

CITY OF BILLINGS

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

AGENDA

COUNCIL CHAMBERS

July 9, 2007

6:30 P.M.

CALL TO ORDER – Mayor Tussing

PLEDGE OF ALLEGIANCE – Mayor Tussing

INVOCATION – Mayor Tussing

ROLL CALL

MINUTES – June 11, 2007

June 25, 2007

COURTESIES

PROCLAMATIONS

ADMINISTRATOR REPORTS – Tina Volek

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Item: 1 ONLY.

Speaker sign-in required. (Comments offered here are limited to 1 minute per speaker. Please sign up on the clipboard located at the podium. Comment on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item.)

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

CONSENT AGENDA:

1. A. Mayor’s Appointments:

	Name	Board/Commission	Term	
			Begins	Ends
1.		Human Relations Commission	07/09/07	12/31/09
2.		Human Relations Commission	07/09/07	12/31/10

1. Unexpired term of Skip Godfrey
2. Unexpired term of Jean Smith.

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

B. Change Order #4, W.O. 04-13: Water Treatment Plant Maintenance Building Construction, Schedule II, Williams Brother Construction, \$34,468.00.

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

C. Approval of the Assignment and Transfer of the West End Hangar Ground Lease from Picacho Aviation, L.L.P. to Ted E. Whiting and Sally A. Whiting, as Trustees of the Ted E. Whiting Trust, dated November 14, 2000.

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

D. Approval of Downtown Revolving Loan Committee's recommendation of loan to Clock Tower Inn, LLC, for expansion of restaurant, addition of patio, and modifications to garbage and storage areas. \$40,000.00.

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

E. Agreement with Billings Housing Authority to fund one Police Officer for the period July 1, 2007, through December 31, 2007.

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

F. Acknowledge receipt of petition to vacate the north/south alley located on Lots 1A-12A, Amended Plat of a portion of Lots 1 through 12, Block 38, Town of Billings; and Lots 13-24, Block 38, Town of Billings, Billings Food Bank, Inc. petitioner; and setting a public hearing date of August 13, 2007.

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

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

(1) **Parcel 22:** Portion of Unit No. 1 of Imperial Park Condominium, Lot 1, Block 1, of Windsor Imperial Subdivision, Wayne A. Michel and Ella Marie Michel. \$6,100.00.

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

(2) **Parcel 58:** Portion of Tract 1-A of Certificate of Survey 1113, Amended Tract 1, Donald W. Bender and Madeline Bender. \$3,800.00.

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

H. Street Closures:

(1) The Railyard Ale House & Casino Concerts, (a) July 13, 2007, 2:00 p.m. - 10:00 p.m., closing one parking lane and one driving lane on the south side of the 2500 block of Montana Avenue; (b) July 16, 2007, 2:00 p.m. – 10:00 p.m., closing one parking lane and two driving lanes on the south side of the 2500 block of Montana Avenue.

[\(Corresponding Staff Memo H1\)](#)

(2) Yellowstone Art Museum Arts and Crafts Summerfair, July 13, 2007, 10:00 a.m., through July 15, 2007, 8:00 p.m., closing the driving lane on the north side of 6th Avenue North between 19th and 22nd Streets North.

[\(Corresponding Staff Memo H2\)](#)

(3) Big Sky State Games 5K Run, July 20, 2007, 6:00 p.m. – 7:00 p.m., beginning at the Daylis Track, north on 3rd Street West, west on Parkhill Drive, turning around at 12th Street West, east on Parkhill, south on 3rd Street; ending at the Daylis Track.

[\(Corresponding Staff Memo H3\)](#)

(4) Big Sky State Games Triathlon, July 22, 2007, 6:15 a.m. – 11:00 a.m., beginning at Lake Elmo State Park, right on Riveroaks, right on Lake Elmo Drive, right on Meadowlark, left on Cody Drive, right on Wicks Lane, right on Fantan, left on Siesta, left on High Sierra Boulevard, left on Wicks Lane, left on Cody Drive, right on Meadowlark, left on Lake Elmo Drive, left on Riveroaks, left on Interlachen, left on Eagle, left on Constellation, right on Riveroaks, ending at Lake Elmo State Park.

[\(Corresponding Staff Memo H4\)](#)

(5) Big Sky State Games Cycling Race, July 22, 2007, 6:00 a.m. – 2:00 p.m., Black Otter Trail.

[\(Corresponding Staff Memo H5\)](#)

I. Acceptance of Donation: Approval and acceptance of donation from BikeNet for a portion of the match for the Main Street Underpass project, \$36,000.00.

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

J. Resolution amending Resolution 07-18548 approved by City Council on April 23, 2007, for the annexation of Lots 1-5, Block 1, Western Sky Subdivision (Annexation #07-07), correcting error in the legal description.

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

K. Second/Final reading ordinance for Zone Change #807: A zone change from Residential 6,000 Restricted to Community Commercial and Residential Professional for Tract C1, Certificate of Survey 1011, and located on the southeast corner of Zimmerman Trail and Avenue E and adopt the determinations of the 12 criteria.

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

L. Second/Final reading ordinance for Zone Change #808: A zone change from Residential Multi-family to Planned Development, and located on North 26th Street bordered by 7th Avenue North, North 25th Street and North 26th Street and adopt the determinations of the 12 criteria. Thomas Towe and Court E. Ball, owners.

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

M. Second/Final reading ordinance for Zone Change #809: A zone change from Public to Community Commercial, and located at the southeast corner of 14th Street West and Grand Avenue and adopt the determinations of the 12 criteria. School District No. 2, owners.

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

N. Second/Final reading ordinance for Zone Change #810: A text amendment to the Unified Zoning Regulations, Section 27-601, Parking and Storage Regulations, regulating parking and outside storage in residential and some commercial zoning districts. The Zoning Commission approved Zone Change #810 with the exceptions that a permitting or similar system control use of personal recreational vehicles on residential property, Section 27-601(a)7 and Section 27-601(b)7, on June 5, 2007

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

O. Second/Final reading ordinance for Zone Change #811: A text amendment to the Unified Zoning Regulations, Section 27-1502, Amendments to Chapter, Applications for map amendments. The Zoning Commission approved Zone Change #811 amending Section 27-1502(b) on June 5, 2007.

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

P. Second/Final reading ordinance for Zone Change #812: A text amendment to the Unified Zoning Regulations, Special Review Uses, Sections 27-306, 27-601, 27-612, 27-613. The Zoning Commission approved Zone Change #812 amending Sections 27-306, 27-601, 27-612, 27-613 on June 5, 2007.

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

Q. Preliminary Subsequent Minor Plat of Amended Lot 1, Block 4, High Sierra Subdivision, 2nd Filing, generally located on the northeast corner of Wicks Lane and High Sierra Boulevard, Harvest Evangelical Church, owner, conditional approval of the plat and variance and adoption of the Findings of Fact.

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

R. Preliminary Plat of Lot 4, Block 2, Goodman Subdivision, 4th Filing, generally located on 41st Street West between Avenue B and Avenue C. Jeff Muri, Randy Swenson, and Steve Repac, owners, conditional approval of the plat and adoption of the Findings of Fact.

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

S. Final Plat of MK Subdivision generally located on the northwest corner of Grand Avenue and 54th Street West, Mary Kramer, owner.

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

T. Bills and payroll.

(1) June 8, 2007

[\(Corresponding Staff Memo T1\)](#)

(2) June 15, 2007

[\(Corresponding Staff Memo T2\)](#)

(Action: approval or disapproval of Consent Agenda.)

REGULAR AGENDA:

2. **PUBLIC HEARING AND RESOLUTION** approving and adopting the budget amendment for Fiscal Year 2006/2007. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)
[\(Corresponding Staff Memo 2\)](#)
3. **PUBLIC HEARING AND FIRST READING ORDINANCE** for proposed amendments to City Code Section 6-1200 modifying allowable driveway widths, curb cut locations from an intersection, and curb cut separation on arterial roads. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)
[\(Corresponding Staff Memo 3\)](#)
4. **PUBLIC COMMENT on Non-Agenda Items -- Speaker sign-in required.**
(Restricted to ONLY items not on this printed agenda; comments limited to 3 minutes per speaker. Please sign up on the clipboard located at the back of the Council Chambers.)

Council Initiatives

ADJOURN

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

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

A



**CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, JULY 9, 2007**

TITLE: Boards & Commissions –Appointment

DEPARTMENT: City Administrator's Office

PRESENTED BY: wynnette Maddox, Administration

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

FINANCIAL IMPACT: No financial impact involved.

RECOMMENDATION

Mayor Tussing recommends that Council confirm the following appointments:

	Name	Board/Commission	Term	
			Begins	Ends
1.		Human Relations Commission	07/09/07	12/31/09
2.		Human Relations Commission	07/09/07	12/31/10

3. Unexpired term of Skip Godfrey
4. Unexpired term of Jean Smith.

Approved By: City Administrator ____ City Attorney ____

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

B

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, July 9, 2007

TITLE: W.O. 04-13, Schedule II—Water Treatment Plant Maintenance Building Construction, Change Order Number Four

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: HDR Engineering has submitted Change Order Number Four to modify the construction contract with Williams Brother Construction (WBC) for W.O. 04-13, Schedule II—Maintenance Building Construction. Change Order No. Four involves labor and materials related to electrical upgrades requested by City Water Treatment Plant (WTP) personnel. Change Order Number Four creates an increase of \$34,468.00 to the contract amount but no change to the schedule for time of completion.

FINANCIAL IMPACT: W.O. 04-13 is being funded by a State Revolving Fund (SRF) loan and supplemented by the City's Utilities Water Building and Operation Facilities Fund. Change Order Number Four represents an addition to the project's costs. The approved project budget includes a contingency to pay for unforeseen circumstances characteristic with those depicted in Change Order Number Four. There are adequate funds available to cover the additional costs. The table below summarizes the financial impact to the project.

ORIGINAL CONSTRUCTION CONTRACT: \$922,200.00

	Amount	% Of Contract	Cumulative % Of Contract
Change Orders 1 thru 3 (Additions)	\$ 113,897.00	12.35%	
Change Order No. 4 (Addition)	\$ 34,468.00	3.74%	
TOTALs to date:		\$ 148,365.00	16.09%

RECOMMENDATION

Staff recommends that Council approve Change Order Number Four to the construction contract with Williams Brother Construction for W.O. 04-13, Schedule II—Maintenance Building Construction, adding \$34,468.00 to the contract.

INTRODUCTION

HDR Engineering, the designer and consultant for the construction of the Water Treatment Plant (WTP) Maintenance Building, has submitted Change Order Number Four to modify the construction contract with Williams Brother Construction (WBC) for W.O. 04-13, Schedule II—Maintenance Building Construction. Change Order No. Four involves labor and materials related to electrical upgrades requested by City Water Treatment Plant (WTP) personnel.

BACKGROUND

WTP personnel have determined the new Maintenance Building can be best utilized if they are able to work on and test various equipment and components (valves, actuators, etc.) used throughout the plant. This will require a larger electrical service and more service distributions than what was originally specified for the Maintenance Building.

480 volt—3-phase service will be needed, which will require installation of a new step-up transformer, breakers, and disconnect. It was requested to provide a separate 240/120 volt service for all the tools to be used in the Maintenance Building. It will be best to install a new upgraded transformer (208 v—240/120 volt) for this service instead of the 60 amp breaker originally intended to service the Maintenance Building. This transformer will be fed from a new breaker and electrical enclosure. The City will provide the wiring from the transformer to the panelboard, but different conduit will be required. Additional motor test stations will be created. The City will provide all the wiring from the breaker panel to the test stations, but more conduit runs must be provided for this wiring.

All of the labor and materials necessary to achieve these electrical upgrades result in additional costs of \$34,468.00. No additional contract time has been approved though, because these upgrades are not part of a critical path task for the project, so the project will not be delayed by implementing these changes.

RECOMMENDATION

Staff recommends that Council approve Change Order Number Four to the construction contract with Williams Brother Construction for W.O. 04-13, Schedule II—Maintenance Building Construction, adding \$34,468.00 to the contract.

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

C

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 9, 2007

TITLE: Assignment and Transfer of West End Hangar Ground Lease from
Picacho Aviation, L.L.P. to Ted E. Whiting and Sally A. Whiting, as
Trustees of the Ted E. Whiting Trust Dated November 14, 2000

DEPARTMENT: Aviation and Transit

PRESENTED BY: Thomas H. Binford, A.A.E., Director of Aviation and Transit

PROBLEM/ISSUE STATEMENT: On January 24, 2000, Picacho Aviation, L.L.P., entered into a West End Hangar Ground Lease with the City of Billings and subsequently built a 3,600 square foot hangar on the leased parcel in Township 1 North, Range 25 East, Section 25 referred to as Lot 10 (said parcel containing 5,950 square feet) and currently identified as Hangar #2507. Col. Frank Borman, the owner of Picacho Aviation, L.L.P. has opted to sell his hangar to Ted E. Whiting and Sally A. Whiting, as Trustees of the Ted E. Whiting Trust Dated November 14, 2000. This Assignment and Transfer will formally transfer the Lease agreement on Lot 10 from Picacho Aviation, L.L.P. to Ted E. Whiting and Sally A. Whiting, as Trustees of the Ted E. Whiting Trust Dated November 14, 2000.

FINANCIAL IMPACT: There is no financial impact from this action. The name on the Lease is all that changes with this Assignment and Transfer; all other terms and conditions remain in full force and effect.

RECOMMENDATION

Staff recommends that Council approve the Assignment and Transfer of the West End Hangar Ground Lease from Picacho Aviation, L.L.P. to Ted E. Whiting and Sally A. Whiting, as Trustees of the Ted E. Whiting Trust Dated November 14, 2000.

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

ATTACHMENT

A. Assignment and Transfer

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ASSIGNMENT AND TRANSFER

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Picacho Aviation, L.L.P.
c/o Col. Frank Borman
P.O. Box 64
Bighorn, MT 59010

with the consent of the City of Billings, hereby grants, transfers, assigns, sells, and sets over to

Ted E. Whiting and Sally A. Whiting
as Trustees of the Ted E. Whiting Trust
dated November 14, 2000
353 Montclair Drive
Billings, MT 59102

a one hundred percent (100%) undivided interest in the following described property and property interests:

1. That certain leased parcel of real property, together with improvements, specifically described as follows:

Commencing at the S.E. Corner of Section 25 (Iron Pipe), T. 1. N., R. 25 E., P.M.M., Yellowstone County, Montana; thence from said point N 39°51'23" W a distance of 2,460.03 feet to the Point of Beginning; thence, N 69°00'33" W a distance of 85.00 feet; thence S 20°59'27" W a distance of 70.00 feet; thence, S 69°00'33" E a distance of 85.00 feet; thence, N 20° 59'27" E a distance of 70.00 feet to the Point of Beginning.

Said parcel containing 5,950 square feet.

2. That certain West End Hangar Ground Lease entered into by and between the CITY OF BILLINGS, MONTANA as Lessor and Picacho Aviation, L.L.P. as Lessee (hereafter known as Assignor), dated January 24, 2000.

This Assignment and Transfer is made on condition that Ted E. Whiting and Sally A. Whiting, as Trustees of the Ted E. Whiting Trust, as Assignee, takes all property and property interests subject to all of the conditions and provisions of the Picacho Aviation, L.L.P. Lease. Assumption of any rights under this Assignment constitutes acceptance pursuant to the conditions imposed by Assignor.

1 ASSIGNMENT AND TRANSFER made and entered into this _____ day of
2 _____ 20____.

CITY OF BILLINGS

BY: _____

TITLE: _____

6 STATE OF MONTANA)
7 County of Yellowstone)

8 On _____, 20_____, before me, the undersigned, a Notary Public
9 for the State of Montana, personally appeared _____
10 _____, known to me to be the person whose name is subscribed to the within instrument and
11 acknowledged to me that he/she executed the same.

12 IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal
13 the day and year in this certificate first above written.

14 _____ (Signature)
15 (NOTARIAL SEAL) (Printed Name)
16 NOTARY PUBLIC for State of Montana
Residing at _____
My Commission Expires _____

STATE OF MONTANA)
TREASURE :ss
County of Yellowstone)
On JUNE 18, 2007, before me, the undersigned, a Notary Public
for the State of Montana, personally appeared FRANK BOARMAN
, known to me to be the person whose name is subscribed to the within instrument and

1 acknowledged to me that he/she executed the same.

2 IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal
3 the day and year in this certificate first above written.

4 (NOTARIAL SEAL)

Eldon A. Wahl (Signature)

ELDON A. WAHL (Printed Name)

NOTARY PUBLIC for State of Montana

Residing at HYSHAM, MT.

My Commission Expires 8-3-2010

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8 ASSIGNEE:

**TED E. WHITING and SALLY A. WHITING,
as Trustees of the Ted E. Whiting Trust**

9 BY: Ted E. Whiting, Trustee
10 Ted E. Whiting, Trustee

11 BY: Sally A. Whiting, Trustee
12 Sally A. Whiting, Trustee

13 STATE OF MONTANA)
14 County of Yellowstone)
15 :ss

16 On JUNE 20th, 2007, before me, the undersigned, a Notary Public for the State
17 of Montana, personally appeared TED E. WHITING and SALLY A. WHITING
18 known to me to be the persons whose names are subscribed to the within instrument and
19 acknowledged to me that they executed the same.

20 IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal
21 the day and year in this certificate first above written.

22 (NOTARIAL SEAL)

David N. Hodges (Signature)

DAVID N. HODGES (Printed Name)

NOTARY PUBLIC for State of Montana

Residing at BILLINGS, MT.

My Commission Expires 8-9-2010

D

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, July 9, 2007

TITLE: Revolving Loan Fund Recommendations for the Clock Tower Inn, LLC
DEPARTMENT: Administration – Finance Division
PRESENTED BY: Patrick M Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: The Downtown Revolving Loan Committee met on June 11, 2007, and approved a loan to Clock Tower Inn, LLC (the Inn) in the amount of \$40,000. The Clock Tower Inn, LLC operates the Best Western Clock Tower Inn., formerly Best Western Ponderosa Inn, located at 2511 First Avenue North. The Inn is requesting \$40,000 to finance a portion of the \$118,500 needed to expand the restaurant (which is operated by Stella's Restaurant), to add an outdoor patio café and to modify the current garbage and storage areas. The Inn will self-fund the remainder of the project and intends to repay the loan on April 15, 2008, when it refinances current loans from First Interstate. April 15, 2008 has therefore been established in the loan documents as the maturity date on which repayment of all outstanding principal and interest is due and payable to the City of Billings.

FINANCIAL IMPACT: Subsequent to approval of this loan, the loan fund will have a balance available of approximately \$1,677,000.

RECOMMENDATION

The Downtown Revolving Loan Committee recommends that council approve the loan in the amount of \$40,000 to Clock Tower Inn, LLC.

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

ATTACHMENT

A-Loan Description

Attachment A

Revolving Loan Fund Loan

Monday, July 9, 2007

The Clock Tower Inn, LLC loan terms are as follows:

Loan	Not to exceed \$40,000.
Interest Rate	6.188% Adjusted December 1, 2007.
Term	Matures on April 15, 2008.
Payments	Monthly payments of interest only until maturity.
Collateral	Third mortgage on the building subordinate to two previous trust indentures given to First Interstate Bank. The City's security interest will be secured by a trust indenture on the real property owned by Thunderbird Properties Inc and Clyde R Gibb. Stephen C. Wahrlich and Stella Ziegler will each personally guarantee the loan.
Disbursement	The City will disburse funds after it receives documentation supporting actual project costs and payment thereof totaling \$40,000.

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

\$105,000	Construction
12,000	Furnishings
<u>1,500</u>	Landscaping
<u><u>\$118,500</u></u>	

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

E

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 9, 2007

TITLE: Agreement with Billings Housing Authority to Fund One Officer
From July 1, 2007 through December 31, 2007

DEPARTMENT: Police Department

PRESENTED BY: Rich St. John, Chief of Police

PROBLEM/ISSUE STATEMENT: Since 1991, the Billings Housing Authority has funded one police officer under an agreement with the City of Billings. The funding consists of salary, benefits, and maximum of four (4) hours of overtime per month. Due to the loss of a grant, the Housing Authority is now funding this position from their office budget for a six month period. Staff is recommending City Council approve this agreement for the funding of the officer through from July 1, 2007, through December 31, 2007.

FINANCIAL IMPACT: There is no financial impact to the City since the Billings Housing Authority funds the officer for salary and benefits to a maximum amount of \$37,902 for the 6 month period of July 1 through December 31, 2007. This amount is budgeted in the current budget. If Housing Authority is unable to fund the officer position after December 31, 2007, the position will be absorbed through attrition.

RECOMMENDATION

Staff recommends Council approve the agreement with Billings Housing Authority to fund one Police Officer for the period of July 1, 2007, through December 31, 2007.

Approved By: City Administrator _____ City Attorney _____

ATTACHMENT

A-Billings Housing Authority Agreement-2 pages

**CITY OF BILLINGS POLICE DEPARTMENT
AND
HOUSING AUTHORITY OF BILLINGS**

This contract is to cover the period from July 1, 2007 to December 31, 2007 by and between the City of Billings, State of Montana, herein after referred to as "City", and the Housing Authority of Billings.

In receipt of the mutual covenants and agreements herein contained, the parties agree as follows:

1. The City shall provide its personnel and other resources in a Drug Elimination Policing role at the Housing Authority of Billings' complexes. A dedicated Community Policing Officer shall be provided 40 hours a week, 26 weeks a year to perform the above baseline services for the Housing Authority of Billings. The designated officer will not be available for dispatched calls except in cases of emergency.
2. The Housing Authority of Billings shall pay the City the officer's salary that shall include the officer's salary and fringe benefits of \$37,901.26. This payment shall be made monthly starting on or before July 1, 2007. This amount allows for an average of 4 hours of overtime monthly for a six-month period.
3. The Housing Authority of Billings shall pay for business only cellular phone costs for assigned officer on a monthly basis. No coverage from the Housing Authority selected plan will be paid.
4. The City will have available the necessary equipment for the Police Officer to conduct his job.
5. The City shall keep detailed records regarding the date and time of contacts exclusive of investigating records. The Housing Authority of Billings may inspect these records at all reasonable times and those records shall be available for photocopying at no additional fee.
6. Indemnification – The City assumes full responsibility for the officer's performance. The City shall indemnify the Housing Authority of Billings against, and hold the Housing Authority harmless from any liability costs, damages, claims or causes of action which may arise as a result of

performance by the City of its responsibilities under the terms of this agreement; provided, however, that the City, its officers and employees shall not assume any liability for acts of the Housing Authority of Billings, or any of its officers, employees or agents.

7. This agreement shall cover the period from July 1, 2007 until December 31, 2007.

In Witness Whereof, the parties hereto have caused this agreement to be executed the day and year first herein above written.

CITY OF BILLINGS, MONTANA "CITY"

Mayor

HOUSING AUTHORITY OF BILLINGS

Executive Director

City Clerk

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

F

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 9, 2007

TITLE: Vacation of Alley Right-of-Way for Billings Food Bank
DEPARTMENT: Public Works Department – Engineering Division
PRESENTED BY: David D. Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT: Billings Food Bank, Inc. has submitted a petition to vacate the north/south alley located on Lots 1A-12A, Amended Plat of a Portion of Lots 1 through 12, Block 38 Town of Billings and Lots 13-24, Block 38, Town of Billings, Billings, MT. Billings Food Bank, Inc. desires to construct a new facility for their operations over the current existing alley.

ALTERNATIVES ANALYZED:

- Acknowledge Receipt of Petition and set a public hearing for August 13, 2007
- Do not acknowledge Receipt of Petition

FINANCIAL IMPACT:

The portion of alley being vacated is 6000 square feet (20 feet wide X 300 feet long). An appraisal was conducted for the CTA alley vacation in 2004. The report uses \$3.50/sf to \$5/sf which would make the value of the right-of-way \$21,000 to \$30,000. Billings Food Bank, Inc. requests the City of Billings consider donating the value of the alley and consider such donation a contribution designated to expansion of the Food Bank property. The in-kind donation will then allow the Food Bank to use the value as matching funds in making grant applications. City Council will determine the value of the right-of-way at the public hearing.

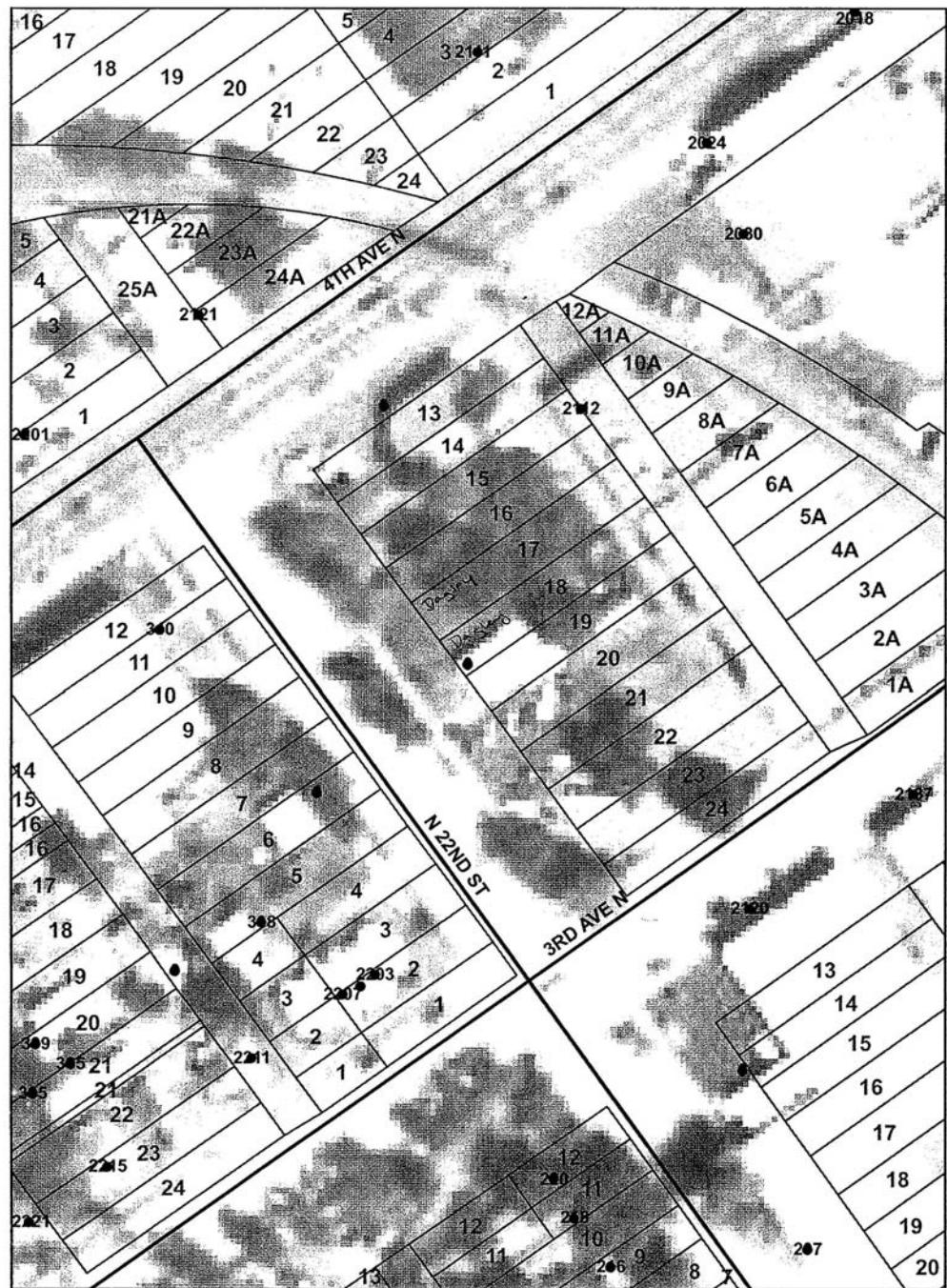
RECOMMENDATION

Staff recommends that Council acknowledge the receipt of petition and set a public hearing for August 13, 2007

ATTACHMENT

A. Map Depicting Area to be Vacated

EXHIBIT A



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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, July 9, 2007

TITLE: W.O. 04-33, Lake Elmo Drive (Hilltop Road to Wicks Lane) - Right-of-Way Acquisition, Approval of Right-of-Way Agreement and Warranty Deed for Parcel #22, a Portion of Unit No. 1 of Imperial Park Condominium, Lot 1, Block 1 of Windsor Imperial Subdivision with Wayne A. Michel and Ella Marie Michel

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: Lake Elmo Drive improvements from Hilltop Road to Wicks Lane are Phases III & IV (combined) of a five-phase plan to complete street improvements of Lake Elmo Drive between Main Street and Pemberton Lane. The existing right-of-way between Hilltop and Wicks is too narrow to allow the needed street improvements, and it will be necessary to acquire right-of-way from approximately 78 parcels along this one-mile length of street. This memo represents Parcel #22 of the parcels to be acquired (there are some numbered parcels within the project limits from whom right-of-way does not need to be acquired). The appraisal for this acquisition made a conclusion of value for the land, any appurtenant features, and the construction permit at a value of \$6,100.00. A copy of the right-of-way agreement; deed; appraisal; tax and land transfer documents; file memoranda; and negotiation history for this property is on file with the City Clerk.

FINANCIAL IMPACT: The total payment for this acquisition is \$6,100.00. The cost of this acquisition is equal to the sum of the appraised value of the land, any appurtenant features, and the construction permit. Funding is available for this acquisition from project funds.

RECOMMENDATION

Staff recommends that Council approve the Right-of-Way Agreement and the Warranty Deed for right-of-way acquisition for Parcel #22, a Portion of Unit No. 1 of Imperial Park Condominium, Lot 1, Block 1 of Windsor Imperial Subdivision with Wayne A. Michel and Ella Marie Michel in the amount of \$6,100.00, and authorize the Mayor to execute these documents.

ATTACHMENT

- A. Right-of-Way Agreement and Warranty Deed (5 pages)

INTRODUCTION

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

PROCEDURAL HISTORY

Completed Items

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

Future Items

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

BACKGROUND

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

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

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

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

RECOMMENDATION

Staff recommends that Council approve the Right-of-Way Agreement and the Warranty Deed for right-of-way acquisition for Parcel #22, a Portion of Unit No. 1 of Imperial Park Condominium, Lot 1, Block 1 of Windsor Imperial Subdivision with Wayne A. Michel and Ella Marie Michel in the amount of \$6,100.00, and authorize the Mayor to execute these documents.

ATTACHMENT

- A. Right-of-Way Agreement and Warranty Deed (5 pages)

CITY OF BILLINGS

(hereinafter referred to as City)

RIGHT-OF-WAY AGREEMENT

Lake Elmo Road Hilltop Road to Wicks Lane
DESIGNATION

Parcel No.	Parcel Description	Section	Township	Range
22	Unit No. 1, of Imperial Park Condominium, Lot 1, Block 1, Windsor Imperial Subdivision	22	1N	26E

**List Names & Addresses of the Grantors
(Contract Purchaser, Contract Seller, Lessee, etc.)**

WAYNE A. MICHEL AND ELLA MARIE MICHEL
396 WINDSOR CIRCLE SOUTH
BILLINGS, MT. 59105
855-2991

1. In consideration of the payments herein set forth and the specific agreements to be performed by the parties hereto and written in this agreement, the parties bind themselves to the terms and conditions stated herein. No verbal representations or agreements shall be binding upon either party. This agreement is effective upon execution by the City or a designated representative, and possession of the property is granted to the City when it sends the property(s) agreed to below. Grantors contract that they will, on City's request, execute a deed and other documents required by the City for all real property agreed to be conveyed by this agreement.
2. COMPENSATION FOR LAND AND IMPROVEMENTS (List acreage and improvements to be acquired.)

566 square feet by deed \$2,972.00
Improvements (Vine hedge, fencing, sod) \$2,816.00

3. OTHER COMPENSATION:

576 square feet Temporary Construction Permit \$ 302.00

4. TOTAL COMPENSATION (includes all damages to the remainder): \$6,100.00.

5. IT IS UNDERSTOOD AND AGREED THE CITY SHALL MAKE PAYMENT AS FOLLOWS:

A warrant in the amount of \$6,100.00, to be made payable to WAYNE A. MICHEL AND ELLA MARIE MICHEL and mailed to 396 WINDSOR CIRCLE SOUTH, BILLINGS, MT. 59105

6. IT IS UNDERSTOOD that the City is acquiring this right-of-way in order to improve Lake Elmo Road. The improvements will include, but not be limited to, street widening, curb & gutter, sidewalks, storm drain improvements, drive approaches, a multi-use path and related features. Some of these improvements may be constructed with property assessments to the adjoining properties in accordance with the City's policies in effect at the time of project creation.
7. The Grantor hereby grants the City of Billings a Temporary Construction Permit, as shown on Exhibit A of the Warranty Deed, and made for the period of the street improvements construction project plus the one-year warranty period.
8. This agreement, upon execution by an agent of the City and presentation to the Grantors so designated, constitutes a written offer of compensation in the full amount of the appraised value, a summary of the property and property rights being acquired and notice that possession need not be given until payment has been received by the Grantors

(Continued from Previous Page)

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT ON THE DATES SHOWN:

We understand that we are required by law to provide our correct taxpayer identification number(s) and that failing to comply may subject us to civil and criminal penalties. We certify that the correct taxpayer identification number(s).

Wayne A Michel -- EM P.O.A. 12-14-06
Signature: WAYNE A. MICHEL (Date)

igs
ir

Ella Marie Michel 12-14-06
Signature: ELLA MARIE MICHEL (Date) Tax ID No.

Signature: _____ (Date) Tax ID No.

RECOMMENDED FOR APPROVAL:

Ronald E. Olson 12-14-06
Ronald E. Olson, Olson Land Services (Date)

APPROVED FOR AND ON BEHALF OF CITY OF BILLINGS:

Mayor, City of Billings (Date)
Mayor, City of Billings (Date)

ATTEST:

Mark V. Bailey 1/8/07
City Clerk (Date)
City Clerk (Date)
Qnty of Billings, Public Works Department (Date)

LER-022.200 Michel

Return to: City Clerk
City of Billings
PO Box 1178
Billings, MT 59103

Project No. W.O. 04-33 Parcel No. 22 County of YELLOWSTONE
Designation LAKE ELMO ROAD – HILLTOP ROAD TO WICKS LANE

WARRANTY DEED

THIS INDENTURE, made this 5th day of June, 2007.

FOR VALUABLE CONSIDERATION, lawful money of the United States to them in hand paid by the **CITY OF BILLINGS**, THE receipt whereof is acknowledged, **WITNESSTH THAT**:

WAYNE A. MICHEL AND ELLA MARIE MICHEL, AS TRUSTORS OF THE WAYNE AND ELLA MARIE MICHEL TRUST, DATED OCTOBER 3, 1997
396 WINDSOR CIRCLE SOUTH
BILLINGS, MT. 59105

does hereby **GRANT, BARGAIN, SELL CONVEY, WARRANT AND CONFIRM** unto the **CITY OF BILLINGS** for the benefit and use of the Public the following described real property, to wit:

Parcel No. 22 on the City of Billings Lake Elmo Road - Hilltop Road to Wicks Lane Project.
Said parcel is also described as a tract of land within Unit No. 1, of Imperial Park Condominium, Block 4, Windsor Imperial Subdivision, on file under Document No. 937984, in the City of Billings, Yellowstone County, Montana, as shown by the shaded area on Exhibit A, consisting of one sheet, attached hereto and made a part hereof, containing an area of 566 sq. ft..

Together with a temporary construction permit for the period of construction plus a one-year construction warranty period as shown by the hatched area on said Exhibit A, containing an area of 576 sq. ft..

PURPOSE OF ACQUISITION is to create a right-of way parcel for construction and use of public road, utility and related appurtenant structures, pursuant to 76-3-201(1)(h) M.C.A. and A.R.M. 24.183.1104 as a division of land that creates rights-of-way or utility sites.

EXCEPTING AND RESERVING, however, all gas and oil, beneath the surface of the above described and conveyed premises, together with the right to extract the same, provided that in the exercise of such right the surface thereof shall not be disturbed, interfered with, or in anyway damaged.

FURTHER EXCEPTING AND RESERVING, unto the grantors, their successors and assigns all water, water rights, ditches, canals, irrigation systems, existing or as relocated, if any, including but not limited to, water stock or shares, bonds, certificates, contracts and any and all other indicia, of water, water right and ditch ownership, or any interest therein, appurtenant to the land described herein.

TO HAVE AND TO HOLD the above described and conveyed premises, with all the reversions, remainders, tenements, hereditaments and appurtenances thereto, unto the **CITY OF BILLINGS**, and to its successors and assigns forever. **IN WITNESSTH WHEREOF**, the undersigned have executed these premises the day and year first above written.

Project No. : W.O. 04-33

Parcel No. 22

Designation : LAKE ELMO ROAD – HILLTOP ROAD TO WICKS LANE

Ella Marie Michel

ELLA MARIE MICHEL AS ATTORNEY IN FACT FOR WAYNE A. MICHEL AS TRUSTOR OF THE WAYNE AND ELLA MARIE MICHEL TRUST, DATED OCTOBER 3, 1997

Ella Marie Michel

ELLA MARIE MICHEL, AS TRUSTOR OF THE WAYNE AND ELLA MARIE MICHEL TRUST, DATED OCTOBER 3, 1997

State of Montana)
County of Yellowstone)

This instrument was acknowledged before me on June 5, 2007 (date)

by ELLA MARIE MICHEL AS ATTORNEY IN FACT FOR WAYNE A. MICHEL AND ELLA MARIE MICHEL, AS TRUSTORS OF THE WAYNE AND ELLA MARIE MICHEL TRUST, DATED OCTOBER 3, 1997

(names)

Ronald E. Olson

Notary Signature Line

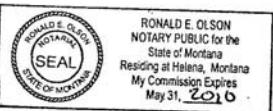
Ronald E. Olson

Notary Printed Name

Notary Public for State of _____

Residing at: _____

My Commission Expires: _____



ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE

The Mayor and City Council of the City of Billings acknowledges receipt of this deed and hereby accepts the property interest conveyed through this instrument.

Mayor, City of Billings

Date

ATTEST: _____

City Clerk

STATE OF MONTANA)

:ss

County of Yellowstone)

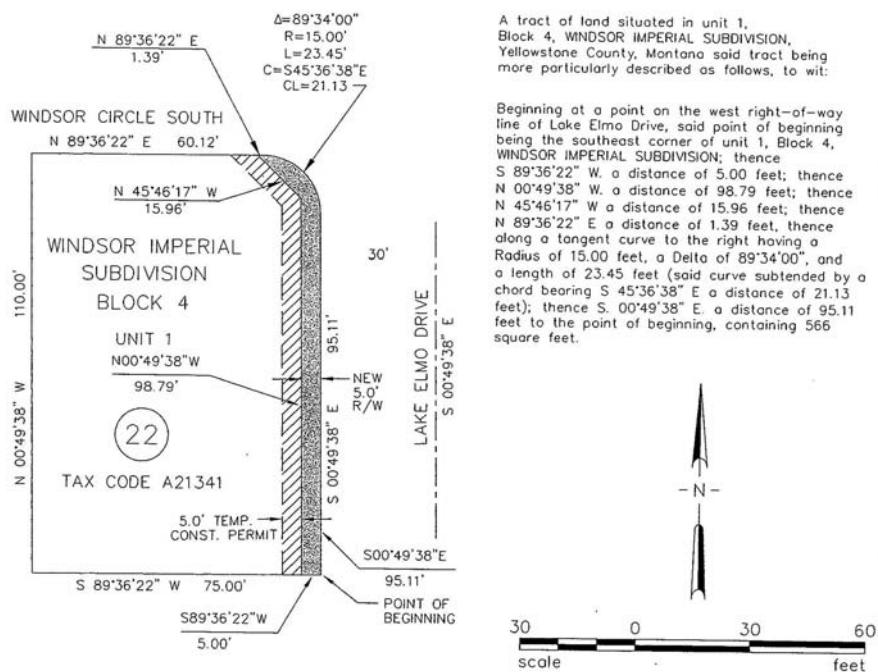
On this _____ day of _____, 200____, before me, a Notary Public in and for the State of Montana, personally appeared _____ as Mayor and _____ City Clerk of Billings known to me to be the persons who signed, respectively, and acknowledge to me that they executed the foregoing instrument. IN WITNESS WHEREOF, I have hereunto set my hand and my seal the day and year herein above written.

Notary Public in and for the State of Montana
Residing in _____
My commission expires _____

Print Name

EXHIBIT A
RIGHT-OF-WAY ACQUISITION
AND TEMPORARY CONSTRUCTION PERMIT
SITUATED IN UNIT 1,
BLOCK 4,
WINDSOR IMPERIAL SUBDIVISION,
YELLOWSTONE COUNTY, MONTANA

LAKE ELMO DRIVE
RIGHT-OF-WAY ACQUISITION DESCRIPTION
PARCEL No. 22



AREA TO BE ACQUIRED: 566 S.F.

AREA OF TEMPORARY CONSTRUCTION
PERMIT: 576 S.F.

LEGEND

	RIGHT-OF-WAY ACQUISITION
	CONSTRUCTION PERMIT

CITY OF BILLINGS, MONTANA
RIGHT-OF-WAY EXHIBIT

CITY W.O. 04-33 PARCEL 22
THIS EXHIBIT IS PREPARED FROM THE CITY OF BILLINGS, MONTANA
 RIGHT-OF-WAY PLAN.

REVISED 1/23/2007

PARCEL 22.DWG 1/22/01



ENGINEERING, INC.
 Consulting Engineers and Land Surveyors

1300 North Tenthick Way
 Billings, Montana 59102
 Phone (406) 656-5255
www.englinc.com

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

G2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, July 9, 2007

TITLE: W.O. 04-33, Lake Elmo Drive (Hilltop Road to Wicks Lane) - Right-of-Way Acquisition, Approval of Right-of-Way Agreement and Warranty Deed for Parcel #58, a Portion of Tract 1-A of Certificate of Survey 1113, Amended Tract 1 With Donald W. Bender and Madeline Bender

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: Lake Elmo Drive improvements from Hilltop Road to Wicks Lane are Phases III & IV (combined) of a five-phase plan to complete street improvements of Lake Elmo Drive between Main Street and Pemberton Lane. The existing right-of-way between Hilltop and Wicks is too narrow to allow the needed street improvements, and it will be necessary to acquire right-of-way from approximately 78 parcels along this one-mile length of street. This memo represents Parcel #58 of the parcels to be acquired (there are some numbered parcels within the project limits from whom right-of-way does not need to be acquired). The appraisal for this acquisition made a conclusion of value for the land, any appurtenant features, and the construction permit at a value of \$3,800.00. A copy of the right-of-way agreement; deed; appraisal; tax and land transfer documents; file memoranda; and negotiation history for this property is on file with the City Clerk.

FINANCIAL IMPACT: The total payment for this acquisition is \$3,800.00. The cost of this acquisition is equal to the sum of the appraised value of the land, any appurtenant features, and the construction permit. Funding is available for this acquisition from project funds.

RECOMMENDATION

Staff recommends that Council approve the Right-of-Way Agreement and the Warranty Deed for right-of-way acquisition for Parcel #58, a Portion of Tract 1-A of Certificate of Survey 1113, Amended Tract 1 With Donald W. Bender and Madeline Bender in the amount of \$3,800.00, and authorize the Mayor to execute these documents.

ATTACHMENT

A. Right-of-Way Agreement and Warranty Deed (5 pages)

INTRODUCTION

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

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Completed Items

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- 2009-2010 – Design and construction of street improvements (in draft CIP)

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Phase III – Sioux Lane to Wicks Lane	Right-of-way acquisition (this memo)
Phase IV – Hilltop Road to Rice Lane	Right-of-way acquisition (this memo)
Phase V – Angel Drive to Pemberton Lane	Not scheduled in the 2006-2011 CIP

Current traffic counts along the section of Lake Elmo Drive between Hilltop and Wicks show

approximately 6,200 vehicles per day. By 2015, 7,500 vehicles per day are expected to use this stretch of Lake Elmo; and by 2025, 9,950 vehicles per day are expected to use this stretch.

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

RECOMMENDATION

Staff recommends that Council approve the Right-of-Way Agreement and the Warranty Deed for right-of-way acquisition for Parcel #58, a Portion of Tract 1-A of Certificate of Survey 1113, Amended Tract 1 With Donald W. Bender and Madeline Bender in the amount of \$3,800.00, and authorize the Mayor to execute these documents.

ATTACHMENT

- A. Right-of-Way Agreement and Warranty Deed (5 pages)

CITY OF BILLINGS

(hereinafter referred to as City)

RIGHT-OF-WAY AGREEMENT

Lake Elmo Road Hilltop Road to Wicks Lane Work Order: 04-33
DESIGNATION Project No. 05153

Yellowstone
COUNTY

Parcel No.	Parcel Description	Section	Township	Range
58	Tract 1-A, COS 1113 Amended Tract 1	22	1N	26E

**List Names & Addresses of the Grantors
(Contract Purchaser, Contract Seller, Lessee, etc.)**

DONALD W. BENDER AND MADELINE BENDER
4139 JUNE DRIVE
BILLINGS, MT. 59106
656-2481

1. In consideration of the payments herein set forth and the specific agreements to be performed by the parties hereto and written in this agreement, the parties bind themselves to the terms and conditions stated herein. No verbal representations or agreements shall be binding upon either party. This agreement is effective upon execution by the City or a designated representative, and possession of the property is granted to the City when it sends the payment(s) agreed to below. Grantors contract that they will, on City's request, execute a deed and other documents required by the City for all real property agreed to be conveyed by this agreement.
2. COMPENSATION FOR LAND AND IMPROVEMENTS (List acreage and improvements to be acquired.)

460 square feet by deed	\$1,955.00
Improvements (Sod, shrubs, asphalt, sidewalk, curbing)	\$1,436.00
3. OTHER COMPENSATION:

920 square feet Temporary Construction Permit	\$ 391.00
---	-----------
4. TOTAL COMPENSATION (includes all damages to the remainder): \$3,800.00.
5. IT IS UNDERSTOOD AND AGREED THE CITY SHALL MAKE PAYMENT AS FOLLOWS:

A warrant in the amount of \$3,800.00, to be made payable to DONALD W. BENDER AND MADELINE BENDER and mailed to 4139 JUNE DRIVE, BILLINGS, MT. 59106
6. IT IS UNDERSTOOD that the City is acquiring this right-of-way in order to improve Lake Elmo Road. The improvements will include, but not be limited to, street widening, curb & gutter, sidewalks, storm drain improvements, drive approaches, a multi-use path and related features. Some of these improvements may be constructed with property assessments to the adjoining properties in accordance with the City's policies in effect at the time of project creation.
7. The Grantor hereby grants the City of Billings a Temporary Construction Permit, as shown on Exhibit A of the Warranty Deed, and made for the period of the street improvements construction project plus the one-year warranty period. City agrees to restore the line and grade and re-seed disturbed areas, if any, within the construction permit area. The permit area will be left in a workmanlike condition.
8. This agreement, upon execution by an agent of the City and presentation to the Grantors so designated, constitutes a written offer of compensation in the full amount of the appraised value, a summary of the property and property rights being acquired and notice that possession need not be given until payment has been received by the Grantors
9. At no expense to the Grantors and at the time of street construction, permission is hereby granted the City to enter upon the Grantors' land, where necessary, at the location and for the purpose described as:

Reconfigure and repair sprinkler system, if any, affected by project. Remove and reset mail station
Grantors understand and agree that upon completion of the construction of this item located upon the Grantors' land
they shall be considered the sole property of the Grantors, and the maintenance and repair of said property shall be
the responsibility of the Grantors.

(Continued from Previous Page)

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT ON THE DATES SHOWN:

We understand that we are required by law to provide our correct taxpayer identification number(s). Failing to comply may subject us to civil and criminal penalties. We certify that the information provided is correct.

Donald W. Bender 6-13-07
Signature: DONALD W. BENDER (Date)

lings
our

2

Madeleine Bender 6-13-07
Signature: MADELINE BENDER (Date)

>

Signature: _____ (Date) Tax ID No. _____

RECOMMENDED FOR APPROVAL:

Ronald Olson 6-13-07
Ronald E. Olson, Olson Land Services (Date) APPROVED FOR AND ON BEHALF OF CITY OF BILLINGS: (Date)
Mayor, City of Billings

ATTEST:

Richard Bily 6/20/07
City of Billings, Public Works Department (Date) City Clerk (Date)

LER-058.200 Bender

Return to: City Clerk
City of Billings
PO Box 1178
Billings, MT 59103

Project No. W.O. 04-33 Parcel No. 58 County of YELLOWSTONE
Designation LAKE ELMO ROAD – HILLTOP ROAD TO WICKS LANE

WARRANTY DEED

THIS INDENTURE, made this _____ day of _____, 200____.

FOR VALUABLE CONSIDERATION, lawful money of the United States to them in hand paid by
the **CITY OF BILLINGS**, THE receipt whereof is acknowledged, **WITNESSTH THAT**:

DONALD W. BENDER AND MADELINE BENDER
4139 JUNE DRIVE
BILLINGS, MT. 59106

does hereby **GRANT, BARGAIN, SELL CONVEY, WARRANT AND CONFIRM** unto the **CITY OF BILLINGS** for the benefit and use of the **Public** the following described real property, to wit:

Parcel No. 58 on the City of Billings Lake Elmo Road - Hilltop Road to Wicks Lane Project.
Said parcel is also described as a tract of land within Tract 1-A of Certificate of Survey No.
1113, Tract 1 Amended, on file under Document No. 1067862, Yellowstone County, Montana, as
shown by the shaded area on Exhibit A, consisting of one sheet, attached hereto and made a part
hereof, containing an area of 460 sq. ft.

Together with a temporary construction permit for the period of construction plus a one-year
construction warranty period as shown by the hatched area on said Exhibit A, containing an
area of 920 sq. ft.

PURPOSE OF ACQUISITION is to create a right-of way parcel for construction and use of public
road, utility and related appurtenant structures, pursuant to 76-3-201(1)(h) M.C.A. and A.R.M.
24.183.1104 as a division of land that creates rights-of-way or utility sites.

EXCEPTING AND RESERVING, however, all gas and oil, beneath the surface of the above
described and conveyed premises, together with the right to extract the same, provided that in the
exercise of such right the surface thereof shall not be disturbed, interfered with, or in anyway
damaged.

FURTHER EXCEPTING AND RESERVING, unto the grantors, their successors and assigns all
water, water rights, ditches, canals, irrigation systems, existing or as relocated, if any, including but
not limited to, water stock or shares, bonds, certificates, contracts and any and all other indicia, of
water, water right and ditch ownership, or any interest therein, appurtenant to the land described
herein.

TO HAVE AND TO HOLD the above described and conveyed premises, with all the reversions,
remainders, tenements, hereditaments and appurtenances thereto, unto the **CITY OF BILLINGS**, and
to its successors and assigns forever. **IN WITNESSTH WHEREOF**, the undersigned have executed
these premises the day and year first above written.

Project No. : W.O. 04-33

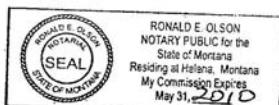
Parcel No. 58

Designation : LAKE ELMO ROAD – HILLTOP ROAD TO WICKS LANE

Dorothy W. Bender _____
Madeline Bender _____
State of Montana _____
County of Yellowstone _____

This instrument was acknowledged before me on June 13, 2007

by Donald W. Besser and Madeline Besser (date) 1/10
(names)



Notary Signature Line
Ronald E. Olson
Notary Printed Name

Notary Public for State of _____

Residing at: _____

Notary Public for State of _____

Residing at: _____

My Commission Expires:

ACCEPTANCE OF CON

ACCEPTANCE OF CONVEY

ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE

The Mayor and City Council of the City of Billings acknowledges receipt of this deed and hereby accepts the property interest conveyed through this instrument.

Mayor, City of Billings

Date

ATTEST: _____

City Clerk

STATE OF MONTANA

158

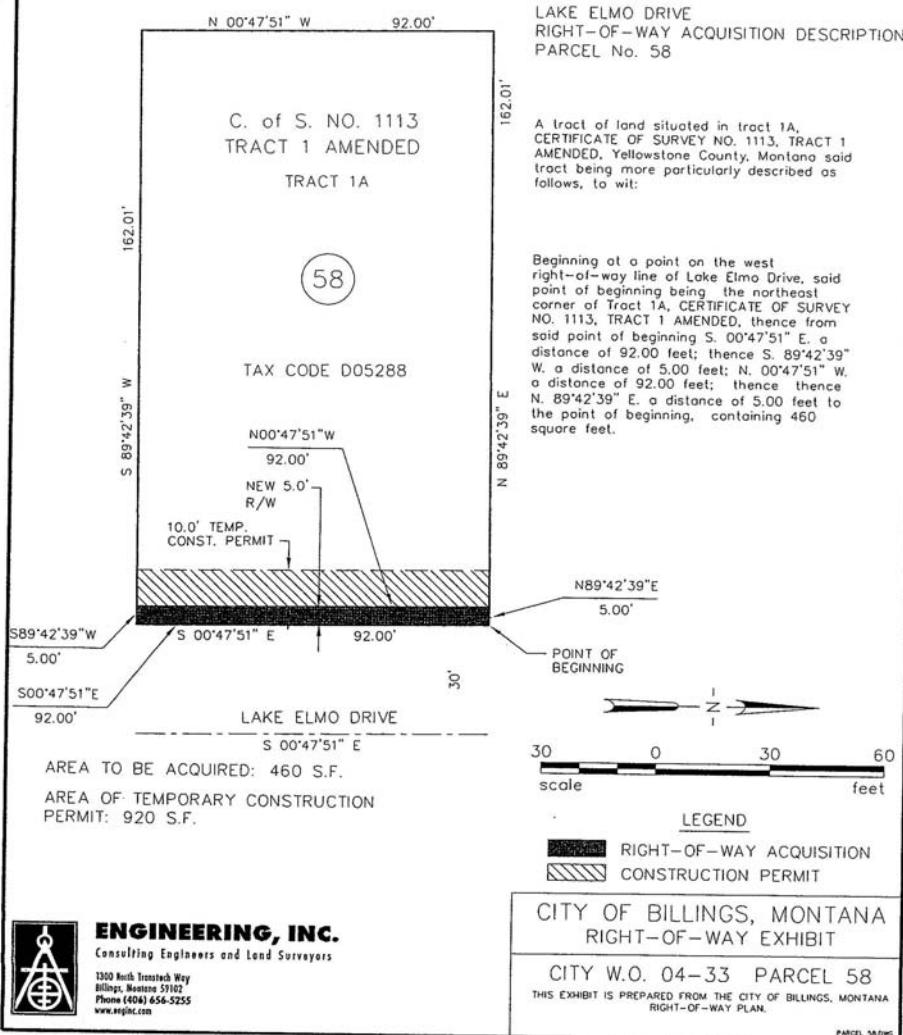
County of Yellowstone

10

On this _____ day of _____, 200____, before me, a Notary Public in and for the State of Montana, personally appeared _____ as Mayor and _____ City Clerk of Billings known to me to be the persons who signed, respectively, and acknowledge to me that they executed the foregoing instrument. IN WITNESS WHEREOF, I have hereunto set my hand and my seal the day and year herein above written.

Notary Public in and for the State of Montana
Residing in _____
My commission expires _____

EXHIBIT A
RIGHT-OF-WAY ACQUISITION
AND TEMPORARY CONSTRUCTION PERMIT
SITUATED IN TRACT 1A,
CERTIFICATE OF SURVEY NO. 1113,
TRACT 1 AMENDED
YELLOWSTONE COUNTY, MONTANA



(Back to Consent Agenda)

H1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 9, 2007

TITLE: The Railyard Ale House & Casino Concerts

DEPARTMENT: Parks, Recreation and Public Lands

PRESENTED BY: Mike Whitaker, Parks, Recreation and Public Lands Director

PROBLEM/ISSUE STATEMENT: The Railyard Ale House & Casino requests the closure of one lane on Montana Avenue, Friday, July 13th from 2:00 pm – 10:00 pm and two lanes on Sunday, July 16th from 2:00 pm - 10:00 pm. (Please see attachments A, B and D)

Recommended conditions of approval include Railyard Ale House & Casino:

1. contacting all businesses and making them aware of the event
2. cleaning the area to be used following the event and providing and emptying waste cans
3. notifying all emergency facilities, bus lines and media at least two weeks in advance of the event
4. providing certificate of insurance naming City of Billings as additional insured
5. obtaining the proper permit if alcohol will be consumed in the public right of way
6. providing a 20' access lane for emergency vehicles

ALTERNATIVES ANALYZED:

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

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

RECOMMENDATION

Staff recommends that Council approve the closures named above for the Montana Avenue Live events.

ATTACHMENTS

- A. Right of Way Special Activity Permit (3 pages)
- B. Course Map (1 pages)

- C. Certificate of Insurance (2 pages)
- D. Required Conditions from the City Traffic Engineer (1 page)



**City of Billings
RIGHT-OF-WAY ACTIVITY
PERMIT**

Please check the type of activity you are applying for:

Parade Run/Walk/Procession Street/Alley Closure

Submit this application with a cover letter to: Director of Parks, Recreation and Public Lands, 390 North 23rd Street, Billings, Mt 59101. Application should be made at least 60 days in advance of the date of proposed event.

PERSON MAKING APPLICATION Corey Oliszczak

ORGANIZATION MAKING APPLICATION The Railyard Ale House & Casino

PHONE (406) 867-2337 CELL: (406) 670-5124

ADDRESS 2526 Montana Ave. CITY Billings MT 59101

EMAIL ADDRESS corey@railyardalehouse.com

APPROXIMATE TIME EVENT WILL:

Assemble 2:00 P.M. Start 6:00 P.M. Disband 10:00 P.M.

DATE OF EVENT Friday July 13, 2007

PURPOSE/DESCRIPTION OF EVENT: (Description and detail of the event.)

The Railyard Ale House & Casino is doing a concert series fund raiser for St. Judes Hospital. we have teamed up with NNB Radio, local businesses & bands, and Briggs Dist to raise # for St. Judes. Ricochet will be playing for our first concert on July 13, 2007.

The event will be held @ the Railyard Ale House @ 2526 Montana Ave. & are requesting a close of one, preferably 2 lanes, of Montana Ave. which will still allow through traffic.

EVENT ROUTE DESIRED: (Please attach map.)

Map attached

CLEAN UP IMPLEMENTAION: (Company contracted or services you will provide)

The Railyard will provide all the clean up.

CERTIFICATION OF INSURANCE WHICH MUST SHOW: (1) The limits of liability coverage for the period of this agreement as a minimum of \$750,000 per claim/ \$1.5 million per occurrence general liability, and (2) the City of Billings named on the Certificate of Insurance as the additional insured. (Please refer to the sample insurance copy attached to this packet)

PLEASE COMPLETE BOTH PAGES



**City of Billings
RIGHT-OF-WAY ACTIVITY
PERMIT**

Please check the type of activity you are applying for:

Parade Run/Walk/Procession Street/Alley Closure

Submit this application with a cover letter to: Director of Parks, Recreation and Public Lands, 390 North 23rd Street, Billings, Mt 59101. Application should be made at least 60 days in advance of the date of proposed event.

PERSON MAKING APPLICATION Corey Oliszczak

ORGANIZATION MAKING APPLICATION The Railyard Ale House & Casino

PHONE (406) 867-2337

ADDRESS 2526 Montana Ave. CITY Billings STATE MT ZIP 59101

EMAIL ADDRESS corey@railyardalehouse.com

APPROXIMATE TIME EVENT WILL:

Assemble 2:00 P.M. Start 6:00 P.M. Disband 10:00 P.M.

DATE OF EVENT SUNDAY July 15th, 2007

PURPOSE/DESCRIPTION OF EVENT: (Description and detail of the event.)

The Railyard Ale House & Casino is doing a concert series fund raiser for St. Judes Hospital. We have teamed up with NNB Radio, local businesses & bands, and Briggs Dist. to raise # for St. Judes. Ricochet will be playing for our first concert on July 13, 2007.

The event will be held @ the Railyard Ale House @ 2526 Montana Ave. & are requesting a close of one, preferably 2 lanes, of Montana Ave. which will still allow through traffic. The Kentucky Head Hunters will be playing July 15th, 2007.

Map attached

CLEAN UP IMPLEMENTAION: (Company contracted or services you will provide)

The Railyard will provide all the clean up.

CERTIFICATION OF INSURANCE WHICH MUST SHOW: (1) The limits of liability coverage for the period of this agreement as a minimum of \$750,000 per claim/ \$1.5 million per occurrence general liability, and (2) the City of Billings named on the Certificate of Insurance as the additional insured. (Please refer to the sample insurance copy attached to this packet)

PLEASE COMPLETE BOTH PAGES

YOU OR THE ORGANIZATION YOU REPRESENT MUST "ASSIGN" THE FIRST TWO BLOCKS OF THE DOWNTOWN EVENT ROUTE FOR NO PARKING TWO HOURS PRIOR TO YOUR EVENT USING THE ROUTE SIGNS PROVIDED BY THE CITY. IT IS YOUR RESPONSIBILITY TO PROVIDE THE APPROPRIATE BARRICADES FOR THE STREET CLOSURE.

NOTICE: ANY MARKINGS (NO PAINT ALLOWED) TO BE PLACED ON PUBLIC RIGHT-OF-WAY MUST BE APPROVED BY THE CITY TRAFFIC/ENGINEERING DEPARTMENT PRIOR TO PLACEMENT, BE ENVIRONMENTALLY SAFE, AND NOT CONFLICT WITH EXISTING MARKINGS.

IF USING THE ESTABLISHED EVENT ROUTE, THE CITY WILL PROVIDE TWO POLICE OFFICERS WITH VEHICLES TO START THE EVENT, AND A STREET SWEEPER, IF NECESSARY, TO FOLLOW THE EVENT.

**COORDINATOR OF EVENTS AT WHICH ALCOHOL WILL BE CONSUMED IN PUBLIC RIGHT-OF WAY
ARE REQUIRED TO OBTAIN AN OPEN-CONTAINER PERMIT FROM THE POLICE DEPARTMENT**

UPON SIGNING OF THIS APPLICATION, THE APPLICANT AGREES NOT TO VIOLATE ANY STATE OR CITY CODES IN THE PRESENTATION OF THE REQUESTED SPECIAL ACTIVITY.

In consideration for permission to conduct its activity as requested, applicant agrees to indemnify, defend and hold harmless the City of Billings, its officers, agents, employees and volunteers from damage to property and for injury to or death of any person and from all liability claims, actions or judgments which may arise from the activity.

Applicants also agree to obtain valid "save or hold harmless agreements" from all participants in its activity, protecting the City of Billings from all losses arising out of its activity, including damages of any kind or nature.

APPLICANT SIGNATURE  DATE 6-15-07

APPLICATION APPROVED _____ DATE _____

APPLICATION DENIED _____ DATE _____

ADDITIONAL RESTRICTIONS OR SPECIAL CONDITIONS: YES NO
(IF YES, ATTACH COPY.)

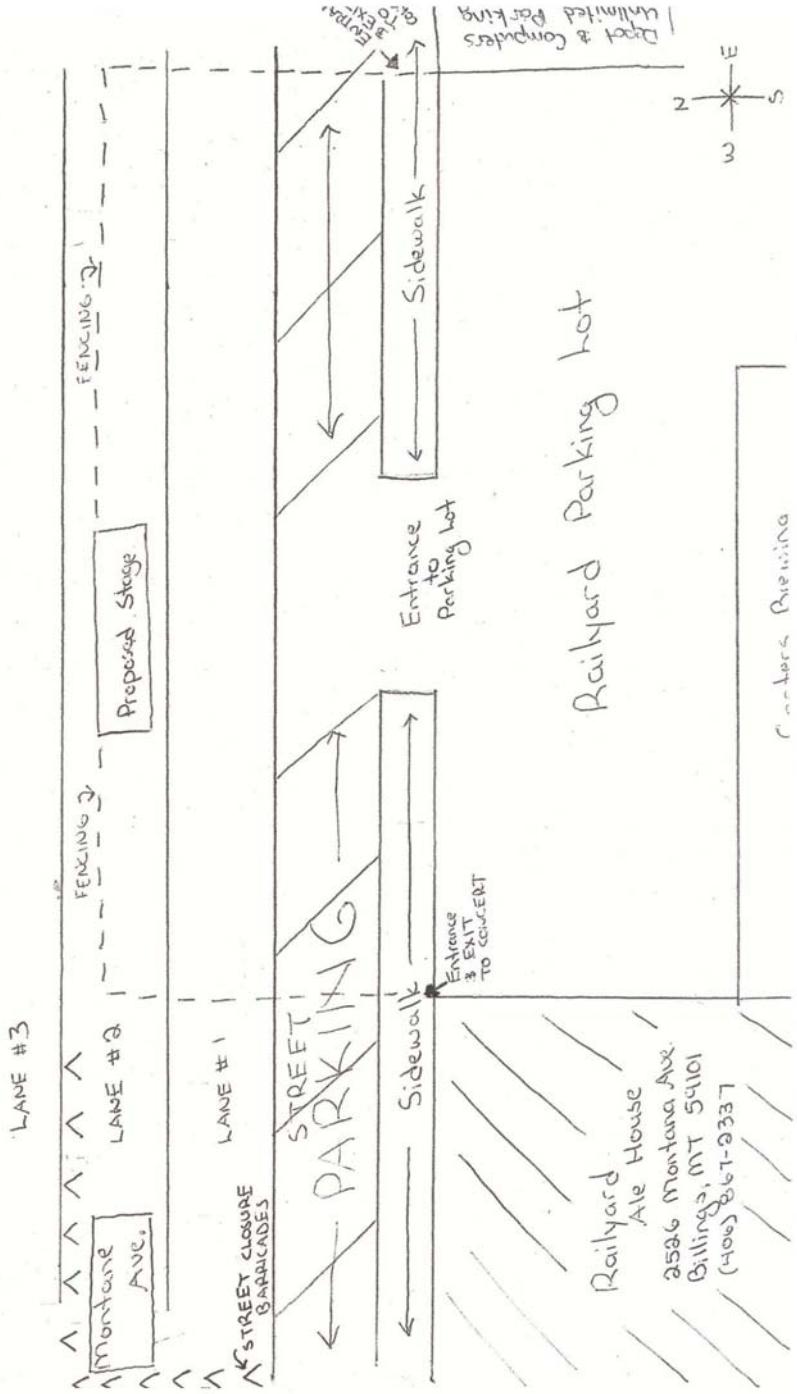
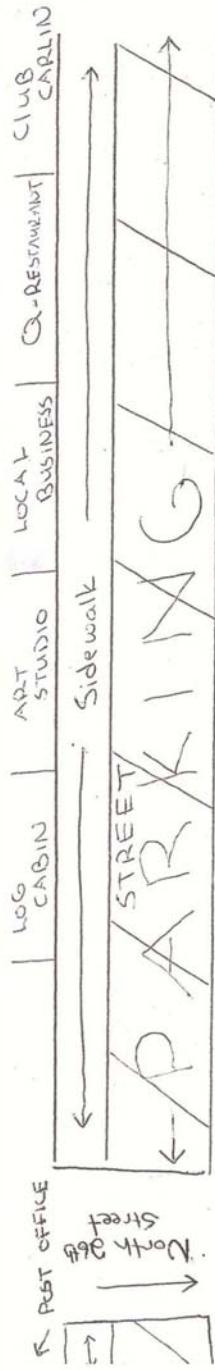
FOR CITY USE ONLY

FEE: _____

APPLICANT NOTIFIED BY: _____

DATE: _____

COPIES TO:
CITY ADMINISTRATOR
DEPUTY CITY ADMINISTRATOR
POLICE CHIEF
FIRE CHIEF
FIRE MARSHALL
MET TRANSIT MANAGER
STREET/TRAFFIC SUPERINTENDANT
TRAFFIC ENGINEER
PRPL DIRECTOR
PARKING SUPERVISOR
CITY ATTORNEY
DOWNTOWN BILLINGS ASSOCIATION



Attachment C

Client#: 200

CITYOFBI

DATE (MM/DD/YYYY)
06/27/07

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

PRODUCER

Hoiness LaBar Insurance
 A Member of Payne Financial Group
 P.O. Box 30638
 Billings, MT 59107-0638

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION
 ONLY AND CONFERNS NO RIGHTS UPON THE CERTIFICATE
 HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR
 ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED

City Of Billings
 %Human Resources Dept
 P.O. Box 1178
 Billings, MT 59104

INSURERS AFFORDING COVERAGE NAIC #
 INSURER A: Penn-American Insurance Co.
 INSURER B:
 INSURER C:
 INSURER D:
 INSURER E:

COVERS

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

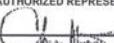
INSR ADD'L LTY INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> PD Ded:250	BINDER706786	04/01/07	04/01/08	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
	EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATUTORY LIMITS OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Holder is listed as Additional Insured on policy for St. Judes Benefit
 Concert - Richochet in Concert 7/13/07 at Railyard Ale House & Casino.

CERTIFICATE HOLDER

CANCELLATION

The Railyard Ale House & Casino, Corey Olszczak 2526 Montana Avenue Billings, MT 59101	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.
	AUTHORIZED REPRESENTATIVE 

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/27/07

PRODUCER Hoiness LaBar Insurance A Member of Payne Financial Group P.O. Box 30638 Billings, MT 59107-0638		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERNS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED City Of Billings %Human Resources Dept P.O. Box 1178 Billings, MT 59104		INSURERS AFFORDING COVERAGE INSURER A: Penn-American Insurance Co.	NAIC #
		INSURER B:	
		INSURER C:	
		INSURER D:	
		INSURER E:	

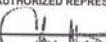
COVERS

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INSR ADD'L LTR	INSR'D	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY		BINDER706786	04/01/07	04/01/08	EACH OCCURRENCE \$2,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY					DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR					MED EXP (Any one person) \$5,000
	<input checked="" type="checkbox"/> PD Ded:250					PERSONAL & ADV INJURY \$2,000,000
	GENL AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC					GENERAL AGGREGATE \$2,000,000
AUTOMOBILE LIABILITY					PRODUCTS - COMP/OP AGG \$2,000,000	
<input type="checkbox"/> ANY AUTO					COMBINED SINGLE LIMIT (Ea accident) \$	
<input type="checkbox"/> ALL OWNED AUTOS					BODILY INJURY (Per person) \$	
<input type="checkbox"/> SCHEDULED AUTOS					BODILY INJURY (Per accident) \$	
<input type="checkbox"/> HIRED AUTOS					PROPERTY DAMAGE (Per accident) \$	
<input type="checkbox"/> NON-OWNED AUTOS						
GARAGE LIABILITY						
<input type="checkbox"/> ANY AUTO					AUTO ONLY - EA ACCIDENT \$	
EXCESS/UMBRELLA LIABILITY					OTHER THAN EA ACC \$	
<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE					AUTO ONLY: AGG \$	
<input type="checkbox"/> DEDUCTIBLE					EACH OCCURRENCE \$	
<input type="checkbox"/> RETENTION \$					AGGREGATE \$	
WORKERS COMPENSATION AND EMPLOYERS' LIABILITY					WC STATUTORY LIMITS \$	
ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?					OTH. \$	
If yes, describe under SPECIAL PROVISIONS below					E.L. EACH ACCIDENT \$	
OTHER					E.L. DISEASE - EA EMPLOYEE \$	
					E.L. DISEASE - POLICY LIMIT \$	
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS Holder is listed as Additional Insured on policy for St. Jude's Benefit Concert, Kentucky Head Hunters 7/17/07 at Railyard Ale House & Casino.						

CERTIFICATE HOLDER

CANCELLATION

The Railyard Ale House & Casino, Corey Oliszczak 2526 Montana Avenue Billings, MT 59101	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.
	AUTHORIZED REPRESENTATIVE 

Attachment D

I recc approval subject to following conditions:

1. Only the parking lane and one driving lane along the south side of Montana can be closed for the Friday concert
2. Two lanes can be closed for Sunday concert. This will require lane drop for south lane on MT between 28th & 27th. The middle lane drop would occur between 27th & 26th.
3. Use of electronic arrow boards is required for the lane drops (1 arrow board on Friday. Two arrow boards for the Sunday closure).
4. Traffic control devices must meet all MUTCD standards and their installation be supervised by Billings Construction Supply, GST, Inc., Utah Barricade, or another company with certified construction traffic control technicians.
5. The single lane closure should remain in place after the Friday concert, thru Saturday until the 2nd lane is closed for the Sunday closure. This will reduce driver confusion--it is better to be closed continuously, rather than closed Fri, open Sat and then closed again Sunday.
6. Solid wood or steel fencing or tarps covering the chainlink fencing, shall be used adjacent to the street on Montana Ave so that drivers aren't distracted trying to see into the event as they drive by.

Other standard conditions as appropriate.

Hope this helps.

Terry
H. Terry Smith, P.E., PTOE
City Traffic Engineer
406-657-8234 (voice)
406-657-8252 (fax)

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

H2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, July 9, 2007

TITLE: Yellowstone Art Museum Arts and Crafts Summerfair Street Closure
DEPARTMENT: Parks, Recreation and Public Lands
PRESENTED BY: Mike Whitaker, Parks, Recreation and Public Lands Director

PROBLEM/ISSUE STATEMENT:

The Yellowstone Art Museum requests temporary street closure of the north lane of 6th Avenue between 19th Street and 22nd Street from 10:00 am on Friday, July 13, until 8:00 pm on Sunday, July 15, 2007, for its annual Arts and Crafts Summerfair. Map is attached.

Recommended conditions of approval include that the Yellowstone Art Museum:

1. Contact all businesses and make them aware of the event 60 days in advance
2. Clean the area to be used and provide and empty waste cans
3. Notify all emergency facilities, bus lines and media at least two weeks in advance of the event
4. Obtain proper permit from the Police Department for alcohol consumption
5. Obtain a Park Use permit from the Recreation Division for the use of North Park
6. Provide and install adequate traffic barricades and signs directing motorists around closure
7. The closure of the north lane of 6th Avenue is to be used for exhibitor parking for loading and unloading only. Double parking will not be allowed in the closed lane
8. Make provisions for emergency access in park
9. Provide a certificate of insurance naming the City of Billings as additional insured

ALTERNATIVES ANALYZED:

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

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

RECOMMENDATION

Staff recommends that Council approval the temporary closure of the north lane of 6th Avenue from 19th Street to 22nd Street from 10:00 am on Friday, July 13, until 8:00 pm on Sunday, July 15, 2006, for the annual Arts and Crafts Summerfair.

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

ATTACHMENTS

- A. Right of Way Special Activity Permit (2 pages)
- B. Letter from Yellowstone Art Museum (1 page)
- C. Course map (1 page)
- D. Certificate of insurance (3 page)



**CITY OF BILLINGS
RIGHT-OF-WAY ACTIVITY
PERMIT**

Please check the type of activity you are applying for:

Parade Run/Walk/Procession Street/Alley Closure

Submit this application with a cover letter to: Director of Parks, Recreation and Public Lands, 390 North 23rd Street, Billings, Mt 59101 for any events that are not in the Downtown Central Business District. Events in the Central Business District are to be submitted to: Downtown Billings Association, 2815 2nd Avenue North, Billings, MT 59101. Application should be made at least 60 days in advance of the date of proposed event.

PERSON MAKING APPLICATION Barbara A. Wood

ORGANIZATION MAKING APPLICATION Yellowstone Art Museum

PHONE 256-6804 ext 239

ADDRESS 401 N. 27th St

Billings
City

MT
STATE

59101
ZIP

APPROXIMATE TIME EVENT WILL:

Assemble 7-13-07 10am Start 7-14-07 9am Disband 7-15-07 8pm

DATE OF EVENT 7/14 - 7/15/07

PURPOSE/DESCRIPTION OF EVENT: (Description and detail of the event.)

Summerfair - 29th year, is a major arts+crafts Festival. Music, ethnic foods, performing arts groups and childrens activities contribute to the atmosphere, in beautiful North Park. A benefit for the Yellowstone Art Museum, Summerfair is made possible by the efforts of hundreds of community volunteers + generous sponsorships

EVENT ROUTE DESIRED: (Please attach map.) from local businesses

North lane only of 6th Avenue between 19th Street and 22nd Street

CERTIFICATION OF INSURANCE WHICH MUST SHOW: (1) The limits of liability coverage for the period of this agreement as a minimum of \$750,000 per individual claim and \$1,500,000 per occurrence, and (2) the City of Billings named on the Certificate of Insurance as an additional insured.

YOU OR THE ORGANIZATION YOU REPRESENT MUST "ASSIGN" THE FIRST TWO BLOCKS OF THE DOWNTOWN EVENT ROUTE FOR NO PARKING TWO HOURS PRIOR TO YOUR EVENT USING THE ROUTE SIGNS PROVIDED BY THE CITY. IT IS YOUR RESPONSIBILITY TO PROVIDE THE APPROPRIATE BARRICADES FOR THE STREET CLOSURE.

NOTICE: ANY MARKINGS (NO PAINT ALLOWED) TO BE PLACED ON PUBLIC RIGHT-OF-WAY MUST BE APPROVED BY THE CITY TRAFFIC/ENGINEERING DEPARTMENT PRIOR TO PLACEMENT, BE ENVIRONMENTALLY SAFE, AND NOT CONFLICT WITH EXISTING MARKINGS.

IF USING THE ESTABLISHED EVENT ROUTE, THE CITY WILL PROVIDE TWO POLICE OFFICERS WITH VEHICLES TO START THE EVENT, AND A STREET SWEEPER, IF NECESSARY, TO FOLLOW THE EVENT.

COORDINATOR OF EVENTS AT WHICH ALCOHOL WILL BE CONSUMED IN PUBLIC RIGHT-OF-WAY ARE REQUIRED TO OBTAIN AN OPEN CONTAINER PERMIT FROM THE POLICE DEPARTMENT

PLEASE COMPLETE BOTH SIDES

UPON SIGNING OF THIS APPLICATION, THE APPLICANT AGREES NOT TO VIOLATE ANY STATE OR CITY CODES IN THE PRESENTATION OF THE REQUESTED SPECIAL ACTIVITY.

In consideration for permission to conduct its activity as requested, applicant agrees to indemnify, defend and hold harmless the City of Billings, its officers, agents, employees and volunteers from damage to property and for injury to or death of any person and from all liability claims, actions or judgments which may arise from the activity.

Applicants also agree to obtain valid "save or hold harmless agreements" from all participants in its activity, protecting the City of Billings from all losses arising out of its activity, including damages of any kind or nature.

APPLICANT SIGNATURE Barbara J. Wood DATE 5/14/07

APPLICATION APPROVED _____ DATE _____

APPLICATION DENIED _____ DATE _____

ADDITIONAL RESTRICTIONS OR SPECIAL CONDITIONS: YES [] NO []
(IF YES, ATTACH COPY.)

FOR CITY USE ONLY

FEE: _____

APPLICANT NOTIFIED BY: _____

DATE: _____

COPIES TO:
CITY ADMINISTRATOR
ASSISTANT CITY ADMINISTRATOR
DEPUTY CITY ADMINISTRATOR
POLICE CHIEF
FIRE CHIEF
FIRE MARSHALL
MET MANAGER
STREET/TRAFFIC SUPERINTENDANT
TRAFFIC ENGINEER
PRPL DIRECTOR
PARKING SUPERVISOR

Attachment B

**YELLOWSTONE
ART MUSEUM**

Board of Trustees May 14, 2007

Carol L.H. Green
President
Valeria Jeffries
1st Vice President
Eric Simonson
2nd Vice President
Carol A. Beam
Secretary/Treasurer

Department of Parks, Recreation and Public Lands
390 North 23rd Street
Billings, MT. 59101

Bruce Anderson*
David Brown
Rick Burt
Douglas Carr
Sheryl Costanzo
Pat Etchart*
Kay Foster
Max Griffin
Robert Griffin
Mary K. Housinger
Jane Indreland
Gerald F. Krieg
Ted Lovec
Laurence R. Martin
Butch Ott
Lainey Reynolds-Keece
Don Roberts
Vincent Rose
Miriam Sample*
James Scott, Jr.
Linda Shethamer
Nikki Righter Todd
Patti Townsend
Cory Wheeler
Al Winegardner*

*Trustee Emeritus

National Council

John Buck
Deborah Butterfield
Paul Farr
Becky Fonda
Abe Hays
William I. Koch
Louise Menk
Tom Meredith
Sherry Nicholas
Carla O'Rorke
Nathaniel Owings
Joseph Poinexter
Jaune Quick-To-See
Mark Stevens

Executive Director

Robyn G. Peterson

To Whom it May Concern:

Summerfair, now in its 29th year, is a major summer arts and crafts festival, featuring over 100 artisans from across the country, and attracting over 20,000 people from Billings and the surrounding region. Music, ethnic foods, performing arts groups and children's activities contribute to the festive atmosphere at Summerfair, which will enjoy its fifth year at North Park. A benefit for the Yellowstone Art Museum, Summerfair is made possible by the efforts of hundreds of community volunteers and by the generous sponsorships of local businesses.

I am requesting to have the north lane of 6th Avenue blocked during the set up, and for the duration of the event from 19th Street to 22nd Street. We made this same request last year. It was approved and everything went well. We believe this dramatically increases the safety factor for artists and families visiting Summerfair as it creates a buffer between the park and the traffic on 6th Avenue. Additionally this lane was used for loading and unloading for our artists. After they finished with unloading, they then remained in their spot to avoid cars moving in and out of traffic, thereby further increasing safety.

The dates and times set for this year are as follows:

July 13, 2007, 10:00 a.m. – 7:00 p.m. (set up)
July 14, 2007, 7:00 a.m. – 5:00 p.m. (set up and actual event)
July 15, 2007, 9:00 a.m. – 5:00 p.m. (Summerfair open)

As per the plan written by Billings Construction, all barricades, cones, and other equipment will be removed before Monday morning traffic.

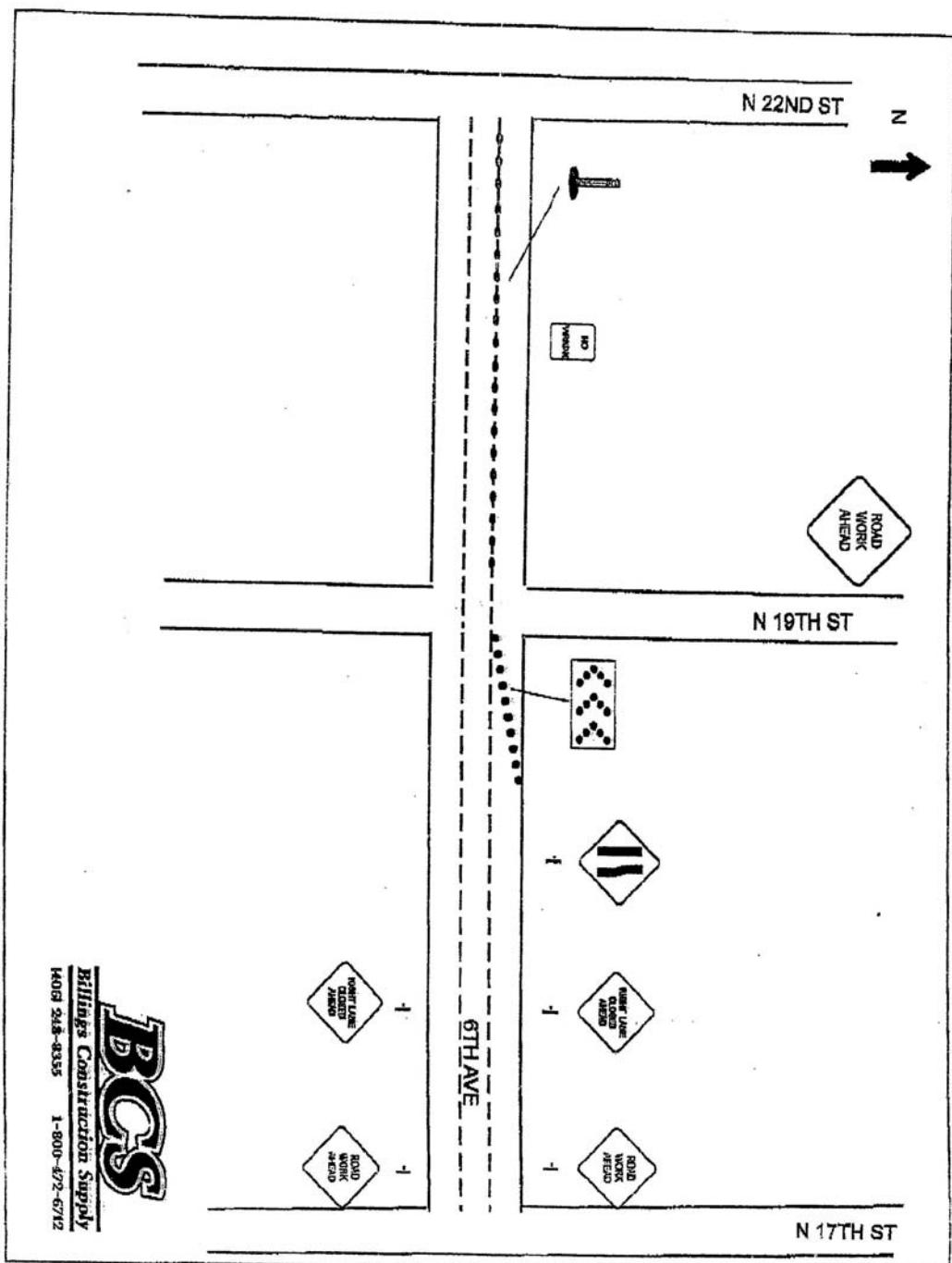
Summerfair has always been a wonderful event, not only for the Yellowstone Art Museum, but also for the community of Billings and surrounding areas. Please help us to make this event even better then it already is!

Sincerely,

Barbara A. Wood

Barbara A. Wood
Volunteer and Special Events Manager
Yellowstone Art Museum

Attachment C



BCS
Business Construction Supply
14054 248-8355
1-800-472-6712

DATE (MM/DD/YYYY)
05/29/2007

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

PRODUCER

Hoiness LaBar Insurance
A Member of Payne Financial Group
P.O. Box 30638
Billings, MT 59107-0638

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERNS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED

Yellowstone Art Museum
401 N 27th Street
Billings, MT 59101

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Cincinnati Insurance Company	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR	ADD'L LTR	INSR#	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	X		GENERAL LIABILITY	CAA5468795	07/01/06	07/01/08	EACH OCCURRENCE	\$1,000,000
			X COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (EA occurrence)	\$500,000
			<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person)	\$5,000
							PERSONAL & ADV INJURY	\$1,000,000
							GENERAL AGGREGATE	\$2,000,000
							PRODUCTS - COMP/OP AGG	\$2,000,000
			GEN'L AGGREGATE LIMIT APPLIES PER:					
			<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO- JECT <input type="checkbox"/> LOC					
			AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT (EA accident)	\$
			<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$
			<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$
			<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$
			<input type="checkbox"/> HIRED AUTOS				AUTO ONLY - EA ACCIDENT	\$
			<input type="checkbox"/> NON-OWNED AUTOS				OTHER THAN AUTO ONLY: EA ACC	\$
							AGG	\$
A			GARAGE LIABILITY					
			<input type="checkbox"/> ANY AUTO					
			EXCESS/UMBRELLA LIABILITY	CAA5468795	07/01/06	07/01/08	EACH OCCURRENCE	\$2,000,000
			<input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$2,000,000
								\$
								\$
								\$
			DEDUCTIBLE					
			RETENTION \$					
			WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATU- TORY LIMITS	OTH- ER
			ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT	\$
			If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE	\$
			OTHER				E.L. DISEASE - POLICY LIMIT	\$
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS								
Certificate holder is additional insured as required by written contract. Notification due to nonpayment of premium will always be 10 days. Operations performed by the above insured.								
RE: Summer Fair to be held at North Park, Billings, Montana, July 13 thru (See Attached Descriptions)								

CERTIFICATE HOLDER

CANCELLATION

The City of Billings
Dept. of Parks, Recreation etc.
390 North 23rd Street
Billings, MT 59101

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION
DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN
NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL
IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR
REPRESENTATIVES.
AUTHORIZED REPRESENTATIVE
Daniel Purcell

DESCRIPTIONS (Continued from Page 1)

July 15, 2007. Closure of N lane 6th Ave. N between N 19th Street and N 22nd Street.

H3

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, July 9, 2007

TITLE: Big Sky State Games 5K Run Street Closure

DEPARTMENT: Parks, Recreation and Public Lands

PRESENTED BY: Mike Whitaker, Parks, Recreation and Public Lands Director

PROBLEM/ISSUE STATEMENT: Big Sky State Games requests road closures for 3rd St. West at Grand Ave and 3rd St. West at Parkhill from 6:00 pm - 7:00 pm and partial road closure for Virginia Lane and Parkhill from 6:10 pm - 7:00 pm for Friday, July 20th, 2007 for its annual 5K Run. (Refer to attached race course)

Recommended conditions of approval include Big Sky State Games:

- Have no alcohol consumption in the right of way
- Clean area to be used and provide and empty waste cans
- Notify all emergency facilities, bus lines and media as soon as possible
- Provide and install adequate traffic barricades and signs directing motorists around closure
- Provide a certificate of insurance naming City of Billings as additional insured

ALTERNATIVES ANALYZED:

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

FINANCIAL IMPACT: There are no costs to the City of Billings other than administrative time to process application. Police, traffic control and litter removal are to be paid for by the Big Sky State Games.

RECOMMENDATION

Staff recommends that Council approve the temporary street closure from 6:00 pm to 7:00 pm on Friday, July 20, 2007, for its annual 5K run.

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

ATTACHMENTS

- A. Letter from Big Sky State Games (1 page)
- B. Right of Way Special Activity Permit Application (2 pages)
- C. Course map (1 page)
- D. Certificate of insurance (4 page)

MONTANA'S
BIG SKY
STATE GAMES

BOX 7136 • BILLINGS, MONTANA 59103-7136 • PHONE (406) 254-7426 • FAX (406) 254-7439 • www.bigskygames.org

Attachment A

Joe Fedin
City of Billings
P.O. Box 1178
Billings, MT 59103

February 1, 2007

Dear Joe,

We're gearing up for the 22nd year and the Big Sky State Games is looking forward to working with you and the City of Billings Parks, Recreation and Public Lands Department. We are requesting the following road closures, equipment, and facility usage for the 2007 event, July 20, 21 & 22.

Showmobile Rental - Friday, July 20 - Wendy's Field at Daylis Stadium

Opening Ceremonies - We would prefer delivery Thursday morning, July 19. In past years the Showmobile has been delivered on Thursday, one day prior to the event, at no extra charge. Showmobile Rental Application and \$100 deposit are enclosed. The location of the Showmobile will be confirmed. Opening Ceremonies is tentatively scheduled at Daylis Stadium.

5K Run Road - Friday, July 20 - course is attached.

Road Closures 3rd St. West at Grand Ave., 6:00 - 7:00 p.m.
 3rd St. West at Parkhill 6:00 - 7:00 p.m.

Partial Closures Virginia Ln. & Parkhill 6:10 - 7:00 p.m.
Remaining intersections on 3rd Street West from Grand to Parkhill, intersections on Parkhill to 13th Street West and back to Daylis Stadium 6:10 - 7:00 p.m. (following race route)

We will again have police assistance or private security and a car and officer posted on the course at Virginia Lane & Beverly Hills Blvd. and Virginia Lane & Ave. F (to control problems before traffic reaches Virginia Lane and Parkhill). Another officer will be posted at Grand and 3rd St. West.

Triathlon Road Closures - Sunday, July 22 (map enclosed and to be confirmed)

Please see enclosed Triathlon Course. We will request police assistance or private security with a car posted on the course at the Wicks and Cody St. intersection during the biking leg.

Cycling Mountain Bike Road Closure - Sunday, July 22

Road Closure Black Otter Trail 6:00 a.m. to 2:00 p.m.

We would like to have the road swept for safety considerations at the 5K and Triathlon competitions. Unless the contact person has changed, we will be making arrangements with Bill Kemp, Traffic and Street Superintendent.



BRESNAN
Communications



Attachment B



**CITY OF BILLINGS
RIGHT-OF-WAY SPECIAL ACTIVITY PERMIT
APPLICATION**

Please check the type of activity you are applying for:

[] Parade [] Block Party Run/Walk/Procession [] Street/Alley Closure

Submit this application with a cover letter to: Director of Parks, Recreation and Public Lands, 390 North 23rd Street, Billings, MT 59101. Application should be made at least 30 days in advance of the date of proposed event.

PERSON MAKING APPLICATION Karen Stanford - City of Billings

ORGANIZATION MAKING APPLICATION Big Sky State Games PHONE 254-7424

ADDRESS _____

APPROXIMATE TIME EVENT WILL:	CITY	STATE	ZIP
------------------------------	------	-------	-----

Assemble 5:30 pm Start 6:15 pm Disband 7:30 pm

DATE OF EVENT: Friday, July 20 PURPOSE OF EVENT: (Description and detail of the event.)

5K Road Race - Billings Streets - 3rd & Park Hill

EVENT ROUTE DESIRED: (Please attach map.)

Map Enclosed - Please see attached letter for usage of roads.

DESCRIPTION OF EVENT (ENTRIES): (Sec. 24-512 (3)) (Included in attached packet.)

CERTIFICATION OF INSURANCE WHICH MUST SHOW: (1) The limits of liability coverage for the period of this agreement as a minimum of \$250,000/\$500,000, and (2) the City of Billings named on the Certificate of Insurance as an additional insured.

YOU OR THE ORGANIZATION YOU REPRESENT MUST "ASSIGN" THE FIRST TWO BLOCKS OF THE DOWNTOWN EVENT ROUTE FOR NO PARKING TWO HOURS PRIOR TO YOUR EVENT USING THE ROUTE SIGNS PROVIDED BY THE CITY.

NOTICE: ANY MARKINGS (NO PAINT ALLOWED) TO BE PLACED ON PUBLIC RIGHT-OF-WAY MUST BE APPROVED BY THE CITY TRAFFIC/ENGINEERING DEPARTMENT PRIOR TO PLACEMENT, BE ENVIRONMENTALLY SAFE, AND NOT CONFLICT WITH EXISTING MARKINGS.

IF USING THE ESTABLISHED EVENT ROUTE, THE CITY WILL PROVIDE TWO POLICE OFFICERS WITH VEHICLES TO START THE EVENT, AND A STREET SWEEPER, IF NECESSARY, TO FOLLOW THE EVENT.

COORDINATOR OF EVENTS AT WHICH ALCOHOL WILL BE CONSUMED IN PUBLIC RIGHT-OF-WAY ARE REQUIRED TO OBTAIN AN OPEN-CONTAINER PERMIT FROM THE POLICE DEPARTMENT

PLEASE COMPLETE BOTH SIDES

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSUREDS OWNERS AND/OR LESSORS
OF PREMISES, SPONSORS OR CO-PROMOTERS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

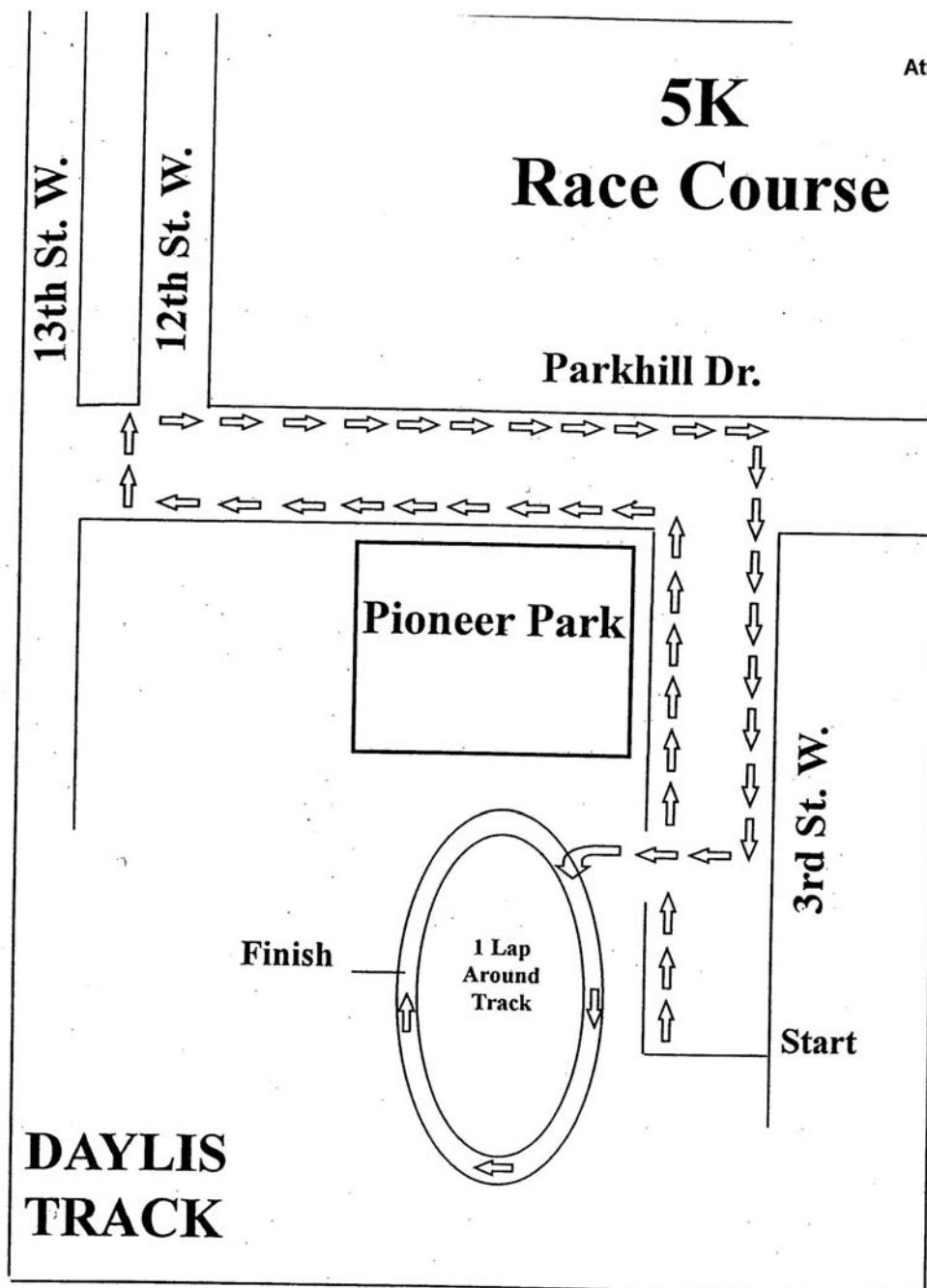
Policy No. GL00000568995002 is amended to include as an additional Insured any person or organization of the types designated below, but only with respect to liability arising out of your operations:

1. Owners and/or lessors of the premises leased, rented, or loaned to you, subject to the following additional exclusions:
 - A. This insurance applies only to an "occurrence" which takes place while you are a tenant in the premises;
 - B. This insurance does not apply to "bodily injury" or "property damage" resulting from structural alterations, new construction or demolition operations performed by or on behalf of the owner and/or lessor of the premises;
 - C. This insurance does not apply to liability of the owners and/or lessors for "bodily injury" or "property damage" arising out of any design defect or structural maintenance of the premises or loss caused by a premises defect.

With respect to any additional insured included under this policy, this insurance does not apply to the sole negligence of such additional insured.

2. Sponsors.
3. Co-Promoters.

5K Race Course



ACORD™ CERTIFICATE OF LIABILITY INSURANCE

PRODUCER Hoiness LaBar Insurance A Member of Payne Financial Group P.O. Box 30638 Billings, MT 59107-0638		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERNS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED City Of Billings %Human Resources Dept P.O. Box 1178 Billings, MT 59104		INSURERS AFFORDING COVERAGE	NAIC #
		INSURER A: Penn-American Insurance Co.	
		INSURER B:	
		INSURER C:	
		INSURER D:	
		INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR	INSR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS			
A	GENERAL LIABILITY		BINDER706786	04/01/07	04/01/08	EACH OCCURRENCE	\$2,000,000		
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY					DAMAGE TO RENTED PREMISES (Ea occurrence)	\$100,000		
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR					MED EXP (Any one person)	\$5,000		
	<input checked="" type="checkbox"/> PD Ded:250					PERSONAL & ADV INJURY	\$2,000,000		
						GENERAL AGGREGATE	\$2,000,000		
						PRODUCTS - COMP/OP AGG	\$2,000,000		
	GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC								
	AUTOMOBILE LIABILITY							COMBINED SINGLE LIMIT (Ea accident)	\$
	ANY AUTO							BODILY INJURY (Per person)	\$
	ALL OWNED AUTOS							BODILY INJURY (Per accident)	\$
SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$				
HIRED AUTOS									
NON-OWNED AUTOS									
GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	\$				
ANY AUTO				OTHER THAN AUTO ONLY: EA ACC AGG	\$				
EXCESS/UMBRELLA LIABILITY				EACH OCCURRENCE	\$				
<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$				
<input type="checkbox"/> DEDUCTIBLE					\$				
RETENTION \$					\$				
WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATU- TORY LIMITS	OTH- ER				
ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT	\$				
If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE	\$				
OTHER				E.L. DISEASE - POLICY LIMIT	\$				
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS									
Certificate Holder is listed as Additional Insured on policy. Big Sky State Games 7/20/07-7/22/07. City venues include: Pioneer Park, Stewart Park, Black Otter Trail, Diamond X, Amend Park, Poly Vista Park, Rose Park, North Park, Central Park, 5K Route on 3rd & Parkhill, Tryathlon Route in Billings (See Attached Descriptions)									

CERTIFICATE HOLDER

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE


H4

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, July 9, 2007

TITLE: Big Sky State Games Triathlon Partial Street Closures

DEPARTMENT: Parks, Recreation and Public Lands

PRESENTED BY: Mike Whitaker, Parks, Recreation and Public Lands Director

PROBLEM/ISSUE STATEMENT: Big Sky State Games requests partial street closures along several streets in the Billings Heights area, as outlined in the attached course map, for its Triathlon event on Sunday, July 22, 2007, beginning at 6:15 am until approximately 11:00 am. Big Sky State Games staff members will be manning the course to insure their participants' safety.

Recommended conditions of approval include Big Sky State Games:

- Have no alcohol consumption in the right of way
- Provide police assistance or private security car at Wicks and Cody St. intersection during biking leg of race
- Clean area to be used and provide and empty waste cans
- Notify all emergency facilities, bus lines and media as soon as possible
- Provide and install adequate traffic barricades and signs directing motorists around closure
- Provide a certificate of insurance naming City of Billings as additional insured

ALTERNATIVES ANALYZED:

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

FINANCIAL IMPACT: There are no costs to the City of Billings other than administrative time to process. Police, traffic control and litter removal are to be paid for the by the Big Sky State Games.

RECOMMENDATION

Staff recommends that Council approve the closure of several streets in the Billings Heights area, as outlined in the attached course map, for its Triathlon event on Sunday, July 22, 2007.

Approved By: City Administrator City Attorney

ATTACHMENTS

- A. Letter from Big Sky State Games (1 page)
- B. Right of Way Special Activity Permit Application (2 pages)
- C. Map outlining course (1 page)
- D. Certificate of insurance (4 page)

MONTANA'S
BIG SKY
STATE GAMES

BOX 7136 • BILLINGS, MONTANA 59103-7136 • PHONE (406) 254-7426 • FAX (406) 254-7439 • www.bigskeygames.org

Attachment A

Joe Fedin
City of Billings
P.O. Box 1178
Billings, MT 59103

February 1, 2007

Dear Joe,

We're gearing up for the 22nd year and the Big Sky State Games is looking forward to working with you and the City of Billings Parks, Recreation and Public Lands Department. We are requesting the following road closures, equipment, and facility usage for the 2007 event, July 20, 21 & 22.

Showmobile Rental - Friday, July 20 - Wendy's Field at Daylis Stadium

Opening Ceremonies - We would prefer delivery Thursday morning, July 19. In past years the Showmobile has been delivered on Thursday, one day prior to the event, at no extra charge. Showmobile Rental Application and \$100 deposit are enclosed. The location of the Showmobile will be confirmed. Opening Ceremonies is tentatively scheduled at Daylis Stadium.

5K Run Road - Friday, July 20 - course is attached.

Road Closures 3rd St. West at Grand Ave., 6:00 - 7:00 p.m.
 3rd St. West at Parkhill 6:00 - 7:00 p.m.

Partial Closures Virginia Ln. & Parkhill 6:10 - 7:00 p.m.

Remaining intersections on 3rd Street West from Grand to Parkhill, intersections on Parkhill to 13th Street West and back to Daylis Stadium 6:10 - 7:00 p.m. (following race route)

We will again have police assistance or private security and a car and officer posted on the course at Virginia Lane & Beverly Hills Blvd. and Virginia Lane & Ave. F (to control problems before traffic reaches Virginia Lane and Parkhill). Another officer will be posted at Grand and 3rd St. West.

Triathlon Road Closures - Sunday, July 22 (map enclosed and to be confirmed)

Please see enclosed Triathlon Course. We will request police assistance or private security with a car posted on the course at the Wicks and Cody St. intersection during the biking leg.

Cycling Mountain Bike Road Closure - Sunday, July 22

Road Closure Black Otter Trail 6:00 a.m. to 2:00 p.m.

We would like to have the road swept for safety considerations at the 5K and Triathlon competitions. Unless the contact person has changed, we will be making arrangements with Bill Kemp, Traffic and Street Superintendent.



BRESNAN
Communications

Wendy's

Attachment B



**CITY OF BILLINGS
RIGHT-OF-WAY SPECIAL ACTIVITY PERMIT
APPLICATION**

Please check the type of activity you are applying for: Triathlon
[] Parade [] Block Party [] Run/Walk/Procession [] Street/Alley Closure

Submit this application with a cover letter to: Director of Parks, Recreation and Public Lands, 390 North 23rd Street, Billings, MT 59101. Application should be made at least 30 days in advance of the date of proposed event.

PERSON MAKING APPLICATION Karen Sandfort Gull

ORGANIZATION MAKING APPLICATION Big Sky State Games PHONE 254-7426

ADDRESS Box 71360 CITY Billings STATE MT ZIP 59103

APPROXIMATE TIME EVENT WILL:
Assemble 6:15 AM Start 6:30 AM Disband 11:00 AM

DATE OF EVENT: Sunday, July 22 PURPOSE OF EVENT: (Description and detail of the event)

Triathlon Competition - please see attached letter
Billings Heights - near Lake Elmo and around Skyview High School.

EVENT ROUTE DESIRED: (Please attach map.)

MAP enclosed - usage of roads as designated by the
map - no closures -

DESCRIPTION OF EVENT (ENTRIES): (Sec. 24-512 (3)) (Included in attached packet.)

Please see attached letter.

CERTIFICATION OF INSURANCE WHICH MUST SHOW: (1) The limits of liability coverage for the period of this agreement as a minimum of \$250,000/\$500,000, and (2) The City of Billings named on the Certificate of Insurance as an additional insured.

YOU OR THE ORGANIZATION YOU REPRESENT MUST "ASSIGN" THE FIRST TWO BLOCKS OF THE DOWNTOWN EVENT ROUTE FOR NO PARKING TWO HOURS PRIOR TO YOUR EVENT USING THE ROUTE SIGNS PROVIDED BY THE CITY.

NOTICE: ANY MARKINGS (NO PAINT ALLOWED) TO BE PLACED ON PUBLIC RIGHT-OF-WAY MUST BE APPROVED BY THE CITY TRAFFIC/ENGINEERING DEPARTMENT PRIOR TO PLACEMENT, BE ENVIRONMENTALLY SAFE, AND NOT CONFLICT WITH EXISTING MARKINGS.

IF USING THE ESTABLISHED EVENT ROUTE, THE CITY WILL PROVIDE TWO POLICE OFFICERS WITH VEHICLES TO START THE EVENT, AND A STREET SWEEPER, IF NECESSARY, TO FOLLOW THE EVENT.

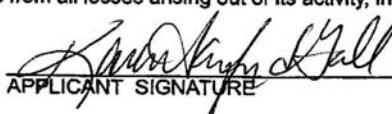
COORDINATOR OF EVENTS AT WHICH ALCOHOL WILL BE CONSUMED IN PUBLIC RIGHT-OF-WAY ARE REQUIRED TO OBTAIN AN OPEN-CONTAINER PERMIT FROM THE POLICE DEPARTMENT

PLEASE COMPLETE BOTH SIDES

UPON SIGNING OF THIS APPLICATION, THE APPLICANT AGREES NOT TO VIOLATE ANY STATE OR CITY CODES IN THE PRESENTATION OF THE REQUESTED SPECIAL ACTIVITY.

In consideration for permission to conduct its activity as requested, applicant agrees to indemnify, defend and hold harmless the City of Billings, its officers, agents, employees and volunteers from damage to property and for injury to or death of any person and from all liability claims, actions or judgements which may arise from the activity.

Applicants also agree to obtain valid "save or hold harmless agreements" from all participants in its activity, protecting the City of Billings from all losses arising out of its activity, including damages of any kind or nature.


APPLICANT SIGNATURE

APPLICATION APPROVED _____

DATE _____

APPLICATION DENIED _____

DATE _____

ADDITIONAL RESTRICTIONS OR SPECIAL CONDITIONS: YES() NO()
(If yes, attach copy.)

FEE: _____

FOR CITY USE ONLY

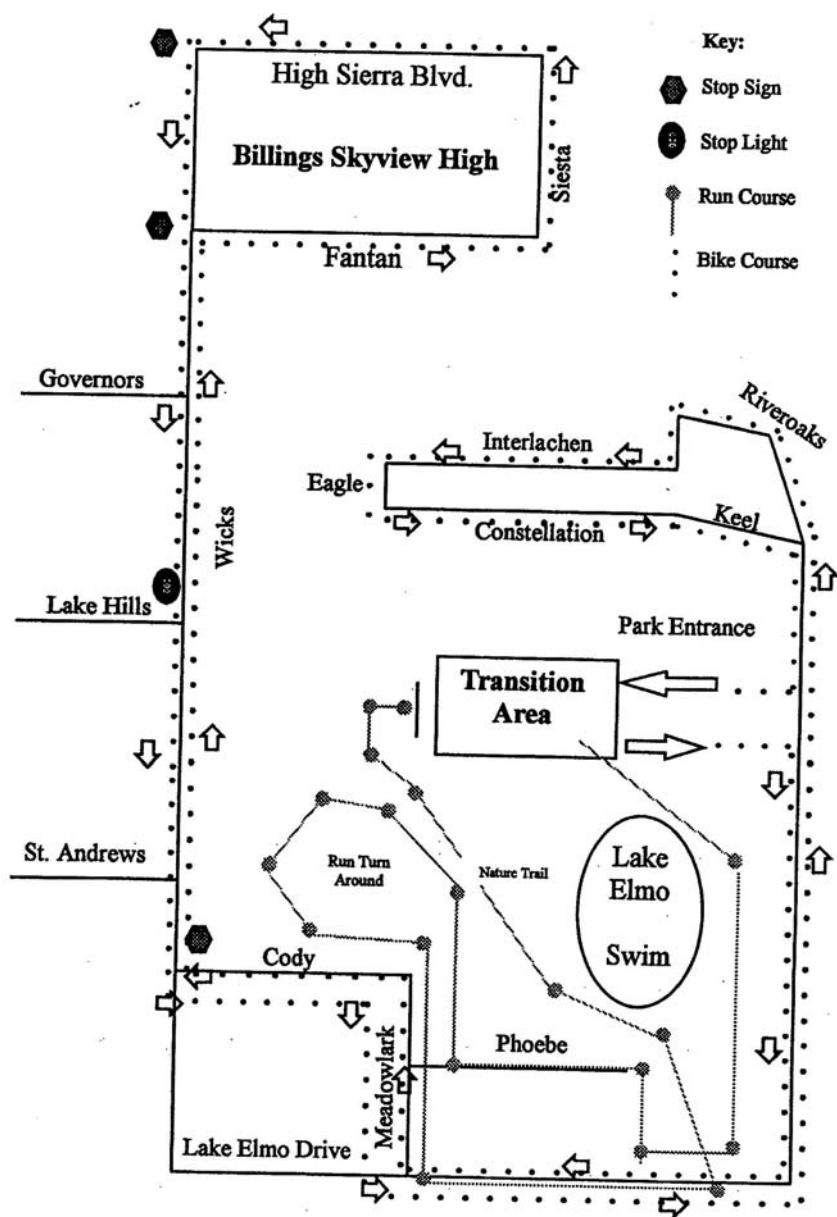
COPIES TO:

CITY ADMINISTRATOR
POLICE CHIEF
PUBLIC WORKS DIRECTOR
FIRE CHIEF
MET MANAGER
FINANCE DIRECTOR
PRPL DIRECTOR
COUNTY SHERIFF'S DEPT.

APPLICANT NOTIFIED BY: _____

DATE: _____

Attachment C



Client#: 200

CITYOFBI

ACORD™ CERTIFICATE OF LIABILITY INSURANCEDATE (MM/DD/YYYY)
06/11/07

PRODUCER Hoiness LaBar Insurance A Member of Payne Financial Group P.O. Box 30638 Billings, MT 59107-0638		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERNS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED City Of Billings %Human Resources Dept P.O. Box 1178 Billings, MT 59104		INSURERS AFFORDING COVERAGE	NAIC #
		INSURER A: Penn-American Insurance Co.	
		INSURER B:	
		INSURER C:	
		INSURER D:	
		INSURER E:	

COVERS

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR	INSR'D TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS											
A	GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY CLAIMS MADE <input checked="" type="checkbox"/> OCCUR	BINDER706786	04/01/07	04/01/08	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (EA occurrence) \$100,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMPIO/P AGG \$2,000,000											
	X PD Ded:250 GENL AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PRO- JECT <input type="checkbox"/> LOC															
	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS				COMBINED SINGLE LIMIT (EA accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$											
								AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$								
												EACH OCCURRENCE \$ AGGREGATE \$ \$ \$				
																WC STATU- TORY LIMITS \$ OTHE- R \$
																E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below															
	OTHER															

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Certificate Holder is listed as Additional Insured on policy. Big Sky State Games

7/20/07-7/22/07. City venues include: Pioneer Park, Stewart Park, Black

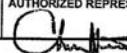
Otter Trail, Diamond X, Amend Park, Poly Vista Park, Rose Park, North Park,

Central Park, 5K Route on 3rd & Parkhill, Tryathlon Route in Billings

(See Attached Descriptions)

CERTIFICATE HOLDER

CANCELLATION

Montana Amateur Sports, Inc., dba Big Sky State Games Attn: Karen Sanford Gall PO Box 7136 Billings, MT 59103	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.
	AUTHORIZED REPRESENTATIVE 

H5

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, July 9, 2007

TITLE: Big Sky State Games Cycling Mountain Bike Road Closure

DEPARTMENT: Parks, Recreation and Public Lands

PRESENTED BY: Mike Whitaker, Parks, Recreation and Public Lands Director

PROBLEM/ISSUE STATEMENT:

Big Sky State Games requests the temporary closure of Black Otter Trail from 6:00 am to 2:00 pm for its Mountain Bike Race on Sunday, July 22, 2007.

Recommended conditions of approval include Big Sky State Games:

- Have no alcohol consumption in the right of way
- Clean area to be used and provide and empty waste cans
- Notify all emergency facilities, bus lines and media as soon as possible
- Provide and install adequate traffic barricades and signs directing motorists around closure
- Provide a certificate of insurance naming City of Billings as additional insured

ALTERNATIVES ANALYZED:

1. Approve request to temporarily close trail for the event (recommended).
2. Deny the closure.

FINANCIAL IMPACT: There are no costs to the City of Billings other than administrative time to process. Police, traffic control and litter removal are to be paid for by the Big Sky State Games.

RECOMMENDATION

Staff recommends that Council approve the street closures as described above.

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

ATTACHMENTS

- A. Letter from Big Sky State Games (1 page)
- B. Right of Way Special Activity Permit Application (2 pages)
- C. Certificate of insurance (4 page)

BIG SKY

STATE GAMES

BOX 7136 • BILLINGS, MONTANA 59103-7136 • PHONE (406) 254-7426 • FAX (406) 254-7439 • www.bigskygames.org

Attachment A

Joe Fedin
City of Billings
P.O. Box 1178
Billings, MT 59103

February 1, 2007

Dear Joe,

We're gearing up for the 22nd year and the Big Sky State Games is looking forward to working with you and the City of Billings Parks, Recreation and Public Lands Department. We are requesting the following road closures, equipment, and facility usage for the 2007 event, July 20, 21 & 22.

Showmobile Rental - Friday, July 20 - Wendy's Field at Daylis Stadium

Opening Ceremonies - We would prefer delivery Thursday morning, July 19. In past years the Showmobile has been delivered on Thursday, one day prior to the event, at no extra charge. Showmobile Rental Application and \$100 deposit are enclosed. The location of the Showmobile will be confirmed. Opening Ceremonies is tentatively scheduled at Daylis Stadium.

5K Run Road - Friday, July 20 - course is attached.

Road Closures 3rd St. West at Grand Ave., 6:00 - 7:00 p.m.
 3rd St. West at Parkhill 6:00 - 7:00 p.m.

Partial Closures Virginia Ln. & Parkhill 6:10 - 7:00 p.m.

Remaining intersections on 3rd Street West from Grand to Parkhill, intersections on Parkhill to 13th Street West and back to Daylis Stadium 6:10 - 7:00 p.m. (following race route)

We will again have police assistance or private security and a car and officer posted on the course at Virginia Lane & Beverly Hills Blvd. and Virginia Lane & Ave. F (to control problems before traffic reaches Virginia Lane and Parkhill). Another officer will be posted at Grand and 3rd St. West.

Triathlon Road Closures - Sunday, July 22 (map enclosed and to be confirmed)

Please see enclosed Triathlon Course. We will request police assistance or private security with a car posted on the course at the Wicks and Cody St. intersection during the biking leg.

Cycling Mountain Bike Road Closure - Sunday, July 22

Road Closure Black Otter Trail 6:00 a.m. to 2:00 p.m.

We would like to have the road swept for safety considerations at the 5K and Triathlon competitions. Unless the contact person has changed, we will be making arrangements with Bill Kemp, Traffic and Street Superintendent.



BRENNAN
Communications





**CITY OF BILLINGS
RIGHT-OF-WAY SPECIAL ACTIVITY PERMIT
APPLICATION**

Please check the type of activity you are applying for: *Cycling Mountain Bike* Parade Block Party Run/Walk/Procession Street/Alley Closure

Submit this application with a cover letter to: Director of Parks, Recreation and Public Lands, 390 North 23rd Street, Billings, MT 59101. Application should be made at least 30 days in advance of the date of proposed event.

PERSON MAKING APPLICATION Karen Sanford-Gill

ORGANIZATION MAKING APPLICATION Big Sky State Games PHONE 254-7426

ADDRESS Box 7136 CITY Billings STATE MT ZIP 59103

APPROXIMATE TIME EVENT WILL:
Assemble 6:00 AM Start 8:00 AM Disband 2:00 P.M.

DATE OF EVENT: Sunday, July 22 PURPOSE OF EVENT: (Description and detail of the event)

Cycling - Mountain Bike Competition - please see attached letter

EVENT ROUTE DESIRED: (Please attach map.)

Black Oyster Trail

DESCRIPTION OF EVENT (ENTRIES): (Sec. 24-512 (3)) (Included in attached packet.)

Please see attached letter

CERTIFICATION OF INSURANCE WHICH MUST SHOW: (1) The limits of liability coverage for the period of this agreement as a minimum of \$250,000/\$500,000, and (2) the City of Billings named on the Certificate of Insurance as an additional insured.

YOU OR THE ORGANIZATION YOU REPRESENT MUST "ASSIGN" THE FIRST TWO BLOCKS OF THE DOWNTOWN EVENT ROUTE FOR NO PARKING TWO HOURS PRIOR TO YOUR EVENT USING THE ROUTE SIGNS PROVIDED BY THE CITY.

NOTICE: ANY MARKINGS (NO PAINT ALLOWED) TO BE PLACED ON PUBLIC RIGHT-OF-WAY MUST BE APPROVED BY THE CITY TRAFFIC/ENGINEERING DEPARTMENT PRIOR TO PLACEMENT, BE ENVIRONMENTALLY SAFE, AND NOT CONFICT WITH EXISTING MARKINGS.

IF USING THE ESTABLISHED EVENT ROUTE, THE CITY WILL PROVIDE TWO POLICE OFFICERS WITH VEHICLES TO START THE EVENT, AND A STREET SWEEPER, IF NECESSARY, TO FOLLOW THE EVENT.

COORDINATOR OF EVENTS AT WHICH ALCOHOL WILL BE CONSUMED IN PUBLIC RIGHT-OF-WAY ARE REQUIRED TO OBTAIN AN OPEN-CONTAINER PERMIT FROM THE POLICE DEPARTMENT.

PLEASE COMPLETE BOTH SIDES

UPON SIGNING OF THIS APPLICATION, THE APPLICANT AGREES NOT TO VIOLATE ANY STATE OR CITY CODES IN THE PRESENTATION OF THE REQUESTED SPECIAL ACTIVITY.

In consideration for permission to conduct its activity as requested, applicant agrees to indemnify, defend and hold harmless the City of Billings, its officers, agents, employees and volunteers from damage to property and for injury to or death of any person and from all liability claims, actions or judgements which may arise from the activity.

Applicants also agree to obtain valid "save or hold harmless agreements" from all participants in its activity, protecting the City of Billings from all losses arising out of its activity, including damages of any kind or nature.



APPLICANT SIGNATURE

APPLICATION APPROVED _____

DATE _____

APPLICATION DENIED _____

DATE _____

ADDITIONAL RESTRICTIONS OR SPECIAL CONDITIONS: YES() NO()
(If yes, attach copy.)

=====

FEE: _____

FOR CITY USE ONLY

COPIES TO:

CITY ADMINISTRATOR
POLICE CHIEF
PUBLIC WORKS DIRECTOR
FIRE CHIEF
MET MANAGER
FINANCE DIRECTOR
PRPL DIRECTOR
COUNTY SHERIFF'S DEPT.

APPLICANT NOTIFIED BY: _____

DATE: _____

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSUREDS OWNERS AND/OR LESSORS
OF PREMISES, SPONSORS OR CO-PROMOTERS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Policy No. GL00000568995002 is amended to include as an additional insured any person or organization of the types designated below, but only with respect to liability arising out of your operations:

1. Owners and/or lessors of the premises leased, rented, or loaned to you, subject to the following additional exclusions:
 - A. This insurance applies only to an "occurrence" which takes place while you are a tenant in the premises;
 - B. This insurance does not apply to "bodily injury" or "property damage" resulting from structural alterations, new construction or demolition operations performed by or on behalf of the owner and/or lessor of the premises;
 - C. This insurance does not apply to liability of the owners and/or lessors for "bodily injury" or "property damage" arising out of any design defect or structural maintenance of the premises or loss caused by a premises defect.

With respect to any additional insured included under this policy, this insurance does not apply to the sole negligence of such additional insured.

2. Sponsors.
3. Co-Promoters.

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/11/07

PRODUCER		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERNS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
Holness LaBar Insurance A Member of Payne Financial Group P.O. Box 30638 Billings, MT 59107-0638		INSURERS AFFORDING COVERAGE	
INSURED		INSURER A: Penn-American Insurance Co.	NAIC #
City Of Billings %Human Resources Dept P.O. Box 1178 Billings, MT 59104		INSURER B:	
		INSURER C:	
		INSURER D:	
		INSURER E:	

COVERAGE(S)

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADDY LTR. INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY	BINDER706786	04/01/07	04/01/08	EACH OCCURRENCE \$2,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (EA occurrence) \$100,000
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person) \$5,000
	<input checked="" type="checkbox"/> PD Ded:250				PERSONAL & ADV INJURY \$2,000,000
					GENERAL AGGREGATE \$2,000,000
					PRODUCTS - COMP/OP AGE \$2,000,000
	GENL AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC				
	AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT (EA accident) \$
	<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident) \$
<input type="checkbox"/> SCHEDULED AUTOS	PROPERTY DAMAGE (Per accident) \$				
<input type="checkbox"/> HIRED AUTOS					
<input type="checkbox"/> NON-OWNED AUTOS					
GARAGE LIABILITY	AUTO ONLY - EA ACCIDENT \$				
<input type="checkbox"/> ANY AUTO	OTHER THAN EA ACC \$				
EXCESS/UMBRELLA LIABILITY	AGG \$				
<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE	EACH OCCURRENCE \$				
<input type="checkbox"/> DEDUCTIBLE	AGGREGATE \$				
RETENTION \$	\$				
WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WC STATUTORY LIMITS \$				
ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?	OTHR \$				
If yes, describe under SPECIAL PROVISIONS below	E.L. EACH ACCIDENT \$				
OTHER	E.L. DISEASE - EA EMPLOYEE \$				
	E.L. DISEASE - POLICY LIMIT \$				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Certificate Holder is listed as Additional Insured on policy. Big Sky State Games
 7/20/07-7/22/07. City venues include: Pioneer Park, Stewart Park, Black
 Otter Trail, Diamond X, Amend Park, Poly Vista Park, Rose Park, North Park,
 Central Park, 5K Route on 3rd & Parkhill, Tryathlon Route in Billings
 (See Attached Descriptions)

CERTIFICATE HOLDER

CANCELLATION

Montana Amateur Sports, Inc., dba Big Sky State Games Attn: Karen Sanford Gall PO Box 7136 Billings, MT 59103	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 
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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 9, 2007

TITLE: BikeNet Matching Funds for the Main Street Underpass
DEPARTMENT: Planning and Community Services
PRESENTED BY: Darlene Tussing, Alternate Modes Coordinator

PROBLEM/ISSUE STATEMENT: The City of Billings is planning to construct the Main Street Bike/Pedestrian Underpass. BikeNet has been raising funds for the Billings' bike trail system through their annual Ales for Trails event. It should be noted that CTA, Architects and Engineers, has been a major contributor to this event over the years, having given over \$15,000 in cash and in-kind services. Without their generosity and help, this gift would not be possible. At the May BikeNet meeting, the Board of Directors voted to approve up to a \$36,000 match for the Main Street Bike/Pedestrian Underpass. This trail project is part of the City approved Capital Improvements Program and received funding through the CTEP (Community Transportation Enhancement Program) process. Council approval is needed to accept the BikeNet contribution for this gift of \$36,000.

ALTERNATIVES ANALYZED: If the City Council does not approve this gift of \$36,000, funding would need to be secured from another source to provide the required match for the \$292,871 CTEP grant.

FINANCIAL IMPACT: There is no financial impact to the City of Billings since this is a financial gift to the City for the Main Street Bike/Pedestrian Underpass

RECOMMENDATION

Staff recommends that Council approve the donation of \$36,000 from BikeNet for a portion of the match for the Main Street Underpass project.

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

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

J

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 9, 2007

TITLE: Resolution Amending Resolution 07-18548 – Annexing Territory in the City (Annexation #07-07)

DEPARTMENT: Planning and Community Services

PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: On April 23, 2007, the City Council conducted a public hearing and passed a Resolution annexing a property legally described as Lots 1-5, Block 1, Western Sky Subdivision located on the southeastern corner of the intersection of King Avenue West and 48th Street West. Upon receipt of the resolution, an error was found in the legal description for the property. A new resolution has been prepared amending the previous resolution.

ALTERNATIVES ANALYZED:

- Approve the amended resolution annexing the property legally described as Lots 1-5, Block 1, Western Sky Subdivision
- Deny the amended resolution annexing the property legally described as Lots 1-5, Block 1, Western Sky Subdivision.

FINANCIAL IMPACT: None

RECOMMENDATION

Staff recommends that the City Council approve the amended resolution annexing a property legally described as Lots 1-5, Block 1, Western Sky Subdivision.

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

ATTACHMENT

A. Amended Resolution

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

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

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

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

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

1. TERRITORY ANNEXED. Pursuant to Petition filed as provided M.C.A., Title 7, Chapter 2, Part 46, the following territory is hereby annexed to the City of Billings:
Territory situated in the SW1/4 of Section 10, the NW1/4 of Section 15, and the NE1/4 of Section 16, T.1S, R.25E, P.M.M, Yellowstone County, Montana, more particularly described as:

Western Sky Subdivision, Recorded April 19, 2006, under Document No. 3374355, Records of Yellowstone County; Including that portion of adjoining Yellowstone County Road easement for 48th Street West, also described as a portion County Road Petition Number 20, Petition filing date April 6, 1911, date road Granted May 18, 1911, and all adjacent right-of-way of King Avenue West.

Containing 164.134 gross acres, and 150.862 net acres.

(# 07-07 Exhibit "A" Attached)

2. **CONDITIONS.** The annexation is approved, subject to the following conditions:
 - a. Prior to site development a Development Agreement shall be executed between the owner(s) and the City that shall stipulate specific infrastructure improvements and provide guarantees for said improvements; or
 - b. A Subdivision Improvements Agreement (SIA) and Waiver of Right to Protest the Creation of SIDs shall be approved and filed that will stipulate specific infrastructure improvements and provide guarantees for such infrastructure improvements. The subdivider will be responsible for forming a Park Maintenance District at the time of subdivision.
3. **PROCEDURE.** All procedures as required under M.C.A., Title 7, Chapter 2, Part 46, have been duly and properly followed and taken.

PASSED by the City Council and APPROVED this 9th day of July, 2007.

THE CITY OF BILLINGS:

BY: _____

Ron Tussing, MAYOR

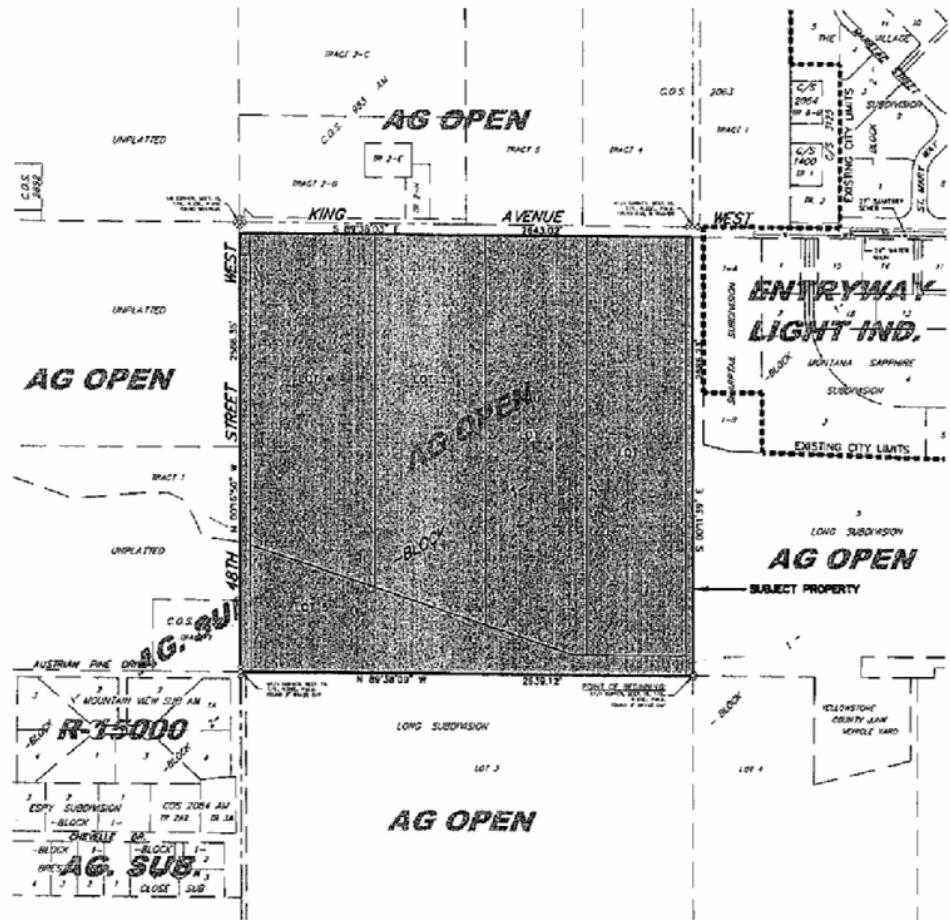
ATTEST:

BY: _____

CITY CLERK

(AN 07-07)

EXHIBIT A



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

K

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 9, 2007

SUBJECT: Zone Change #807, Southeast corner of Zimmerman Trail and Avenue E
2nd Reading of Ordinance

DEPARTMENT: Planning and Community Services

PRESENTED BY: David Green, Planner I

PROBLEM/ISSUE STATEMENT: The applicant is requesting to rezone Tract C1, Certificate of Survey (COS) 1011 Amended Section 34, T.1N, R.25E, from Residential 6,000 Restricted (R-60R) to Community Commercial (CC) and Residential Professional (RP). The subject property is generally located on the southeast corner of Zimmerman Trail and Avenue E and is currently vacant agricultural land with an existing home at the corner of Zimmerman Trail and Avenue E. The City Council conducted a public hearing on June 25, 2007, and approved the first reading of this zone change.

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: If the zone change is approved, future development of the property should increase the City's tax base.

RECOMMENDATION

The Zoning Commission recommends by a 4-0 vote that the City Council approve Zone Change #807 and adopt the determinations of the 12 criteria.

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

ATTACHMENT

A: Ordinance

ATTACHMENT A

Ordinance

ORDINANCE NO. 07-

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION
FOR Tract C1, Certificate of Survey (COS) 1011 Amended
Section 34, T.1N, R.25E, containing approximately 4.102
acres

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

1. **RECITALS.** *Title 76, Chapter 2, Part 3, MCA, and Sections 27-302 and 27-1502, BMCC*, provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the twelve (12) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the twelve (12) criteria required by state law.

2. **DESCRIPTION.** A tract of land known as Tract C1, Certificate of Survey (COS) 1011 Amended Section 34, T.1N, R.25E, containing approximately 4.102 acres and is presently zoned Residential 6000 Restricted 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 6000 Restricted to Community Commercial and Residential Professional** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Community Commercial and Residential Professional** 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 June 25, 2007.

PASSED, ADOPTED AND APPROVED on second reading July 9, 2007.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY: Cari Martin, City Clerk

ZC #807

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 9, 2007

TITLE: Zone Change #808, 2nd Reading of Ordinance

DEPARTMENT: Planning and Community Services

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

PROBLEM/ISSUE STATEMENT: This is a zone change application from Residential Multi-family (RMF) to Planned Development. The property is located on North 26th Street and is bordered by 7th Avenue North, North 25th Street and North 26th Street. The primary development will be multi-family townhome construction with the Planned Development Agreement allowing for home occupation with no more than three (3) full-time employees or equivalent. The owners are Thomas Towe and Court E. Ball Partnership and the agent is Susan Lovely. The Zoning Commission conducted a public hearing on June 5, 2007, and voted 4-0 to recommend approval to the City Council. The City Council held a public hearing and approved the first reading on a vote of 6-4 on June 25, 2007. During the public hearing and discussion, the City Council requested an amendment to the Planned Development Agreement which would appoint the Zoning Coordinator as the approval agent of uses within the development.

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: If the zone change is approved, future development of the property should increase the City's tax base.

RECOMMENDATION

The Zoning Commission on a 4-0 vote recommends that the City Council approve Zone Change #808 on 2nd reading and adopt the determinations of the 12 criteria.

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

ATTACHMENTS:

- A: Ordinance
- B: Amended Planned Development Agreement

ORDINANCE NO. 07-
AN ORDINANCE AMENDING THE ZONE CLASSIFICATION
FOR Lots 5 – 21, Block 29, Billings Original Town, containing
approximately 119,000 square feet

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

1. RECITALS. *Title 76, Chapter 2, Part 3, MCA, and Sections 27-302 and 27-1502, BMCC*, provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the twelve (12) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the twelve (12) criteria required by state law.

2. DESCRIPTION. A tract of land known as Lots 5 – 21, Block 29, Billings Original Town, containing approximately 119,000 square feet and is presently zoned Residential Multi-family Restricted 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 Multi-family Restricted** to **Planned Development** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to the **Planned Development Agreement** 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 June 25, 2007.

PASSED, ADOPTED AND APPROVED on second reading July 9, 2007.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY:

Cari Martin, City Clerk

ZC#808

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 9, 2007

TITLE: Zone Change #809, 2nd Reading of Ordinance
DEPARTMENT: Planning and Community Services
PRESENTED BY: Juliet Spalding, AICP, Planner II

PROBLEM/ISSUE STATEMENT: This is a zone change request from Public (P) to Community Commercial (CC) on a 2.01-acre property at the southeast corner of 14th St. West and Grand Ave. School District #2 is the owner; Engineering, Inc. is the agent. The Zoning Commission conducted a public hearing on June 5, 2007, and voted 4-0 to recommend approval to the City Council. The City Council held a public hearing on June 25, 2007, and approved the first reading of this zone change

ALTERNATIVES ANALYZED: State law at MCA 76-2-304 requires that all zone changes be reviewed in accordance with 12 criteria. Using the 12 criteria to determine the appropriateness of the zone change request, the City Council may:

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

FINANCIAL IMPACT: The proposed zone change should increase the City's tax base because the subject property is currently exempt from taxes, but will be redeveloped as a commercial property.

RECOMMENDATION

The Zoning Commission recommends by a 4-0 vote that the City Council approve Zone Change #809 and adopt the determinations of the 12 criteria.

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

ATTACHMENT:

A: Ordinance

ATTACHMENT A
Zone Change #809

ORDINANCE NO. 07-

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION
FOR Lot 1-B, Grand Avenue School Subdivision, Amended
containing approximately 2 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 Lot 1-B, Grand Avenue School Subdivision, Amended, containing approximately 2 acres of land and is presently zoned Public and is shown on the official zoning maps within this zone.

3. **ZONE AMENDMENT.** The official zoning map is hereby amended and the zoning for **Lot 1-B, Grand Avenue School Subdivision, Amended** is hereby changed from **Public** to **Community Commercial** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Community Commercial** as set out in the Billings, Montana City Code.

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

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

PASSED by the City Council on first reading June 25, 2007.

PASSED, ADOPTED AND APPROVED on second reading July 9, 2007.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY: _____
Cari Martin, City Clerk

ZC#809 – Lot 1-B, Grand Ave. School Subdivision, Amended

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

N

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 9, 2007

TITLE: Zone Change #810, 2nd Reading of Ordinance –Text Amendment to Section 27-601 Parking and Storage Regulations

DEPARTMENT: Planning and Community Services

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

PROBLEM/ISSUE STATEMENT: Section 27-601 of the Unified Zoning Regulations defines and regulates the types of parking and outside storage allowed in residential and some commercial zoning districts. The City Zoning Commission held a public hearing on the amendment to the zoning regulation on June 5, 2007, and voted 4-0 to recommend approval to the City Council of the amendment with the exception of proposed Section 27-601(a)7. and 27-601(b)7. The Zoning Commission voted 4-0 to recommend Section 27-601(a)7. be adopted if a permitting system or similar system to control the use of personal recreational vehicles on residential property is developed. The Zoning Commission voted 4-0 to recommend not adopting Section 27-601(b)7. The City Council held a public hearing on June 25, 2007, and approved the zone change as recommended on first reading.

ALTERNATIVES ANALYZED: The City Zoning Commission held a public hearing on the proposed text amendment on June 5, 2007. No one testified in favor or in opposition to the proposed zone change. The City Zoning Commission is forwarding a recommendation of approval. The City Council may choose to approve, deny or delay action for thirty (30) days on the proposed text amendments.

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

RECOMMENDATION

The Zoning Commission on a 4-0 vote recommends that the City Council approve Zone Change #810 with the exception of Section 27-601(a)7. and 27-601(b)7. The Zoning Commission on a 4-0 vote recommends that the City Council approve Section 27-601(a)7. if a permitting system or similar system to control the use of personal recreational vehicles on residential property is developed. The Zoning Commission voted 4-0 to recommend not adopting Section 27-601(b)7.

ATTACHMENT:

A: Ordinance

ATTACHMENT A

Zone Change #810

ORDINANCE NO. 07-

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTION 27-201; DEFINITIONS AND SECTION 27-601; ABANDONED VEHICLES AND STORAGE, ADOPT THE REVISIONS AS AN AMENDMENT TO THE ZONING REGULATIONS AND SET A TIME PERIOD FOR THE REGULATION TO BE EFFECTIVE.

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

Section 1. RECITALS. *Title 76, Chapter 2, Part 3, MCA, and Section 27-1502, BMCC, provide for amendment to the City Zoning Regulations from time to time. The City Council initiated the amendment to the City Zoning Regulations and the City Zoning Commission and staff have reviewed the proposed zoning regulations hereinafter described. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the proposed amendments to the City Zoning Regulations.*

Section 2. DESCRIPTION. The zoning regulation shall apply to all land within the City of Billings.

Section 3. That the Billings, Montana City Code be amended by revising Section 27-201 to add new language in alphanumeric order to the existing list of definitions to read as follows:

SEC. 27-201. DEFINITIONS.

Enclosed structure means a building that protects the contents thereof from the elements, including sight obscuring walls on all sides and a roof.

Inoperable vehicle means any vehicle incapable of immediate operation under its own power safely and in concurrence with governing and applicable traffic ordinances and statutes or any vehicle not having current license plates lawfully affixed thereto.

Junk means any worn out cast off or discarded article or material which is ready for destruction or has been collected or stored as salvage, for conversion to some other use or for reduction into components. Junk includes but is not limited to old or scrap brass, rope, rags, batteries, paper, tires, rubber debris or waste, iron, steel and other old or scrap ferrous or non-ferrous material.

Merchandise means all items of movable personal property offered for sale to the public for which no title is required to be registered with or issued by the state.

Motor Vehicle means a two (2) or more wheeled or track vehicle designed to transport one (1) or more persons or properties from one (1) location to another including without limitation: trucks, buses, cars, motorcycles, scooters, farm and industrial equipment.

Open storage means the storage for a period of five (5) consecutive days or more of junk, salvage, trash, inoperable vehicles and/or merchandise outside of an enclosed structure.

Salvage means something saved as valuable or useful from trash, rubbish, worn out equipment, or junk.

Trash means something worth little or nothing.

Section 4. That the Billings, Montana City Code be amended by revising Section 27-601 to delete existing language and add new language as follows:

Sec. 27-601. Abandoned Vehicles Parking and Storage Restrictions.

(a) **Definitions.** For the purposes of this section, the terms used above shall be defined as follows:

Automobile means a two (2) or more wheeled or track vehicle designed to transport one (1) or more persons or properties from one (1) location to another including without limitation: trucks, buses, cars, motorcycles, scooters, farm and industrial equipment.

Enclosed structure means a building that protects the contents thereof from the elements, including sight obscuring walls on all sides and a roof.

Inoperable vehicle means any automobile incapable of immediate operation under its own power safely and in concurrence with governing and applicable traffic ordinances and statutes or any automobile not having current license plates lawfully affixed thereto.

Junk means any worn out, cast off or discarded article or material which is ready for destruction or has been collected or stored as salvage, for conversion to some other use or for reduction into components. Junk includes but is not limited to old or scrap brass, rope, rags, batteries, paper, tires, rubber debris or waste, iron, steel and other old or scrap ferrous or non ferrous material.

Junk vehicle means any automobile which is ruined, wrecked, partially dismantled and which is not lawfully and validly licensed.

Merchandise means all items of movable personal property offered for sale to the public for which no title is required to be registered with, or issued by, the state.

Open storage means the storage for a period of five (5) days or more of an unlicensed or inoperable vehicle, appliance, implement or machinery, or any part thereof, outside of an enclosed structure.

Permanent storage means storage of chattel, salvage, rubbish or junk for a period exceeding five (5) days without moving

(a) **Residential.** The following standards for off-street parking and storage shall apply in all residential zoning districts and on property that is developed for residential use.

- (1) **Open storage and off-street parking of licensed and operable motor vehicles is an allowed accessory use as defined in Section 27-201.**
- (2) **Open storage and off-street parking of inoperable motor vehicles for more than five (5) consecutive days is a prohibited use.**

- (3) Within the Billings city limits open storage and off-street parking of licensed and operable motor vehicles in any front or side yard shall be on a surface prepared with asphalt or concrete. Open storage and off-street parking of licensed and operable motor vehicles in any rear yard may be on any type of surface. (See also BMCC Sections 6-1203, 24-401 and 27-1201)
- (4) Open storage and off-street parking of one (1) licensed and operable motor vehicle used for commercial or business purposes is an allowed accessory use provided it does not exceed twelve thousand (12,000) pounds in G.V.W. (gross vehicle weight). Outside the Billings city limits on property zoned Agriculture Open Space or Agriculture Suburban this motor vehicle weight limitation shall not apply.
- (5) Display of merchandise other than for a garage sale or a use allowed by permit under the Temporary Use section of this code (Section 27-614) is prohibited.
- (6) Open storage and off-street parking of licensed and operable recreational vehicles including but not limited to snowmobiles, boats, and campers, all-terrain vehicles, off-road motorcycles, and sport/utility trailers is an allowed accessory use in any rear yard. Open storage and off-street parking of licensed and operable recreational vehicles is an allowed accessory use in a front or side yard only if there is no access to a rear yard. Within the Billings city limits open storage and off-street parking of licensed and operable recreational vehicles in a front or side yard shall be on a surface prepared with asphalt or concrete. Open storage of licensed and operable recreational vehicles in a rear yard may be on any type of surface. Open storage and off-street parking of licensed and operable recreational vehicles in any yard shall provide at least a five (5) foot separation between such recreational vehicle and any door, window or other opening of a dwelling or accessory building that provides ventilation or access to the structure. Open storage and off-street parking of licensed and operable recreational vehicles in any yard shall provide setbacks to property lines equal to or greater than accessory building zoning code setback requirements.
- (7) The use of any recreational vehicle for living or sleeping purposes for more than five (5) consecutive days is prohibited when parked off-street or stored in any residential zoning district or in an area developed for residential use.
- (8) Open storage for more than five (5) consecutive days of junk, salvage and trash is prohibited.

(b) **Storage and display of merchandise in residential districts.** Outside display of merchandise is prohibited in all residential zoning districts.

(b) **Commercial and Industrial** The following standards for off-street parking and storage shall apply in all commercial and industrial zoning districts.

- (1) Open storage for more than five (5) consecutive days of junk, salvage and trash is prohibited.
- (2) Open storage for more than five (5) consecutive days of material collected as salvage for recycling, re-use, dismantling to remove parts for re-use or for separation prior to recycling or destruction is a Special Review use of property only in Highway Commercial (SIC 5015), Controlled Industrial (SIC 5093) and Heavy Industrial (SIC5093).

- (3) Open storage and off-street parking of inoperable motor vehicles for more than five (5) consecutive days is a Special Review use of property only in Highway Commercial (SIC 5015), Controlled Industrial (SIC 5093) and Heavy Industrial (SIC5093).
- (4) Open storage and off-street parking of inoperable motor vehicles for more than five (5) consecutive days is an allowed accessory use of property for principal uses classified as Automotive Repair Shops (SIC 753). The open storage and off-street parking area shall be located in the rear or side yard, and inoperable motor vehicles or vehicle parts shall not be visible from any right of way or adjoining property. A sight obscuring fence of at least six (6) feet in height from grade shall be required to enclose the storage or off-street parking area for inoperable motor vehicles. Chain link fence may be allowed as a sight obscuring fence if opaque slat inserts are used.
- (5) Outside display of merchandise is permitted in residential professional, neighborhood commercial, community commercial, highway commercial, and controlled industrial zoning districts only if the merchandise is related to the principal use of the property, and such merchandise is removed each night into an enclosed structure. The continuous outside display of merchandise is permitted when the principal use of property is for lumber and construction materials (SIC 503, 521 and 525), wholesale and retail nurseries, lawn and garden supply (SIC 078, 081, 5191, 5193, and 526) or for temporary uses and structures regulated by section 27-614.
- (6) Bufferyards and required landscaping shall not be used for the displaying of merchandise in any commercial or industrial zoning district.
- (7) Outside the city limits, The use of any recreational vehicle for living or sleeping purposes for more than five (5) consecutive days is prohibited when parked off-street or stored on property zoned for commercial or industrial uses or on property developed for commercial or industrial uses.

- (c) Storage and display of merchandise in certain commercial districts.** Outside display of merchandise is permitted in residential professional, neighborhood commercial, community commercial, highway commercial, and controlled industrial zoning districts only if the merchandise is new and not used, is related to the principal use of the property, and such merchandise is removed each night into an enclosed structure. This section shall not apply to retail nurseries or temporary uses and structures regulated by section 27-614. Bufferyards and required landscaping shall not be used for the displaying of merchandise in any zoning districts.
- (d) Storage or parking of vehicles.** In all residential zoning districts, storage or parking of commercial vehicles shall be limited to one (1) delivery vehicle not to exceed eight thousand (8,000) pounds G.V.W. (gross vehicle weight).
- (e) Abandoned vehicles.** All inoperable automobiles, or parts thereof, parked or stored for a period exceeding five (5) days shall be considered abandoned. Any such automobile that in the judgment of the zoning enforcement officer appears to

be abandoned, including parts thereto, shall be removed and disposed of in a manner set forth by the zoning enforcement officer.

(f) ***Storage of trailers and recreational vehicles.*** Snowmobiles, boats, or other recreational vehicles and campers, camper trailers or motor homes, and utility/sport trailers may be parked or stored on private property provided that all current accessory building zoning code setback requirements are observed. In addition to accessory building setback requirements, such items shall not be parked any nearer than five (5) feet from any door, window or other opening of a dwelling which provides light, air, entrance to, or exit from the dwelling as needed to preserve the health, safety and general welfare of the occupants of the dwelling.

However, it shall be unlawful for any person or firm to park or store such vehicles in any front yard or to occupy campers, camping trailers or motor homes for living or sleeping purposes.

(g) ***Storage of salvage.*** Permanent open storage of salvage, inoperable vehicles, rubbish or other chattel shall not be permitted in any zoning district. Exceptions to this restriction are principal uses of property (e.g., auto wrecking) which may be permitted in the highway commercial, controlled industrial or heavy industrial zoning districts, as regulated by the commercial/industrial district regulations in BMCC section 27-306.

(h) ***Inoperable vehicle or junk vehicle.*** Storage, parking or leaving any inoperable vehicle or junk vehicle shall not be permitted in any district. This section shall not apply to:

1. Automobiles stored in commercial or industrial districts which are regulated by BMCC sections 27-301, et seq.; or
2. An automobile or part thereof which is completely enclosed within a building in a lawful manner and where it is not visible from the street or other public or private property.

Section 5. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 6. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

Section 7. 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 June 25, 2007.

PASSED, ADOPTED AND APPROVED on second reading July 9, 2007.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY:

Cari Martin, City Clerk

ZC#810 – Amending Section 27-201 Definitions and Section 27-601 Abandoned Vehicles and Storage Restrictions

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 9, 2007

TITLE: Zone Change #811, 2nd Reading of Ordinance – Text Amendment to Section 27-1502(b) Amendments to Chapter, Applications for map amendments

DEPARTMENT: Planning and Community Services

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

PROBLEM/ISSUE STATEMENT: Section 27-1502 of the Unified Zoning Regulations regulates how amendments to the official zoning map are processed and how surrounding property owners may be notified. The City Zoning Commission held a public hearing on the amendment to the zoning regulation on June 5, 2007, and voted 4-0 to recommend approval to the City Council of the amendment. The City Council held a public hearing on June 25, 2007, and approved the zone change on first reading.

ALTERNATIVES ANALYZED: The City Zoning Commission held a public hearing on the proposed text amendment on June 5, 2007. No one testified in favor or in opposition to the proposed zone change. The City Zoning Commission is forwarding a recommendation of approval. The City Council may choose to approve, deny or delay action for thirty (30) days on the proposed text amendments.

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

RECOMMENDATION

The Zoning Commission on a 4-0 vote recommends that the City Council approve Zone Change #811 amending Section 27-1502(b) of Billings, Montana City Code.

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

ATTACHMENT:

A: Ordinance

ATTACHMENT A

Zone Change #811

ORDINANCE NO. 07-

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTION 27-1502(b); AMENDMENTS TO CHAPTER, APPLICATIONS FOR MAP AMENDMENTS, ADOPT THE REVISIONS AS AN AMENDMENT TO THE ZONING REGULATIONS AND SET A TIME PERIOD FOR THE REGULATION TO BE EFFECTIVE.

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

Section 1. RECITALS. *Title 76, Chapter 2, Part 3, MCA, and Section 27-1502, BMCC, provide for amendment to the City Zoning Regulations from time to time. The City Council initiated the amendment to the City Zoning Regulations and the City Zoning Commission and staff have reviewed the proposed zoning regulations hereinafter described. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the proposed amendments to the City Zoning Regulations.*

Section 2. DESCRIPTION. The zoning regulation shall apply to all land within the City of Billings.

Section 3. That the Billings, Montana City Code be amended by revising Section 27-1502(b) to add new language to read as follows:

SEC. 27-1502. AMENDMENTS TO CHAPTER.

(b) *Applications for map amendments.* Unless initiated by the city council or board of planning, all applications for official map amendments must be submitted by the owner of such property, the contract purchaser, or the authorized agent of the owner. An application for an amendment affecting the same property shall not be submitted more often than once every twelve (12) months. Each application to amend the official map shall be filed with the zoning coordinator, and each application shall be submitted under the following conditions:

(1) The applicant or his/her authorized agent shall submit the following pre-application information to the planning department to begin the zone change process:

- a. Legal description of the subject parcel(s), along with a map showing the dimensions, acreage and location of the parcel(s);
- b. The names and addresses of the owner(s) and contract purchasers, if any, of the subject property and their agent(s), if any, along with the recorded property owner's signature;
- c. A zone change plan which shall consist of the following:

- i. A written description of the proposed zone change including the area in square footage or acres to be included in the zone change.
- ii. If there are multiple zone changes proposed, the location and area of each specific new zoning district.

(2) The planning department shall provide a list of surrounding property owners within a radius of three hundred (300) or more feet, as determined by the zoning coordinator, of the exterior boundaries of the tract(s) to the applicant or his/her agent based on the submitted information.

(3) The applicant or his/her agent shall conduct a pre-application neighborhood meeting to explain the proposed new zoning and receive comment from the surrounding property owners. The applicant or his/her agent shall notify in writing the persons on the surrounding property owner list as provided in subsection (2) and the planning department of the date, time and location of the pre-application neighborhood meeting. The written notification shall be mailed at least seven (7) calendar days prior to the scheduled meeting. The written notification shall include all the materials noted in subsection 27-1502 (b) 1. The pre-application neighborhood meeting shall be conducted at least seven (7) calendar days prior to the submittal of the proposed zone change to the planning department. The applicant shall obtain a roster of the names of the persons that attend the pre-application neighborhood meeting and make a record of the minutes of the meeting.

(1) (4) Once the pre-application neighborhood meeting has been conducted the applicant or his/her agent may submit a zone change application and it shall include but not be limited to the following information:

- a. A legal description of the tract(s) proposed to be rezoned;
- b. A map showing the dimensions, acreage and location of the tract(s) being changed;
- c. The names and addresses of the owner(s) of the land and their agents, if any, along with the recorded property owner's signature;
- d. A certified list of the names, addresses and legal descriptions of the owners of property within a radius of three hundred (300) or more feet, as determined by the zoning coordinator, of the exterior boundaries of the tract(s);
- e. Gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list; and
- f. Payment of all applicable fees.
- g. A signed statement affirming the pre-application neighborhood meeting was conducted in conformance with the requirements of Section 27-1502(b) 3, and the zone change application is based on

material presented at the meeting. The signed statement shall include a copy of the meeting notice, any written materials provided to the surrounding property owners, a brief synopsis of the meeting results, a roster of the persons attending the meeting and audio or written minutes of the meeting.

- (2) (5) An application for amendment to the official map shall be submitted at least twenty (20) days prior to the date of the public hearing before the city zoning commission.
- (3) (6) An application for a zone change may be withdrawn or amended as follows:

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

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

Section 6. EFFECTIVE DATE. This ordinance shall be effective from and after final passage and as provided by law.

PASSED by the City Council on first reading June 25, 2007.

PASSED, ADOPTED AND APPROVED on second reading July 9, 2007.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY:

Cari Martin, City Clerk

ZC#811 – Amending Section 27-1502(b) Amendments to Chapter, Applications for Map Amendments

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AGENDA ITEM:

**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, July 9, 2007**

TITLE: Zone Change #812, 2nd Reading of Ordinance –Text Amendment to Special Review Uses – Amending Section 27-306, 27-601, 27-612 and 27-613

DEPARTMENT: Planning and Community Services

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

PROBLEM/ISSUE STATEMENT: The Unified Zoning Regulations specifies many land uses that are allowed only by special review approval of the City Council. Some of these special review uses could be allowed by right if they meet certain standard development criteria. Many uses are allowed by right in many districts. The City Zoning Commission held a public hearing on the amendment to the zoning regulation on June 5, 2007, and voted 3-1 to recommend approval to the City Council of the amendment. The City Council held a public hearing on June 25, 2007, and approved the zone change on first reading.

ALTERNATIVES ANALYZED: The City Zoning Commission held a public hearing on the proposed text amendment on June 5, 2007. No one testified in favor or in opposition to the proposed zone change. The City Zoning Commission is forwarding a recommendation of approval. The City Council may choose to approve, deny or delay action for thirty (30) days on the proposed text amendments.

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

RECOMMENDATION

The Zoning Commission on a 3-1 vote recommends that the City Council approve Zone Change #812 amending Sections 27-306, 27-601, 27-612 and 27-613 of the Billings, Montana City Code.

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

ATTACHMENTS:

A: Ordinance

ATTACHMENT A
Zone Change #812
ORDINANCE NO. 07-

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTIONS 27-306; COMMERCIAL AND INDUSTRIAL USES; 27-601; PARKING AND STORAGE RESTRICTIONS; 27-612; SUPPLEMENTAL COMMERCIAL DEVELOPMENT STANDARDS AND 27-613; SUPPLEMENTAL SPECIAL REVIEW STANDARDS, ADOPT THE REVISIONS AS AN AMENDMENT TO THE ZONING REGULATIONS AND SET A TIME PERIOD FOR THE REGULATION TO BE EFFECTIVE.

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

Section 1. RECITALS. *Title 76, Chapter 2, Part 3, MCA, and Section 27-1502, BMCC, provide for amendment to the City Zoning Regulations from time to time. The City Council initiated the amendment to the City Zoning Regulations and the City Zoning Commission and staff have reviewed the proposed zoning regulations hereinafter described. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the proposed amendments to the City Zoning Regulations.*

Section 2. DESCRIPTION. The zoning regulation shall apply to all land within the City of Billings.

Section 3. That the Billings, Montana City Code be amended by revising Section 27-306 to add new language to read as follows:

Sec. 27-306. District Regulations: Commercial and Industrial Uses.

TITLES AND DESCRIPTION OF INDUSTRIES	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
SR - SPECIAL REVIEW A - ALLOWED									
DIVISION C - CONSTRUCTION 15 BUILDING CONSTRUCTION - GENERAL CONTRACTORS AND OPERATIVE BUILDERS: - Offices only 152, 153, 154 Residential, operative, and nonresidential builders with <u>open</u> storage of equipment and supplies <u>Restricted to open storage as allowed by Sec 27-601</u>	A	A	A	A	A	A	A		A
 16 HEAVY CONSTRUCTION OTHER THAN BUILDING CONSTRUCTION - CONTRACTORS: - Offices only - <u>Open</u> storage of equipment and supplies <u>Restricted to open storage as allowed by Sec 27-601</u>	A	A	A	A	A	A	A		A
 17 CONSTRUCTION - SPECIAL TRADE CONTRACTORS: - Offices only - Shop with <u>no outside</u> <u>enclosed</u> storage of equipment or supplies - <u>Open</u> storage of equipment and supplies; <u>wholesale sales</u> - <u>Retail sales of supplies, 1711, 1721, 1731 (3,000 SF GFA MAX)</u> - <u>Over 3,000 SF GFA MAX</u> - <u>Retail sales of supplies not above classified</u> See Division F and G for	A	A	A	A	A	A	A		A

<u>Wholesale and retail sales of equipment and supplies</u> <u>Restricted to open storage as allowed by Sec 27-601</u>									
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TITLES AND DESCRIPTION OF INDUSTRIES SR - SPECIAL REVIEW A - ALLOWED	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
34 FABRICATED METAL PRODUCTS, EXCEPT MACHINERY AND TRANSPORTATION EQUIPMENT (EXCEPT BELOW): – Offices only – 348 Ordnance and accessories, except vehicles and guided missiles	A	A	A	A	A	SR A	A A		A
35 INDUSTRIAL AND COMMERCIAL MACHINERY AND COMPUTER EQUIPMENT: – Offices only	A	A	A	A	A	SR A	A A		A
36 ELECTRONIC AND OTHER ELECTRICAL EQUIPMENT AND COMPONENTS, EXCEPT COMPUTER EQUIPMENT: – Offices only	A	A	A	A	A	SR A	A A		A
37 TRANSPORTATION EQUIPMENT: – Offices only	A	A	A	A	A	A	A A		A
38 MEASURING, ANALYZING, AND CONTROLLING INSTRUMENTS; PHOTOGRAPHIC, MEDICAL, AND OPTICAL GOODS; WATCHES AND CLOCKS (3,000 SF GFA MAX): – Over 3,000 SF GFA MAX – Offices only – 3861 Photographic equipment and supplies	A	A	A	A	A	A A SR	A A A		A SR A

TITLES AND DESCRIPTION OF INDUSTRIES	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
SR - SPECIAL REVIEW A - ALLOWED									
39 MISCELLANEOUS MANUFACTURING INDUSTRIES: – Offices only – 391, 393, 394 Jewelry, silverware, plated ware; musical instruments; dolls, toys, games, sporting, and athletic goods (3,000 SF GFA MAX) – Over 3,000 SF GFA MAX – 395, 396, 399 Pens, pencils, and artists materials; costume jewelry and novelties; miscellaneous manufacturing industries (3,000 SF GFA MAX) – Over 3,000 SF GFA MAX	A	A	A	A	A	A A	A A		A
DIVISION E - TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SEWER									
40 RAILROAD TRANSPORTATION: – Offices only – Switching yards – Passenger and freight terminals	A	A	A	A	A	A	A A		A
41 LOCAL AND SUBURBAN TRANSIT AND INTERURBAN HIGHWAY PASSENGER TRANSPORTATION: – Offices only – 4173 Bus terminal operation only, without maintenance facilities	A	A	A	A A	A A	A A	A A	A A	A A

TITLES AND DESCRIPTION OF INDUSTRIES SR - SPECIAL REVIEW A - ALLOWED	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
DIVISION F - WHOLESALE TRADE 50 WHOLESALE TRADE - DURABLE GOODS: – Offices only – Warehouses with no <u>outside enclosed</u> storage (3,000 SF GFA MAX) – Over 3,000 SF GFA MAX – <u>Open Outside</u> -storage – 5093 Scrap and waste materials (auto wrecking) <u>Restricted to open storage as allowed by Sec 27-601</u>	A	A	A	A A SR-A	A	A A	A A	A	A SR

TITLES AND DESCRIPTION OF INDUSTRIES	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
SR - SPECIAL REVIEW A - ALLOWED									
51 WHOLESALE TRADE - NONDURABLE GOODS: – Offices only – 511, 512, 513 Paper, drugs and apparel – 514, 518 Groceries; beer, wine and distilled beverages – 515 Farm product raw materials (except below): – 5154 Livestock auctions – 516 Chemicals and allied products – 517 Petroleum and petroleum products – 518 Beer, wine, and distilled alcoholic beverages – 5191, 5198 Farm supplies; paints, varnishes, and supplies – 5192, 5193, 5194, 5199 Books, periodicals, and newspapers; flowers, nursery stock and florists' supplies; tobacco and tobacco products; non-durables not elsewhere classified	A	A	A	A A SR SR SR A	A A A A A A	A A A A A A	A A A A A A	A	A

TITLES AND DESCRIPTION OF INDUSTRIES	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
SR - SPECIAL REVIEW A - ALLOWED									
DIVISION G - RETAIL TRADE									
* Under 3,000 <u>10,000</u> square feet gross floor area (GFA). A special review is required if over 3,000 <u>10,000</u> square feet GFA. No outside storage and No warehousing of storage in excess of twenty-five (25) percent of total GFA. <u>Restricted to open storage as allowed by Sec 27-601</u>									
52 BUILDING MATERIALS, HARDWARE, GARDEN SUPPLY, AND MOBILE HOME DEALERS: – 521 Lumber and other building materials stores – 523, 525 Paint, glass and wallpaper; hardware stores – 526 Nurseries, lawn and garden supply stores – 527 Mobile home dealers (manufactured homes)		SR	A		A	A			SR A
	A*	A	A	A	A	A	A		A
		A	A	A	A	A	A		A
			A		A	A	A		
53 GENERAL MERCHANDISE STORES		A*	A	A	A	A	A		A
54 FOOD STORES – Convenience store with gas pump islands		A*	A	A	A	A	A		A
	A*	A	A	A	A	A	A		A
55 AUTOMOTIVE DEALERS AND GASOLINE SERVICE STATIONS (EXCEPT BELOW): – 553 Auto supply – 554 Gasoline service stations – Convenience store – Service station – Accessory car wash with above two uses – Truck stop – 556 Recreational vehicle dealers		A*	A	A	A	A	A		A
	A*	A	A	A	A	A	A		A
	A*	A	A	A	A	A	A		A
	SR	A	A	A	A	A	A		A
	SR	A	A	A	A	A	A		A
		A	A		A	A	A		
56 APPAREL AND ACCESSORY STORES		A*	A	A	A	A	A		A

TITLES AND DESCRIPTION OF INDUSTRIES	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
SR - SPECIAL REVIEW A - ALLOWED									
57 HOME FURNITURE, FURNISHINGS, AND EQUIPMENT STORES		A*	A	A	A	A	A		A
58 EATING AND DRINKING PLACES (SEE BMCC SECTION 27-612) – Without the sale of alcoholic beverages – With the sale of beer and wine only for on-premise consumption, without gaming – With the sale of beer and wine only for on-premise consumption, with gaming – With the sale of all alcoholic beverages for on-premise consumption, with gaming		A	A	A	A	A	A		A
		SR-A	SR-A	SR-A	SR-A	SR-A	SR-A		SR-A
		SR	SR	SR	SR	SR	SR		SR
		SR	SR	SR	SR	SR	SR		SR
* Establishments with drive-in service shall comply with BMCC Section 27-612.									
59 MISCELLANEOUS RETAIL (STRICTLY CARRYOUT), (EXCEPT BELOW): – 598 Fuel dealers		A*	A	A	A	A	A		A
		A	A	A	A	A	A		A
* Fireworks stands shall comply with BMCC Section 27-614.									
** Sexually oriented business, as classified and defined in BMCC Section 27-611.									

TITLES AND DESCRIPTION OF INDUSTRIES	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
SR - SPECIAL REVIEW A - ALLOWED									
DIVISION H - FINANCE, INSURANCE, AND REAL ESTATE (See BMCC Section 27-612).									
60 DEPOSITORY INSTITUTIONS	A	A	A	A	A	A	A		A
61 NONDEPOSITORY CREDIT INSTITUTIONS	A	A	A	A	A	A	A		A
62 SECURITY AND COMMODITY BROKERS, DEALERS, EXCHANGES, AND SERVICES									
	A	A	A	A	A	A	A		A
63 INSURANCE CARRIERS	A	A	A	A	A	A	A		A
64 INSURANCE AGENTS, BROKERS, AND SERVICE	A	A	A	A	A	A	A		A
65 REAL ESTATE (EXCEPT BELOW): – 6515 Operators of residential mobile home sites – 6553 Cemetery subdivider and developers	A	A	A	A	A	A	A		A
								A	
66 COMBINATIONS OF REAL ESTATE, INSURANCE, LOANS, OR LAW OFFICES	A	A	A	A	A	A	A		A
67 HOLDING AND OTHER INVESTMENT OFFICES	A	A	A	A	A	A	A		A
DIVISION I - SERVICES									
70 HOTELS, ROOMING HOUSES, CAMPS AND OTHER LODGING PLACES: – 701 Hotels and motels – 702, 704 Rooming, boarding houses; organization hotels and lodging houses, on a membership basis – 703 Camps and recreational vehicle parks			A	A	A	A	A		A
		A	A	A	A	A	A		A
			SR-A	A		A	A	SR-A	

TITLES AND DESCRIPTION OF INDUSTRIES SR - SPECIAL REVIEW A - ALLOWED	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
72 PERSONAL SERVICES: – 7211, 7213, 7217, 7218 Power laundries, family and commercial; linen supply; carpet and upholstery cleaning; industrial launderers – 7212, 7216, 7219 Garment pressing, and agents for laundries and drycleaning; drycleaning plants, except rug cleaning; laundry and garment services, not elsewhere classified; (3,000 <u>10,000</u> SF GFA MAX) – Over 3,000 <u>10,000</u> SF GFA MAX	SR	A	A	A	SR	A	A		A
– 7215 Coin-operated laundries and drycleaning – 722 Photographic studios – 723, 724 Beauty and barber shops – 725 Shoe repair shops and shoeshine parlors – 726 Funeral service and crematories – 729 Miscellaneous personal services, except 7291 – Under 1,500 square feet GFA – 7291 Tax return preparation services – Under 1,500 square feet GFA	A	A*	A	A	A	A	A		A
		A	A	A	A	A	A		A
		A	A	A	A	A	A		A
		A	A	A	A	A	A		A
		A	A	A	A	A	A		A
		A	A	A	A	A	A		A
		A	A	A	A	A	A		A
		A	A	A	A	A	A		A
		A	A	A	A	A	A		A

TITLES AND DESCRIPTION OF INDUSTRIES	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
SR - SPECIAL REVIEW A - ALLOWED									
73 BUSINESS SERVICES: – Offices only – With retail sales – With use of vehicles of two tons or over 8,000 GVW Without inside storage over 3,000 square feet GFA or outside storage – With research, testing, and development laboratories (See also manufacturing industries)	A	A A*	A A	A A	A A	A A	A A		A A A
75 AUTOMOTIVE REPAIR, SERVICES, AND PARKING (EXCEPT BELOW): – 7513, 7519 Truck rental and leasing; utility trailer and recreational vehicle rental – 752 Automobile parking – 7542 Car washes	A	A SR	A A SR-A	A A A	A A A	A A A	A A A		A SR A SR-A
76 MISCELLANEOUS REPAIR SERVICES (EXCEPT BELOW): – 763 Watch, clock, and jewelry repair	A	A	A	A	A	A	A		A A

TITLES AND DESCRIPTION OF INDUSTRIES	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
SR - SPECIAL REVIEW A - ALLOWED									
78 MOTION PICTURES (EXCEPT BELOW): – 7833 Drive-in motion picture theaters			A	A SR	A	A SR	A		A
79 AMUSEMENT AND RECREATION SERVICES*: – 791, Dance studios, schools, and halls – 792 theatrical producers, bands, orchestras, and entertainers – 793, 799 Bowling centers; miscellaneous amusement and recreation services, and gambling operations* (except below): – Public swimming pools – Riding stables – Martial arts instruction – 7992 Public golf courses – 794 Commercial sports	A	A A A SR	A A A A	A A A A SR	A A A A A	A A A A A	A A A A A		A A A A SR
* See BMCC Section 27-612.									
80 HEALTH SERVICES (EXCEPT BELOW): – Establishments where retail sales constitutes more than an accessory use	A	A A	A A	A A	A A	A A	A A	A	A
81 LEGAL SERVICES	A	A	A	A	A	A	A		A
82 EDUCATIONAL SERVICES (EXCEPT BELOW): – 821 Elementary and secondary schools – 822 Colleges, universities, professional schools, and junior colleges	A	A SR	A SR	A SR	A SR	A SR	A SR	A	A A
83 SOCIAL SERVICES (EXCEPT BELOW): – 833 Job training and vocational rehabilitation services –	A SR	A SR	A A	A A	A A	A A	A A	A	A A

TITLES AND DESCRIPTION OF INDUSTRIES	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
SR - SPECIAL REVIEW A - ALLOWED									
84 MUSEUMS, ART GALLERIES, AND BOTANICAL AND ZOOLOGICAL GARDENS: – 841 Museums and art galleries – 842 Arboreta and botanical or zoological gardens		A	A	A	A	A	A	A	A
86 MEMBERSHIP ORGANIZATIONS (EXCEPT BELOW): – 864 Civic, social, and fraternal associations*	A	A	A	A	A	A	A		A
* See also BMCC Section 27-612.			A	A	A	A	A		A
87 ENGINEERING, ACCOUNTING, RESEARCH, MANAGEMENT, AND RELATED SERVICES (EXCEPT BELOW): – 871, 872 Engineering, architectural and surveying services; accounting, auditing and bookkeeping services – 8731 Commercial physical and biological research – 8733 Noncommercial research organizations – 8734 Testing laboratories – 8744 Facilities support management services	A	A	A	A	A	A	A		A
88 PRIVATE HOUSEHOLDS	A	A	A	A	A	<u>SR</u>			<u>SR</u> A
89 SERVICES, NOT ELSEWHERE CLASSIFIED	A	A	A	A	A	A	A	A	A

TITLES AND DESCRIPTION OF INDUSTRIES SR - SPECIAL REVIEW A - ALLOWED	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
DIVISION J - PUBLIC ADMINISTRATION 91 EXECUTIVE, LEGISLATIVE, AND GENERAL GOVERNMENT, EXCEPT FINANCE	A	A	A	A	A	A	A	A	A
92 JUSTICE, PUBLIC ORDER, AND SAFETY (EXCEPT BELOW): – 9223 Correctional institutions	A	A	A	A	A	A	A	SR	SR
93 PUBLIC FINANCE, TAXATION, AND MONETARY POLICY	A	A	A	A	A	A	A	A	A

94 ADMINISTRATION OF HUMAN RESOURCE PROGRAMS	A	A	A	A	A	A	A	A	A
95 ADMINISTRATION OF ENVIRONMENTAL QUALITY AND HOUSING PROGRAMS	A	A	A	A	A	A	A	A	A
96 ADMINISTRATION OF ECONOMIC PROGRAMS	A	A	A	A	A	A	A	A	A
97 NATIONAL SECURITY AND INTERNATIONAL AFFAIRS	A	A	A	A	A	A	A	A	A
DIVISION K - NONCLASSIFIABLE ESTABLISHMENTS 99 NONCLASSIFIABLE ESTABLISHMENTS: THE ZONING DISTRICT AND REQUIREMENTS OF THESE ESTABLISHMENTS WILL BE DETERMINED BY THE PLANNING DIRECTOR									
DWELLINGS – SINGLE-FAMILY – TWO-FAMILY – MULTIPLE-FAMILY – MODULAR HOME – ROWHOUSE/TOWNHOUSE	A	A A A A SR	A A A A SR	A A A A SR	A A A A SR	SR SR			SR-A SR-A SR

Section 4. That the Billings, Montana City Code be amended by revising Section 27-601 to add new language to read as follows:

SEC. 27-601. PARKING AND STORAGE RESTRICTIONS.

(b) **Commercial and Industrial.** The following standards for parking and storage shall apply in all commercial and industrial zoning districts.

(8) Open storage of equipment and supplies is an allowed accessory use of property as limited in Section 27-306. Any property where open storage of equipment and supplies is an allowed accessory use, the open storage area shall be located in the rear or side yard. A sight obscuring fence of at least six (6) feet in height from finished grade shall be required to enclose the storage area. Chain link fence may be allowed as a sight obscuring fence if opaque slat inserts are used.

Section 5. That the Billings, Montana City Code be amended by revising Section 27-612 to add new language to read as follows:

SEC. 27-612. SUPPLEMENTAL COMMERCIAL DEVELOPMENT STANDARDS.

Certain commercial uses shall be specifically restricted as follows:

(a) ~~Bars, Taverns and Lounges.~~ (a) Eating And Drinking Places. Any person desiring to ~~use of~~ any premises or to ~~erect, construct or the construction or alteration of~~ any new or existing building or structure for use as a bar, tavern, lounge or any commercial establishment which serves where alcoholic beverages are served for on-premise consumption as a primary or accessory use shall only be allowed in commercial or industrial zoning districts as regulated by Section 27-306, first make application for Special Review as regulated in BMCC Sections 27-1503 and 27-1509. No building, structure or premises shall be used for the on-premise consumption of alcoholic beverages unless: retail alcoholic beverage sales unless:

(1) A distance of six hundred (600) feet between property lines, measured in a straight line, is maintained from any building that is predominantly used as a church or school or from a public park that contains a children's playground or playfield.

(a) Properties or establishments which are located in the Central Business District zoning district are exempt from subsection 1.

(b) Properties may be granted a waiver from the 600 foot separation required in subsection 1. if the governing body finds that a physical barrier exists between the proposed use and the use requiring the 600 foot separation. These barriers include, but are not limited to, the following:

1. An arterial street with no existing or proposed signalized pedestrian crossing;

2. A building or buildings that entirely obstruct the view between the separated uses; and/or
3. No direct physical access exists between the separated uses. The person applying for the Special Review must provide the governing body with proof that the proposed property or establishment meets one of the above described physical barriers or that other types of physical barriers exist that warrant the waiving of the 600-foot separation.

Exemptions to above subsection A. for establishments previously granted a Special Review are located in BMCC Section 27-613.

Section 6. That the Billings, Montana City Code be amended by revising Section 27-613 to add new language to read as follows:

SEC. 27-613. SUPPLEMENTAL SPECIAL REVIEW STANDARDS.

(a) Bars, Taverns and Lounges. (a) Eating And Drinking Places. The following exemptions from the Special Review requirements, as regulated by Section 27-306, shall apply to those establishments serving where alcoholic beverages are served for on-premise consumption, which have previously been approved pursuant to a Special Review by the City Council or Board of County Commissioners:

1. Such an establishment shall be allowed to remodel, expand or relocate within the same structure without an additional Special Review, as regulated by Section 27-306 provided that:
 - a. The gross floor area of the remodeled, expanded or relocated establishment is not over ten (10) percent greater than the gross floor area originally occupied by the establishment;
 - b. The number of potential occupants is not increased by more than ten (10) percent, than the number that is currently allowed;
 - c. The number of new parking stalls is not more than ten (10) percent greater than the original number of spaces; and
 - d. All other requirements of this resolution/ordinance and/or the Billings, Montana City Code are met.
2. Such an establishment in which additions and/or remodels include an outdoor patio lounge shall be required to obtain Special Review approval, as regulated by Section 27-306 and as outlined in BMCC Sections 27-1503 and 27-1509.

Section 7. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 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.

Section 9. 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 June 25, 2007.

PASSED, ADOPTED AND APPROVED on second reading July 9, 2007.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY:

Cari Martin, City Clerk

ZC#812 – Amending Section 27-306, 27-601, 27-612 and 27-613, Commercial and Industrial Uses, Parking and Storage Restrictions, Supplemental Commercial Development Standards and Supplemental Special Review Standards

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

Q

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 9, 2007

TITLE: Preliminary Subsequent Minor Plat of Amended Lot 1, Block 4, High Sierra Subdivision, 2nd Filing

DEPARTMENT: Planning and Community Services

PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: On June 1, 2007, the subdivider applied for preliminary subsequent minor plat approval of Amended Lot 1, Block 4, High Sierra Subdivision, 2nd Filing, which contains two lots on approximately 28.73 acres for commercial development associated with the Harvest Church Master Plan. The subject property is located at the northeast corner of Wicks Lane and High Sierra Boulevard. The owner is Harvest Evangelical Church and its representative is Engineering, Inc. The subject property is zoned Residential 9600. The existing church is located on proposed Lot 1A and proposed Lot 1B will contain a recreation center, outdoor aquatic facility (water park), a baseball field, and a soccer field, approved with the Master Plan of Harvest Church in 2003, and amended in 2007.

ALTERNATIVES ANALYZED: In accordance with state law, the City Council has 35 working days to act upon this subsequent minor plat; the 35 working day review period for the proposed plat ends on July 20, 2007. State and City subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated. Within the 35 day review period, the City Council is required to:

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

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

RECOMMENDATION

Staff recommends conditional approval of the preliminary subsequent minor plat of Amended Lot 1, Block 4, High Sierra Subdivision, 2nd Filing, approval of the variance, and adoption of the Findings of Fact as presented in the staff report to the City Council.

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

ATTACHMENTS

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

INTRODUCTION

On June 1, 2007, the subdivider applied for preliminary subsequent minor plat approval of Amended Lot 1, Block 4, High Sierra Subdivision, 2nd Filing, which contains two lots on approximately 28.73 acres for commercial development associated with the Harvest Church Master Plan. The subject property is located at the northeast corner of Wicks Lane and High Sierra Boulevard. The subject property is bordered on the north across Siesta Avenue by an assisted living facility currently under construction; on the south and west by vacant properties within the city and county; and on the east by single family residences.

PROCEDURAL HISTORY

- On January 27, 2003, the City Council approved Special Review #734 to permit a church, preschool, private elementary, junior high, and/or high school, as well as commercial recreation uses on the subject property.
- On June 13, 2005, the City Council approved Special Review #782 to permit a temporary go-kart track on the subject property.
- On January 22, 2007, the City Council approved Special Review #833 to amend the previously approved Master Plan of Harvest Church to include a recreation center and outdoor aquatic center.
- On March 29, 2007, a pre-application meeting was conducted for proposed subsequent minor plat.
- On June 1, 2007, an application for a preliminary subsequent minor subdivision was submitted to the Planning Department.

BACKGROUND

General location:	Northeast corner of the intersection of Wicks Lane and High Sierra Boulevard
Legal Description:	Lot 1, Block 4, High Sierra Subdivision, 2 nd Filing
Subdivider/Owner:	Harvest Evangelical Church
Engineer and Surveyor:	Engineering, Inc.
Existing Zoning:	Residential 9600
Existing land use:	Church
Proposed land use:	Church, Schools, Recreation Center, Water Park, and Ball Fields
Gross area:	28.73 acres
Net area:	Same
Proposed number of lots:	2

Lot size:	Max: 16.59 acres Min.: 12.14 acres
Parkland requirements:	A parkland dedication is not required, as the lot sizes are larger than 5 acres and the property is being developed for commercial purposes.

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 Department develops and recommends conditions of approval that are based on departmental comments. The Findings of Fact, which are presented as an attachment, discuss the potential negative impacts of the subdivision and the following conditions of approval are recommended as measures to further mitigate any impacts.

RECOMMENDED CONDITIONS OF APPROVAL

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

1. To ensure the provision of easements and minimize effects on public health and safety, the subdivider shall work with the City Engineering Division and the private utility companies to determine suitable locations for utility easements. These easements shall be depicted on the plat. *(Recommended by the Engineering Division)*
2. To minimize effects on local services and ensure connectivity for city streets, the following information shall be added to Section III of the Subdivision Improvements Agreement (SIA), as required by the City Engineering Department:
 - If the property to the north does not contribute to the construction of Siesta Avenue, it shall be constructed to a minimum of 24-feet of asphalt by this subdivider.
 - The construction of Wicks Lane shall be completed along the frontage of both Lots 1A and 1B within five years of the date the plat is recorded.
 - Curb and gutter along Wicks Lane is a required improvement. The curb and gutter does not need to be installed within the initial construction of Wicks Lane, however, if Wicks Lane is determined to be constructed to an Urban Section in the future, curb and gutter will be required. This shall be included in both Sections I and III of the SIA.
3. To ensure provisions of public utilities, Sections VI. A and B shall be revised to include that a multiple service agreement shall be entered into with the City of Billings Public Works Department and recorded with the Yellowstone County Clerk and Recorders Office. *(Recommended by the Public Utilities Department)*
4. Any language changes or revisions to the Waiver of Right to Protest included with this subdivision shall be subject to review by the City Attorney.

5. 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.
6. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of City of Billings, and the laws and Administrative Rules of the State of Montana.

VARIANCES REQUESTED

A variance from Section 23-406(B)(6), BMCC, to allow a 24-foot paved street width with a borrow ditch in lieu of curb and gutter for the Wicks Lane street frontage of the subdivision. While this variance is consistent with the existing road section which is intended to be widened in the future, the Engineering Department expressed concerns regarding the lack of curb and gutter for this street. The Engineering Department is supportive of the variance provided that a statement is added to the SIA that though curb and gutter is not initially required, it will be required on Wicks Lane upon determination of an Urban Street Section, as required by Condition #2. Further justification of the variance is provided within the findings in Attachment C.

STAKEHOLDERS

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

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

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

RECOMMENDATION

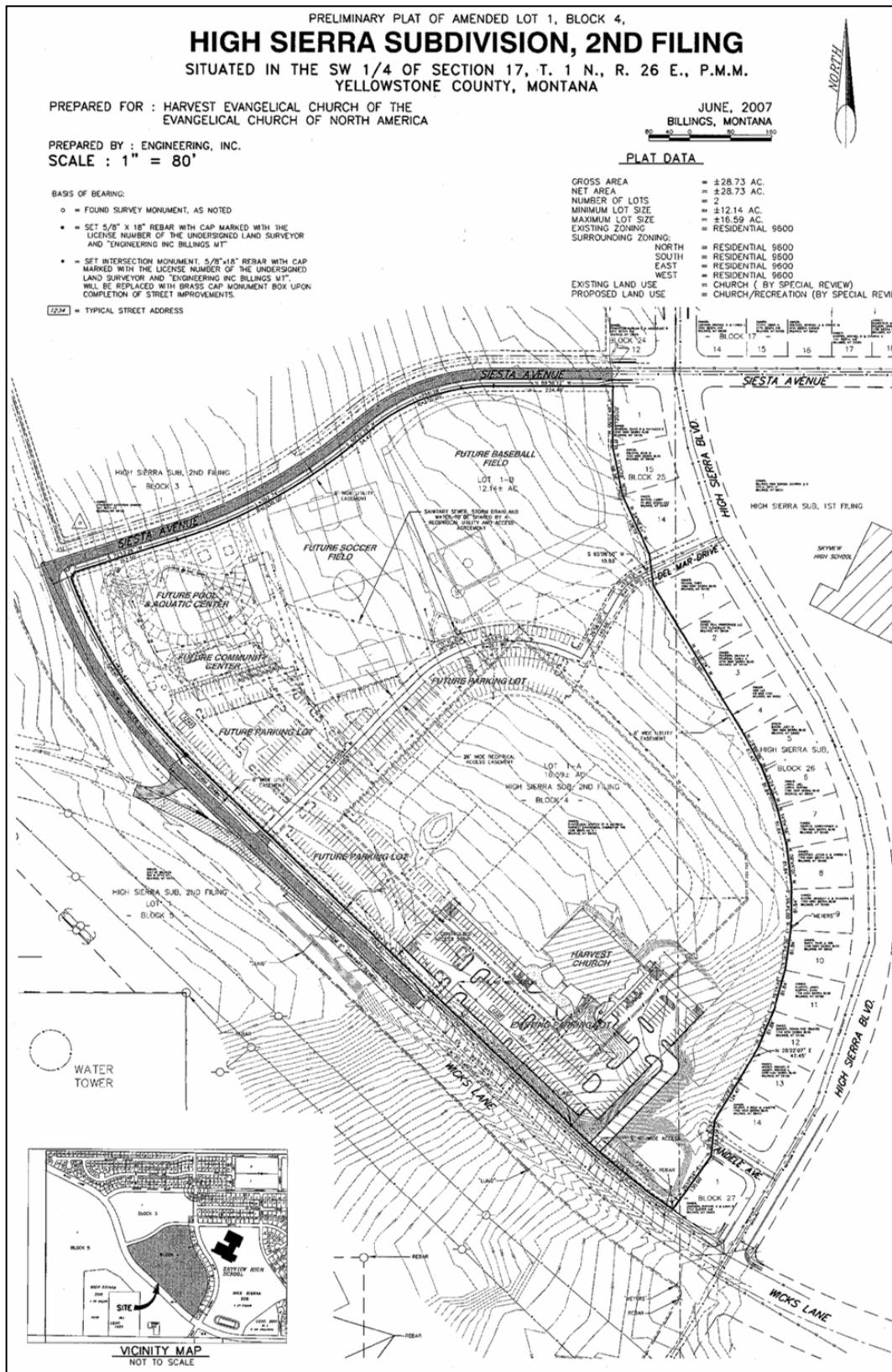
Staff recommends conditional approval of the preliminary subsequent minor plat of Amended Lot 1, Block 4, High Sierra Subdivision, 2nd Filing, approval of the variance, and adoption of the Findings of Fact as presented in the staff report to the City Council.

ATTACHMENTS

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

ATTACHMENT A

Preliminary Plat of Amended Lot 1, Block 4, High Sierra Subdivision, 2nd Filing



ATTACHMENT B
Site Photographs



Figure 1: View east toward existing single family residences.



Figure 2: View north across the subject property toward the adjacent range uses.

ATTACHMENT C
Variance Findings Submitted by Subdivider's Representative



ENGINEERING, INC.
Consulting Engineers and Land Surveyors

April 18, 2007

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

Reference: Request for Variance
Amended Lot 1, Block 4, High Sierra Subdivision, Second Filing
E.I. No. 82061.58

Dear Aura:

I am submitting this letter to request a variance for the non-typical street section in Wicks Lane adjacent to the proposed Amended Lot 1, Block 4, High Sierra Subdivision, Second Filing properties.

The subdivision regulations require a 64-foot to 86-foot back to back curb width for principal arterials. Harvest Church is proposing a 24-foot wide asphalt paved section with borrow ditches in lieu of curb and gutter. The proposed section is consistent with what was approved and constructed under the Harvest Church Phase I project, Private Contract No. 488. This is also consistent with the street section east and north of the subdivision.

The following paragraphs address the five facts of hardship as required in the Subdivision Regulations Section 23-1101(A).

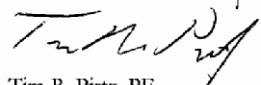
1. The granting of the variance will not be detrimental to the public health, safety, or general welfare, or injurious to other joining properties, because the street width is adequate to handle the projected traffic volumes for the area. As future growth in the area requires a wider section, the road will be widened to provide an additional two lanes or more separated with a depressed median.
2. The hardship to build a road to arterial standards at this time is mostly economical. The immediate area is not developed to a point which would require a full-width arterial. If the full arterial width were required, then the City and Harvest Church would have to pay all of the costs, since they are the adjacent property owners at this section of Wicks Lane.

Ms. Aura Lindstrand
April 18, 2007
Page 2

3. The variance will not result in an increase in taxpayer burden because building a wider section to meet the arterial minimum widths would require the City to share in the cost, since the City is the owner of the property on the other side of Wicks Lane.
4. The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations or Growth Policies. The future widening, when required, can be completed without having to obtain additional right-of-way.
5. The proposed design is equally effective, given the small traffic volumes projected for this stretch of Wicks Lane.

I hope I have provided enough information required for the variance. Feel free to call if you have any questions.

Sincerely,



Tim R. Pirtz, PE

TRP/dml
P:82061_58_Lindstrand_Ltr_041807

ATTACHMENT D

Findings of Fact

Staff is forwarding the recommended Findings of Fact for the preliminary subsequent minor plat of Amended Lot 1, Block 4, High Sierra Subdivision, 2nd Filing for review and approval by the City Council. These findings are based on the preliminary plat application and supplemental documents and address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the City of Billings Subdivision Regulations (23-303(H)(2), BMCC).

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

1. Effect on agriculture and agricultural water user facilities

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

2. Effect on local services

- a. **Utilities** – Water and sewer to the subject property will be through shared onsite mains located within the private drive through the subdivision connected to Wicks Lane. In order to ensure the provision of water and sewer to multiple structures on each lot, Condition #3 requires that a Multiple Service Agreement be executed between the property owner and the Public Utilities Department.
- b. **Stormwater** – There is an existing storm drainage system along Siesta Avenue, which consists of curb, gutter, and surface collection that flows to existing development adjacent to the east of the subdivision. Stormwater runoff in Wicks Lane will be collected within borrow ditches until such time that the Wicks Lane improvements are completed. As specified in the submitted SIA, onsite storm drainage shall comply with the criteria set forth by the *City of Billings Stormwater Management Manual* and will be subject to review and approval by the Engineering Department.
- c. **Solid waste** - The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- d. **Streets** – Access to the proposed lots will be via a shared internal easement along the common boundary lines of the proposed lots from Wicks Lane to the west and Del Mar Drive to the east. An easement document was provided with the preliminary plat application and will be recorded with the final plat. Del Mar Drive is already constructed and will connect to the private internal street of the subdivision.

Wicks Lane is currently not constructed to city standards at this location. Therefore, as part of this application, the subdivider is requesting a variance from Section 23-406(B)(6), BMCC, to allow a 24-foot paved street width with a borrow ditch in lieu of curb and gutter for the Wicks Lane street frontage of the subdivision. While this variance is consistent with the existing road section which is intended to be widened in the future, the Engineering Department expressed concerns regarding the lack of curb and gutter for this street. The Engineering Department is supportive of the variance provided that a statement is added to the SIA that though curb and gutter is not initially

required, it will be required on Wicks Lane upon determination of an Urban Street Section, as required by Condition #2. In addition, the portion of Wicks Lane bordering the subdivision shall be completed within five years of the recordation of the final plat, as required by Condition #2.

Though it does not provide direct access to the subdivision, Siesta Avenue located along the northern border of the subdivision shall be constructed to a standard street width of 34-feet back to back of curb width with curb and gutter. Condition # 2 specifies that if the property to the north does not contribute to the construction of Siesta Avenue, it shall be constructed to a minimum of 24-feet of asphalt by this subdivider. The improvements to both Wicks Lane and Siesta Avenue will be constructed through private contracts, as specified within the SIA.

- e. **Emergency services** - The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 1601 St. Andrews Drive (Station #6).
- f. **Schools** – This is a commercial subdivision and should not impact schools.
- g. **Parks and Recreation** – A parkland dedication is not required for this subdivision, as it is being developed for commercial purposes and both lots are greater than 5 acres in size.

3. Effect on the natural environment

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

4. Effect on wildlife and wildlife habitat

The proposed subdivision should not affect wildlife or habitat. There are no known endangered or threatened species on the property. However, a statement has been added to the SIA, that lot owners should be aware that interactions with wildlife could occur and that any damage to property is the lot owner's responsibility.

5. Effect on the public health, safety and welfare

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

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

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

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

1. Yellowstone County-City of Billings 2003 Growth Policy

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

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

The proposed subdivision is consistent with the proposed assisted living facility to the north and the city and county parkland to the west.

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

The property is located within an existing subdivision in an urbanized portion of the city and is considered infill development.

2. Urban Area 2005 Transportation Plan Update

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

3. Heritage Trail Plan

A Heritage Trail corridor is not identified within this subdivision.

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

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

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

The property will be served by public water and sewer through a shared onsite system from Wicks Lane and Del Mar Drive.

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

A special review to permit the intended recreational, school, and church uses was approved for the subject property in 2003, and amended in 2007. Development of the lots shall occur in conformance with the Master Plan for Harvest Church. Any modifications of the Master Plan shall require an additional special review.

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

The subdivider is proposing 8-foot wide utility easements around the perimeter of the property, as requested by the Montana Dakota Utilities Company and Northwestern Energy at the pre-application meeting. However, the City Engineering Department will continue to work with the utility companies to provide easements in acceptable locations on the plat. The City maintains that utility easements provided on front lot lines creates conflicts with sanitary water and sewer lines and have requested that they be located on the rear and sides of lots for public health and safety. Condition #1 requires the subdivider to work with the City Engineering Division and the private utility companies to provide acceptable utility easements on the plat.

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

Access to the lots will be via a private internal drive from Wicks Lane and Del Mar Drive.

CONCLUSIONS OF FINDING OF FACT

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

Approved by the Billings City Council, July 9, 2007

Ron Tussing, Mayor

ATTACHMENT D
Mayor's Approval Letter

July 9, 2007

Harvest Evangelical Church
1235 Wicks Lane
Billings, MT 59105

Dear Applicant:

On July 9, 2007, the Billings City Council conditionally approved the preliminary plat of Amended Lot 1, Block 4, High Sierra Subdivision, 2nd Filing, subject to the following conditions of approval:

1. To ensure the provision of easements and minimize effects on public health and safety, the subdivider shall work with the City Engineering Division and the private utility companies to determine suitable locations for utility easements. These easements shall be depicted on the plat. *(Recommended by the Engineering Division)*
2. To minimize effects on local services and ensure connectivity for city streets, the following information shall be added to Section III of the Subdivision Improvements Agreement (SIA), as required by the City Engineering Department:
 - If the property to the north does not contribute to the construction of Siesta Avenue, it shall be constructed to a minimum of 24-feet of asphalt by this subdivider.
 - The construction of Wicks Lane shall be completed along the frontage of both Lots 1A and 1B within five years of the date the plat is recorded.
 - Curb and gutter along Wicks Lane is a required improvement. The curb and gutter does not need to be installed within the initial construction of Wicks Lane, however, if Wicks Lane is determined to be constructed to an Urban Section in the future, curb and gutter will be required. This shall be included in both Sections I and III of the SIA.
3. To ensure provisions of public utilities, Sections VI. A and B shall be revised to include that a multiple service agreement shall be entered into with the City of Billings Public Works Department and recorded with the Yellowstone County Clerk and Recorders Office. *(Recommended by the Public Utilities Department)*
4. Any language changes or revisions to the Waiver of Right to Protest included with this subdivision shall be subject to review by the City Attorney.
5. 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.

6. 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.

In addition, the City Council also approved the following variance with this preliminary plat approval:

- A variance from Section 23-406(B)(6), BMCC, to allow a 24-foot paved street width with a borrow ditch in lieu of curb and gutter for the Wicks Lane street frontage of the subdivision.

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

Sincerely,

Ron Tussing, Mayor

Pc: Tim Pirtz, PE, Engineering, Inc.

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 9, 2007

TITLE: Preliminary Plat Lot 4, Block 2, Goodman Subdivision, 4th Filing
DEPARTMENT: Planning and Community Services
PRESENTED BY: David Green, Planner I

PROBLEM/ISSUE STATEMENT: On June 1, 2007, the Planning Department received an application for a subsequent minor plat approval for Lot 4, Block 2, Goodman Subdivision, 4th Filing, which contains two lots on approximately 103,673 square feet (2.38 acres) of land for commercial and professional development. The proposed subdivision is located on 41st Street West between Avenue B and Avenue C. The owners are Jeff Muri, Randy Swenson, and Steve Repac. The representing agent is Stephen Zabriskie with Engineering Incorporated.

ALTERNATIVES ANALYZED: In accordance with state law, the City Council has 35 working days to act upon this minor plat; the 35 working day review period for the proposed plat ends on July 20, 2007. State and City subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated. Within the 35 day review period, the City Council is required to:

4. Approve;
5. Conditionally Approve; or
6. Deny the Preliminary Plat

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

RECOMMENDATION

Staff recommends conditional approval of the preliminary plat of Lot 4, Block 2, Goodman Subdivision 4th Filing, and adoption of the Findings of Fact as presented in the staff report to the City Council.

Approved by: City Administrator _____ City Attorney _____

ATTACHMENTS

- F. Preliminary Plat
- G. Site Photographs
- H. Findings of Fact
- I. Mayor's Approval Letter

INTRODUCTION

On June 1, 2007, the subdivider applied for preliminary plat approval for a subsequent minor subdivision of Lot 4, Block 2, Goodman Subdivision 4th Filing. The subject property contains 103,673 square feet (2.38 acres) of land for commercial residential professional development. The surrounding property zoning is; North, Residential Multi-Family Restricted (RMF-R), South, Residential 9600 (R-96), East, Community Commercial (CC), and West, RMF-R.

PROCEDURAL HISTORY

- The preliminary plat application was submitted to the Planning Department on June 1, 2007.
- The City Council will consider the preliminary plat application on July 9, 2007.

BACKGROUND

General location:	41 st Street West between Avenues B and C
Legal Description:	Lot 4, Block 2, Goodman Subdivision 4 th Filing
Subdivider:	Jeff Muri, Randy Swenson, and Steve Repac
Owner:	Same
Engineer and Surveyor:	Engineering Incorporated
Existing Zoning:	RMF-R and Residential Professional (RP)
Existing land use:	Vacant
Proposed land use:	Offices and Vacant
Gross area:	103,673 square feet
Net area:	103,673 square feet
Proposed number of lots:	2
Lot size:	Max: 67,082 square feet (1.54 acres) Min.: 35,590 square feet (0.84 acres)
Parkland requirements:	A parkland dedication is not required, as this is a subsequent minor subdivision.

ALTERNATIVES ANALYSIS

One of the purposes of the City's subdivision review process is to identify potential negative effects of property being 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 Findings of Fact, which are presented as an attachment, discuss the potential negative impacts of the subdivision and the following conditions of approval are recommended as measures to further mitigate any impacts.

RECOMMENDED CONDITIONS OF APPROVAL

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

1. To ensure the provision of easements and minimize effects on public health and safety, the subdivider shall work with the City Engineering Division and the private utility companies to determine suitable locations for utility easements. These easements shall be depicted on the plat. (*Recommended by the Engineering Division*)
2. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Engineering Departments to clarify the documents and bring them into the standard acceptable format.
3. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of City of Billings, and the laws and Administrative Rules of the State of Montana.

VARIANCES REQUESTED

None requested

STAKEHOLDERS

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

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

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

RECOMMENDATION

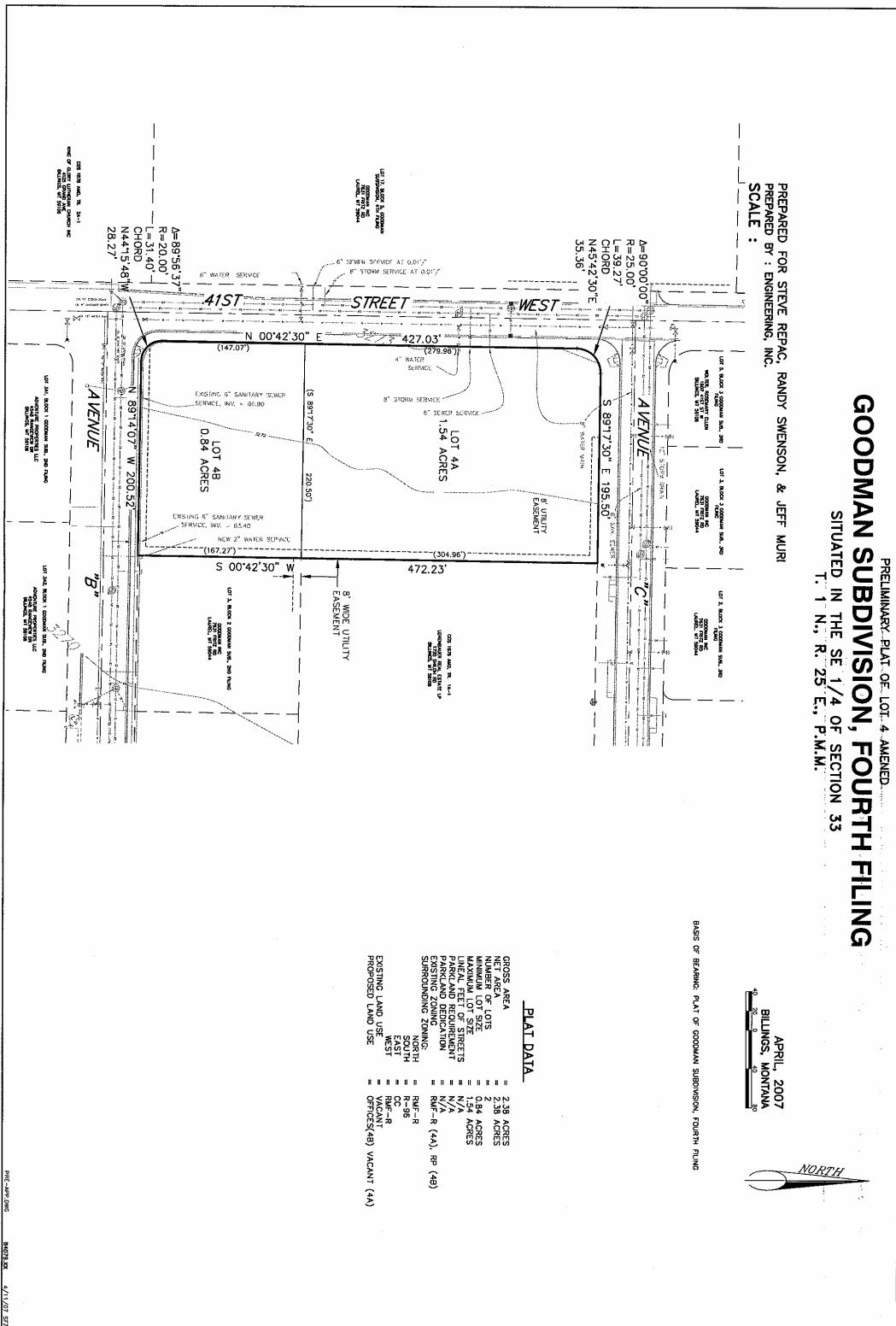
Staff recommends conditional approval of the preliminary plat of Lot 4, Block 2, Goodman Subdivision 4th Filing, and adoption of the Findings of Fact as presented in the staff report to the City Council.

ATTACHMENTS

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

ATTACHMENT A

Preliminary Plat of Lot 4, Block 2, Goodman Subdivision 4th Filing



ATTACHMENT B
Site Photographs



Looking north across existing property.



Looking south across Avenue B toward Grand Avenue.



Looking East on Avenue B



Looking west across 41st Street West

ATTACHMENT C

Findings of Fact

Staff is forwarding the recommended Findings of Fact for Lot 4, Block 2, Goodman Subdivision 4th Filing for review and approval by the City Council. These findings are based on the preliminary plat application and supplemental documents and address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the City of Billings Subdivision Regulations (Sections 23-304(c), BMCC).

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

1. Effect on agriculture and agricultural water user facilities

The subject property currently contains a residence; there is no anticipated effect on agricultural lands or wildlife habitat.

2. Effect on local services

- e. **Utilities** – There are water lines and sanitary sewer lines available to the site from the surrounding streets. The property owner will be responsible for all connection fees and improvement cost as stated in the SIA.
- f. **Storm water** – As specified in the submitted SIA, there is currently a storm water stub connection to both proposed lots. The development of each lot will be subject to all construction and connection fees to the existing storm water system.
- 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** - Access to proposed Lot 4-A will be from either 41st Street West and Avenue C, access to proposed Lot 4-B will be from either 41st Street West and Avenue B.
- h. **Emergency services** - The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 604 South 24th Street West (Station #5). When the fire station is constructed on 54th Street West that station will be closer. The subdivision is located within the ambulance service area of American Medical Response.
- i. **Schools** –Schools for this subdivision are; High School; West, Middle School; Will James, Elementary School; Arrowhead. There were not comments from the schools. If developed for commercial uses, there will be no impact to schools.
- j. **Parks and Recreation** - A parkland dedication is not required, as this is a subsequent minor subdivision.

3. Effect on the natural environment

The proposed subdivision should have only minor effects on the natural environment, as there will be short term air and noise pollution associated with construction on the property.

4. Effect on wildlife and wildlife habitat

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

5. Effect on the public health, safety and welfare

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

B. Was an Environmental Assessment required? (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 and 23-901, BMCC.

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:

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

The proposed offices on the site in this section of the subdivision are consistent with the surrounding commercial uses in neighborhood.

- d. 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 zoned RMF-R and RP. The properties to the east are zoned the same as this parcel; the proposed subdivision is consistent with the neighborhood for commercial and residential professional development.

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

The subject property is within the City and there are existing residential properties to the west with commercial developments to the east and south; this could be considered infill development.

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 Heritage Trail Master Plan has no trail through this portion of the subdivision.

4. West Billings Plan

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

- The development is within a Community Center node.

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

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

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

The property is served by City of Billings water, sewer and solid waste services.

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

The subject property is located within RMF-R and RP zoning districts and complies 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 (23-410(A)(1), BMCC)]

The City Engineering Department will work with the utility companies to provide easements in acceptable locations on the plat. The City maintains that utility easements provided on front lot lines creates conflicts with sanitary water and sewer lines and have requested that they be located on the rear and sides of lots for public health and safety. Condition #1 requires the subdivider to work with the City Engineering Division and the private utility companies to provide acceptable utility easements on the plat.

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

Accesses from 41st Street West and Avenues B and C will provide legal and physical access to the lots.

CONCLUSIONS OF FINDING OF FACT

- The preliminary plat of Lot 4, Block 2, of Goodman Subdivision 4th Filing does not create any adverse impacts that warrant denial of the subdivision.

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

Approved by the Billings City Council, July 9, 2007

Ron Tussing, Mayor

ATTACHMENT E
Mayor's Approval Letter

July 9, 2007

Jeff Muri, Randy Swenson, and Steve Repac
1533 Clark Avenue
Billings, Montana 59102

Dear Applicant:

On July 9, 2007, the Billings City Council conditionally approved the preliminary plat of Lot 4, Block 2, of Goodman Subdivision 4th Filing, subject to the following conditions of approval:

1. To ensure the provision of easements and minimize effects on public health and safety, the subdivider shall work with the City Engineering Division and the private utility companies to determine suitable locations for utility easements. These easements shall be depicted on the plat. (*Recommended by the Engineering Division*)
2. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Engineering Departments to clarify the documents and bring them into the standard acceptable format.
3. 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 Dave Green with the Planning Division at 247-8654 or by email at greend@ci.billings.mt.us.

Sincerely,

Ron Tussing, Mayor

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

S

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 9, 2007

TITLE: Final Plat of MK Subdivision

DEPARTMENT: Planning and Community Services

PRESENTED BY: David Green, Planner I

PROBLEM/ISSUE STATEMENT: The final plat of MK Subdivision is being presented to the City Council for approval. The subject property is zoned Community Commercial and Neighborhood Commercial and is located on the northwest corner of Grand Avenue and 54th Street West. On April 9, 2007, the City Council conditionally approved the 5-lot minor plat on 11.59-acres of land for commercial development. Mary Kramer, owner, the representing agent is Charlie Gamble with Engineering Incorporated providing engineering services.

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

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

RECOMMENDATION

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

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

ATTACHMENT

A: Final Plat

ATTACHMENT A

Final Plat

BEING LOT 65A-4 OF THE AMENDED PLAT OF LOT 65A OF THE PLAT OF
AMENDED LOTS 65-66, 93-100, AND 125-128 OF SUNNY COVE FRUIT FARMS
SITUATED IN THE SE¹/4 OF SECTION 31, T. 1 N., R. 25 E., P.M.M.
IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA
PREPARED FOR : MARY KRAMER
PREPARED BY : ENGINEERING, INC.
SCALE : 1¹ = 60'
APRIL 20
BILLINGS, MONTANA
80 20 00

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T1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, July 9, 2007

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

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$1,781,369.28 have been audited and are presented for your approval for payment. A complete listing of the claims dated June 8, 2007, is on file in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

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

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

T2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 9, 2007

TITLE: Payment of Claims

DEPARTMENT: Administration – Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$477,524.93 have been audited and are presented for your approval for payment. A complete listing of the claims dated June 15, 2007, is on file in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

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

ATTACHMENT:

A -- List of claims greater than \$2500

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 9, 2007

SUBJECT: Public Hearing and Approval of Resolution Approving and Adopting a Budget Amendment for Fiscal Year 2006/2007

DEPARTMENT: Administration-Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: Budget adjustments are requested for Fiscal Year 2006/2007. The budget adjustments for the 4th quarter of the FY07 are as follows:

The Cemetery Trust and Cemetery Mausoleum Funds request budget authority to transfer interest earnings in excess of estimated amounts to the General Fund.

The Development Services Grant Writing Fund requests increased budget authority for supplies and professional training. The fund's grant writing revenues are up by the same amount.

The Parks G.O. Bond Construction Fund requests budget authority to increase the capital projects account for bike trail construction. Federal CTEP bike trails grant revenue monies were received to pay for the additional construction.

The Fire Station #7 Construction Fund's capital expenditures are greater than budgeted because the actual contract award exceeds original estimates. Therefore, the following funds request additional budget authority:

Fire Station #7 Construction Fund capital account (for the actual construction),
Solid Waste Fund loan to Public Safety Fund account (to finance the construction),
Public Safety Fund loan proceeds account (to receipt the loan),
Public Safety Fund transfer to the construction fund account (to transfer from the public safety fund to the construction fund), and
Fire Station #7 Construction Fund transfer from the Public Safety Fund account.

The Sidewalk, Curb and Gutter Construction Fund and the SID Debt Service Revolving Fund are requesting budget authority to make transfers from one to the other. As sidewalk projects are completed, asset and liability account balances are transferred to the SID Debt Service Revolving Fund. When assets exceed liabilities, the resulting transfer is from the construction fund to the revolving fund. When liabilities exceed assets the transfer is from the revolving fund to the construction fund. Because completed projects include both situations budget adjustments are request for transfers from the SID Revolving fund and from the Sidewalk, Curb and Gutter Construction Fund.

The Health Benefit Fund is requesting budget authority to increase claims expenditures. Increased Stop Loss Claim Revenues is sufficient to offset increased claims due to major medical costs incurred by covered participants.

The General Fund – Municipal Court requests additional budget authority for increased costs in supplies and contract labor.

Public Safety – Police requests additional budget authority for police salaries.

General Fund – Code Enforcement requests additional budget authority for weed abatement due to a severe weed problem created by above normal precipitation this spring.

RECOMMENDATION

Staff recommends that the City Council conduct a public hearing and approve the resolution approving and adopting the budget amendment for Fiscal Year 2006/2007 per attached.

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

ATTACHMENT

A-Resolution to Make Fiscal Year 2006/2007 Adjustment Appropriation (with Exhibit A)

Attachment A

RESOLUTION 07-

**A RESOLUTION TO MAKE FISCAL YEAR 2007
ADJUSTMENTS APPROPRIATIONS PURSUANT TO M.C.A. 7-
6-4006 AS AMENDED, AND PROVIDING TRANSFERS AND
REVISIONS WITHIN THE GENERAL CLASS OF SALARIES
AND WAGES, MAINTENANCE AND SUPPORT AND
CAPITAL OUTLAY.**

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

WHEREAS, based upon construction needs, it is necessary to alter and change said appropriations.

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

That the attached transfers or revisions are hereby adopted.

(SEE EXHIBIT)

PASSED AND APPROVED by the City Council, this 9th day of July, 2007.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 9, 2007

TITLE: Public Hearing and First Reading for the Proposed Amendments to City Code Section 6-1200 Concerning Allowable Driveway Widths, Curb Cut Location From an Intersection, and Curb Cut Separation on Arterial Roads

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: The Home Builders Association of Billings has previously contacted the Public Works Department asking for a review of the allowable driveway widths in single-family residential zoned districts and multifamily and professional zoned districts. Following this request the Public Works Department reviewed the existing requirements for these driveway widths. Staff also contacted 13 other cities in Montana, Washington, Colorado, Oregon, Minnesota, North Dakota, California and Alaska to research their current standards. Following this, staff had two meetings with the Home Builders Association. The proposed modifications to this section of city code reflect the consensus of Public Works staff, Planning Department staff and the Home Builders Association. In addition, Public Works staff desires to modify the existing city code language on curb cut locations from an intersection and curb cut separation on Arterial Roads which are also in this same section of city code. These proposed modifications are found in Section 6-1208 (h) (i) and (j) as indicated by underlines and strikeout. The first reading and public hearing on this ordinance will be conducted at this meeting. The second reading of the ordinance will be conducted on July 23, 2007.

FINANCIAL IMPACT: There is no financial impact to the City if the proposed amendments are adopted by the Mayor and City Council.

RECOMMENDATION

Staff recommends that City Council hold the public hearing and approve the first reading of this ordinance modifying allowable driveway widths, curb cut locations from an intersection, and curb cut separation on arterial roads.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENT

A. Draft Amendments to Section 6-1200 of the Billings City Code

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTION 6-1208; PROVIDING CHANGES TO CERTAIN CURB CUT LENGTHS AND REGULATIONS.

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

Section 1. That Section 6-1208 of the Billings, Montana City Code be amended so that such section shall read as follows:

“Sec. 6-1208. Curb cut regulations.

- (a) *Purpose.* The purpose of this section is to standardize, regulate and control the location, size, type, construction, maintenance and quantity of curb cuts, driveway aprons, and sidewalk driveway crossings in the city from the standpoint of proper design, safe and efficient entry to and exit from city streets to private property, safety of vehicular traffic in the streets, and safety of pedestrian traffic on the sidewalk area.
- (b) *Definitions.* For the purpose of this section, the following definitions shall apply:

Alley shall mean a narrow public thoroughfare, providing access to the rears of the abutting properties.

Curb cut shall mean the total street curbing that is removed to place a driveway and slopes.

Curb return shall mean the curved portion of a street curb at drive approaches.

Driveway shall mean that area on private property where vehicles are operated, parked or allowed to stand.

Driveway apron shall mean the area, construction or improvement between the curb cut or proposed curb line and the back edge of walk or proposed walk line, to provide ingress and egress for vehicles from the alley, street or roadway to a definite area of the private property.

Driveway width shall mean that portion of the street curbing that is removed excluding curb returns or transitions to provide ingress to and egress from abutting property.

Intersection shall mean the area embraced within the prolongation or connection of the lateral curb lines, or if none, then the lateral boundary lines of the roadways which join each

other at, or approximately at, right angles, or the area within which vehicles traveling upon different roadways joining at any other angle may come in conflict.

Right-of-way shall mean public property dedicated for streets, alleys or other public uses.

Roadway shall mean that portion of a street improved, designed and customarily used for vehicular travel, exclusive of the berm or shoulder.

Sidewalk shall mean that portion of a street between curb lines or the outer lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.

Street shall mean the entire width between the boundary lines of the right-of-way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Traffic shall mean pedestrians, vehicles, and other conveyances, either singly or together, while using any street, alley or roadway for purposes of travel.

Transitions shall mean the three-foot ramp sections along the street curb on each side of a driveway apron.

(c) *Permit required.* It shall be unlawful for any person either as owner, agent, servant, contractor or employee to cut, break, remove or alter any curbing, driveway apron or sidewalk, or cause to have cut, broken or removed any curbing, driveway apron or sidewalk, or to install or cause to have installed any driveway, or any vehicular access, on any public right-of-way in the city without a permit. Permits shall be issued only to properly licensed and bonded contractors by the city after payment of fees as prescribed by council resolution. At the time the permit application is made, the city shall be advised of any parking meters, traffic or street signs, signal poles, street light poles, fire plugs, trees or obstructions that will be affected by the placement or removal of the driveway or sidewalk.

(d) *Accessibility study.* If any proposed site development will generate five hundred (500) or more vehicle trips per day, a traffic accessibility study shall be required before any developmental permit is issued. A vehicular trip is defined as a one-way journey of a motorized vehicle. If the study indicates a need for the installation of traffic-control devices to regulate traffic flow generated by the facility, such traffic-control devices shall be installed at the expense of the owner of the facility. The study shall include but not be limited to:

- (1) Estimated number of vehicular trips per day;
- (2) Location of approaches;
- (3) Circulation and channelization patterns;
- (4) Location and type of traffic-control devices;

- (5) Pedestrian systems;
- (6) Bicycle systems;
- (7) Projected turning movements; and
- (8) Impact on surrounding existing street intersections.

(e) *Consent of property owner required.* Before a permit is granted for the removal of the curb and/or the construction of a driveway on any street, the applicant for the driveway permit must produce evidence satisfactory to the city to show that the construction of such driveway is agreeable to and in accordance with the desire of the owners of the property to which such driveway will be an entrance.

(f) *Fees.* Permit, inspection and service fees shall be charged by the city as prescribed by council resolution.

(g) *City to furnish inspector.* The city shall furnish an inspector to inspect every piece of curb, driveway and driveway apron to be constructed, whose duties shall be to check the forms for alignment, grade and materials and to see that the work is done in accordance with the specifications of the city at the time of the issuance of the permit. The city shall be notified at least twenty-four (24) hours in advance of the time when the work is proposed to be started.

(h) *Allowable curb cut lengths widths:*

- (1) In single-family residential zoned districts, the maximum driveway width shall be twenty four (24) thirty (30) feet and shall be located in accordance with city specifications or drawings. For lots or parcels with more than 25 feet of frontage, the total combined width of all driveways shall not exceed 50% of the frontage of that parcel or lot. The minimum distance between curb cuts serving the same lot or parcel shall be twenty-five (25) feet.
- (2) In any multifamily ~~and professional~~ zoned districts, the maximum driveway width shall not exceed twenty four (24) thirty six (36) feet and shall be located in accordance with city specifications or drawings. The minimum distance between curb cuts shall be twenty-five (25) feet except in the case where two driveways serve side-by-side duplex units a minimum six (6) foot separation distance is required between the two driveways.
- (3) In ~~any~~ all commercial, ~~professional~~ and industrial zoned districts, the maximum driveway width shall be thirty (30) feet except driveway widths for service stations and trucking businesses may be up to forty (40) feet when approved by the city, and shall be located in accordance with city specifications and drawings. The minimum distance between curb cuts shall be twenty-five (25) feet.
- (4) In any allowable location, no driveway width shall be less than twelve (12) feet wide.

(5) Frontages of sixty (60) feet or less shall be limited to one (1) driveway. Not more than two (2) driveways shall be provided to any single property tract or business establishment, except where the property frontage exceeds six-hundred (600) feet, there may be one (1) additional driveway for each additional three hundred (300) feet of frontage. In cases where parcels have more than one street frontage, each frontage shall be treated separately when determining the allowed number of driveways.

(i) *General regulations.* Every curb cut and driveway apron constructed or altered in the street right-of-way shall conform to the following regulations:

- (1) No driveway apron shall be constructed closer than five (5) feet from the side property line or as may be regulated by city specifications in effect at the time of such work.
- (2) No driveway apron shall be closer than five (5) feet to, nor shall it be so located as to interfere with, intersecting sidewalks, utility facilities, light standards, fire hydrants, catch basins, street signs, signals or other public improvements or installations.
- (3) Any necessary adjustments to such utility facilities, light standards, fire hydrants, catch basins, street signs, signals, underground conduits for street lighting or fire alarm systems, or other public improvements or installations shall be accomplished without cost to the city.
- (4) No curb cut shall be made between the points of curvature of any curb radius at intersections, nor closer than ten (10) feet from the points of curvature except along arterial streets or streets intersecting an arterial at a signalized intersection any curb cut shall be one hundred (100) feet from the corner. The location of curb cuts for lots or parcels along arterial streets having less than 100 feet of frontage shall be approved by the City Engineer or their designee.
- (5) No curb cut or driveway apron shall be located so as to create a hazard to pedestrians or motorists, or to invite or compel illegal or unsafe traffic movements.
- (6) Every curb cut and/or driveway apron must provide complete access to a parking space, building or loading dock on private property requiring the entrance of vehicles.
- (7) In any commercial, professional or industrial zone, driveways shall be designed such that vehicles entering or egressing shall not be required to back from or into a street right-of-way.

- (8) All curb cuts and driveway aprons are to be constructed of portland cement concrete of a quality and type as specified by the city, and in accordance with city specifications in effect at the time of such work. Curb cuts shall be permitted only with construction of adjoining portland cement concrete aprons having a minimum depth of five (5) feet.
- (9) All work shall be done under the supervision of the city, and in accordance with city specifications in effect at the time of such work.
- (10) The licensed and bonded contractor or his or her agent doing the construction or alteration work shall maintain the premises in a safe manner and shall provide adequate barricades and lights at his or her own expense to protect the safety of the public using the adjacent streets or sidewalks, and shall hold the city free from any damages incurred by his or her operations.
- (11) The angle between any driveway apron and the street and/or curb line shall be ninety (90) degrees to the street tangent or on a radial line to the street curve.
- (12) The two (2) side borders of each driveway apron between the curb line and property line shall be parallel.
- (13) The city street right-of-way shall not be used for private commercial purposes. A permit for the construction of a curb cut driveway shall not be issued unless vehicles which will use the driveway can be parked entirely within the private property lines.
- (14) Any curb cut or driveway apron which has become abandoned or unused through a change of the conditions for which it was originally intended shall be closed and the owner shall replace any such curb cut and/or driveway apron with a standard curb and sidewalk (if necessary) to be constructed according to the city specifications in effect at the time of such work. If the owner does not make such replacement within sixty (60) days after notice, the city may do so at the expense of the owner.
- (15) Driveways serving facilities that will generate five hundred (500) or more vehicle trips per day may, at the discretion of the city, be classified and constructed as a street intersection. A complete design of the intersection shall be submitted to the city before a permit is issued. Approval of this type entrance may be contingent upon the applicant installing traffic-control devices at his or her sole expense. This type of entrance shall be included in calculating number, spacing, or any other requirement pertaining to driveways as specified herein.

(j) *Restrictions.* In addition to the general regulations prescribed herein, curb cuts and driveway aprons to be constructed or altered in districts must conform to the following:

- (1) Where a property abuts more than one city street, the maximum curb cut permitted on each street shall be considered separately and shall be governed by the frontage of the property on that street.
- (2) Two (2) or more curb cuts serving the same property must be separated by islands with full height curb not less than twenty-five (25) feet long except on arterial roads where there shall be a minimum of one hundred (100) feet of separation.
- (3) Where a property width is sixty (60) feet or less, joint curb cut with an adjoining property of sixty (60) feet or less may be constructed at a maximum width of twenty-eight (28) feet. Both property owners must be in agreement to a joint curb cut and must submit a written agreement to the city.

(k) *Deviation.* Permission to deviate from the requirements and regulations of this section shall be granted by the city council only where unusual conditions or strict adherence to this section would cause undue and extreme hardship.”

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

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

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

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

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

CITY OF BILLINGS

By _____
Mayor

ATTEST:

By _____
Cari Martin, City Clerk

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