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

RESOLUTION NO. 4010

A RESOLUTION ADOPTING FINDINGS OF FACT AND APPROVING THE AMENDED PLAT FOR THE PURPOSE OF BOUNDARY LINE RELOCATION OF LOTS 11-17 IN BLOCK 44 OF THE HIGHLAND PARK ADDITION TO THE CITY OF MILES CITY

WHEREAS, Nancy L. Aaberge, Steven J. Atwood and Kristy L. Atwood have requested that the City of Miles City approve a boundary line relocation involving Lots 11-17 in Block 44 of the Highland 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), 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 2016-09, attached hereto as Exhibit "A" as findings of fact, and based on such findings of fact, approves the "AMENDED PLAT of Lots 11-17 of Block 44, Highland 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 13TH DAY OF DECEMBER, 2016.

ATTEST:

Lorrie Pearce, City Clerk

John Hollowell, Mayor

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Report for City Council

Meeting Date December 13, 2016 File #BLA-2016-09

Aaberge Boundary Line Adjustment and Aggregation of Lots Block 44, Lots 11 - 17, Highland Park Addition

The subject properties are Lots 11 through 17 of Block 44 of the Highland Park Addition in Miles City, MT.

The applicant, Cory Wilhelm of DOWL, on behalf of Nancy Aaberge, 315 Charles, Apt #5, Miles City, MT, proposes to adjust a common boundary between Lot 14 and the South 9.5 feet of Lot 15 (which is a separately deeded tract of record); followed by the aggregation of Lots 11 - 13 (shown as Lot 15B on the amended plat); and an aggregation of Lots 14 - 17 (shown as Lot 15A on the amended plat).

This would result in the creation of two lots from eight original lots. The stated purpose of the request is to facilitate the sale of property.

The proposed Amended Plat of Lots 11-17 of Block 44, Highland Park Addition is exempt from Subdivision Review per MCA section 76-3-207(1)(d) & (f) 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;
- (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.

This review is being conducted according to the Miles City Code of Ordinances (MCCO) effective May 2015.

There is currently one home on new Lot 15A. New lot 15B is vacant. Both lots are zoned Residential A (RA) and no change in land use is proposed. No development is proposed at this time. Any development on Lot 15B will be a residential use to be reviewed and approved by the Building Inspection Department. Requirements of Chapter 24-53 (Zoning), Chapter 12 (Floodplain) and Chapter 5 (Building Codes) of the MCCO will apply to development on the subject tracts, along with any applicable Federal and State regulations.

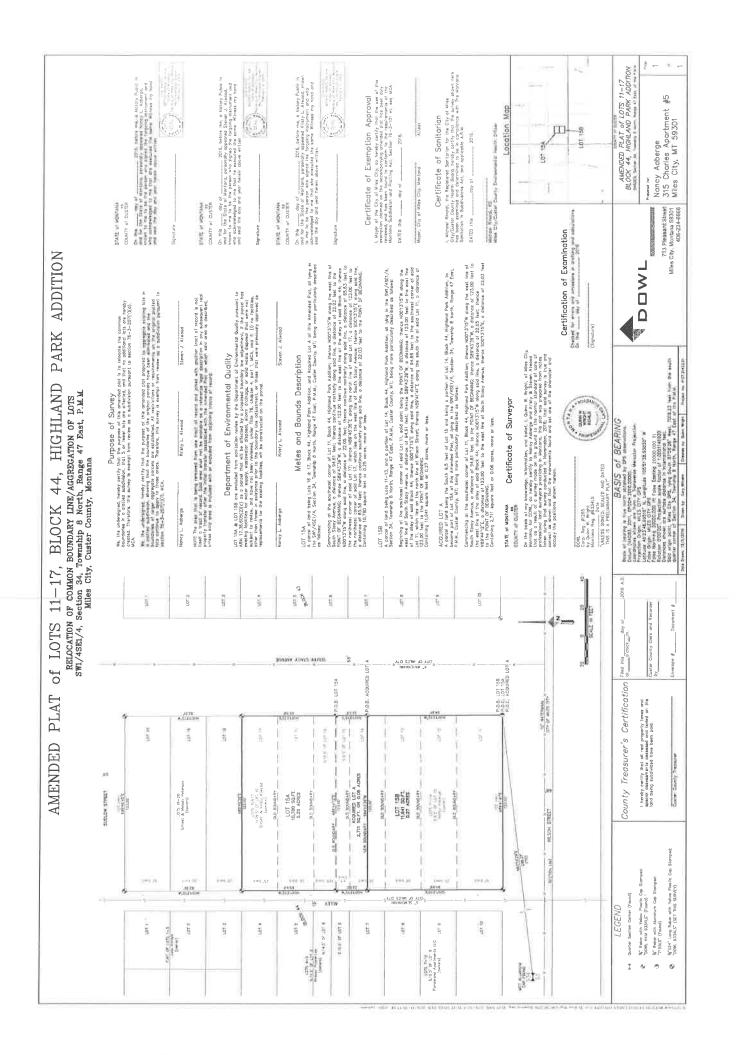
Municipal services are readily available. The resulting lots will have legal and physical access via Wilson Street and Stacy Ave. The subject parcels have no easements.

This boundary line adjustment will not:

- o create additional lots or tracts of land
- o impact the ability of the government to provide local services
- o endanger public health and safety

- o create or expand a non-conforming use
- o create an expansion or cost of services
- o increase the amount of roads currently being maintained by the City
- o significantly increase emergency response times, traffic load, fire protection levels, schools and school routes, or landfill requirements
- o 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.



CUSTER COUNTY ARM/ELS APPROVAL

The following described survey has been reviewed for conformance to ARM 24.183.1101 and 24.183.1104, mathematical closure, area computations, errors and omissions in drafting. The survey is approved for conformance to the above cited and is authorized by law and approved for recording or filing pursuant to 7-4-2617 MCA.

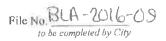
<u>Description of Document or Survey</u>: Boundary Relocation Survey located in Lots 11-17, Block 44, Highland Park Addition, located in the SW ¼ SE ¼ Section 34, Township 8 North, Range 47 East, P.M.M., MILES CITY, CUSTER COUNTY, MONTANA Survey Commissioned by Nancy Aaberge and dated November, 2016.

Note: This approval applies to ARM/ELS review only, the subdivision or exemption review is performed by the Miles City Planning Department.

Dan Stahly

Digitally signed by Dan Stahly DN: cn=Dan Stahly, o=Stahly Engineering, ou, email=dstahly@seaeng.com, c=US Date: 2016.11.28 09:45:52 -07'00'

Dan Stahly, P.L.S. # 16192 Custer County Contract Reviewer





Miles City Community Services & Planning 17 South 8th Street, PO Box 910 Miles City, MT 59301 Date Received: NOV 2 3 2016

to be completed by City

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

| 1. Property ow a. Name: | vner(s): (If more than 2 Nancy L. Aaberge | , please attach a | dditional she Occupation: | eets) |
|----------------------------|--|----------------------|------------------------------|-----------------------------------|
| | 2219 Wilson Street | | | |
| | Miles City, MT, 59301 | | | |
| b. Name: | Steven J. & Kristy L. Atwood | | Occupation: | |
| Address: | 1109 South Stacy Avenue | | Phone: | + |
| City, State, Zip: | Miles City, MT, 59301 | Email: | | |
| 2. Surveyor/R | epresentative: | | | |
| Name: | Quinn W. Wright | _Firm: | DOWL | |
| Address: | 713 Pleasant Street | | Phone: | 406-234-6666 |
| 411000 | Miles City, MT, 59301 | | | |
| sheets) | eription(s) of Existing Tr | | | |
| | Geocode: 14- | | | |
| Section: <u>34</u> | Township: 8 North Rang | ge: <u>47 East</u> | | |
| Other legal desc | ription: Lots 11-14, South 9.5 | of Lot 15, Block 44, | Highland Park Ad | dition, Warranty Deed Doc. #15008 |
| Zoning District: | | Minimum Lot Siz | e: | |
| How and when t | he parcel was created (exar | nple: Subdivision: | X Addition, 10 | 1/3/92): |
| | ghland Park Addition Plat, Envelo | | | |
| | | |)×. | |





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| Date Received: | NOV | 2 | 3 | 2016 |
|----------------|-------|-----|------|------------|
| Date Received: | to be | com | plet | ed by City |

| b. Address: 1109 South Stacy Avenue |
|---|
| Tax ID Number: Geocode:14-1740-34-4-01-03-0000 |
| Section: 34 Township: 8 North Range: 47 East |
| Other legal description: Lots 16 & 17, North 15.5' of Lot 15, Block 44, Highland Park Addition, Warranty Deed Doc. #133598 |
| Zoning District: Minimum Lot Size: |
| How and when the existing parcel was created (example: Subdivision: X Addition, 10/3/92): |
| Highland Park Addition Plat, Envelope 381B, Filed 11/16/1910 |
| |
| |
| 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] |





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| a. Reasons/justification for use of the exemption: |
|--|
| Relocate the boundaries to give Steven & Kristi Atwood the South 9.5' of Lot 15 and the north half of Lot 14. |
| 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.?): |
| Lot 15A will be used for residential purposes. |
| Lot 15B will be used for residential purposes. |
| 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.?): |
| Relocate the boundaries to give Steven & Kristi Atwood the South 9.5' of Lot 15 and the north half of Lot 14, |
| |

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





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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:
 - makes any written false statement that the person does not believe to be true; (a)





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- (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;
- 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.

Property owner's/Claimant's signature

Date: 1//22/2016

Property owner's/Claimant's signature

Date: 1//23/2016

Date: 1//23/2016