

AGENDA REPORT

DATE October 5, 2004

ITEM Public Hearing – Annexation Resolution No. 9426, Minor Plat, Findings of Fact, Annexation Agreement and Assignment of Easement all related to Mount Olivet Subdivision

INITIATED BY Roman Catholic Bishop of Great Falls, Property Owner

ACTION REQUESTED Commission Adopt Resolution No. 9426 and Approve Minor Plat, Findings of Fact, Agreement, and Assignment of Easement

PREPARED BY Bill Walters, Senior Planner

APPROVED & PRESENTED BY Ben Rangel, Planning Director

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**RECOMMENDATION:**

The City-County Planning Board has recommended the City Commission approve the Minor Plat of Mount Olivet Subdivision and the accompanying Findings of Fact and annex Lot 2, Block 1, therein.

**MOTION:**

“I move the City Commission adopt Resolution No. 9426 and approve the Minor Plat and Findings of Fact for Mount Olivet Subdivision, the assignment of easement and the Annexation Agreement for Lot 2, Block 1, therein.”

**SYNOPSIS:**

Resolution No. 9426 annexes Lot 2, Block 1, Mount Olivet Subdivision. Subject Lot 2 consists of 13 acres located immediately east of Mount Olivet Cemetery and is the proposed site for a monastery to accommodate up to ten members of the Poor Clares, a religious order of the Catholic Church. The accompanying Agreement contains terms and conditions associated with annexation of subject Lot 2.

**BACKGROUND:**

The Roman Catholic Bishop of Great Falls has submitted applications regarding the following:

- 1) Minor Plat of Mount Olivet Subdivision, containing 161.0 acres located between 26<sup>th</sup> Street South and the west boundary of Mountain View Terrace Addition.
- 2) Annexation of Lot 2, Block 1, of the Mount Olivet Minor Subdivision to the City of Great Falls.

The Mount Olivet Minor Subdivision will consist of two lots. Lot 1 contains the Mount Olivet Cemetery and the bulk of the remaining vacant Catholic Diocese property, which, for the near term, will remain outside the City Limits. Lot 2 consists of 13 acres located east of the Cemetery and is the proposed site for a monastery to accommodate up to ten members of the Poor Clares, a religious order of the Catholic Church.

For additional information, please refer to the attached vicinity map accompanying Resolution No. 9426 as Exhibit “A,” reduced copy of the minor plat and site plan for subject Lot 2.

Access to subject Lot 2 will be provided by a 40-foot easement through Lot 1 connected to 26<sup>th</sup> Street South as shown on the subdivision plat.

City water and sanitary sewer mains (8”) will be extended from the south terminus of 32<sup>nd</sup> Street South along the easterly boundary of Mountain View Terrace Addition to serve the planned development on Lot 2. The

Diocese has secured an easement between the south terminus of 32<sup>nd</sup> Street and Lot 2 to accommodate this utility extension. Easements are being provided on the Minor Plat to accommodate the water and sewer mains within Lot 2.

The site generally slopes to the east and development will incorporate a storm water detention facility and discharge features.

The Planning Board conducted a public hearing on the applications on July 13, 2004. Project engineer Jack Fisher responded to a Board inquiry on storm drainage. No proponents, opponents or public comments were presented during the hearing. At the conclusion of the hearing, the Planning Board passed a motion recommending the City and County Commission approve the Minor Plat of Mount Olivet Subdivision and the accompanying Findings of Fact and that the City Commission annex Lot 2 contained therein subject to the following conditions being fulfilled by the applicant:

- 1) The minor plat shall incorporate correction of any errors or omissions noted by staff including provision of an easement along the north boundary of Lot 1 to accommodate existing utilities and notation that 40 foot access easement for Lot 2 is subject to relocation.
- 2) The final engineering drawings and specifications for the required public improvements to service development within Lot 2 shall be submitted to the Public Works Department for review and approval prior to governing body approval of the minor plat.
- 3) An Annexation Agreement shall be prepared containing terms and conditions for annexation of Lot 2 including agreement by the applicant to install the required public improvements within two years of the date of annexation and to provide future utility easements to the boundaries of Lot 2 to accommodate eventual looping of the water main.
- 4) All applicable fees owed as a condition of plat or annexation shall be paid prior to governing body approval of the minor plat, including
  - a) annexation agreement fee \$200.00
  - b) annexation resolution fee 100.00
  - c) storm sewer fee (\$250/acre x 13.144 acres) 3,286.00
  - d) recording fees for annexation documents (\$6 per page) to be determined
- 5) Applicant assigning to City the appropriate easement to accommodate planned sanitary sewer and water mains between the southerly terminus of 32<sup>nd</sup> Street South in Mountain View Terrace Addition and the east boundary of subject Lot 2.

The above-mentioned conditions have been fulfilled.

Attach: Res. No. 9426  
Reduced Copy of Minor Plat  
Findings of Fact  
Annexation Agreement  
Site Plan  
Assignment of Easement

cc w/o attach: Joe Loncki, Business Manager, Diocese, 121 23<sup>rd</sup> St S

**FINDINGS OF FACT  
FOR  
MOUNT OLIVET  
MINOR SUBDIVISION  
SECTION 17, T20N, R4E  
CASCADE COUNTY, MONTANA  
(PREPARED IN RESPONSE TO 76-3-608(3)MCA)**

I. PRIMARY REVIEW CRITERIA

**Effect on Agricultural**

The tract of land to be subdivided is not currently being utilized for agricultural purposes. The subdivision will not interfere with any irrigation system or present any interference with agricultural operations in the vicinity. A portion of the area within the subdivision is a cemetery while the remainder is vacant. Land uses abutting the subdivision include high density multi-family apartments, retirement facilities, medical complexes, single family residences, and suburban acreage tracts.

**Effect on Local Services**

The one lot in the subdivision proposed to be developed will connect to City water and sewer systems. The cost of extending the utility systems will be paid by the subdivider. The City should not experience an appreciable increase in maintenance and operating costs. The occupants of the single lot in the subdivision proposed to be developed will pay regular water and sewer charges.

The lot in the subdivision proposed to be developed will receive law enforcement and fire protection services from the City of Great Falls. The nearest fire station is two miles from the subdivision site. Providing these services to the lot proposed to be annexed to the City is expected to be a negligible cost to the City. Any increased costs likely will be covered by increased tax revenues from improved properties.

The subdivision is accessible from 26<sup>th</sup> Street South, a paved public roadway partially maintained by the City and partially by Cascade County. A private access easement will be extended into the interior of the subdivision to serve the single lot proposed to be developed. The subdivision will have a negligible impact on cost of road maintenance.

As the area within the proposed subdivision is owned by a non-profit religious organization, it is exempt from local property taxes.

### **Effect on the Natural Environment**

Although the subdivision contains 160 acres, only a small portion is planned for immediate development which is not expected to adversely affect soils or the water quality or quantity of surface or ground waters. Storm drainage from the developed portion will be contained in an on-site storm detention facility with any excess released at a pre-development rate into the natural drainage course.

### **Effect on Wildlife and Wildlife Habitat**

The subdivision is in close proximity to urban development. The subdivision is not in an area of significant wildlife habitat and will not result in closure of public access to hunting or fishing areas, nor to public lands.

### **Effect on Public Health and Safety**

Based on available information, the subdivision is not subject to abnormal potential natural hazards such as flooding, snow or rockslides, wildfire, nor potential man-made hazards such as nearby industrial or mining activity, or high traffic volumes. High voltage power lines traverse the southeast corner of the subdivision.

## **II. REQUIREMENTS OF MONTANA SUBDIVISION AND PLATTING ACT, UNIFORM STANDARDS FOR MONUMENTATION, AND LOCAL SUBDIVISION REGULATIONS**

The subdivision meets the requirements of the Montana Subdivision and Platting Act and the surveying requirements specified in the Uniform Standards for Monumentation, 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 subdivisions regulations.

## **III. EASEMENT FOR UTILITIES**

The subdivider has secured an off-site easement necessary to extend utilities to the portion of the subdivision planned for immediate development. Within the subdivision, the subdivider will provide the necessary utility easements as a part of the subdivision plat.

## **IV. LEGAL AND PHYSICAL ACCESS**

Dedicated paved public roadways maintained by the City and Cascade County provide legal and physical access to the subdivision. A private access easement will be extended into the interior of the subdivision to serve the single lot proposed for immediate development.

**ANNEXATION AGREEMENT  
FOR  
LOT 2, BLOCK 1,  
MOUNT OLIVET SUBDIVISION  
IN THE S/W ¼ SECTION 17,  
TOWNSHIP 20 NORTH, RANGE 4 EAST,  
CASCADE COUNTY, MONTANA**

1. PREFACE

The following is a binding Agreement dated this \_\_\_\_\_ day of \_\_\_\_\_, 2004, between the ROMAN CATHOLIC BISHOP OF GREAT FALLS, hereinafter referred to as “Owner,” and the CITY OF GREAT FALLS, MONTANA, a municipal corporation of the State of Montana, hereinafter referred to as “City,” regarding the requirements for filing the Final Plat of MOUNT OLIVET MINOR SUBDIVISION, in Section 17, Township 20 North, Range 4 East, Cascade County, Montana, hereinafter referred to as “Subdivision” and annexation of Lot 2 contained therein to the corporate limits of City, hereinafter referred to as “Lot 2”.

2. SUPPORTING DOCUMENTS

A. A final plat of Subdivision prepared by Thomas, Dean & Hoskins, Inc., and filed of record in the Clerk and Recorder’s Office of Cascade County, Montana.

B. Final engineering drawings and specifications prepared by Thomas, Dean & Hoskins, Inc., consisting of documents for sanitary sewer mains, water mains, and drainage improvements. Said drawings and specifications are on file in the City Engineer’s office.

C. Assignment of easement from Owner to City to accommodate extensions of water and sanitary sewer mains to serve Lot 2.

3. AMENDMENTS

Minor changes to engineering documents and such revisions to the engineering drawings as are deemed appropriate and necessary by City’s Engineer and City’s Public Works Department and which do not materially affect the hereinabove mentioned final plat, can be made as follows:

A. The proposed revision will be submitted to City’s Public Works Department for review and, if approved, the City Engineer or Public Works Director will sign and adequately annotate the change.

B. The annotated revision becomes a part of this Agreement upon City’s Public Works Department approval.

C. Changes during construction shall be made by change order approved by City’s Public Works Department.

- D. "As Built" reproducible drawings shall be supplied to City's Engineer upon completion of the construction.
- E. All amendments to this Agreement, except as allowable above in this section, shall be in writing and approved by City and Owner.

4. FEES AND CHARGES

A. Prior to annexation of Lot 2, Owner shall, in addition to the Annexation Application Fee of \$100.00, Minor Plat Fee of \$300.00 and Zoning Application Fee of \$400.00, which have been paid, pay the following required fees and annexation charges as provided by City policy, ordinances and resolutions:

a) Annexation Agreement Fee	\$200.00
b) Resolution of Annexation Fee	\$100.00
c) Storm Sewer Fee (\$250/acre x 13.144 acres)	\$3286.00
d) Recording fees for Agreement and Resolution (\$6 per page x 10 pages)	<u>\$60.00</u>
Total fees made payable to Great Falls City-County Planning Board	\$3646.00

B. Owner or its successors or assigns shall reimburse City for its expenses incurred in testing and acceptance of public utilities to serve Lot 2 at the rates charged by City for said work at the time performed.

C. Water tapping, water connection, sewer service tapping, and sewer connection fees will be assessed at the time of installation.

D. The absence of any fee from this agreement lawfully charged by the City in connection with construction activity associated with Lot 2 shall not constitute a waiver by the City.

5. PUBLIC IMPROVEMENTS

Owner agrees to complete within two (2) years of the date of this Agreement, the installation of the sanitary sewer and water improvements to serve Lot 2, according to plans referenced in Paragraph 2.B. above and filed in the City Engineer's office and in accordance with standards of City.

6. RESTRICTIONS ON BUILDING PERMITS AND OCCUPANCY

Building permits for Lot 2 shall not be issued until the contracts for installation of the public improvements have been executed. Owner acknowledges that City will not permit the occupancy of any structure in Lot 2 until water and sanitary sewer mains necessary to serve Lot 2 have been installed, tested and accepted by City, which acceptance will not be unreasonably withheld by City.

7. FUTURE UTILITY EASEMENTS WITHIN LOT 2

Owner hereby agrees to provide, when deemed necessary by City, additional utility easements within the boundaries of Lot 2, to allow, in part, for the future looping of the water system. The location of any such easement shall be

mutually agreed to by Owner and City and shall take into consideration that any such easement will not interfere with Owner's current and anticipated use of Lot 2.

8. FUTURE STORM DRAINAGE FACILITIES

Owner hereby agrees to waive right to protest any future area wide special improvement district for storm drainage facilities and further agrees to pay for proportionate share of any future storm drainage improvements which service Lot 2 that may be installed with or without an area wide special improvement district. The term "area wide" as used herein, means any area larger than that covered by Lot 2 which is a contributor to the drainage sub-basin of which Lot 2 is a part.

9. WAIVER OF PROTEST OF ANNEXATION

Owner does hereby waive any and all statutory procedure notice on right of protest to annexation of Lot 2, as provided for by State law.

10. WARRANTY, OWNERSHIP AND INSPECTION OF UTILITY IMPROVEMENTS

A. After the public utilities described in Paragraph 2.B. hereof have been installed and accepted by City, the same shall be in all respects treated, owned and maintained as though the same had been constructed and installed by City. However, to the extent installed by Owner, Owner or its contractor shall guarantee said improvements against defective work and materials for a period of two (2) years from date of acceptance of the completed improvements by City.

B. Installation of the public utilities described in Paragraph 5. hereof, shall be subject to City's infrastructure inspection policy in place at the time of installation.

11. ANNEXATION PREREQUISITES

Lot 2 is contiguous to City; is not included within the boundary of any other incorporated municipality; and is not a part of any fire district existing or organized under any of the provisions of Chapter 33, Title 7, of the Montana Code Annotated. Lot 2, upon annexation to City, will be provided fire protection services by City comparable to that provided incorporated properties.

12. MAINTENANCE DISTRICTS

Owner waives its right to protest the lawful creation by City of maintenance districts for any proper purpose including, but not limited to, fire hydrant and street maintenance and shall pay the proportionate share of the costs associated with said maintenance districts as they may be applied to Lot 2.

13. CITY ACCEPTANCE AND ZONING

In consideration of the foregoing, City hereby accepts and approves the final plat of Subdivision and will approve the property contained within the boundaries of Lot 2 for incorporation by annexation into the corporate limits of the City of Great Falls, Montana, as "C" Residence Use, "A" Area District zoning classification. It is hereby understood that the preceding language regarding zoning of Lot 2 does not preclude City from reclassifying said lot if an area wide reclassification is undertaken, in which event City agrees to reclassify Lot 2 as a conforming use.

14. BINDING EFFECT

The provisions covenants and terms of this Agreement shall run with the land and bind the present owners, their devisees, heirs, successors, and assigns; and any and all parties claiming by, through, or under them, shall be taken to agree and covenant with each of the parties to the Agreement, their devisees, heirs, successors and assigns, to conform to the provisions, covenants and terms of this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seal the day, month and year first hereinabove written.

THE CITY OF GREAT FALLS, MONTANA  
A Municipal Corporation of the State of Montana

\_\_\_\_\_  
City Manager

APPROVED FOR LEGAL CONTENT:

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

State of Montana )  
  :ss.  
County of Cascade)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year A. D. Two thousand and four, before me, the undersigned, a Notary Public for the State of Montana, personally appeared John W. Lawton known to me to be the City Manager of the City of Great Falls, Montana, is the person whose name is subscribed to the instrument within and acknowledged to me that he executed the same.

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

(NOTARIAL SEAL)

\_\_\_\_\_  
Notary Public for the State of Montana  
Residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_, 20\_\_

OWNER

By: \_\_\_\_\_

State of Montana )  
  :ss.  
County of Cascade)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year A. D. Two thousand and four, before me, the undersigned, a Notary Public for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

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

(NOTARIAL SEAL)

\_\_\_\_\_  
Notary Public for the State of Montana  
Residing at \_\_\_\_\_  
My commission Expires \_\_\_\_\_, 20\_\_