



Item: Resolution 9756, Intent to Annex; Resolution 9757 Intent to Annex; and Ordinance 3010 to Assign City Zoning to the Unincorporated Portion of Two Utility Corridors within Henderson Heights and North Riverview Terrace

From: Charles Sheets, Planner 1

Initiated By: City Commission

Presented By: Benjamin Rangel, Planning Director

Action Requested: City Commission adopt Resolutions 9756 and 9757, accept Ordinance 3010 on first reading and set a public hearing for August 5, 2008.

Suggested Motions: (Each motion to be separately considered)

1. Commissioner moves:

“I move that the City Commission (adopt/deny) Resolution 9756 showing intent to annex 92 separate parcels of land comprising the unincorporated portion of two utility corridors.”

“I move that the City Commission (adopt/deny) Resolution 9757 showing intent to annex a parcel of governmental land within the unincorporated utility corridor adjacent to Sacajawea School and Sacajawea Park.”

and;

“I move that the City Commission accept Ordinance 3010 on first reading and set a public hearing for August 5, 2008, to consider adoption of Ordinance 3010.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

Planning Board and Zoning Commission Recommendations: The Planning Board has recommended the City Commission approve the annexation of the unincorporated portion of two utility corridors within Henderson Heights and North Riverview Terrace. The Zoning Commission has recommended the City Commission assign a zoning classification of R-2 Single-family medium density district upon all the parcels comprising the utility corridors being annexed, except for the two parcels abutting Sacajawea School and North Middle School which will be zoned PLI Public lands and institutional district, upon annexation to the City.

Background: It is the City's intention to annex unincorporated enclaves. This intention recognizes that each parcel has separate and unique characteristics and issues to be addressed. As such, the City Commission directed staff to research and when appropriate annex unincorporated enclaves.

There are 93 separate parcels of land comprising two utility corridors within Henderson Heights and North Riverview Terrace, which are presently unincorporated. One of these parcels is owned by the City of Great Falls.

Please refer to the attached Vicinity/Zoning Map.

These utility corridors are entirely surrounded by properties already incorporated into the City of Great Falls. As allowed by Section 7-2-4501 Montana Code Annotated, a city may unilaterally annex properties that are wholly surrounded by the city, upon passing a resolution of intent, giving notice, and passing a resolution of annexation. Upon conducting these actions, wholly surrounded lands are annexed whether or not a majority of the property owners of the areas to be annexed object. The City will then have jurisdiction and City Codes will be applied and enforced. The one parcel owned by the City of Great Falls requires a different State statute be used. Section 7-2-4402 Montana Code Annotated, "Annexation of Contiguous Government Land," will be cited in the annexation resolution.

The corridors are utility easements that were established when the North Riverview Terrace and Henderson Heights areas were still farm land. The corridors were never incorporated when the abutting land was subdivided and annexed into the City. The utility corridors were later divided and offered for sale to the abutting property owners. The smaller size and isolation of these separate parcels limit their use to yard space and accessory structures, such as sheds or garages. Over the past several years, some of these parcels have been a source of complaints involving weeds and the collection of debris. This has led to confusion and frustration by the public regarding which entity, the City or the County, has the authority or responsibility to address the complaints.

Upon annexation, the parcels will be subject to City taxes and assessments.

The incorporated properties surrounding the 93 parcels are predominately residential. It is therefore proposed the parcels be zoned R-2 Single-family medium density district, except for two segments which should appropriately be zoned PLI Public lands and institutional as they abut North Middle School, Sacajawea School and Sacajawea Park.

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.

Zoning the subject parcels for residential and public uses is consistent with other incorporated properties abutting the involved parcels. Therefore, staff concludes all of the above stated criteria are substantially met.

Prior to the Planning Board/Zoning Commission public hearing, which was held May 27, 2008, staff received a letter from one owner of a parcel included in the corridors. Staff responded in writing before the public hearing and provided copies of both letters to the Planning Board. Attached to this Agenda Report is a copy of the letter and Staff's response.

During the above referenced public hearing, eight area property owners spoke. The major questions and concerns by the public were: who is responsible for maintenance of the access road in the corridor; can owners close off the access road; and, will taxes and assessments go up after annexation?

At the conclusion of the public hearing, the Planning Board passed a motion recommending the City Commission annex the unincorporated portion of two utility corridors within Henderson Heights and North Riverview Terrace. In addition, the Zoning Commission passed a motion recommending the City Commission assign a zoning classification of R-2 Single-family medium density district upon all the parcels comprising the utility corridors being annexed, except for the two parcels abutting Sacajawea School and North Middle School which will be zoned PLI Public lands and institutional district, upon annexation to the City.

A copy of the minutes of the Planning Board/Zoning Commission public hearing will be provided to the City Commission prior to the August 5th public hearing.

Concurrences: Representatives from the City's Public Works, Community Development, Park and Recreation and Fire Departments have been involved throughout the review and approval process for this project.

Fiscal Impact: Providing services to the 93 unincorporated parcels is expected to be a negligible cost to the City. Any increased costs likely will be covered by increased tax revenues from properties being annexed.

Alternates: The City Commission could deny Resolutions 9756 and 9757 and Ordinance 3010. However, such action would terminate consideration of the 93 parcels currently surrounded by incorporated property.

Attachments/Exhibits:

1. Resolutions 9756 and 9757
2. Ordinance 3010
3. Vicinity/Zoning Map
4. Letter from Daniel F. Carson, dated May 15, 2008
5. Planning Staff letter of response to Mr. Carson, dated May 23, 2008

Cc: Jim Rearden, Public Works Director

Dave Dobbs, City Engineer
Mike Rattray, Community Development Director