

Return To:
City of Miles City
Box 728
Miles City MT 59301

RESOLUTION NO. 4049

A RESOLUTION ADOPTING FINDINGS OF FACT AND APPROVING THE AMENDED PLAT FOR THE PURPOSE OF BOUNDARY LINE RELOCATION OF TRACTS A-1 AND A-2 OF THE ADRIAN MINOR SUBDIVISION WITHIN THE CITY OF MILES CITY.

WHEREAS, LEROY ADRIAN has requested that the City of Miles City approve a boundary line relocation involving TRACTS A-1 AND A-2 OF THE ADRIAN MINOR SUBDIVISION within the City of Miles City, Custer County, Montana;

AND WHEREAS, the City of Miles City is authorized to approve the relocation of common boundary lines for five or fewer lots within a platted subdivision pursuant to Section 76-3-207(1)(d), MCA.

NOW THEREFORE BE IT RESOLVED by the City Council of Miles City, Montana, as follows:

It does hereby adopt the Staff Report to City Council, File #BLA 2017-01, attached hereto as Exhibit "A" as findings of fact, and based on such findings of fact, approves the "AMENDED PLAT Tract A-1 & Tract A-2, ADRIAN MINOR SUBDIVISION RELOCATION OF COMMON BOUNDARY LINE SW1/4, Section 27, Township 8 North, Range 47 East, P.M.M.," said amended plat being attached hereto as Exhibit "B."

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, AT A DULY CALLED MEETING THIS 9TH DAY OF MAY, 2017.

ATTEST:


Lorrie Pearce, City Clerk


John Hollowell, Mayor

EXHIBIT A

Report for City Council

Meeting Date May 9, 2017

File #BLA-2017-01 – Adrian Boundary Line Adjustment

Tracts A-1 and A-2, Adrian Minor Subdivision

The subject properties are Tracts A-1 & A-2 of the Adrian Minor Subdivision in Miles City, MT. The applicant, LeRoy Adrian, 1515 Lincoln St, Miles City, MT, proposes a boundary line adjustment to decrease the size of Tract A-1 and consequently increase the size of Lot A-2. The address for Tract A-2 is 1213 N Center Ave. The stated purpose of this boundary line adjustment is to provide improved access to the new building on Tract A-2. The properties will continue as residential land use.

The proposed *Amended Plat of Tract A-1 & Tract A-2, Adrian Minor Subdivision* is exempt from Subdivision Review per MCA section 76-3-101(1)(d) but is subject to the survey requirements in MCA 76-3-401.

76-3-207. Divisions or aggregations of land exempted from review but subject to survey requirements and zoning regulations -- exceptions -- fees for examination of division. (1) Except as provided in subsection (2), unless the method of disposition is adopted for the purpose of evading this chapter, the following divisions or aggregations of tracts of record of any size, regardless of the resulting size of any lot created by the division or aggregation, are not subdivisions under this chapter but are subject to the surveying requirements of 76-3-401 for divisions or aggregations of land other than subdivisions and are subject to applicable zoning regulations adopted under Title 76, Chapter 2:

(d) for five or fewer lots within a platted subdivision, the relocation of common boundaries;

This review is being conducted according to the Miles City Code of Ordinances (MCCO) effective April 14, 2017.

The *Amended Plat of Tract A-1 & Tract A-2, Adrian Minor Subdivision* does not create new tracts of record. Tract A-1 will be reduced in size by approximately 2,460 sq. ft. while increasing the size of Tract A-2 by same.

There are currently residential homes on both tracts. Both tracts are appropriately zoned Residential A (RA) and no change in land use is proposed. The properties are bordered by RA districts to the south, west and east. Tract A-2 is adjacent to County property to the north, across Riverside Street (an unimproved platted city street). The County property is currently vacant. Requirements of Chapter 24-53 (Zoning), Chapter 12 (Floodplain) and Chapter 5 (Building Codes) of the Miles City Code of Ordinances (MCCO) will apply to development on the subject tracts, along with any applicable Federal and State regulations. Both parcels are out of the floodplain, LOMA Case #12-08-0897A. Municipal services are readily available. The newly created lots will have legal and physical access via N. Center Ave. The subject parcels have no easements.

This boundary line adjustment will not:

- create additional lots or tracts of land
- impact the ability of the government to provide local services
- endanger public health, safety, and welfare
- create or expand a non-conforming use
- create an expansion or cost of services
- increase the amount of roads currently being maintained by the City
- significantly increase emergency response times, traffic load, fire protection levels, schools and school routes, or landfill requirements
- create any special or rural improvement districts that would obligate the local

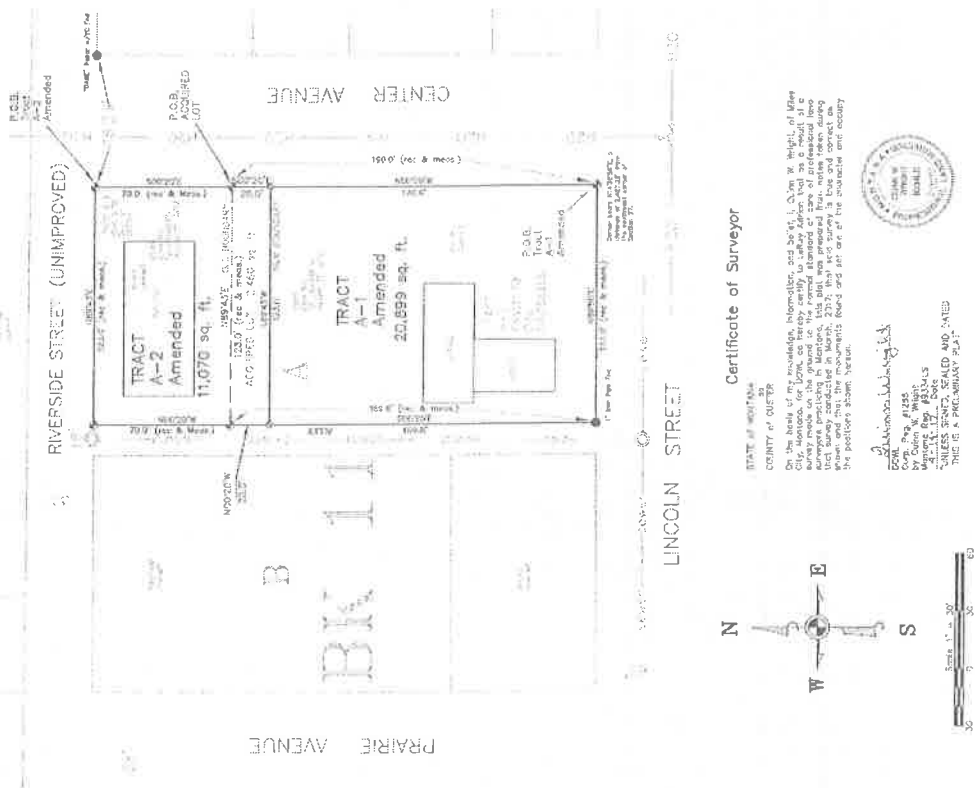
government either administratively or financially.

Per MCA 76-3-207, the proposed amended plat is not a subdivision, is not subject to subdivision review and does not appear to be an attempt to evade subdivision review. It appears that the completed project will meet the intent of subdivision regulations stated in MCA 76-3-102. Custer County's Examining Land Surveyor has reviewed the preliminary plat for compliance with MCA 76-3-401. Therefore, staff recommends approval of the amended plat as proposed.

DRAFT

AMENDED PLAT Tract A-1 & Tract A-2, ADRIAN MINOR SUBDIVISION RELOCATION OF COMMON BOUNDARY LINE SW1/4, Section 27, Township 8 North, Range 47 East, P.M.M.

Metes & Bounds



Tract A-1 Amended
 This tract is bounded on the north by the center line of Center Avenue, on the east by the center line of Riverside Street, on the south by the center line of Prairie Avenue, and on the west by the center line of Lincoln Street. The area of this tract is 20,859 square feet.

Tract A-2 Amended
 This tract is bounded on the north by the center line of Center Avenue, on the east by the center line of Riverside Street, on the south by the center line of Prairie Avenue, and on the west by the center line of Lincoln Street. The area of this tract is 11,076 square feet.

ACQUIRED LOT

A parcel of land bounded on the north by the center line of Center Avenue, on the east by the center line of Riverside Street, on the south by the center line of Prairie Avenue, and on the west by the center line of Lincoln Street. The area of this parcel is 123.0 square feet.

Purpose of Survey

The purpose of this survey is to relocate the common boundary line between Tract A-1 and Tract A-2. The survey was conducted in accordance with the provisions of the Montana Surveying Act, and the results are set forth in this plat. The survey was conducted by a licensed surveyor, and the results are set forth in this plat.

Certificate of Surveyor

I, Michael J. Adams, Surveyor, do hereby certify that the above described metes and bounds are true and correct to the best of my knowledge and belief, and that the same have been measured and set out in accordance with the provisions of the Montana Surveying Act.



LEGEND

- PROPERTY CORNER
- MONUMENT TO AND
- SURVEY BEARS W/ YELLOW PLASTIC CAP
- STAMPED WITH 93445 (2020)
- STAMPED WITH 93443 SET THIS SURVEY

County Treasurer's Certification

I hereby certify that all the property taxes and interest thereon due and owing on the above described land have been paid.

John R. Adams
 County Treasurer

Paid this 27th day of _____, 2017 \$ 0.00

County Clerk, Clerk and Recorder

Enacted by _____ Document # _____

Certification of Exemption Approval

I, Mayor of the City of Miles City, do hereby certify that the sale of this exemption claimed on the accompanying plat has been duly approved by the Board of Commissioners and the Mayor and City Clerk.

DATED this _____ day of _____, 2017.

Mayor, City of Miles City, Montana

Certification of Examination

I have examined the above described plat and certify that the same are true and correct to the best of my knowledge and belief, and that the same have been measured and set out in accordance with the provisions of the Montana Surveying Act.

(Signature)

VICINITY MAP



STATE OF MONTANA
 COUNTY OF CUSTER

On this 27th day of April, 2017, before me, a Notary Public in and for the State of Montana, personally appeared _____ who acknowledged to me that he was the owner of the above described land and that he executed the foregoing plat and map and that he was duly qualified to execute the same.

CERTIFICATE OF SANCTIONING

I, Michael J. Adams, the Notary Public for the City of Miles City/Custer County, do hereby certify that the above described plat and map have been determined to be in compliance with the Montana Surveying Act, and the same are approved A.R.M. 10-1-2017.

Michael J. Adams
 Miles City/Custer County Encomendador Public Officer

STATE OF MONTANA
 COUNTY OF CUSTER

On this 27th day of April, 2017, before me, a Notary Public in and for the State of Montana, personally appeared _____ who acknowledged to me that he was the owner of the above described land and that he executed the foregoing plat and map and that he was duly qualified to execute the same.

AMENDED PLAT of Tracts A-1 & A-2,
 ADRIAN MINOR SUBDIVISION

DOWL
 713 PLEASANT
 P.O. BOX 1518
 MILES CITY, MONTANA 59701
 406-234-8866

Prepared by
 LeRoy Adrian
 1515 Lincoln Street
 Miles City, MT 59301

EXEMPTION CLAIM APPLICATION
BOUNDARY LINE ADJUSTMENT
AND/OR AGGREGATION OF LANDS

Miles City Community Services & Planning
17 South 8th Street, PO Box 910
Miles City, MT 59301

Date Received: APR 17 2017
to be completed by City

Attach a check payable to the City of Miles City for \$200.00 and submit the application materials (Original, plus 2 copies) to the City of Miles City Community Services and Planning Department, 17 S. 8th Street, Miles City, MT, 59301.

1. Property owner(s): (If more than 2, please attach additional sheets)

a. Name: Leroy Adrian Occupation: retired

Address: 1515 Lincoln St Phone: _____

City, State, Zip: Miles City, MT 59301 Email: _____

b. Name: Quinn Wright Occupation: Surveyor

Address: 1509 Lincoln St Phone: 406-861-9542

City, State, Zip: Miles City, MT 59301 Email: qwright@dowl.com

2. Surveyor/Representative:

Name: Quinn Wright Firm: DOWL

Address: 713 Pleasant St Miles City Phone: 406-234-6666

City, State, Zip: Miles City, MT 59301 Email: qwright@dowl.com

3. Parcel Description(s) of Existing Tract(s): (If more than 2, please attach additional sheets)

a. Address: 1515 Lincoln St

Tax ID Number: _____ Geocode: 14-1740-27-3-42-01-0000

Section: 27 Township: 8 N., Range: 47 E.

Other legal description: Lot A-1

Zoning District: _____ Minimum Lot Size: _____

How and when the parcel was created (example: Subdivision: X Addition, 10/3/92):

A Mended Plat, E.N.V. 517B, Doc # 158156

EXEMPTION CLAIM APPLICATION
BOUNDARY LINE ADJUSTMENT
AND/OR AGGREGATION OF LANDS

Miles City Community Services & Planning
17 South 8th Street, PO Box 910
Miles City, MT 59301

Date Received: 7/2017
to be completed by City

b. Address: 1213 N. Center

Tax ID Number: _____ Geocode: 14-1740-27-3-42-04-0000

Section: 27 Township: 8 N., Range: 47 E.

Other legal description: Lot A-2

Zoning District: _____ Minimum Lot Size: _____

How and when the existing parcel was created (example: Subdivision: X Addition, 10/3/92):

Amended Plat, ENV. 517B, Doc # 158156

4. Proposed Exemption(s):

This application is used for proposals to relocate common boundaries between adjoining properties, and/or the aggregation of lots. Please indicate which exemptions apply to this proposal by checking the appropriate box(es):

- A division made outside of platted subdivisions for the purpose of relocating common boundary line(s) between adjoining properties. [76-3-207(1)(a), MCA]
- For five or fewer lots within a platted subdivision, the relocation of common boundaries. [76-3-207(1)(d), MCA]
- A division made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas. [76-3-207(1)(e), MCA]
- Aggregation of parcels or lots when a certificate of survey or subdivision plat shows that the boundaries of the original parcels have been eliminated and the boundaries of a larger aggregate parcel are established. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas. [76-3-207(1)(f), MCA]



EXEMPTION CLAIM APPLICATION
BOUNDARY LINE ADJUSTMENT
AND/OR AGGREGATION OF LANDS

Miles City Community Services & Planning
17 South 8th Street, PO Box 910
Miles City, MT 59301

Date Received:

APR 17 2017

to be completed by City

a. Reasons/justification for use of the exemption:

Make Tract A-2 bigger

b. Intentions for uses of the property (List or discuss the property owners' intentions for the use of each resulting parcel. For example, will the parcel(s) be used for agriculture, commercial, residences, etc.):

residences both parcels

c. Intentions for disposition (For example, is the intent to correct a building or fence encroachment, to bring the property into compliance with zoning requirements, to prepare tracts for sale, etc.):

Make Tract A-2 bigger so that there is better access to building.

5. Required attachments:

Submit the original, signed application, along with two additional copies of the completed application and the information listed below.

- a. Copies of recorded deeds documenting present ownership of affected parcels.
- b. Copies of all deeds, contracts, restrictions, and covenants related to this property recorded or entered into within the past year.
- c. Site plan (or draft certificate of survey or subdivision/amended plat) showing the approximate gross and net lot sizes (in acreage or square feet), proposed property lines, and all existing and

EXEMPTION CLAIM APPLICATION
BOUNDARY LINE ADJUSTMENT
AND/OR AGGREGATION OF LANDS

Miles City Community Services & Planning
17 South 8th Street, PO Box 910
Miles City, MT 59301

Date Received: _____
to be completed by City

- proposed structures. The site plan should also identify property line setbacks, parking spaces, and any other information necessary to demonstrate compliance with the zoning code.
- d. Documentation of approved variances from zoning requirements related to the affected parcels.
- e. Copies of existing and proposed deed restrictions or covenants, if any.
- f. All documentation in support of the sanitation exemption(s), if applicable.
- g. Copies of any existing permits for the development on the property (building permits, floodplain permits, etc.), as applicable.

6. Acknowledgments:

I/We, the undersigned landowner(s) and exemption claimant(s) understand that the State of Montana provides that certain divisions of land, which would otherwise constitute subdivisions, are exempt from local subdivision review and approval, unless the transactions are an attempt to evade the Montana Subdivision and Platting Act or local subdivision regulations.

I/We affirm that this exemption claim is not an attempt to evade the Montana Subdivision and Platting Act or the Miles City Subdivision Regulations.

I/We recognize that I/We may be subject to penalties if my actions are deemed to be an effort to evade subdivision review, as set forth in Montana law:

- 76-3-301(3), MCA: If transfers not in accordance with the Montana Subdivision and Platting Act are made, the City Attorney shall commence action to enjoin further sales or transfers and complete compliance with all provision of the Montana Subdivision and Platting Act. The cost of such action shall be imposed against the party not prevailing.
- Violations: Any person who violates any provision of the Montana Subdivision and Platting Act or any local regulations adopted pursuant thereto shall be guilty of a misdemeanor and punishable by a fine of not less than \$100 or more than \$500 or by imprisonment in a county jail for not more than 3 months or by both fine and imprisonment. Each sale, lease, or transfer of each separate parcel of land in violation of any provision of this chapter or any local regulation adopted pursuant thereto shall be deemed a separate and distinct offense.
- I/We also recognize that making false statements on this form could subject me to criminal prosecution for False Swearing (per MCA 45-7-202) and Perjury (per MCA 45-7-201).
- I/We also recognize that per 45-7-203(1), MCA (Unsworn falsification to authorities), A person commits an offense under 45-7-203 if, with the purpose to mislead a public servant in performing an official function, the person:
 - (a) makes any written false statement that the person does not believe to be true;

EXEMPTION CLAIM APPLICATION
BOUNDARY LINE ADJUSTMENT
AND/OR AGGREGATION OF LANDS

Miles City Community Services & Planning
17 South 8th Street, PO Box 910
Miles City, MT 59301

Date Received:

APR 17 2017

to be completed by City

- (b) purposely creates a false impression in a written application for any pecuniary or other benefit by omitting information necessary to prevent statements from being misleading;
- (c) submits or invites reliance on any writing that the person knows to be forged, altered, or otherwise lacking in authenticity; or
- (d) submits or invites reliance on any sample, specimen, map, boundary mark, or other object that the person knows to be false.

7. Signatures:

I/We, as Claimant(s), has/have read the foregoing Exemption Claim Application, and affirm that my/our statements and information are true and correct to the best of my/our knowledge.

Quinn Wiegert Date: 4-11-17
Property owner's/Claimant's signature

LeRoy Adrian Date: 4-11-17
Property owner's/Claimant's signature

Lisa Kuntz
LISA KUNTZ
NOTARY PUBLIC for the
State of Montana
Residing at Miles City, Montana
My Commission Expires
February 8, 2018