision, including any conditions of approval.
- When the construction reaches substantial completion, the client contacts BSEDA and schedules a final inspection to determine if the project meets tax incentive requirements and any conditions of approval.
- If the project meets all City and State requirements, BSEDA will work with City staff to prepare and submit a final approval letter and appropriate documentation to the Montana Department of Revenue.

## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, November 24, 2008**

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**TITLE:** Public Hearing and Resolution Approving Tax Incentive for Golini Real Estate, LLC, DBA All American Pharmaceutical

**DEPARTMENT:** Administration

**PRESENTED BY:** Bruce McCandless, Asst. City Administrator

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**PROBLEM/ISSUE STATEMENT:** In 2006, Golini Real Estate, LLC remodeled an existing commercial building located at 2376 Main Street. In 2007 the company applied for property tax abatement on the improvements. The applicant states that the improvements add \$1.3 million to the property value. In 2005, the City Council adopted Resolution No. 05-18377 establishing tax incentives for remodeling, reconstructing or expanding structures within the city. The process and approval criteria comply with state law that is codified at 15-24-1501 MCA. The City Council must conduct a Public Hearing to consider testimony related to granting the incentive and then consider a Resolution that grants or conditionally grants the tax incentive.

**ALTERNATIVES ANALYZED:** The City Council may:

- Approve the resolution granting the tax incentive
- Modify and approve the resolution
- Deny the tax incentive application

**FINANCIAL IMPACT:** 15-24-1501 MCA and city resolution grant this property tax abatement for up to five years. The value of the property improvement is exempt from city and local school district property taxes during construction and through the 4<sup>th</sup> year following construction. After that period, the improvements become fully taxable. If the Golini improvements are valued at \$1.3 million, the estimated annual tax abatement is worth \$13,705 (\$1,300,000 X 85% X 3.01% X 410 mills).

**RECOMMENDATION**

Staff recommends that Council conduct a public hearing and approve the attached resolution that grants Golini Real Estate, LLC building remodel, expansion or reconstruction tax incentives on property located at 2376 Main Street.

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

**ATTACHMENTS**

- A: RSP Holdings application
- B: Resolution approving tax incentive
- C: City Resolution #05-18377

## **INTRODUCTION**

In 2006, Golini Real Estate, LLC remodeled an existing commercial building located at 2376 Main Street. In 2007 the company applied for property tax abatement on the improvements. The applicant states that the improvements add \$1.3 million to the property value. In 2005, the City Council adopted Resolution No. 05-18377 establishing tax incentives for remodeling, reconstructing or expanding structures within the city. The process and approval criteria comply with state law that is codified at 15-24-1501 MCA. The City Council must conduct a Public Hearing to consider testimony related to granting the incentive and then consider a Resolution that grants or conditionally grants the tax incentive.

## **BACKGROUND**

In 2005 the City Council adopted Resolution 05-18377, which established property tax incentives for properties that are remodeled, reconstructed or expanded. The Resolution implements state statute that is codified at 15-24-1501 MCA. The incentive program is designed to encourage reinvestment in older commercial buildings by eliminating property tax on the value of the improvements. Yellowstone County has a similar program. By City Resolution and state law, the entire taxable value of a property improvement is exempt from city and local school district levies. The abatement term is during construction and for the four (4) tax years following completion. In the fifth and subsequent tax years, 100% of the improvement value is subject to these taxes. In order to qualify, the property improvement has to cost at least \$500,000 and increase the property's value by at least 2.5%.

Golini Real Estate, LLC, DBA All American Pharmaceutical, is a local company that makes, packages and sells nutritional supplements. It is located at 2376 Main Street in the former K-Mart. The City Council approved a zone change for the property in 2005, changing the zone from Community Commercial to Highway Commercial. The rezoning allowed the business to purchase and remodel the building and to expand. The owner estimates that the property was valued at \$1.4 million prior to the remodeling and approximately \$1.3 million was invested. The company plans to add about 60 new employees after completing the construction work. The company started the remodeling in 2006 and applied to BSEDA for the tax abatement in 2007. The application was transmitted to the City in October, 2008. Because of these delays, the property tax abatement will probably be for 2-3 years instead of the allowable four years following construction.

## **RECOMMENDATION**

Staff recommends that Council conduct a public hearing and approve the attached resolution that grants Golini Real Estate, LLC building remodel, expansion or reconstruction tax incentives on property located at 2376 Main Street.

## **ATTACHMENTS**

- A: RSP Holdings application
- B: Resolution approving tax incentive
- C: City Resolution #05-18377

**ATTACHMENT A**  
Golini Real Estate, LLC Application

**APPLICATION FORM FOR TAX REDUCTION  
BUILDING REMODEL, EXPANSION OR RECONSTRUCTION**

(As allowed under Yellowstone County Resolution 89-56, City Council Resolution and 15-24-1501, 15-24-1502 or 15-24-1601 MCA)

1. Name of business: Golini Real Estate LLC (All American Pharmaceutical)
2.  Building Remodel or Reconstruction: Start of construction (date) 04/01/06  
End of construction (date) 12/01/06
3.  Building Expansion: Start of construction (date) \_\_\_\_\_  
End of construction (date) \_\_\_\_\_
4. Address of business: 2376 Main Street Billings, MT 59105  
Actual location of business: 2376 Main Street Billings, MT 59015  
Tax Code: C11832  
**Within city limits of Billings**  YES  NO
9. Person representing business and responsible for application:  
Name: Jeff Golini Title: President  
Address: 1845 Main Street Billings, MT 59105 Telephone: 406-245-5793
10. Amount of capital investment for Expansion, Remodel or Reconstruction in Billings / Yellowstone County: \$ 1,305,482.00 (attach detailed costs of materials and labor and dates of construction. County Commissioners and/or City Council may request further information, such as financial statements, business references, or other documents prior to acting on this request).
7. Describe how the capital investment dollars were used:  
\_\_\_\_\_
8. Approximate market value of building prior to remodel, reconstruction, or expansion:  
\$ 1,400,000.00
9. Explain business activity – what business does:  
\_\_\_\_\_  
Manufacturer of nutritional supplements  
\_\_\_\_\_
10. How long has this business been located in Billings and/or Yellowstone County?  
14 years
11. As of the date of this application, how many employees does the business have:  
40 Full-time 3 Part-time
12. How many employees will the applicant have within 2 years after completion of construction:  
100 Full-time 5 Part-time

13. Describe job skills required for all new employees both full and part-time: \_\_\_\_\_  
Positive attitude and good business ethics. Hardworking. We train them for the job.

14. What is the hourly pay scale of both full and part-time employees to include benefits (new employees only): \_\_\_\_\_ Depends on the job

15. Other Economic impacts of capital investment: \_\_\_\_\_ We purchase a lot of supplies and materials for Billings and the state

16. Planned hiring schedule: \_\_\_\_\_ We are now hiring 10 full time employees. Approximately 60-65 total at end of first year and 35-40 for the second year.

17. List other property tax benefits business currently receives or has applied for: \_\_\_\_\_  
None

18. Building permit (attach copy or explain absence): \_\_\_\_\_

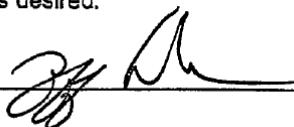
19. A non-refundable fee of \$500 must accompany this application to cover the cost of application administration. Make checks payable to the Big Sky Economic Development Authority.

20. All items on this application must be addressed. Upon completion and accompanied by the application fee, the original can be submitted to the Big Sky Economic Development Authority, 222 N. 32<sup>nd</sup> Street, Suite 200, Billings, Montana 59101 (telephone 256-6871). If the application is complete, a duly advertised public hearing will be scheduled, after which the Commissioners and/or City Council, in their discretion, will decide whether to approve or deny the application. The applicant, or a representative of the applicant, must appear in person at the public hearing.

21. The application to the Department of Revenue, which is part of this application, must also be completed and signed by the applicant.

22. The Board of County Commissioners and/or City Council may review this applicant's tax incentive program at any time and terminate further reductions at their discretion if they find the provisions of Resolution are not being met

23. In order for this incentive program to apply to the applicant's current year taxes, Yellowstone County must receive the properly completed application by March of the year in which the reduction is desired. If within the city of Billings, City Council must approve the application by March of the year in which the reduction is desired.

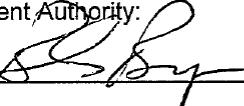
24. Signature of applicant/representative: \_\_\_\_\_ 

25. Date of application: \_\_\_\_\_

26. County Commissioner's Public hearing held (date): \_\_\_\_\_

27. City Council's Public hearing held (date): \_\_\_\_\_

Recommendation by the Big Sky Economic Development Authority:

Approve       Deny      Signature:  Date: 5/15/07

County Board of Planning or Laurel-Yellowstone City-County Planning Board certifies that business conforms to zoning regulations:

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

If a non-public water or sewer system is used (i.e., septic tank and water well) County Health Department certifies that system conforms to acceptable standard, or will do so on completion of construction:

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

County Treasurer's Office certifies that City and County taxes have been paid in full or otherwise satisfied:

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

City Finance office certifies that the business has applied for the appropriate City business license:

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

Action by Board of County Commissioners:

\_\_\_\_ Approve       Deny      Chair: \_\_\_\_\_ Date: \_\_\_\_\_

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

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

APPLICATION TO THE DEPARTMENT OF REVENUE  
BUILDING REMODEL, RECONSTRUCTION OR EXPANSION  
(Title 15- Chapter 24 – Part 14 MCA)

To: Assessor  
Yellowstone County

Name of Applicant: Golini Real Estate LLC (All American Pharmaceutical)

Mailing Address: 2378 Main Street, Billings, MT 59105

Legal description of affected property: Lot 4 Block 1 North Pointe Square 1<sup>st</sup> in Secs 10 & 15

\*Multi-District\*

Date construction permit issued: \_\_\_\_\_  
(If no permit is required, specify the date when certificate in lieu of building permit was issued).  
This application covers the (expansion/new) construction of the All American Pharmaceutical plant.  
A public hearing on this matter of Building Expansion, Remodel, or Reconstruction was held at the  
Yellowstone County Courthouse at \_\_\_\_\_ (am/pm) on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_  
Due notice as defined in 76-15-103 was given. True and exact copies of said notices are attached to this  
application.        Yes        No

The statutory \$500,000 investment requirement for expansion or modernization has been met.  
       X Yes        No

The statutory 2.5% increase in value requirement for new improvements has been met.  
       X Yes        No

The qualifying property consists of the following: Real Estate improvements located at the above address

(Attach site plats, construction prints, and detailed equipment list identifying the qualifying property.)

This application is made under the provisions of 15-24-1501 or 1601 MCA, and by resolution adopted by  
the Commissioners of Yellowstone County, on the 29<sup>th</sup> day of August 1989. A copy of the same is  
attached.

  
(Owner/Agent)

We, the undersigned, Commissioners of Yellowstone County, (approve/disapprove) this application for  
Golini Real Estate LLC (All American Pharmaceutical). We find that it (does/does not)  
conform to the criteria as set forth in the resolution adopted by this Board on the 29<sup>th</sup> day of August 1989.

Name	Title
Name	Title
Name	Title

**ATTACHMENT B**

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BILLINGS,  
MONTANA, APPROVING TAX BENEFITS FOR GOLINI REAL ESTATE,  
LLC, DBA ALL AMERICAN PHARMACEUTICAL

WHEREAS, Resolution 05-18377 provides for granting tax incentives for remodeling, reconstructing or expanding existing buildings in the city, pursuant to Section 15-24-1501, M.C.A. and establishes a procedure for applying for said tax incentives; and

WHEREAS, Golini Real Estate, LLC, has applied for said tax incentives for the property described herein; and

WHEREAS, The City Council of the City of Billings, Montana held a public hearing and duly considered the application of Golini Real Estate, LLC and has determined that said application meets all qualifications for the tax incentive and should be approved

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

That the application for tax benefits made by Golini Real Estate, LLC, DBA All American Pharmaceutical, dated May, 2007 is APPROVED. The tax benefits approved are those provided in Resolution 05-18377. The property receiving the tax benefits is described as follows:

Tax Code #C11832, Lot 4, Block 1, North Pointe Square Subdivision, 1<sup>st</sup> filing

PASSED AND APPROVED by the City Council this 24<sup>th</sup> day of November, 2008.

CITY OF BILLINGS

By: \_\_\_\_\_  
Ron Tussing, Mayor

ATTEST:

By: \_\_\_\_\_  
Cari Martin, City Clerk

**ATTACHMENT C**

## RESOLUTION 05-18377

### **A RESOLUTION CREATING A CITY OF BILLINGS TAX INCENTIVE PROGRAM FOR REMODELING, RECONSTRUCTING OR EXPANDING BUILDINGS OR STRUCTURES AND REPEALING CITY RESOLUTION #89-16126**

**WHEREAS**, the City Council of the City of Billings believes that it is in the public interest that the community's existing buildings and structures be remodeled, reconstructed or expanded, thereby improving the community's appearance, expanding employment and increasing the tax base; and

**WHEREAS**, the Montana Legislature has approved, in Section 15-24-1501, MCA, a means for Montana cities to provide tax incentives for certain remodeling, reconstruction or expansion of existing buildings; and

**WHEREAS**, the City Council desires to offer those property tax incentives to existing building owners that remodel, reconstruct or expand their buildings.

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

1. That it is in the public interest to encourage existing building remodeling, reconstruction or expansion in the city of Billings through property tax incentives.
2. A tax incentive program is hereby established that meets the requirements set forth in Section 15-24-1501, MCA and applicable Administrative Rules of Montana.
3. The incentive applies only to the taxable value of the improvements made to the building due to the remodeling, reconstruction or expansion. The percentage of the increased taxable value that is subject to taxation during the construction period and for the five years following construction shall be as follows:

Construction period	0%
First year through the fourth year following construction	0%
Fifth year following construction	100%
Following years	100%

4. Each applicant shall meet the following minimum criteria:
  - a. the construction increases the property's value by at least 2.5% as determined by the Montana Department of Revenue;
  - b. the construction costs meet or exceed \$500,000;
  - c. provide documentation that all property taxes on the property have been paid, except that taxes paid under protest do not preclude application approval;
  - d. provide information on the number and pay ranges of jobs that are created or retained by the construction project; and

- e. the applicant has completed the application procedures outlined in attached Exhibit A.
5. The tax incentive is limited to the number of mills levied by the local high school district, the local elementary school district and the City of Billings.
6. The City Council must authorize the granting of the tax incentive to any applicant by passing a resolution approving the application of the schedule of tax incentives set forth above in Paragraph or some other schedule, for each existing building or structure as to which the tax incentive is granted.
7. City of Billings Resolution No. 89-16126 is hereby repealed.

**BE IT FURTHER RESOLVED** that property owners are hereby encouraged to apply to the City of Billings for consideration of tax incentives authorized pursuant to Section 15-24-1501, M.C.A. for the remodeling, reconstruction or expansion of buildings and structures where the remodeling, reconstruction or expansion of buildings and structures will increase the taxable value by at least 2 ½% and the cost of the remodeling, reconstruction or expansion exceeds \$500,000, as determined by the State of Montana Department of Revenue or its agents.

**PASSED AND APPROVED** by the City Council this 12<sup>th</sup> day of December, 2005.

CITY OF BILLINGS

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

ATTEST:

By: \_\_\_\_\_  
Marita Herold, CMC/AAE, City Clerk

## EXHIBIT A

### APPLICATION PROCEDURES FOR CITY OF BILLINGS, MONTANA TAX INCENTIVE PROGRAM FOR REMODELING, RECONSTRUCTING OR EXPANDING EXISTING BUILDINGS

- Prospective clients contact Big Sky Economic Development Authority (BSEDA) who acts as the intermediary in the application process, and an initial meeting is scheduled.
- At the initial meeting, prospective client project is discussed to determine if the project meets the tax incentive application criteria. If the project appears to qualify for an incentive, the client is given tax incentive applications, copies of the tax incentive program cited in the *Montana Code Annotated* and copies of the adopting resolutions.
- Clients then complete and return applications and supporting documentation and the applicable processing fee to BSEDA. BSEDA reviews the application for completeness.
- An appointment is then scheduled with the designated City staff to review the project documentation and perform a site visit if needed. This leads to either staff endorsement of the project or a determination that the project does not meet the program criteria.
- City staff will prepare and submit a staff report, accompanied by the application documentation, and schedule a public hearing with the City Council. The staff report will advise the Council why the application should be approved, conditionally approved, including recommended conditions, or denied.
- City staff will prepare a resolution for Council consideration that contains the elements required by state law and administrative rules.
- The City Council will conduct a public hearing on the application at its next available regular meeting and will approve, conditionally approve or disapprove the application.
- BSEDA will send a letter to the applicant regarding the Council's decision, including any conditions of approval.
- When the construction reaches substantial completion, the client contacts BSEDA and schedules a final inspection to determine if the project meets tax incentive requirements and any conditions of approval.
- If the project meets all City and State requirements, BSEDA will work with City staff to prepare and submit a final approval letter and appropriate documentation to the Montana Department of Revenue.