



CITY OF MILES CITY AGENDA

*Regular Council Meeting
City Council Chambers*

*December 23, 2014
7:00 p.m.*

CALL TO ORDER PLEDGE OF ALLEGIANCE ROLL CALL

1. APPROVAL OF COUNCIL MINUTES/COMMITTEE MINUTES
 - a. City Council Meeting 12/09/2014
 - b. Finance Committee 12/08/2014
2. SCHEDULE MEETINGS
3. REQUEST OF CITIZENS & PUBLIC COMMENT
Petition from Southgate citizens regarding Brawler Industries
4. APPOINTMENTS
5. PROCLAMATIONS
6. STAFF REPORTS
7. CITY COUNCIL COMMENTS
8. MAYOR COMMENTS
9. COMMITTEE RECOMMENDATIONS
10. BID OPENING
BID AWARDS
11. PUBLIC HEARINGS
 - A. **RESOLUTION NO. 3766:** A Resolution Pursuant To §7-6-4006 Of The Montana Code Annotated, Authorizing Amendment Of Final Budget For FY 2014-2015 To Increase The Budgeted Amount In Fund # 1000-011-411840-350 And #1000-011-411840-370 To Provide Funding For TIFD Project For Historic Preservation
 - B. **ORDINANCE NO. 1281:** An Ordinance Changing The Zoning Of Tract 1 Of The Armory Subdivision , From Residential Zone To General Commercial Zone, And Providing For A Hearing Thereon

- C. **ORDINANCE NO. 1282:** An Ordinance Changing The Zoning Of Tract B Of Document #153542, Envelope 500b; And Located Within Section 11 Of Township 7 North, Range 47 East, M.P.M., From Agriculture District Zone To General Commercial Zone, And Providing For A Hearing Thereon

12. **UNFINISHED BUSINESS**

- A. **RESOLUTION NO. 3766:** *(Second Reading)* A Resolution Pursuant To §7-6-4006 Of The Montana Code Annotated, Authorizing Amendment Of Final Budget For FY 2014-2015 To Increase The Budgeted Amount In Fund # 1000-011-411840-350 And #1000-011-411840-370 To Provide Funding For TIFD Project For Historic Preservation
- B. **ORDINANCE NO. 1281:** *(Second Reading)* An Ordinance Changing The Zoning Of Tract 1 Of The Armory Subdivision , From Residential Zone To General Commercial Zone, And Providing For A Hearing Thereon
- C. **ORDINANCE NO. 1282:** *(Second Reading)* An Ordinance Changing The Zoning Of Tract B Of Document #153542, Envelope 500b, And Located Within Section 11 Of Township 7 North, Range 47 East, M.P.M., From Agriculture District Zone To General Commercial Zone, And Providing For A Hearing Thereon

13. **NEW BUSINESS**

- A. **Approval of Sanjel Site Plan Review**
- B. **Approval of Mac's Frontierland Site Plan Review**
- C. **ORDINANCE NO. 1283:** *(First Reading)* Ordinance Changing The Zoning Of The S1/2SW 1/4SE1/4, Less 7.5 Acres Of Section 25, Township 8 North Range 47 East M.P.M. From Agriculture District Zone To Semi Rural Zone, And Providing For A Hearing Thereon
- D. **ORDINANCE NO. 1284:** *(First Reading)* An Ordinance Amending Section 20-68 Of The Code Of Ordinances Of The City Of Miles City, Montana, So As To Allow Alternate Forms Of Surety For Persons Making Utility Connections
- E. **RESOLUTION NO. 3768:** A Resolution Of The City Council Of The City Of Miles City, Montana, Approving Attachment Of A Remark Defining The Water Right As Nonconsumptive To Resolve Issues And Contentions About Water Court Case No 42C 184, And Concluding Litigation Concerning The Water Right Identified As Claim No. 42C 1735316-00, Owned By The City, To Use The Waters Of The Tongue River

14. **ADJOURNMENT**

Public comment on any public matter that is not on the agenda of this meeting can be presented under Request of Citizens, provided it is within the jurisdiction of the City to address. Public comment will be entered into the minutes of this meeting. The City Council cannot take any action on a matter unless notice of the matter has been made on an agenda and an opportunity for public comment has been allowed on the matter. Public matter does not include contested cases and other adjudicative proceedings

Mayor C.A. Grenz & Miles City Council

City of Miles City

P.O. Box 910

Miles City, Montana 59301

Re: Resident protest to Brawler's relocation to block 5 of Southgate Meadows

Dear Mayor Grenz and members of the city council:

Please find our petition signed by an overwhelming majority of Southgate Meadows residents, along with several personal letters expressing opposition Brawler Industries relocating to our neighborhood. During recent public hearings, we have continually been excluded from asking any questions in regards to Brawler Industries moving to our neighborhood. While we appreciate an expanding business in this community, we strongly feel that Brawler, a manufacturing company should not be allowed to move into a residential neighborhood, in fact right across the street, and that they should not be allowed to build their large scale facility on property zoned as General Commercial, as Block 5 is currently zoned. Our quality of life, sense of community, property values, and public health and safety will be negatively impacted, including the increased traffic and congestion on the only road leading into and out of Southgate Meadows. Horizon parkway was never designed to withstand heavy truck traffic.

We would like to have this matter added to the agenda and the attached letters and petition read into the minutes at the next City Council meeting. We can be contacted as follows:

Dwayne Rude, 234-6693

Dave Jewell, 234-7114

Rod Rainey, 234-0241

Respectively,

Concerned Southgate Residents

Richard and Lola Hess
12 Ponderosa Dr.
Miles City, MT 59301

To whom it may concern:

As residents and homeowners of the Southgate Meadows subdivision we are very concerned with the purposed zoning change in Block 5 Lot 2. We feel it should remain zoned General Commercial. We don't feel that Brawler Industries meets the criteria for General Commercial as stated in Section 24-59 of your zoning laws. We feel it better fits under Heavy Commercial or Industrial.

Our main concern is that this rezoning will result in the loss of value to our residential property. Also giving us concern is: the traffic overload of the existing facilities and pollution in the air with industrial type activity. Also our water and sewer infrastructure could be compromised.

We are absolutely not against commercial growth but feel it should be kept in the Industrial Corridor as on Highway 12.

We support the facts as stated in Dave and Betty Jewell's letter.

Thank you for taking our views and concerns into consideration.

Sincerely,

Richard Hess

Lola Hess

I have lived in this town for most of my life. I went to school, invested in a home, contributed to the local economy, I vote, and earned a living in Miles City. My wife and I have enjoyed a great quality of life being part of this community. I worked in the transportation sector my entire career.

That is why I feel it necessary to share my recent discovery of the plans that Brawler Industries, a manufacturing company plans build a 150 feet wide by 750 feet long building to fabricate and warehouse its product. This company is planning on working day, night, and weekend (Saturday and Sunday) shifts, with semi loads of raw material and the manufactured product coming and going during those work shift hours. Brawler states on its webpage (www.brawler.com) that it will "fabricate, supply, and install containment membranes for oil and mining companies in the Rocky Mountain region. Our strategic location allows us to provide unmatched service to the booming Bakken formation in North Dakota's Williston Basin and including the following:

- We stock North America's largest selection of materials
- High performance equipment
- In-house specialists for materials consultation
- Capable of manufacturing some of the largest liners in the industry
- Fast turnaround and direct delivery with our onsite truck fleet
- Installation guidelines
- Superior technical support

The proposed property site is within 150 feet and adjacent to a Church, multifamily apartments, and single family residential homes. The impact to the residents and home owners of Southgate Meadows will be devastating and will forever change our quality of life:

Imagine a future peaceful afternoon barbecue, a quiet Sunday dinner, church services, etc... these activities that we cherish will be forever disrupted by dust from heavy truck traffic, the smell of hot welded plastics that will fill the air, the din of the back up alarms while offloading and on loading operations are being performed, coupled with the rattling drone diesel engines of the onsite truck fleet. The home and property you invested in will lose its value. Your safety and health maybe compromised. And God help us if that plant starts fire...with the emissions from burning plastics and chemicals being spewed into our air, and keep in mind, Southgate has but ONE entrance for emergency workers to get to it.

Daily heavy truck traffic to and from this proposed site will be via the one and only road into the residential area. This road was never designed for heavy truck traffic and the poorly designed intersection of Horizon Parkway and Highway 59 South, which is currently a fatality waiting to happen, will become more

congested and more unsafe. The trucks will be sharing this road with people including children who use the roadway biking, running, and walking, because there are no sidewalks available to use.

A responsible company, city government and civic minded economic development groups would demand a manufacturing company utilize the current heavy commercial corridors that are being developed. These areas are appropriate for a manufacturing firm such as Brawler and afford a regulated buffer zone between home owners and the company facilities.

Brawler on the other hand has chosen, and appears to have the blessings of some city officials and the South Eastern Montana Economic Development Corporation to go ahead and impose its large warehouse and manufacturing facility with the above stated impacts on homeowners and property owners directly adjacent some within 50 feet of its property line with virtually no buffer zone.

If this is allowed to happen in my neighborhood, it most likely will be coming to your neighborhood soon.

Take ownership in the future of our fair city, if development like this is allowed to continue unchecked, our city will no longer be as desirable as it once was. Growth and development must only occur, but only with a clear vision and purpose, which allows all stake holders of Custer County and the City of Miles City to be a part of the decision making process. Communication and transparency are vital to ensure that development is done according to current laws, follows established processes, is appropriately located, and is a benefit to **All the people.**

I challenge each and every taxpaying resident of Miles City and Custer County to contact the mayor, your city council representative, South Eastern Montana Economic Development Corporation, the Chamber of Commerce, County Commissioners and voice your opinion. If it can happen in our backyard, it can happen in your backyard too.

Thank You

Dwayne and Cam Rude

Dwayne Rude
Fwd: Short letter to Council/Brawler
December 11, 2014 at 1:55 PM
Bette Jewell

----- Original Message -----

Subject: Fwd: Short letter to Council/Brawler
From: Jan Nesbit <nesbit@midrivers.com>
Sent: 12:06am, Thursday, December 11, 2014
To: Dwayne & Cam <cdrude@midrivers.com>
CC:

Please use this letter instead as I think I spelled Ahner wrong in the other letter I just sent. Thanks!

Sent from my iPad

Begin forwarded message:

From: Jan Nesbit <nesbit@midrivers.com>
Date: December 10, 2014 at 11:00:41 PM PST
To: Dwayne & Cam <cdrude@midrivers.com>
Subject: Short letter to Council/Brawler

Subject: Short letter to Council/Brawler

To Whom It May Concern regarding the proposed

development by Brawler in Southgate Meadows:

We have lived by choice for over 30 years in Southgate.

Within the last twelve years, we built a new house across the cul de sac from our original home. We chose to build there because we like Southgate - its quiet countryside feel and its location.

Now we are learning that Brawler, a large heavy industrial development, is making plans to build a huge manufacturing business within 150 feet from our property line. Why in their beginning planning were we not given proper notice or a meeting to discuss their plans? Do they not care that they will literally destroy our neighborhood? Have they considered what this development will do to Southgate residents in terms of safety, health issues, and property values? Have they considered the fact that we have only one access in and out of Southgate? Have they considered the extra truck traffic on this single route? Do they even care about the safety of the Southgate residents. Adults and children alike use the one entrance for exercise and bicycling. Will it take a tragic death to someone before the City wakes up and recognizes their impending liabilities?

My family - daughter, son-in-law, and grandchildren live just across the street from us and they all have asthma

problems, as well as myself. Has Brawler considered what their plastic welding fumes will do to the residents of Southgate? I know many of my neighbors also have breathing problems!

Has Brawler considered the devastating impact they will have on Southgate? According to Al Kelm at a Council meeting, "let the Southgate residents pay for upkeep on the road or lay an SID and raise their taxes to accommodate the Brawler development." I wonder if Mr. Kelm would like to be treated in the same manner with his property and home?

We are very disappointed in the City Council, except for Mark Ahner- who recognizes our plight - our council member, and Brawler itself. In our opinion, all of the above are guilty of underhanded secret meetings with no chance for the affected Southgate residents!

We are definitely not against economic development!
Brawler should build their plant in the industrial area around Optiblend and Sanjel or any other industrial area of their choice - NOT in a residential area!

We write this letter with deep anguish and disappointment in our City Council, Council Representative, and Brawler itself!



Jack and Jan Nesbit
7 Arrow Circle
Miles City, MT

December 13, 2014

Mr. Mayor and City Council Members:

As residents of Southgate Meadows we are very concerned with the news regarding the sale of Block 5 to Brawler Industries and the proposed manufacturing facility that is planned on the property. We have resided at Southgate since 1983 and have watched as our family friendly community of over 100 homes and several apartment complexes has had to endure numerous changes...the leveling of Block 5 done without the proper DEQ permits, the installation of the truck wash entrance at the intersection of Horizon Parkway and Highway 59 (highway violations, etc) making traffic dangerous at times, the removal of the city installed flood retention dam, numerous promises of another exit (Fire Chief and Police Chief agreed was needed at a Public Safety meeting we attended several years ago) ...just to name a few. Due to our concern we have tried to attend as many zoning/planning meetings as we can that involve Southgate.

We attended the zoning meeting when the developers asked to change the zoning in Block 5 from Local Commercial to General Commercial. We were led to believe, as was a zoning member we spoke to, that this was asked for so that the developers could market the property to buyers interested in a multi-family complex. Imagine our surprise when we learned that the property had been sold to a manufacturing industry that had paid for the Environment Impact Statement (EIS) before the property was sold (please see note at end). When we contacted a zoning commission member to ask how we could contest the fact that we feel Brawler does not meet the criteria of several of the items under Section 24-59, we were told to contact Dawn Colton, Dennis Hirsch, and Scott Gray.

Our objections to the zoning are as follows:

1. Under Section 24-59 definition of General Commercial District (a) it reads..."are serving the extraordinary needs of the entire **community**"

Community is defined as "a group of people living in a particular local area: a district where people live; occupied primarily by private residences". Please refer to the Brawler Industry home page, About link where it makes reference to "**North America's** largest selection of materials", "fabricate, supply, and install containment membranes for oil and mining companies in the **Rocky Mountain region**". Miles City and even more specific Southgate is the community that should be considered and our needs are NOT being met....increased truck traffic on a road that is our only way in/out and where pedestrian and bike traffic frequent, a manufacturing plant within a very close range of 100+ homes and apartment complexes, decreased home values (example...North Haynes Avenue) are just a few examples.

2. Again referring to 24-59 (a) it reads, "may be open in the evenings". We understand from the ads Brawler has placed in the Star that the facility will be open 24/7.
3. Section 24-59 (b) lists 6 permitted uses. The first (1) use is "all general businesses and services"

Please refer to the Brawler Home page, the About link. Brawler refers to themselves as Brawler **Industries** and a **manufacturing** facility.

We feel in reading Section 24-59 to 24-62 that Brawler Industries more correctly should be located in an area zoned Heavy Commercial or Industrial. Section 24-61 (a) Heavy Commercial mentions **warehousing**. Again, we refer you to Brawler Industry- About link. Under Advantages of working with Brawler Industries the first bullet reads "We **stock** North America's largest selection of materials". Section 24-62 (b) Industrial permitted uses states, "any **manufacturing**" and again I refer you to Brawler's home page, About link second paragraph, "our **manufacturing facilities**".

People of Southgate, as evidenced by the petition signed by most Southgate residents, are very concerned with having a manufacturing plant so close to a residential community and the concerns to us that it brings. Even though many issues have surfaced regarding opposition to Brawler Industries building on Block 5, letter only asks for answers regarding the zoning. After reading the areas where Brawler does **NOT** meet the criteria for General Commercial and where it **DOES** meet criterial in Heavy Commercial and Industrial can you please clarify why the city officials would allow Brawler Industries to build on Block 5 zoned General Commercial. We would appreciate an electronic response as soon as possible.

Thank you in advance for your time and consideration.

Sincerely,



Elizabeth (Bette) and Dave Jewell
107 Ponderosa

NOTE

I was quoted in the December 11, 2014 Star saying that when we attended the request for the zoning change for Block 5 of Southgate Meadows that I felt that we were misled to believe that the request was for multi-family residences. I also said at that time (this was not mentioned in the Star) that this was supported by the March 31, 2014 Zoning Staff report recommending the change from Local Commercial to General Commercial where numerous references were made regarding multi-family dwellings and nothing about a manufacturing/industrial business. In the Correction section of the December 12 Star Eric Doeden clarified that multi-family housing was one of the options for the land. I was there and stand by the fact that we were misled; otherwise there would have been numerous concerns voiced by neighboring property owners and as the Zoning Staff Report states under #1, "No concerns have been voiced to date by neighboring property owners...".



December 14, 2014

We are writing this in regards to our concern of a manufacturing/industry facility being built in our residential neighborhood. We were the first residents to live at Southgate moving here in 1977. We have watched our community grow and become a place that people chose to live. Many of our neighbors have been here for years because they want to be here; able to enjoy the quiet country atmosphere.

We had repeatedly been given the impression that Block 5 was rezoned for apartment/patio dwellings, which we can understand is a real need for the Miles City area. With that scenario we were concerned in the area of drainage and traffic if large apartment complexes were built and just wanted to make sure these possible problem areas were taken under consideration.

However, the past few months there have been rumors flying about what these zoning changes meant for our community. Now we understand that Block 5 was zoned for general commercial and a manufacturing company, Brawler Industries, has purchased the land and are ready to build. There was talk of another exit/entrance out to the highway that would be used by all the added traffic. We have heard this is definitely not going to happen. We heard that they build nice facilities that are kept clean but a recent picture on google Earth that we just looked at didn't seem to support that at their existing site. And we haven't heard anything about environmental impact for our air quality. An industry dealing with plastics and diesel semitrucks running almost 24/7 would have to impact our community's air quality and level

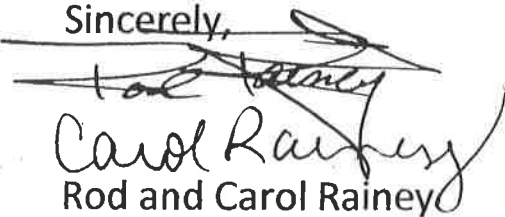
of noise pollution. Environmentally it might be hard on a few snakes and sage brush but that is small compared to air quality, truck noise and large trucks affecting the flow of traffic. We are a community of many young families with children and also have residents who have health issues relating to air pollution.

With this letter of ours we want to refer to you the letter written by the Jewells, in which they cover information about zoning laws and past meetings with their outcomes. We didn't feel we need to repeat all those gathered facts but we are in support of what they compiled in their letter.

We really don't understand why Brawler would want to have their facility located right smack in a residential area when some type of industrial area would provide much better access for transportation and wouldn't bring so many troubling issues to Southgate Meadows neighborhood. We fail to see how Brawler Industry and Manufacturing fits a general commercial zone, when their web site has such a strong focus on manufacturing pit liners.

Please consider our concerns.

Sincerely,

~~Carol Rainey~~

Rod and Carol Rainey

3 Arrow Circle

Southgate Meadows Subdivision

Miles City, MT 59301

We, the undersigned residents of Southgate Meadows, have a concern with the development of Block 5 Southgate subdivision located east of the Assembly Church and parallel to Horizon Parkway. Brawler Industries has purchased this property and plans to build a 150' x 750' industrial manufacturing facility that will operate close to 24 hours a day 7 days a week. Our concerns are the following:

- ❖ The facility does not meet the criteria of the current zoning of Block 5.
- ❖ Horizon Parkway is the only access to Southgate Meadows, and we feel there would be a burden to the existing infrastructure in the areas of traffic control, pedestrian safety, and structural condition of the road.
- ❖ Storm water drainage and sewer capacity
- ❖ Air quality due to the plastics and chemicals used in the manufacturing and assembling of the pit liners


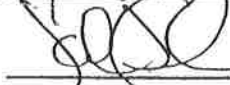

We urge our leaders to act NOW to address the concerns of the citizens of Southgate Meadow subdivision.

Signature	Address
<i>Elizabeth Jewell</i>	107 Ponderosa
<i>[Signature]</i>	111 Ponderosa
<i>David A. Jewell</i>	107 Ponderosa
<i>Danella Walker</i>	104 Ponderosa
<i>[Signature]</i>	113 Ponderosa
<i>Roy Sweet</i>	211 Ponderosa
<i>[Signature]</i>	313 Ponderosa Dr
<i>Chamar Teerata</i>	317 Ponderosa Dr
<i>John Neunke</i>	317 Ponderosa Dr
<i>[Signature]</i>	405 Ponderosa Dr.
<i>Stacy Donnelly</i>	" " "
<i>Keith Hill</i>	413 Ponderosa
<i>Sheila B Hall</i>	413 Ponderosa Dr.
<i>Alan D. H</i>	404 Ponderosa Dr.
<i>Stephanie Hill</i>	404 Ponderosa Dr.

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Signature	Address
	103 Ponderosa Dr.
	103 Ponderosa Dr.
Constance Kulo	100 Ponderosa Dr.
Katy Sparks	227 Ponderosa Dr
Amber D. [unclear]	305 Ponderosa
Wayne [unclear]	408 Ponderosa
Troy [unclear]	309 Ponderosa Dr
Patricia Arnold	203 Ponderosa Dr
	203 Ponderosa Drive
Tammy Hartman	409 Ponderosa Dr.

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Signature	Address
<u>Gayle Powell</u>	<u>308 Ponderosa Dr</u>
<u>Sanna E. Bisher</u>	<u>204 Ponderosa DR.</u>
<u>Susan P. Bakken</u>	<u>204 Ponderosa DR</u>
<u>Traci W. Schell</u>	<u>219 Ponderosa Dr.</u>
<u>Denno Zachmann</u>	<u>207 Ponderosa Dr.</u>
<u>Bill Zachmann</u>	<u>207 Ponderosa Drive</u>
<u>Kelly DeCalzo</u>	<u>200 Ponderosa Drive</u>
<u>Mencella Carlson</u>	<u>200 Ponderosa Drive</u>
<u>Devin Sweet</u>	<u>211 Ponderosa Drive</u>

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* NOISE * PROPERTY VALUES

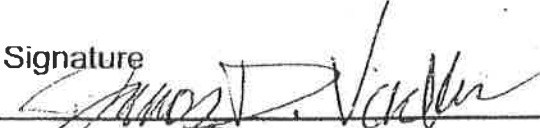

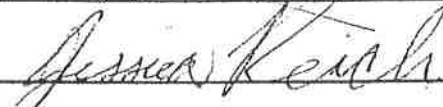

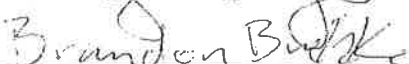
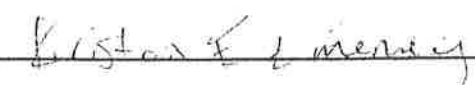
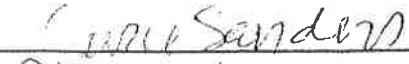


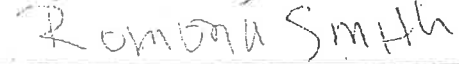
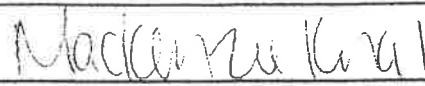
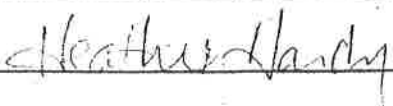
We urge our leaders to act NOW to address the concerns of the citizens of Southgate Meadow subdivision.

Signature	Address
<u>Rebecca P. Bass</u>	<u># 1 Penderost Dr</u>
<u>[Signature]</u>	<u>#1 PONDOSA DR. MILES CITY, MT</u>
<u>Royal C. Chute</u>	<u>3313 HORIZON PARKWAY</u>
<u>Karen Austin</u>	<u>KAREN AUSTIN, 126 PROSPECT DRIVE, MILES CITY</u>
<u>Robert Stone</u>	<u>134 Prospect Drive</u>
<u>Philip Emmons</u>	<u>117 Prospect Drive, Miles City</u>
<u>Megan Emmons</u>	<u>117 Prospect Drive, Miles City</u>
<u>Marlene Huckind</u>	<u>113 Prospect Dr. Miles City</u>
<u>Leanne Waterman</u>	<u>118 Prospect Dr MC</u>
<u>JOE SINGER</u>	<u>142 PROSPECT DR MC</u>
<u>[Signature]</u>	<u>127 Prospect Dr. MC</u>
<u>Jack Austin</u>	<u>126 PROSPECT DR. MC</u>
<u>[Signature]</u>	<u>8 Arrow Circle MC</u>

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Signature	Address
	400 Alberts Dr #21, MC, 12
	210 Arrowhead Ln #2 MC 59301
	210 Arrowhead Ln #4 MC 59301
	210 Arrowhead F2 MC 59301
	4 Pioneer Circle
	210 Arrowhead E4
	210 Arrowhead D1
	210 Arrowhead A2
	210 Arrowhead Dr Apt A4
	210 Arrowhead Dr Apt C/B
	210 Arrowhead Dr. Apt B1
	

We, the undersigned residents of Southgate Meadows, have a concern with the development of Block 5 Southgate subdivision located east of the Assembly Church and parallel to Horizon Parkway. Brawler Industries has purchased this property and plans to build a 150' x 750' industrial manufacturing facility that will operate close to 24 hours a day 7 days a week. Our concerns are the following:

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- ❖ Horizon Parkway is the only access to Southgate Meadows, and we feel there would be a burden to the existing infrastructure in the areas of traffic control, pedestrian safety, and structural condition of the road.
- ❖ Storm water drainage and sewer capacity
- ❖ Air quality due to the plastics and chemicals used in the manufacturing and assembling of the pit liners

We urge our leaders to act NOW to address the concerns of the citizens of Southgate Meadow subdivision.

Signature

Address

Jack A. Nesbit	7 Arrow Circle, M.C.
Jeri Ann (Jan) Nesbit	7 Arrow Circle, M.C.
Mary Ann Nipke	7 Arrow Circle M. C.
David Bonding	2 VCCA Circle Mc
Bob N...	113 Meadow Lane m.c.
Pam Neuf	113 Meadow Lane, M.C.
Bryndy Bull	107 Meadow Lane, M.C.
Ha...	102 Meadow Lane
Lee Sloan	103 Meadow Lane mc
Jill C. Haines	10 Ponderosa Drive M.C.
Suzie...	10 Ponderosa Dr. m.c.
Kim Olson	10 Ponderosa Dr. B-7
Ronda K Morgan	10 Ponderosa Dr. B-5

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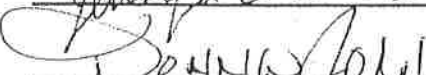


We urge our leaders to act NOW to address the concerns of the citizens of Southgate Meadow subdivision.

Signature	Address
<i>Carol Rainey</i>	3 Arrow Cir
<i>Angie Lynn</i>	10 Arrow Circle
<i>Terry Carlson</i>	108 Arrowhead Dr
<i>Christina Carlson</i>	108 Arrowhead Dr.
<i>Susan Martin</i>	317 Arrowhead Dr
<i>Rocky Stanton</i>	333 Arrowhead Dr.
<i>Sue Spence</i>	313 Arrowhead Dr.
<i>W. Watt</i>	503 Silver Sage Dr
<i>Beth Watt</i>	503 Silver Sage Dr
<i>Kim Watt</i>	413 Silver Sage
<i>Ray Dylus</i>	412 Silver Sage Dr.
<i>Carol Wittus</i>	138 Meakow Lane
<i>Don Schull</i>	219 Ponderosa Dr.
<i>Theresa Dugger</i>	5 Ponderosa Dr.
<i>Doug Nelson</i>	5 Ponderosa Dr.

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Signature	Address
	3 ARROW CIRCLE
Emilie Kude	10 Arrow Circle
	105 ARROWHEAD
	301 ARROWHEAD DR
Ronald Hantz	333 arrowhead DR
Jessie Clark	415 Briar Ln.
Jennifer Chamberlain	325 Arrowhead
	413 Silver Sage
Pat Sloan	103 Meadow Lane
Donna D. Jones	114 Meadow Lane
	158 Meadow Lane
Carol Wade	223 Ponderosa Dr.
Bruce E. Baister	201 Arrowhead
	9 Yucca Circle
Gilbert J. Murrin	106 Meadow Lane
Anita Murrin	106 Meadow Lane

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Signature

Address

Neil Zauke 813 SILVER SAGE

Marian Zuelke 813 Silversage

Blondie Kaminiski 800 Silver Sage Dr.

Bark Cain 837 Silver Sage DR.

Willy Cain 830 Silver Sage Dr.

Cheryl Cain 830 Silver Sage Dr.

Therese Cain 835 Silver Sage Dr.

Abyd L. Podewin 901 Silver Sage Dr.

Mary L. Podewin 901 Silver Sage Dr.

Art Numan 18 YUCCA CIRCLE

Lola Hess 12 Ponderosa Dr.

Richard Hess 12 Ponderosa Dr.

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Signature	Address
<i>Theodore F. Schreid</i>	507 Ponderosa Dr.
<i>Kamella K. Schreier</i>	507 Ponderosa Dr.
<i>Billy J. Sch</i>	509 Ponderosa Dr.
<i>Theresa L. Jordan</i>	509 Ponderosa Dr.
<i>K. Klotz</i>	513 Ponderosa Dr.
<i>R. P. B.</i>	513 Ponderosa Dr.
<i>Bruce H.</i>	135 meadow Lane
<i>Lorelyn A. Burnaldy</i>	517 Ponderosa
<i>James Roberts</i>	135 Meadow Ln
<i>Scott Brawler</i>	601 Ponderosa Dr.
<i>R. P. B.</i>	605 Ponderosa Dr.
<i>Theresa L. Jordan</i>	612 Ponderosa Dr.
<i>K. P. B.</i>	612 Ponderosa Dr.
<i>Michelle Hirsch</i>	803 Ponderosa Dr.
<i>Janet H.</i>	803 Ponderosa Dr.
<i>Ray Bamister</i>	506 Ponderosa Drive
<i>Suzanne Key</i>	504 Ponderosa
<i>W. D. D.</i>	504 Ponderosa

OVER

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Signature

Address

Nichelle Seal	10 Ponderosa	apt. B8
Don Stong	" "	APT 6
Judy Marcell	10 Ponderosa	B9
Laura Roberts	" "	A2
Holly Waldstrom	10 Ponderosa	A1

is she had
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REGULAR COUNCIL MEETING December 09, 2014
7:00 p.m.

CALL TO ORDER

The Regular Council meeting was held Tuesday, December 09, 2014, in the City Hall Conference Room at City Hall, 17 S. 8th Street, Miles City, Montana. Council President John Hollowell called the meeting to order. Council Members present were Roxanna Brush, Mark Ahner, Susanne Galbraith, Sheena Martin, Dwayne Andrews, Ken Gardner and Jerry Partridge. Mayor C.A Grenz was excused.

Also present were Public Works Director Scott Gray, Police Chief Doug Colombik, Public Utilities Director Al Kelm, Interim Fire Chief Cameron Duffin, Grant Administrator/Historic Preservation Officer Connie Muggli, Firefighter Daniel Robison and City Clerk/Minute Recorder Lorrie Pearce.

PLEDGE OF ALLEGIANCE

Council President Hollowell led the Council in the Pledge of Allegiance.

APPROVAL OF COUNCIL & COMMITTEE MINUTES

City Council Minutes: 11/25/2014

- ** *Councilperson Ahner moved to approve the minutes of the Regular Council Meeting of November 25, 2014, seconded by Councilperson Brush. On roll call vote the motion passed unanimously.*

Special Council Meeting: 11/26/14

- ** *Councilperson Galbraith moved to approve the minutes of the Special Council Meeting of November 26, 2014, seconded by Councilperson Gardner. On roll call vote the motion passed unanimously.*

Public Safety Committee Meeting: 11/20/14

- ** *Councilperson Ahner moved to amend the Public Safety Committee Minutes of November 20, 2014 by adding "not" between the words area and being to the 2nd sentence in the 2nd paragraph on page 1. The motion was seconded by Councilperson Galbraith and passed unanimously.*

** *Councilperson Brush moved to approve the Public Safety Committee. Minutes of November 20, 2014, seconded by Councilperson Galbraith and passed unanimously.*

SCHEDULE MEETINGS

- Planning Board Meeting: Wednesday, December 10th @ 5:00 pm

REQUEST OF CITIZENS & PUBLIC COMMENT

Resident Betty Jewels, 107 Ponderosa Street, explained that a report from a rezoning meeting last spring said that M&L Enterprise's property would be approved for multi family dwelling, not heavy industrial. She was very surprised when she heard Brawler had purchased the property to build a manufacturing plant in the area. She looked at criteria for permitted uses and intent on all the different categories of zoning and compared it to Brawler's web site. She said there were glaring differences and objections to the infractions that are listed on the site, as far as permitted use and intent that do not fall under General Commercial but falls under Heavy Commercial and Industrial. She asked who has the authority to approve the business concerning zoning and where would a group go if they wanted to protest the fact that an industrial manufacturing business is being built under General Commercial property.

Councilperson Brush asked if Brawler had submitted a plan for review. Director Gray said no. Councilperson Brush told Ms. Jewels that the planning board would have to approve any zoning and all meetings are noticed in the local paper.

Council President Hollowell told Ms. Jewels that the Building Inspector approves any zoning or rezoning.

Resident Dwayne Rude, 10 Arrow Circle Drive, said Brawler is a large scale manufacturing facility, and the new landowner of M&L Enterprise property and he had some concerns.

1. Will Brawler be embedded through zoning process to ensure capability with current land use?
2. Will Brawler be embedded by the subdivision review process to ensure that the development from subdivision meets the criteria of MCA Title 76, Chapter 3.
3. Will the process be reviewed to comply with the following
 - a. Agriculture
 - b. Agriculture user facilities
 - c. Local Service

- d. Natural Environment
- e. Wildlife, Wildlife Habitat
- f. Natural Environment
- g. Public Health and Safety

He asked that Brawler be held to the same standards as everyone else, and that the decision from the Council will benefit the whole community, not just the select few. He asked that the City does it's job correctly now so they don't come back and ask for forgiveness later. He said the residents are not going to give up their personal property rights and felt that there was a disconnect in the process and would like to see the experts handle all zoning, planning and subdivision issues.

APPOINTMENTS

None

PROCLAMATIONS

None

STAFF REPORTS

Public Works Director Scott Gray: Storm Water/Flood Control Dam at Southgate Meadows

Director Gray gave a brief history of Southgate, explaining that the area was developed in the late 70's and a lot of events have happened since then. When M&L Enterprise was processing Phase 1, the dam was removed, and another dam was built equal to the elevation of the previous dam. The new dam was approved by the City Planner and City Council, but not by an engineer. The City will have to hire an engineer and do whatever it takes to get his or her stamp of approval. He also said that storm water drains will need to be added, and some detention ponds will need to be built or replaced. The residents will probably need to pay for their items through an SID. He also encouraged residents to not put garbage, tree branches or grass clippings on the edge of the park because it causes flooding.

Resident Rod Rainey, 3 Arrow Circle Drive, said the dam was working when it was removed and asked if the South Gate residents will have to pay for the replacement through an SID. Director Gray said no, that the SID would pay for storm water drains and detention ponds. The City will have to pay for any dam repairs or improvements.

Resident Keith Hall, 413 Ponderosa Street, said that he lives on the corner of Ponderosa and Silver Sage and when it rains water will back up to the apple tree in his yard. He added that in the 13 years he has lived there he has seen a lot more buildings being built. The development is causing more water to drain down Ponderosa Street and Silver Sage Street. He asked if the developer is

responsible for paying for the storm water. Director Gray said the developers will pay part of it and the residents will pay for part of it. He added that any new development will be inspected at every step by the City Sanitarian, who is a DEQ representative.

Interim Fire Chief Duffin welcomed Firefighter Daniel Robinson to the Fire Department. He said Firefighter Robinson was married with three boys.

CITY COUNCIL COMMENTS

Councilperson Brush commented that the North side of town where she lives does not have curbs, sidewalks, gutters, or detention ponds. She hopes that the City and all residents can work together and get through the process.

Councilperson Ahner said that it was the first time he had heard about the neglect and insufficiency of the City on the drainage at South Gate Meadows. He felt the City needed to restore the dam on the East side of the subdivision. He commended Director Gray for admitting that the City had made a mistake and that the City will be responsible to correct it.

Councilperson Galbraith thanked the Fire Department for its hard work gathering toys for the Toys for Tots project. She said the department will be handing out 800 children toys and 40 to disabled adults. She also wanted to thank Utility Billing Clerk Patti Bissell for her hard work on the new water/sewer collection policy. She said it has made a huge difference on the collected amount, and by the end of next year the estimated amount sent in for collection will decrease to about \$500.00.

The storm water program that is being implemented will help with the flood water insurance. He wanted the residents of Southgate to be aware that, in the last month, another subdivision in that area has been approved by the County.

MAYOR COMMENTS

None

STANDING COMMITTEE RECOMMENDATIONS

Finance Committee: 12/08/14: Recommend to approve Water/Sewer Collection Accounts in the amount of \$3,394.43

****** *Councilperson Ahner moved to approve the Water/Sewer Collection Accounts in the amount of \$ 3,394.43, seconded by Councilperson Gardner. On roll call vote the motion passed unanimously.*

Finance Committee: 12/08/14: Recommend to approve Ambulance Collection Accounts in the amount of \$28,146.46

- ** *Councilperson Galbraith moved to approve Ambulance Collection Accounts in the amount of \$ 28,146.46, seconded by Councilperson Brush. On roll call vote the motion passed unanimously.*

BID OPENING

None

BID AWARDS

None

PUBLIC HEARINGS

None

UNFINISHED BUSINESS

- A. **RESOLUTION NO. 3760:** A Joint Resolution Of The Board Of Commissioners Of Custer County, Montana, And The City Council Of Miles City, Montana, Approving A Letter Of Agreement Pertaining To Rates For Services For FY 2014-2015

** *Councilperson Galbraith move to approve Resolution No. 3760 by title only and seconded by Councilperson Martin. On roll call vote, the motion passed by unanimous consent. **Resolution No. 3760 was Adopted***

- B. **RESOLUTION NO. 3762:** A Resolution Approving An Agreement To Furnish Engineering Services Between The City Of Miles City And Peccia & Associates, Inc., For Wastewater Engineering Services.

** *Councilperson Ahner move to approve Resolution No. 3762 by title only, with correction on item 2 of the resolution to say "is" instead of his. The motion was seconded by Councilperson Brush. After a brief conversation and on roll call vote, the motion passed by unanimous consent. **Resolution No. 3762 was Adopted***

NEW BUSINESS

- A. **RESOLUTION NO. 3765:** A Resolution Supporting The Continued

Funding Of The Local Government Center At Montana State University

*** Councilperson Gardner moved to approve Resolution No. 3765 by title only, seconded by Councilperson Brush. On roll call vote, the motion passed by unanimous consent. Resolution No. 3765 was Adopted*

- B. RESOLUTION NO. 3766: (First Reading)** A Resolution Pursuant To §7-6-4006 Of The Montana Code Annotated, Authorizing Amendment Of Final Budget For FY 2014-2015 To Increase The Budgeted Amount In Fund # 1000-011-411840-350 And #1000-011-411840-370 To Provide Funding For TIFD Project For Historic Preservation

Historic Preservation Officer Muggli explained that the extra money was to pay Steve Zeier for extra work completed in August and September. Mr. Zeier organized and ran some mandatory meetings during her absence from work. She added, if the full amount is not spent, it will revert back to General Fund.

*** Councilperson Andrews moved to approve Resolution No 3766, read by title only and seconded by Councilperson Galbraith. On roll call vote, the motion passed by unanimous consent.*

- C. Closing of City Hall at 1:00 p.m. on December 24, 2014**

Clerk Pearce reminded the Council that four hours will be paid to all City Hall employees from their appropriate funds.

*** Councilperson Galbraith moved to approve the closing of City Hall at 1:00 pm on December 24, 2014, seconded by Councilperson Partridge. On roll call vote, the motion passed with a vote of 6-1. Councilperson Ahner voted no.*

- D. Approval of November Claim**

*** Councilperson Galbraith moved to approve November claims, seconded by Councilperson Andrews. After a brief discussion and on roll call vote, the motion passed by unanimous consent.*

ADJOURNMENT

****** *Councilperson Galbraith moved to adjourn the meeting, seconded by Councilperson Brush and passed unanimously.*

The meeting was adjourned at 8:10 p.m.

John Hollowell, Council President

Lorrie Pearce, City Clerk

Finance Committee Meeting December 8, 2014

The Finance Committee met Monday, December 8, 2014, at 5:00 p.m. in the City Hall Conference Room. Chairperson Galbraith called the meeting to order. Members present were Sheena Martin, John Hollowell and Dwayne Andrews.

Also present were Public Works Director Scott Gray, Public Utility Director Al Kelm, Historic Preservation Officer Connie Muggli, Interim Fire Chief/Battalion Chief Cameron Duffin and City Clerk/Minute Recorder Lorrie Pearce.

REQUEST OF CITIZENS & PUBLIC COMMENT

None

NEW BUSINESS

A. Review and recommendation on contract from Peccia and Associates on Phase II of the Waste Water Treatment Plant

*** Committee Member Andrews moved to recommend to Council approval of Peccia and Associates contract for Phase II of the Waste Water Treatment Plant, seconded by Chairperson Galbraith. After a brief discussion the motion passed by roll call vote, 4-0.*

B. Water Collection write-offs

*** Committee Member Andrews moved to recommend to Council approval of \$3,394.34 to be sent to collection. The motion was seconded by Committee Member Martin. After a brief discussion the motion passed by unanimous consent, 4-0.*

C. Review Ambulance write offs

*** Committee Member Andrews moved to recommend to Council approval of an amount of \$28,146.46 to be sent to collections, seconded by Committee Member Martin. The motion passed by unanimous consent, 4-0*

D. Review Amendment for TIF District

Officer Muggli explained that the additional money is to pay Consultant Steve Zier for attending crucial meetings in her absence. She added that up to this point the project had been completely funded by grants.

*** Chairperson Galbraith moved to recommend to Council approval of the TIFD budget amendment for an amount of \$2,500, seconded by Committee Member Hollowell. On roll call vote the motion passed, 4-0.*

D. RESOLUTION NO. 3760: A Joint Resolution Of The Board Of Commissioners Of Custer County, Montana And The City Council Of Miles City, Montana, Approving A Letter Of Agreement Pertaining To Rates For Services For FY2014-2015

*** Committee Member Andrews moved to recommend to Council the approval of Resolution No. 3760, seconded by Committee Member Martin. After a brief discussion and on roll call vote the motion passed, 4-0.*

E. ORDINANCE NO. 1281: An Ordinance Changing The Zoning Of Tract 1 Of The Armory Subdivision, From Residential District Zone To General Commercial Zone, And Providing For A Hearing Thereon

*** Committee Member Hollowell moved to recommend to Council to approve Ordinance No. 1281, seconded by Committee Member Martin. After a brief discussion and on roll call vote the motion passed, 4-0.*

F. ORDINANCE NO. 1282: An Ordinance Changing The Zoning Of Tract B Of Document #153542, Envelope 500b, And Located Within Section 11 Of Township 7 North, Range 47 East, M.P.M., From Agriculture District Zone To General Commercial Zone, And Providing For A Hearing Thereon

*** Committee Member Hollowell moved to recommend to Council to approve Ordinance No. 1282, seconded by Committee Member Martin. After a brief discussion and on roll call vote the motion passed, 4-0.*

ADJOURNMENT

*** Committee Member Hollowell moved to adjourn the meeting, seconded by Committee Member Andrews and passed unanimously, 4-0.*

The meeting was adjourned at 5:19 p.m.

Susanne Galbraith Chairperson

Lorrie Pearce City Clerk

RESOLUTION NO. 3766

A RESOLUTION PURSUANT TO §7-6-4006 OF THE MONTANA CODE ANNOTATED, AUTHORIZING AMENDMENT OF FINAL BUDGET FOR FY 2014-2015 TO INCREASE THE BUDGETED AMOUNT IN FUND # 1000-011-411840-350 AND #1000-011-411840-370 TO PROVIDE FUNDING FOR TRAVEL AND PROFESSIONAL SERVICE EXPENSES RELATED TO THE ESTABLISHMENT OF A TAX INCREMENT FINANCING DISTRICT

WHEREAS, the City of Miles City wishes to amend the budget for Fiscal Year 2014-2015 to provide funding for Profession Service and Travel to the Program Assistant, as permitted by §7-6-4006 MCA;

AND WHEREAS, such amendment of the final budget will result in an overall increase in appropriation authority within such fund,

AND WHEREAS the provisions of §7-6-4006 MCA require public hearing upon any budget amendment resulting in an overall increase in appropriation authority,

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

The appropriations for the Final Budget for Fiscal Year 2014-2015 for General Fund No. 1000 shall be increased in the following amount:

Fund No. 1000-011-411840-350 (General Fund No. 1000, Program Assistant, Professional Services), in the sum of \$1955.00.

Fund No. 1000-011-411840-370 (General Fund No. 1000, Program Assistant, Travel), in the sum of \$545.00

The appropriations for the Final Budget for Fiscal Year 2014-2015 for General Fund No. 1000 shall be decreased in the following amount:

Fund No. 1000-101000 (General Fund 1000, Cash) in the sum of \$2500.00

BE IT FURTHER RESOLVED that a public hearing shall be held on the above proposed amendment to the Final Budget for Fiscal Year 2014-2015 on the 23th day of December, 2014, at 7:00 p.m. in the City Council Chambers at City Hall, Miles City, Montana. The City Clerk shall cause notice of such hearing to be published in the Miles City Star, in accordance with §7-1-4128 MCA, at least 2 times with at least 6 days separating each publication.

SAID RESOLUTION READ AND PUT UPON ITS FINAL PASSAGE THIS 9TH DAY OF DECEMBER, 2014.

FINANCE COMMITTEE
December 4, 2014

RESOLUTION NO. 3766

A RESOLUTION PURSUANT TO §7-6-4006 OF THE MONTANA CODE ANNOTATED, AUTHORIZING AMENDMENT OF FINAL BUDGET FOR FY 2014-2015 TO INCREASE THE BUDGETED AMOUNT TO PROVIDE FUNDING FOR TRAVEL AND PROFESSIONAL SERVICE EXPENSES RELATED TO THE ESTABLISHMENT OF A TAX INCREMENT FINANCING DISTRICT.

The Historic Preservation Office is requesting this Budget Amendment in the amount of \$2,500 to offset additional, unplanned costs related to the TIFD Project. The City's Project Manager, Ms. Muggli, was required to take an extended medical leave dating from August 20, 2014 through October 6, 2014.

The City has not, to date, invested any funding for the TIFD Project.

The City's contract with Zeier Consulting, LLC requires the City's Project Manager to perform certain tasks related to the project in order to save costs. The unexpected medical leave at a critical time in the TIFD Project required that Steve Zeier of Zeier Consulting, LLC assume the contractual duties which normally would have been performed by Ms. Muggli.

The Zeier Invoice #1606 Of this amount , for the period of 08/15/2014 through 09/15/2014 totaled \$5,236.78. Of this amount, \$2,409.28 was for three unplanned trips to Miles City, and 31 additional hours of related professional services. Without the additional charges to meet Ms. Muggli's obligations the Zeier Invoice would have been \$1,827.50.

The Zeier Invoice #1607 for the period 09/15/2014 through 10/15/2014 totaled \$5,915.02. Of this amount, \$822.26 was for one unplanned trip and related professional services. Without the additional amount, the Zeier Invoice would have been \$5,902.76.

The total additional cost to the project was \$4,231.54. Mr. Zeier has been very generous in not charging us for travel time, and for keeping the cost of the project to a minimum.

The travel and meetings are itemized below:

TIFD Project Summary: August 15, 2014 - September 30, 2014								
September		Hours	Prof Svs	Mileage	Hotel	Per Diem	Ttl Invoice	5,236.78
Travel				515.28	\$154.00	\$105.00	774.28	
8/21/14	Meetings w/ Keith Campbell, John Laney, Stan Markuson re Urban Renewal District and their thoughts and input. Site investigation re potential boundaries and the potential for feedback and stakeholder input	9	765					
8/28/14	Meet w/ Custer County Commissioners, Jeff Rodenbaugh and others form FIB re Urban Renewal Plan and the impact of the district, forming of a steering committee to address the	8	680					

	leadership of the redevelopment efforts. Update form Mike Coryell re his input and thoughts.							
9/4/14	Review of amended schedule and task listings, arrangements for meeting with T Steadman and B Leischinger, correspondence w/ C Muggli as to the next steps and filling out the schedule	2.5						
			212.5					
9/9/14	Meet w/ Brett Leischinger form US Bank re his thoughts and redevelopment potential for the downtown district input from a project perspective as to the most appropriate steps from a financial perspective	6.5						
			552.5					
9/10/14	Meet w/ Todd Steadman re his thoughts and input as to the potential in a TIF district, future plans, development and redevelopment potential for his and other holdings in town. Site investigation and evaluation of properties for inclusion in the boundaries,	5						
			425					
	Additional Consulting Hours	31	2635				2635	
	Unexpected Costs						\$3,409.28	
	Invoice without unexpected costs							1,827.50
	October	Hours	Prof Svs	Mileage	Hotel	Per Diem	Ttl Invoice	5,915.02
	Travel			343.52	154.00	105.00	602.52	
	Unplanned Travel Required			171.76	77.00	21.00	269.76	
9/23/14	Council Review, Revisions and Recommendations on the Draft of the <i>Tax Increment Finance District Urban Renewal Plan</i> prior to public meeting	6.5						
	Additional Consulting Hours	6.5	552.50	171.76	77.00	21.00		
	Unexpected Costs						\$822.26	
	Invoice without unexpected costs							5915.02

Total additional expenses

\$4,231.54

ORDINANCE NO. 1281

AN ORDINANCE CHANGING THE ZONING OF TRACT 1 OF THE ARMORY SUBDIVISION FROM RESIDENTIAL ZONE TO GENERAL COMMERCIAL ZONE, AND PROVIDING FOR A HEARING THEREON

WHEREAS, the owner of the below described real property, Debra LaFountaine, on behalf of the Montana National Guard, has made application for the property to be rezoned from Residential zone to General Commercial District (GC) zone;

AND WHEREAS, such property is situated within the incorporated city limits of the City of Miles City, Montana;

AND WHEREAS, Section 24-8 of the Miles City Code requires that such application be referred to the City Zoning Commission for public hearing and recommendation to the City Council prior to any action by the City Council upon such application;

AND WHEREAS, the Miles City Zoning Commission, on November 5, 2014, held a public hearing upon said application, and upon deliberation, recommended to the City Council that such zoning change be approved.

BE IT ORDAINED, by the City Council of the City of Miles City, Montana, as follows:

Section 1. Zoning for the following described real property located within the incorporated city limits of the City of Miles City, Custer County, Montana, is hereby rezoned from Residential zone to General Commercial District (GC) zone, to wit:

Track 1 of the Armory Subdivision of the City of Miles City, Montana, according to the official plat and survey thereof, on file and of record with the Clerk and Recorder in and for Custer County, Montana.

Section 2. A public hearing shall be held upon this proposed zoning change before the City Council at 7:00 P.M. on the 23rd day of December, 2014, in the Council Chambers at City Hall, 17 S. Eighth Street, Miles City, Montana.

Section 3. The City Clerk shall give notice of the date, time and place of such hearing by publication in the Miles City Star at least 15 days prior to the date of such hearing, in accordance with MCA Sections 76-2-303 and 305.

Section 4. This ordinance shall be in full force and effect thirty (30) days after its final passage and approval.

Said Ordinance read and put on its passage this 25th day of November, 2014.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

FINALLY PASSED AND ADOPTED this 23rd day of December, 2014.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

CITY OF MILES CITY
Zoning Commission
· approach Box 910 ·
Miles City, MT 59301

November 5, 2014

Mayor Grenz and City Council,

RE: Proposed re-zone for Tract 1 of the Armory Subdivision (2500 Main Street) from Residential to General Commercial.

The Miles City Zoning Commission conducted its public hearing on November 5, 2014 to consider the request to re-zone the above described area in the Armory Subdivision. After reviewing comments from the public hearing, the Zoning Commission recommends approval of the zone change to general commercial.

Please schedule this for review by the City Council at your earliest convenience.

Respectfully,

Amber Trenka by Nancy Mitchell
Vice Chair
Amber Trenka, Chair
Zoning Commission



City of Miles City

ZONE CHANGE APPLICATION

17 South 8th Street
Miles City, MT 59301

Date Received: _____
to be filled out by City

Note: If more than one property/petitioner a list of signatures and legal descriptions may be attached to this application.

I, Debra LaFountain is/are petitioning the City of Miles City to rezone
signature
the following property:

LEGAL DESCRIPTION OF PROPERTY:

Street Address or General Location 2500 Main St., Miles City, MT
Tract/s 1 in Section 34 Township 08N Range 47E OR
Lot/Tract/s _____ of Armoury Subdivis in Section 34 Township 08 Range N
Subdivision Name
Assessor Number/s or Geocode 14704034112010000

PRIMARY CONTACT:

Applicant Name: Debra LaFountain If a business: Contact Name _____
Please print Please print

Address: P.O. Box 4789

1956 Mt Majo St., Fort Harrison MT 59636

Phone: 406-324-3134 Cell Phone: _____ Email: debra.lafontaine.ntg@mail.mil

DESCRIPTIVE DATA:

Total area in acres: 2.63

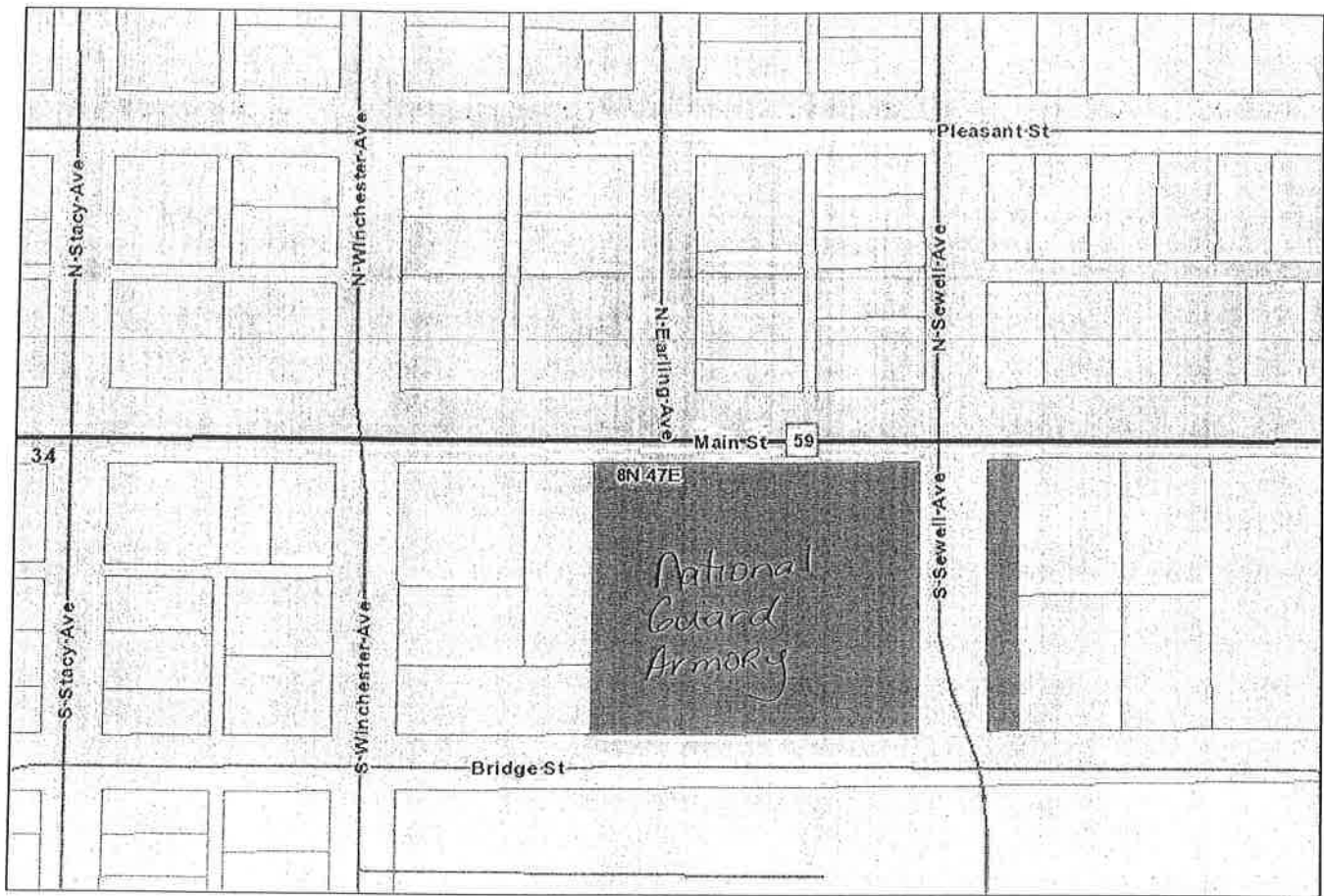
Existing Zoning: Residential Proposed Zoning General Commercial

Existing Use Armory

Yes No Purpose of the zone change is for pending development (sale) If so please explain the nature of the proposal or state any other reason for requested change

We are surrounded on three sides with General Commercial zoning

Note: All information must be filled in for the application to be complete. Submission of an application is not a guarantee that a zone change will be approved.



**Miles City Zoning Commission
17 South 8th Street
Miles City, MT 59301**

PUBLIC NOTICE

The Miles City Zoning Commission will conduct a public hearing to receive comments on a proposed re-zone for 2500 Main Street (National Guard Armory). The petitioner is requesting a re-zone from Residential "A" to General Commercial.

The hearing will be held Wednesday, November 5, 2014 at 6:00 p.m. in the City Hall Conference Room, 17 South 8th Street, Miles City, Montana, 59301. For more information contact the Public Works Department (406) 234-3493.

RE-ZONE
Property Owner List
for
National Guard Armory

State of MT National Guard
PO Box 4789
Ft. Harrison, MT 59636

Big Sky Financial Planning Corp
11 S. 7th St.; Ste 165
Miles City, MT 59301

Jeffrey & Lynn Johnson
2402 Main Street
Miles City, MT 59301

Morgan & Sarah Ann Pett
14 S. Winchester
Miles City, MT 59301

James R & Timothy E Regan
PO Box 1164
Miles City, MT 59301

Mac's Frontierland Inc.
PO Box 430
Miles City, MT 59301

East Mont Auto Supply Inc.
35 Monday Drive
Miles City, MT 59301

Miles City Federal Credit Union
PO Box 27
Miles City, MT 59301

Ronald J Watts
PO Box 370
Miles City, MT 59301

R L Mann, Inc.
1023 Cottonwood Lane
Miles City, MT 59301

Barney & Bonnie Hofer
10 N. Earling
Miles City, MT 59301

Scotts Glass Inc.
PO Box 1410
Miles City, MT 59301

EMCAC Inc & BAM LLC
73 Balsam Circle
Miles City, MT 59301

VA Hospital
210 S. Winchester
Miles City, MT 59301

Miles Community College
2600 Dickinson
Miles City, MT 59301

Pierson Companies Inc.
2610 Main Street
Miles City, MT 59301

Eastern Montana Community
PO Box 1530
Miles City, MT 59301

James & Teresa Kale
13 N. Earling Ave.
Miles City, MT 59301

Darrel & Jacqueline Rost
14 N. Winchester
Miles City, MT 59301

Squatters Knob LLC
PO Box 1231
Miles City, MT 59301

Robert & Shannon Dinardi
20 N. Sewell
Miles City, MT 59301

Susan L Cadlo
13 N. Sewell
Miles City, MT 59301

Miles City Zoning Committee

Staff Report

November 5, 2014

Zone Change Request-National Guard Armory

Debra Lafontaine from The Department of Military Affairs has requested a change in the zoning designation from Residential A to General Commercial on property the State of Montana owns in the Armory Addition. Located on the property today is the National Guard Armory. The proposed zone change would make it possible for the Department of Military Affairs to have the property assessed so that it can be sold in the future. Surrounding land uses include General Commercial to the north, east and west, and Residential to the south of the property.

Finding of facts

The following is an evaluation of the zone change request under the criteria and guidelines for zoning regulations provided in Montana code Annotated 76-2-304.

1. Does the proposed zone change comply with the Miles City Growth Policy?

The Growth policy does not include a future land use map or other information designating the property for specific land uses or zoning designations.

The Growth Policy includes a statement that is applicable to this proposal:

“Zoning amendments shall consider the needs of the petitioner, neighboring property owners, and the greater community.” (Zoning, p.36). In this case, the landowner (petitioner) has requested a change in zoning designation. No concerns have been voiced to date by neighboring property owners and a general commercial designation would result in better options for this property. Based on this information, the proposal generally complies with the 2008 Miles City Growth Policy.

2. Is the proposed zone change designed to secure safety from fire and other dangers?

The property would be served by city water with a fire hydrant to the northwest of the property, a fire hydrant to the south of the property on VA property, a fire hydrant to the southeast on VA property, and a fire hydrant to the northwest of the property, which would help with fire protection. The property is assessable by Main St to the north of the property, Bridge St. to the south of the property, and S.Sewell St. to the east of the property and would provide adequate emergency access. Therefore, the proposal is generally designed to secure safety from fire and other dangers.

3. Is the proposed zone change designed to promote public health, public safety, and the general welfare?

The building is not located in a designated floodplain, but the storage lot area for their equipment is located in the designated floodplain. There is power lines located to the south on VA property, and fiber optic and utilities are also located to the south. Therefore, the proposed

zone change will have little impact on public health, safety or general welfare other than possibly providing more commercial property for this area, which could be considered a benefit to the public.

4. Is the proposed zone change designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public facilities?

Transportation – The property is served by three roads. Pedestrian traffic is available by a sidewalk to the north and no bicycle facilities are available to the property.

Water and Sewer – Adequate city water and sewer are available.

Schools – School facilities are available to the surrounding properties.

Parks – Adequate parks are available to this property.

Other Public Requirements – Solid waste, mail delivery, and public utilities are available to this property.

Based on the above information, the proposed zone change is generally designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public facilities.

5. Does the proposed zone change provide reasonable provision of adequate light and air?

The proposed property is 2.63 acres in size, which is sufficient size to provide adequate light and air.

6. How would the proposed zone change effect motorized and non- motorized transportation systems?

As stated previously, adequate motorized vehicular access is available via a state highway, and city streets. There is pedestrian traffic available by a sidewalk, but no bicycle facilities are available in the vicinity of the property.

7. Does the proposed zone change promote compatible urban growth and is it suitable for the proposed land use?

According to the map entitled, Miles City & Surrounding Jurisdiction Zoning Map (9/20/12), the zoning designation to the north is residential, zoning to the west is heavy commercial, and zoning to the south and east is agricultural. This is an area with a mixture of General Commercial and Residential nearby. Changing the zoning to general commercial, will allow a mixture of land uses and would therefore promote compatible urban growth. The proposed land use is for the property to be sold as General commercial to bring in more revenue with the sale of the land.

8. Would the proposed zone change conserve the value of building and encourage the most appropriate use of the land?

As stated above, this area contains a mixture of land uses, ranging from residential to General Commercial. Changing the zoning on the subject property to general commercial would continue this pattern and therefore conserve the value of building and encourage the most appropriate use of the land.

Recommendation:

Adopt this report as findings of fact and recommend approval of the zone change to City Council.

ORDINANCE NO. 1282

AN ORDINANCE CHANGING THE ZONING OF TRACT B OF DOCUMENT #153542, ENVELOPE 500B, AND LOCATED WITHIN SECTION 11 OF TOWNSHIP 7 NORTH, RANGE 47 EAST, M.P.M., FROM AGRICULTURE DISTRICT ZONE TO GENERAL COMMERCIAL ZONE, AND PROVIDING FOR A HEARING THEREON

WHEREAS, the owner of the below described real property, Brad Certain on behalf of T.O.N. LLC, a Montana limited liability company, has made application for the property to be rezoned from Agriculture District (AG) zone to General Commercial District (GC) zone;

AND WHEREAS, such property is situated outside of the boundary of the incorporated city limits of the City of Miles City, but within the 2 mile area surrounding the City of Miles City where the City maintains zoning jurisdiction pursuant to Montana Code Annotated Section 76-2-310 and Section 24-3 of the Miles City Code;

AND WHEREAS, Section 24-8 of the Miles City Code requires that such application be referred to the City Zoning Commission for public hearing and recommendation to the City Council prior to any action by the City Council upon such application;

AND WHEREAS, the Miles City Zoning Commission, on November 5, 2014, and upon deliberation, recommended to the City Council that such zoning change be approved.

BE IT ORDAINED, by the City Council of the City of Miles City, Montana, as follows:

Section 1. Zoning for the following described real property located within the two mile area surrounding the incorporated city limits of the City of Miles City, Custer County, Montana, is hereby rezoned from Agriculture District (AG) zone to General Commercial District (GC) zone, to wit:

TOWNSHIP 7 NORTH, RANGE 47 EAST, M.P.M.

Section 11: Tract B of Document #15342, Envelope 500B, on file with the Clerk and Recorder in and for Custer County, Montana.

Section 2. A public hearing shall be held upon this proposed zoning change before the City Council at 7:00 P.M. on the 23rd day of December, 2014, in the Council Chambers at City Hall, 17 S. Eighth Street, Miles City, Montana.

Section 3. The City Clerk shall give notice of the date, time and place of such hearing by publication in the Miles City Star at least 15 days prior to the date of such hearing, in accordance with MCA Sections 76-2-303 and 305.

Section 4. This ordinance shall be in full force and effect thirty (30) days after its final passage and approval.

Said Ordinance read and put on its passage this 25th day of November, 2014.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

FINALLY PASSED AND ADOPTED this 23rd day of December, 2014.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

CITY OF MILES CITY
Zoning Commission
· Box 910
Miles City, MT 59301

November 5, 2014

Mayor Grenz and City Council,

RE: Proposed re-zone for Tract B, owned by Brad Certain T.O.N.L.L.C, located at 722 Hwy 59 South from Agriculture (AG) to General Commercial (GC).

The Miles City Zoning Commission conducted its public hearing on November 5, 2014 to consider the request to re-zone the above described area. After reviewing comments from the public hearing, the Zoning Commission recommends approval of the zone change, to general commercial, contingent upon the applicant meeting the access requirements of the Montana Department of Transportation.

Please schedule this for review by the City Council at your earliest convenience.

Respectfully,

Amber Trenka by Nancy Mitchell
Vice chair

Amber Trenka, Chair
Zoning Commission

Revenue Code: 4060-323040

Fee: \$200.00

City of Miles City ZONE CHANGE APPLICATION

Date Received: 10-1-14
to be filled out by City

17 South 8th Street
Miles City, MT 59301

Note: If more than one property/petitioner a list of signatures and legal descriptions may be attached to this application.

I, Brad Certain T.O.N.L.L.C. is/are petitioning the City of Miles City to rezone
signature the following property:

LEGAL DESCRIPTION OF PROPERTY:

Street Address or General Location 722 Hiway 59 S
Tract/s _____ in Section 11 Township 07N Range 47E OR
Lot/Tract/s B of Calvin in Section _____ Township _____ Range _____
Subdivision Name
Assessor Number/s or Geocode 000 RGC 2182

PRIMARY CONTACT:

Applicant Name: T.O.N.L.L.C. If a business: Contact Name Brad Certain
Please print Please print
Address: 1920 Valley Dr E

Phone: 234-1234 Cell Phone: 951-1234 Email: abc@midrivers.com

DESCRIPTIVE DATA:

Total area in acres: 28.85
Existing Zoning: Ag Proposed Zoning Commercial General
Existing Use Ag
 Yes No Purpose of the zone change is for pending development/sale. If so please explain the nature of the proposal or state any other reason for requested change Build commercial building

Note: All information must be filled in for the application to be complete. Submission of an application is not a guarantee that a zone change will be approved.



**Miles City Zoning Commission
17 South 8th Street
Miles City, MT 59301**

PUBLIC NOTICE

The Miles City Zoning Commission will conduct a public hearing to receive comments on a proposed re-zone for Sec 11, Township 7N, Range 47E, Tract B (722 Hwy 59S). The petitioner is requesting a re-zone from Agriculture to General Commercial.

The hearing will be held Wednesday, November 5, 2014 at 6:00 p.m. in the City Hall Conference Room, 17 South 8th Street, Miles City, Montana, 59301. For more information contact the Public Works Department (406) 234-3493.

**RE-ZONE
Property Owner List
For
Brad Certain-T.O.N.L.L.C.**

Dean Gillette
53 Balsam Circle
Miles City, MT 59301

Peggy Pyle
268 Cemetery Road
Miles City, MT 59301

Susan L. Colvin & Mary Jo Zent
287 McIver Road
Great Falls, MT 59404-6311

Arlo D Nansel
11 Nansel Lane
Miles City, MT 59301

Barbara Ann Nicholas
114 Wells Road
Richmond, KY 40475

Frank E & Mary Jane Nelson
PO Box 396
Miles City, MT 59301

Brad Certain
1920 Valley Dr. East
Miles City, MT 59301

Mike & Linda Corbett
917 S. Cale
Miles City, MT 59301

John Todoroff Jr.
986 Oilmont Street
Oilmont, MT 59466

Clifford A & Marilyn M Schantz
136 Schantz Lane
Miles City, MT 59301

Miles City Zoning Committee

Staff Report

November 5, 2014

Zone Change Request

Brad Certain has requested a change in the zoning designation from Agricultural to General Commercial on property he owns on the west side of Highway 59 South. The proposed zone change would make it possible for a Commercial shop to be built on the property, among other land uses. Surrounding land uses include Agricultural use to the south and west of the property and General Commercial to the east of the property.

FINDINGS OF FACT

Part 1

The following is an evaluation of the zone change request under the criteria and guidelines for zoning regulations provided in Montana code Annotated 76-2-304.

1. Does the proposed zone change comply with the Miles City Growth Policy?

The growth policy does not include a future land use map or other information designating the property for specific land uses or zoning designations. The Growth Policy includes a statement that is applicable to this proposal: "Zoning amendments shall consider the needs of the petitioner, neighboring property owners, and the greater community." (Zoning, p.36).

The needs of neighbors and the community should be carefully considered. In this case, the landowner (petitioner) has requested a change in zoning designation to provide greater options for development of the property. Some concerns have been voiced to date by neighboring property owners because, depending on what future land use is developed on the property, land uses allowed in the GC district could result in greater impacts to neighboring landowners than typical AG district land uses.

The growth policy states that future growth in the Miles City community will most likely be to the east and to the south of the established community. Based on this information, the proposal generally complies with the 2008 Miles City Growth Policy.

2. Is the proposed zone change designed to secure safety from fire and other dangers?

The property would be served by fire protection from the Rural Fire Department. The property is accessible by State Highway 59 South to the east of the property and the highway would provide emergency access. As stated in #3 below, there could be a visibility issue with accessing the highway from the property, which must be addressed by the Montana Department of Transportation (MDOT) prior to a zone change being final. Assuming this issue can be adequately addressed, the proposal would generally be designed to secure safety from fire and other dangers.

3. Is the proposed zone change designed to promote public health, public safety, and the general welfare?

The property is not located in a designated floodplain. There is a high voltage power line to the south of the property; gas lines are located along the easement next to the highway. It appears there could be a visibility problem with traffic entering onto a busy road, therefore the proposed zone change will have some impact on public health, safety or general welfare and the MDOT would have to address this with the property owner as to what the approved right away approaches or highway improvements would be required prior to the zone change being finalized.

4. Is the proposed zone change designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public facilities?

Transportation – The property is served by one road: Highway 59 South. MDOT will be consulted in order to ensure adequate transportation.

Water and Sewer – There are no city water or sewer services to this property. A well will provide for water and the wastewater system design is being handled by the sanitarian and the state in accordance with adopted policies.

Schools – School facilities and bus service are available if necessary.

Parks – No parks are immediately available to this property. Assuming a commercial business is developed on the property, the proposal should not generate additional demand for city parks.

Other Public Requirements – Mail delivery and utilities are available to this property.

Based on the above information, the proposed zone change is generally designed to facilitate the adequate provision of transportation, water, sewerage, schools, and other facilities.

5. Does the proposed zone change provide reasonable provision of adequate light and air?

The proposed property is approximately 28.85 acres in size, which is sufficient size to provide adequate light and air.

6. How would the proposed zone change effect motorized and non- motorized transportation systems?

As stated previously, motorized vehicular access is available via a state highway which the MDOT would have to authorize in order to ensure impacts from the development of this property are minimal.

7. Does the proposed zone change promote compatible urban growth and is it suitable for the proposed land use?

According to the map entitled, Miles City & Surrounding Jurisdiction Zoning Map (9/20/12), the zoning designation surrounding this property is Agricultural to the south and west of this property, General Commercial to the east of this property and the property to the north is zoned Agricultural, but some debate arose during another recent rezone request across the road. A General Commercial business has been operated on this property for the last 50 years so there has been some debate as to what designation this property really is.

To the north of this property toward Miles City are several commercial developments. During a recent, similar zone change request, the City Council found extending GC designation to the south in this area is a logical and compatible extension of the South Haynes commercial development.

8. Would the proposed zone change conserve the value of building and encourage the most appropriate use of the land?

Changing the zoning on the subject property to general commercial would conserve the value of building and would be appropriate use of the land.

Part 2

The following is an evaluation of the Little Factors for Spot Zoning based on legal precedent established in *Little v. Board of County Com'rs*, 193 Mont. 334 (1981) and other judicial decisions.

Little Factor 1: Is the proposed land use significantly different from the prevailing use in the area?

A change to GC would allow for a wide range of commercial land use options and also multiple-family residential. To the north approximately 1,000 feet is a similar mix of commercial and (away from Haynes Avenue) multi-family residential. Immediately surrounding the subject property are residential, agricultural and commercial land uses. Because of the mixture of existing uses in the area, the proposed land use would not be significantly different from the prevailing uses in the area.

Little Factor 2: Is the area rather small from the perspective of the number of separate landowners benefited from the proposed change?

A zone change requested by one landowner is small from the perspective of the number of separate landowners benefited from the proposed change.

Little Factor 3: Would the change be special legislation designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public?

In a way this would be special legislation designed to benefit one landowner. However, City Council recently recognized in a similar zone change decision that commercial use with some residential is likely to be the future land use in this area. Changing the designation would open the door for other landowners to benefit due to the establishment of precedent. Also, while acknowledging that certain members of the public might be harmed by the impacts of commercial development on this property, other segments of the public might benefit due to additional jobs, tax base and the goods and services that will be produced at the site. On balance, this proposal would primarily benefit one landowner but not at the overall expense of the general public.

Finding: Based on the above analysis of the three Little Factors for Spot Zoning, this proposal does not appear to be illegal spot zoning.

Part 3

Recommendation: Adopt this report as findings of fact and recommend approval of the zone change to City Council contingent upon the applicant meeting the access requirements of the Montana Department of Transportation prior to the zone change being finalized by City Council.

GARY RYDER
LAWYER
P.O. BOX 72
HYSIAM, MONTANA 59038
406-342-5546

November 5, 2014

Ms. Amber Trenka, Chairperson
Zoning Commission
City of Miles City
17 South 8th
Miles City, Montana 59301

RE: Objection to Certain re-zone request

Dear Chairperson and Members of the Zoning Commission,

Please consider this objection to the re-zone on behalf of my clients, the Todoroff's. When the same property was proposed for rezoning in April of 2014, the matter went to the Zoning Commission and City council. It was denied in a written decision by the City council.

The property is located in a zoning district that is designated as agricultural.

Since that time, neither the law nor the facts have changed. The only thing that has changed is the politics. The spot zoning issue still exists.

There was a significant amount of information provided to the Zoning Commission and the City council at a series of public hearings. Very little of this is contained in the staff report.

As an example, Mr. Certain indicated that there is no available industrial property in Miles City. That is not accurate. The Bullpen Subdivision located by the new National Guard Armory. That property has City water and sewer available, and is compatible with the other properties in the area.

Brad Certain, at a City council meeting, indicated that Diamond J, LLC was not going to go back into this. However, the staff report has nothing addressing this issue including restricted covenants.

The staff report s only addresses issues favored by Certain. It is not balanced. The Growth Policy is an extensive document. It discusses many factors, including annexation, extension of water and sewer services on surrounding properties outside of town, and maintaining open spaces of agriculture. This zoning area will be adversely affected. There are several well-maintained and

valuable residences, which are not compatible with the proposed use. The statements made by staff in their report indicating that the Growth Policy is being complied with is not accurate.

I am submitting a letter from Dennis Mullen. He is not taking sides, but providing general information as to the adverse effect on property values of mixed zoning

There is little doubt that this re-zone is special legislation that is only for the financial benefit of the real estate speculators who purchased the property in 2012. It was zoned agriculture at the time of purchase. This change will adversely affect the landowners, and does not comply with the Growth Policy. It is not compatible use. It should be denied.

Sincerely yours,



Gary Ryder
Attorney at Law

GR/cabs

- c. Dan Rice, City Attorney (w/o exhibits)
- Scott Gray, Public Works (w/o exhibits)

Exhibit List: (not emailed)

1. City council document of July 8th, 2014
2. DNRC website – Bullpen pictures
3. Dennis Mullen letter
4. Map of opposing landowners – Tract A – Certain / Gillette

CITY COUNCIL – MILES CITY

In Re the Zoning Change

*

*

Petition of Diamond J. Construction, LLC

*

*

*

**FINDINGS OF FACTS
AND
CONCLUSIONS OF LAW –**

A public hearing on this matter was held before the City council on June 24th, 2014. The Zoning Commission held a previous public hearing on this matter on April 24th, 2014 and took additional comments on May 7th, 2014.

The Zoning Commission submitted a written recommendation to the council recommending a denial of the change.

Zoning Commission members, Nancy Mitchell and Muriel Rost, provided a written basis for the recommendation.

With that background, the City council of Miles City submits the following Findings of Facts and Conclusions of Law.

FINDINGS OF FACTS - BACKGROUND

1. Diamond J, LLC, is a local construction contractor, John Peila, owner. Diamond J started construction for a building on property zoned agricultural south of town in February of 2014. They submitted an application for a zoning change was submitted to the City in March of 2014.
2. Diamond J Construction is a concrete and excavation contractor, and the building being constructed was approximately 11,800 square feet in size and used as a shop to store supplies and maintain equipment, in addition to office space. The exterior would contain some

landscaping and a parking area for vehicles. The proposed use would be significantly different than the prevailing use in the area.

3. The property where the building is being constructed is located on a tract of property located approximately two (2) miles south of Miles City on Highway 59 South. The land was recently subdivided. It did not go through the required subdivision review. The tract where the construction is taking place is designated, Tract B of the Colvin Minor Subdivision. The land is approximately twenty-eight (28) acres.

4. The site plan for the property shows two (2) proposed buildings. Diamond J purchased the property from developer, Brad Certain, who owns Tract A of the Colvin Minor Subdivision. Tract C and D of that subdivision are owned by Susan Colvin of Great Falls, Montana and Mary Jo Colvin Kane of Liberty Lake, Washington.

5. The proponent had indicated at the May 28th, 2014 zoning hearing on the Certain property that he disagreed with the Zoning Commission's recommendation on this property, but had other suitable property elsewhere. He indicated he would hold on to this property (Tract B) until he received sufficient value.

WRITTEN PROTEST

6. The staff for the City of Miles City prepared a list of property owners for the proposed Diamond J Construction rezoning request. With the exception of Diamond J, Brad Certain and his partner, Dave Gillette, all of the other affected landowners filed written protests. Those landowners are: Peggy Pyle, Susan L Colvin and Mary Jane Kane, Arlo D. Nansel, Barbara Ann Todoroff-Nicholas (now of Richmond, Kentucky), and Frank and Mary Jane Nelson of Miles City.

7. In addition to the written protest by the property owners, other surrounding property owners outside the 150 feet project zone objected to the re-zone.
8. At the April hearing, landowner, Bill Oftedahl, also in the construction business, cited a variety of factors involving the high number of trucks entering in and out of the property, off hours of operation, and the general nature of the construction contracting business. Oftedahl's construction business is located north of town in the vicinity of other construction and trucking businesses.
9. At the June hearing, Mr. Oftedahl also testified that there is a need for additional residential housing. Given the current nature and use of the property, if the area is rezoned, that residential property is the more appropriate use.
10. In their written protests, the majority of the other property owners indicate that a change of zoning would adversely affect the value of their properties. Todoroff indicated that she would have difficulties in selling a current seven (7) acre tract she owns, located next to the Diamond J construction site. The current use of Todoroff's property is for a rural residential. Her mother has been residing there.
11. Property owner, Susan L. Colvin, indicates that her wish for the remaining forty-three (43) acres that her and her sister own would either remain in farm land or residential use.
12. Property owner, Ron Nansel, also believes that a construction business is not the best use of for their property as it should be considered for rural residential.
13. Property owner, Fred Nelson, currently has a residential property across the street from the property and believes his property value will decrease as a result of a re-zoning.
14. Other than developer Certain, none of the other surrounding property owners are in favor of the re-zone proposal.

GROWTH POLICY

15. The City of Miles City Growth Policy was adopted in April of 2008. Montana law requires that zoning changes comply with a growth policy. It is very comprehensive and addresses issues involving zoning, annexation, and development. Both the Growth Policy and the City of Miles City ordinance establish a two (2) mile jurisdiction outside the City limits as their jurisdiction. The Tract B of the proposed zoning change is within that two (2) miles jurisdiction. The City's two (2) mile zoning jurisdiction is clearly stated in the introduction of the Growth Policy and in several places in that document.

16. Mr. Peila's contention that he was unaware of the zoning regulations did not carry much persuasion with either the Zoning Commission or with the City council.

WATER AND SEWER SERVICES - ANNEXATION

17. The property in question does not currently have access to water and sewer services either through the Custer County Water and Sewer District or the City of Miles City. Diamond J owner, John Peila, stated that he would be willing to consider annexation as a condition of approval. There is no indication that Peila has taken any attempts to initiate annexation and meet the necessary legal requirements. The annexation issue is addressed on page 35 and 36 of the City of Miles City Growth Policy.

18. The determination is made that the proper steps for annexation have not been undertaken by Diamond J Construction.

ZONING STANDARDS – GROWTH POLICY

19. The existing land is zoned as agricultural. The City of Miles City's Growth Policy addresses issues for consideration in zoning. The Zoning Commission will consider the needs of the Petitioner, neighboring property owners, and the greater community. Taking into account

both the legal effect of the protest, and the stated concerns of the neighboring property owners, the criteria for a zoning amendment has not been met by Diamond J, LLC. See page 36, Growth Policy.

SPOT ZONING

20. The City council of the City of Miles City adopts the determination submitted by the Zoning Commission and the recommendations of the City Planner, Dave DeGrandpre on the spot zoning issue. Allowing the zoning amendment as presented would amount to spot zoning, as it would be only to the benefit of one entity, Diamond J Construction, LLC and to the detriment of the surrounding landowners. There is no apparent benefit of this construction company to the surrounding landowners. Those landowners all had a reasonable basis to believe their value of property would be decreased. The applicants existing business site located in north Miles City on Truscott also, gave concern to the other surrounding landowners.

CONCLUSIONS OF LAW

1. The City of Miles City has jurisdiction over the proposed re-zoning change. See MCA §76-2-310.
2. The City council has considered the guidelines and zoning regulations under MCA §76-2-304. Zoning regulations and amendments should be made in conformance with the Growth Policy, as adopted by the City in April, 2008. Such Growth Policy requires the consideration of the surrounding property owners and the best use of the land, as a criteria to approve re-zoning.
3. The City council determines that because of the strong opposition of the surrounding property owners, in addition to the lack of planning of this development, is an adequate basis for the denial of this re-zoning request by the proponent. See also *Englin v. Board of County Commissioners*, 2002 MT 115 48 P.3d 39 (2002).

4. In addition, there have been sufficient protests filed to require an affirmative vote to recommend re-zoning by 75% of the City council.
5. The council finally determines that in addition to the zoning criteria under statute, and zoning references in the Growth Policy, that to grant this proposed re-zone would be in violation of the restriction against spot zoning. See the DeGrandpre report, Zoning Commission recommendation, also *Little v. Board of County Commissioners*, 193 MT 334, 631 P.2d 1282 (1981), and *Greater Yellowstone Coalition, Inc. v. Board of County Commissioners of Gallatin County*, 2001 MT 99 25 P.3d 168 (2001).

FINAL DETERMINATION

Based upon the information contained and referenced above, the City council determines that the re-zoning change as submitted is DENIED.

DATED this 16 day of July, 2014.



City Council President – City of Miles City

APPRAISAL REVIEW REPORT

Proposed Easement on Tracts 2 through 5 of Bull Pasture Subdivision

Custer County, Montana

Effective Date of Review: September 13, 2012

Date of Valuation: September 13, 2012

Prepared for:

State of Montana

Department of Natural Resources and Conservation

Trust Land Management Division

Real Estate Management Bureau

1625 11th Avenue

Helena, MT 59620

Prepared by:

John Grimm, Real Estate Section Supervisor

Department of Natural Resources and Conservation

Trust Land Management Division

Real Estate Management Bureau

1625 11th Avenue

Helena, MT 59620

REVIEWER'S SUMMARY OF SALIENT FACTS

Clients & Intended Users of Review: The clients and intended users are the State of Montana, the Montana Board of Land Commissioners and the Department of Natural Resources and Conservation (DNRC). The purpose of the appraisal is to provide the clients with a credible opinion of current fair market value of the appraised subject property. The report is intended to be used in the decision making process concerning the amount of compensation to be paid for an easement.

Intended Use of Review: The purpose of the review is to provide the clients and intended users with an opinion of the credibility of the appraiser's opinion of current fair market value of the appraised property, and if this appraisal should be reviewed by a Montana certified appraiser. The intended use of the review will be for utilization in the decision making process concerning the amount of compensation to be paid for an easement.

Present Owner: State of Montana

Property Interest Appraised: Fee Simple

Zoning: Light Industrial (LI)

Subject Property, Acreage, Legal Description & Location: The property is located about half a mile east of the northeastern limits of the city of Miles City, Montana. The property is Tracts 2, 3, 4 & 5 of the Bull Pasture Minor Subdivision, all in the SW1/4 of Section 26, T8N, R47E of the P.M.M., Custer County Montana. This parcel of land is accessed by driving north on Haynes Avenue from Interstate 94, to Ashland Street, then turn east to access the tracts.

Present Use: Vacant, irrigated pasture

Highest and Best Use: Industrial Use, in line with current zoning.

Dates: The effective date of the appraisal is September 13, 2012 and effective date of the review is September 13, 2012.

Purpose and Intended Use of the Appraisal: The purpose of the appraisal is to provide the clients and intended users with a credible opinion of market value of the subject property, intended for use in the decision making process concerning the amount of compensation to be paid for an easement.

Appraiser's Opinion of Value of Real Estate: The appraiser reported the current fair market value for the subject property as of September 13, 2012:

Tract	Acres	Value per Acre	Total Value *
All Tracts	38.55±	\$35,000	\$1,300,000
Tract 2	16.93±	\$35,000	\$575,000
Tract 3	7.22±	\$35,000	\$245,000
Tract 4	7.21±	\$35,000	\$245,000
Tract 5	7.19±	\$35,000	\$245,000

*Values calculated on net tract area less access easement, and rounded to nearest \$1,000

Reviewer: This reviewer is not a Montana certified appraiser and makes a recommendation to the DNRC if the report should be reviewed by a Montana certified appraiser. This reviewer checks the accuracy of information and analysis of the report.

Reviewer's Comments: This reviewer finds the report appears credible and that it is acceptable. This review is not a stand alone document and is expressly interrelated to the appraisal report.

Reviewer's Conclusion of Value: It is this reviewer's opinion that the appraiser's opinion of value for the subject sale parcel is appropriately supported.

APPRAISAL REVIEW REPORT

Clients & Intended Users of Review: The clients and intended users are the State of Montana, the Montana Board of Land Commissioners and the Department of Natural Resources and Conservation (DNRC). The purpose of the appraisal is to provide the clients with a credible opinion of current fair market value of the appraised subject property. The report is intended to be used in the decision making process concerning the amount of compensation to be paid for an easement.

Intended Use of Review: The purpose of the review is to provide the clients and intended users with an opinion of the credibility of the appraiser's opinion of current fair market value of the appraised property, and if this appraisal should be reviewed by a Montana certified appraiser. The intended use of the review will be for utilization in the decision making process concerning the amount of compensation to be paid for an easement.

Scope of Review:

The reviewer will be reviewing and making an opinion of the quality of the appraisal, along with providing an opinion of the credibility of the value reported. The reviewer's opinion of appraisal quality and opinion of the credibility of the value reported will be based mostly on the material submitted in the report. Limited use will also be made of information on the cadastral system, (such as legal descriptions, maps, aerial photos and topography maps, etc. . .), and limited information on the subject property in this reviewer's file. This reviewer did not perform a physical viewing of the subject property. The comparable sales were not inspected and were only "viewed" through use of the appraisal report and cadastral system. No in-depth market research was done. The reviewer's valuation opinion is limited to an orientation prospective of the appraiser's opinion, i.e., "the appraiser's opinion of value appears high, low, appropriate, or unsupported", etc. In the development of this reviewer's opinion of the credibility of the value estimated, an extraordinary assumption has been made that the material about the subject property and on the comparable sales, along with other market information submitted in the appraiser's report is credible. USPAP defines Extraordinary Assumption as: an assumption, directly related to a specific assignment, which, if found to be false, could alter the appraiser's opinions or conclusions. Use of the extraordinary assumption mentioned here and elsewhere in the report might have affected the assignment results. This review is not a stand alone document and is expressly interrelated to the appraisal report, which the reader may need to refer to for further detail.

Subject Property, Acres, Legal Description, Location & Owner of Record:

The property is located about half a mile east of the northeastern limits of the city of Miles City, Montana. The property is Tracts 2, 3, 4 & 5 of the Bull Pasture Minor Subdivision, all in the SW1/4 of Section 26, T8N, R47E of the P.M.M., Custer County Montana. This parcel of land is accessed by driving north on Haynes Avenue from Interstate 94, to Ashland Street, then turn east to access the tracts. The State of Montana has owned the property since 1918.

Appraiser's Estimate of Value:

Appraiser's Opinion of Value of Real Estate: The appraiser reported the current fair market value for the subject property as of September 13, 2012:

Tract	Acres	Value per Acre	Total Value *
All Tracts	38.55±	\$35,000	\$1,300,000
Tract 2	16.93±	\$35,000	\$575,000
Tract 3	7.22±	\$35,000	\$245,000
Tract 4	7.21±	\$35,000	\$245,000
Tract 5	7.19±	\$35,000	\$245,000

*Values calculated on net tract area less access easement, and rounded to nearest \$1,000

Date of Appraisal, Estate Appraised & Date of Review:

The effective date of the appraisal is September 13, 2012 and the date of the report is October 26, 2012. Property rights appraised are unencumbered surface rights. The appraisal report provides more detail about the rights appraised and also the market value definition. The reader is referred to the report for more information. The effective date of the review is September 13, 2012, with the review report date being November 14, 2012.

Client & Intended Users and Purpose & Intended Use of Appraisal Report:

The clients and intended users are the State of Montana, the Montana Board of Land Commissioners, and the Montana Department of Natural Resources and Conservation (DNRC). The report is intended to be used in the decision making process concerning the amount of compensation to be paid for an easement.

Appraiser's Subject Property Data & Analysis Summary:

The appraiser appears to have provided sufficient information on and done an adequate analysis of, the subject property, the neighborhood and the market in general. To state again, in the development of this reviewer's opinion of the credibility of the value estimated, an extraordinary assumption has been made by this reviewer that this material is credible. This review is not a stand alone document and is expressly interrelated to the appraisal report.

Appraiser's Highest and Best Use Analysis:

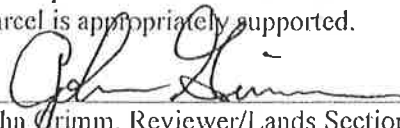
The property is located about half a mile east of the northeastern limits of the city of Miles City, Montana. The subject property is zoned Light Industrial (LI). The appraiser determined that the Highest and Best Use of the subject property is Industrial Use, in line with current zoning. This reviewer concurs with the Highest and Best Use determination made. The reader is referred to the appraisal report for the appraiser's analysis and conclusions.

Appraiser's Valuation Process: The subject consists of vacant pasture land, which has been subdivided into tracts that are zoned Light Industrial (LI). The Cost approach and Income Approach were not considered relevant approaches to valuing the property. The appraiser appears to have done a thorough search of the subject's market area for comparable sales, comparable listings, and market data, done a sufficient job in the descriptions and explanations, done a rational examination of the various elements involved with the various value approaches and done a reasonable analysis of the vacant sales information. The reader is referred to the actual appraisal report for the appraiser's descriptions, analysis and conclusions. Again, in the development of this reviewer's opinion of the credibility of the value estimated, this reviewer has made the **extraordinary assumption** that the elements in the value approaches, the comparable vacant land sales, listings and other market information is credible.

Reviewer: This reviewer is not a Montana certified appraiser and makes a recommendation to the DNRC if the report should be reviewed by a Montana certified appraiser. This reviewer checks the accuracy of information and analysis of the report.

Comments and Conclusions: This reviewer finds the report appears credible and that it is acceptable given the intended use. The material appears sufficient, the data appears adequate and relevant, the adjustments appear proper, the appraisal methods and techniques appear appropriate, and the analysis, opinions and conclusions appear appropriate and generally reasonable. This review is not a standalone document and is expressly interrelated to the appraisal report.

Conclusions of Values: This reviewer did not replicate the steps completed by the original appraiser. This reviewer has concluded that the work under review is credible and in general compliance with the applicable development standards. It is this reviewer's opinion that the appraiser's estimate of value for the subject parcel is appropriately supported.



John Grimm, Reviewer/Lands Section Supervisor
Montana Dept of Natural Resources & Conservation, Trust Land Mgt Div

Dated: November 14, 2012

Mullen Appraisal Service
Dennis Mullen
P.O. Box 1125
Miles City, MT 59301
(406) 234-3681
mullenappr@midrivers.com

Mayor Butch Grenz
City Council Members
17 S. 8th St.
Miles City, MT 59301

RE: Proposed Zone Change, Highway 59 South

August 27, 2014

Dear Mr. Grenz and City Council Members.

I have been asked to determine what, if any, impact the proposed zone change on Highway 59 South may have on neighboring residential property. It has been my experience as both a Real Estate Broker and Certified Residential Real Estate Appraiser that the proposed zone change from Agricultural use to Commercial use will have a negative impact on any adjacent existing or proposed residential property. It may also have a negative impact on the process of obtaining long-term secondary market residential financing for these properties. Commercial zoning allows a wide range of uses, which may have an equally expansive impact on the neighboring residential properties.

Please feel free to contact me if I may be of further assistance at any time.

Sincerely,



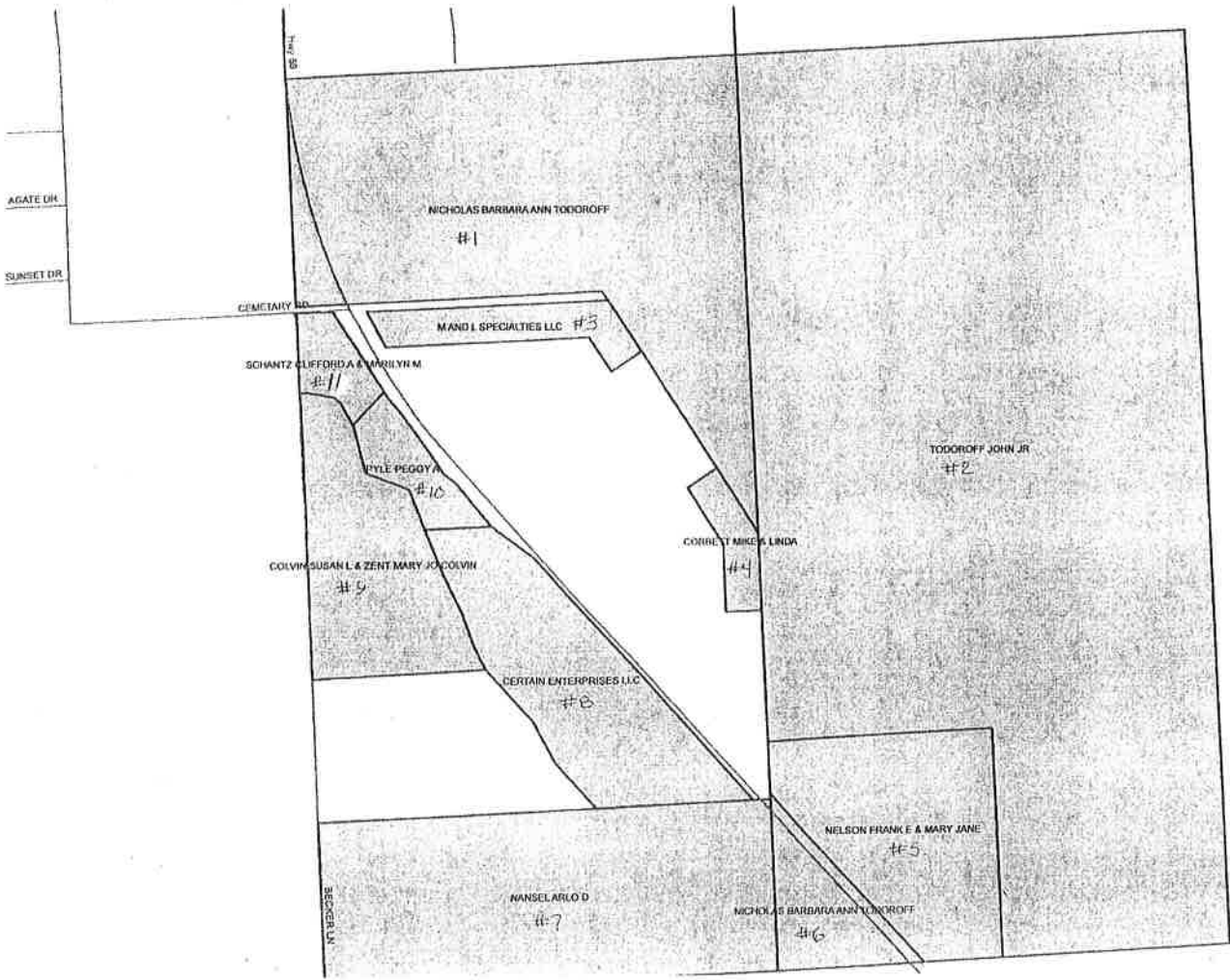
Dennis Mullen
Real Estate Broker, Certified Residential Appraiser

	Property Owner	Address	Zip Code	Opponent	Proponent
1	Barbara Nichols	778 Hwy 59S	59301	X	
2	John Todoroff	986 Oilmont St	59466	X	
3	Mike Corbett	917 S. Cale	59301		X
4	Mike Corbett	917 S. Cale	59301		X
5	Frank Nelson	PO Box 396	59301	X	
6	Barbara Nichols	778 Hwy 59S	59301	X	
7	Arlo Nansel	11 Nansel Lane	59301	X	
8	Certain Enterprises/Diamond J Const	PO Box 520	59301		X
9	Susan Colvin & Mary Jo Dent	287 Mclver Rd	59301	X	
10	Peggy Pyle	268 Cemetary Rd	59301	X	
11	Clifford Schantz	136 Schantz Lane	59301	No Response	

7

3

Number of Parcels: 11
Opponents: 7
Percentage: 64%



AGATE DR

SUNSET DR

CEMETARY DR

SCHANTZ CLIFFORD A & MARILYN M
#11

DYLE PEGGY A
#10

COLVIN SUSAN L & ZENT MARY JO COLVIN
#9

CERTAIN ENTERPRISES LLC
#8

CORRETT MIKE & LINDA
#4

N WINDYBROOK DR

NANSER ARLO D
#7

MICHAEL BARBARA ANN TODOROFF
#6

NELSON FRANK E & MARY JANE
#5

NICHOLAS BARBARA ANN TODOROFF
#1

MAND I SPECIALTIES LLC
#3

TODOROFF JOHN JR
#2

NEW BUSINESS

A. APPROVAL OF SANJEL SITE PLAN REVIEW

Sanjel

Revenue Code: 10000-341071

File No. _____
(for official use only)

RECEIVED OCT 21 2014

SITE PLAN REVIEW APPLICATION - MILES CITY

The following development proposals in the following zones are subject to site plan review:

4-plex and greater	Residential Zones A, B
4 to 8 units	Residential Zones B, C
8 or greater units	Residential Zones C
Parks, playgrounds, parking and open space and Accessory uses	Residential Zone C
All listed uses	General Commercial (GC), Local Commercial (LC)
All listed uses	Industrial (I), Medical Campus (MC)
All listed uses (new construction only)	Historic Mixed Use (HMU)
Keeping of chickens	All Zones
Animal Rescue or Animal Foster Care	Residential Zones A, B, MH-A; Commercial Zones GC, LC, HC; Open Space (OS); Semi-Rural (SR); Agricultural (AG).

Application Date: 10/20/14

Fee: 110.00

Name of Project: Sanjel - Miles City

Location of Project/Legal Description:

Tract 1 and Tract 2 of the Ponderosa Tracts Amended Plat and Tract 2A of the Hardesty Tracts, located in the NE 1/4 of Section 26, Township 8 North, Range 47 East, M.P.M. according to the Ponderosa Tracts Amended Plat filed for record on May 2, 1979 as Document No. 53708 in Envelope No. 162B

Contacts

Business Owner Name: MacBain Properties Ltd.
Please print

Contact Name: Michael Shipley
Please print

Address: 500, 505 - 2nd Street, SW
Calgary, Alberta T2P 1N8

Phone: 403-716-4094 Cell Phone: 403-829-7942

Email: mshipley@macbain.ca

Applicant Name: J. Mitchell Greer
(If different from owner)

Circle One Architect/Builder/Engineer/Other

Address: 2043 E Center Street
Pocatello, ID 83201

Phone: 208-234-0110 Cell Phone: 208-317-0110 Email: mitch@rmes.biz

Descriptive Data

Total area in acres: 24.01 Existing Zoning: GC

Existing and Proposed Use: The existing facility currently has many different operations including truck maintenance, equipment storage, chemical mixing and chemical storage. The proposed facilities will have the same uses listed above. The owner will also be consolidating the existing facilities from across Highway 12 and bringing them onto the proposed site and have all their facilities on one property

If Residential Number of Units and type of Proposed Units: N/A Commercial

If Commercial/Industrial Number of Buildings together with Square Footage and Stories/Height of each:

3 Buildings will be on site at the conclusion of the project

Proposed Building #1 (25,460 S.F. of office/lab/service bay) approximately 50 feet high

Proposed Building #2 (10,500 S.F. of wash bay) approximately 28 feet high

Proposed Building #3 (12,720 S.F. of bulk plant) approximately 25 feet high

Materials/Information to be submitted with this application (minimum requirements)

*10 Copies of the following:

1. Application form and site plan review fee
2. Vicinity Map showing location of proposed project (8 ½ x 11)
3. (8 ½ x 11) copy of the Site Plan at a suitable scale (example: 1 inch = 10 feet) with the following information:
 - a. Boundary line of property with dimensions and a north arrow indicator
 - b. Topography contours at a minimum interval of 2 feet or as determined by the planning department
 - c. Water bodies, floodplain, and wetlands
 - d. Adjacent streets and street rights-of-ways to a distance of 150 feet from the subject property, including existing and proposed improvements such as curb, gutter, sidewalks, and bike paths
 - e. Parking facilities, including bicycle racks, landscaping, drainage, lighting, handicap-accessible parking, typical dimensions (including labeling angles for angled parking), traffic flow on-site, ingress and egress points, driveways, and paving details
 - f. All existing and proposed structures, including exterior dimensions and setback distances to the wall line of all structures
 - g. Grading and storm drainage plans and calculations, including any proposed retention walls
 - h. Utilities and utility easements, existing and proposed
 - i. Location of fire hydrants, fire lanes and turnarounds
 - j. Exterior refuse collection areas
 - k. Signage plans (if any)
 - l. Elevation plans or side profiles for structures with dimensions for building heights, including dimension from the top of the roof peak to the average grade at the front of the building.
 - m. An analysis of traffic generation, trip distribution and the impacts of the proposed land use on the transportation facilities serving the area if the proposed land use is estimated to generate 400 or more average daily vehicle trips (ADT), or if requested by the administrator.
4. (8 ½ x 11) copy of the Landscaping Plan
5. Proposed signage – at a minimum must indicate location and size and an indication of what materials and lighting are proposed. (This may be separate or shown on the site plan and/or bldg elevations)

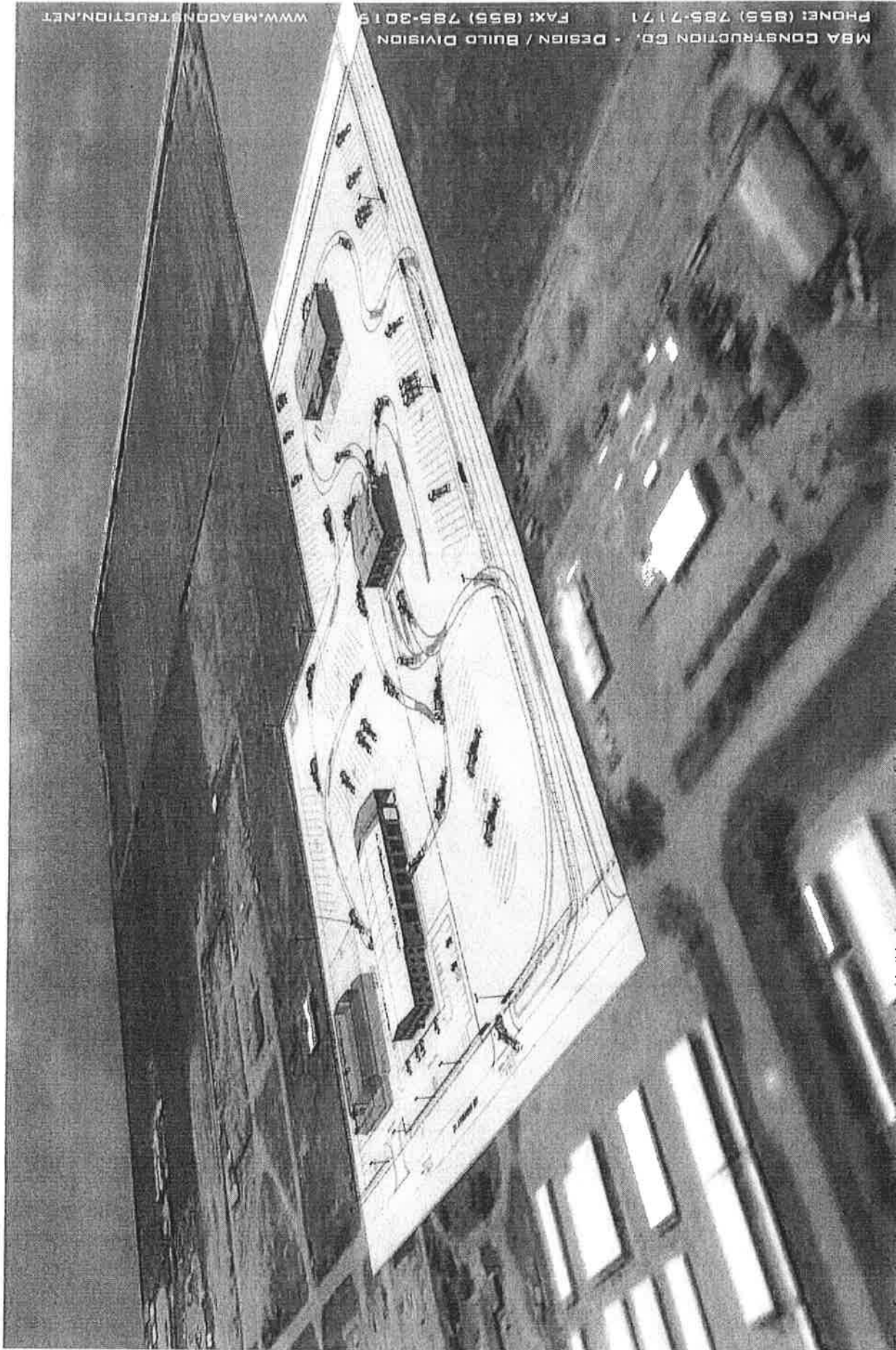
Property Owner Signature:  Date: October 20, 2014

Applicant Signature:  Date: 10/20/14
(If different from owner)

*1 copy of the submittal requirements may be provided to the Zoning Administrator to determine sufficiency per Miles City Code of Ordinances Section 24-96(e) through (f).

MBA CONSTRUCTION CO.

DATE: 10/2/14

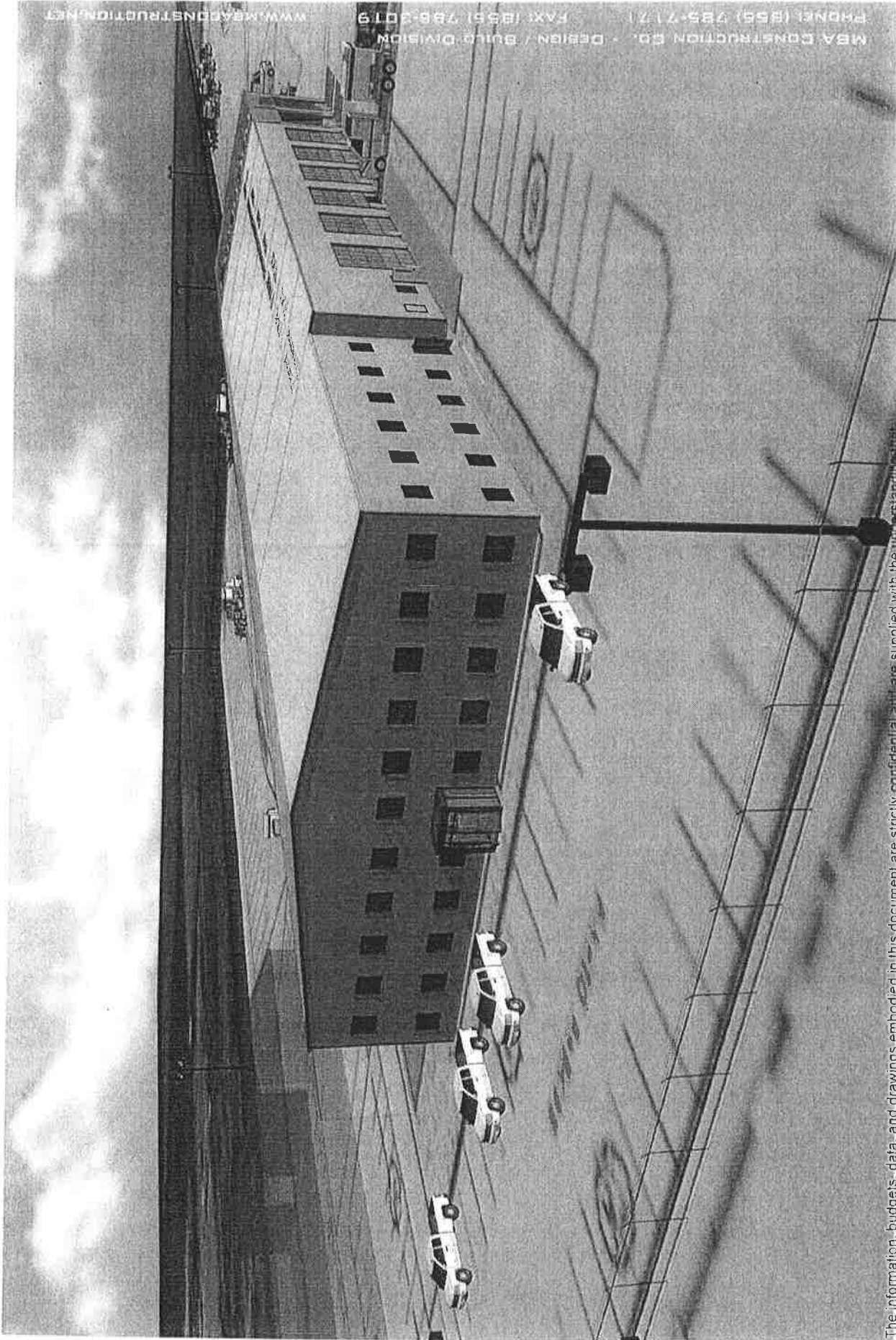


MBA CONSTRUCTION CO. - DESIGN / BUILD DIVISION
PHONE: (855) 785-7171 FAX: (855) 785-3019
WWW.MBAONSTRUCTION.NET

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MBA CONSTRUCTION CO.

DATE: 10/2/14

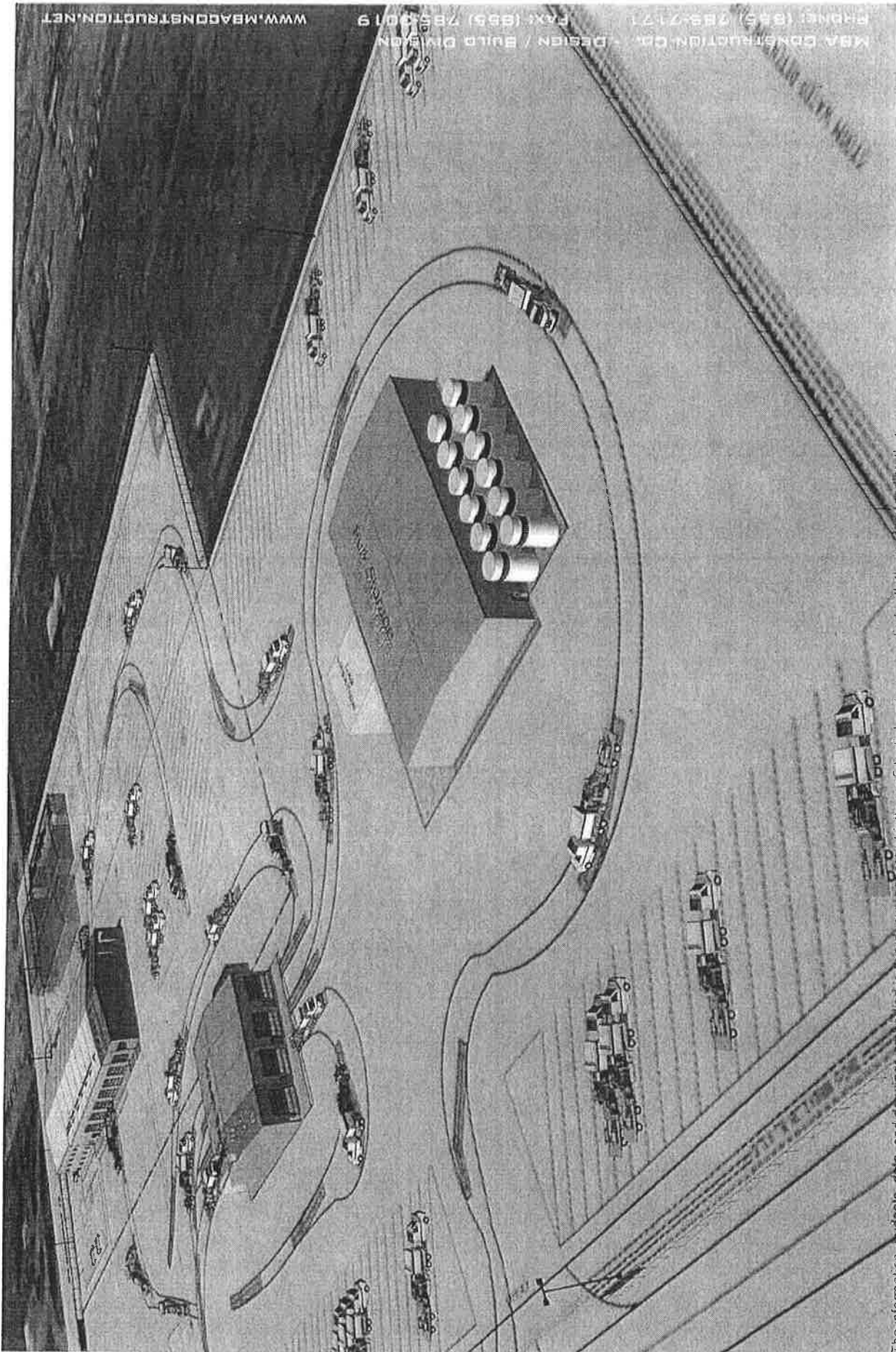


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MBA CONSTRUCTION CO.

DATE: 10/2/14



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Sanjel - Miles City, Montana

Stormwater Retention Pond Calculations

Prepared By: Jun Yao, Ph.D.

Reviewed By: J. Mitchell Greer

Date: October 2014

All calculations follow the requirements of detention pond by Montana DEQ Circular 8

Closed-Basin Pond (Retention) Volume Calculations at Full Development

(1) Composite Coeff. Calculation:

Post construction	area (ac)	runoff coeff.
Total Area	24.01	
Paved Area		
Gravel for parking lot	15.97	0.80
Building roof and concret etc.	2.05	0.90
Asphalt pavement	2.82	0.90
Pervious Area	3.17	0.1
Total area	24.01	0.73
composite coeff.		

DRAFT

(2) The 2-year, 24-hour rainfall event for Miles City is 1.41 inch, and the 100-year, 24-hour rainfall event is 3.75 inches.

(3) Estimate of the required pond size based on 2-year 24 hours rainfall for Miles

Total detention pond volume required = $CIAT = (0.73) (1.41)(24.01)(3600) = 88968 \text{ cf} = 2.04 \text{ ac-ft}$

(without discharge)

(4) Check on the volume of 100-year 24 hours rainfall for Miles

Total storm volume = $CIAT = (0.73) (3.75)(24.01)(3600) = 236618 \text{ cf} = 5.43 \text{ ac-ft}$

overflowing from the spillway

Sanjel - Miles City

Narrative - 10.20.14

1 - Water & Sewer)

Connection to water and sewer services for the Sanjel facilities are currently being coordinated with the Custer County Water & Sewer District. The final locations are yet to be determined, but all buildings will be connected to the water and sewer services provided by Custer County Water & Sewer District. Due to the nature of this project being design build, final calculations and sizes for things such as the water meter and backflow prevention, are not yet finalized but in process.

2 - Existing Building)

The existing building is going to be demolished and will make way for the new facilities to be constructed.

3 - Landscaping)

The proposed landscaping will consist of stabilizing any exposed ground not covered by asphalt, gravel and buildings. Native and regular grasses will be planted to stabilize the site. We anticipate the open channel ditches and ponds to have this grassy ground cover upon project completion. Trees (Amur Maples) or equivalent will be planted all along the frontage of the project.

4 - Storm Water Separation)

There is currently an existing pond in front of the proposed project site, between the highway and the right of way line, where the state manages its storm water runoff. The proposed project has a new pond next to the existing state pond. It is the intention of the project to contain all of the post development storm water runoff within the onsite ponds without discharging any post development runoff into the state ponds. The top of our ponds in conjunction with the top of the state ponds will create a 'berm' that will act as a separation barrier between the two ponds and keep the storage capacities intact and separate.

5 - Structural Elevations)

The proposed buildings on this project range from approximately 25 feet to 50 feet in height. The heights are not expected to exceed the 65' maximum height requirement.

*Heavy
Commercial
Height not to
exceed Fire
Dept.
Equipment*

6 - Traffic)

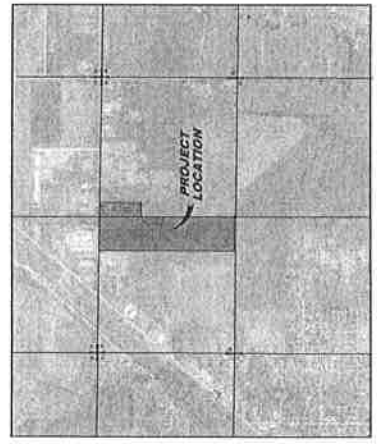
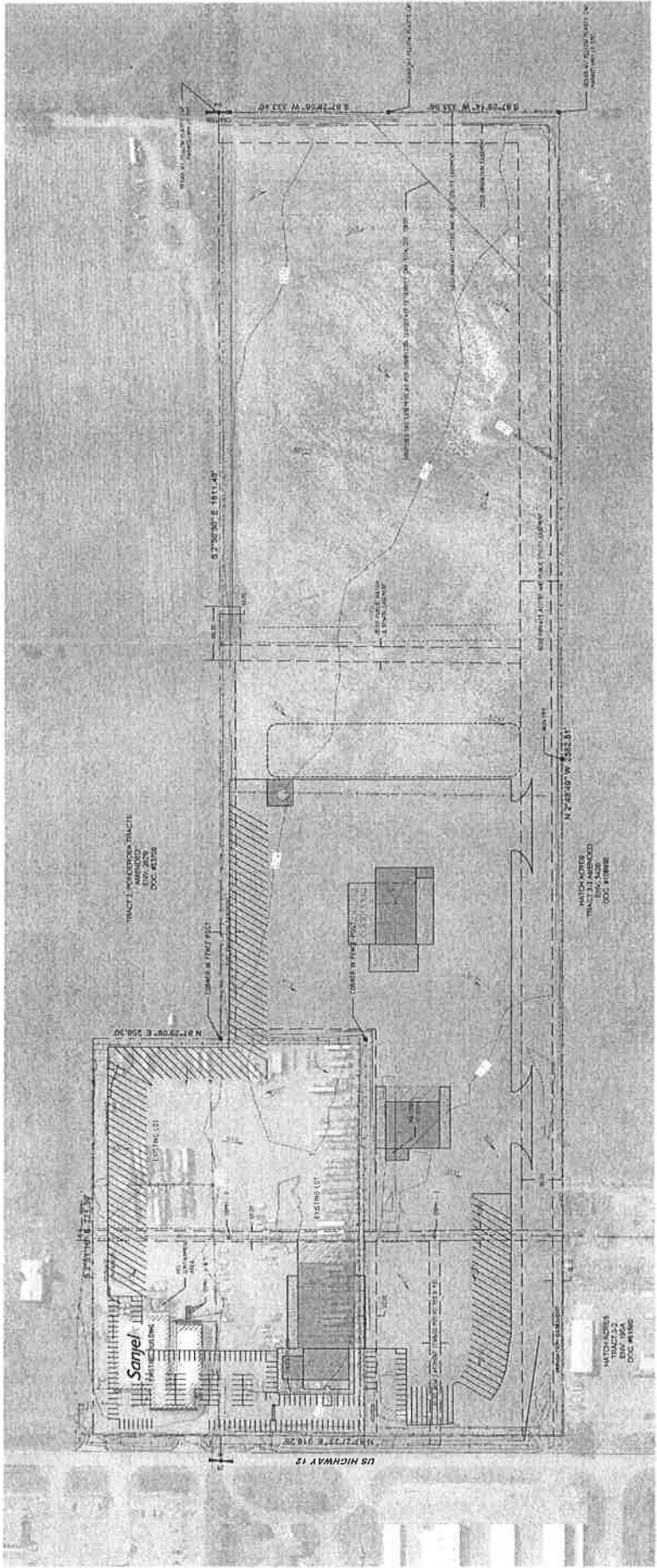
The proposed site will have 184 car parking spaces with 6 of those being van accessible. There will be another 113 stalls for truck parking. The total parking comes to 297 spaces. It is anticipated that the traffic for the project will not exceed 400 average daily trips.

7 - Signage)

The project will have a company sign at the front of the property. Final location and size are still being determined.



DATE	DESCRIPTION
10/15/2014	FIELD SURVEY
10/16/2014	FIELD SURVEY
10/17/2014	FIELD SURVEY
10/18/2014	FIELD SURVEY
10/19/2014	FIELD SURVEY
10/20/2014	FIELD SURVEY
10/21/2014	FIELD SURVEY
10/22/2014	FIELD SURVEY
10/23/2014	FIELD SURVEY
10/24/2014	FIELD SURVEY
10/25/2014	FIELD SURVEY
10/26/2014	FIELD SURVEY
10/27/2014	FIELD SURVEY
10/28/2014	FIELD SURVEY
10/29/2014	FIELD SURVEY
10/30/2014	FIELD SURVEY
10/31/2014	FIELD SURVEY



- LEGEND**
- CONCRETE
 - POWER POLES
 - LIGHT TOWER
 - POWER
 - BARRED WIRE SPIKE CABLE
 - STANDARD SINKER
 - BORED GULCH LINE
 - EXISTING FENCE LINE
 - EASEMENT CORNER (AS NOTED)
 - PROPERTY BOUNDARY
 - QUARTER CORNER
 - MONUMENT AS NOTED



SECTION	SEVER	HALF-ACRES
1	1328.73	3.52
2	2282.24	6.31
3	2282.24	6.31
4	2282.24	6.31
5	2282.24	6.31

PROPERTY INFORMATION

A TRACT OF LAND LOCATED IN THE EAST HALF OF THE EAST 1/4 SECTION 13, TOWNSHIP 4 NORTH, RANGE 10 EAST, OF THE PRINCIPAL, MISSOIAN, GUSTED COUNTY, MONTANA

NEW BUSINESS

B. APPROVAL OF MAC'S FRONTIERLAND SITE PLAN REVIEW

Revenue Code: 10000-341071

Mac's
File No. SPR-2014-08
(for official use only)

RECEIVED OCT 29 REC'D

SITE PLAN REVIEW APPLICATION - MILES CITY

The following development proposals in the following zones are subject to site plan review:	
4-plex and greater	Residential Zones A, B
4 to 8 units	Residential Zones B, C
8 or greater units	Residential Zones C
Parks, playgrounds, parking and open space and Accessory uses	Residential Zone C
All listed uses	General Commercial (GC), Local Commercial (LC)
All listed uses	Industrial (I), Medical Campus (MC)
All listed uses (new construction only)	Historic Mixed Use (HMU)
Keeping of chickens	All Zones
Animal Rescue or Animal Foster Care	Residential Zones A, B, MH-A; Commercial Zones GC, LC, HC; Open Space (OS); Semi-Rural (SR); Agricultural (AG).

* Application Date: 10/27/14

Fee: \$110. - paid

Name of Project: Mac's Frontierland, Inc. shop addition

Location of Project/Legal Description:

Contacts

Business Owner Name: Ken Makelky
Please print

Contact Name: same
Please print

Address: _____

Phone: _____ Cell Phone: 951-2458 Email: Kmak@live.com

Applicant Name: same Circle One Architect/Builder/Engineer/Other
(if different from owner)

Address: _____

Phone: _____ Cell Phone: _____ Email: _____

Descriptive Data

Total area in acres: 22.7 acres Existing Zoning: Commercial

Existing and Proposed Use:

Addition to existing business, Mechanic area.

If Residential Number of Units and type of Proposed Units: N/A

If Commercial/Industrial Number of Buildings together with Square Footage and Stories/Height of each:

5,000 sq ft. - One bldg. - single story - shop addition.

Materials/Information to be submitted with this application (minimum requirements)

*10 Copies of the following:

1. Application form and site plan review fee
2. Vicinity Map showing location of proposed project (8 ½ x 11)
3. (8 ½ x 11) copy of the Site Plan at a suitable scale (example: 1 inch = 10 feet) with the following information:
 - a. Boundary line of property with dimensions and a north arrow indicator
 - b. Topography contours at a minimum interval of 2 feet or as determined by the planning department
 - c. Water bodies, floodplain, and wetlands
 - d. Adjacent streets and street rights-of-ways to a distance of 150 feet from the subject property, including existing and proposed improvements such as curb, gutter, sidewalks, and bike paths
 - e. Parking facilities, including bicycle racks, landscaping, drainage, lighting, handicap-accessible parking, typical dimensions (including labeling angles for angled parking), traffic flow on-site, ingress and egress points, driveways, and paving details
 - f. All existing and proposed structures, including exterior dimensions and setback distances to the wall line of all structures
 - g. Grading and storm drainage plans and calculations, including any proposed retention walls
 - h. Utilities and utility easements, existing and proposed
 - i. Location of fire hydrants, fire lanes and turnarounds
 - j. Exterior refuse collection areas
 - k. Signage plans (if any)
 - l. Elevation plans or side profiles for structures with dimensions for building heights, including dimension from the top of the roof peak to the average grade at the front of the building.
 - m. An analysis of traffic generation, trip distribution and the impacts of the proposed land use on the transportation facilities serving the area if the proposed land use is estimated to generate 400 or more average daily vehicle trips (ADT), or if requested by the administrator.
4. (8 ½ x 11) copy of the Landscaping Plan

5. Proposed signage – at a minimum must indicate location and size and an indication of what materials and lighting are proposed. (This may be separate or shown on the site plan and/or bldg elevations)

Property Owner Signature: Key Mabecky Date: 10/27/14

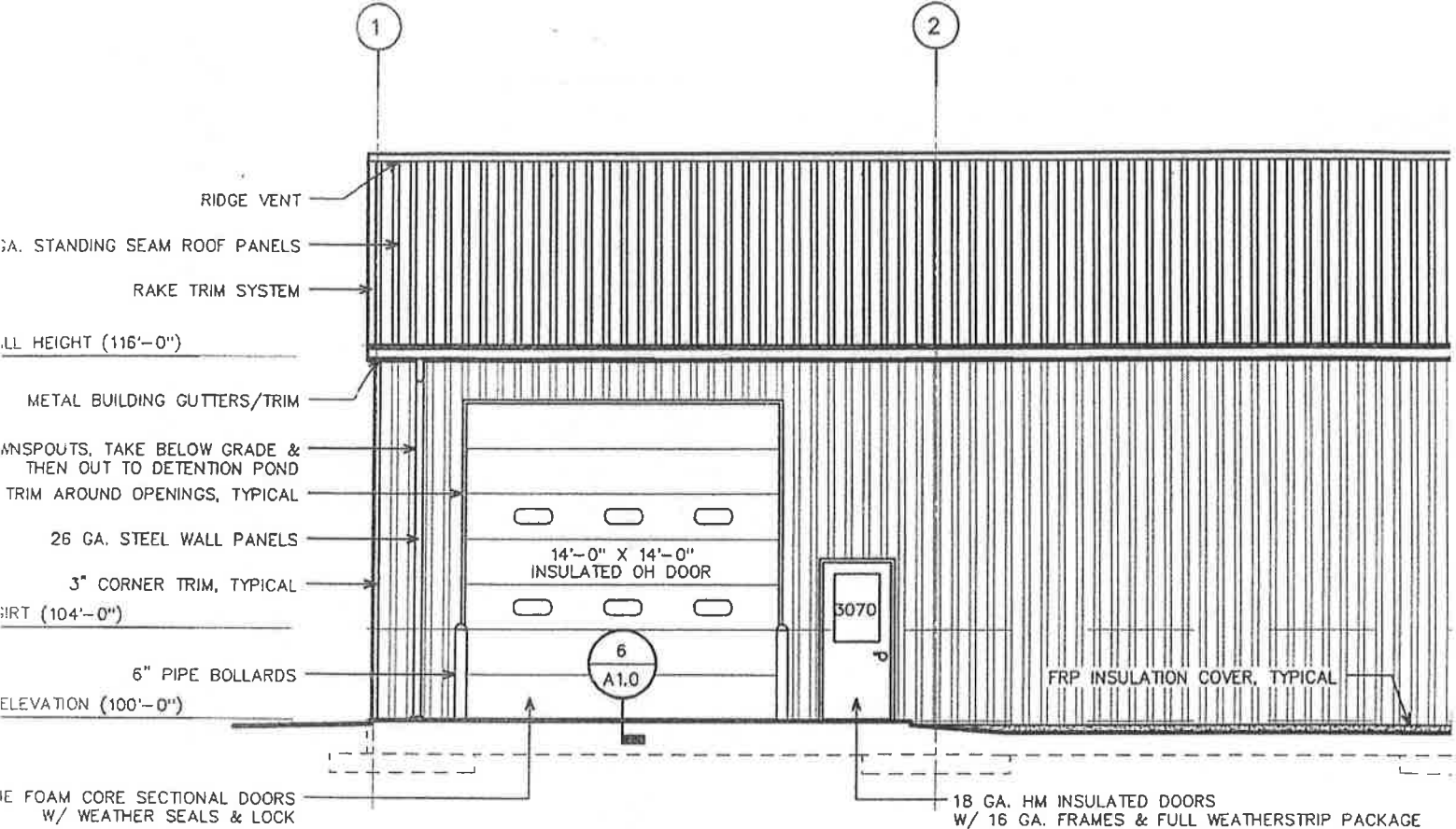
Applicant Signature: _____ Date: _____
(If different from owner)

*1 copy of the submittal requirements may be provided to the Zoning Administrator to determine sufficiency per Miles City Code of Ordinances Section 24-96(e) through (f).

* 10 Copies

Addition to existing bldg. & business

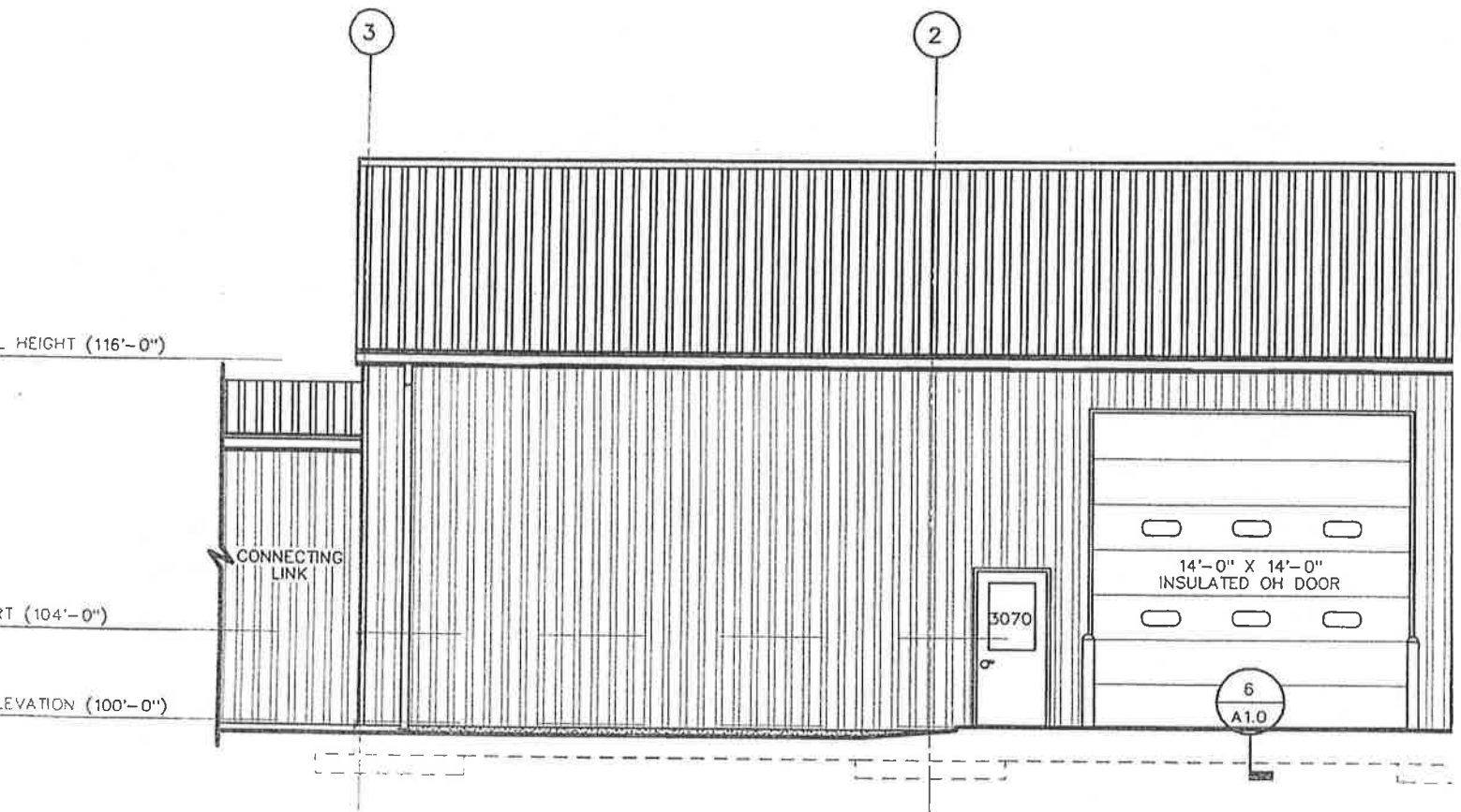
- 1- App. & Fee - paid
- 2- Vicinity map - enclosed
- 3- Copy of S. plan @ scale - enclosed.
 - 3a- Boundary line - nearest is 180' away
 - b- Shows topography
 - c- no water bodies or wetlands involved
 - d- no streets or right-a-ways involved, no curb & gutter
 - e- no parking changes or traffic flow changes
 - f- shows existing bldg and distances
 - g- no change of grading, no retention walls req.
 - h- utilities to remain unchanged tied into existing
 - i- no fire hydrants, no fire lanes changes
 - j- refuse collection already in place
 - k- no signage, other than existing
 - l- sidewall height is illustrated and roof is 2/12
 - m- no traffic in addition to existing
- 4- ~~no~~ there will be no landscaping.
- 5- no signage additions, only relocation of existing to accommodate bldg.



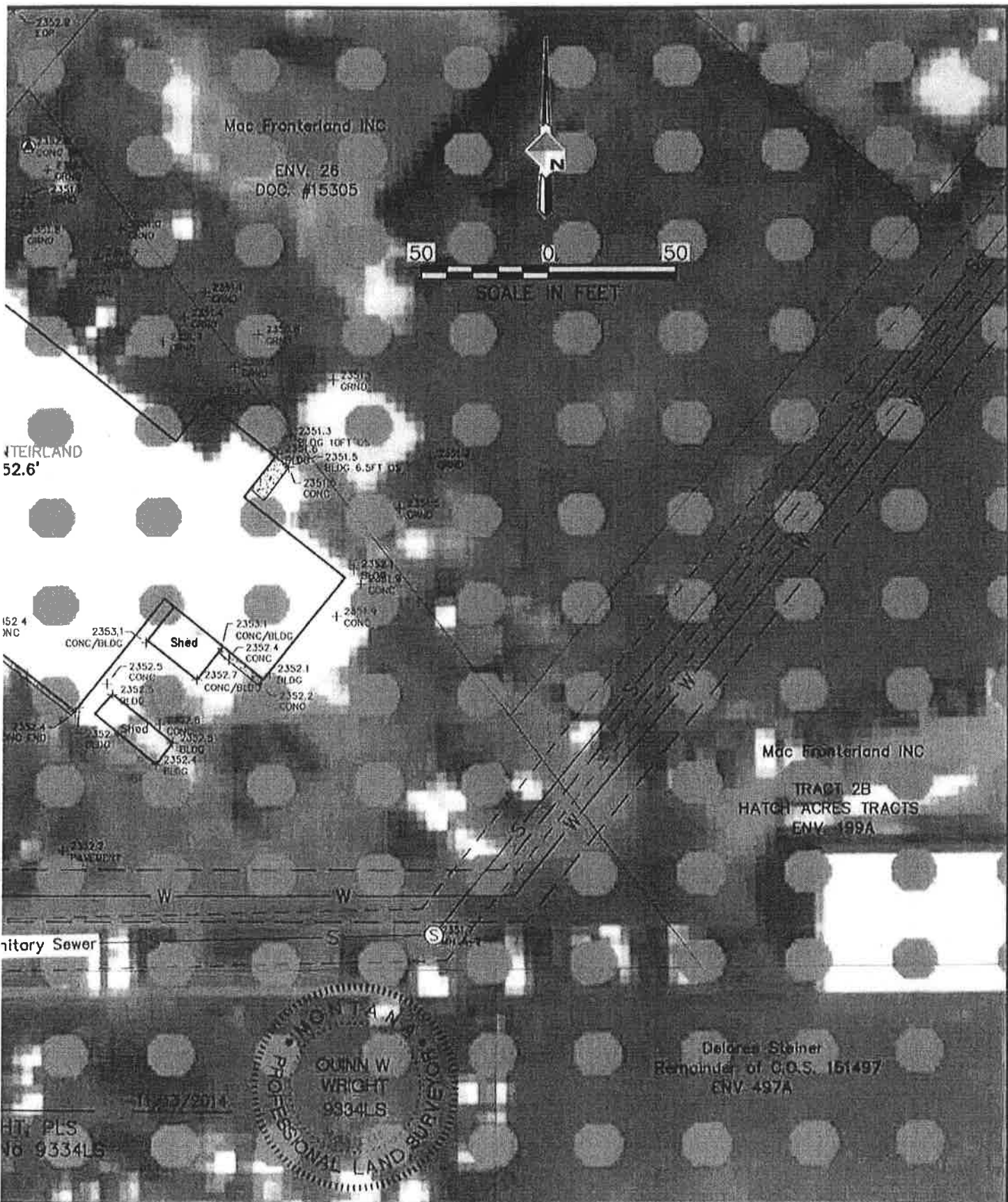
2 - West Elevation

1413ELV 092414

1/8" =



A East Elevation

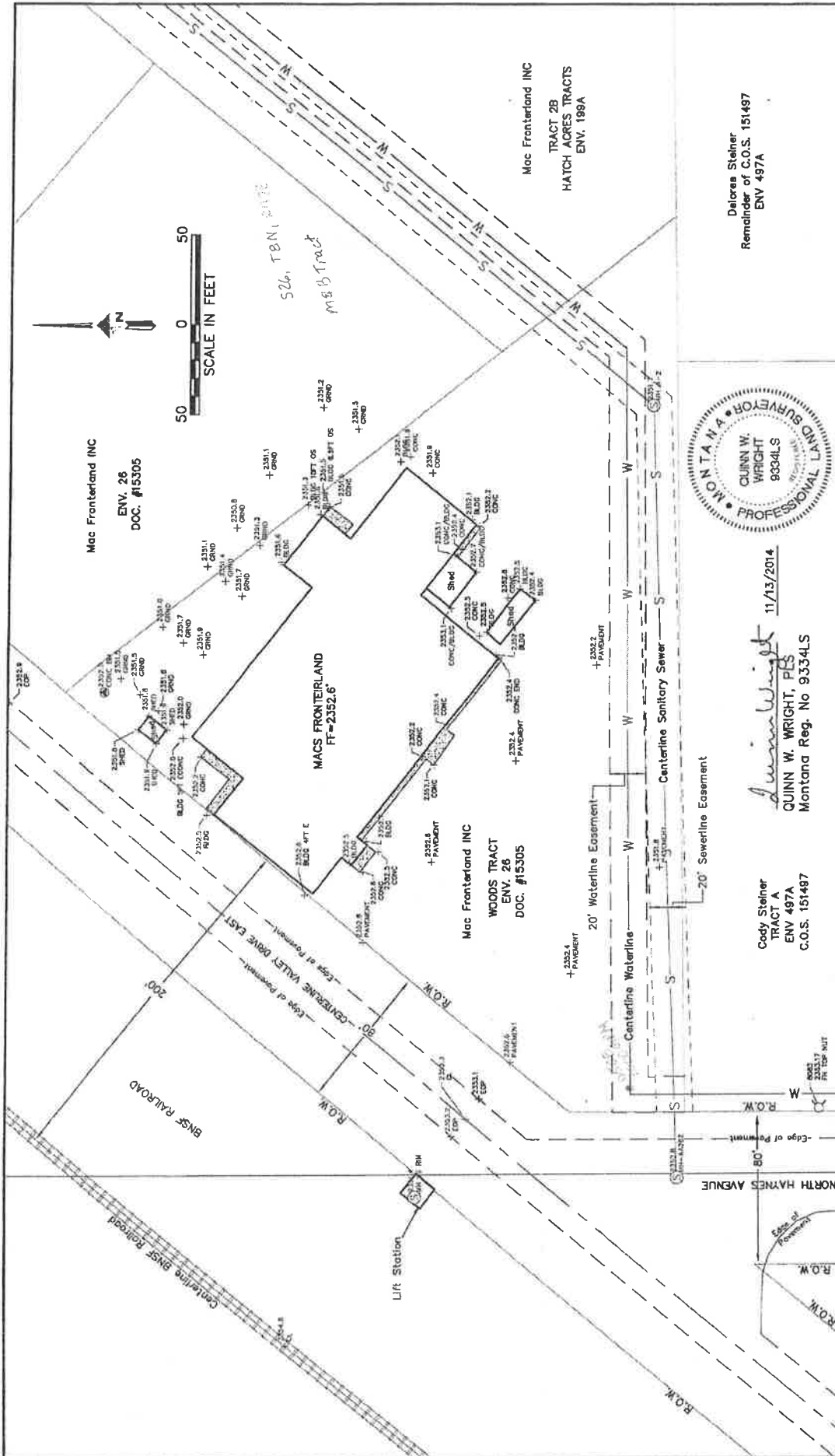


Mac Frontierland INC (Kenny)
3016 Valley Drive East

PROJECT	MISC. 2014
DATE	11/13/2014

Out of NW1/4NW1/4, Sec. 26, T.8N., R.47E., Custer County, MT

FIGURE #1



Quinn W. Wright
11/13/2014
QUINN W. WRIGHT, PLS
Montana Reg. No. 9334LS

Cody Steiner
TRACT A
ENV. 497A
C.O.S. 151497

NOTE: THIS IS NOT A BOUNDARY SURVEY FLOOD PROFILE TONGUE RIVER SPLIT 3A BFE=2353.9'		Macs Frontierland INC (Kenny) 3016 Valley Drive East Out of NW1/4NW1/4, Sec. 26, T.8N., R.47E., Custer County, MT	PROJECT MISC. 2014 DATE 11/13/2014
		Delores Steiner Remainder of C.O.S. 151497 ENV. 497A	FIGURE #1

ORDINANCE NO. 1283

AN ORDINANCE CHANGING THE ZONING OF THE S1/2SW1/4SE1/4 LESS 7.5 ACRES OF SECTION 25, TOWNSHIP 8 NORTH RANGE 47 EAST M.P.M. FROM AGRICULTURE DISTRICT ZONE TO SEMI RURAL ZONE, AND PROVIDING FOR A HEARING THEREON

WHEREAS, the owner of the below described real property, Thomas Moore, has made application for the property to be rezoned from Agriculture District (AG) zone to Semi Rural (SR) zone;

AND WHEREAS, such property is situated outside of the boundary of the incorporated city limits of the City of Miles City, but within the 2 mile area surrounding the City of Miles City where the City maintains zoning jurisdiction pursuant to Montana Code Annotated Section 76-2-310 and Section 24-3 of the Miles City Code;

AND WHEREAS, Section 24-8 of the Miles City Code requires that such application be referred to the City Zoning Commission for public hearing and recommendation to the City Council prior to any action by the City Council upon such application;

AND WHEREAS, the Miles City Zoning Commission, on December 3, 2014, and upon deliberation, recommended to the City Council that such zoning change be approved.

BE IT ORDAINED, by the City Council of the City of Miles City, Montana, as follows:

Section 1. Zoning for the following described real property located within the two mile area surrounding the incorporated city limits of the City of Miles City, Custer County, Montana, is hereby rezoned from Agriculture District (AG) zone to Semi Rural (SR) zone, to wit:

TOWNSHIP 8 NORTH, RANGE 47 EAST, M.P.M.

Section 25: S1/2SW1/4SE1/4 LESS 7.5 Acres

Section 2. A public hearing shall be held upon this proposed zoning change before the City Council at 7:00 P.M. on the 13th day of January, 2015, in the Council Chambers at City Hall, 17 S. Eighth Street, Miles City, Montana.

Section 3. The City Clerk shall give notice of the date, time and place of such hearing by publication in the Miles City Star at least 15 days prior to the date of such hearing, in accordance with MCA Sections 76-2-303 and 305.

Section 4. This ordinance shall be in full force and effect thirty (30) days after its final passage and approval.

Said Ordinance read and put on its passage this 23rd day of December, 2014.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

FINALLY PASSED AND ADOPTED this 13th day of January, 2015.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

CITY OF MILES CITY
Zoning Commission
Box 910
Miles City, MT 59301

1283

December 4, 2014

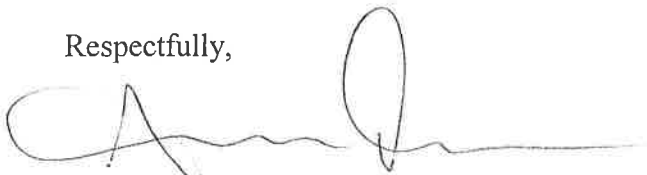
Mayor Grenz and City Council,

RE: Proposed re-zone for Thomas Moore located at the end of Leighton Blvd. (Section 25, T08N, R47E) (Assessor #000RFC0036) from Agriculture (AG) to Semi Rural (SR).

The Miles City Zoning Commission conducted its public hearing on December 3, 2014 to consider the request to re-zone the above described area. After reviewing comments from the public hearing, the Zoning Commission recommends approval of the zone change to Semi Rural.

Please schedule this for review by the City Council at your earliest convenience.

Respectfully,

A handwritten signature in black ink, appearing to read 'Amber Trenka', written over a horizontal line.

Amber Trenka, Chair
Zoning Commission





City of Miles City ZONE CHANGE APPLICATION

17 South 8th Street
Miles City, MT 59301

Date Received: 11-5-14
to be filled out by City

Note: If more than one property/petitioner a list of signatures and legal descriptions may be attached to this application.

I, Thomas Moore is/are petitioning the City of Miles City to rezone
signature
the following property:

LEGAL DESCRIPTION OF PROPERTY:

Street Address or General Location End of Leighton Dr located in S 1/2 SW 1/4 Sec 25, T8N, R47E
Tract/s T8N R47E in Section 25 Township T8N Range 47E OR S2SW4SE4 less 7.5A PM, M
Lot/Tract/s _____ of _____ in Section _____ Township _____ Range _____
Subdivision Name _____
Assessor Number/s or Geocode 000RFL0036

PRIMARY CONTACT:

Applicant Name: Tom Moore If a business: Contact Name _____
Please print Please print

Address: PO Box 1761
Miles City

Phone: 234-3125 Cell Phone: 406-451-4273 Email: Kboystun@midwesters.com
WK: Kmoore4@mt.gov.

DESCRIPTIVE DATA:

Total area in acres: 12.47 acres

Existing Zoning: ag Proposed Zoning Semi Rural

Existing Use razing land

Yes No Purpose of the zone change is for pending development sale. If so please explain the nature of the proposal
or state any other reason for requested change to build house and ~~storage shed~~

Accessory Buildings

Note: All information must be filled in for the application to be complete. Submission of an application is not a guarantee that a zone change will be approved.

Miles City Zoning Committee

Staff Report

December 3, 2014

Moore Zone Change Request

Thomas Moore has requested a change in the zoning designation from Agricultural to Semi Rural on property he owns at the end of Leighton Blvd. The proposed zone change would make it possible to build a house and accessory buildings. The zoning in all directions is Agricultural, and as such, spot zoning may be an issue which should be considered. Surrounding land uses include a single family residence, a landfill and a power station, all of which are nonconforming uses in the Agricultural district.

FINDINGS OF FACT

Part 1

The following is an evaluation of the zone change request under the criteria and guidelines for zoning regulations provided in Montana code Annotated 76-2-304.

1. Does the proposed zone change comply with the Miles City Growth Policy?

The Growth policy does not include a future land use map or other information designating the property for specific land uses or zoning designations. The Growth Policy includes a statement that is applicable to this proposal: "Zoning amendments shall consider the needs of the petitioner, neighboring property owners, and the greater community." (Zoning, p.36).

In this case, the landowner (petitioner) has requested a change in zoning designation. No concerns have been voiced to date by neighboring property owners and a semi-rural designation would result in a wider variety of options for this property. Based on this information, the proposal generally complies with the 2008 Miles City Growth Policy.

The growth policy states that future growth in the Miles City community will most likely be to the east and to the south of the established community. Based on this information, the proposal generally complies with the 2008 Miles City Growth Policy.

2. Is the proposed zone change designed to secure safety from fire and other dangers?

The property would be served by fire protection from the Rural Fire Department. The property is assessable from Leighton Blvd. and would provide emergency access. Therefore, the proposal is generally designed to secure safety from fire and other dangers.

3. Is the proposed zone change designed to promote public health, public safety, and the general welfare?

The property is not located in a designated floodplain. A power plant and overhead power lines are located to the west of the property and a landfill is located to the south of the property. The property is 12.47 acres in size so there is ample room for a future home to be located back, away from the property lines. Therefore, the proposed zone change will have little impact on public health, safety or general welfare other than possibly providing for the building of a house and accessory buildings.

4. Is the proposed zone change designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public facilities?

Transportation – The property is served by one road and that road is Leighton Blvd., which is adequate for regular and emergency travel.

Water and Sewer – There are no city water and sewer services available to this property. The owners would install a well and drainfield under Custer County’s review authority.

Schools – School facilities are available to the surrounding properties.

Parks – No parks are available to this property but the property is of sufficient size to provide for some of the recreational needs of the owners.

Other Public Requirements – Mail delivery and some utilities are available to this property.

Based on the above information, the proposed zone change is generally designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public facilities.

5. Does the proposed zone change provide reasonable provision of adequate light and air?

The proposed property is 12.47 acres in size, which is sufficient size to provide adequate light and air.

6. How would the proposed zone change effect motorized and non- motorized transportation systems?

Motorized vehicular access is available from Leighton Blvd. to this property. This zone change would not impact non-motorized transportation resources.

7. Does the proposed zone change promote compatible urban growth and is it suitable for the proposed land use?

According to the map entitled, Miles City & Surrounding Jurisdiction Zoning Map (9/20/12), the zoning designation is Agricultural in all directions of the property, but there is a landfill to the south of the property, a power plant to the west, and a residence to the east of the property.

Due to the soils and buttes on the property as well as its size, the property does not provide good agricultural ground. Changing the zoning to Semi Rural will allow for better use of the land and would therefore promote compatible urban growth. The proposed land use is for the

property to be used as Semi Rural to build a house and accessory buildings. A question of spot zoning has been raised about this property and the commission members will need to review the 3 Little Factors.

8. Would the proposed zone change conserve the value of building and encourage the most appropriate use of the land?

As stated above, this area is zoned Agricultural and changing the zoning on the subject property to Semi Rural would conserve the value of building and would be appropriate use of the land.

Part 2

The following is an evaluation of the Little Factors for Spot Zoning based on legal precedent established in *Little v. Board of County Com'rs*, 193 Mont. 334 (1981) and other judicial decisions.

Little Factor 1: Is the proposed land use significantly different from the prevailing use in the area?

The Agricultural district regulations allow for agricultural land uses such as grazing, keeping of poultry and livestock, breeding of animals, growing crops, dairies, and animal shelters. The intent of the Semi Rural district is to, "Provide for an area which is primarily residential but where an idealized country life may be followed with some agricultural practice." Allowed land uses are single and multi-family homes (up to 4 living units), churches, schools, bed and breakfasts, animal shelters, stables, mobile homes, gardens and accessory buildings. The Semi Rural district is the closest district to the Agricultural district in terms of the scale and types of land uses. Although the allowed uses are different, the Semi Rural district is generally compatible with the Agricultural district. It would be a natural district to abut the Agricultural district on a zoning map and make a logical transition from rural to more urban. Also, three of the surrounding land uses are not agricultural at all. Therefore, the proposed land use (zoning) is not significantly different from the prevailing use (zoning) in the area.

Little Factor 2: Is the area rather small from the perspective of the number of separate landowners benefited from the proposed change?

A zone change requested by one landowner is small from the perspective of the number of separate landowners benefited from the proposed change.

Little Factor 3: Would the change be special legislation designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public?

In a way this would be special legislation designed to benefit one landowner. However, there would be no harm to others because of a change in the zoning district as requested. On balance, this proposal would primarily benefit one landowner but not at the overall expense of the general public.

Based on the above analysis of the three Little Factors for Spot Zoning, this proposal does not appear to be illegal spot zoning.

Part 3

Recommendation: Adopt this report as findings of fact and recommend approval of the zone change to City Council.

RE-ZONE
Property Owner List
for
Thomas Moore

Thomas & Kristi Moore
PO Box 1761
Miles City, MT 59301

United States of America
Department of Interior
Washington, DC 20240-0001

County of Custer Montana
1010 Main Street
Miles City, MT 59301

James M Forman
RR 1, Box 2383
Miles City, MT 59301

Marilynn Forman
58 Pony Lane
Miles City, MT 59301

ORDINANCE NO. 1284

AN ORDINANCE AMENDING SECTION 20-68 OF THE CODE OF ORDINANCES OF THE CITY OF MILES CITY, MONTANA, SO AS TO ALLOW ALTERNATE FORMS OF SURETY FOR PERSONS MAKING UTILITY CONNECTIONS.

BE IT ORDAINED, by the City Council of the City of Miles City, Montana, as follows:

Section 1. Section 20-68 shall be amended to read as follows:

“Sec. 20-68. – License and bond for persons making utility connections.

All persons, firms or corporations making any connections to utilities owned by the city must be licensed by the state as plumbers, and have on file with the city clerk sufficient sureties, which may include, but is not limited to, a surety bond, letter of credit, or other similar surety, in the sum of \$5,000.00. The type, sufficiency and duration of the surety shall be determined by the city clerk.

Section 2. This Ordinance shall become effective thirty (30) days after its final passage.

Said Ordinance read and put on its passage this 23rd day of December, 2014.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

FINALLY PASSED AND ADOPTED this 13th day of January, 2015.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

RESOLUTION NO 3768

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, APPROVING ATTACHMENT OF A REMARK DEFINING THE WATER RIGHT AS NONCONSUMPTIVE TO RESOLVE ISSUES AND CONTENTIONS ABOUT WATER COURT CASE NO 42C 184, AND CONCLUDING LITIGATION CONCERNING THE WATER RIGHT IDENTIFIED AS CLAIM NO. 42C 1735316-00, OWNED BY THE CITY, TO USE THE WATERS OF THE TONGUE RIVER

WHEREAS, the City of Miles City, Montana, has for many years utilized the waters of the Tongue River to provide water to Scanlan Lake and Cook Lake for the City summer recreation program; and

WHEREAS, the water right has also been used for fire department training and equipment testing; and

WHEREAS, the City, in accord with the Montana Water Adjudication Process, filed a Statement of Claim for that water usage as required by law, which claim was assigned the identification number of 42C 735316-00; and

WHEREAS, in due time the water claim was called before the Water Court for Adjudication and that the Montana Department of Natural Resources appended certain remarks to the claims; and

WHEREAS, the U.S. Bureau of Indian Affairs, on behalf of the Cheyenne Tribe, filed an objection to the claim as submitted by the City, and the Cheyenne Tribe itself, filed a Notice of Appearance in the case; and

WHEREAS, the DNRC remarks were resolved by the City providing more detailed and comprehensive descriptions of the City use of the water, which caused the DNRC to remove the remarks from the water right claim; and

WHEREAS, the removal of the DNRC remarks and the factual representations of the City made in Water Case 42CI84 concerning water right Claim No. 42C 1735316-00, satisfied virtually all the objections filed against the water right claim by the U.S. Bureau of Indian Affairs on behalf of the Cheyenne Tribe, and the concerns of the Cheyenne Tribe itself; and

WHEREAS, it has been proposed that the City agree that a remark stating

"THIS IS A NONCONSUMPTIVE WATER RIGHT; THE PURPOSE AND PLACE OF USE CANNOT BE CHANGED. A SMALL PORTION OF THIS WATER RIGHT IS USED FOR EMERGENCY FIRE SUPPRESSION AND FOR FIREFIGHTING TRAINING PURPOSES."

be included in the water right abstract adopted by the court, which remark restates the current practice and character of the use of the water right, and

WHEREAS, it is the determination of the City Council that agreeing to the attachment of such a remark on the Water Right Abstract is in the best interest of the City of Miles City and of its citizens.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILES CITY sitting at a regular meeting of the City Council this 23rd day of December, 2014, that it is in the best interest of the City of Miles City and of its citizens to agree to and authorized the water court to append a remark stating,

"THIS IS A NONCONSUMPTIVE WATER RIGHT; THE PURPOSE AND PLACE OF USE CANNOT BE CHANGED. A SMALL PORTION OF THIS WATER RIGHT IS USED FOR EMERGENCY FIRE SUPPRESSION AND FOR FIREFIGHTING TRAINING PURPOSES"

on the water right Abstract for Claim No 42C 1735316-00.

BE IT FURTHER RESOLVED THAT W.O. Gilbert, III, Special Counsel for the City in this Water Court case, be and is hereby authorized to execute and file with the Water Court the Consent to Attachment of Remark, and to deliver the same to the Water Court in resolution of the unresolved issues in this Water Court case.

ADOPTED by the City Council of the City of Miles City at a regular meeting this 23rd day of December, 2014.

President of the City Council

Approved :

C. A. Grenz, Mayor

Number of those voting for adoption of the resolution: _____

Number of those opposing the resolution: _____