



Item: Resolution 9858 to Annex, Resolution 9859 to Vacate Right-of-Way and Ordinance 3040 to Assign City Zoning and Grant a Conditional Use Permit, all related to the Amended Plat of Block 21 & Lots 1-10, Block 22, Highland Park Addition and Vacated Rights-of-Way

From: Charles Sheets, Planner I, & Bill Walters, Interim Planning Director

Initiated By: Dale and Tracy Yurek, Property Owners

Presented By: Bill Walters, Interim Planning Director

Action Requested: City Commission adopt/approve Resolution 9858, Resolution 9859, Ordinance 3040, Amended Plat of Block 21 & Lots 1-10, Block 22, Highland Park Addition and Vacated Rights-of-Way, Findings of Fact and Annexation Agreement, all pertaining to said Amended Plat.

Suggested Motions: (Each motion to be separately considered)

1. Commissioner moves:

“I move that the City Commission remove from the table Resolutions 9858 & 9859, Ordinance 3040, the Amended Plat of Block 21 & Lots 1-10, Block 22, Highland Park Addition and Vacated Rights-of-Way, Findings of Fact and Annexation Agreement, all pertaining to said Amended Plat.”

and;

“I move that the City Commission (adopt/deny) Resolutions 9858 & 9859 and (approve/disapprove) the Amended Plat of Block 21 & Lots 1-10, Block 22, Highland Park Addition and Vacated Rights-of-Way, Findings of Fact and Annexation Agreement, all pertaining to said Amended Plat.”

and;

“I move that the City Commission (adopt/deny) Ordinance 3040.”

2. Mayor calls for a second, discussion, and calls for the vote after each motion.

Planning Board and Zoning Commission Recommendations: At the conclusion of a combined public hearing held June 9, 2009, the Planning Board passed a motion recommending

the City Commission approve: 1) the Amended Plat of Block 21 & Lots 1-10, Block 22, Highland Park Addition and Vacated Rights-of-Way; 2) the vacation of the southerly 20 feet of 19th Avenue South, all of 20th & 21st Alleys South and 20th Avenue South within the Amended Plat; 3) the annexation of the area within the Amended Plat together with the remaining portion of abutting 19th Avenue South; and, 4) the accompanying Findings of Fact, subject to the applicant fulfilling stipulated conditions and the Zoning Commission passed a motion recommending the City Commission assign a City zoning classification of M-1 Mixed use district and grant a conditional use permit for a contractor yard, type II upon said Amended Plat, upon annexation to the City, subject to the applicants agreeing that any development of the subject property shall be substantially in accordance with the attached site plan.

Update Since August 18, 2009, City Commission Meeting: Mr. Roy Volk, who owns approximately 50 acres of undeveloped land immediately west and southwest of the Yurek property (Blocks 21 and 22 of Highland Park Addition), expressed concerns during the public hearing on the annexation of the Yurek property that the planned development thereon would result in access and storm drainage problems in conjunction with the future development of his property. City staff did meet on August 24 with Roy and Diane Volk and their engineer and Dale Yurek, Dave Williamson and their engineer to discuss the issues raised by Mr. Volk.

Notification: Mr. Volk indicated during the Hearing on August 18 that he only recently had become aware of the Yurek project on subject Blocks 21 & 22. The Commission questioned staff about the notification provided to date. Notification for the annexation, right-of-way vacation, City zoning assignment associated with development of the Yurek property has been in accordance with State statute and the City's Land Development Code. Attached is a copy of a Notice of Public Hearing published in the Great Falls Tribune on May 24, 2009, providing notification of the Planning Board/Zoning Commission public hearing on the project held June 9, 2009. On May 21, 2009, a copy of this Notice was mailed to property owners in the vicinity. (Please see attached Affidavit signed by Charles Sheets.) On June 1, 2009, the Planning Staff placed a sign on the Yurek property containing copies of the above mentioned Notice. Also attached is a copy of a Notice of Extension of Boundaries of City Limits published in the Great Falls Tribune on August 2 and 9, 2009, providing notification of the City Commission public hearing on the project held August 18, 2009.

Access: Mr. Volk during the Hearing on August 18 expressed concerns about the vacation of 20th Avenue South between Blocks 21 and 22 of Highland Park Addition. Mr. Volk contended that with vacation of the segment of 20th Avenue South, access to the east side of his property is pretty much limited to 21st Avenue South which is encumbered by an elevated knoll presumably consisting of bedrock. Mr. Volk also contended that the Yureks, in return for being able to utilize the abandoned portion of 20th Avenue South for their development, should be obligated to participate in the costs of improving the segment of 21st Avenue South along the south boundary of their land ownership. (Please refer to the attached aerial photo exhibit showing the Yurek and Volk properties and existing public road right-of-way.)

Staff over the years has long contemplated the best alternatives for east-west access between approximately 4th and 8th Streets South in the vicinity of 20th and 21st Avenues South. Early thoughts included extension of 20th Avenue South along the north side of Mr. Volk's property. This was supported in part by the existence of a City 30 inch water main contained in a 30 foot wide strip of land deeded to the City. Also, a majority of the 20th Avenue South corridor would have separate and different property owners on the north and south sides of the projected roadway. But, as staff further

reviewed the matter over the years including discussion with Mr. Volk of several conceptual plans for development of his 50 acres, the preferred access connection to the east side of his property became 21st Avenue South. A disadvantage with the 20th Avenue South option along the north boundary of Volk's property is that it dead ends at 8th Street South – it cannot be extended further east. Also, this option enters Mr. Volk's property at the northeast corner of his 50 acres which is similar to the existing 20th Avenue South entering the northwest corner of the involved 50 acres which are not necessarily ideal approaches or entrances to a major development. And implementing the extension/improvement of 20th Avenue South along the north boundary of Mr. Volk's property would involve the cooperation and participation of at least four other property owners.

Mr. Volk also voiced concern about the elevated knoll along the east boundary of his property making it more difficult and expensive to construct 21st Avenue South. It is anticipated the top of the knoll would be shaved or cut to achieve acceptable roadway grades of 5 to 10%. And it is possible the involved knoll consists of bedrock. But, this is not an uncommon dilemma encountered in development of many subdivisions around Great Falls and should not be used as a final excuse in determining desired and more functional roadway alignments.

Staff did not address or require Yureks' participation in the eventual improvement of 21st Avenue South between 8th Street South and Volk's east property line in conjunction with the annexation proposed by Resolution 9858, as the portion of the Yurek property abutting the involved segment of 21st Avenue South is not currently being annexed and will remain in the County for the interim.

In conclusion, although a number of options were discussed, it is staff's opinion that accessing the east side of Mr. Volk's property via 21st Avenue South is the preferred route for safe and efficient traffic circulation to, from, and potentially through the property. This point of access allows a direct connection to and from 13th Street South, a Minor Arterial that is designed to carry larger volumes of traffic to and from major destinations, and connecting to other area Arterials. As well, it provides a clean, 4-way intersection with 8th Street South, which can be designed as a safer intersection type than the t-intersection that 20th Avenue South would require - especially as the area develops and traffic volumes grow. Finally, 21st Avenue South provides a better potential opportunity for future through-traffic movements between Upper River Road and north-south roadways to the east.

Storm Drainage: Mr. Volk during the Hearing August 18 expressed concern about the piping of upstream storm water to be discharged on the north boundary of his property and the lack of a comprehensive storm water plan for the involved sub-basin. The easterly boundary of the involved sub-basin is essentially 9th Street South and the north boundary is essentially 17th Avenue South. The primary upstream contributor in the sub-basin is the 14 acre Fire Training Center. The historical route for runoff in the sub-basin crosses the Yurek property at about 20th Avenue South and then flows in a southwesterly direction traversing the undeveloped Volk property and the predominately developed Grandview Tracts before ultimately discharging in the Missouri River. Drainage improvements planned by the City in conjunction with the Williamson Fencing project include piping surface runoff primarily from the Fire Training Center and 8th Street South from the east side to the west side of the Yurek property. Yurek's engineer has designed an on-site storm water detention facility which meets or exceeds the requirements of the City's Storm Drainage Ordinance wherein the rate of runoff from the developed Yurek property will equal or be less than that occurring in its undeveloped state. The practical and easiest manner for developing storm drainage plans is to start at the lower end of a sub-basin and work towards the upper end. However, in this case, development is occurring at the upper end with the balance of the sub-basin being outside the City and/or undeveloped. The southerly

portion of Grandview Tracts was recently annexed to the City as part of Phase 2 of the Upper Lower River Road Water Sewer District and another section is planned to be annexed as part of Phase 3. Therefore, the City will be giving more consideration to storm drainage in the sub-basin as more annexations and development occur. Also, the City could give consideration to installing storm water detention facilities on the Fire Training Center site, particularly if it were to be further developed.

Recent discussions and negotiations with Mr. Volk probably haven't satisfied his concerns about access and drainage. But the above provides an explanation of staff's viewpoints and positions and raises an awareness of the access and drainage issues affecting the involved area.

Background: The Planning Office is in receipt of applications from Dale and Tracy Yurek, regarding the following:

- 1) Amended Plat of Block 21 & Lots 1-10, Block 22, Highland Park Addition and vacated rights-of-way, all in Section 13, Township 20 North, Range 3 East, Cascade County, Montana.
- 2) Vacation of the southerly 20 feet of 19th Avenue South, all of 20th Alley South, 21st Alley South and 20th Avenue South, between the west right-of-way of 8th Street South and the west boundary of Highland Park Addition.
- 3) Annexation of the area contained in said Amended Plat and abutting portion of 19th Avenue South.
- 4) Establish City zoning classification of M-1 Mixed use district and grant a conditional use permit to allow a contractor yard, type II upon the property requested to be annexed.

Said Amended Plat combines platted lots and rights-of-way requested to be vacated into one parcel located along the west side of 8th Street South between 19th Avenue South and 21st Alley South.

The applicants intend to develop the property for their business, Williamson Fencing & Sprinklers. The business operation has been located at 1325 Central Avenue West. The applicants intend to move to this new location and expand the business. The subject property was purchased from the City Park & Recreation Department and the applicants desire to have City water and sewer services.

For additional information, please refer to the attached Vicinity/Zoning Map, draft amended plat and site plan.

The Highland Park Addition was platted in the late 1800's with typical lots being 3,125 square feet (25' feet by 125' feet) and 80-foot wide rights-of-way. The City Land Development Code now requires lots to be a minimum of 50 feet in width and 7,500 square feet in area. Upon the request of the applicant, the City Public Works & City Planning Departments have reviewed the vicinity and agreed that the southerly 20 feet of 19th Avenue South, all of 20th & 21st Alley South and 20th Avenue South, between the west right-of-way of 8th Street South and the west subdivision boundary of Highland Park Addition are not needed for the development of the area

and could be vacated and combined with Block 21 and Lots 1-10, Block 22, Highland Park Addition to make a single parcel.

The abutting portion of 8th Street South is paved to rural standards and the abutting portion of 19th Avenue South is undeveloped. As a condition of annexation and provision of services, the applicants will agree to pay their proportionate share of the costs to improve the abutting segments of 8th Street South and 19th Avenue South to urban standards when deemed necessary by the City. As the area develops, the funds will be combined with the abutting owners' proportionate share of the cost to complete the improvements to City Standards.

A water main exists in the abutting portion of 8th Street South. The applicant will grant an easement to the City for the existing 30" water main that crosses the property in the vicinity of the proposed vacated 20th Avenue South. The nearest sanitary sewer main is available approximately 300 feet north of 17th Avenue North. The applicants intend to install a lift station and pump the effluent north to the existing sanitary sewer system. A portion of the property within the Amended Plat is an historic surface storm water drainage corridor that serves an upstream area including the Fire Training Center.

It is proposed that the Amended Plat of Block 21 & Lots 1-10, Block 22, Highland Park Addition and vacated rights-of-way, be zoned M-1 mixed use district and be granted a conditional use permit to allow a contractor yard, type II, upon annexation to the City. Subject property is located on the fringe of the City that is a mixture of public training center, semi-public social organization, single-family residence and tracts of undeveloped land.

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.

Goals of the land use element of the Great Falls Growth Policy include:

- To support and encourage efficient, sustainable development and redevelopment throughout the community.
- To support and encourage a compatible mix of land uses in redeveloping areas.

Applicable policy statements include “Annexations should be logical and efficient extensions of the City’s boundaries and service areas” and “...infill development and redevelopment offer the community the highest degrees of efficiency and sustainability.”

Annexation of subject property will enhance health, safety and welfare through application of City Codes and provision of municipal services. Therefore, staff concludes the above-cited criteria are substantially met.

Section 17.16.36.040 of the Land Development Code states that the Zoning Commission’s recommendation and the City Commission’s decision to approve, conditionally approve, or deny a conditional use permit shall be based on whether the application, staff report, public hearing, Zoning Commission recommendation, or additional information demonstrates that each of the following criteria have been satisfied:

1. The conditional use is consistent with the City’s growth policy and applicable neighborhood plans, if any.
2. The establishment, maintenance, or operation of the conditional use will not be detrimental to, or endanger the public health, safety, morals, comfort or general welfare.
3. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
4. The conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
5. Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.
6. Adequate measures have been or will be taken to provide ingress and egress so as to minimize traffic congestion in the public streets.
7. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the City Commission.

Based on the information provided by the applicant and the characteristics of the redeveloping vicinity, the contractor yard, type II will not be intrusive to the neighborhood. The proposed development of the property is consistent with the growth policies of the City and would not impede the neighborhood. Staff concludes the above-cited criteria are substantially met.

Prior to the June 9 public hearing the Planning Office received written opposition to the proposed actions from Karen Kay Kinkaid Husted, abutting property owner to the north. Ms. Husted lives out of town and was unable to review the mailed notice until Monday, June 8. In accordance with State statute, staff had prepared and published the notice of public hearing on May 24, 2009, and per City policy mailed the notice to surrounding property owners on May 22, 2009. Ms. Husted’s letter was provided to the members of the Zoning Commission during the public hearing.

No citizens spoke as proponents or opponents during the hearing.

At the conclusion of a public hearing held June 9, 2009, the Zoning Commission passed a motion recommending the City Commission assign a zoning classification of M-1 Mixed use district and

granting a conditional use permit for a contractor yard, type II on the Amended Plat upon annexation to the City, subject to the applicants agreeing that any development of the subject property shall be substantially in accordance with the attached site plan and the Planning Board passed a motion recommending the City Commission approve: 1) the Amended Plat of Block 21 & Lots 1-10, Block 22, Highland Park Addition and vacated rights-of-way; 2) the vacation of the southerly 20 feet of 19th Avenue South, all of 20th & 21st Alley South and 20th Avenue South within the Amended Plat; 3) the annexation of the area within the Amended Plat together with the remaining abutting portion of 19th Avenue South; and, 4) the accompanying Findings of Fact subject to the following conditions being fulfilled by the applicant:

- 1) The Amended Plat shall incorporate easement to the City for 30-inch water main, notice of soil and/or groundwater conditions and correction of any errors or omissions noted by staff.
- 2) The final engineering drawings and specifications for the required sanitary sewer improvements to serve the Amended Plat shall be submitted to the City Public Works Department for review and approval prior to consideration of the annexation by the City Commission.
- 3) An Annexation Agreement shall be prepared containing terms and conditions for annexation of the Amended Plat.
- 4) All applicable fees owed as a condition of plat or annexation approval shall be paid upon annexation.
- 5) Applicants agree to pay their prorated share of the costs to improve the abutting segments of 19th Avenue South and 8th Street South to urban standards and potential cost of installation of a water main in 19th Avenue South when deemed necessary by the City.

At the time of writing this report, items 2), 3) and 5) have been completed by the applicant and items 1) and 4) will be completed prior to filing the amended plat.

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

Fiscal Impact: Providing services is expected to be a negligible cost to the City. Any increased costs likely will be covered by increased tax revenue from the development of the property.

Alternatives: If there are justifiable reasons to do so, the City Commission could deny the requested action to the extent allowed in City Code and State Statute.

Attachments/Exhibits:

1. Vicinity/Zoning Map
2. Resolution 9858
3. Resolution 9859
4. Ordinance 3040
5. Annexation Agreement
6. Reduced copy of Amended Plat
7. Site Plan
8. Findings of Fact

9. Letter from Karen Kay Kinkaid Husted
10. Aerial Photo of Involved Area
11. Notice of Planning Board/Zoning Commission Public Hearing
12. Affidavit for mailing Notice
13. Notice of City Commission Public Hearing

Cc: Jim Rearden, Public Works Director
Dave Dobbs, City Engineer
Dale and Tracy Yurek, 1325 Central Ave W, Great Falls MT 59404
Woith Engineering, 1725 41st St S, Great Falls, MT 59405
Roy Volk, 301 Big Bend Lane, 59404