

RESOLUTION NO. 06-18487

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

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

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

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

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

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

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

*Starting at the intersection of Montana Avenue and North 22nd Street, extending north down the centerline of North 22nd to the intersection of North 22<sup>nd</sup> Street and 8<sup>th</sup> Avenue North, extending east down the centerline of 8th Avenue North to the intersection of 8<sup>th</sup> Avenue North and North 19th Street, extending south down the centerline of North 19<sup>th</sup> Street to the intersection of North 19<sup>th</sup> Street and 7<sup>th</sup> Avenue North, extending east along the centerline of 7<sup>th</sup> Avenue North to the intersection of North 18<sup>th</sup> Street and 7<sup>th</sup> Avenue North, extending south down the centerline of North 18<sup>th</sup> Street to be perpendicular with the northern most edge of property line of LT 23 & 24 BLK 274 BILLINGS 1<sup>ST</sup> ADD, T01NR26E, extending east along the Northern edge of LT 23 & 24 BLK 274 BILLINGS 1<sup>ST</sup> ADD, T01NR26E and hence eastward including in their entirety the southern most properties most directly adjacent to 6th Avenue North to the city boundary line, extending southerly and westerly along the city boundary lines to the northern edge of the rail road tracks, extending west*

*along the northern edge of the railroad tracks to the centerline of North 22<sup>nd</sup> Street, extending north along the centerline of North 22<sup>nd</sup> Street to the ending point at the intersection of Montana Avenue and North 22nd Street. Excluding the non-incorporated land that envelops the empire steel property LTS 3 TO 23 & VAC 10FT ADJ ALLEY & E 404T ADJ N 16<sup>TH</sup> ST BLK 258 & 259.*

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

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

#### Flooding

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

#### Vacant Properties

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

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

#### More Appropriate Application for Housing

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

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

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

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

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

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

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

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

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

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

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

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

**Underdeveloped Utilities**

The further east in the district the fewer and less developed and reliable the underground utilities of water, sanitary sewer, and storm sewer are. In many instances utilities are not only lacking but also missing for certain properties. The dividing line for this distinction appears where the city boundaries predominantly end with a line that runs north and south between North 12<sup>th</sup> and North 10<sup>th</sup> Streets. This underdevelopment of utilities predominantly and adversely affects the properties to the east of this dividing line.

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

**Protecting Public Health**

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

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

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

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

*([http://www.epa.gov/brownfields/tools/tti\\_pub\\_hlt.htm](http://www.epa.gov/brownfields/tools/tti_pub_hlt.htm))*

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

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

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

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

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

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

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

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

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

**3. Intent to Create an Urban Renewal Area with Tax Increment Authority.**

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

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

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

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

ADOPTED by the City Council of the City of Billings, Montana, this 25th day of September, 2006.

CITY OF BILLINGS:

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Ron Tussing, Mayor

Attest: \_\_\_\_\_  
Marita Herold, CMC/AAE City Clerk