



Item: Resolution 9820, Intent to Annex Segment of BNSF Railroad R/W and Ordinance 3033 to Establish City Zoning for Service District No. 2 of Upper/Lower River Road Water & Sewer District

From: Charles Sheets, Planner 1

Initiated By: Upper/Lower River Road Water & Sewer District Board and Property Owners within Service District No. 2

Presented By: Bill Walters, Interim Planning Director

Action Requested: Commission Adopt Resolution 9820, which sets Public Hearing for May 5, 2009, and Accept Ordinance 3033 on First Reading and Set Hearing

Suggested Motions: (Each motion to be separately considered)

1. Commissioner moves:

“I move the City Commission (adopt/deny) Resolution 9820.”

And,

“I move that the City Commission (accept/deny) Ordinance 3033 on first reading and set a public hearing for May 5, 2009.”

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

Planning Board and Zoning Commission Recommendations: At the conclusion of a public hearing held March 10, 2009, the Planning Board passed a motion recommending the City Commission approve the annexation of Service District No.2 of the ULRRWSD located in Sections 13, 14, 23 and 24, Township 20 North, Range 3 East, Cascade County, Montana and as depicted on the attached Vicinity Map, subject to compliance to the Memorandum of Understanding dated January 16, 2007, and the Interlocal Agreement dated April 1, 2008, between the City and the ULRRWSD. The Zoning Commission passed a motion recommending the City Commission approve establishing City zoning classifications of R-1 Single-family suburban, R-3 Single-family high density, R-10 Mobile home park, M-2 Mixed use transitional and I-1 Light industrial districts to the various properties within Service District No. 2 as depicted on the attached zoning map.

Note: A second resolution to annex Service District No. 2 of the ULRRWSD will be submitted to the City Commission for consideration simultaneously with Resolution 9820 and Ordinance 3033 on May 5, 2009. (The statute being used to annex said Service District No. 2 does not require adoption of a resolution of intent as does annexing railroad right-of-way.)

Background: This item pertains to the annexation to the City of Great Falls of Service District No. 2 of the Upper/Lower River Road Water & Sewer District, located in Sections 13, 14, 23 and 24, Township 20 North, Range 3 East, Cascade County, Montana, commonly referred to as Service District No. 2. Subject property, which includes Sunny Lane Tracts, Pleasant Park Mobile Home Court, Big Sky Village Mobile Home Court and portions of McLean Garden Tracts, Grandview Tracts, Westfall Tracts, Burlington Northern Santa Fe Railroad right-of-way and portions of Upper and Lower River Roads, totals approximately 122 acres and consists of 81 parcels involving 54 owners.

This item also addresses assigning City zoning classifications of R-1 Single-family suburban, R-3 Single-family high density, R-10 Mobile home park, M-2 Mixed use transitional and I-1 Light industrial districts to the various properties within the District.

For additional information, please refer to the attached Vicinity Map showing the ULRRWSD & Service District No. 2 proposed to be annexed.

Beginning in 1996 the Cascade County City-County Health Department and State Department of Environmental Quality initiated an 18-month groundwater pollution study in the Upper and Lower River Road and Donovan Park areas. Subject area is occupied by about 3,000 residents and is the largest area in Cascade County with this type of density having neither a public water nor sewage system. No imminent health hazards were found as a result of the study. However, it was determined that impacts to the area groundwater were being caused from individual sewage septic systems and two aging sewage lagoons serving the Pearson Addition and the Trailer Terrace Mobile Home Court in the Donovan Park area. The study recommended area residents alleviate potential public health problems by developing an official sewer and water district in order to be eligible for state and federal grants for the planning and construction of public water and sewer systems. In addition, such a district would have contracting authority for any interlocal agreements that might be possible with the City of Great Falls for connection to City water and sewer lines already present in a portion of the study area. The study was divided into two separate geographic areas (Lower and Upper River Road and Donovan Park). Although problems were noted during the study in both areas, the worst problems were noted in the northern portion of the study area along Lower and Upper River Road, and therefore, focus was directed to correcting the problems in that area. The Donovan Park area is generally located a mile and a half south of the Lower and Upper River Road area.

In 2001, property owners along Lower and Upper River Roads voted to create a water and sewer district and subsequently elected a five-member board of directors to find the best solutions to the water and sewer problems and the money to pay for it. The District and the City entered into a Memorandum of Understanding dated August 19, 2003, wherein, it was noted the most cost effective manner of providing water and sewer services to serve the District was to connect to the City's water and sewer systems, thereby requiring annexation to the City.

In November, 2003, voters in the defined District, roughly bounded by the Missouri River, 41st Avenue South, 4th Street South, and the city limit at 19th Avenue South, defeated a \$5.7 million bond to pay for extension of City water and sewer lines into the area. Subsequently and to reduce the per household cost of the project, the District was divided into smaller service areas.

On August 12, 2004, the electors of Service District No. 1 authorized the issuance of \$938,000 in revenue bonds to finance a portion of the design and construction costs to serve the District with City water and sewer systems. The engineering documents for the planned infrastructure to serve the District were prepared by the District's engineer and conditionally approved by the City's Public Works Department in the summer of 2005. The District awarded a contract to Western Municipal Construction of Billings, which completed installation of the water and sewer infrastructure in the winter of 2006. Annexation of Service District No. 1 was approved by the City Commission on March 6, 2007.

Similar to Service District No. 1 of the ULRRWSD, the Board and the City entered into a Memorandum of Understanding dated January 16, 2007, wherein, it was noted the most cost effective manner of providing water and sewer services to serve Service District No. 2 was to connect to the City's water and sewer systems, thereby requiring annexation to the City. On April 1, 2008, the District and the City entered into an Inter-local Agreement for Service District No. 2. This agreement specifically addresses the implementation of the construction of the water and sewer improvements, how properties will be connected, how annexation will occur and other related matters.

On September 25, 2006, the electors of Service District No. 2 authorized the issuance of \$960,000 in revenue bonds to finance a portion of the design and construction costs to serve the District with City water and sewer systems. The engineering documents for the planned infrastructure to serve the District were prepared by the District's engineer and conditionally approved by the City's Public Works Department in the summer of 2007. The District awarded a contract to United Materials of Great Falls, which completed installation of the water and sewer infrastructure in the fall of 2008.

As a prerequisite to obtaining City water and sewer services, property owners in Service District No. 2 were required to sign several documents, including an annexation petition. To date, the owners of a majority (more than 50%) of the parcels in Service District No. 2 have signed and submitted annexation petitions to the City. By statute, this is a sufficient percentage to proceed with annexation.

All of the parcels within Service District No. 2 are being annexed under MCA Section 7-2-4601. As such, if more than 50% of the resident electors owning real property in the area to be annexed; or the owners of 50% of the real property in the area to be annexed petition for annexation, then the governing body may approve the annexation by adopting a resolution. A 6900 foot segment of BNSF right-of-way is being annexed under MCA Section 7-2-4311.

It is proposed City zoning classifications of R-1 Single-family suburban, R-3 Single-family high density, R-10 Mobile home park, M-2 Mixed use transitional and I-1 Light industrial districts be assigned to the various properties within Service District No. 2 as depicted on the zoning map attached to Ordinance 3033 as Exhibit "A". The two existing mobile home courts (Pleasant Park and Big Sky Village) are proposed to be zoned R-10 Mobile home park; the former Hall Transit

bus barn and two storage facilities are proposed to be zoned M-2 Mixed-use transitional; and the business Montana Lines, Inc. is proposed to be zoned I-1 Light industrial which matches the existing County zoning on subject property.

Section 76-2-304 Montana Code Annotated lists criteria and guidelines which must be considered in conjunction with rezoning and 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.

The Environmental Element of the City of Great Falls Growth Policy notes that the only significant groundwater problem in the immediate vicinity of Great Falls is located near Upper/Lower River Road and advocates finding an acceptable solution to the groundwater problems. A goal of the Environmental Element is “To maintain and improve the quality of the area’s air and water, even as the community grows”.

Goals of the Land Use Element of the City Growth Policy include:

- To support and encourage efficient, sustainable development and redevelopment throughout the community.
- To preserve and enhance the character, quality, and livability of existing neighborhoods.
- To support and encourage a compatible mix of land uses in newly developing areas.

Annexation of subject property will enhance health, safety and welfare through application of City Codes and provision of municipal services.

For the most part, the proposed zoning assignments recognize and conform to existing land uses on the parcels proposed to be annexed and will not, without processing of separate applications, result in additional development. Existing legal land uses, which are not permitted by right in the zoning classifications proposed to be assigned to the properties occupied by such uses, will continue to be recognized and allowed as legal nonconforming uses.

The proposed assignments of City zoning to the predominately developed areas, coincides with few exception to existing County zoning designations. Therefore, staff concludes the above-cited criteria are substantially met.

Conclusion: The proposed annexation of Service District No. 2 of the ULRRWSD is the culmination of a 12 year process to address public health and utility service problems in the area. With the recent extension of City water and sewer services to most of the 81 serviceable parcels in Service District No. 2, annexation will bring the involved area into compliance with City policies and codes regarding provision of such services. However, it should be recognized and understood that the City, by accepting and approving the annexation, is incurring significant responsibilities and liabilities. Some public infrastructure, including roadways, paving, curbs, gutters, sidewalks, and storm sewer/drainage is nonexistent or substandard. There are undoubtedly several instances of buildings not complying with City building codes, mobile home parks not complying with current applicable design standards or yards not complying with property improvement standards. However, to require full compliance at the time of annexation could create extreme hardship for property owners and could jeopardize the ability to ever annex these properties. Therefore, per a Memorandum of Understanding between the City and the ULRRWSD, the City has agreed to phase in additional improvements and code compliance requirements involving a schedule and financial plan palatable to the property owners. Additionally, as properties in the District are further subdivided, rezoned, subjected to conditional use permit requirements, and subjected to building permit requirements, opportunities will arise to gradually improve the area to City standards.

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

Fiscal Impact: Please refer to the Conclusion section which explains the responsibilities and liabilities the City is incurring in conjunction with this annexation.

Alternatives: The City Commission could deny adoption of Resolution 9820 and acceptance of Ordinance 3033 on first reading and not set the public hearing. However, such action would deny the ULRRWSD Board and property owners within Service District No. 2 due process and consideration of a public hearing, as provided for in City Code and State Statute.

Attachments/Exhibits:

1. Vicinity Map showing the ULRRWSD & Service District No. 2 proposed to be annexed.
2. Resolution 9820
3. Ordinance 3033

Cc: Jim Rearden, Public Works Director
Dave Dobbs, City Engineer
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