



Livingston Zoning Commission Agenda

A meeting of the Livingston Zoning Commission has been scheduled for December 18, 2023 at 5:30 PM in the Community Room of the City/County Building at 414 E. Callender Street. This meeting will be facilitated by Vice-Chair Deborah Monaghan.

A virtual option will also be available:

Join Zoom Meeting

<https://us02web.zoom.us/j/82657886239?pwd=YzZGTkcxdWVRc2lYRWplSTdYRGhDZz09>

Meeting ID: 826 5788 6239

Passcode: 699664

Call in: (669) 900-9128

1. Call to Order

2. Roll Call

3. Approval of Minutes

- A. Approve June 13, 2023 minutes (no meetings held July – November 2023)

4. General Public Comments

5. New Business

- A. Chapter 30 Zoning Text Amendment mandated by the 2023 State Legislature related to Multi-Family Dwellings, ADUs and Duplexes
- B. Map Amendment- Zoning assigned to the RY Timber (now Sun Mountain Lumber) annexed property
- C. Zoning Map Amendment- Zoning assigned to the View Vista annexed property

6. Old Business

7. Board Comments

8. Adjournment

File Attachments for Item:

A. APPROVAL OF MINUTES FROM JUNE 13, 2023



Livingston Zoning Commission Minutes

A meeting of the Livingston Zoning Commission was held June 13, 2023 at 5:30 PM in the Community Room of the City/County Building at 414 E. Callender Street. This meeting was facilitated by Vice-Chair Deborah Monaghan.

1. Call to Order (5:40 pm)

2. Roll Call (0:15 mins on recording)

In Attendance: Commissioners Deb Monaghan, Wendy Weaver, Michael DeChellis, and Mike Wojdylak. Staff: Jennifer Severson

3. Approval of April 11, 2023 Minutes (no May 2023 meeting) (0:40 mins)

- Motion to approve by DeChellis; second by Wojdylak (Monaghan abstained, absent at 4/11/23 meeting)
- Motion passes 3-0

4. General Public Comments (none)

5. New Business

A. Review and Recommendation of Chapter 30 PUD Ordinance (3:14 mins)

- Severson clarified code format and specific citations will be finalized after LZC review and before City Commission 1st reading on July 18, 2023.
- Severson presented draft PUD Ordinance
 - Ordinance intent includes preserve natural resources, provide additional open space, promote efficient land use beyond base zoning district (encourage cluster development), reduce vehicular trip generation, promote affordable/workforce housing, support Growth Policy. Minimum 1 acre size. Developer Incentives (additional density, height increase, impact fee reduction) and Public Benefits (affordable housing, reduced traffic, additional open space) formula table. Affordable housing must be similar to market rate; min. 2 affordable units to get density bonus; max. 25% additional residential density over base zoning; height bonus RII zoning only- max = 40 ft.
 - Application 'highlights'- before application submittal applicant must notify landowners within 300' of PUD and allow comments- comments must be included with application; detailed submittal requirements will be included in application form instead of PUD ordinance; additional info may be required by LZC, Planning Board, City Commission to fully evaluate PUD and conclusively demonstrate how review criteria met.
 - Variance will be separate but concurrent process if PUD is a subdivision; if not a subdivision, variance will be approved as part of PUD process.

Livingston Zoning Commission Minutes

- Public Comments (1:11:25 mins)
 - Stacy Jovick (Chair Planning Board) -requested clarification about how deviations from base zoning district will be identified; also questioned how extension of PUD approval will work
- Continued discussion by Commission and staff (1:18:20 mins)
 - Severson agreed to bring PUD application form to Planning Board and LZC for review at a future meeting before finalizing
 - For non-subdivision projects that are not phased, developer must provide construction timing details; developer must follow a completion schedule included in PUD approval; Zoning Administrator (Planning Director) will be responsible for ensuring approved schedule is met;
- Proposed Revisions to Ordinance proposed by LZC includes:
 1. Add language that explains can mix/ match bonus and benefits, but height and impact fee redux limited to 1 time only
 2. For Phased PUDs, required a performance bond for Public Benefits to be constructed in future PUD phases (beyond initial phase)
 3. Add to Application Process- Work Session required after application submitted but at least 2 weeks before 1st public hearing; listening session only for Planning Board, LZC, City Commission but public can ask questions.
 4. Add to Planning Board Review Criteria “The proposed PUD supports the adopted Growth Policy with respect to applicable goals, objectives and/or strategies identified in the Growth Policy”.
 5. Developer bonuses other than increased height must be developed proportionally with corresponding public benefit

Motion by Wojdylak to recommend approval of Staff Recommendation with the proposed revisions discussed above; Second by DeChellis. Vote 4-0, passed unanimously (1:42:15 mins)

6. Old Business

- Questioned status of developing Gateway Overlay District ordinance

7. Board Comments

8. Adjournment (7:28 pm)

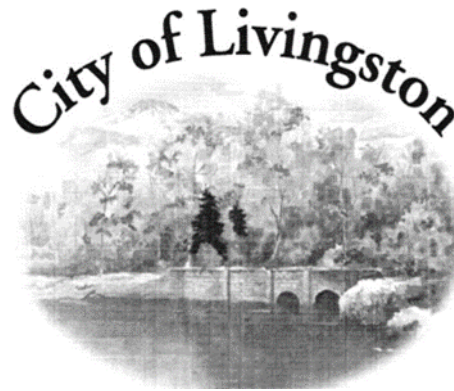
File Attachments for Item:

**A. CHAPTER 30 ZONING TEXT AMENDMENT MANDATED BY THE 2023 STATE LEGISLATURE
RELATED TO MULTI-FAMILY DWELLINGS, ADUS AND DUPLEXES**

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Incorporated 1889

Chairperson
Melissa Nootz

Vice Chair
Karrie Kahle

Commissioners
Mel Friedman
Quentin Schwarz
Torrey Lyons

December 18, 2023

ZONING COMMISSION STAFF REPORT
CHAPTER 30 ZONING CODE – STATE MANDATED CHANGES FOR MULTI-FAMILY DWELLINGS, ADUs AND DUPLEXES

Background

The 2023 Montana Legislature passed several laws related to municipal zoning regulations for Multi-Family Dwellings, Accessory Dwelling Units (ADUs) and Duplexes. The City of Livingston must update Chapter 30 to comply with the new state laws.

Analysis

Below are bills passed by the 2023 State Legislature that necessitate this zoning code update and a brief summary of the impacts to the City’s existing zoning code:

SB 245: Establishes that multi-unit (5 or more) residential dwellings and mixed-use developments that include a minimum of five (5) residential dwelling units are allowed in all commercial zones. All Commercial districts in the City already allow multi-family residential development except Neighborhood Commercial (NC). The mandated code updates will allow both residential developments and development that have a mix of commercial and residential uses in the NC district provided that those developments include a minimum of five (5) dwelling units.

SB 323: Provides that a duplex (two-family) housing unit is allowed on each lot where a single-family use is permitted. Currently, only Low Density Residential (RI) and Residential Mobile Home (RMO) districts allow single family homes but do not allow duplexes. The mandated code updates will allow duplex development in these districts.

SB 528: Provides that an Accessory Dwelling Unit (ADU) is allowed on each lot where a single-family use is permitted, which is already allowed under the current zoning code. Based on feedback from the City Commission at its November 21, 2023 meeting, the City code has been revised to limit ADUs to single-family uses only. Accessory dwelling units do not apply to two (2) family and multi-family dwellings. This bill also establishes restrictions for regulating parking, impact fees, and design aesthetics for ADUs.

The following Code Sections will be impacted by this update include Table 30.40 List of Uses, Table 30.41 Residential Density requirements (bottom footer notes), Sec 30.43 Accessory Dwellings Sec 30.51 Off Street Parking and Loading Zones (required parking table)

A version of the applicable Zoning Code is attached showing language removed (red strikethrough) and proposed code language (blue text) (Attachment 1).

Criteria and Guidelines for Zoning Regulations (MCA 76-2-304):

(1) Zoning regulations must be:

(a) made in accordance with a growth policy:

Staff Comments:

- The proposed amendments are mandated by the State. Staff does not find the amendments conflict with the Growth Policy or the manner in which the City’s Zoning Ordinance supports the goals and strategies identified in the Growth Policy.

(b) designed to:

(i) secure safety from fire and other dangers;

Staff Comments:

- Staff does not anticipate the proposed amendments will affect the threat of fire or other danger on the public.

(ii) promote public health, public safety, and the general welfare; and

Staff Comments:

- The proposed amendments are not anticipated to negatively impact public health, safety or welfare.

(iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

Staff Comments:

- It is not anticipated the proposed text amendments will impact the adequate provision of transportation, water, sewerage, schools, or parks.

(2) In the adoption of zoning regulations, the municipal governing body shall consider:

(a) reasonable provision of adequate light and air;

Staff Comments:

- It is not anticipated the proposed text amendments will impact the reasonable provision of adequate light or air. No changes are proposed to building setbacks or height limits.

(b) the effect on motorized and nonmotorized transportation systems;

Staff Comments:

- Although the proposed code update will eliminate off-street parking requirements for ADUs, it is not anticipated the proposed changes will significantly impact motorized and nonmotorized transportation systems.

(c) promotion of compatible urban growth;

Staff Comments:

- Staff does not find the proposed amendments to be incompatible with the City's existing urban growth pattern. The proposed amendments allow for multi-family and mixed-use development in the NC zoning district; however, no changes are proposed to existing building setbacks or height allowances which should help to preserve existing community character.

(d) the character of the district and its peculiar suitability for particular uses;

Staff Comments:

- It is not anticipated that the proposed text amendments will adversely impact the character of any zoning district nor its suitability for particular uses.

(e) conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

Staff Comments:

- It is anticipated that the proposed text amendments will encourage the most appropriate use of land in the City of Livingston, while not adversely impacting the building values in the City.

Staff Recommendation

Based on the reasons stated above, Staff anticipates the text amendments will not change the basic intent of the code. Additionally, the proposed amendments comply with the requirements of State Statute and support the goals, objectives and strategies identified in the Growth Policy. Staff recommends that the Zoning Commission adopt the text amendments as proposed.

Attachments

- A. Attachment 1: Redlined Draft Ordinance

ORDINANCE NO. 3046

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 30, ZONING, OF THE LIVINGSTON MUNICIPAL CODE, BY ALTERING SECTION 30.40, SECTION 30.41, SECTION 30.43 AND SECTION 30.51 AS THEY RELATE TO ACCESSORY DWELLING UNITS, TWO (2) FAMILY DWELLINGS AND MULTI-FAMILY DWELLINGS.

Preamble.

The purpose of this Ordinance is to promote public health, safety and general welfare of the City by regulating the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence or other purposes.

WHEREAS, the State of Montana has adopted legislation setting forth specific requirements that the City must follow in its administration of accessory dwelling units and duplex housing; and

WHEREAS, the State of Montana has also adopted legislation that require multiple-unit dwellings to be an allowed use within commercial zoning districts; and

WHEREAS, the City’s zoning code does not currently comply with these State mandated requirements and must be made to comply with State law.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Livingston, Montana, that Sections 30.40, 30.41, 30.43, and 30.51 of the Livingston Municipal Code be and the same are hereby amended with additions underlined and deletions struck through, as follows:

Sec. 30.40. List of uses.

Table 30.40 designates a list of uses permitted within a zoning district. Designated uses shall be permitted only in the zones indicated.

Table 30.40
List of Uses

A = Allowed S = Special Exception Permit Required N = Not Allowed												
	R-I	R-II	RII-MH	R-III	RMO	NC ² <u>NC</u> ¹	MU	CBD ⁺ <u>CBD</u> ²	HC	LI	I	P
One (1) Family Dwellings*	A	A	A	A	A	N	A	A	A	N	N	N
Two (2) Family Dwellings ⁵⁻³	N <u>A</u>	A	A	A	N	N	A	A	A	N	N	N
Multifamily Dwellings	N	A	A	A	N	N <u>A</u>	A	A	A	N	N	N
Accessory Dwellings	A	A	A	A	A	N	A	N <u>A</u>	A	N	N	N
Townhouses	N	A	A	A	N	N	A	A	A	N	N	N
Tiny Homes	A	A	A	A	A	N	A	N	A	N	N	N
Accessory Buildings	A	A	A	A	A	A	A	A	A	A	A	A
Mobile Homes	N	N	A	N	A	N	N	N	N	N	N	N
Modular Homes	A	A	A	A	A	N	A	A	A	N	N	N
Churches	S	S	S	A	N	A	S	N	A	N	N	N
Schools, Public, Private and Parochial	A	A	A	A	A	A	S	N	S	N	N	A
Schools, Trade	N	N	N	N	N	S	S	A	A	A	A	N
Hospitals/ Institutions	N	N	N	A	N	S	S	N	S	A	N	S
Medical/ Dental Clinics	N	N	N	A	N	A	A	A	A	A	S	N
Adult Foster Care Center ² <u>Center</u> ⁴	N	A	A	A	N	N	A	A	A	A	N	N
Personal Care Center	N	A	A	A	N	A	A	A	A	N	N	N
Child Care Center	A	A	A	A	A	A	A	A	A	A	N	N
Veterinarian Clinics	N	N	N	N	N	N	A	N	A	A	A	N

Kennels and Catterys	N	N	N	N	N	N	N	N	A	A	A	N
Laundromat	N	N	N	N	A	A	A	A	A	A	N	N
Bed and Breakfasts	A	A	N	A	N	A	A	A	A	N	N	N
Motels/Hotels	N	N	N	N	N	N	N	A	A	A	N	N
Travel Trailer Parks	N	N	N	N	N	N	N	N	A	N	N	N
Business and Professional Offices	N	N	N	S	N	A	A	A	A	A	A	S
Retail	N	N	N	N	N	A	A	A	A	A	S	N
Large-scale Retail	N	N	N	N	N	N	N	S	S	S	S	N
Personal Service Stores	N	N	N	N	N	A	A	A	A	A	S	N
Eating and Drinking Establishments (Sit-Down)	N	N	N	N	N	A	A	A	A	A	A	N
Drive-Thru Restaurants	N	N	N	N	N	N	N	N	A	A	A	N
Banks	N	N	N	N	N	A	A	A	A	A	A	N
Mortuary	N	N	N	N	N	S	S	A	A	A	A	N
Wholesale Businesses	N	N	N	N	N	S	N	A	A	A	A	N
Commercial Greenhouses	N	N	N	N	N	A	S	N	A	A	A	N
Gasoline Service Stations	N	N	N	N	N	N	N	N	A	N	A	N
Auto Repair Garage	N	N	N	N	N	N	N	S	A	N	A	N
Automobile Dealerships	N	N	N	N	N	N	N	N	A	A	A	N
Auto Salvage and Storage	N	N	N	N	N	N	N	N	S	N	A	N
Warehouse and Enclosed Storage	N	N	N	N	N	N	N	N	A	A	A	S
Machine Shop	N	N	N	N	N	N	N	N	A	S	A	N
Artisan Manufacturing	N	N	A	A	N	A	A	A	A	A	A	N

Limited Manufacturing	N	N	N	N	N	S	A	A	A	A	N	N
General Manufacturing	N	N	N	N	N	N	N	N	A	A	N	N
Intensive Manufacturing	N	N	N	N	N	N	N	N	A	A	N	N
Cidery	N	N	N	N	N	A	A	A	A	A	N	N
Microbrewery/Microdistillery	N	N	N	N	N	A	A	A	A	A	N	N
Winery	N	N	N	N	N	A	A	A	A	A	N	N
Bowling Alley	N	N	N	N	N	S	S	S	A	S	N	S
Theater	N	N	N	S	N	S	S	S	A	A	N	S
Open-Air Stadiums, Sports Arenas and Amphitheaters	N	N	N	S	N	S	S	S	A	A	N	S
Lumberyards	N	N	N	N	N	N	N	N	A	A	A	N
Transportation Terminals	N	N	N	N	N	N	N	A	A	A	N	N
Radio Stations ⁴ <u>Stations</u> ⁵	N	N	N	N	N	A	A	A	A	A	A	A
Utility Substations	S	S	S	S	S	S	S	S	S	S	S	S
Armory	N	N	N	N	N	N	N	N	N	N	N	A
Cemetery	N	N	N	N	N	N	N	N	N	N	N	A
Government Offices	N	N	N	N	N	A	A	A	A	N	N	A
Public Recreation Facility	A	A	A	A	N	S	S	A	A	A	S	A
Health and Exercise Establishment	N	N	N	N	N	A	A	A	A	A	S	S
Marijuana Production Facility	N	N	N	N	N	N	N	N	N	A	A	N
Sexually Oriented Business	N	N	N	N	N	S	N	S	S	A	A	N

1. [NC- Only the following residential uses are allowed: a single residential unit may be established within a commercial building to allow living space for a business owner; structures that include a minimum of five \(5\) residential units](#) ~~CBD—Any number of apartment units may be established in an existing commercial building. No new residential structures may be built unless they meet the definition of "High Density Residential."~~

- 2. ~~NC-A single residential unit may be established within a commercial building to allow living space for a business owner.~~ CBD—Any number of dwelling units may be established in an existing commercial building. No new residential structures may be built unless they meet the definition of "Multifamily Residential" [three (3) or more dwelling units per structure].
- 3. Two (2) Family Dwellings are allowed on any lot meeting the minimum lot size for a One (1) Family Dwelling.
- 4. ~~Adult Foster Care Center.—no more than four (4) non-staff residents; a staff person must be present at all times [twenty-four (24) hours/ day].~~
 - a. ~~No more than four (4) residents;~~
 - b. ~~Staff member must be on board twenty-four (24) hours a day.~~
- 4.5. Radio Stations do not include radio towers or wireless communication facilities as defined by the Federal Communications Commission.
 - * This includes manufactured homes as defined by Ordinance 1813.
- 5. ~~Two (2) Family Dwellings are allowed on any lot meeting the minimum lot size for a One (1) Family Dwelling.~~

(Ord. 1506, 11/16/82; Ord. 1516, 8/2/83; Ord. 1517, 10/18/83; Ord. 1529, 7/16/84; Ord. 1538, 11/20/85; Ord. 1544, 2/4/86; Ord. 1556, 9/16/86; Ord. 1799, 12/19/94; Ord. 1810, 7/3/95; Ord. 1813, 8/21/95; Ord. 1891, 9/7/99; Ord. 1949, 10/18/04; Ord. 1977, 9/18/06; Ord. 2000, 4/7/08; Ord. No. 2022, § 2(Exh. A), 9/7/10; Ord. No. 2029, § 1(Exh. A), 4/19/11; Ord. No. 2046, § 1(Exh. A), 9/17/13; Ord. No. 2090, § 1, 10/6/20; Ord. No. 2097, § 1, 1/5/21; Ord. No. 3003, § 1, 4/6/21; Ord. No. 3013, § 2, 8/17/21; Ord. No. 3017, § 1, 10/5/21; Ord. No. 3025, § 1, 10/21/21; Ord. No. 3023, § 1, 1/4/22)

Sec. 30.41. Residential density requirements.

Residential density requirements are set out in Table 30.41.

Table 30.41							
Residential Density Requirements							
Zoning Classification District							
	Low Density (R-I)	Med. Density (R-II)	Med. Density (R-II)(MH)	High Density (R-III)	Mobile Homes (RMO)	Mixed Use (MU)	Public (P)
Min. Lot Area per Dwelling Unit in Square Feet	7,000	3,500	3,500	1,150	6,000>	875	N/A
Min. Setback Requirements							
Front Street	25'	25'	25'	5'	20'	0	20'
Side	15'	5' or B) or C)	5' or B) or C)	0 or C)	10' or C)	0 or C)	5' or C)
Rear	5'	5'	5'	0	5'	0	15'
Side Street	15'	10'	10'	0	10'	0	10'

Max. Height for all Bldgs.	27' or 34' if Roof Pitch >= 3:12	27' or 34' if Roof Pitch >= 3:12	27' or 34' if Roof Pitch >= 3:12	50'	15'	60'	27'
Off-Street Parking Requirements	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51

1. In all ~~residential~~ zoning districts in which accessory dwellings are permitted, the number of accessory dwellings allowed is equivalent to the number of one (1) family dwelling units ~~allowed present~~ on the lot ~~as show in Table 30.41 above. The total number of dwelling units allowed on any lot is the allowed density of the lot in Table 30.41 above plus the equivalent number of accessory dwellings. E.g.: a 7,000 square foot lot in the R-II zoning district allows two (2) dwelling units and two (2) accessory dwellings. Accessory dwelling units do not apply to two (2) family and multi-family dwellings.~~

- A) Applicable to Mobile Home Subdivisions only.
- B) Side setback not required for approved townhouse development.
- C) Any side setback that is directly adjacent to, and generally in line with, an adjoining rear setback within the same Zoning Classification District shall have the same setback as the adjoining rear setback.

(Ord. 1728, 12/7/92; Ord. 1798, 12/19/94; Ord. 1861, 6/16/97; Ord. No. 2090 , § 1, 11/5/20; Ord. No. 2097 , § 1, 1/5/21; Ord. No. 3018 , § 1, 10/5/21; Ord. No. 3023 , § 1, 1/4/22)

Sec. 30.43 Accessory dwellings.

- A. Accessory dwellings are subject to all applicable regulations listed in this ordinance, including but not limited to: setbacks, maximum building heights, ~~parking~~, and building design standards.
- B. Detached accessory dwellings shall be located to the rear of the primary dwelling on the property.
- C. Accessory dwellings shall not exceed ~~eight hundred (800)~~ 75% of the gross floor area of the single family dwelling on the lot or 1000 square feet of gross floor area, whichever is less. ~~Accessory dwellings must be smaller in gross floor area than the primary dwelling on the property. If an accessory dwelling is attached to another building only the gross floor area of the accessory dwelling shall be calculated towards the maximum gross floor area. Accessory dwellings attached to existing, primary dwelling units are not subject to the gross floor area limitations, but must be wholly contained within the existing building. Any attached accessory dwelling that increases or modifies the footprint or profile of the primary dwelling unit in any way, whether above or below ground, shall not exceed the above listed maximum gross floor area for an accessory dwelling. This size limitation applies to both detached Accessory Dwelling Units and Accessory Dwelling Units~~

constructed as additions to One (1) Family Dwellings. Accessory Dwelling Units established wholly within the current footprint of an existing One (1) Family Dwelling are not subject to this size limitation.

- ~~D. All detached accessory dwellings shall maintain a (6) six-foot separation, measured from the external walls of the dwelling unit to all other buildings on site.~~
- E. Accessory dwellings shall be on the same lot as the primary dwelling.
- F. ~~Accessory dwellings shall not be subdivided or sold separately from the primary dwelling on the lot.~~ If an accessory dwelling is subdivided from the primary dwelling unit, the accessory dwelling is no longer an accessory dwelling and must meet all density requirements listed in Table 30.41. ~~Prior to use of the accessory dwelling, the property owner must record a deed restriction provided by the City Attorney's Office stating that the accessory dwelling shall not be sold separately from the primary dwelling, and provide a copy of the recorded deed restriction to the Department of Building and Planning prior to the issuance of a Certificate of Occupancy.~~
- G. Accessory Dwellings are encouraged to be combined with other buildings to preserve open space on the lot.

(Ord. No. 2090, § 1, 11/5/20)

Sec. 30.51. Off street parking and loading zones.

- A. Parking area design. Parking spaces and drive aisles for all commercial and industrial users shall meet the dimensions listed in Table 30.51 below.

Table 30.51. Commercial and Industrial Parking stall and drive aisle dimension requirements.			
Parking Angle	Parking Stall Length	Parking Stall Width	Drive Aisle Width One-Way/Two-Way
30°	18'6"	9'	13'/21'
45°	18'6"	9'	13'/21'
60°	18'6"	9'	16'/21'
75°	18'6"	9'	16'/21'
90°	18'6"	9'	—/24'

1. Parking lots for all multi-family residential, commercial, industrial and mixed-use development shall be paved. Gravel parking areas are not permitted for any use other than single-family residential. Pervious pavers and green paving systems are encouraged.

2. Parking areas are encouraged to utilize as little land area as possible to meet the minimum parking standards. Overparking, or adding more parking spaces and area than required by the minimum standards, is highly discouraged.
 3. To minimize vehicular conflicts on roadways and vehicular crossings of the sidewalk, the preferred access to parking areas for all uses are alleyways. Where alleyways are not an available or feasible option for parking access, uses are encouraged to utilize shared access points. Parking areas should be accessed from side streets rather than major roadways throughout the City.
- B. Location. Off-street parking facilities shall be located as hereafter specified: any distance specified shall be in walking distance measured from the nearest point of the parking facility to the nearest point of the lot that such facility is required to serve:
1. For one (1) family, two (2) family, and accessory dwellings: Off-street parking is required on the same lot or an adjoining lot with the building they are required to serve.
 2. For multiple dwellings and townhouses: Off-street parking is required within a walking distance of one hundred (100) feet.
 3. For hospitals, sanitariums, convalescent homes, nursing homes, rest homes, homes for the aged, asylums, retirement homes, rooming and boarding houses: Off-street parking is required within six hundred (600) feet.
 4. For uses other than those specified above: Off-street parking within five hundred (500) feet is required.
 5. For large-scale retail uses: Off-street parking is required to be on the same lot and to the rear or side of the primary structure on the lot.
- C. Expansion or Enlargement. Whenever any building is enlarged in gross floor area by more than ten (10) percent, off-street parking shall be provided for the expansion or enlargement portion only in accordance with the requirements of this article. Nothing in this provision shall be construed to require off-street parking spaces for the portion of such building previously existing before enlargements or for existing buildings that undergo a change in use.
- D. Non-Conforming Use. Voluntary establishment of off-street parking or loading facilities to serve any existing use of land or buildings, even though non-conforming, is allowed and encouraged.
- E. Mixed Occupancies. In the case of mixed uses, the total requirements for the various uses shall be computed separately. Off-street parking facilities for one use shall not be considered as a substitute or for joint use.
- F. Use Not Specified. In the case of a use not specifically mentioned in a zone, the requirements for off-street parking facilities shall be determined by the Zoning Coordinator or their authorized representative. Such determination shall be based upon the requirements for the most comparable use listed.
- G. Joint Use. The Zoning Coordinator or their authorized representative may authorize the joint use of parking facilities for the following uses or activities under conditions specified:
1. Up to fifty (50) percent of the parking facilities required for primarily "night time" uses such as theaters, bowling alleys, bars, restaurants and related uses may be supplied by certain other types of buildings or uses herein referred to as "day time" uses such as banks, offices,

retail, personal-service shops, clothing, food, furniture, manufacturing or wholesale and related uses.

2. Up to one hundred (100) percent of the parking facilities required for a church or for an auditorium incidental to a public or parochial school may be supplied by the off-street parking facilities provided by uses primarily of a day time nature.
 3. In mixed-use developments, up to fifty (50) percent of the parking facilities required for the residential use may be supplied by the related day time commercial or light industrial uses. The commercial or light industrial use must be closed between 6:00 p.m. and 8:00 a.m. to be considered for joint use parking.
- H. Conditions Required for Joint Use. The building for which application is being made to jointly utilize the off-street parking facilities provided by another building shall be located within 500 feet of such parking facilities.

The applicant must show that there is no substantial conflict in the principal operating hours at the two buildings or uses for which joint use of off-street parking facilities as is proposed.

The applicant must also present a legal agreement executed by the parties concerned for joint use of off-street parking facilities.

- I. Central Business District. In the Central Business District Zone any commercial enterprise that is required to meet the minimum standards for off-street parking, shall be required to have only fifty (50) percent of the parking space requirements in the Table of Minimum Standards. Apartment units in the Central Business District shall meet the full parking space requirements.
- J. Table of Minimum Standards — Off-Street Parking. Parking spaces shall be required as set forth in the following table, and where alternatives or conflicting standards are indicated, the greater requirements shall apply: Where the total quota results in a fraction, the next highest full unit shall be provided; and in case of a use not specifically mentioned, the requirements of the most similar mentioned use shall apply.

USE	SPACE REQUIRED
Bowling alleys.	Five per alley.
Medical and dental clinic.	One per 200 square feet of gross floor area.
Banks, business and professional offices with on-site customer service.	One per 400 square feet of gross floor area.
Offices not providing on-site customer services.	One per 4 employees or one per 800 sq. ft. of gross floor area, whichever is greater.
Radio Stations	One per 4 employees or one per 800 sq. ft. of gross floor area, whichever is greater.
Mortuaries.	One per 5 seats in the principal auditorium.

Manufacturing uses, research testing, and processing, assembling, all industries.	One per 2 employees on maximum shift but not less than one per each 800 square feet of gross floor area.
Libraries and museums.	One per 500 square feet of gross floor area.
Schools, elementary and junior high, public, private or parochial.	One per each employee.
School, high school, public or private.	One per each employee and one per 5 students.
Service stations and drive-in restaurants.	One per 80 sq. ft. gross floor area, with 10 spaces minimum requirement.
Residential, single-family.	2 per dwelling unit.
Residential, duplex or multi-family.	1 per dwelling unit.
Accessory dwelling unit	1 per dwelling unit None
Boarding houses and similar uses.	One per dwelling unit or lodging unit.
Convalescent homes, nursing homes, rest homes	One per 6 beds plus one per each staff member on duty on a maximum shift.
Warehouses, storage and wholesale business and freight terminals.	10 spaces for the first 20,000 square feet of gross floor area* and one space for each additional 10,000 square feet.
Eating and drinking establishments.	One per 100 sq. ft. of gross floor area for the first 4,000 sq. ft. with 10 spaces minimum requirement and one space for each additional 300 square feet.
Furniture, appliance, hardware, clothing, shoe, personal-service stores.	One per 600 square feet of gross floor space.
Motor vehicle, machinery, plumbing, heating, ventilating, building material supplies, sales and service.	One per 1,000 sq. ft. of gross floor area plus one per three employees.
Retail stores or service businesses not otherwise named.	One per 500 square feet of gross floor area.
Large-scale Retail	One per 800 sq. ft. of gross floor area.

Retirement homes, housing projects for senior citizens.	1-6 dwelling units 0.5 per dwelling unit; 7-18 dwelling units 0.33 per dwelling unit; over 18 dwelling units 0.25 per dwelling unit; minimum of 5 spaces.
Motels, hotels and motor courts.	One per sleeping room.
Hospitals and institutions.	One per 3 beds plus one per 3 employees.
Theaters.	One per 10 seats.
Health and exercise establishment	One per 200 square feet of gross floor area plus 3 per court
Churches, auditoriums and similar open assemblies.	One per 5 seats or one per 100 linear inches of pew or one per 65 sq. ft. of gross floor area used for assembly purposes, whichever is greater.
Stadiums, sport arenas and similar open assemblies.	One per 8 fixed seats plus one per 100 sq. ft. of assembly space without fixed seats.
* In calculating minimum required parking, gross floor area shall not include car ports and garage areas.	

- K. Up to twenty (20) percent of the parking spaces required in the Table of Minimum Standards may be replaced by enlarged landscaped areas, stormwater swales, or social areas. Enlarged landscaped, stormwater, or social areas must be equivalent or greater in total square footage to the parking spaces being replaced.
- L. Traffic Control Devices. All traffic control devices such as parking stripes designating stalls, directional arrows, rails, curbs and other developments shall be installed and completed as shown on the approved plans. Hard-surfaced parking areas shall use paint to delineate stalls and directional arrows.
- M. Screening Required. Screening in the form of walls, architectural fences or dense coniferous hedges shall be required where the parking lot has a common boundary with any residentially zoned property. Such screening shall be located no closer than three (3) feet from the property line and shall be properly maintained.
- N. Lighting Restrictions. Lighting of areas to be provided for off-street parking shall be so arranged to not constitute a nuisance or hazard to passing traffic, and where the lot joins any residentially zoned property, the illuminating devices shall be so shaded and directed to play away from residentially classified property.
- O. Maintenance. Maintenance of all areas provided for off-street parking shall include removal and replacement of dead and dying trees, grass and shrubs, removal of trash and weeds, repair and

maintenance of drains and repair of traffic control devices, signs, light standards, fences, walls, surfacing materials, curbs and railings.

P. Off-Street Loading Warehouse and Wholesale. Off-street loading space for warehouse, wholesale shipping and similar facilities shall be determined by the Building Official or his authorized representative.

Q. Standards for Commercial and Industrial Uses.

1. Off-Street Loading, Retail and Commercial. In any building or part thereof having a gross floor area of ten thousand (10,000) square feet or more, which is to be occupied by a use requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building at least one (1) off-street loading space, plus one (1) additional loading space for each twenty thousand (20,000) square feet or major fraction thereof of twenty (20) feet in width, thirty-five (35) feet in length and fourteen (14) feet in height. Loading areas shall be located to the rear of the building and shielded from view from the neighboring properties and rights-of way. Loading areas shall not extend into the public right-of-way.
2. Parking areas shall be located to the side and rear of the primary building on site.
3. Parking areas shall have engineered stormwater retention and/or detention systems consistent with the City of Livingston Design Standards and Specifications Policy to prevent runoff into adjacent properties and rights-of-way. Collected stormwater is highly encouraged to be reused to irrigate on-site landscaping.

R. Bicycle Parking.

1. Bicycle Parking Standards and Design.
 - a. In all multi-family residential, commercial, industrial and mixed-use development, the amount of provided bicycle parking shall be no less than ten (10) percent of the required automobile parking spaces. In buildings with less than twenty (20) parking spaces, two (2) bicycle parking spaces shall be required. Buildings with existing bicycle parking in the adjacent right-of-way may waive the required bicycle parking spaces if the number of bicycle parking spaces provided within the adjacent right-of-way is equal to or greater than the number of spaces required by this regulation. Where there are five (5) or more bicycle spaces required, twenty (20) percent of those spaces shall be for bicycles with trailers.
 - b. A bicycle parking space shall be no less than three (3) feet wide by six (6) feet long. Bicycle with trailer spaces shall be no less than three (3) feet wide by ten (10) feet long.
 - c. The preferred bike rack styles are inverted U or post and loop racks.
2. Bicycle Parking Location.
 - a. In all commercial, industrial and mixed-use development, bicycle racks designed to allow bicycles to be securely locked to them must be provided as close as possible to the main entrance of the building, and must be in a location visible from the public right-of-way.
 - b. Buildings with multiple entrances are highly encouraged to place bicycle racks at each entrance.
 - c. Multi-family residential developments are encouraged to provide secure and sheltered bicycle parking.

- S. Pedestrian Walkways. Multi-family residential, commercial, industrial and mixed-use development shall provide pedestrian walkways. A system of pedestrian walkways is required to connect each primary use structure on-site to the following: adjacent public sidewalks, on-site parking, other on-site primary use structures, bicycle parking areas, and common outdoor use areas.

- T. Landscaping Requirements for Parking and Loading Areas. Screening, in the form of trees, hedges or other vegetation shall be required between commercial, industrial and multi-family parking, loading and/or storage areas and any public right-of-way. Such screening shall be entirely on private property, shall be a minimum of four (4) feet in height, and shall not constitute a safety hazard for vehicular or pedestrian movement as defined in Section 30.52 of the Livingston Municipal Code. Decorative walls or fencing or earthen berms may also be used in combination with vegetative screening subject to review and approval of the City.
 - 1. General Requirements for Landscaping Plantings. All landscaping shall consist of native, drought-resistant plantings and should be planted using a variety of species planted in an informal arrangement. The use of food producing plantings and pollinator friendly plantings are preferred.
 - 2. Planting, watering, and upkeep of all plantings shall be the perpetual responsibility of the owner. In particular, sufficient watering shall be provided to assure the survival of all plantings.
 - 3. Perimeter plantings, when mature, shall provide at least fifty (50) percent screening of the parking areas using dense deciduous clusters or evergreen trees. A mix of dense hedge clusters and small open spaces is allowed.
 - 4. Parking lots are encouraged to be broken into smaller areas surrounded by landscaping to minimize large unbroken paved areas. Large deciduous trees are encouraged in the interior of parking lots. Denser hedges are encouraged around the perimeter of parking lots.

- U. Landscaping Requirements for the Interior of Parking Areas.
 - 1. Option #1. Parking areas will be designed so that parking rows will consist of not more than ten (10) automobiles. Any parking area which has a capacity of twenty (20) or more automobiles will be required to provide landscaped islands between parking rows. The island(s) will be at least five (5) feet wide and shall consist of vegetation or other landscape treatment as well as a minimum of one (1) deciduous shade tree per every ten (10) parking spaces or portion thereof. The island(s) will be separated from the parking surface by a curb of at least six (6) inches in height.
 - 2. Option #2. In the alternative, where parking rows are to consist of more than ten (10) parking spaces, landscaped islands will be provided in accordance with an approved landscape plan. The plan will provide for landscaped area equal to a minimum of five (5) percent of the gross parking lot area. When using this option at least two (2) islands will be required and each island must be a minimum size of fifty (50) square feet. Each island shall contain vegetation or other landscape treatment as well as a minimum of one (1) shade tree per every ten (10) parking spaces or portion thereof.

(Ord. No. 2090 , § 1, 11/5/20; Ord. No. 3003 , § 1, 4/6/21; Ord. No. 3005 , § 2, 4/20/21; Ord. No. 3010 , § 1, 7/20/21; Ord. No. 3017 , § 1, 10/5/21; Ord. No. 3025 , § 1, 10/21/21; Ord. No. 3023 , § 1, 1/4/22)

SECTION 2

Statutory Interpretation and Repealer:

Any and all resolutions, ordinances and sections of the Livingston Municipal Code and parts thereof in conflict herewith are hereby repealed.

SECTION 3

Severability:

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provision or application and, to this end, the provisions of this ordinance are declared to be severable.

SECTION 4

Savings Provision:

This ordinance does not affect the rights or duties that matured, penalties and assessments that were incurred or proceedings that begun before the effective dates of this ordinance.

SECTION 5

Effective date:

This ordinance will become effective 30 days after second and final adoption.

PASSED by the City Commission of the City of Livingston, Montana, on first reading at a regular session thereof held on the ____ day of January, 2024.

MELISSA NOOTZ, CHAIR

ATTEST:

Emily Hutchinson
City Clerk

PASSED, ADOPTED AND APPROVED, by the City Commission of the City of Livingston, Montana, on a second reading at a regular session thereof held on the _____ day of January, 2024.

ATTEST:

APPROVED TO AS FORM:

EMILY HUTCHINSON
City Clerk

JON HESSE
City Attorney

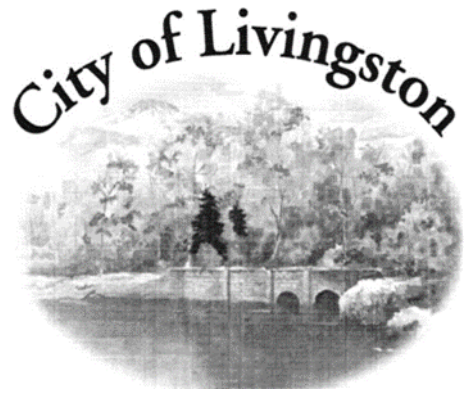
File Attachments for Item:

**B. MAP AMENDMENT - ZONING ASSIGNED TO THE RY TIMBER (NOW SUN MOUNTAIN LUMBER)
ANNEXED PROPERTY**

City Manager
Grant Gager

220 E Park Street
(406) 823-6000 phone

citymanager@livingstonmontana.org
www.livingstonmontana.org



Incorporated 1889

Chairperson
Melissa Nootz

Vice Chair
Karrie Kahle

Commissioners
Mel Friedman
Quentin Schwarz
Torrey Lyons

December 18, 2023

ZONING COMMISSION STAFF REPORT
ZONING MAP AMENDMENT – RY TIMBER

Background

On November 7, 2023, the City Commission Adopted Resolution 5118 (Attachment 1) approving the annexation of certain parcels within the property commonly known as RY Timber, located at 5284 US Hwy 89 S. The legal description of the parcels that comprise the annexed property is included in the attached Resolution 5118 and is shown in the map below.



An amendment is required to update the City’s Official Zoning Map to include the newly annexed property.

The subject property is bounded by the Yellowstone River to the east, US Hwy 89 S to the west, and I-90 to the north. The land immediately south of the subject property is located within unincorporated Park County and also belongs to the timber company. It is used primarily for outside storage of unprocessed logs. Properties to the north, between the subject property and I-90, and to the west, across US Hwy 89-S that are within City limits are zoned Highway Commercial (HC). Existing uses of nearby property within City limits include a hotel, gas stations, fast food restaurants, casinos and a grocery store. Until last year, the property was used as a timber manufacturing facility. Due to market conditions for timber production, compounded with recovery from two separate fires on the property, RY Timber ceased its timber operations. The property was recently purchased by the Sun Mountain Lumber Company with plans to resume and continue its timber manufacturing use.

The property is located within the area the Growth Policy identifies as the Extra-Territorial Jurisdiction (ETJ). The ETJ Future Land Use Map (Attachment 2) shows the annexed area as “Neighborhood Commercial” (NC), which is described as a “*a designation intended to primarily provide for community retail services, office facilities or convenience retail development*”. Timber manufacturing, although not expressly defined in the City’s zoning code, most closely aligns with those uses considered to be “General Manufacturing”. General Manufacturing uses are not allowed in the NC Zoning District. If the annexed property were to be zoned NC, the use of the property for timber manufacturing would be “grandfathered” in and allowed to continue as a legal nonconforming use. However, if at any time in the future, the timber operations cease for longer than one year, the use of the property for timber manufacturing (General Manufacturing) would no longer be allowed and any use of the property, thereafter, must comply with Table 30.40 for the NC Zoning District.

General Manufacturing uses are, however, allowed in the Light Industrial (LI) Zoning District, which is described as a “*district intended to accommodate all types of light industry, including those defined as light manufacturing as well as business and professional offices*”. Staff finds timber manufacturing to be compatible with the surrounding HC zoning and the current land uses mentioned above.

Staff recommends the annexed property be zoned LI so the property can continue to be used for timber manufacturing without being subject to market conditions, the economy, or special circumstances such as closure due to fire.

Below is a comparison of uses identified in Table 30.40 that are Allowed, Not Allowed, or Allowed with Special Exception in the NC and LI Districts:

- **60 uses total**
- **32 uses in common**
- **9 uses:** NC = require Special Exception; LI = Allowed
- **5 uses:** NC = Allowed; LI = Not Allowed
- **14 uses:** NC = Not Allowed; LI = Allowed or require Special Exception

See Attachment 3 for a detailed comparison of uses in Table 30.40.

Proposed Findings of Fact

Criteria and Guidelines for Zoning Regulations (MCA 76-2-304): (1) Zoning regulations must be:

(a) made in accordance with a growth policy:

Although the Future ETJ Land Use Map in the Growth Policy shows the annexed area as Neighborhood Commercial, elsewhere the Growth Policy supports Light Industrial zoning of this property.

- *Strategy 3.1.1.2: Evaluate and amend the zoning ordinance to allow for higher densities and wider land uses in areas that can support such development.*
 - Although LI zoning does not allow for any type of residential development, a greater number of land uses are permitted in the LI district than in the NC district. Furthermore, several of the existing surrounding businesses such as the veterinarian clinic, hotel, and large-scale retail store are allowed uses in the LI district but are not allowed in the NC district.
 - The property owner, Sun Mountain Lumber, is in the process of extending City water service to the property to improve fire protection and increase safety during future timber operations.

- *Strategy 3.4.3.2: Encourage development near transit routes and active transportation infrastructure to promote development that produces minimal strain on the environment and existing transportation infrastructure.*
 - The subject property has direct access to US Hwy 89S and is adjacent to I-90. Additionally, the owner has facilitated the reactivation of the rail spur line that runs along Hwy 89 S to support and service the timber facility.

- *Goal 6.1: Strengthen and diversify Livingston’s economy by supporting industries and initiatives that increase employment opportunities and personal income.*
 - The return of timber manufacturing operations on this property will create jobs, which will enhance the general welfare of the community and its citizens.

- *Strategy 6.1.5.8: Dedicate resources to strategies designed to help the local economy by investing in local businesses.*
 - The new owner, Sun Mountain Lumber, is based out of Deer Lodge. Restoring timber operations will support the local timber industry by retaining related jobs and keeping the industry relevant in the area.

(b) designed to:

(i) secure safety from fire and other dangers;

As stated above, the owner is in the process of extending City water service to the property to improve fire protection and safety on site. All future development on this property will be required to meet all adopted fire and building codes, ensuring safe conditions on the property and surrounding areas.

There is a small section of regulatory floodplain that flanks Billman Creek where it runs west to east through the property (see Attachment 4). The owners have no plans to expand the existing use by building any new structures and any future structures that may be proposed within the regulatory floodplain will require a floodplain development permit and must comply with FEMA floodproofing requirements for buildings. Additionally, zoning of the property LI precludes residential uses that are allowed in the NC district, preventing future residential development near/ in a regulatory floodplain.

(ii) promote public health, public safety, and the general welfare; and

All future development on this property will be required to meet adopted fire and building codes, ensuring safe conditions on the property and surrounding areas. Furthermore, the return of timber manufacturing operations to this property will create jobs which contributes to the general welfare of the community and its citizens.

(iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

The property has direct access to US Hwy 89S via Centennial Drive, and the access point at Centennial Drive is within 400 feet of the closest 89S/ I-90 interchange. Residential development is not allowed in the LI district and, although some additional students in area schools may come from families of new employees, impacts to area schools and parks would be minimal and not a direct result of the rezoning.

The annexed property is required to connect to City water and construction of a water line extension is in process. Analysis of future sewer capacity is required for any new development on the annexed property.

- (2) *In the adoption of zoning regulations, the municipal governing body shall consider:*
 - (a) *reasonable provision of adequate light and air;*

It is not anticipated the assignment of zoning to the annexed property will in any way inhibit the reasonable provision of adequate light and air to the annexed property or the surroundings. If new structures are built in the future, they must comply with applicable property setbacks for the LI District in the City’s zoning code, and with building setbacks as required by the International Building Code for building permitting.

- (b) *the effect on motorized and nonmotorized transportation systems;*

Zoning the property Light Industrial is not anticipated to increase impacts to the surrounding transportation system above that which occurred during timber manufacturing operations under the RY Timber Company. Additionally, reactivation and usage of the nearby rail spur will promote rail shipping over surface transportation modes.

- (c) *promotion of compatible urban growth;*

As mentioned previously, nearby properties within City limits are primarily zoned HC and existing businesses include a hotel, casino, truck stop, small and large-scale retail, and several gas stations and drive-through restaurants. Staff finds the uses allowed in LI district will be compatible with the current intensive urban activity in the area.

- (d) *the character of the district and its peculiar suitability for particular uses;*

Because the property will revert to its previous General Industrial use as a timber manufacturing facility, this use has been proven to be suitable for this property and this zoning district and compatible with existing uses on surrounding properties. The proximity of the subject property to nearby rail and high-volume surface transportation networks further support the uses allowed in the LI district.

(e) conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

The few existing buildings on the property have been restored and brought into compliance with current building codes and the required floodplain development and building permits were issued for the work. Staff finds that these improvements, combined with the owner's investment to extend the City's water infrastructure to service the timber operations, encourages the appropriate use of this annexed property.

Staff Recommendation

For the reasons outlined above, Staff finds that the proposed Light Industrial (LI) zoning designation meets the requirements of the City of Livingston and State Statute. Staff recommends that the Zoning Commission approve the LI zoning recommendation and adopt the proposed map amendment to the zoning ordinance.

Attachments

1. Resolution 5118
2. ETJ Future Land Use Map
3. Table 30.40- NC & LI Use Comparisons
4. Floodplain Map

RESOLUTION NO. 5118

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ANNEXING CERTAIN PARCELS KNOWN AS RY TIMBER.

WHEREAS, Montana Code Annotated establishes procedures for the annexation of land pursuant to a petition by the owner in MCA 7-2-4601; and

WHEREAS, The City of Livingston has received a petition signed by more than 50% of the owners of the certain real property; and

WHEREAS, the City desires to annex such lands in accordance with its adopted Annexation Policy;

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Livingston, Montana, that the land described in the attached exhibit is hereby annexed into and made a part of the City of Livingston, Montana.

PASSED AND ADOPTED by the City Commission of the City of Livingston, Montana, this 7th day of November, 2023.

MELISSA NOOTZ – Chair

ATTEST:

APPROVED AS TO FORM:

EMILY HUTCHINSON
City Clerk

JON HESSE
City Attorney

EXHIBIT A

PARCEL I:

Tract 1 of Recorders Plat No. 424, situated in the SE1/4SE1/4 of Section 23, Township 2 South, Range 9 East, M.P.M., Park County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Park County, Montana.

EXCEPTING THEREFROM, that parcel conveyed by Special Warranty Deed, recorded May 10, 1974 in Roll 8, Page 741; and

FURTHER EXCEPTING THEREFROM, Lots 1, 2, 3 and 4 of Centennial Subdivision, a Minor Subdivision, recorded as Subdivision Plat No. 104, containing in area approximately 4.3 Acres.

PARCEL II:

A parcel of land as shown and described on Recorders Plat No. 230 located in the SW1/4 of Section 24 and NW1/4 of Section 25, Township 2 South, Range 9 East, P.M.M., Park County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Park County, Montana, containing in area approximately 10.71 Acres.

PARCEL III:

Tract 1 of Certificate of Survey No. 6, located in the NE1/4 of Section 26, Township 2 South, Range 9 East, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder of Park County, Montana, containing in area approximately 10.269 Acres.

PARCEL IV:

A parcel of land as shown and described on Recorders Plat 186 located in the NW1/4 of Section 25, Township 2 South, Range 9 East, P.M.M., according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Park County, Montana, containing in area approximately 3.2 Acres.

PARCEL V:

The "South Tract" of ZC Island, as shown and described on Recorders Plat No. 650 located in the SW1/4 of Section 24, Township 2 South, Range 9 East, P.M.M., Park County, Montana, containing in area approximately 4.89 Acres.

PARCEL VI:

That Certain parcel of land situated in the NE ¼ NE ¼ of Section 26, Township 2 South, Range 9 East, M.P.M., Park County, Montana, as follows; That certain triangular parcel of the land being all of the NE ¼ NE ½ of said section laying north of the road leading to the Strong Place. (Reference Deed recorded in Volume 81, page 527)

All those six (6) tracts of record as described below:

PARCEL I:

Tract 1 of Recorders Plat No. 424, situated in the SE1/4SE1/4 of Section 23, Township 2 South, Range 9 East, M.P.M., Park County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Park County, Montana.

EXCEPTING THEREFROM, that parcel conveyed by Special Warranty Deed, recorded May 10, 1974 in Roll 8, Page 741; and

FURTHER EXCEPTING THEREFROM, Lots 1, 2, 3 and 4 of Centennial Subdivision, a Minor Subdivision, recorded as Subdivision Plat No. 104, containing in area approximately 4.3 Acres.

PARCEL II:

That tract described as Plat 230 located in the SW1/4 of Section 24 and NW1/4 of Section 25, Township 2 South, Range 9 East, P.M.M., Park County, Montana, containing in area approximately 10.71 Acres.

PARCEL III:

Tract 1 of Certificate of Survey No. 6, located in the NE1/4 of Section 26, Township 2 South, Range 9 East, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder of Park County, Montana, containing in area approximately 10.269 Acres.

PARCEL IV:

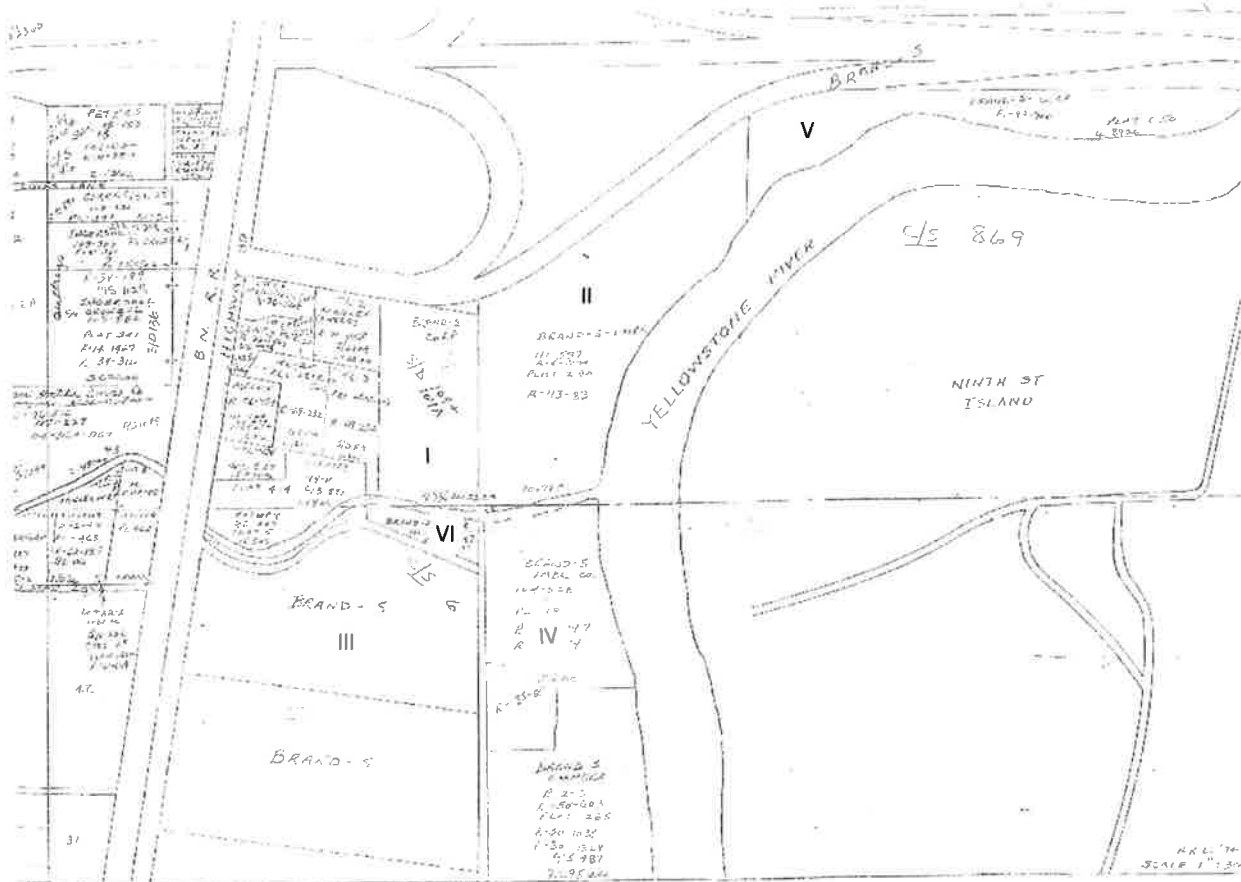
That tract described as Plat 186 located in the NW1/4 of Section 25, Township 2 South, Range 9 East, P.M.M., Park County, Montana, containing in area approximately 3.2 Acres.

PARCEL V:

The "South Tract" as described on Plat 650 located in the SW1/4 of Section 24, Township 2 South, Range 9 East, P.M.M., Park County, Montana, containing in area approximately 4.89 Acres.

PARCEL VI:

That Certain parcel of land situated in the NE1/4NE1/4 of Section 26, Township 2 South, Range 9 East, M.P.M., Park County, Montana, as follows: That certain triangular parcel of land being all of the NE1/4NE1/4 of said section laying north of the road leading to the Strong place. (Reference deed recorded in Volume 81, Page 527.) containing in area approximately 0.5 Acres.



PROPOSED ANNEXATION

CERTIFICATE OF SURVEY NO. _____
 SITUATED IN THE SE $\frac{1}{4}$ SE $\frac{1}{4}$ SECTION 23, T-2S, R-9E, M.P.M.
 PARK COUNTY, MONTANA

For Gulf Oil Corporation (Don Nell)
 Plat & Survey By Sage Engineers & Land Planners, Inc. Billings, Montana

SCALE - 1"=100'
 AUGUST, 1966



DEFINITION OF SURVEY

THIS SURVEY WAS MADE BY ME OR UNDER MY SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF I AM A SURVEYOR AND I AM LICENSED BY THE STATE OF MONTANA. THIS SURVEY WAS MADE IN ACCORDANCE WITH THE MONTANA SURVEYING ACT. THIS SURVEY WAS MADE ON THE 20th DAY OF AUGUST, 1966, AND IS HEREBY CERTIFIED TO BE TRUE AND CORRECT.

NOTICE: The above survey was made for the purpose of showing the location of the center line of the ditch shown on the plat. The ditch is shown as a dashed line on the plat. The ditch is located to the south of the parcel. The ditch is shown as a dashed line on the plat. The ditch is located to the south of the parcel. The ditch is shown as a dashed line on the plat. The ditch is located to the south of the parcel.

THIS SURVEY WAS MADE BY ME OR UNDER MY SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF I AM A SURVEYOR AND I AM LICENSED BY THE STATE OF MONTANA. THIS SURVEY WAS MADE IN ACCORDANCE WITH THE MONTANA SURVEYING ACT. THIS SURVEY WAS MADE ON THE 20th DAY OF AUGUST, 1966, AND IS HEREBY CERTIFIED TO BE TRUE AND CORRECT.

Approved by Commissioner
 Eugene T. Land, Chairman
 Aug 30, 1966

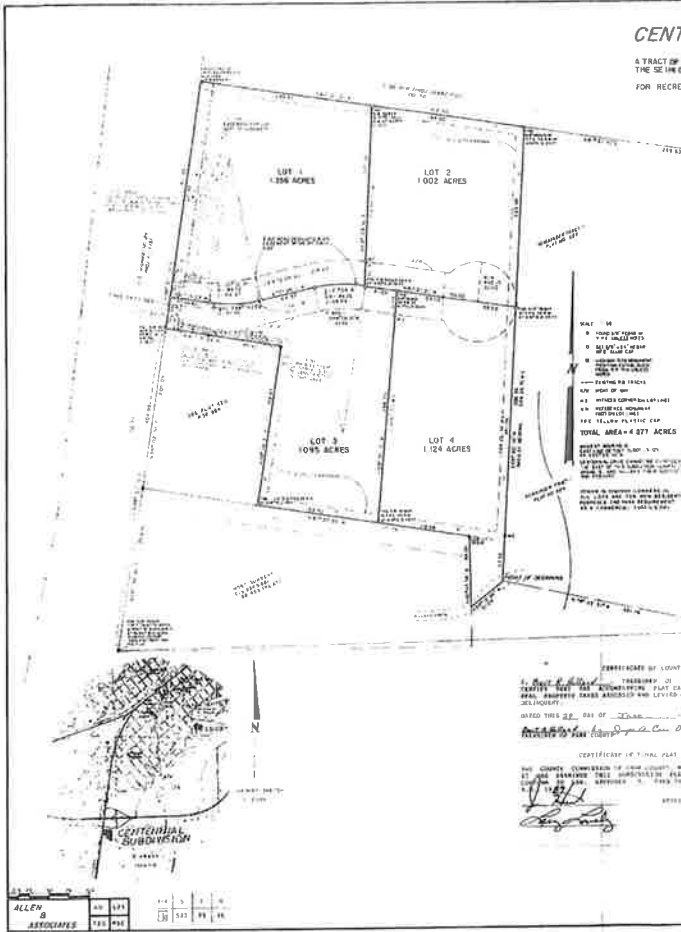
James H. ...
 Surveyor
 Sage Engineers & Land Planners, Inc.
 Billings, Montana

Raymond T. Land
John H. ...
Raymond ...

ACB

S/D 104

**PLAT OF
CENTENNIAL SUBDIVISION**
(A MINOR SUBDIVISION)
A TRACT OF LAND LOCATED IN
THE SE 1/4 OF SECTION 13, T20, R0E, P0M, PARK COUNTY,
MONTANA
FOR RECREATIONAL LEASING, INC. TO CREATE 4 LOTS



THESE LOTS ARE TO BE CONVEYED TO THE STATE OF MONTANA BY DEED TO BE USED AS PUBLIC LANDS FOR RECREATIONAL LEASING, INC. TO CREATE 4 LOTS. THE TOTAL AREA OF THE TRACT IS 4.877 ACRES. THE LOTS ARE DESCRIBED AS FOLLOWS:

LOT 1: BEARING S 12° 15' 00" E DISTANCE 100.00 FEET TO CORNER; BEARING S 78° 00' 00" E DISTANCE 100.00 FEET TO CORNER; BEARING S 12° 15' 00" W DISTANCE 100.00 FEET TO CORNER; BEARING N 78° 00' 00" W DISTANCE 100.00 FEET TO CORNER; BEARING S 12° 15' 00" E DISTANCE 100.00 FEET TO CORNER.

LOT 2: BEARING S 12° 15' 00" E DISTANCE 100.00 FEET TO CORNER; BEARING S 78° 00' 00" E DISTANCE 100.00 FEET TO CORNER; BEARING S 12° 15' 00" W DISTANCE 100.00 FEET TO CORNER; BEARING N 78° 00' 00" W DISTANCE 100.00 FEET TO CORNER; BEARING S 12° 15' 00" E DISTANCE 100.00 FEET TO CORNER.

LOT 3: BEARING S 12° 15' 00" E DISTANCE 100.00 FEET TO CORNER; BEARING S 78° 00' 00" E DISTANCE 100.00 FEET TO CORNER; BEARING S 12° 15' 00" W DISTANCE 100.00 FEET TO CORNER; BEARING N 78° 00' 00" W DISTANCE 100.00 FEET TO CORNER; BEARING S 12° 15' 00" E DISTANCE 100.00 FEET TO CORNER.

LOT 4: BEARING S 12° 15' 00" E DISTANCE 100.00 FEET TO CORNER; BEARING S 78° 00' 00" E DISTANCE 100.00 FEET TO CORNER; BEARING S 12° 15' 00" W DISTANCE 100.00 FEET TO CORNER; BEARING N 78° 00' 00" W DISTANCE 100.00 FEET TO CORNER; BEARING S 12° 15' 00" E DISTANCE 100.00 FEET TO CORNER.

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing plat, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

WITNESSES MY HAND AND SEAL OF OFFICE this _____ day of _____, 20____.

NOTARY PUBLIC FOR MONTANA

CERTIFICATE OF FINAL PLAT REVISION

THE COUNTY COMMISSIONER OF PARK COUNTY, MONTANA, HAS REVIEWED THE PLAT AND HAS DETERMINED THAT THE SAME IS IN ACCORDANCE WITH THE REQUIREMENTS OF THE MONTANA PLAT ACT AND THE MONTANA SUBDIVISION ACT. THE COMMISSIONER HEREBY CERTIFIES THAT THE PLAT IS VALID AND CORRECT.

WITNESSES MY HAND AND SEAL OF OFFICE this _____ day of _____, 20____.

COUNTY COMMISSIONER



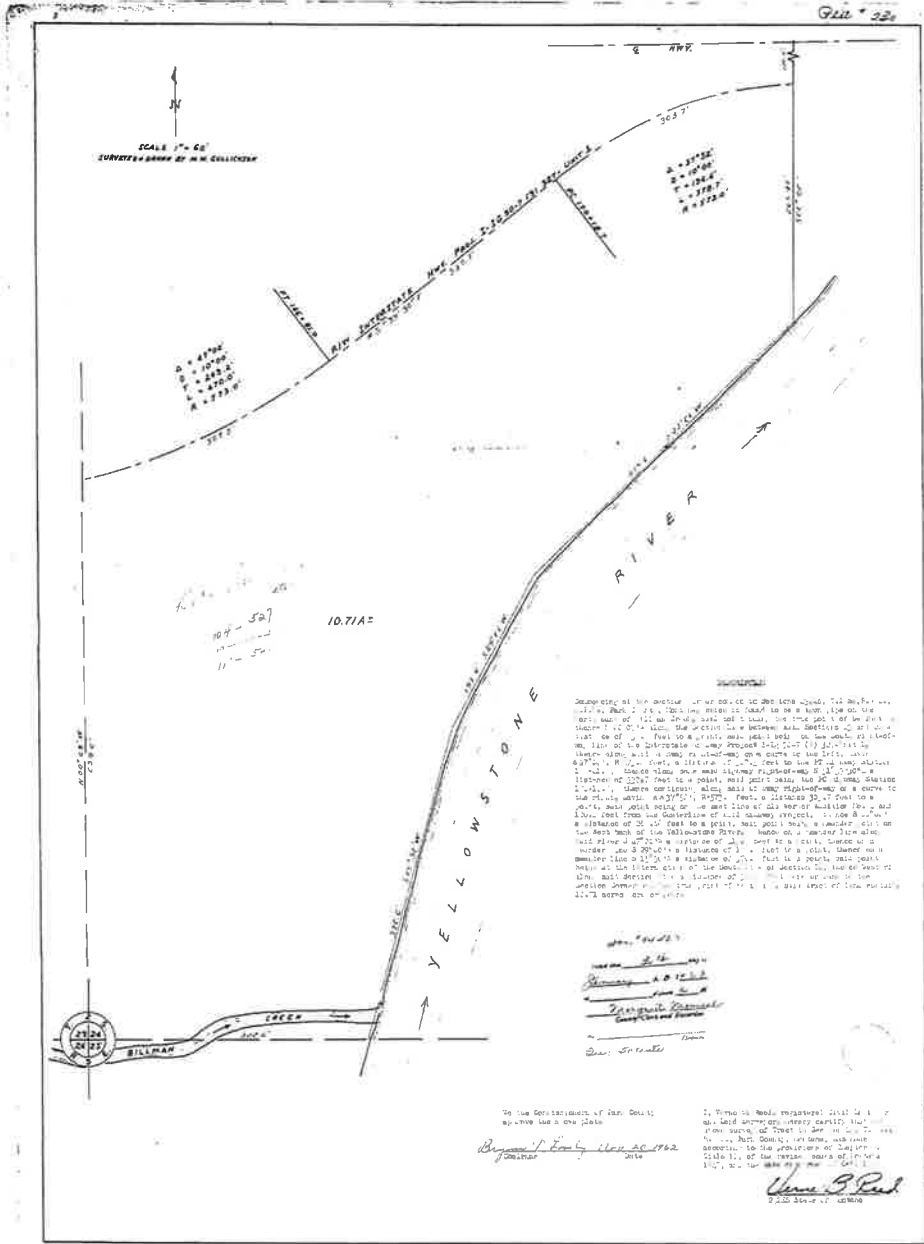
PARCEL 1 EXCEPTION

ACRES	1.88	1.022	1.095	1.124	4.877
FEET	100	100	100	100	100

RECORDED IN BOOK _____ PAGE _____

FILED IN _____

DATE _____

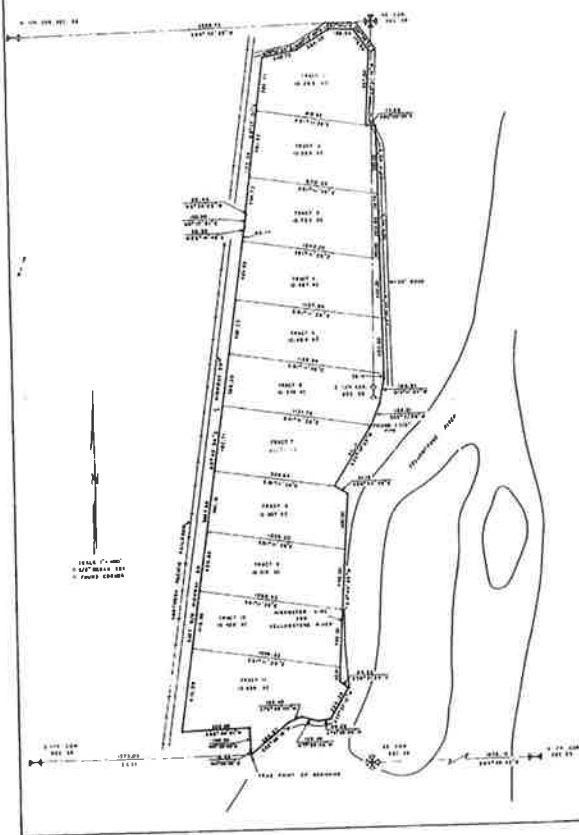


PARCEL II

CERTIFICATE OF SURVEY

A TRACT OF LAND IN SECTION TWENTY-NINE (29), TOWNSHIP TWO (2) SOUTH, RANGE NINE (9) EAST, MONTANA PRINCIPAL MERIDIAN, FLEET COUNTY, MONTANA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

8862



DESCRIPTION

A TRACT OF LAND IN THE EAST ONE-HALF (6) OF SECTION TWENTY-NINE (29), AND THE WEST ONE-HALF (6) OF SECTION TWENTY-NINE (29), TOWNSHIP TWO (2) SOUTH, RANGE NINE (9) EAST, MONTANA PRINCIPAL MERIDIAN, FLEET COUNTY, MONTANA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH BEARS EAST A DISTANCE OF 1573.00 FEET FROM THE SOUTH ONE-QUARTER (84) OF SECTION TWENTY-NINE (29), SAID POINT BEING ON THE SOUTH LINE OF SECTION TWENTY-NINE (29), AND A MEASURED NUMBER TO THE YELLOWSTONE RIVER;

THENCE NORTH A DISTANCE OF 28.33 FEET TO A ROUND CORNER, THENCE NORTH A DISTANCE OF 100.00 FEET, THENCE SOUTH 89° 54' 51" WEST, A DISTANCE OF 206.88 FEET TO THE EASTERN RIGHT-OF-WAY LINE OF U. S. HIGHWAY 89, THENCE ON AND ALONG THE EASTERN RIGHT-OF-WAY THROUGH THE FOLLOWING COURSES AND DISTANCES:

- NORTH 0° 48' 34" EAST, A DISTANCE OF 3487.88 FEET
- NORTH 20° 14' 48" EAST, A DISTANCE OF 20.50 FEET
- NORTH 0° 17' 01" EAST, A DISTANCE OF 100.00 FEET
- NORTH 0° 26' 23" WEST, A DISTANCE OF 20.48 FEET
- SOUTH 0° 19' 51" EAST, A DISTANCE OF 1122.28 FEET

THENCE ON AND ALONG THE WESTERLY EDGE OF A COUNTY ROAD THROUGH THE FOLLOWING COURSES AND DISTANCES:

- NORTH 70° 31' 24" EAST, A DISTANCE OF 389.73 FEET
- NORTH 60° 12' 30" EAST, A DISTANCE OF 208.30 FEET
- SOUTH 89° 14' 11" EAST, A DISTANCE OF 136.24 FEET
- SOUTH 70° 31' 24" WEST, A DISTANCE OF 389.73 FEET

THENCE EAST A DISTANCE OF 71.08 FEET, THENCE SOUTH 0° 11' 40" EAST, A DISTANCE OF 819.84 FEET, THENCE SOUTH 0° 11' 40" EAST, A DISTANCE OF 300.00 FEET TO A ROUND CORNER, THENCE SOUTH 0° 00' 30" WEST, A DISTANCE OF 819.84 FEET, THENCE SOUTH 0° 11' 40" WEST, A DISTANCE OF 184.81 FEET, THENCE SOUTH 20° 21' 54" WEST, A DISTANCE OF 168.21 FEET, THENCE SOUTH 20° 21' 54" WEST, A DISTANCE OF 800.11 FEET, THENCE SOUTH 04° 34' 30" EAST, A DISTANCE OF 111.81 FEET TO A POINT BEING A WYTHEZ CORNER TO THE WYTHEZ RIVER LINE OF THE YELLOWSTONE RIVER, EAST, A DISTANCE OF 111.81 FEET TO A POINT BEING A WYTHEZ CORNER TO THE WYTHEZ RIVER LINE OF THE YELLOWSTONE RIVER, THENCE THROUGH THE FOLLOWING COURSES AND DISTANCES HEREAFTER TO A MEASURED LINE BEING A REFERENCE TO THE HIGH WATER LINE OF THE YELLOWSTONE RIVER:

- SOUTH 0° 44' 28" WEST, A DISTANCE OF 1373.91 FEET
- SOUTH 04° 34' 30" EAST, A DISTANCE OF 88.22 FEET
- SOUTH 20° 07' 12" WEST, A DISTANCE OF 264.28 FEET
- SOUTH 74° 03' 00" WEST, A DISTANCE OF 88.22 FEET
- NORTH 71° 04' 30" WEST, A DISTANCE OF 123.45 FEET
- SOUTH 70° 54' 30" WEST, A DISTANCE OF 106.43 FEET
- SOUTH 52° 26' 19" WEST, A DISTANCE OF 264.22 FEET, TO THE TRUE POINT OF BEGINNING.

SAID TRACT CONTAINS 118.208 ACRES, ALONG WITH AND SUBJECT TO ANY EXISTING EASEMENTS.

CERTIFICATE OF SURVEY

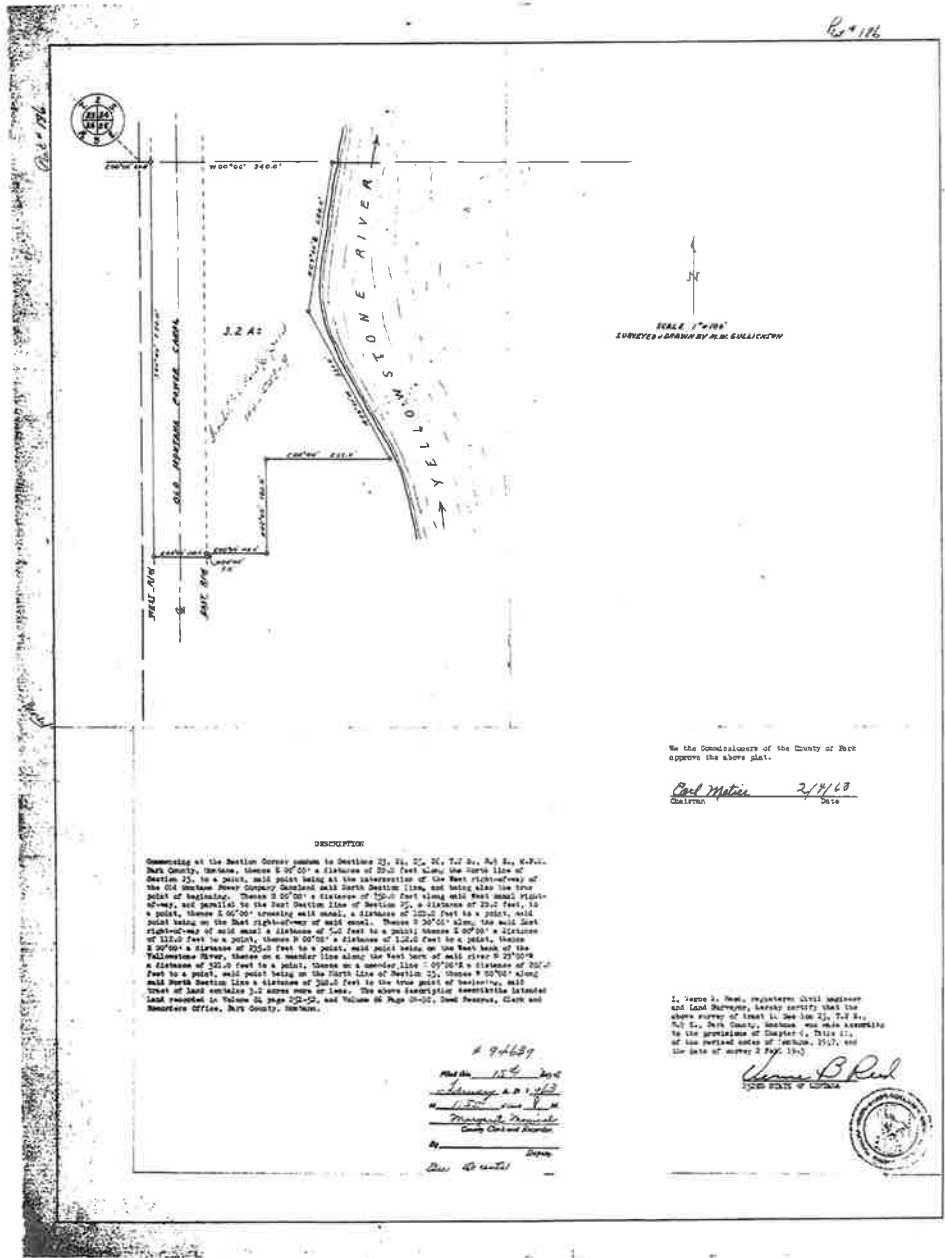
I, RICK J. THOMPSON, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF MONTANA, REGISTRATION NUMBER 2085, DO HEREBY CERTIFY THAT I SUPERVISED THE SURVEY OF THE ABOVE DESCRIBED TRACT OF LAND. THAT THE SURVEY WAS MADE IN ACCORDANCE WITH MONTANA STATUTE. THAT THE SURVEY WAS COMPLETED ON THE 27th DAY OF AUGUST, 1978.

D. J. Thompson
 PROFESSIONAL LAND SURVEYOR
 103 THOMAS AL ST. C
 BOZEMAN, MONTANA 59715

D. J. Thompson
 AUGUST 27 1978

11-12
 SECTION 29
 TOWNSHIP 2 S
 RANGE 9 E
 FLEET COUNTY, MONTANA
 8862

PARCEL III



To the Commissioners of the County of Rice approve the above plat.

Carl Matice 2/4/68
Chairman Date

DESCRIPTION

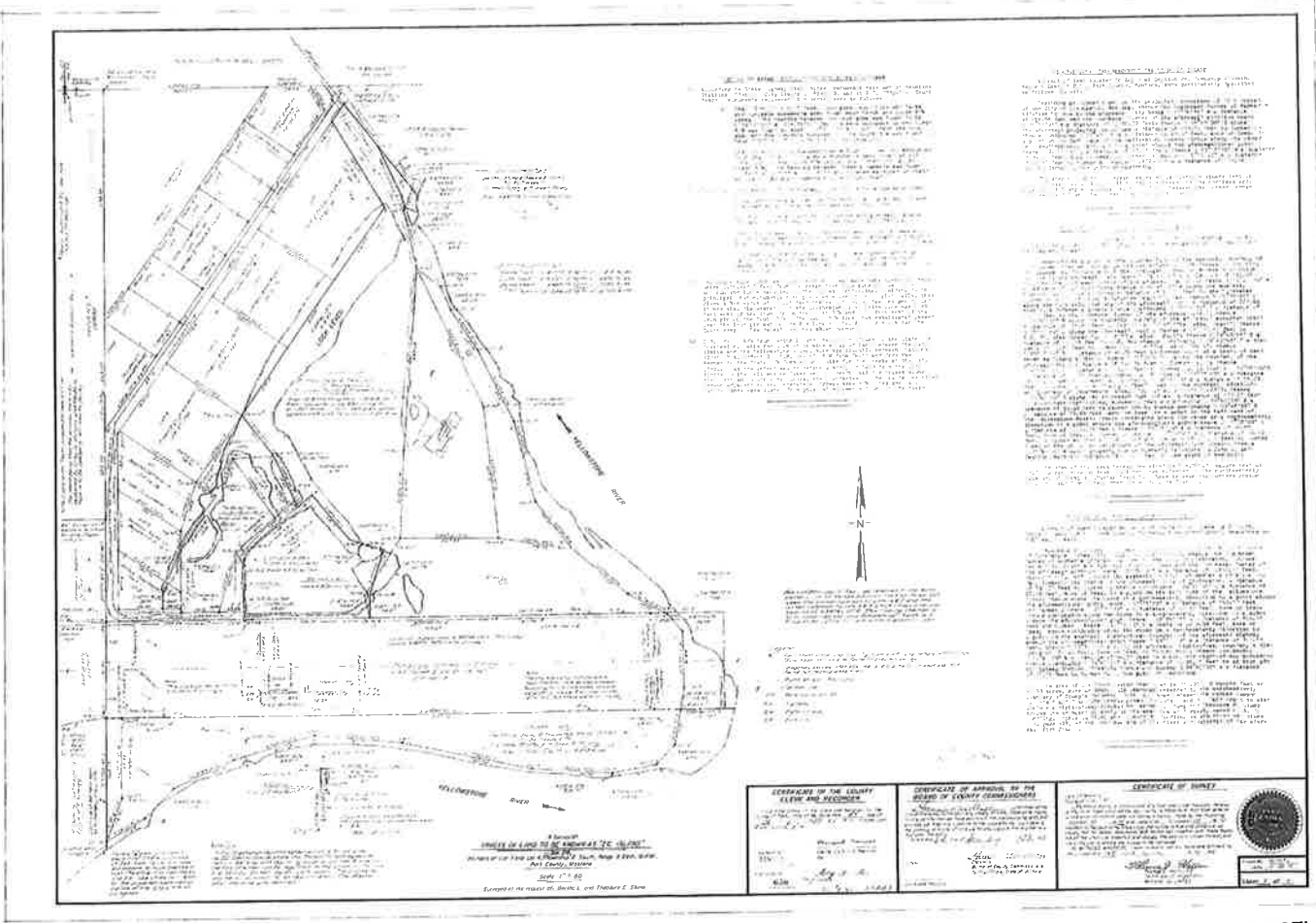
Commencing at the Section Corner shown in Sections 23, 24, 25, 26, T.2 N., R.2 E., N.P.M. Rice County, Arkansas, thence S 00°00' a distance of 325.0 feet along the North line of Section 23, to a point, said point being at the intersection of the West right-of-way of the Old Hindman Canal Company Standard mill North Section line, and being also the true point of beginning, thence S 00°00' a distance of 75.0 feet along said West right-of-way, and parallel to the East Section line of Section 25, a distance of 22.0 feet, to a point, thence S 06°00' crossing said canal, a distance of 125.0 feet to a point, said point being on the East right-of-way of said canal, thence S 20°00' along the said East right-of-way of said canal a distance of 7.0 feet to a point, thence S 00°00' a distance of 125.0 feet to a point, thence S 00°00' a distance of 125.0 feet to a point, thence S 00°00' a distance of 125.0 feet to a point, said point being on the West bank of the Yellow Stone River, thence on a meander line along the West bank of said river S 20°00' a distance of 325.0 feet to a point, thence on a meander line S 00°00' a distance of 207.0 feet to a point, said point being on the North line of Section 25, thence S 00°00' along said North Section line a distance of 207.0 feet to the true point of beginning, and thence of land contains 3.2 acres more or less. The above description describes the intended land recorded in Volume 24, page 225-26, and Volume 26, page 200-21, Rice County, Arkansas, Cash and Records Office, Rice County, Arkansas.

2-9-68
 Made this 11th day of February, A.D. 1968
 at Little Rock, Arkansas
 My Commission Expires
 2/28/71

I, James S. Neal, registered Civil Engineer and Land Surveyor, hereby certify that the above survey of land is true and correct to the satisfaction of the State, Title 11, of the Revised Code of Arkansas, 1937, and the date of survey is Page 192.

James S. Neal
 State of Arkansas





257

PARCEL V

PETITION TO ANNEX AND NOTICE OF WITHDRAWAL FROM RURAL FIRE DISTRICT

The undersigned hereinafter referred to as Petitioner respectfully petition the City Commission of the City of Livingston for annexation of a portion of the real property located at 5284 US Highway 89 South, Livingston, Montana 59047, including all those six (6) tracts of record described as follows (collectively referred to herein as "Property"):

[See attached Exhibit A]

The Petitioner requesting City of Livingston annexation of the Property described herein hereby mutually agree with the City of Livingston that immediately upon annexation of the land by the City of Livingston municipal water services will be provided to the Property described herein on substantially the same basis and in the same manner as such water services are provided or made available to other properties within the rest of the municipality. The Petitioner hereby states that there is no need to prepare a Municipal Annexation Service Plan for this annexation pursuant to Section 7-2-4610, M.C.A. since the parties agree as to the provision of municipal services to the property requested to be annexed.

The Petitioner further herein express an intent to have the Property as herein described withdrawn from the Park County Rural Fire District under the provisions of Section 7-33-2127, M.C.A.; and that incorporated into this Petition to Annex is the Notice requirement pursuant to said Section; and that upon proper adoption of an ordinance or resolution of annexation by the City Commission of the City of Livingston, the Property shall be detracted from said district.

In the event the Property is not immediately annexed, the Petitioner further agrees that this covenant shall run to, with, and be binding upon the title of the said real property, and shall be binding upon our heirs, assigns, successors in interest, purchasers, and any and all subsequent holder or owners of the above-described Property.

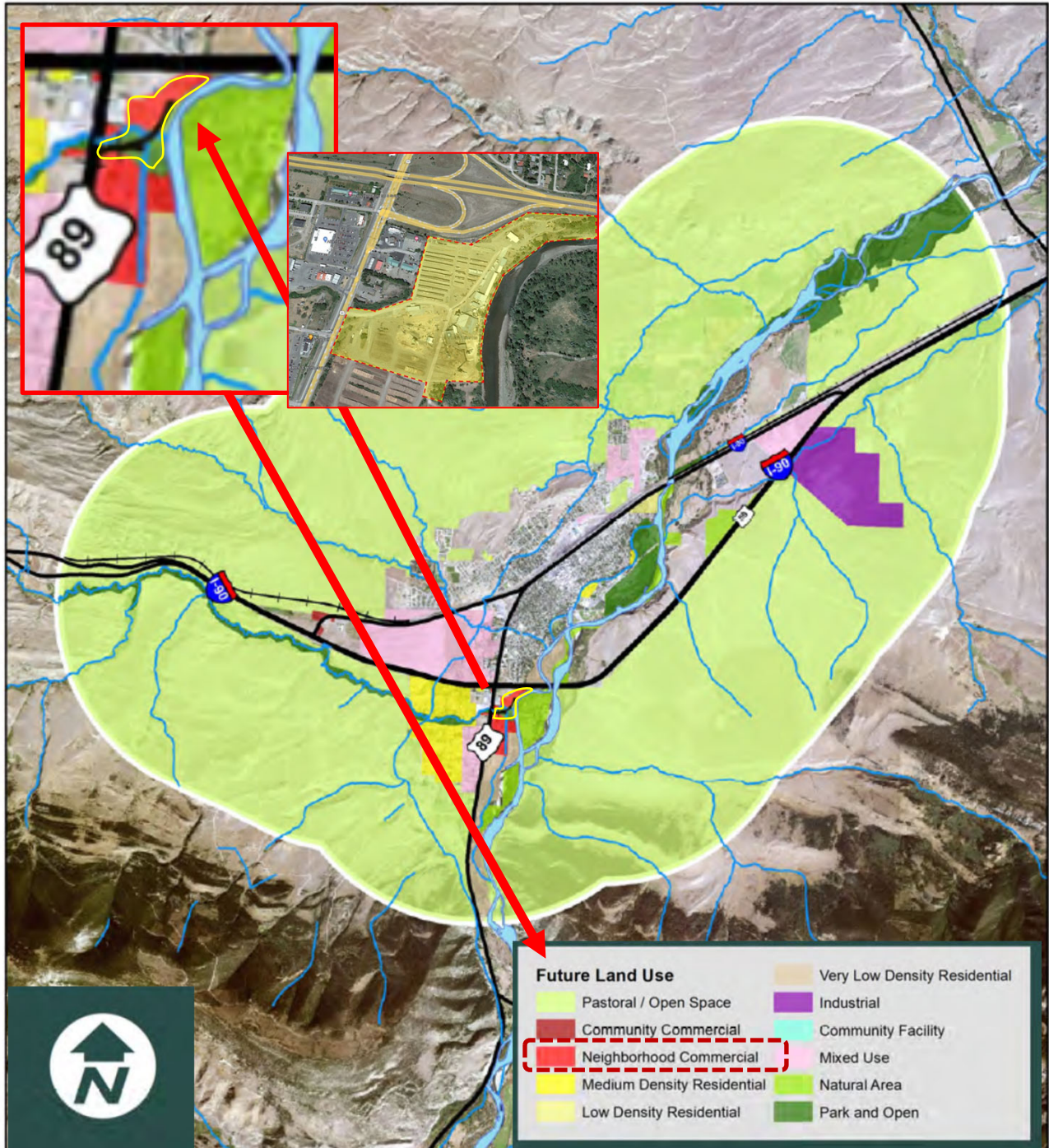
This City hereby agrees to allow the Petitioner to connect and receive the utilities from the City of Livingston as provided herein.

SUN MOUNTAIN LUMBER, INC.,
A Montana Corporation

Sherman D. Pederson 10/31/23
Petitioner Date

ATTACHMENT 2

Exhibit 2.9: Recommended Future Land Use Map



USE COMPARISONS – NEIGHBORHOOD COMMERCIAL (NC) & LIGHT INDUSTRIAL (LI)

Sec. 30.40. List of uses.

Table 30.40 designates a list of uses permitted within a zoning district. Designated uses shall be permitted only in the zones indicated.

Table 30.40
List of Uses

	A = Allowed (S) = Special Exception Permit Required N = Not Allowed											
	R-I	R-II	RII-MH	R-III	RMO	NC ²	MU	CBD ¹	HC	LI	I	P
One (1) Family Dwellings*	A	A	A	A	A	N	A	A	A	N	N	N
Two (2) Family Dwellings	N	A	A	A	N	N	A	A	A	N	N	N
Multifamily Dwellings	N	A	A	A	N	N	A	A	A	N	N	N
Accessory Dwellings	A	A	A	A	A	N	A	N	A	N	N	N
Townhouses	N	A	A	A	N	N	A	A	A	N	N	N
Tiny Homes	A	A	A	A	A	N	A	N	A	N	N	N
Accessory Buildings	A	A	A	A	A	A	A	A	A	A	A	A
Mobile Homes	N	N	A	N	A	N	N	N	N	N	N	N
Modular Homes	A	A	A	A	A	N	A	A	A	N	N	N
Churches	S	S	S	A	N	A	S	N	A	N	N	N
Schools, Public, Private and Parochial	A	A	A	A	A	A	S	N	S	N	N	A
Schools, Trade	N	N	N	N	N	(S)	S	A	A	A	A	N
Hospitals/Institutions	N	N	N	A	N	(S)	S	N	S	A	N	S
Medical/Dental Clinics	N	N	N	A	N	A	A	A	A	A	S	N
Adult Foster Care Center ³	N	A	A	A	N	N	A	A	A	A	N	N
Personal Care Center	N	A	A	A	N	A	A	A	A	N	N	N
Child Care Center	A	A	A	A	A	A	A	A	A	A	N	N
Veterinarian Clinics	N	N	N	N	N	N	A	N	A	A	A	N
Kennels and Catterys	N	N	N	N	N	N	N	N	A	A	A	N
Laundromat	N	N	N	N	A	A	A	A	A	A	N	N
Bed and Breakfasts	A	A	N	A	N	A	A	A	A	N	N	N
Motels/Hotels	N	N	N	N	N	N	N	A	A	A	N	N
Travel Trailer Parks	N	N	N	N	N	N	N	N	A	N	N	N
Business and Professional Offices	N	N	N	S	N	A	A	A	A	A	A	S
Retail	N	N	N	N	N	A	A	A	A	A	S	N
Large-scale Retail	N	N	N	N	N	N	N	S	S	(S)	S	N
Personal Service Stores	N	N	N	N	N	A	A	A	A	A	S	N
Eating and Drinking Establishments (Sit-Down)	N	N	N	N	N	A	A	A	A	A	A	N

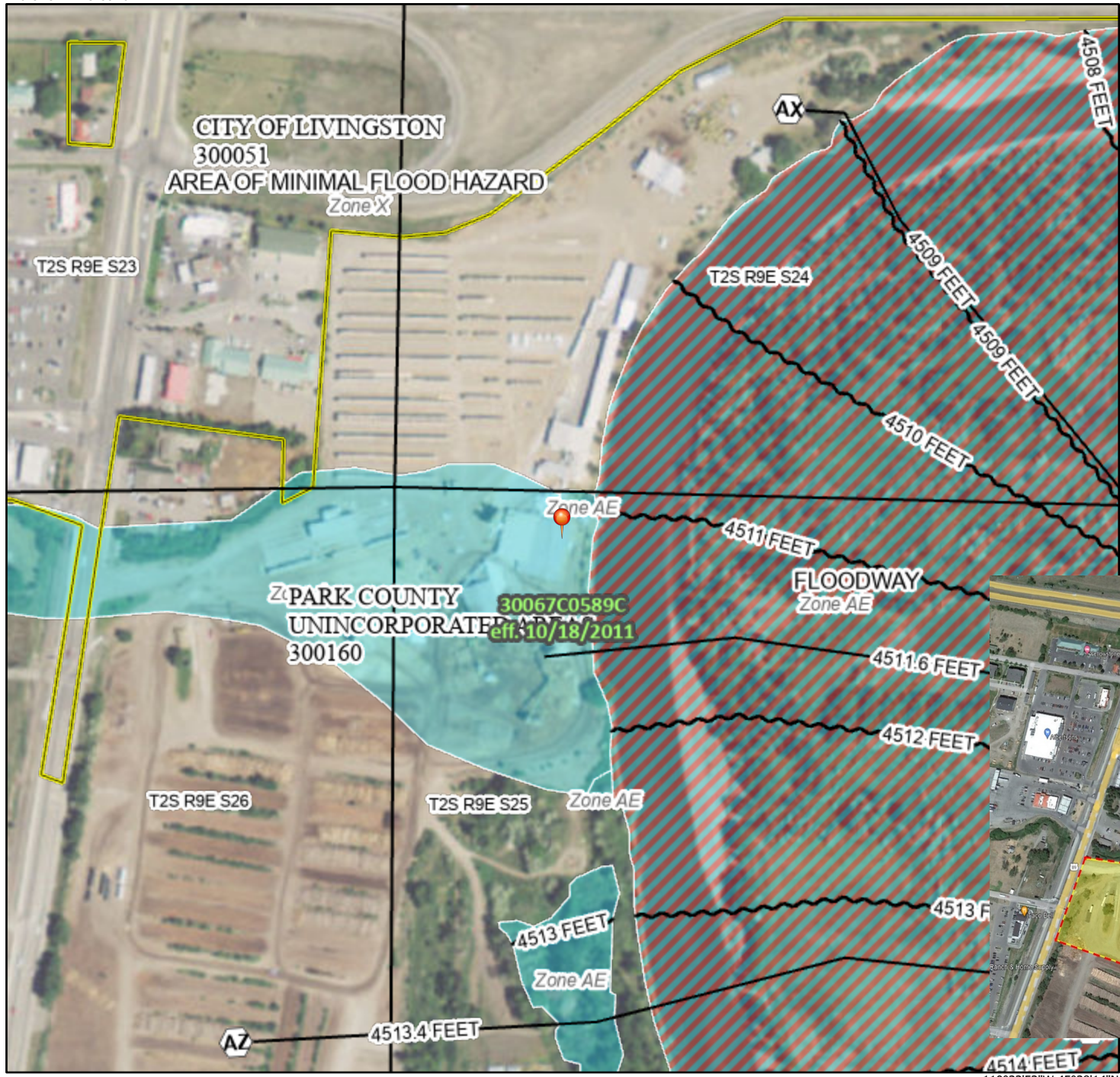
Drive-Thru Restaurants	N	N	N	N	N	N	N	N	A	A	A	N
Banks	N	N	N	N	N	A	A	A	A	A	A	N
Mortuary	N	N	N	N	N	S	S	A	A	A	A	N
Wholesale Businesses	N	N	N	N	N	S	N	A	A	A	A	N
Commercial Greenhouses	N	N	N	N	N	A	S	N	A	A	A	N
Gasoline Service Stations	N	N	N	N	N	N	N	N	A	N	A	N
Auto Repair Garage	N	N	N	N	N	N	N	S	A	N	A	N
Automobile Dealerships	N	N	N	N	N	N	N	N	A	A	A	N
Auto Salvage and Storage	N	N	N	N	N	N	N	N	S	N	A	N
Warehouse and Enclosed Storage	N	N	N	N	N	N	N	N	A	A	A	S
Machine Shop	N	N	N	N	N	N	N	N	A	S	A	N
Artisan Manufacturing	N	N	A	A	N	A	A	A	A	A	A	N
Limited Manufacturing	N	N	N	N	N	S	A	A	A	A	N	N
General Manufacturing	N	N	N	N	N	N	N	N	A	A	N	N
Intensive Manufacturing	N	N	N	N	N	N	N	N	A	A	N	N
Cidery	N	N	N	N	N	A	A	A	A	A	N	N
Microbrewery/Microdistillery	N	N	N	N	N	A	A	A	A	A	N	N
Winery	N	N	N	N	N	A	A	A	A	A	N	N
Bowling Alley	N	N	N	N	N	S	S	S	A	S	N	S
Theater	N	N	N	S	N	S	S	S	A	A	N	S
Open-Air Stadiums, Sports Arenas and Amphitheaters	N	N	N	S	N	S	S	S	A	A	N	S
Lumberyards	N	N	N	N	N	N	N	N	A	A	A	N
Transportation Terminals	N	N	N	N	N	N	N	A	A	A	N	N
Radio Stations ⁴	N	N	N	N	N	A	A	A	A	A	A	A
Utility Substations	S	S	S	S	S	S	S	S	S	S	S	S
Armory	N	N	N	N	N	N	N	N	N	N	N	A
Cemetery	N	N	N	N	N	N	N	N	N	N	N	A
Government Offices	N	N	N	N	N	A	A	A	A	N	N	A
Public Recreation Facility	A	A	A	A	N	S	S	A	A	A	S	A
Health and Exercise Establishment	N	N	N	N	N	A	A	A	A	A	S	S
Marijuana Production Facility	N	N	N	N	N	N	N	N	N	A	A	N
Sexually Oriented Business	N	N	N	N	N	S	N	S	S	A	A	N

1. CBD—Any number of apartment units may be established in an existing commercial building. No new residential structures may be built unless they meet the definition of "High Density Residential."
 2. NC-A single residential unit may be established within a commercial building to allow living space for a business owner.
 3. Adult Foster Care Center.
 a. No more than four (4) residents;
 b. Staff member must be on board twenty-four (24) hours a day.
 4. Radio Stations do not include radio towers or wireless communication facilities as defined by the Federal Communications Commission.
 * This includes manufactured homes as defined by Ordinance 1813.

National Flood Hazard Layer FIRMette

ATTACHMENT 4

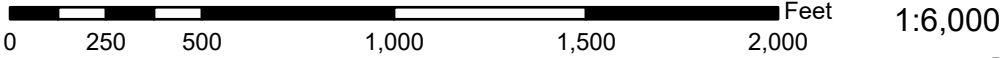
110°34'31"W 45°38'40"N



Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL 45

	SPECIAL FLOOD HAZARD AREAS	<ul style="list-style-type: none"> Without Base Flood Elevation (BFE) Zone A, V, A99 With BFE or Depth Zone AE, AO, AH, VE, AR Regulatory Floodway
	OTHER AREAS OF FLOOD HAZARD	<ul style="list-style-type: none"> 0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X Future Conditions 1% Annual Chance Flood Hazard Zone X Area with Reduced Flood Risk due to Levee. See Notes. Zone X Area with Flood Risk due to Levee Zone D
	OTHER AREAS	<ul style="list-style-type: none"> NO SCREEN Area of Minimal Flood Hazard Zone X Effective LOMRs Area of Undetermined Flood Hazard Zone D
	GENERAL STRUCTURES	<ul style="list-style-type: none"> Channel, Culvert, or Storm Sewer Levee, Dike, or Floodwall
	Cross Sections	<ul style="list-style-type: none"> 20.2 Cross Sections with 1% Annual Chance Water Surface Elevation 17.5 Coastal Transect
		Base Flood Elevation Line (BFE)
		Limit of Study
		Jurisdiction Boundary



Basemap Imagery Source: USGS National Map 2023



This map is for informational purposes only and does not represent an official flood hazard determination. The map is not to be used for regulatory purposes. The map is not to be used for regulatory purposes. The map is not to be used for regulatory purposes.

File Attachments for Item:

C. ZONING MAP AMENDMENT - ZONING ASSIGNED TO THE VIEW VISTA ANNEXED PROPERTY

City Manager
Grant Gager

220 E Park Street
(406) 823-6000 phone

citymanager@livingstonmontana.org
www.livingstonmontana.org



Incorporated 1889

Chairperson
Melissa Nootz

Vice Chair
Karrie Kahle

Commissioners
Mel Friedman
Quentin Schwarz
Torrey Lyons

December 18, 2023

ZONING COMMISSION STAFF REPORT
ZONING MAP AMENDMENT – VIEW VISTA COMMUNITY

Background

On November 7, 2023, the City Commission Adopted Resolution 5119 (Attachment 1) approving the annexation of the property commonly known as the View Vista Community, located at 1 View Vista Drive. The parcel is 11 acres in size and includes three apartment buildings with a total of 33 units and 51 sites occupied by mobile and manufactured homes. The legal description of the annexed property is included in the attached Resolution 5119 and the property, itself, is shown on the map below.



An amendment is required to update the City’s Official Zoning Map to include the newly annexed property.

The subject property is bordered by Fleshman Creek and Geyser Street to the west, View Vista Drive and Park High School to the south, and Sleeping Giant Middle School to the east. Prior to annexation, the property was an enclave of Park County surrounded by properties within the City of Livingston’s municipal boundaries.

The Central Business District borders the annexed parcel on the north, a small area zoned R-II (Medium Density Residential) is located northeast of the property, and the remainder of the surrounding properties are zoned Public and include schools, parks and the City’s Civic Center. The property is currently served by City water and sewer; however, it is inadequately sized to effectively serve the property. Residents of View Vista, assisted by the non-profit Neighborworks Montana, recently purchased the land, and requested to be annexed into the City to be allowed to improve the existing water and sewer infrastructure connections. The mobile home sites will continue to be occupied as single-family residential dwellings for the foreseeable future; however, the now Resident-Owned Community (ROC) is exploring the possibility of subdividing the land on which the apartment buildings are located so that it can be sold and the existing apartment units can either be renovated or replaced, depending on the extent of repairs needed.

Although View Vista is not located in the area identified in the Growth Policy as the Extra-Territorial Jurisdiction (ETJ), the ETJ Future Land Use Map (Attachment 2) includes the View Vista property and shows the annexed area as “Medium Density Residential” (R-II), which is described as a “*A district primarily intended for single and two (2) family dwellings. Multi-family dwellings may also be accommodated on lots of adequate plat sizes.*”. Although the only zoning district that currently allows a mobile home community in the City is RMO, this existing use is “grandfathered” as a legal nonconforming use regardless of the zoning district and will be allowed to continue on the annexed property.

However, the existing number of apartments are greater than what is allowed for any zoning district (for which residential uses are allowed) except the Central Business District. Although this existing use is also “grandfathered” as a legal nonconforming use, if the existing apartment buildings were removed due to extensive repairs and rehabilitation costs, the use of the property for multi-family residential development at its current density could not be restored and any use of the property, thereafter, must comply with Table 30.40 for the designated Zoning District.

The Growth Policy was adopted in 2021 and, in the time since, housing availability and affordability in Livingston has declined. Because of its proximity to the CBD and the need for more housing in the City, Staff is recommending the annexed property be zoned Mixed Use (MU) instead of R-II. The MU district is “*intended to accommodate a mix of residential, neighborhood scale commercial services and offices, and small-scale manufacturing*”. MU zoning also has a greater height allowance than R-II (60 feet vs. 27 feet) and smaller minimum lot size than R-II (3,500 sq. ft. vs. 875 sq. ft.), both of which will support denser residential infill development than what is recommended in the Future Land Use Map.

Staff recommends the annexed property be zoned MU to ensure the existing uses on the property can remain yet still allow for increased density in the future. Additionally, MU zoning will allow for neighborhood scale commercial services that are compatible with the adjacent CBD district.

Below is a comparison of uses identified in Table 30.40 that are Allowed, Not Allowed, or Allowed with Special Exception approval in the R-II and MU Districts:

- **60 uses total**
- **35 uses in common**
- **0 uses:** R2 = Allowed; MU = Not Allowed
- **7 uses:** R2 = Not Allowed; MU = require Special Exception
- **16 uses:** R2 = Not Allowed; MU = Allowed

See Attachment 3 for a detailed comparison of uses in Table 30.40.

Of the 16 uses that are allowed ‘by right’ in the MU district that are not allowed in the R-II district, many are what Staff considers to be consistent with the MU district definition stated above; these include: dental, medical and veterinary clinics, laundromats, business and professional offices, restaurants, artisan and limited manufacturing, government offices and health and exercise establishments (i.e. fitness gyms).

Proposed Findings of Fact

Criteria and Guidelines for Zoning Regulations (MCA 76-2-304): (1) Zoning regulations must be:

(a) made in accordance with a growth policy:

Although the Future ETJ Land Use Map in the Growth Policy shows the annexed area as Medium Density Residential, elsewhere the Growth Policy supports Mixed Use zoning of this property.

- *Strategy 3.1.1.2: Evaluate and amend the zoning ordinance to allow for higher densities and wider land uses in areas that can support such development.*
 - As part of the annexation agreement, the City is requiring View Vista to improve and expand the existing water and sewer connections that currently serve the community. The resulting infrastructure will be able to support the higher density development that is enabled by Mixed Use zoning.
- *Strategy 3.1.1.6: Encourage residential developments to provide neighborhood commercial areas serving residents within walking distance.*
 - Mixed Use zoning allows for neighborhood commercial businesses and services that the R-II zoning does not allow. The increased residential density allowed in Mixed Use districts will help to attract and support a variety of businesses and services that are within walking distance to residents of the View Vista community.
- *Strategy 3.1.1.8: Reduce urban sprawl through compact development consistent with the Future Land Use Map of this Growth Policy.*
 - Although Staff is recommending a different zoning that what is shown in the Future Land Use Map in the Growth Policy, zoning for higher densities in and near areas that have existing high density residential and commercial development can reduce urban sprawl by concentrating the footprint of new development. Compact development patterns also facilitate walkable and bikeable neighborhoods.
- *Strategy 3.4.3.2: Encourage development near transit routes and active transportation infrastructure to promote development that produces minimal strain on the environment and existing transportation infrastructure.*
 - The subject property has direct access to Geysler Street to the north and View Vista Drive to the south. It is also within walking distance to the services and amenities in the CBD which reduces the need for motor vehicle travel by area residents and minimizes impacts to the surrounding transportation network.
- *Strategy 4.1.3.3: Reduce climate disruption through compact growth and increased transportation choices that reduce the need for driving.*

- The parcel is in a heavily developed area of the City. MU zoning would allow a larger number of residential units that are within walking and biking distance of shops, businesses and other services. The MU zoning will also allow for future neighborhood scale commercial businesses on the annexed property, further minimizing the need to drive.
- *Objective 5.1.4: Promote a mix of housing within neighborhoods that supports a variety of household income levels, household age groups, and housing types.*
 - The proposed MU zoning allows for a variety of housing types, from single-family homes to multi-family buildings. Allowing additional density and a mix of uses supports a greater diversity of housing choices and neighborhood amenities for people with varied incomes and needs. The denser residential development allowed in the MU district also encourages smaller-sized dwellings with lower maintenance requirements compared to traditional single-family homes.

(b) designed to:

(i) secure safety from fire and other dangers;

Although View Vista is already connected to City water and sewer, the community will be required to make improvements to that infrastructure. The larger water service line will improve conveyance to the hydrants and improve fire protection and safety on site. Future development on this property will be required to meet all adopted fire and building codes, ensuring safe conditions on the property and surrounding areas.

(ii) promote public health, public safety, and the general welfare; and

All future development on this property will be required to meet adopted fire and building codes, ensuring safe conditions on the property and surrounding areas. Also, the potential for more housing and increased housing affordability will likely enhance the general welfare of the City and its citizens.

(iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

As mentioned above, the View Vista property is located in an already developed area of the City. It is within walking distance to Miles and Sacajawea Parks as well as Park High School and Sleeping Giant Middle School. The additional density allowed by MU zoning is not expected to impede adequate provision of transportation to/ from the property. However, because the higher density allowed by MU zoning could result in additional students in area schools, the school district will need to account for this in future analysis of its capacity and resource needs.

Improvements to the existing City water and sewer connections are in process and the expansion of the main lines is expected to adequately support the type of higher density development allowed in the MU district.

(2) In the adoption of zoning regulations, the municipal governing body shall consider:

(a) reasonable provision of adequate light and air;

It is not anticipated the assignment of zoning to the annexed property will in any way inhibit the reasonable provision of adequate light and air to the property or the surroundings. If new structures are built in the future, they must comply with applicable property setbacks for the MU District in the City’s zoning code, and with building setbacks as required by the International Building Code for building permitting.

(b) the effect on motorized and nonmotorized transportation systems;

Because of its central location and proximity to the CBD, parks and schools, zoning the annexed property MU is not anticipated to increase impacts to the surrounding transportation system. And the neighborhood scale commercial uses allowed by MU zoning will reduce the distance community residents need to travel for everyday needs.

(c) promotion of compatible urban growth;

The annexed area is next to the CBD, which includes development and uses that intensifies as it approaches the City center. There is also medium density residential development to the Northeast of View Vista. Staff finds the existing development on the subject property compatible with the nearby medium density residential neighborhood. Staff also anticipates the higher density and mixed uses allowed in the MU district will be less intensive, yet compatible with existing urban activity in the CBD.

(d) the character of the district and its peculiar suitability for particular uses;

The parcel includes existing residential development that is surrounded by medium density residential development, public schools and parks, and high density commercial and residential development in the CBD. The property is well suited to accommodate a mix of uses and additional density as allowed in the MU district without changing the character of the surrounding community.

(e) conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

The existing mobile homes on the property are inhabited and Staff is not aware of any structural or maintenance concerns related to those buildings. As mentioned above, there are 33 apartments spread out in three buildings that have substantial repair and maintenance needs. It is Staff’s understanding that, depending on the extent and costs of that repair and maintenance, the apartment buildings may be restored or possibly replaced. If the buildings are replaced, the MU designation allows for a greater number of residential units which is an appropriate use of land which is centrally located in the City. The required infrastructure improvements to service the property and the potential for higher density redevelopment will likely increase surrounding property values.

Staff Recommendation

For the reasons discussed above, Staff finds that the proposed Mixed Use (MU) zoning designation meets the requirements of the City of Livingston and State Statute. Staff recommends that the Zoning Commission approve the MU zoning recommendation and adopt the proposed map amendment to the zoning ordinance.

Attachments

- 1. Resolution 5119
- 2. ETJ Future Land Use Map
- 3. Table 30.40- R-II & MU Use Comparisons

RESOLUTION NO. 5119

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, ANNEXING CERTAIN PARCELS KNOWN AS VIEW VISTA COMMUNITY.

WHEREAS, Montana Code Annotated establishes procedures for the annexation of land pursuant to a petition by the owner in MCA 7-2-4601; and

WHEREAS, The City of Livingston has received a petition signed by more than 50% of the owners of the certain real property; and

WHEREAS, the City desires to annex such lands in accordance with its adopted Annexation Policy;

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Livingston, Montana, that the land described in the attached exhibit is hereby annexed into and made a part of the City of Livingston, Montana.

PASSED AND ADOPTED by the City Commission of the City of Livingston, Montana, this 7th day of November, 2023.

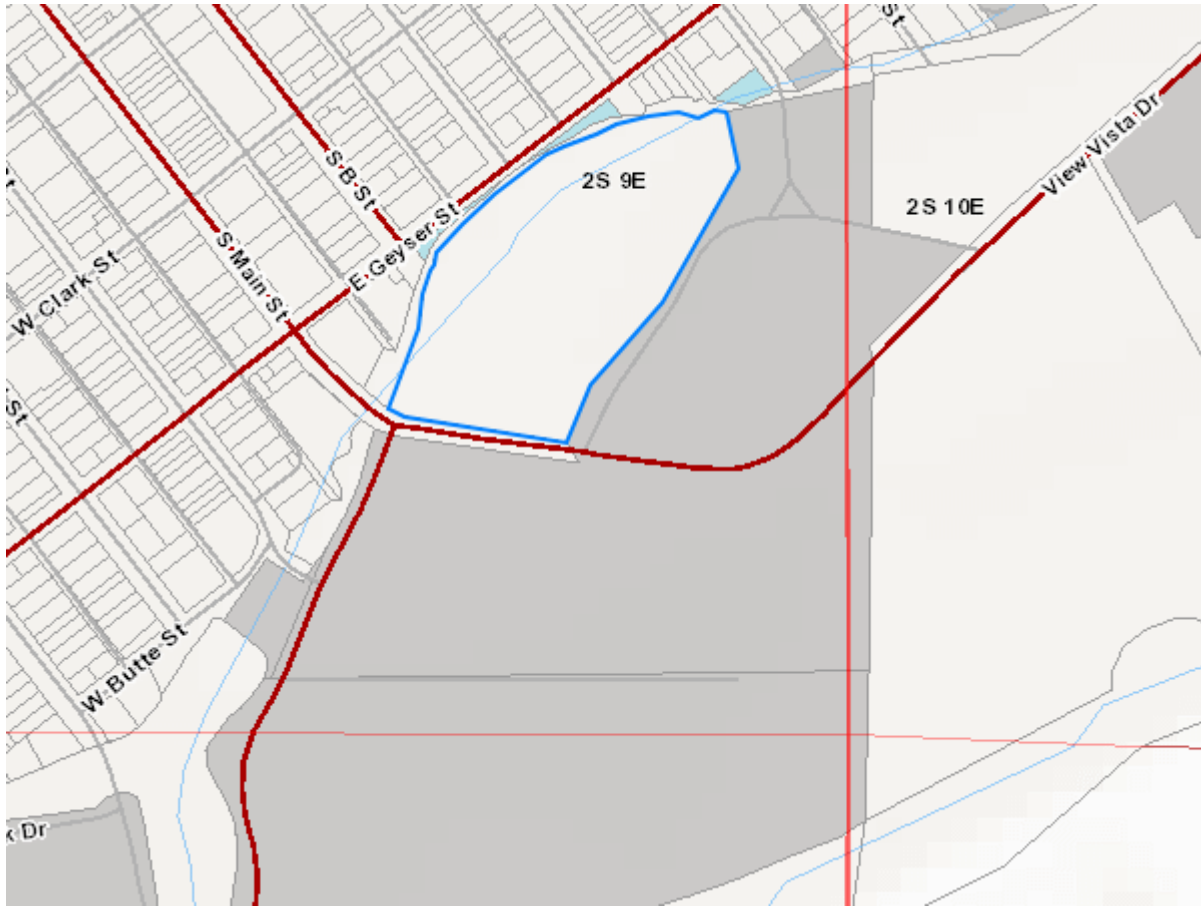
MELISSA NOOTZ – Chair

ATTEST:

APPROVED AS TO FORM:

EMILY HUTCHINSON
City Clerk

JON HESSE
City Attorney



The blue bordered parcel is more fully described as S13, T02 S, R09 E, C.O.S. 984, Parcel 1, Park County, Montana.

PETITION TO ANNEX AND NOTICE OF WITHDRAWAL FROM RURAL FIRE DISTRICT

The undersigned hereinafter referred to as Petitioner(s) respectfully petition the City Commission of the City of Livingston for annexation of the real property located at 1 View Vista Dr, Livingston, MT 59047 commonly known as View Vista Community, Inc. and more fully described as S13, T02 S, R09 E, C.O.S. 984, Parcel 1, Park County, Montana, into the City of Livingston.

The Petitioner(s) requesting City of Livingston annexation of the property described herein hereby mutually agree with the City of Livingston that immediately upon annexation of the land of all City of Livingston municipal services will be provided to the property described herein on substantially the same basis and in the same manner as such services are provided or made available to other properties within the rest of the municipality. Petitioner(s) hereby state that there is no need to prepare a Municipal Annexation Service Plan for this annexation pursuant to Section 7-2-4610, M.C.A. since the parties are in agreement as to the provision of municipal services to the property requested to be annexed.

The Petitioner(s) further herein express an intent to have the property as herein described withdrawn from the Park County Rural Fire District under the provisions of Section 7-33-2127, M.C.A.; and that incorporated into this Petition to Annex is the Notice requirement pursuant to said Section; and that upon proper adoption of an ordinance or resolution of annexation by the City Commission of the City of Livingston, the property shall be detracted from said district.

In the event the property is not immediately annexed, the Petitioner(s) further agree(s) that this covenant shall run to, with, and be binding upon the title of the said real property, and shall be binding upon our heirs, assigns, successors in interest, purchasers, and any and all subsequent holder or owners of the above-described property.

This City hereby agrees to allow Petitioner(s) to connect and receive the utilities from the City of Livingston.

DocuSigned by:
Angela Bandler 8/8/2023
9E1311B1F94C4F1...

Petitioner/Owner Date

DocuSigned by:
Ashley Wente 8/14/2023
0083B38BDF04FF...

Petitioner/Owner Date

USE COMPARISONS – MEDIUM DENSITY RESIDENTIAL (R-II) & MIXED USE (MU)

Sec. 30.40. List of uses.

Table 30.40 designates a list of uses permitted within a zoning district. Designated uses shall be permitted only in the zones indicated.

Table 30.40
List of Uses

	R-I	R-II	RII-MH	R-III	RMO	NC ²	MU	CBD ¹	HC	LI	I	P
One (1) Family Dwellings*	A	A	A	A	A	N	A	A	A	N	N	N
Two (2) Family Dwellings	N	A	A	A	N	N	A	A	A	N	N	N
Multifamily Dwellings	N	A	A	A	N	N	A	A	A	N	N	N
Accessory Dwellings	A	A	A	A	A	N	A	N	A	N	N	N
Townhouses	N	A	A	A	N	N	A	A	A	N	N	N
Tiny Homes	A	A	A	A	A	N	A	N	A	N	N	N
Accessory Buildings	A	A	A	A	A	A	A	A	A	A	A	A
Mobile Homes	N	N	A	N	A	N	N	N	N	N	N	N
Modular Homes	A	A	A	A	A	N	A	A	A	N	N	N
Churches	S	S	S	A	N	A	S	N	A	N	N	N
Schools, Public, Private and Parochial	A	A	A	A	A	A	S	N	S	N	N	A
Schools, Trade	N	N	N	N	N	S	S	A	A	A	A	N
Hospitals/Institutions	N	N	N	A	N	S	S	N	S	A	N	S
Medical/Dental Clinics	N	N	N	A	N	A	A	A	A	A	S	N
Adult Foster Care Center ³	N	A	A	A	N	N	A	A	A	A	N	N
Personal Care Center	N	A	A	A	N	A	A	A	A	N	N	N
Child Care Center	A	A	A	A	A	A	A	A	A	A	N	N
Veterinarian Clinics	N	N	N	N	N	N	A	N	A	A	A	N
Kennels and Catterys	N	N	N	N	N	N	N	N	A	A	A	N
Laundromat	N	N	N	N	A	A	A	A	A	A	N	N
Bed and Breakfasts	A	A	N	A	N	A	A	A	A	N	N	N
Motels/Hotels	N	N	N	N	N	N	N	A	A	A	N	N
Travel Trailer Parks	N	N	N	N	N	N	N	N	A	N	N	N
Business and Professional Offices	N	N	N	S	N	A	A	A	A	A	A	S
Retail	N	N	N	N	N	A	A	A	A	A	S	N
Large-scale Retail	N	N	N	N	N	N	N	S	S	S	S	N
Personal Service Stores	N	N	N	N	N	A	A	A	A	A	S	N
Eating and Drinking Establishments (Sit-Down)	N	N	N	N	N	A	A	A	A	A	A	N

Drive-Thru Restaurants	N	N	N	N	N	N	N	N	A	A	A	N
Banks	N	N	N	N	N	A	A	A	A	A	A	N
Mortuary	N	N	N	N	N	S	S	A	A	A	A	N
Wholesale Businesses	N	N	N	N	N	S	N	A	A	A	A	N
Commercial Greenhouses	N	N	N	N	N	A	S	N	A	A	A	N
Gasoline Service Stations	N	N	N	N	N	N	N	N	A	N	A	N
Auto Repair Garage	N	N	N	N	N	N	N	S	A	N	A	N
Automobile Dealerships	N	N	N	N	N	N	N	N	A	A	A	N
Auto Salvage and Storage	N	N	N	N	N	N	N	N	S	N	A	N
Warehouse and Enclosed Storage	N	N	N	N	N	N	N	N	A	A	A	S
Machine Shop	N	N	N	N	N	N	N	N	A	S	A	N
Artisan Manufacturing	N	N	A	A	N	A	A	A	A	A	A	N
Limited Manufacturing	N	N	N	N	N	S	A	A	A	A	N	N
General Manufacturing	N	N	N	N	N	N	N	N	A	A	N	N
Intensive Manufacturing	N	N	N	N	N	N	N	N	A	A	N	N
Cidery	N	N	N	N	N	A	A	A	A	A	N	N
Microbrewery/Microdistillery	N	N	N	N	N	A	A	A	A	A	N	N
Winery	N	N	N	N	N	A	A	A	A	A	N	N
Bowling Alley	N	N	N	N	N	S	S	S	A	S	N	S
Theater	N	N	N	S	N	S	S	S	A	A	N	S
Open-Air Stadiums, Sports Arenas and Amphitheaters	N	N	N	S	N	S	S	S	A	A	N	S
Lumberyards	N	N	N	N	N	N	N	N	A	A	A	N
Transportation Terminals	N	N	N	N	N	N	N	A	A	A	N	N
Radio Stations ⁴	N	N	N	N	N	A	A	A	A	A	A	A
Utility Substations	S	S	S	S	S	S	S	S	S	S	S	S
Armory	N	N	N	N	N	N	N	N	N	N	N	A
Cemetery	N	N	N	N	N	N	N	N	N	N	N	A
Government Offices	N	N	N	N	N	A	A	A	A	N	N	A
Public Recreation Facility	A	A	A	A	N	S	S	A	A	A	S	A
Health and Exercise Establishment	N	N	N	N	N	A	A	A	A	A	S	S
Marijuana Production Facility	N	N	N	N	N	N	N	N	N	A	A	N
Sexually Oriented Business	N	N	N	N	N	S	N	S	S	A	A	N

1. CBD—Any number of apartment units may be established in an existing commercial building. No new residential structures may be built unless they meet the definition of "High Density Residential."
 2. NC-A single residential unit may be established within a commercial building to allow living space for a business owner.
 3. Adult Foster Care Center.
 a. No more than four (4) residents;
 b. Staff member must be on board twenty-four (24) hours a day.
 4. Radio Stations do not include radio towers or wireless communication facilities as defined by the Federal Communications Commission.
 * This includes manufactured homes as defined by Ordinance 1813.

ATTACHMENT 3

Exhibit 2.9: Recommended Future Land Use Map

