



# City of Libby Libby Montana

[www.cityoflibby.com](http://www.cityoflibby.com)

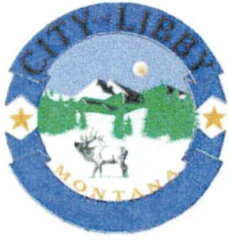
PO Box 1428  
952 E. Spruce Street  
Libby MT, 59923  
(406) 293-2731  
Fax (406) 293-4090

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## Zoning Commission Agenda Monday, September 9, 2024 @ 6:00pm City Hall, Council Chambers

1. Call Meeting to Order
2. Review Annexation Petition for 803 Michigan Ave. and make a recommendation for zoning prior to annexation.
3. Review Re-zoning application for Asa Wood properties.
4. Public Comment
5. Adjournment

To access this meeting electronically with ZOOM,  
Dial: 253-215-8782  
Meeting ID: 4042719951  
Password: 151041  
Posted: 9/5/24



CITY OF LIBBY

952 E. SPRUCE | POST OFFICE BOX 1428, LIBBY MT, 59923

PHONE 406-293-2731 | FAX 406-293-4090 | WEBSITE: [www.cityoflibby.com](http://www.cityoflibby.com)

PETITION FOR ANNEXATION AND INITIAL ZONING

Project Name	803 Michigan Avenue	Property Address	803 Michigan Avenue
NAME OF APPLICANT	Eric Clark	Applicant Phone	406-334-1500
Applicant Address	538 Pipe Creek Hill Rd.	City, State, Zip	Libby, MT 59923
Applicant Email Address	ericclark09@gmail.com		
<i>If not current owner, please attach a letter from the current owner authorizing the applicant to proceed with the application.</i>			
OWNER OF RECORD	Eric + Sara Clark	Owner Phone	406-334-1500
Owner Address	538 Pipe Creek Hill Rd.	City, State, Zip	Libby, MT 59923
Owner Email Address	ericclark09@gmail.com		
CONSULTANT (ARCHITECT/ENGINEER)	Phone		
Address	City, State, Zip		
Email Address			
Address	City, State, Zip		
Email Address			
List <u>ALL</u> owners (any individual or other entity with an ownership interest in the property):			
Eric Clark + Sara Clark			
Legal Description (please provide a full legal description for the property and attach a copy of the most recent deed):			
EAST LIBBY AMENDED SECTION 3 TOWNSHIP 30 NORTH, RANGE 31 WEST, BLOCK 6, LOT 7A, ACRES 1.38, CS 4917 RB			
(DEED ATTACHED)			
Please initial here indicating that you have verified the description with the Lincoln County Clerk and Recorder and that the description provided is in a form acceptable to record at their office.			

1. Land In project (acres) 1.38 acres  
 2. Current estimated market value \$298,400  
 Estimated market value of proposed development at 50% build out \$ Estimated 250,000  
 market value of proposed development at 100% build out \$ 500,000

3. Is there a Rural Fire Dept RSID or Bond on this property? Yes \_\_\_\_\_ No X  
 If yes, remaining balance is: \$ \_\_\_\_\_

4. Present zoning of property None  
 5. Proposed zoning of property Business/Residential

6. State the changed or changing conditions that make the annexation necessary:  
Need for water & sewer utilities.

**HOW WILL THE PROPOSED ZONING DISTRICT ACCOMPLISH THE INTENT AND PURPOSE OF (attach separate sheet w/ answers):**

- a. Promoting the Growth Policy
- b. Lessening congestion in the streets and providing safe access
- c. Promoting safety from fire, panic and other dangers
- d. Promoting the public interest, health, comfort, convenience, safety and general welfare
- e. Preventing the overcrowding of land
- f. Avoiding undue concentration of population
- g. Facilitating the adequate provision of transportation, water, sewage, schools, parks and other public facilities
- h. Giving reasonable consideration to the character of the district
- i. Giving consideration to the peculiar suitability of the property for particular uses
- j. Protecting and conserving the value of buildings
- k. Encouraging the most appropriate use of land by assuring orderly growth

I hereby certify under penalty of perjury and the laws of the State of Montana that the information submitted herein, on all other submitted forms, documents, plans or any other information submitted as a part of this application, to be true, complete, and accurate to the best of my knowledge. Should any information or representation submitted in connection with this application be incorrect or untrue, I understand that any approval based thereon may be rescinded, and other appropriate action taken. The signing of this application signifies approval for the Libby City staff to be present on the property for routine monitoring and inspection during the approval and development process.

[Signature]  
 Applicant Signature

6-10-2024  
 Date

- a. Pickleball and the other sports that are anticipated to be held at this location are a growing desire amongst many different demographics of residents within Libby (and nationwide).
- b. The property has ample designated parking areas and four entrances/exits to the building. Additional parking space can be created if needed.
- c. The state inspector, Nathan Brush, has reviewed and visited the project on multiple occasions. A site map was drafted and provided to Nathan. This insured appropriate building materials were used for siding relative to distances from other properties and/or structures. A state commercial permit for the structure has already been issued, permit #2024-BLDG-000137, and a copy is attached to this report.
- d. As stated in item "a", this building and business is almost directly focused on a growing sport and increasing physical activity (especially during the winter months) for our local community.
- e. Plans for the lot include perimeter space, ample vehicle access to current and future structures, and leaving ground space for decorative landscaping.
- f. Aside from the potential of venues or events, normal/regular usage is not likely to exceed 30 to 50 people, as that is already beyond the quantity of sport usage for individual courts or activities.
- g. The easement access road to the building is amply sized to accommodate larger quantities of traffic. Connection to city and water utilities is anticipated, and currently the development of those utilities/access points will not affect current adjacent traffic.
- h. This is the ideal location for a sports facility as it is closely located to the local community tennis courts (managed by USERVE Libby inc.), a public grass area, a public parking area, some short walking trails, and the public city hall building.
- i. This property is one of the only parcel's that is in walking distance to most Libby city residents, and is large enough to accommodate an indoor sports facility.
- j. This building/property (and any future development) is constructed in a format and color scheme that is designed to blend with the surrounding combination of residential, commercial, and forested backdrop. All development (including landscaping) will be made in an effort to keep with a more subtle and complementary styling, and will be of long lasting and low maintenance materials.
- k. This particular property use and business structure should ebb and flow with the desires of the community within the sports/athletics realm. The structure(s) have the ability to change or modify with consumer demand and usage (whether quantitative or type) and can be managed with regulating time and type via a combination of open usage and reservations.

Return to:  
Samuel Sikes  
City Administrator  
PO Box 1428  
Libby, MT. 59923

311682 BOOK: PF PERM/FILES PAGE: 15223 Pages: 6  
STATE OF MONTANA LINCOLN COUNTY  
RECORDED: 08/07/2024 10:55 KOI: ANNEXATION  
CORRINA BROWN CLERK AND RECORDER  
FEE: \$48.00 BY: Corrina Brown  
FOR: CITY OF LIBBY SAM SIKES, PO BOX 1428, LIBBY MT 59923

PETITION TO ANNEX

The undersigned hereinafter referred to as Petitioner respectfully petitions the City Council of the City of Libby for annexation of real property described below into the City of Libby.

The Petitioner requesting City of Libby annexation of the property described herein and further described in Exhibit A hereby mutually agree with the City of Libby that immediately upon annexation of the land all City of Libby municipal services will be available 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 hereby states that there is no need to prepare a Municipal Annexation Service Plan for this annexation pursuant to Section 7-2-4610, MCA, since the parties are in agreement as to the provision of municipal services to the property requested to be annexed.

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 said property, and shall be binding upon heirs, assigns, successors in interest, purchasers and any and all subsequent holders or owners of the described property.

The City of Libby hereby agrees to allow Petitioner to connect and receive all available utilities from the City of Libby, excluding solid waste services. MCA 7-204736 prohibits the city from providing solid waste services to this property for a minimum of five years from the date of annexation.

A valid legal description, recordable by the Lincoln County Clerk and Recorder must be attached as Exhibit A.

Sam J. Clark 6-6-24  
Petitioner/Owner Date

Sam M. Clark 6-6-24  
Petitioner/Owner Date

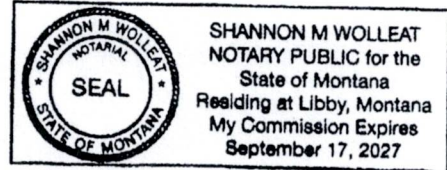
STATE OF MONTANA

County of Lincoln ; ss

On this the 6 day of June, 2024, before me, the undersigned, a Notary Public for the State of Montana, personally appeared ERIC CLARK, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notary Seal the day and year in this certificate first above written.

[Signature]  
\_\_\_\_\_  
Signature, Notary Public, State of \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_



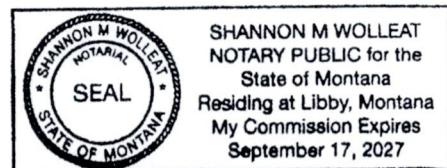
STATE OF MONTANA

County of Lincoln : ss

On this the 6 day of June, 2024, before me, the undersigned, a Notary Public for the State of Montana, personally appeared SARA M. CLARK, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notary Seal the day and year in this certificate first above written.

[Signature]  
\_\_\_\_\_  
Signature, Notary Public, State of \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_



Return To:  
First American Title  
120 West 6<sup>th</sup> St.  
Libby, MT 59923

303888 BOOK: 399 RECORDS PAGE: 806 Pages: 2  
STATE OF MONTANA LINCOLN COUNTY  
RECORDED: 12/07/2022 10:06 KOI: DEED  
ROBIN A. BENSON CLERK AND RECORDER  
FEE: \$15.00 BY: *Michelle Lynn Depister*  
FOR: FLYING S TITLE & ESCROW 120 W 6TH STREET STE 5, LIBBY, MT

WARRANTY DEED  
(JOINT TENANCY)

1069373

FOR VALUE RECEIVED, LINCOLN COUNTY PORT AUTHORITY, the grantors, do hereby grant, bargain, sell and convey unto ERIC CLARK and SARA CLARK of ~~588 P. Ave. 59923~~ Libby, MT 59923, the grantees, as joint tenants (and not tenants in common), and to the survivor of said named joint tenants, and to the heirs and assigns of such survivor, the following described premises, in Lincoln County, Montana, to wit:

Lot 18A Libby Health Center Tracts according to the map or plat thereof on file in the office of the Clerk and Recorder, Lincoln County, Montana. Plat No. 5240

And

An irregular tract of land lying east from the City of Libby, Montana, Lincoln County, in the SW1/4SE1/4 of Sections 3, Township 30 North, Range 31 West, P.M.M., and more particularly described as Lot 7A of C.S. No. 4917RB

Subject to the following restriction; The Grantee agrees not to resell the above stated property for five years after the date of recording of this deed.

Further subject to;

That certain Declaration of Environmental Covenant/Institutional Control on Real Property recorded July 5, 2022 as Document No. 301570 records of Lincoln County. Which entitle DEQ to remedy of specific performance against the owner of the property for violations of the Institutional Control and requires the following notice to be included in this , and all future conveyances:

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN INSTITUTIONAL CONTROL. Because of potential or known LA asbestos, development of residential activities on this property without the prior written approval of DEQ is not permitted. The full restrictions must be reviewed within the original Institutional Control, which is dated July 5, 2022 and recorded July 5, 2022, as document number 301570 in the records of Lincoln County, Montana.

SUBJECT TO covenants, conditions, restrictions, provisions, easements and encumbrances apparent or of record.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, as joint tenants with right of survivorship (and not tenants in common) and to their heirs and assigns of the survivor of said named joint tenants forever. And the said Grantors do hereby covenant to and with the said Grantees, that they are the owners in fee simple of said premises; that it is free from all encumbrances and that they will warrant and defend the same from all lawful claims whatsoever.

DATED this 22<sup>nd</sup> day of November, 2022.

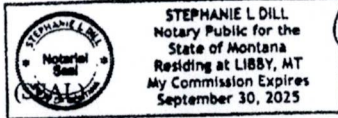
  
Jerry Bennett, Chairman

Return To:  
First American Title  
120 West 6<sup>th</sup> St.  
Libby, MT 59923

STATE OF MONTANA )  
 )ss.  
County of Lincoln )

On this 22<sup>nd</sup> day of November, 2022, before me, a Notary Public in and for said State, personally appeared Jerry Bennett, Chairman known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand affixed my Notarial Seal the day and year first above written.



Stephanie L. Dill  
Printed Name: Stephanie L. Dill  
Notary Public for State of Montana  
Residing at Libby  
My commission expires: 9-30-2025



# CERTIFICATE OF SURVEY

## "BOUNDARY LINE ADJUSTMENT"

LOTS 6 and 7, BLOCK 6, AMENDED EAST LIBBY, PLAT No. 16

LOT 42A, PLAT No. 6375

SW1/4 SE1/4, SECTION 3, NW1/4 NE1/4, SECTION 10, T.30N., R.31W., P.M., MT.

LINCOLN COUNTY, MONTANA

FOR: LINCOLN COUNTY PORT AUTHORITY & CITY OF LIBBY DATE: SEPTEMBER, 2022

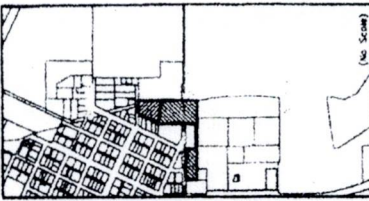
### LEGAL DESCRIPTION: LOT 6A

SW1/4 Section 3, T.30N., R.31W., P.M., MT. (Plat No. 16). The boundaries of the lots in Block 6, Amended East Libby, Plat No. 16, are as follows: ...

### LEGAL DESCRIPTION: LOT 7A

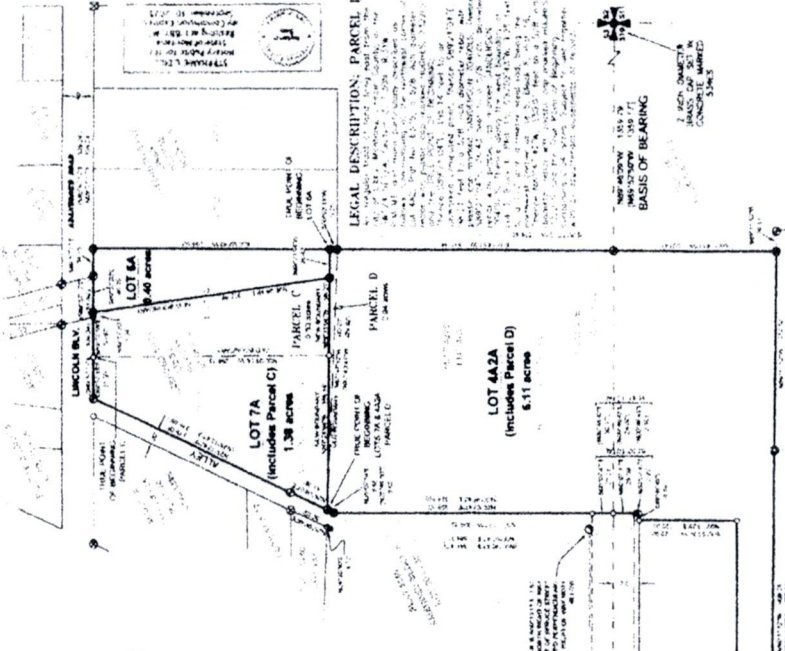
SW1/4 Section 3, T.30N., R.31W., P.M., MT. (Plat No. 16). The boundaries of the lots in Block 6, Amended East Libby, Plat No. 16, are as follows: ...

### VICINITY DIAGRAM



### LEGAL DESCRIPTION: LOT 4A2A

SW1/4 Section 3, T.30N., R.31W., P.M., MT. (Plat No. 6375). The boundaries of the lots in Block 6, Amended East Libby, Plat No. 6375, are as follows: ...



### LEGEND SYMBOLS AND NOTES

- SECTION CORNER MONUMENT, AS NOTED
- 5/8" DIAMETER STEEL ROD
- 4 1/2" DIAMETER STEEL ROD
- 4" UNGRADED 5/8" HIGH REBAR
- 4" 1/2" DIAMETER STEEL ROD
- 5/8" DIAMETER STEEL ROD WITH PLASTIC CAP
- 4" UNGRADED 5/8" HIGH REBAR WITH PLASTIC CAP
- 4" 1/2" DIAMETER STEEL ROD WITH PLASTIC CAP
- 4" UNGRADED 5/8" HIGH REBAR WITH PLASTIC CAP
- 4" 1/2" DIAMETER STEEL ROD WITH PLASTIC CAP
- 4" UNGRADED 5/8" HIGH REBAR WITH PLASTIC CAP
- 4" 1/2" DIAMETER STEEL ROD WITH PLASTIC CAP
- 4" UNGRADED 5/8" HIGH REBAR WITH PLASTIC CAP

### LEGEND SYMBOLS

- ADJACENT BOUNDARY
- SECTION CORNER MONUMENT
- SECTION LINE/CENTRAL LINE
- MONUMENT
- MONUMENT WITH PLASTIC CAP
- MONUMENT WITH PLASTIC CAP
- PLAT NO. 16, RECORD
- PLAT NO. 6375, RECORD
- PLAT NO. 704, RECORD

### LEGAL DESCRIPTION: PARCEL C

SW1/4 Section 3, T.30N., R.31W., P.M., MT. (Plat No. 6375). The boundaries of the lots in Block 6, Amended East Libby, Plat No. 6375, are as follows: ...

### LEGAL DESCRIPTION: PARCEL D

SW1/4 Section 3, T.30N., R.31W., P.M., MT. (Plat No. 6375). The boundaries of the lots in Block 6, Amended East Libby, Plat No. 6375, are as follows: ...



**KSI**  
LAND SURVEYING, ENGINEERING, ARCHITECTURE, INTERIOR DESIGN  
1000 WEST MAIN STREET, LIBBY, MONTANA 59701-0231

### PURPOSE OF SURVEY AND OWNER'S EXEMPTION CERTIFICATION

The purpose of this survey is to adjust the boundaries between adjacent lots in Block 6, Amended East Libby, Plat No. 16, and Lot 42A, Plat No. 6375, in Lincoln County, Montana. The owner certifies that this survey is for the purpose of a boundary line adjustment and is exempt from the provisions of the Montana Survey Act, Chapter 10, Part 2, of the Montana Code Annotated.

### ACKNOWLEDGMENT

I, the undersigned, being duly qualified and sworn, do hereby certify that the foregoing is a true and correct copy of the original survey and the same was made and recorded by me or under my direct supervision and in my presence.

### ACKNOWLEDGMENT

I, the undersigned, being duly qualified and sworn, do hereby certify that the foregoing is a true and correct copy of the original survey and the same was made and recorded by me or under my direct supervision and in my presence.

### REFERENCED SURVEYS & DOCUMENTS

Plat No. 16, Amended East Libby, Lincoln County, Montana, recorded in Book 100, Page 16, of the Lincoln County Records.  
Plat No. 6375, Lot 42A, Lincoln County, Montana, recorded in Book 100, Page 6375, of the Lincoln County Records.

### METHOD OF SURVEY

The survey was made by the method of traverse, using a total station and a steel tape. The bearings were measured by the method of double-sighting, and the distances were measured by the method of double-taping.

### BASIS OF BEARING

The bearings were measured by the method of double-sighting, and the distances were measured by the method of double-taping. The bearings were reduced to magnetic north by the use of the magnetic declination for the year 2022.

### BOUNDARY ADJUSTMENT NOTE

The boundaries between adjacent lots in Block 6, Amended East Libby, Plat No. 16, and Lot 42A, Plat No. 6375, have been adjusted to conform with the provisions of the Montana Survey Act, Chapter 10, Part 2, of the Montana Code Annotated.

### LAND SURVEYOR'S CERTIFICATION

I, the undersigned, being duly qualified and sworn, do hereby certify that the foregoing is a true and correct copy of the original survey and the same was made and recorded by me or under my direct supervision and in my presence.

### EXAMINER'S AND SUPERVISOR'S CERTIFICATION

I, the undersigned, being duly qualified and sworn, do hereby certify that the foregoing is a true and correct copy of the original survey and the same was made and recorded by me or under my direct supervision and in my presence.

### COUNTY TREASURER'S CERTIFICATION

I, the undersigned, being duly qualified and sworn, do hereby certify that the foregoing is a true and correct copy of the original survey and the same was made and recorded by me or under my direct supervision and in my presence.

### CLERK AND RECORDER'S CERTIFICATION

I, the undersigned, being duly qualified and sworn, do hereby certify that the foregoing is a true and correct copy of the original survey and the same was made and recorded by me or under my direct supervision and in my presence.

CERTIFICATE OF SURVEY No. 4917 RB



**State of Montana**  
BUILDING PERMIT  
BUILDING CODES PROGRAM  
301 S. PARK, PO BOX 200517  
HELENA, MT 59620-0517  
(406)-841-2056

**Date:** 03/08/2024

**2024-BLDG-000137**  
**Expires:** 09/08/2025

**County:** LINCOLN  
**Inspector:** Nathan Brush

**Location:** 803 Michigan Avenue Libby, Mt 59923  
**Phone:** 406-475-5266

A handwritten signature in black ink, appearing to be "L. Brush", written over a horizontal line.

Bureau Chief, Building Codes Program

For all work done under this permit number, the permittee accepts full responsibility for compliance with currently adopted building codes as amended by administrative rule, and other applicable State statutes.  
Granted in accordance with Title 50, Chapter 60, Part 2, MCA, and all other administrative rules promulgated there under.

Granting of this provisional permit does not implicitly or expressly preempt or authorize violation of the provisions of any other state or local law relating to or regulating building construction. It remains the responsibility of the permit holder to comply with the State Building Codes regardless of whether non-complying items were identified during plan review or during inspection. Check local zoning requirements. State licensing laws require that only properly licensed personnel be used to install electrical or plumbing systems on commercial or public projects.

Check local zoning requirements. State licensing laws require that only properly licensed personnel be used to install electrical or plumbing systems on commercial or public projects.

**DISABILITY ACCESS NOTICE:** Compliance with the requirements of the state building code for physical accessibility to persons with disabilities does not necessarily guarantee compliance with the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1972, the Fair Housing Amendments Act of 1988, Title 49, Chapter 2, commonly known as the Montana Human Rights Act, or other similar federal, state, or local laws that mandate accessibility to commercial construction or multifamily housing.

[BuildingCodes.mt.gov](http://BuildingCodes.mt.gov)

406-841-2056

[ebiz.mt.gov/bcb](http://ebiz.mt.gov/bcb)

Return to:  
Samuel Sikes  
Libby City Administrator  
P.O. Box 1428  
Libby, MT 59923

311693 BOOK: 406 RECORDS PAGE: 792 Pages: 3  
STATE OF MONTANA LINCOLN COUNTY  
RECORDED: 08/07/2024 4:30 KOI: AFFIDAVIT  
CORRINA BROWN CLERK AND RECORDER  
FEE: \$24.00 BY: Corrina Brown  
FOR: ERIC CLARK 538 PIPE CREEK HILL RD, LIBBY, MT 59923

### WAIVER OF PROTEST TO ANNEXATION

The undersigned hereinafter referred to as Petitioner(s) respectfully petitions the City of Libby for municipal services from the City of Libby, such specific service(s) being: Water Services, Sewer Services, Stormwater Drainage, Street Connectivity. Please list requested services: Water and Sewer Services.

The Petitioner(s) requesting City of Libby municipal services described herein is the fee owner of that real property described in Exhibit A attached hereto and fully incorporated herein by this reference.

In consideration of receiving the above-described municipal services from the City of Libby, the Petitioner(s) hereby agree to waive all rights of protest to annexation that the Petitioner(s) may have now, under Title 7, Chapter 2 MCA, or under any future federal, state or local law.

The property described in Exhibit A shall be annexed upon the expiration of the TEDD or at any time under any future federal, state, or local laws that allow for annexation as it is contiguous with the City of Libby incorporated limits and received two or more municipal services including water, sewer, storm drainage, or street connectivity.

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 holders or owners of the property described in Exhibit A.

The Petitioner(s) further acknowledge(s) that in the event the subject property is annexed into the City of Libby, the subject property shall be entitled to receive certain municipal services from the City and pursuant to MCA 7-6-1601 to 7-6-1604 the City shall have the right to charge impact fees for this new demand upon the City services.

MCA 7-2-473(6) prohibits the city from providing solid waste services to this property for a minimum of 5 years from date of annexation.

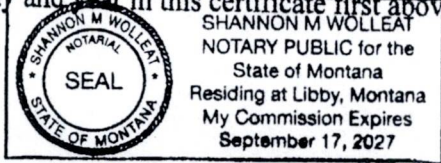
Eric J. Clark 8-7-24  
Petitioner/Owner Date  
Sam M. Clark 8-7-24  
Petitioner/Owner Date

NOTE: You must attach an Exhibit A that provides a bona fide legal description of the property to be annexed.

STATE OF MONTANA )  
):ss  
County of Lincoln )

On this 7<sup>th</sup> day of August, 2024, before me, the undersigned, a Notary Public for the State of Montana, personally appeared ERIC J. Clark and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

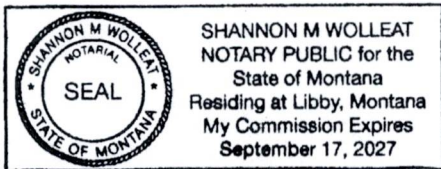


[Signature]  
Notary Public, State of Montana  
Residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

STATE OF MONTANA )  
):ss  
County of Lincoln )

On this 7<sup>th</sup> day of August, 2024, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Sara M. Clark and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.



[Signature]  
Notary Public, State of Montana  
Residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

**EXHIBIT 'A'**

**LEGAL DESCRIPTION:**

**Lot 18A, Libby Health Center Tracts, according to the plat thereof on file in the office of the Clerk and Recorder. Plat Number 5240.**

**AND**

**An irregular tract of land lying east from the city of Libby, Montana, Lincoln County, in the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3, Township 30 North, Range 31 West and more particularly described as Lot 7 A of C.S. No. 4917RB.**

**Prior to issuance this legal description must be put of record in the office of the Clerk and Recorder, Lincoln County, Montana.**



**RESOLUTION NO. ????**

**A RESOLUTION OF INTENTION EXTENDING THE CORPORATE LIMITS OF THE CITY OF LIBBY, MONTANA, TO ANNEX WITHIN THE BOUNDRIES OF THE CITY AN IRREGULAR TRACT OF LAND LYING EAST OF THE CITY OF LIBBY, FOR WHICH THE OWNERS HAVE PETITIONED FOR ANNEXATION AND DESCRIBED HEREIN. (SW1/4SE1/4 OF S3, T30 N, R31 W, Lot 7A of C.O.S. 4917RB)**

**LEGAL DESCRIPTION:** An irregular tract of land, lying east from the city of Libby, Montana, Lincoln County, in the SW ¼ SE ¼, Section 3, T30N, R31W, P.M.,MT. and more particularly described as follows; Commencing at the northwest corner of Lot 42A, Plat No. 6375, a 5/8 inch diameter rebar with plastic cap marked HUGHES, 7322LS and the TRUE POINT OF BEGINNING; Thence N25°04'07"E, 51.06 feet to a 5/8 inch diameter rebar with a plastic cap marked HUGHES, 7322LS; Thence N25°13'47"E, 276.05 feet to a 5/8 inch diameter rebar with plastic cap marked HUGHES, 7322LS, lying on the southerly right-of-way limit of abandoned Lincoln Blvd.; Thence along said road right-of-way limit the following three courses; Thence S89°57'18"E, 53.39 feet to an unmarked computed point; Thence S89°57'18"E, 50.87 feet to a 5/8 inch diameter rebar with a plastic cap marked HUGHES, 7322LS; Thence S89°57'20"E, 5.34 feet to a 5/8 inch diameter rebar with a plastic cap marked SANDERSON 70400LS; Thence leaving said road right-of-way limit S08°26'49"E, 302.49 feet to a 5/8 inch diameter rebar with plastic cap marked SANDERSON 70400LS; Thence S89°21'04"E, 98.21 feet to an unmarked computed point; Thence S89°21'04"E, 195.14 feet to a 5/8 inch diameter rebar with plastic cap marked HUGHES, 7322LS and the True Point of Beginning, containing 1.38 acres. Subject to and together with all appurtenant easements of record.

**WHEREAS**, Eric and Sara Clark, 100% owners of the property described herein, filed a petition with the City Administrator on 10 June 2024 requesting annexation; and therefore, the City Council will consider this petition for annexation pursuant to the statutory Annexation by Municipalities Providing Services method set forth in Title 7 Chapter 2 Part 47 Section 4705; and

**WHEREAS**, the property described herein is currently non-zoned in Lincoln County within the Kootenai Business Park Targeted Economic Development District (TEDD), it is the intention of the City of Libby to consider annexing the property with the city zoning of Business Residence; and

**WHEREAS**, the City Council did on 3 September 2024 set a public hearing for 7 October 2024 at its regularly scheduled City Council Meeting to hear all matters pertaining to the annexation of the above-described parcel; and

**WHEREAS**, the City Clerk will publish notice of such proposed extension of the city limits on September 13<sup>th</sup> and 27<sup>th</sup> 2024, as provided by Section 76-2-303 M.C.A.; and

**WHEREAS**, the City Council will on the 7th day of October 2024, hear all matters pertaining to the annexation and zoning of the herein before described parcel; and

**WHEREAS**, the Libby City Council will determine if it is in the best interest of the City of Libby and the inhabitants thereof as well as the current and future inhabitants of the lands to be annexed that are described herein, which lands are contiguous to the corporate limits of the City of Libby, be annexed into the City of Libby and it is hereby declared to be the intent of the City of Libby that the corporate limits of the City of Libby be extended to include said lands described herein within the limits of the City of Libby.

**NOW THEREFORE, BE IT RESOLVED**, that it is the intention of the city that the corporate limits of the City of Libby be extended to annex the tract of land, herein described and shown on Exhibit A attached hereto.

**PASSED AND ADOPTED** this 3rd day of September 2024.

Attest:

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Peggy Williams, Mayor

---

Leann Monigold, Clerk/Treasurer



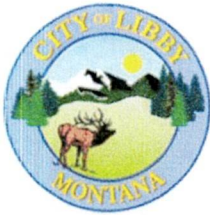
## Notice of Public Hearing

The City of Libby will hold a Public Hearing on Monday, October 7th, 2024, in the Council Chambers of City Hall during the 7:00 pm Council Meeting. The City Council will consider property owner requested annexation and zoning for 1.38 acres located on Michigan Ave. across from City Hall. The Public Hearing is to hear from anyone regarding the annexation.

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For information contact the City Administrator at 293-2731, [city.admin@cityoflibby.com](mailto:city.admin@cityoflibby.com), or stop by City Hall at 952 E. Spruce St.

Advertised on 13 and 27 September 2024



# City of Libby Libby Montana

www.cityoflibby.com

PO Box 1428  
952 E. Spruce Street  
Libby MT, 59923  
(406) 293-2731  
Fax (406) 293-4090

## NOTICE OF PUBLIC HEARING

OCTOBER 7, 2024, DURING THE 7:00PM MEETING  
COUNCIL CHAMBERS – CITY HALL

**NEW BUSINESS:** Each new agenda item will be introduced by the Mayor (or assigned liaison) with a description of the item and explanation for the recommended action. Following council discussion on each item will be an opportunity for public comment prior to any action taken. **Public comment is limited to 3 minutes concerning the agenda item being discussed only.**

The Libby City Council, during the regularly scheduled meeting, will hold a Public Hearing to receive comments concerning property owner requested annexation and zoning of property located on Michigan Ave. beside City Hall.

### Notes:

The manner of Addressing Council:

- Each person, not a Council member shall address the Council, at the time designated in the agenda or as directed by the Council, by stepping to the podium or microphone, giving that person's name and address in an audible tone of voice for the record, unless further time is granted by the Council, **shall limit the address to the Council to three minutes.**
- All remarks shall be addressed to the Council as a body and not to any member of the Council or Staff with no personal remarks allowed.
- No person, other than the Council and the person having the floor, shall be permitted to enter any discussion either directly or through a member of the Council, without the permission of the Presiding Officer.
- Any person making personal, impertinent, or slanderous remarks or who shall become boisterous or disruptive during the council meeting shall be forthwith barred from further presentation to the council by the presiding officer unless permission to continue by granted by a majority vote of the council.

### ATTENTION:

To access this meeting electronically with ZOOM,

Dial: 253-215-8782

Meeting ID: 4042719951

Password: 151041

Posted: 09/04/24

**RESOLUTION NO. ?????**

**A RESOLUTION EXTENDING THE CORPORATE LIMITS OF THE CITY OF LIBBY, MONTANA, TO ANNEX WITHIN THE BOUNDRIES OF THE CITY AN IRREGULAR TRACT OF LAND LYING EAST OF THE CITY OF LIBBY, FOR WHICH THE OWNERS HAVE PETITIONED FOR ANNEXATION AND DESCRIBED HEREIN.  
(SW1/4SE1/4 OF S3, T30 N, R31 W, Lot 7A of C.O.S. 4917RB)**

**LEGAL DESCRIPTION:** An irregular tract of land, lying east from the city of Libby, Montana, Lincoln County, in the SW ¼ SE ¼, Section 3, T30N, R31W, P.M.,MT. and more particularly described as follows; Commencing at the northwest corner of Lot 42A, Plat No. 6375, a 5/8 inch diameter rebar with plastic cap marked HUGHES, 7322LS and the TRUE POINT OF BEGINNING; Thence N25°04'07"E, 51.06 feet to a 5/8 inch diameter rebar with a plastic cap marked HUGHES, 7322LS; Thence N25°13'47"E, 276.05 feet to a 5/8 inch diameter rebar with plastic cap marked HUGHES, 7322LS, lying on the southerly right-of-way limit of abandoned Lincoln Blvd.; Thence along said road right-of-way limit the following three courses; Thence S89°57'18"E, 53.39 feet to an unmarked computed point; Thence S89°57'18"E, 50.87 feet to a 5/8 inch diameter rebar with a plastic cap marked HUGHES, 7322LS; Thence S89°57'20"E, 5.34 feet to a 5/8 inch diameter rebar with a plastic cap marked SANDERSON 70400LS; Thence leaving said road right-of-way limit S08°26'49"E, 302.49 feet to a 5/8 inch diameter rebar with plastic cap marked SANDERSON 70400LS; Thence S89°21'04"E, 98.21 feet to an unmarked computed point; Thence S89°21'04"E, 195.14 feet to a 5/8 inch diameter rebar with plastic cap marked HUGHES, 7322LS and the True Point of Beginning, containing 1.38 acres. Subject to and together with all appurtenant easements of record.

**WHEREAS**, Eric and Sara Clark, 100% owners of the property described herein, filed a petition with the City Administrator on 10 June 2024 requesting annexation; and therefore, the City Council considered this petition for annexation pursuant to the statutory Annexation by Municipalities Providing Services method set forth in Title 7 Chapter 2 Part 47 Section 4705; and

**WHEREAS**, the property described herein is currently non-zoned in Lincoln County within the Kootenai Business Park Targeted Economic Development District (TEDD), it is the intention of the City of Libby to annex the property with the city zoning of Business Residence; and

**WHEREAS**, the City Clerk did publish notice of such proposed extension of the city limits on September 13<sup>th</sup> and 27<sup>th</sup> 2024, as provided by Section 76-2-303 M.C.A.; and

**WHEREAS**, the City Council did on 7 October 2024 hold a Public Hearing during its regularly scheduled City Council Meeting to hear all matters pertaining to the annexation of the above-described parcel; and

**WHEREAS**, it is hereby determined by the Libby City Council to be in the best interest of the City of Libby and the inhabitants thereof as well as the current and future inhabitants of the lands to be annexed that are described herein, which lands are contiguous to the corporate limits of the City of Libby, be annexed into the City of Libby and it is hereby declared to be the intent of the City of Libby that the corporate limits of the City of Libby be extended to include said lands described herein within the limits of the City of Libby.

**NOW THEREFORE, BE IT RESOLVED**, that the corporate limits of the City of Libby be extended to annex the tract of land, herein described and shown on Exhibit A attached hereto; and

**BE IT FURTHER RESOLVED** that the tract of land herein is zoned Business Residence; and

**BE IT FURTHER RESOLVED** that the minutes of City Council of the City of Libby, Montana, incorporate this resolution; and

**BE IT FURTHER RESOLVED** that the City Clerk is hereby instructed to certify a copy of said resolution so entered upon said minutes. **FURTHER** that this document shall be filed with the Office of the Clerk and Recorder of Lincoln County. Pursuant to Section 7-2-4607, Montana Code Annotated, this annexation shall become effective from and after the date of the filing of said document with the Lincoln County Clerk and Recorder.

**PASSED AND ADOPTED** this 7th day of October 2024.

Attest:

\_\_\_\_\_  
Peggy Williams, Mayor

\_\_\_\_\_  
Leann Monigold, Clerk/Treasurer

# Montana Code Annotated 2023

TITLE 7. LOCAL GOVERNMENT

CHAPTER 2. CREATION, ALTERATION, AND ABANDONMENT OF LOCAL GOVERNMENTS

Part 47. Annexation With the Provision of Services

## Annexation By Municipalities Providing Services

**7-2-4705. Annexation by municipalities providing services.** (1) The governing body of any municipality may extend the corporate limits of the municipality under the procedure set forth in this part upon the initiation of the procedure by the governing body itself.

(2) Whenever the owners of real property situated outside the corporate boundaries of any municipality, but contiguous to the municipality, desire to have real estate annexed to the municipality, they shall file with the governing body of the municipality a petition bearing the signatures of 51% of the real property owners of the area sought to be annexed and requesting a resolution stating that the municipality intends to consider annexation. Upon passage of the resolution, the governing body shall follow the procedure in **7-2-4707** through **7-2-4713** and **7-2-4731**(3).

**History:** En. 11-517 by Sec. 4, Ch. 364, L. 1974; R.C.M. 1947, 11-517(part); amd. Sec. 19, Ch. 250, L. 1979; amd. Sec. 14, Ch. 66, L. 1995; amd. Sec. 4, Ch. 186, L. 2011.

# Montana Code Annotated 2023

## TITLE 7. LOCAL GOVERNMENT

### CHAPTER 2. CREATION, ALTERATION, AND ABANDONMENT OF LOCAL GOVERNMENTS

#### Part 47. Annexation With the Provision of Services

## Protest

**7-2-4710. Protest.** (1) For a period of 45 days after the public hearing provided for in **7-2-4707** through **7-2-4709**, the governing body of the municipality shall accept written comments approving or disapproving the proposed annexation from real property owners of the area proposed to be annexed.

(2) If a majority of the real property owners disapprove of the proposed annexation in writing, further proceedings under this part relating to the area or any part of the area proposed to be annexed may not be considered or acted upon by the governing body on its own initiative, without petition, for a period of 1 year from the date of disapproval.

**History:** En. 11-520 by Sec. 7, Ch. 364, L. 1974; R.C.M. 1947, 11-520(8); amd. Sec. 1, Ch. 586, L. 1985; amd. Sec. 15, Ch. 66, L. 1995.

# Montana Code Annotated 2023

TITLE 7. LOCAL GOVERNMENT

CHAPTER 2. CREATION, ALTERATION, AND ABANDONMENT OF LOCAL GOVERNMENTS

Part 47. Annexation With the Provision of Services

## Preservation Of Existing Garbage Or Solid Waste Service In Event Of Annexation

**7-2-4736. Preservation of existing garbage or solid waste service in event of annexation.** A municipality that annexes or incorporates additional area within the service area of a motor carrier authorized by the public service commission to provide that service may not provide exclusive garbage and solid waste disposal service or impose charges or assessments for services not provided to any person or business located in the annexed or incorporated area except upon a proper showing to the public service commission that the existing carrier is unable to or refuses to provide adequate service to the annexed or incorporated area.

**History:** En. 11-526 by Sec. 1, Ch. 131, L. 1977; R.C.M. 1947, 11-526; amd. Sec. 1, Ch. 434, L. 1979; amd. Sec. 1, Ch. 381, L. 1987; amd. Sec. 1, Ch. 301, L. 2011.

*LIBBY DOES NOT PROVIDE SOLID WASTE SERVICES. SEWAGE, EXCEPT SLUDGE FROM THE WWTP, IS NOT CONSIDERED SOLID WASTE. j*  
(SEE MCA 75-10-103)

# Montana Code Annotated 2023

## TITLE 75. ENVIRONMENTAL PROTECTION

### CHAPTER 10. WASTE AND LITTER CONTROL

#### Part 1. Plans, Funds, and Administration

## Definitions

**75-10-103. Definitions.** Unless the context clearly requires otherwise, in this part, the following definitions apply:

(1) "Board" means the board of environmental review provided for in **2-15-3502**.

(2) "Container site" means a solid waste management facility that:

(a) is generally open to the public for the collection of solid waste that is generated by more than one household or firm and that is collected in a refuse container with a total capacity of not more than 50 cubic yards; or

(b) receives waste from waste collection vehicles and:

(i) receives no more than 3,000 tons of waste each year;

(ii) has control measures in place, including onsite staffing, to adequately contain solid wastes and blowing litter on the site and to minimize spills and leakage of liquid wastes; and

(iii) is a site at which a local government unit requires commercial waste haulers to deposit wastes at the site only during hours that the site is staffed.

(3) "Department" means the department of environmental quality provided for in **2-15-3501**.

(4) "Local government" means a county, incorporated city or town, or solid waste management district organized under the laws of this state.

(5) "Person" means any individual, firm, partnership, company, association, corporation, city, town, or local governmental entity or any other state, federal, or private entity, whether organized for profit or not.

(6) "Resource recovery facility" means any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse.

(7) (a) "Solid waste" means all putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, sludge from sewage treatment plants, water supply treatment plants, or air pollution control facilities; construction and demolition wastes; dead animals, including offal; discarded home and industrial appliances; and wood products or wood byproducts and inert materials.

(b) Solid waste does not mean municipal sewage, industrial wastewater effluents, mining wastes regulated under the mining and reclamation laws administered by the department, slash and forest debris regulated under laws administered by the department of natural resources and conservation, or marketable byproducts.

(8) "Solid waste management system" means any system that controls the storage, treatment, recycling, recovery, or disposal of solid waste. For the purposes of this definition, a container site is not a component of a solid waste management system.



# Montana Code Annotated 2023

## TITLE 7. LOCAL GOVERNMENT

### CHAPTER 6. FINANCIAL ADMINISTRATION AND TAXATION

#### Part 16. Impact Fees to Fund Capital Improvements

## Definitions

**7-6-1601. Definitions.** As used in this part, the following definitions apply:

(1) (a) "Capital improvements" means improvements, land, and equipment with a useful life of 10 years or more that increase or improve the service capacity of a public facility.

(b) The term does not include consumable supplies.

(2) "Connection charge" means the actual cost of connecting a property to a public utility system and is limited to the labor, materials, and overhead involved in making connections and installing meters.

(3) "Development" means construction, renovation, or installation of a building or structure, a change in use of a building or structure, or a change in the use of land when the construction, installation, or other action creates additional demand for public facilities.

(4) "Governmental entity" means a county, city, town, or consolidated government.

(5) (a) "Impact fee" means any charge imposed upon development by a governmental entity as part of the development approval process to fund the additional service capacity required by the development from which it is collected. An impact fee may include a fee for the administration of the impact fee not to exceed 5% of the total impact fee collected.

(b) The term does not include:

(i) a charge or fee to pay for administration, plan review, or inspection costs associated with a permit required for development;

(ii) a connection charge;

(iii) any other fee authorized by law, including but not limited to user fees, special improvement district assessments, fees authorized under Title 7 for county, municipal, and consolidated government sewer and water districts and systems, and costs of ongoing maintenance; or

(iv) onsite or offsite improvements necessary for new development to meet the safety, level of service, and other minimum development standards that have been adopted by the governmental entity.

(6) "Proportionate share" means that portion of the cost of capital system improvements that reasonably relates to the service demands and needs of the project. A proportionate share must take into account the limitations provided in **7-6-1602**.

(7) "Public facilities" means:

(a) a water supply production, treatment, storage, or distribution facility;

(b) a wastewater collection, treatment, or disposal facility;

(c) a transportation facility, including roads, streets, bridges, rights-of-way, traffic signals, and landscaping;

(d) a storm water collection, retention, detention, treatment, or disposal facility or a flood control facility;

(e) a police, emergency medical rescue, or fire protection facility; and

(f) other facilities for which documentation is prepared as provided in **7-6-1602** that have been approved as part of an impact fee ordinance or resolution by:

(i) a two-thirds majority of the governing body of an incorporated city, town, or consolidated local government;  
or

(ii) a unanimous vote of the board of county commissioners of a county government.

**History: En. Sec. 1, Ch. 299, L. 2005.**

# Montana Code Annotated 2023

TITLE 7. LOCAL GOVERNMENT

CHAPTER 6. FINANCIAL ADMINISTRATION AND TAXATION

Part 16. Impact Fees to Fund Capital Improvements

## Impact Fee Advisory Committee

**7-6-1604. Impact fee advisory committee.** (1) A governmental entity that intends to propose an impact fee ordinance or resolution shall establish an impact fee advisory committee.

(2) An impact fee advisory committee must include at least one representative of the development community. The committee shall review and monitor the process of calculating, assessing, and spending impact fees.

(3) The impact fee advisory committee shall serve in an advisory capacity to the governing body of the governmental entity.

**History:** En. Sec. 4, Ch. 299, L. 2005; amd. Sec. 2, Ch. 276, L. 2015.

*LIBBY DOES NOT CHARGE IMPACTFEES.  
LIBBY CHARGES PLANT INVESTMENT FEES.*

*J*

# Montana Code Annotated 2023

TITLE 7. LOCAL GOVERNMENT

CHAPTER 2. CREATION, ALTERATION, AND ABANDONMENT OF LOCAL GOVERNMENTS

Part 47. Annexation With the Provision of Services

## Annexation By Municipalities Providing Services

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(2) Whenever the owners of real property situated outside the corporate boundaries of any municipality, but contiguous to the municipality, desire to have real estate annexed to the municipality, they shall file with the governing body of the municipality a petition bearing the signatures of 51% of the real property owners of the area sought to be annexed and requesting a resolution stating that the municipality intends to consider annexation. Upon passage of the resolution, the governing body shall follow the procedure in **7-2-4707** through **7-2-4713** and **7-2-4731**(3).

**History:** En. 11-517 by Sec. 4, Ch. 364, L. 1974; R.C.M. 1947, 11-517(part); amd. Sec. 19, Ch. 250, L. 1979; amd. Sec. 14, Ch. 66, L. 1995; amd. Sec. 4, Ch. 186, L. 2011.

# Montana Code Annotated 2023

TITLE 76. LAND RESOURCES AND USE  
CHAPTER 2. PLANNING AND ZONING  
Part 3. Municipal Zoning

## Procedure To Administer Certain Annexations And Zoning Laws -- Hearing And Notice

**76-2-303. Procedure to administer certain annexations and zoning laws -- hearing and notice.** (1) The city or town council or other legislative body of a municipality shall provide for the manner in which regulations and restrictions and the boundaries of districts are determined, established, enforced, and changed, subject to the requirements of subsection (2).

(2) A regulation, restriction, or boundary may not become effective until after a public hearing in relation to the regulation, restriction, or boundary at which parties in interest and citizens have an opportunity to be heard has been held. At least 15 days' notice of the time and place of the hearing must be published in an official paper or a paper of general circulation in the municipality.

(3) (a) For municipal annexations, a municipality may conduct a hearing on the annexation in conjunction with a hearing on the zoning of the proposed annexation if the proposed municipal zoning regulations for the annexed property:

(i) authorize land uses comparable to the land uses authorized by county zoning;

(ii) authorize land uses that are consistent with land uses approved by the board of county commissioners or the board of adjustment pursuant to Title 76, chapter 2, part 1 or 2; or

(iii) are consistent with zoning requirements recommended in a growth policy adopted pursuant to Title 76, chapter 1, for the annexed property.

(b) A joint hearing authorized under this subsection (3) fulfills a municipality's obligation regarding zoning notice and public hearing for a proposed annexation.

**History:** En. Sec. 4, Ch. 136, L. 1929; re-en. Sec. 5305.4, R.C.M. 1935; R.C.M. 1947, 11-2704; amd. Sec. 1, Ch. 217, L. 1997; amd. Sec. 1, Ch. 355, L. 1999; Sec. 34, Ch. 582, L. 1999; amd. Sec. 5, Ch. 87, L. 2003; amd. Sec. 40, Ch. 19, L. 2011.



**CITY OF LIBBY**

952 E. SPRUCE | POST OFFICE BOX 1428, LIBBY MT, 59923

PHONE 406-293-2731 | FAX 406-293-4090 | WEBSITE: [www.cityoflibby.com](http://www.cityoflibby.com)

**PETITION FOR ANNEXATION AND INITIAL ZONING**

Project Name Flower Creek Development Phase 2	Property Address Parcel A1 and Parcel B on COS 5014 RB Libby, MT 59923
NAME OF APPLICANT Playa Dulce Montana LLC	Applicant Phone 805-235-9527
Applicant Address 200 South 13 <sup>th</sup> Street Suite 208	City, State, Zip Grover Beach, CA 93433
Applicant Email Address darrens@compass-health.com	
<i>if not current owner, please attach a letter from the current owner authorizing the applicant to proceed with the application.</i>	
OWNER OF RECORD Playa Dulce Montana LLC	Owner Phone 805-235-9527
Owner Address 200 South 13 <sup>th</sup> Street Suite 208	City, State, Zip Grover Beach, CA 93433
Owner Email Address darrens@compass-health.com	
CONSULTANT (ARCHITECT/ENGINEER) Max Grebe, LPW Architecture	Phone 406.771.0770
Address 15 5 <sup>th</sup> Street	City, State, Zip Great Falls, MT 59401
Email Address maxg@lpwarchitecture.com	
Address	City, State, Zip
Email Address	
List <b>ALL</b> owners (any individual or other entity with an ownership interest in the property):	
<b>No other owners</b>	
Legal Description (please provide a full legal description for the property and attach a copy of the most recent deed):	
<b>See attachments – Deed and Certificate of Survey</b>	
Please initial here indicating that you have verified the description with the Lincoln County Clerk and Recorder and that the description provided is in a form acceptable to record at their office.	

**Description is verified**      **See attached Certificate of Survey – Parcels A1 and B**

- 1. Land In project (acres) **8.73 acres**
- 2. Current estimated market value **\$700,000**  
Estimated market value of proposed development at 50% build out: **\$ 1.5 million**  
Estimated market value of proposed development at 100% build out: **\$3 million**
- 3. Is there a Rural Fire Dept RSID or Bond on this property?      Yes \_\_\_\_\_ No x \_\_\_\_\_  
If yes, remaining balance is: \$ \_\_\_\_\_
- 4. Present zoning of property: **Residential A**
- 5. Proposed zoning of property: **Business Residential**
- 6. **State the changed or changing conditions that make the annexation necessary:**

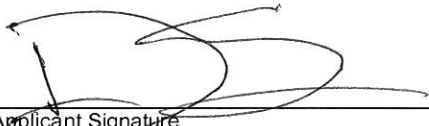
**This property (parcel A1 and B) is currently progressing through engineering and plans for site and infrastructure development (elevations, Flood Plain mitigation, road and utilities), which will be coordinated with similar work and land use on HWY 2 properties. The HWY 2 properties (Parcel D and Parcel C1) are included on the attached Certificate of Survey for context only.**

**Market studies are in progress for housing feasibility.**

**HOW WILL THE PROPOSED ZONING DISTRICT ACCOMPLISH THE INTENT AND PURPOSE OF (attach separate sheet w/ answers):**

- a. Promoting the Growth Policy
- b. Lessening congestion in the streets and providing safe access
- c. Promoting safety from fire, panic and other dangers
- d. Promoting the public interest, health, comfort, convenience, safety and general welfare
- e. Preventing the overcrowding of land
- f. Avoiding undue concentration of population
- g. Facilitating the adequate provision of transportation, water, sewage, schools, parks and other public facilities
- h. Giving reasonable consideration to the character of the district
- i. Giving consideration to the peculiar suitability of the property for particular uses
- j. Protecting and conserving the value of buildings
- k. Encouraging the most appropriate use of land by assuring orderly growth

**SEE ATTACHED**



Applicant Signature

Date

7-29-24

Darren Smith, Managing Member

## **HOW WILL THE PROPOSED ZONING DISTRICT ACCOMPLISH THE INTENT AND PURPOSE OF COMMERCIAL HIGHWAY ZONING:**

The request for a change in zoning from **Residential A** to **Business Residential** will allow an undeveloped vacant site and shuttered Asa Wood to move forward and combine needs of potential business and residential development.

While this request for rezoning only includes Parcel A1 and Parcel B, the evaluation of land use and infrastructure will be coordinated with the HWY 2 parcels, which are included in the attached Certificate of Survey.

At this time engineering is under way for road access and utilities to serve the development opportunities for the subject parcels (A1 and B) on the attached map.

### **a. Promoting the Growth Policy.**

The January 2023 Growth Policy touches on the following goals/objectives which parallel potential outcomes of the development and requested zoning change:

- 1) Promote redevelopment of and use of vacant buildings and sites. (E-6)
- 2) Increase number of workers in sectors currently lacking in the community such as health care (E-7).
- 3) Facilitate redevelopment and encourage development of blighted vacant or undeveloped land (L-1)
- 4) Encourage infill and efficient land use (L-6)
- 5) Encourage use of mixed development in the urban core(L-7)

### **b. Lessening congestion in the streets and providing safe access.**

Ingress to this area will connect through the newly established West 8<sup>th</sup> Street or Nevada Avenue (from 6<sup>th</sup> Street). This provides better alternatives to the option of creating a new HWY 2 access and will parallel access for the currently developed parcels facing HWY 2.

### **c. Promoting safety from fire, panic and other dangers**

Development will include the appropriate setback and existing City resources will be used for emergency services.

### **d. Promoting the public interest, health, comfort, convenience, safety and general welfare**

The use will not entail a population density. Parking will adhere to City requirements.

This development represents investment in the community promoting needed services and jobs.

### **e. Preventing the overcrowding of land.**



The proposed zoning will meet the zoning regulations including the space requirements and meet the City's designated restrictions for development in this area. (See the City's attached allowable uses for the requested change in zoning.)

**f. Avoiding undue concentration of population**

Any development will meet the zoning requirements of Business Residential. Parking will meet the city requirements.

**g. Facilitating the adequate provision of transportation, water, sewage, schools, parks and other public facilities.**

The road access (West 8<sup>th</sup> Street and Nevada Avenue) will be built to city standards with an understanding that roads may be annexed by the City at a later date. Engineering (reviewed by the City of Libby and the contracted City Planner and Engineer) will include design of 64-foot-wide road, sidewalks, street lightening and city utilities to support the ease of a possible City annexation.

**h. Giving reasonable consideration to the character of the district**

This area is of mixed use in proximity to a retail strip center, large grocery store and residential. The proposed use of this property will be appealing commercial buildings and housing.

**i. Giving consideration to the peculiar suitability of the property for particular uses**

The site is currently characterized as undeveloped land along a state highway traversing through Libby. There is a shuttered elementary with unknown disposition at this time.

**j. Protecting and conserving the value of buildings.**

The building on the property has no historical value (SHPO), but may be perceived to have some nostalgic value. The building has been subject to a Brownfield cleanup. Libby Amphibole Asbestos is significant in a wing of the building.

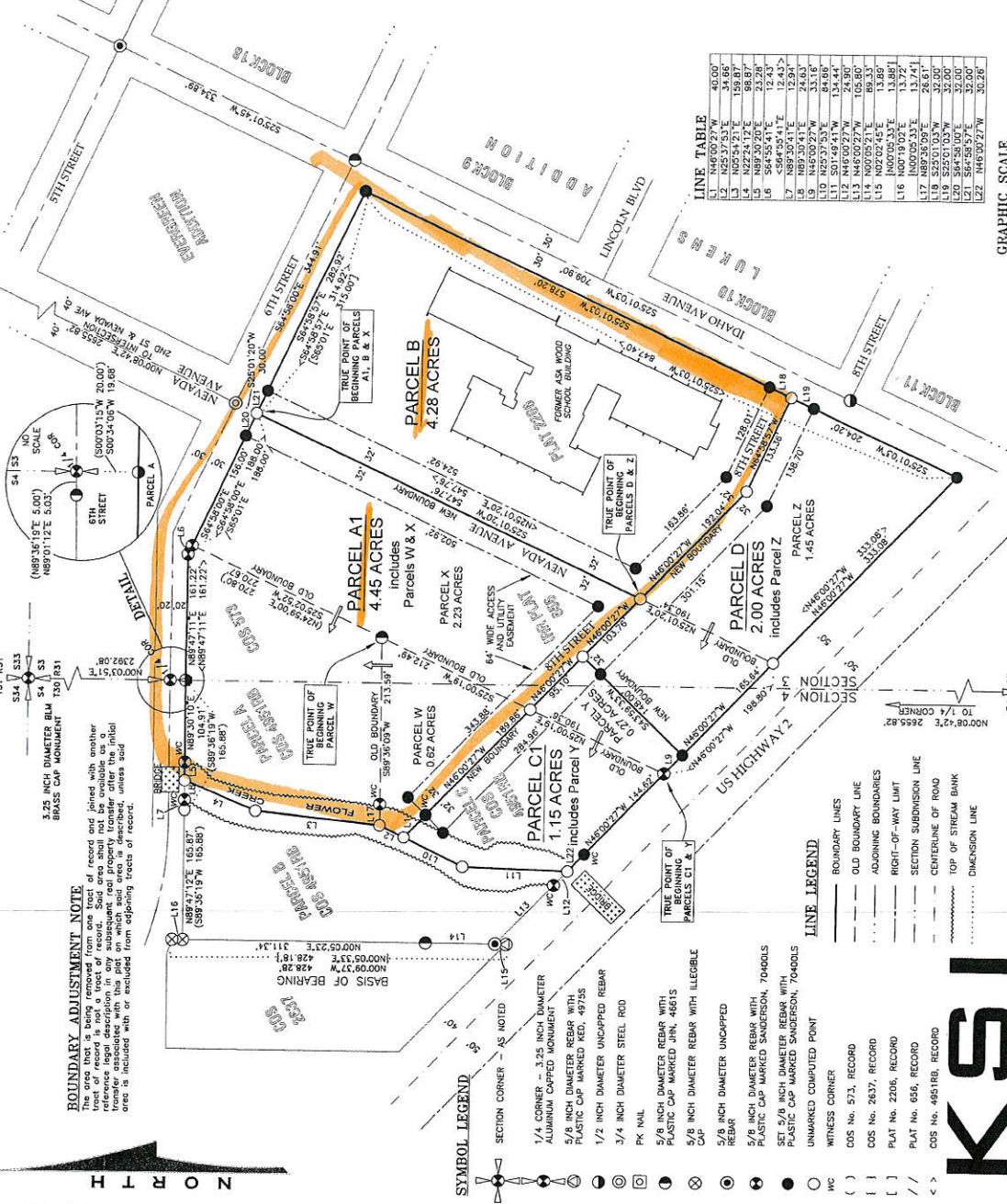
**k. Encouraging the most appropriate use of land by assuring orderly growth**

The optimistic schedule for site development is starting in 2025. Consideration of one option for land use is currently under study ( market study). This development schedule will not compromise appropriate use of the land.

# CERTIFICATE OF SURVEY

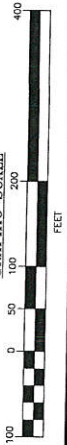
## BOUNDARY LINE ADJUSTMENT

PARCELS A & C, COS No. 4951RB, PLAT No. 656, AND PLAT No. 2206 in the NE1/4 SE1/4, SECTION 4 and NW1/4 SW1/4, SECTION 3, T.30N., R.31W., P.M.M., LINCOLN COUNTY, MONTANA FOR: NOBLE INVESTMENT PROPERTIES, LLC & PLAYA DULCE MONTANA, LLC DATE: FEBRUARY, 2024



**LINE TABLE**

L1	N46°00'27"W	40.00
L2	N89°00'27"W	40.00
L3	N05°54'21"E	158.87
L4	N22°24'12"E	98.87
L5	S89°30'20"W	23.28
L6	S84°55'41"E	124.31
L7	N89°30'41"E	12.91
L8	N89°30'41"E	24.83
L9	N25°37'53"E	84.86
L10	S01°49'41"W	134.44
L11	N46°00'27"W	24.90
L12	N46°00'27"W	24.90
L13	N46°00'27"W	24.90
L14	N02°02'45"E	13.80
L15	N02°02'45"E	13.80
L16	N00°05'33"E	13.80
L17	N89°36'09"E	26.81
L18	S25°01'03"W	32.00
L19	S04°58'57"E	32.00
L20	N46°00'27"W	32.00
L21	N46°00'27"W	32.00
L22	N46°00'27"W	32.00



### PURPOSE OF SURVEY AND OWNER'S EXEMPTION CERTIFICATION

The undersigned, **Byron Sanderson, LLC, Representative, & Playa Dulce Montana, LLC, Representative**, record owner of the land shown herein, certify that this survey is for the relocation of common boundaries between adjoining properties. I further certify that the survey was conducted in accordance with the provisions of the Montana Surveying Act, Title 76, chapter 4, part 1, MCA, if: (i) no facilities other than those previously approved issued under Title 76, chapter 4, part 1, MCA, are to be constructed on the land; (ii) the division of land will not create approved facilities to be constructed on the land; and (iii) the division of land will not create approved facilities to be constructed on the land.

**Byron Sanderson, LLC, Representative**  
*[Signature]*  
Date: **3-1-24**

### ACKNOWLEDGMENT

The foregoing Exemptions were subscribed and acknowledged before me a Notary Public for the State of **Montana**, County of **Lincoln**, by **Noble Investment Properties, LLC, Representative, & Playa Dulce Montana, LLC, Representative** on this **1st** day of **March**, 2024, in witness whereof, I have hereunto set my hand and affixed my notarial seal.

**San Mic Obispo**  
Notary Public for the State of Montana  
My Commission Expires **9/17/2027**

### ACKNOWLEDGMENT

The foregoing Exemptions were subscribed and acknowledged before me a Notary Public for the State of **California**, County of **San Mateo**, by **Playa Dulce Montana, LLC, Representative** on this **1st** day of **March**, 2024, in witness whereof, I have hereunto set my hand and affixed my notarial seal.

**Araceli Aranda**  
Notary Public for the State of California  
My Commission Expires **6-22-2026**

### BASIS OF BEARING

The basis of bearing for this survey is N00°09'37"W between the northeast corner of COS No. 4951RB and the southeast corner of COS No. 2206, and the southeast corner of COS No. 2206 and the southeast corner of COS No. 4951RB, as shown on the survey map with plastic cap marked DAVIS, 49755, as derived from a survey grade triangle R10-B, CASS, conducted to true North. Angular variation between this survey and COS No. 2637 is 0°15'10".

### METHOD OF SURVEY

The survey was conducted using a total station and a GNSS System was used to tie the previously set controlling corners and road alignments by **Sean Wilburson**, April, 2023.

### HISTORY OF SURVEYS

1955 - Plat No. 2206, Ira C. Miller, 4023  
1977 - COS No. 974, Jack Nieneman, 534ES  
1989 - COS No. 2637, Retirement Survey, Kenneth E. Davis, 49755  
2023 - COS No. 4951RB, Boundary Line Adjustment, Byron Sanderson, 70400LS

### LAND SURVEYOR'S CERTIFICATION

I hereby certify that I am a Registered Land Surveyor in the State of Montana, that the survey shown on this "Certificate of Survey" has been prepared under my supervision and in accordance with the provisions of the Montana Surveying Act, Title 76, chapter 4, part 1, MCA, and the Lincoln County Regulations adopted pursuant thereto.

**Byron Sanderson**  
Professional Land Surveyor  
No. 70400LS

### EXAMINING LAND SURVEYOR'S CERTIFICATION

Examined this **1st** day of **March**, 2024 A.D.  
**Byron Sanderson**  
Professional Land Surveyor  
No. 70400LS

### COUNTY TREASURER'S CERTIFICATION

I hereby certify that all real property taxes and assessments levied and assessed on the parcel shown herein are paid pursuant to Section 76-3-207(3), MCA.

### CLERK AND RECORDER'S CERTIFICATION

I hereby certify that this survey was filed in the County of **Lincoln**, Montana, on this **22** day of **March**, 2024 A.D. by **Araceli Aranda**, Deputy Clerk and Recorder.

### CERTIFICATE OF SURVEY No. 5014 RB

SHEET 1 OF 2



Return to: pas  
Johnson, Berg & Saxby, PLLP  
PO Box 3038  
Kalispell, Montana 59903

309872 BOOK: 405 RECORDS PAGE: 193 Pages: 3  
STATE OF MONTANA LINCOLN COUNTY  
RECORDED: 03/22/2024 10:03 KOI: DEED  
CORRINA BROWN CLERK AND RECORDER  
FEE: \$24.00 BY: Justisha Starkson deputy  
FOR: KOOTENAI SURVEYORS INC. P.O. BOX 393, LIBBY, MT 59923

**QUITCLAIM DEED**

THIS INDENTURE is made this 22<sup>nd</sup> day of February, 2024 between **NOBLE INVESTMENT PROPERTIES, LLC and PLAYA DULCE MONTANA, LLC**, collectively being the party of the first part, and **PLAYA DULCE MONTANA, LLC**, of 200 S. 13<sup>th</sup> Street, Suite 208, Grover Beach, CA 93433-2263, being the party of the second part,

WITNESSETH: That the said party of the first part, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration to them in hand paid by the said party of the second part, receipt of which is hereby acknowledged, does hereby transfer, convey, remise, release and forever quitclaim unto the said party of the second part and to its heirs and assigns, all of Grantors' right, title and interest in and to the following described real estate, situated in the County of Lincoln, and State of Montana, to-wit:

See Exhibit A attached hereto and by this reference incorporated herein.

**TOGETHER WITH** all the tenements, hereditaments and appurtenances thereto belonging, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and also all the estate, right, title, interest, property, possession, claim and demand whatsoever as well in law as in equity, of the said party of the first part, of, in or to the premises and every part and parcel thereof, as well as any and all after-acquired title or interest. **TO HAVE AND TO HOLD**, all and singular the said premises, with the appurtenances unto the said party of the second part, its heirs, successors and assigns forever.

IN WITNESS WHEREOF, the said party of the first part has executed this deed the day and year first above written.

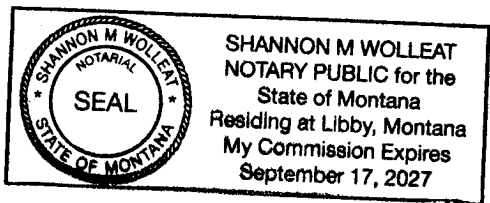
NOBLE INVESTMENT PROPERTIES, LLC

By: [Signature]  
Chris Noble, Member

STATE OF MONTANA )  
                  Lincoln ) ss.  
County of ~~Flathead~~ )

This instrument was acknowledged before me on the 22<sup>nd</sup> day of February, 2024 by Chris Noble, Member, of Noble Investment Properties, LLC

[Signature]  
Notary Public for the State of Montana



PLAYA DULCE MONTANA, LLC

By: [Signature]  
Darren P. Smith, its Manager

ACKNOWLEDGMENT

State of California )

County of San Luis Obispo )

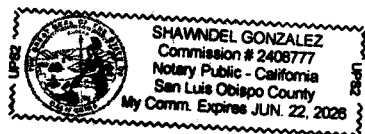
On March 1, 2024 before me, Shawndel Gonzalez, Notary Public  
(insert name and title of the officer)

personally appeared Darren P Smith, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature] (Seal)



## EXHIBIT A

### **Tract 1:**

An irregular tract of land, lying in the city of Libby, Montana, Lincoln County, NE1/4 NE1/4 SE1/4, Section 4 and NW1/4 NW1/4 SW1/4, Section 3, T.30N., R.31W., P.M.,MT., and more particularly described as follows:

Commencing at the intersection of "6th Street" and "Nevada Avenue", a 3/4 inch diameter steel rod; Thence along the centerline of "Nevada Avenue" S25°01'20"W, 30.00 feet to an unmarked computed point and the TRUE POINT OF BEGINNING: Thence continuing along said centerline S25°01'20"W, 547.76 feet to an unmarked computed point, being the intersection of "Nevada Avenue" and "8th Street"; Thence along the centerline of "8th Street" N46°00'27"W, 103.76 feet to an unmarked computed point; Thence continuing along said centerline the following two courses: Thence N46°00'27"W, 95.10 feet to an unmarked computed point; Thence N46°00'27"W, 189.86 feet to a 5/8 inch diameter rebar with plastic cap marked SANDERSON, 70400LS, lying at the top of the bank of Flower Creek; Thence N46°00'27"W, 40.00 feet to an unmarked computed point lying in the middle of Flower Creek; Thence along the middle of said creek the following three courses: Thence N25°37'53"E, 34.66 feet to an unmarked computed point; Thence N05°54'21"E, 159.87 feet to an unmarked computed point; Thence N22°24'12"E, 98.87 feet to an unmarked computed point lying on the southerly right-of-way limit of "6th Street"; Thence along said right-of-way limit N89°30'20"E, 23.28 feet to a 5/8 inch diameter rebar with plastic cap marked SANDERSON, 70400LS, being the top of the bank of Flower Creek; Thence continuing along said right-of-way limit the following four courses: Thence N89°30'10"E, 104.91 feet to a 1/2 inch diameter uncapped rebar; Thence N89°47'11"E, 161.22 feet to a 5/8 inch diameter rebar with plastic cap marked SANDERSON, 70400LS; Thence S64°55'41"E, 12.43 feet to a 5/8 inch diameter with plastic cap marked SANDERSON, 70400LS; Thence S64°58'00"E, 156.00 feet to a 5/8 inch diameter rebar with plastic cap marked SANDERSON, 70400LS lying on the westerly right-of-way limit of "Nevada Avenue"; Thence S64°58'00"E, 32.00 feet to an unmarked computed point and the TRUE POINT OF BEGINNING, containing 4.45 acres. Subject to and together with all appurtenant easements of record.

Parcel A1 of Certificate of Survey No. 5014 R0

### **Tract 2:**

An irregular tract of land, lying in the city limits of Libby, Montana, Lincoln County, NW1/4 NW1/4 SW1/4, Section 3, T.30N., R.31W., P.M.,MT., and more particularly described as follows:

Commencing at the intersection of "6th Street" and "Nevada Avenue", a 3/4 inch diameter steel rod; Thence along the centerline of "Nevada Avenue": S25°01'20"W, 30.00 feet to an unmarked computed point lying on the southerly right-of-way limit of "6th Street" and the TRUE POINT OF BEGINNING: Thence along said right-of-way limit S64°58'57"E, 32.00 feet to a 5/8 inch diameter rebar with plastic cap marked SANDERSON, 70400LS lying on the easterly right-of-way limit of "Nevada Avenue"; Thence continuing on the southerly right-of-way limit of said "6th Street" S64°58'57"E, 282.92 feet to a 5/8 inch diameter rebar with plastic cap marked SANDERSON, 70400LS; Thence along the westerly right-of-way limit of "Idaho Avenue" S25°01'03"W, 578.20 feet to a 5/8 inch diameter rebar with plastic cap marked SANDERSON, 70400LS lying on the northerly right-of-way limit of "8th Street"; Thence continuing along said westerly right-of-way limit of "Idaho Avenue" S25°01'03"W, 32.00 feet to an unmarked computed point; Thence along the centerline of "8th Street" N64°58'57"W, 133.36 feet to an unmarked computed point; Thence continuing along said centerline N46°00'27"W, 192.04 feet to an unmarked computed point being the intersection of "8th Street" and "Nevada Avenue"; Thence along the centerline of "Nevada Avenue" N25°01'20"E, 547.76 feet to an unmarked computed point and the TRUE POINT OF BEGINNING, containing 4.28 acres. Subject to and together with all appurtenant easements of record.

Parcel B of Certificate of Survey No. 5014 R0

Chapter 17.20 - BUSINESS-RESIDENCE DISTRICT

Sections:

*Business  
Residence*

17.20.010 - Uses.

Within any Business-Residence District, no building, structure, or premises shall be used, arranged, or designed to be used except for one or more of the following uses:

- A. Any use permitted in a Residence A or Residence B District;
- B. Detached dwellings for not more than four (4) families or housekeeping units;
- C. Dormitories or apartment houses, boardinghouses, or roominghouses;
- D. Any business may be placed in this district only by the written approval of the board of adjustment, after written application, together with submission of plans and specifications showing actual location of proposed building and general arrangements on any piece of ground, it being the intention to restrict this area to service units and business as specifically outlined and still maintain a practical standard for residents, with the board of adjustment to make such decision in each case regarding:
  1. Location of buildings;
  2. Type of business other than above;
  3. Type of building;
  4. Setback line;
  5. Side yard, if any; and
  6. Lot area and other pertinent items as are consistent with good zoning practice and the practical development of this district.
- E. Provided, however, that all buildings shall be so placed that there shall be a front yard having a depth of not less than twenty-five (25) feet from the inside sidewalk line on what is now U. S. Highway 2 as it runs on Ninth Street and Minnesota Avenue, also on Utah Avenue in the district, and a side yard of not less than ten (10) feet on the street side of all corner lots. Such yards, front and side, shall be entirely unoccupied by any structure or building.

(Ord. 1359, 1987)

17.20.020 - Vacant lots.

These shall be kept free of debris, rubbish, or garbage at all times. Special uses of vacant lots may be permitted by written authority of the building inspector and the board of adjustment, with the consent of the owners of eighty percent (80%) of the property within three hundred (300) feet of the lot or lots.

(Ord. 1359, 1987)

17.20.030 - Construction.

All construction shall be of a standard approved by the building inspector.

(Ord. 1359, 1987)

17.20.040 - Signs.

- A. Signs pertaining to the lease, sale, or use of a lot or building may be placed thereon; provided, that the total area of all, such signs does not exceed eight square feet; provided, further, that on a lot or dwelling and pertaining to the use thereof or bearing the name or occupation of an occupant shall not exceed one square foot for each family housed. A sign or building board not exceeding twelve (12) square feet in area may be erected upon the premises of a church, or other institution, for the purpose of displaying the name and activities or services therein provided. Any sign provided for herein shall not materially alter the appearance of said lot or dwelling nor affect the welfare of the neighbors.
- B. The above paragraph shall not apply to that property in the Business-Residential District fronting on U. S. Highway #2.
- C. Notwithstanding any other provision of this chapter, non-illuminated political or campaign signs may be placed on the property. Any such signs may not be placed on the property so as to obstruct the vision of any driver of motor vehicles to the extent a safety hazard is created. All campaign signs must be removed within three days after the election to which the sign relates.

(Ord. 1594 § 118, 2002: Ord. 1394, 1988: Ord. 1359, 1987)