

AGENDA REPORT

DATE March 18, 2008

ITEM Public Hearing – Resolution 9729 to Annex and Ordinance 3001 to Establish City Zoning Upon South Park Addition Phase II

INITIATED BY North Park Investments, Property Owner and Developer

ACTION REQUESTED Commission Adopt Resolution 9729 and Ordinance 3001 and Approve Final Plat and Agreement related to South Park Addition Phase II

PREPARED BY Charles Sheets, Planner I

APPROVED & PRESENTED BY Benjamin Rangel, Planning Director

- - - - -

RECOMMENDATION:

The City Planning Board and Zoning Commission have recommended the City Commission approve the final plat and annexation of South Park Addition Phase II and assign a zoning classification of R-3 Single-family high-density district, upon annexation to the City.

MOTION (Each motion to be separately considered):

“I move the City Commission adopt Resolution 9729 and approve the final plat and Annexation Agreement all related to South Park Addition Phase II.”

And

“I move the City Commission adopt Ordinance 3001.”

SYNOPSIS:

Resolution 9729 annexes South Park Addition Phase II which consists of 18 single-family residential lots. Ordinance 3001 assigns a zoning classification of R-3 Single-family high density to South Park Addition Phase II, upon annexation of same to City.

BACKGROUND:

On November 6, 2007, the City Commission conditionally approved the Preliminary Plat of South Park Addition Phase II. Lots in the subdivision will be accessed by Ferguson Drive from the east and Flood Road to the west. The developer will install standard City paving, curb and gutter in the east-west roadway (Dixie Lane) within the subdivision and in the abutting southern 265 foot portion of Ferguson Drive. The remaining 311 foot northern portion of Ferguson Drive, being dedicated on the subdivision plat, will remain unimproved and barricaded until the abutting property to the west is developed.

City water mains will be installed in Dixie Lane and Ferguson Drive being dedicated on the subdivision plat and in Flood Road. A City sanitary sewer main will be installed in Dixie Lane within the subdivision. Previously a sanitary sewer main was installed in Ferguson Drive to the existing sewer main near the southerly end of Delmar Drive.

Surface drainage from the subdivision will flow within the streets ultimately to the City storm sewer system at the intersection of Buena Drive and Ferguson Drive. The applicant will be obligated to pay for a proportionate share of the cost of extending the storm sewer system to the west side of Grande Vista Park.

Flood Road abutting the development is being annexed simultaneously with the subdivision. In addition, the developer has escrow sufficient funds to pay for 50% of the costs of a standard City minor roadway section.

To fulfill the subdivision’s park obligation, the developer has paid a fee in lieu of dedicating land.

Subject property is presently zoned in the County as “R-2” Low Density Residential District and is proposed to be zoned R-3 Single-family high density upon annexation to the City.

Section 76-2-304 Montana Code Annotated lists criteria and guidelines which must be considered in conjunction with establishing municipal zoning on land:

- a) is designed in accordance with the growth policy (comprehensive plan);
- b) is designed to lessen congestion in the streets;
- c) will secure safety from fire, panic or other dangers;
- d) will promote health and the general welfare;
- e) will provide adequate light and air;
- f) will prevent overcrowding of land;
- g) will avoid undue concentration of population;
- h) will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
- i) gives reasonable consideration to the character of the district;
- j) gives reasonable consideration to the peculiar suitability of the property for particular uses;
- k) will conserve the value of buildings; and
- l) will encourage the most appropriate use of land throughout the municipality.

It is anticipated the planned single-family residential use of the property will be compatible with neighboring uses. Therefore, staff concludes the above-cited criteria are substantially met.

Subject property is a natural progression of the City’s growth and borders South Park Addition Phase I, which also is being developed as a single-family residential subdivision. Annexation of subject property will enhance health, safety and welfare through application of City Codes and provision of municipal services.

Staff concludes that the basic conditions set forth in the conditional approval of the preliminary plat of South Park Addition Phase II are being met by the developer in the overall process of final plat, final engineering and Annexation Agreement preparation.

The Planning Board and Zoning Commission, during a meeting held December 11, 2007, unanimously passed motions recommending the City Commission approve the final plat, annexation and assignment of a zoning classification of R-3 Single-family high density to South Park Addition Phase II, subject to the applicant agreeing to the following conditions:

- 1) Incorporate correction of any errors or omissions noted by staff in the final plat of South Park Addition Phase II.
- 2) Prepare final engineering documents for required public improvements to serve the subdivision for approval by the Public Works Department.
- 3) Execute an Annexation Agreement acceptable to the City of Great Falls and submit the appropriate supporting documents referenced in the agreement.
- 4) Pay all applicable fees and charges due as a consequence of either plat or annexation approval.

The above Conditions 2, 3 & 4 have been fulfilled and Condition 1 will be fulfilled prior to filing of the plat.

Attach: Resolution 9729
Ordinance 3001
Reduced Copy of Drawing Portion of Final Plat
Annexation Agreement

Cc: North Park Investments, 4701 North Star Blvd
Lou Fontana, 200 13th St N

**ANNEXATION AGREEMENT
FOR
SOUTH PARK ADDITION PHASE II
IN THE N1/2 OF SECTION 22,
TOWNSHIP 20 NORTH, RANGE 3 EAST,
CASCADE COUNTY, MONTANA**

1. PREFACE

The following is a binding Agreement dated this _____ day of _____, 20 _____, between NORTH PARK INVESTMENTS, L.L.C., 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 and the annexation to the corporate limits of City, of SOUTH PARK ADDITION PHASE II, in the N1/2 of Section 22, Township 20 North, Range 3 East, Cascade County, Montana, hereinafter referred to as "Subdivision."

2. PRIOR ACTIONS

The Preliminary Plat of Subdivision, prepared by Fontana & Moore Engineering & Land Surveying, was conditionally approved by City on November 6, 2007.

3. SUPPORTING DOCUMENTS

- A. A final plat of Subdivision, prepared by Fontana & Moore Engineering & Land Surveying, and filed of record in the Clerk and Recorder's Office of Cascade County, Montana.
- B. Final engineering drawings and specifications prepared by Fontana & Moore Engineering & Land Surveying, consisting of documents for sanitary sewer mains, water mains, drainage improvements, paving, sidewalk, curb and gutter. Said drawings and specifications are on file in the City Engineer's office.
- C. Infrastructure Contracts between Owner and its contractors which shall be filed in the office of the Great Falls Planning Department, upon execution of said Contracts.

- D. Financial statement dated _____, by _____ of Great Falls, to indicate the capability of Owner to pay for the public improvements referenced in Paragraph 3.B. hereinabove. A copy of the same is filed in the office of the Great Falls Planning Department.
- E. Two certificates of deposit: CD# 2200045388 Issued 1/11/08 for \$15,175.58 to mature on 1/11/2012 and CD# 2200045387 Issued on 1/11/08 for \$22,108.75 to mature on 1/11/2012.

4. 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.

5. FEES AND CHARGES

- A. Prior to annexation of Subdivision, Owner shall, in addition to the Preliminary Plat Fee of \$500.00, Annexation Application Fee of \$100.00 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 6.26 acres)	\$ 1565.00
d) Park Fee in Lieu of Land Dedication (\$6000/acre x 3.82 acres x 11%)	\$ 2521.20
e) Recording fees for Agreement and Resolution (\$11 per page x 10 pages)	<u>\$ 110.00</u>
Total fees made payable to City of Great Falls	\$ 4496.20
- B. Owner or its successors or assigns shall reimburse City for its expenses incurred in testing and acceptance of public utilities to serve Subdivision 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 Subdivision shall not constitute a waiver by the City.

6. 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, street paving and curb and gutter to serve Subdivision, according to plans referenced in Paragraph 3.B. above and filed in the City Engineer's Office and in accordance with standards of City.

7. FLOOD ROAD IMPROVEMENTS

Owner hereby agrees to pay for fifty percent (50%) of the costs of a standard City minor roadway section and water main improvements to be installed in the portion of Flood Road abutting Subdivision (estimated at \$ 22,108.75) and (28.44%) of planned storm drainage improvements across Grande Vista Park (estimated at \$ 15,175.58) when deemed necessary by City. At such time Owner's proportionate share of the actual cost of the above referenced roadway and storm drainage improvements are definitely determined, amounts equal to said costs shall be transferred from the above referenced certificates of deposit to City. Upon said transfer(s), any remaining balance in the above referenced certificates of deposit shall be released to Owner.

8. RESTRICTIONS ON BUILDING PERMITS AND OCCUPANCY

Building permits for lots in Subdivision 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 residential structure in Subdivision until street improvement and water and sanitary sewer mains within Subdivision have been installed, tested and accepted by City, which acceptance will not be unreasonably withheld by City.

9. APPROACH RESTRICTIONS TO FLOOD ROAD

Owner hereby agrees that private driveway approaches directly to Lot 9, Block 1 and Lot 9, Block 2, of Subdivision from Flood Road shall not be permitted.

10. 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 Subdivision 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 Subdivision which is a contributor to the drainage sub-basin of which Subdivision is a part.

11. PUBLIC ROADWAY LIGHTING

Owner hereby agrees to waive its right to protest any future special lighting district for public roadway lighting facilities that service Subdivision, and further agrees to pay for proportionate share of the costs associated with roadway lighting which service Subdivision that may be installed with or without a special lighting district.

12. FUTURE REIMBURSEMENTS FOR WATER MAIN IN FLOOD ROAD

- A. Owner shall pay the full cost of the equivalent eight inch (8") water main to be immediately installed in Flood Road abutting Subdivision, but shall be entitled to reimbursement for one-half of the cost of the equivalent eight inch (8") water main from the owner of Block 15, Bel-View Palisade Addition, upon annexation of same to City.
- B. Owner shall provide City with its actual cost of the installation of the hereinabove mentioned water main in Flood Road and sanitary sewer main in Ferguson Drive within twelve (12) months after approval and acceptance thereof by City. In the event of Owner's failure to provide City with said cost data, City shall not be obliged to undertake

collection of the reimbursement provided for herein, and the responsibility for collection thereof shall be that of Owner, its heirs, successors and assigns. Failure of Owner to provide City with said cost data for reimbursement as herein required shall in no way alter the obligation of any other party to make reimbursement as provided for herein, said failure affecting only City's obligation to assist in collection thereof.

13. REIMBURSEMENT FOR OVERSIZED WATER MAIN IN FLOOD ROAD AND FOR INSTALLATION OF WATER MAIN IN FERGUSON DRIVE

Owner agrees to install a twelve inch (12") water main instead of the standard eight inch (8") water main in the portion of Flood Road abutting subdivision. Owner further agrees to install an additional 311 feet of eight inch (8") water main in Ferguson Drive to provide a second source of water supply to the subdivision. City agrees to reimburse the Owner for the oversizing cost of water main installed in Flood Road and for the 311 feet of water main installed in Ferguson Drive within (30) days of its acceptance of the installations and appropriate billing, including provisions of adequate information and documentation supporting said costs. It is the intent of City to obtain reimbursement for the herein above mentioned 311 feet of water main in Ferguson Drive from the owner of Tract 14, Ranchos Grande Vista No. 1, upon annexation of same to City.

14. SIDEWALKS

It is hereby agreed that the following exception to the strict adherence of Subdivision requirements will be permitted: sidewalks serving and abutting any lot in Subdivision shall be installed as a condition of final occupancy by the then lot owner within six (6) months (allowing for unfavorable weather conditions only) of occupancy. It is understood that the above provision regarding sidewalks shall not preclude City from exercising its authority provided by Chapter 12.28, Municipal Code of the City of Great Falls pertaining to sidewalks.

15. WAIVER OF PROTEST OF ANNEXATION

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

16. WARRANTY, OWNERSHIP AND INSPECTION OF UTILITY AND STREET IMPROVEMENTS

- A. After the public utilities, drainage and street improvements described in Paragraph 3. 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 and street improvements described in Paragraph 6. hereof, shall be subject to City's infrastructure inspection policy in place at the time of installation.

17. ANNEXATION PREREQUISITES

Subdivision 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. Subdivision, upon annexation to City, will be provided fire protection services by City comparable to that provided incorporated properties.

18. 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 parcels in Subdivision.

19. 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 Subdivision for incorporation by annexation into the corporate limits of the City of Great Falls, Montana, as R-3 Single-family high density district zoning classification. It is hereby understood that the preceding language regarding zoning of lots in Subdivision does not preclude City from reclassifying lots if an area wide reclassification is undertaken, in which event City agrees to reclassify said lots as a conforming use.

20. 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:

David V. Gliko, City Attorney

State of Montana)
 :ss.
County of Cascade)

On this _____ day of _____, in the year A. D. 20 _____, before me, the undersigned, a Notary Public for the State of Montana, personally appeared _____ 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.

Notary Public for the State of Montana

(NOTARIAL SEAL)

Notary Public (Printed)
Residing at _____
My Commission Expires _____, 20____

OWNER

By: _____

State of Montana)
 :ss.
County of _____)

On this _____ day of _____, in the year A. D. 20 _____, before me, the undersigned, a Notary Public for the State of Montana, personally appeared _____ whose name is subscribed to the instrument within and acknowledged to me that (s)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.

Notary Public for the State of Montana

(NOTARIAL SEAL)

Notary Public (Printed)
Residing at _____
My Commission Expires _____, 20____