



## COMMUNITY PLANNING, DEVELOPMENT &

### Development Services Division

435 RYMAN | MISSOULA, MT 59802-4297 | 406.552.6630 | FAX 406.552.6053

#### ANNEXATION AND ZONING STAFF REPORT & REFERRAL

<b>Agenda item:</b>	Referral and Staff Report - Linda Vista 11th Supplement, Linda Vista 18th Supplement, and Tract 3A of COS No. 6798
<b>Report Date:</b>	10/1/2021
<b>Case Planner:</b>	Dave DeGrandpre, Planning Supervisor
<b>Report Reviewed &amp; Approved By:</b>	Mary McCrea, Permits and Land Use Manager
<b>Public Meetings &amp; Hearing Schedule</b>	
<b>City Council adopts resolution of intent, sets public hearing, and refers to LUP:</b>	10/18/2021
<b>City Council public hearing:</b>	10/25/2021
<b>LUP discussion (info. Item):</b>	10/27/2021
<b>City Council final consideration on resolution to annex:</b>	11/1/2021
<b>Owners:</b>	<b>Linda Vista 11<sup>th</sup> Supplement:</b> Christopher D. Werni (Lot 2) Steven L. Clarke (Lot 3) Thomas J. Livoti (Lot 4) Raoul Molinar (Lot 5) Daniel Roy Ries (Lot 6) Robert J. Jacobsen (Lot 7) Cory C. Steele (Lot 8)
<b>Applicant and Owner:</b>	<b>Linda Vista 18<sup>th</sup> Supplement and Tract 3A of COS 6798:</b> Lloyd A. Twite Family Partnership 3000 Eldora Lane Missoula, MT 59803
<b>Representative:</b>	Gilbert Larson Gilbert Larson Engineering and Surveying 3115 Russell Street P.O. Box 1347 Missoula, MT 59806
<b>Location of request:</b>	North of Lower Miller Creek Road and West of Miller Creek Road in the Miller Creek Neighborhood and Ward 5
<b>Legal description:</b>	<b>Linda Vista 11<sup>th</sup> Supplement</b> A 7-lot subdivision located in in the NW ¼ of Section 13, Township 12 North, Range 20 West, P.M.M., Missoula County, Montana  <b>Linda Vista 18<sup>th</sup> Supplement</b> A 41-lot subdivision in the NE ¼ of Section 13, Township 12 North, Range 20 West, P.M.M., Missoula County, Montana

		<b>Tract 3A of Certificate of Survey No. 6798</b> Tract 3A of Certificate of Survey No. 6798 located in the W ½ of Section 13, Township 12 North, Range 20 West, P.M.M., Missoula County, Montana
<b>Legal ad:</b>		Published in the <i>Missoulian</i> October 3, 2021 and October 10, 2021
<b>Growth policy:</b>		Residential Medium Density - 3 to 11 Units Per Acre
<b>Current County zoning:</b>		PUD Miller Creek View Addition
<b>Proposed City zoning:</b>		PUD Miller Creek View Addition
<b>Surrounding Land Uses</b>		<b>Surrounding Zoning</b>
<b>North:</b>	Single dwelling and multi-dwelling residential	PUD Miller Creek View Addition
<b>South:</b>	Conservation easement south of Tract 3A of COS 6798, undeveloped south of Linda Vista 18 <sup>th</sup> Supplement, park south of Linda Vista 11 <sup>th</sup> Supplement	PUD Miller Creek View Addition south of Tract 3A of COS 6798 and Linda Vista 11 <sup>th</sup> Supplement, unzoned south of Linda Vista 18 <sup>th</sup> Supplement
<b>East:</b>	Single-dwelling residential, park/common area	PUD Miller Creek View Addition east of Tract 3A of COS 6798 and Linda Vista 11 <sup>th</sup> Supplement, County C-RR1 east of Linda Vista 18 <sup>th</sup> Supplement
<b>West:</b>	Conservation easement west of Tract 3A of COS 6798, single dwelling and multi-dwelling residential west of Linda Vista 11 <sup>th</sup> and 18 <sup>th</sup> Supplements	PUD Miller Creek View Addition

## RECOMMENDED MOTIONS

<b>CC consent agenda:</b> <b>10/18/2021</b>	<b>Adopt a resolution of intention</b> to annex and incorporate within the boundaries of the City of Missoula Lots 2 through 8 in the Linda Vista 11 <sup>th</sup> Supplement and a portion of Joy Drive adjacent, Lots 1 through 41, Common Area 1 and 2, and portions of Max Drive, Maggie Mae Drive, and Guinevere Drive in the Linda Vista 18 <sup>th</sup> Supplement and a portion of Miller Creek Road, and Tract 3A of Certificate of Survey No. 6798 and a portion of Jim Loop Drive within the tract, all shown on Exhibits A and B and located in Section 13, Township 12 North, Range 20 West, and zone the property PUD Miller Creek View Addition, subject to conditions of annexation, based on the findings of fact in the staff report, <b>set the public</b> hearing for October 25, 2021, and <b>refer this item</b> to the Land Use & Planning Committee on October 27, 2021.
<b>CC p/h: 10/25/2021</b>	No motion
<b>LUP: 10/27/2021</b>	No motion
<b>CC final consideration:</b> <b>11/1/2021</b>	<b>Adopt/Deny</b> a resolution to annex incorporate within the boundaries of the City of Missoula Lots 2 through 8 in the Linda Vista 11 <sup>th</sup> Supplement and a portion of Joy Drive adjacent, Lots 1 through 41, Common Area 1 and 2, and portions of Max Drive, Maggie Mae Drive and Guinevere Drive in the Linda Vista 18 <sup>th</sup> Supplement and portion of Miller Creek Road, and Tract 3A of Certificate of Survey No. 6798 and a portion of Jim Loop Drive within the tract, all shown on Exhibits A and B and located in Section 13, Township 12 North, Range 20 West, and zone the property PUD Miller Creek View Addition, subject to conditions of annexation, based on the findings of fact in the staff report.

## I. RECOMMENDED CONDITIONS

1. The applicant and owner of Linda Vista 18<sup>th</sup> Supplement and Tract 3A of Certificate of Survey No. 6798 at the time of petition for annexation shall file easements with the Missoula County Clerk and Recorder for all public water and sewer mains, fire hydrants, and City storm drainage facilities within Tract 3A of Certificate of Survey No. 6798, subject to review and approval by the City Engineer and City Geographic Information Systems office,

prior to approval of the first sewer connection permit on a lot within Linda Vista 18<sup>th</sup> Supplement or within ninety (90) days of annexation, whichever comes first.

2. The applicant and owner of Linda Vista 18<sup>th</sup> Supplement and Tract 3A of Certificate of Survey No. 6798 at the time of petition for annexation, shall provide a maintenance agreement for Jim Loop and all internal streets within Tract 3A of Certificate of Survey No. 6798 that have not been accepted for maintenance by Missoula County or the City of Missoula filed with the County Clerk and Recorder, subject to review and approval of City Engineering, prior to approval of the first sewer connection permit on a lot within Linda Vista 18<sup>th</sup> Supplement, or within ninety (90) days of annexation, whichever comes first.
3. The Resolution to annex the above property is not effective until the Petitioner complies with Conditions of Approval 1 and 2. In the event that Petitioner does not comply with Conditions of Approval 1 and 2 within 90 days of City Council approving this annexation, this Resolution shall become null and void. Once Petitioner complies with Conditions of Approval 1 and 2, the City Clerk shall certify this Resolution and cause it to be filed with the Missoula County Clerk and Recorder's Office pursuant to Section 7-2-4607, MCA.

## II. PROJECT SUMMARY

### Introduction

1. Development Services received Petition Nos. 10097 and 10098 from Gilbert Larson Engineering & Surveying, on behalf of property owner Lloyd A. Twite Family Partnership, requesting annexation into the City of Missoula of the Linda Vista 18<sup>th</sup> Supplement and Tract 3A of Certificate of Survey No. 6798, which are residential developments located in Section 13, Township 12 North, Range 20 West.
2. Concurrently, the City of Missoula seeks to annex the seven residential lots in the Linda Vista 11<sup>th</sup> Supplement subdivision, which was platted in 2001 and is developed with homes that receive City water and sewer services.

### Property Information

3. The properties are located east of Lower Miller Creek Road and west of Miller Creek Road in the Miller Creek Neighborhood and City Council Ward 5.
4. The Linda Vista 11<sup>th</sup> Supplement consists of seven lots on 2.45 acres. The Missoula County Commissioners approved this subdivision in October of 2001. As stated on the final subdivision plat, the lot owners, successors, and assigns waived their right to protest annexation contingent upon receiving municipal sewer services by the City of Missoula. All seven lots are developed with homes that receive municipal sewer and water services.
5. The Linda Vista 18<sup>th</sup> Supplement consists of 41 undeveloped lots on 18.17 acres planned for single-dwelling detached structures to be served by City water and sewer. Included within the subdivision are 4.5 acres of common area to be maintained by a homeowner's association and 2.84 acres of street rights-of-way to be maintained by the City. The Missoula County Commissioners approved the final plat for this subdivision in June of 2021. Construction of homes is pending City annexation approval and City building permit approval.
6. Tract 3A of COS No. 6798 is a 15.5-acre parcel developed with 200 apartments in 17 multi-dwelling structures. The homes are served by City water and sewer. Access is provided via an internal street network.

### Road Improvements, Transit, Utility Infrastructure, and Parkland

7. The lots within Linda Vista 11<sup>th</sup> Supplement abut Joy Drive, a local residential street developed with curbs, gutters, and sidewalks. All but a short stretch of Joy Drive that abuts the subject property was previously annexed into the City limits. Along with this annexation, the City would annex the remaining stretch of Joy Drive. The seven lots in Linda Vista 11<sup>th</sup> Supplement are served by municipal water and sewer with appropriate easements in place.
8. The Linda Vista 18<sup>th</sup> Supplement includes new portions of Max Drive, Guinevere Drive, and Maggie Mae Drive. All streets, sidewalks, water, sewer, drainage improvements, and easements required to serve this subdivision have been reviewed and approved by the City Public Works & Mobility Department in anticipation of annexation and future City maintenance.
9. Tract 3A of COS No. 6798 contains a multi-dwelling housing development with internal streets including an extension of Uncle Robert Lane, as well as Marista Court, Audrey Court, Alex Lane, and Jim Loop. Uncle Robert Lane, Marista Court, Audrey Court, and Alex Lane within the subject property are privately maintained. A short stretch of Jim Loop (approximately 150 feet) was previously annexed into the City and is maintained by the City.

<p>The remainder of Jim Loop was dedicated to the public (Missoula County) but according to County Road Maintenance Supervisor Shawn LaDue, Missoula County does not maintain this street. The petitioner seeks for the City to take over maintenance.</p> <p>10. According to the City Public Works &amp; Mobility Department, the internal streets were not built to City of Missoula specifications. City Public Works recommends a condition of annexation approval requiring the annexation petitioner and owner of Tract 3A to provide a private maintenance agreement for Jim Loop Road and the other internal streets recorded with the Missoula County Clerk and Recorder. This has been included as a condition of approval.</p>
<p>11. Although the multi-dwelling housing development on Tract 3A of COS No. 6798 is served by City water, sewer, and storm drainage facilities, City Public Works &amp; Mobility Department staff have indicated that not all of the public utility easements for water, sewer, and storm water facilities have been established. Therefore, a recommended condition of approval is for the necessary easements to be created, reviewed, and approved by the City Engineer and Geographic Information Systems office, and recorded with the Missoula County Clerk &amp; Recorder.</p>
<p>12. There are no transit routes serving this area. Route 12 is the closest route with a bus stop on 55<sup>th</sup> and Gharret Street approximately 1.5 miles from the subject property.</p>
<p>13. There are several parks and open areas in the vicinity of these developments, including 4.58 acres of privately maintained common area in the Linda Vista 18<sup>th</sup> Supplement and Jeffery Park, a new/minimally developed neighborhood park. The City Parks &amp; Recreation Department reviewed the annexation proposals and did not report any concerns or request any additions or improvements to parks or open areas, but noted as new residential development is added to this area, demand for park improvements is expected and funding for such improvements will become expected by the public.</p>
<p><b>Annexation Request</b></p>
<p>14. The Lloyd A. Twite Family Partnership, owner of the Linda Vista 18<sup>th</sup> Supplement and Tract 3A of Certificate of Survey No. 6798, filed Petition Nos. 10098 and 10097, respectively, requesting annexation of those properties into the Missoula municipal boundary. The combined total acreage of these properties is 36.72 acres.</p>
<p>15. The City of Missoula seeks to annex the seven residential lots in the Linda Vista 11<sup>th</sup> Supplement, which was platted in 2001. The total acreage of this subdivision is 2.45 acres. As stated on the final subdivision plat, the lot owners, successors, and assigns waived the right to protest annexation contingent upon receiving municipal sewer services by the City of Missoula. All seven lots are developed with homes that receive municipal sewer and water services.</p>
<p>16. The subject properties are within the Urban Growth Area, the Utilities Service Area Boundary, and the Air Stagnation Zone. Per the City Annexation Policy, the City should prioritize the annexation of areas located within the Utilities Service Area Boundary, and areas that contribute to the logical growth pattern of the City by creating orderly and contiguous municipal boundaries.</p>
<p>17. The properties will be added to the service area for the City Fire and Police Departments.</p>
<p>18. The properties will be added to the City of Missoula Ward 5 and the Miller Creek Neighborhood Council area.</p>
<p><b>Annexation Policy</b></p>
<p>19. The subject property is part of Annexation Area 'A' on the City's Annexation Policy Map. Areas designated as Annexation Area 'A' largely meet the guidelines of the City's Annexation Policy. Per the City Annexation Policy, the City should prioritize the annexation of areas located within Annexation Area 'A'.</p>
<p><b>Growth Policy &amp; Zoning</b></p>
<p>20. The applicable regional plan is the <i>Our Missoula: City Growth Policy 2035</i>, which recommends a land use designation of "Residential Medium Density – 3 to 11 Dwelling Units Per Acre". The City Annexation Policy states that any annexation should be guided by the current City Growth Policy.</p>
<p>21. The Residential Medium Density designation supports residential building types ranging in density from 3 to 11 dwelling units per acre. It is intended to fit with many already established residential neighborhoods and acknowledge the single dwelling residential building type as the primary use. The proposed annexation properties</p>

are located in an established residential area and have a combined average density of approximately seven dwelling units per acre.
22. The current County zoning that applies to the property is Planned Unit Development / Miller Creek View Addition. This zoning district was approved for the Miller Creek View Addition multiple phase subdivision development in 1998, prior to adoption of the City Title 20 Zoning Ordinance. A planned unit development is a special zoning district that is intended to accommodate development that may be difficult if not impossible to carry out under otherwise applicable zoning district standards and often includes a mixture of uses, residential building types, lot sizes, and other variations, as is the case here.
23. The City zoning upon annexation for the subject properties is also Planned Unit Development / Miller Creek View Addition - no change is proposed or recommended.
<b>Statutory Requirements</b>
24. The City will meet the statutory requirements for a petition method annexation for the Linda Vista 11 <sup>th</sup> and 18 <sup>th</sup> Supplements and Tract 3A of Certificate of Survey No. 6798 because the two petitions are from an owner of real property representing 33.67 of the 36.12 total acres, more than 50% of the area to be annexed as authorized in MCA 7-2-4601 – 4625 and the MMC 20.85.040(I)(2).
25. Under the petition method of annexation, City Council considers the petitions, adopts a resolution of intent, and schedules a public hearing regarding the zoning upon annexation, and advertises public notice for at least 15 days prior to the public hearing with the appropriate recommended zoning. The final step for council is to adopt a resolution to adopt or deny the annexation request.
26. Section 7-2-4211 MCA requires municipalities to include the full width of any public street or road right-of-way that are adjacent to the property being annexed.
27. Public rights-of-way for portions of Miller Creek Road, Joy Drive, and Jim Loop are requested to be annexed into the City of Missoula. An additional stretch of Miller Creek Road adjacent to the previously annexed Linda Vista 15 <sup>th</sup> Supplement should have been annexed in 2016 along with that subdivision phase. Similarly, the intersection of Miller Creek Road and Jeff Drive should have been annexed along with the Linda Vista 12th Supplement in 2018. Annexation of those road segments is planned at this time to clear up ownership and maintenance issues. All properties and roads to be annexed are included in Exhibits A and B, attached.
<b>Zoning Upon Annexation</b>
28. MCA 76-2-303 allows a municipality to conduct a hearing on the annexation in conjunction with a hearing on the zoning of the property proposed for annexation. Title 20 Zoning Ordinance, Section 20.85.040(I)(2) outlines the three review criteria taken from MCA 76-2-303 which may be considered for zoning upon annexation. The following are the three criteria from Title 20 and staff's assessment as to whether the annexation complies with the criteria. An annexation must comply with at least one of the criteria. The zoning district classification assigned at the time of annexation must:
a. Authorize land uses comparable to the land uses authorized under the county zoning classification that applied to the property immediately before it was annexed in the city;
<u>Staff Assessment:</u>
i. Yes - The permitted land uses and density in the County Planned Unit Development / Miller Creek View Addition district are the same as those in the City Planned Unit Development / Miller Creek View Addition district within the City.
b. Authorize land uses that are consistent with the land uses approved by the Board of County Commissioners or the County Board of Adjustment; or
<u>Staff Assessment:</u>
i. Yes - The permitted land uses and density in the County Planned Unit Development / Miller Creek View Addition district are the same as those in the City Planned Unit Development / Miller Creek View Addition district within the City.
c. Be consistent with the land use and zoning recommendations for the subject areas, as set forth in the

<i>"Our Missoula Growth Policy."</i>	
<u>Staff Assessment:</u>	
i.	Yes - The City Growth Policy calls for Medium Density Residential Development 3 – 11 dwelling units per acre. Upon buildout of the Linda Vista 18 <sup>th</sup> Supplement, the subject properties will have a residential density of approximately seven dwelling units per acre, which complies with the Growth Policy recommendation.
29.	Based on compliance with criteria 2a, 2b, and 2c for zoning upon annexation in MCA 76-2-303 and Title 20 Section 20.85.040(l)(2), staff recommends annexation of the subject property, and zoning upon annexation of Planned Unit Development / Miller Creek View Addition, subject to the conditions of annexation approval.
<b>III. ATTACHMENTS</b>	
Exhibit A and B	