

Return to: City Clerk  
City of Missoula  
435 Ryman Street  
Missoula MT 59802-4297

**RESOLUTION NUMBER \_\_\_\_\_**

**A resolution to annex and incorporate within the boundaries of the City of Missoula, Montana certain parcels of land described as Tracts 1 and 2 of Certificate of Survey No. 5963 located in the SE ¼ of Section 12 and the N ½ of Section 13, Township 13 North, Range 20 West, Principal Meridian Montana, P.M.M. and zone the property RT5.4 Residential, based on the findings of fact in the staff report, subject to the conditions of annexation approval as amended by City Council.**

**LEGAL DESCRIPTION:** Tracts 1 and 2 of Certificate of Survey No. 5963 located in the SE ¼ of Section 12 and the N ½ of Section 13, Township 13 North, Range 20 West, PMM, Missoula County, Montana as shown on Exhibit A attached hereto and made a part hereof.

**WHEREAS**, Mullan Road Partners, LLC, owner of 100% of the property described herein as Tracts 1 and 2 of Certificate of Survey No. 5963, located in the SE ¼ of Section 12 and the N ½ of Section 13, Township 13 North, Range 20 West, has filed Petition No. 10005 with the City Clerk requesting annexation and waiving the need to prepare a service plan for the annexation; and

**WHEREAS**, it is the Missoula City Council's decision to consider this petition for annexation pursuant to the statutory annexation by petition method set forth in Title 7 Chapter 2 Part 46 Section 4601 (3)(a)(ii) Montana Code Annotated (MCA); and

**WHEREAS**, the herein described property is within the City of Missoula Utility Service Area boundary, the City has current and future capacity to serve the property and development; and the owners/developers will pay all costs to extend the municipal sewer and water service to the property; and

**WHEREAS**, the municipal sanitary sewer system, water system, police, fire protection, parks and other municipal services are available to the tracts described; and

**WHEREAS**, the Chuck Wagon Drive and George Elmer Drive right-of-way adjacent to the boundaries of the parcels are already within the municipal boundary of the City of Missoula; and

**WHEREAS**, the City Council desires the annexation and zoning of the herein described property be conditioned upon annexation, subject to the following conditions:

Streets, General

1. All street and non-motorized improvements shall be designed and built in accordance with City of Missoula Public Works Standards and Specifications and City of Missoula Subdivision Regulations (except as modified by variance). All plans must comply with Americans with Disabilities Act requirements. All plans must be reviewed and approved by the City Engineer in accordance with City policies.

2. The subdivider shall provide a street naming exhibit to be reviewed and approved by Development Services prior to final plat filing of the first phase.
3. The subdivider shall provide a street signage plan in accordance with the Manual on Uniform Traffic Control Devices to be reviewed and approved by the City Engineer and City Fire Department prior to final plat filing of each applicable phase.
4. The following statement shall appear on the face of each plat, in the covenants, and on each instrument of conveyance:

“Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future SID/RSID, based on benefit, for the upgrading of streets within this subdivision, including but not limited to paving, curbs and gutters, non-motorized facilities, street widening and drainage facilities”
5. All proposed rights-of-way shall be dedicated to the public on the face of each plat and approved by the City Engineer.
6. All proposed easements, except as modified by these conditions, shall be shown on the face of each plat and identified for their width and purpose, including easements for vehicular and pedestrian access, utilities, and irrigation ditches.
7. Street lighting shall be installed within the subdivision along Chuck Wagon Drive and George Elmer Drive in accordance with the Missoula Public Works Standards and Specifications Manual. The subdivider shall install lighting along Chuck Wagon Drive and George Elmer Drive prior to filing any plat that abuts those streets as part of that phase’s required improvements. Prior to final plat filing of the first phase, the subdivider shall petition to create a new street light improvement district.

#### Specific Streets

8. The Heron’s Landing Phased Subdivision is located within the Mullan BUILD project area and George Elmer Drive, which provides access to the subdivision property, is planned to be improved as part of the Mullan BUILD project. Federal funds are planned to pay for a portion of the Mullan BUILD improvements. Funding mechanisms are currently being explored to pay for the remainder of the improvements. The funding mechanisms may include, but are not limited to, a special improvement district, impact fee, latecomers fee, or cost share agreements that allow the City of Missoula and Missoula County to recover the cost of constructing infrastructure from the properties that benefit from the Mullan BUILD project. To the extent that such funding mechanisms(s) is created in accordance with state law and applicable principles of land use law, the subdivider, successors, and assigns shall participate in and be bound by the fees assessed and not oppose the creation of or participation in such a district.
9. Chuck Wagon Drive through the length of the subdivision shall be improved to Urban Collector (with parking) standards as proposed including two 10-foot drive lanes, 6-foot bike lanes, 8-foot parking lanes, curb and gutter, 7-foot boulevards, and 5-foot sidewalks within the existing 80-foot wide right-of-way. All improvements to Chuck Wagon Drive from back of curb to back of curb shall be reviewed and approved adjacent to Phase W1 prior to final plat approval of Phase W1. All improvements to Chuck Wagon Drive from back of curb to back of curb north of Phase W1 shall be reviewed and approved prior to final plat approval of the third west phase. All other street improvements including boulevards and sidewalks shall be reviewed and approved prior to final plat approval of each adjacent phase.
10. Heron’s Landing Drive, Nesting Lane, and Audubon Loop shall be designed and built to Low Density Urban Local Street standards including two 10-foot drive lanes, 7-foot parking lanes, curb and gutter, 7-foot boulevards, and 5-foot sidewalks (except where the Secondary Commuter Trail is to be located) within 60-foot rights-of-way. The subdivider shall provide an additional access and utility easement at least one foot wide along the outer edge of the sidewalks and secondary commuter trail along these streets to allow for maintenance.

#### Drainage

11. The subdivider shall submit a complete grading and drainage plan prior to final plat approval of each applicable phase showing proposed grades of streets, proposed drainage facilities, and a storm water pollution prevention plan for all lots, blocks, and other areas meeting Montana DEQ standards and subject to approval of the City Engineer. All drainage facilities shall be constructed in accordance with the approved plan and accommodate the planned runoff from all upgradient phases.

#### Transit

12. The subdivider shall petition for the property to be included in the Missoula Urban Transportation District prior to final plat filing of the first phase.

#### Water System and Sewer System

13. The subdivider shall submit plans for water supply and sewage disposal for review and approval of the City Engineer, City/County Health Department, and Montana Department of Environmental Quality prior to final platting of each applicable phase. Construction of all water supply and sewer systems shall be in accordance with City policies.

#### Solid Waste

14. The subdivider shall submit plans for solid waste disposal for review and approval of the City Engineer, City/County Health Department, and Montana Department of Environmental Quality prior to final platting of each applicable phase.

#### Parkland

15. The subdivider shall meet the parkland dedication requirement as depicted on the Phasing Plan Exhibit and on the Parkland Dedication Exhibit of the application by providing 5.14 acres of dedicated common area to be maintained by the Heron's Landing Homeowners Association.
16. The subdivider shall draft an agreement for review and approval of the Parks and Recreation Department and City Attorney to provide for the dedication of land and/or payment of money prior to final platting of each phase. The agreement shall provide for different circumstances including where more than the required land is dedicated per phase, where an insufficient amount of land is dedicated per phase and cash is also required to make up for the insufficient amount of land, and where refunds may be issued by the City when more land is dedicated than needed to meet the dedication requirement. The agreement shall be submitted, reviewed and approved prior to final plat filing of the first phase.
17. When cash in lieu of parkland is proposed, the amount shall be equal to the fair market value of the amount of land that is statutorily required to be dedicated for that phase. The fair market value shall be determined by a Montana certified general real estate appraiser, hired and paid by the subdivider. Fair market value means the value of the unsubdivided, unimproved land based on the zoning designation that applies to the property at that time. The City reserves the right to require a separate appraisal for each phase.
18. The subdivider shall submit a park and common area landscape and maintenance plan and a boulevard landscaping plan to be reviewed and approved by the City Parks and Recreation Department prior to final plat filing of each applicable phase.

#### Covenants, Conditions, and Restrictions

19. Final covenants, conditions, and restrictions meeting the requirements of City Subdivision Regulations Section 5-020-14.K shall be submitted for review and approval prior to final plat filing of the first phase.

#### Non-Motorized Transportation Facilities

20. The subdivider shall provide five-foot sidewalks along all street frontages (except for where the Secondary Commuter Trail is to be located) and at the proposed mid-block locations depicted on the circulation plan exhibit. The subdivider shall provide a 10-foot Secondary Commuter Trail in the locations, dimensions, and within the rights-of-way and easements proposed in the preliminary plat

phased subdivision submittal and approved by City Council. All sidewalk and trail plans, including specifications for ADA accessibility and safe street crossings, shall be reviewed and approved by the City Engineering and Parks and Recreation departments prior to final plat filing of each applicable phase. Construction of the non-motorized transportation facilities shall occur as proposed in the application submittal and as required to serve each phase.

21. The subdivider shall provide a five-foot ADA accessible asphalt path connecting to existing sidewalks north of Heron's Landing along Chuck Wagon Drive in conjunction with Phase W1 and George Elmer Drive in conjunction with Phase W2 as depicted on the Phase Plan Exhibit.

#### Fire Protection

22. The subdivider shall provide plans for address signage and a fire hydrant plan for review and approval prior to final plat filing of each applicable phase. All approved fire protection improvements shall be installed in accordance with the approved plans.

#### Noxious Weeds

23. The Weed Management and Revegetation Plan for Heron's Landing shall be appended to the covenants, conditions and restrictions. The subdivider shall provide evidence of plan implementation and noxious weed control prior to final plat filing of each phase.

#### Airport Influence Area

24. Each final plat shall include the following statement:

This property is in the airport influence area and subject to the requirements of the Airport Influence Area Resolution. The Heron's Landing Subdivision may also be within an extended approach and departure zone for a proposed second runway as shown in the Airport Authority's 2004 plan and lot owners should be aware of the resultant safety risk. Lot owners should consult the airport layout plan and any relevant documents to determine the status of the proposed runway location at the time of purchase.

**WHEREAS**, the tracts described herein are currently zoned C-RR1 Residential in the County and the recommended zoning in the City is RT 5.4 Residential in accordance with MCA 76-2-303 (3)(a) and Missoula Municipal Code criterion 20.85.040(I)(2c), it is the intention of the City of Missoula to annex this property with the recommended city zoning. FURTHER, the parcel is situated adjacent to City Council Ward Area No. 2 and the Captain John Mullan Neighborhood Council District, and it is the intention of the Council to add this parcel to said Ward and Neighborhood Council District; and

**WHEREAS**, in the judgment of the City Council of the City of Missoula, it is deemed to be in the best interest of the City of Missoula, the inhabitants thereof and the current and future inhabitants of the tracts and parcels of land described herein, which have petitioned for annexation and are within the urban growth boundary, that the boundaries of the City of Missoula shall be extended to include the same within the corporate limits.

**NOW THEREFORE BE IT RESOLVED** that it is the decision of the City Council of the City of Missoula to incorporate and annex into the City's jurisdictional boundary the herein described property, apply city zoning as stated within, and assign the property to the said Ward and Neighborhood Council District; and

**BE IT FURTHER RESOLVED** that the City Clerk, pursuant to Section 76-2-303 and 7-1-4127 MCA, published in the newspaper of general circulation in the City of Missoula, which newspaper is nearest to the said land being considered for annexation, at least once a week for two successive weeks on 8/30/2020 and 9/6/2020, a notice that a resolution on intention to annex the subject property was duly and regularly passed and that for a period of 15-days after the first publication of the notice, the City Clerk accepted expressions of approval or disapproval in writing of this proposed alteration of the boundaries of the city and zoning until 5:00 p.m. on 9/21/2020 and that a City Council public hearing was held Monday, 9/14/2020 at 6:00 p.m. at the regularly scheduled City Council meeting; and

**BE IT FURTHER RESOLVED** that if the city annexation of any lot(s), parcel(s), block(s) or tract(s) of land annexed into the city pursuant to this city annexation resolution or any provision of this resolution is ever held to be invalid or unconstitutional, the City Council hereby declares that any such decision shall not affect the validity of the annexation of the remaining lot(s), parcel(s), block(s) or tract(s) of land annexed into the city or the remaining provisions of this resolution. The City Council hereby declares that it would have passed this resolution and annexed each lot(s), parcel(s), block(s) or tracts(s) of land into the city as well as each provision of this resolution irrespective of the fact that the annexation of any one or more lot(s), parcel(s), block(s) or tract(s) of land annexed into the city or provision of this resolution may have been declared invalid or unconstitutional, and if for any reason the annexation of any lot(s), parcel(s), block(s), tract(s) of land or any provision of this resolution should be declared invalid or unconstitutional, then the annexation of the remaining lot(s), parcel(s), block(s) or tracts(s) of land and resolution provisions are intended to be and shall be in full force and effect as enacted by the City Council.

**PASSED AND ADOPTED** this 21<sup>st</sup> day of September, 2020.

**ATTEST:**

**APPROVED:**

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Martha L. Rehbein, CMC  
City Clerk

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John Engen  
Mayor

(SEAL)