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City of Miles City
PO Box 910
Miles City, MT 59301

164644 Fee: \$14.00

Custer County Recorded 11/25/2015 At 3:46 PM
Linda Corbett, Clk & Rcdr By Linda Corbett
Return to: City of Miles City P.O. Box 910
MILES CITY MT 59301

RESOLUTION NO. 3859

A RESOLUTION ADOPTING FINDINGS OF FACT AND APPROVING THE AMENDED PLAT FOR THE PURPOSE OF BOUNDARY LINE RELOCATION OF LOTS 12-16 IN BLOCK 8 OF THE RESIDENCE PARK ADDITION TO THE CITY OF MILES CITY

WHEREAS, Lloyd Comer and Gladys Comer have requested that the City of Miles City approve a boundary line relocation involving Lots 12-16 in Block 8 of the Residence Park Addition to 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) and (f), 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 2015-03, attached hereto as Exhibit "A" as findings of fact, and based on such findings of fact, approves the "Amended Plat No. _____ of Lots 12, 13, 14, 15, and 16 of Block 8 of Residence Park Addition to the City of Miles City, Custer County, Montana" creating Lot 12-A and Lot 13-A within said Block 8 of the Residence Park Addition, 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 27th DAY OF OCTOBER, 2015.**



C.A. Grenz, Mayor

ATTEST:



Lorrie Pearce, City Clerk

164644 Fee: \$14.00
Custer County Recorded 11/25/2015 At 3:46 PM



SUBDIVISION EXEMPTION CLAIM APPLICATION

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

Date Received: RECEIVED SEP 4 2015
(for official use only)

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: Lloyd Comer Occupation: Retired
Address: 517 N. Stacy Ave Phone: 406-234-0477
City, State, Zip: Miles City MT 59301 Email: _____

b. Name: Gladys Comer Occupation: Retired
Address: 517 N. Stacy Phone: 406-234-0477
City, State, Zip: Miles City MT 59301 Email: _____

2. Surveyor/Representative:

Name: Adam Thompson Firm: Interstate Engineering
Address: P.O. Box 20953 Phone: 406-
City, State, Zip: Billings, MT 59104 Email: adam.thompson@interstateeng.com

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

a. Address: 517 N. Stacy Ave, Miles City MT 59301
Tax ID Number: RMS0367 Geocode: 14-1740-27-4-09-06 0000
Section: 27 Township: 8N Range: 47E

Other legal description: _____
Zoning District: Residential A Minimum Lot Size: 5500^{sq ft} with 50' width

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

Subdivision: Residence Park Addition

b. Address: 515 N. Stacy Ave, Miles City, MT 59301

Tax ID Number: RMS3099 Geocode: 14-1740-27-4-09-04-000

Section: 27 Township: 8N Range: 47E

Other legal description: _____

Zoning District: Residential A Minimum Lot Size: 5500^{sq} ft with 50' width

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

Subdivision: Residence Park Addition

4. Proposed Exemption(s):

This application is used for proposals to relocate common boundaries between adjoining properties, and/or the aggregation of lots, or miscellaneous exemptions (MCA 76-3-. 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]
- A division of land that is created for rights-of-way or utility sites. A subsequent change in the use of the land to a residential, commercial, or industrial use is subject to the requirements of this chapter [76-3-201(1)(h), MCA]
- Other (please describe) _____

a. Reasons/justification for use of the exemption:

Property owners want to aggregate 5 lots and do a boundary line adjustment to create 2 new lots ... to come into zoning compliance

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.):

2 newly created lots will each have one residence.

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.):

to bring the property into compliance with zoning requirements AND to prepare tracts for sale.

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 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. *n/a*
- f. All documentation in support of the sanitation exemption(s), if applicable. *n/a*
- g. Copies of any existing permits for the development on the property (building permits, floodplain permits, etc.), as applicable. *n/a*

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;
 - (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.

X Lloyd Comer
Property owner's/Claimant's signature

Date: Aug. 13-15

X Lloyd Comer
Property owner's/Claimant's signature

Date: Aug. 13-15

**Report for City Council
File #BLA-2015-03
Comer Boundary Line Adjustment
October 27, 2015**

The subject property is located at Stacy and Otter Streets, Lots 12 through 16, Block 8 of the Residence Park Subdivision in Miles City, MT. The applicants, Lloyd and Gladys Comer of 517 Stacy Ave, propose aggregation of lots and a boundary line adjustment to facilitate the sale of the resulting amended new Lot 12A with the existing residential structure.

The preliminary Amended Plat of Lots 12-16, Block 8 of the Residence Park Addition is an aggregation of the lots 12 through 16, and a subsequent boundary line adjustment to create 2 new lots; 12A and 13A. This amended plat is exempt from Subdivision Review per MCA section 76-3-207(1)(d) and 76-3-207(1)(f) but 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;

(f) 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.

The property is appropriately zoned Residential A (RA), is adjacent to RA zones on three sides and General Commercial to the north. No change in land use is proposed. After aggregation of Lots 12, 13, 14, 15 and 16, the new boundary line will split the lots approximately in half. The resulting Lot 12A (the west half of lots 12 thru 16) is 6,540.1 sq. ft.; Lot 13A (includes the east half of lots 12 thru 16) is 8,838.4 sq. ft. The existing homes do not meet the current code requirements for setbacks for the frontages and the home at 2212 Otter St does not meet the alleyway setback. However, these conditions do not expand or create a new non-conforming use per Sec 24-11(a) and (b) and is acceptable as a continuing non-conforming use. The side yard setbacks from the new property line meets current requirements of the RA zoning code.

Existing structures on the proposed new lots are served by all city services, including municipal water and sewer services. This proposal will place the structures on separate parcels, facilitating a clean title for the purchaser of either property. The water and sewer services are currently separate accounts; however, the sewer service line for the Stacy property may be shared with the Otter property. Since service lines are not under the City's authority, staff simply recommends that the sewer service lines be located by the property owner(s) and this information be disclosed to future buyers.

The aggregation of lots and the boundary line adjustment will not:

- create additional lots or tracks of land
- impact the ability of the government to provide local services
- endanger public health and safety
- 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
- increase emergency response times, traffic load, fire protection levels, schools and school routes, or landfill requirements

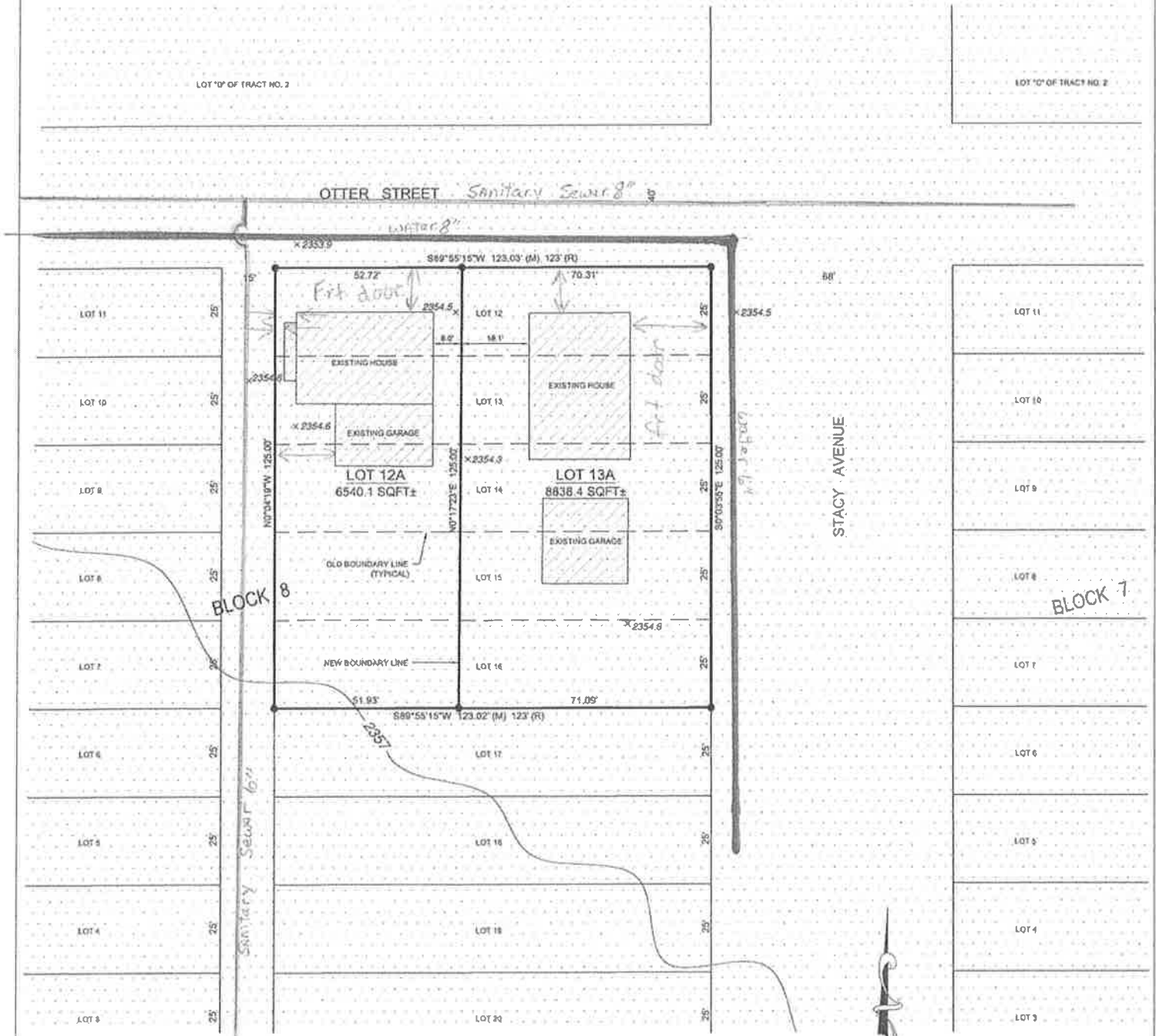
Exhibit A

- 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. This plat has been reviewed by Custer County's Examining Land Surveyor for compliance with surveying requirements of 76-3-401. Therefore, staff recommends approval of the amended plat as proposed. Staff has advised the property owner to provide an easement for access to the sewer service lines that currently serve the properties. The easement will guarantee access should the service lines require repair or replacement, however, the City cannot require the easement be established as approval criteria for this application.

EXHIBIT DRAWING

LOTS 12, 13, 14, 15, AND 16 IN BLOCK 8 OF RESIDENCE PARK ADDITION TO THE CITY OF MILES CITY, CUSTER COUNTY, MONTANA



LEGEND



ZONE AE/SPECIAL FLOOD HAZARD AREA SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD PER FIRM FLOOD INSURANCE RATE MAP PANEL NO. 0662D DATED: JULY 22, 2010



BASE FLOOD ELEVATION LINE AND VALUE PER FIRM FLOOD INSURANCE RATE MAP PANEL NO. 0662D DATED: JULY 22, 2010

2354.8

EXISTING GROUND ELEVATIONS

SCALE: 1" = 40'

A
SHEET NO

INTERSTATE ENGINEERING
Professionals you need, people you trust

Interstate Engineering, Inc.
P.O. Box 648
425 East Main Street
Sidney, Montana 59270
Ph (406) 433-5617
Fax (406) 433-5618
www.interstateeng.com
Other offices in Minnesota, North Dakota and South Dakota

EXHIBIT DRAWING
LOTS 12, 13, 14, 15, & 16, BLOCK 8
RESIDENCE PARK ADDITION
MILES CITY, MONTANA

Drawn By: A.M.R. Project No.: 31509233
Checked By: A.C.T. Date: AUG/ST 2015

Revision No.	Date	By	Description