

## RIGHT-OF-WAY VACATION APPLICATION

### A. GENERAL INFORMATION

1. One submittal packet is required for Completeness/Sufficiency Review.
2. Once the application is deemed complete by Development Services (DS), the applicant shall submit a final hard copy of the application and appropriate review fee.
3. Proposed Right-of-Way Vacation: Approximately Thirty (30 ft) feet of Pattee Street ROW
4. Name(s) of Applicant(s):  
Mailing Address City of Missoula  
Telephone Number 435 Ryman Street, Msla MT 59802  
Email Address 406-552-6091
5. Name(s) of all Owners of Record  
Adjacent to Right-of-Way:  
Mailing Address El Dorado Hospitality LLC c/o Charles McDermid  
Telephone Number 200 S Pattee Street, Msla MT 59802  
Email Address 406-532-2057
6. Name and Company &  
Representative:  
Mailing Address City of Missoula Department of Parks & Recreation  
Telephone Number 600 Clegg Lane, Msla, MT 59801  
Email Address c/o Donna Gaukler, Director.
7. If the applicant is someone other than the adjacent property owner, the titled owner(s) must also sign the application in the space provided below.

Certification: I hereby certify that the foregoing information contained or accompanied in this application is true and correct to the best of my knowledge.

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Applicant's Signature - Donna Gaukler

Date

As owner(s) of property adjacent to a plat dedicated public right-of-way entitled to certain adjacent vacated public right-of-way pursuant to sections 70-16-202 and 70-20-307 MCA, we/I hereby knowingly voluntarily waive any and all ownership claim to the vacated adjacent public right of way. Our/my signature signifies our/my voluntary, knowingly, understanding intent and approval that any and all vacated dedicated public right-of-way that we/I might have any ownership entitlement to is hereby to be granted, gifted, given or transferred to the City of Missoula for use as parkland. We/I waive and make no ownership or compensation claim to any such lands as legally described elsewhere in this document.

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Owner's Signature - Charles McDermid

Date

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**Representative's Signature**

**Date**

## **B. SUBJECT PROPERTY INFORMATION**

1. General location of proposed right(s)-of-way vacation: Approximately the last thirty (30 ft) feet of Pattee Street including a 53-ft non-tangent curve, just above portion vacated in 1985 and adjacent to Bess Reed Park
2. Complete Legal Description(s) of adjacent property: Missoula Original Townsite, S22, T13 N, R19 W, Block 6, Lot 17-22 & Block 9 Lots 1-22.
3. Geocode(s) of adjacent property: 04-2200-22-2-07-01-0000

## **C. RESPONSES TO TITLE 12, SECTION 12.04 STREET VACATION**

1. When any request to vacate or close any public right-of-way is made, the initiator of the request to vacate or close any right-of-way is responsible for contacting all property owners adjacent to the right-of-way proposed vacation or closure to solicit their signatures upon the petition. If signatures of any of the adjacent property owners are not provided the initiator of the request must provide the reasons for the lack of any property owner's signature on the petition for the vacation or closure.
2. Provide the following information and exhibits:
  - a. A site-specific evaluation explaining the reasons of the proposed public right-of-way vacation; This vacation is being requested to replace approximately eight hundred forty (840 sqft) square feet of Caras Park that was converted to a parking lane to allow emergency traffic through Carousel Drive. The area removed from Caras Park is federally funded and must be replaced with similar land.
  - b. A description of the intended usage and goals of the public right-of-way if the vacation is approved, including a site plan; The vacated land will be used as an extension of Bess Reed Park and will provide pedestrian access and green space.
  - c. A review of the existing utilities occupying any portion of the proposed public right-of-way vacation area, including a utility exhibit; The City of Missoula has water, sanitary sewer and storm sewer located in this area. They will not be affected by the use of land after vacation. Northwestern Energy has underground gas and electric lines as well as overhead electric lines in this area. Per MCA 7-14-4115 The vacation shall not affect the right of any public utility to continue to maintain its plant and equipment in any such streets or alleys.
  - d. An evaluation of other alternatives explored other than vacating right-of-way, including, but not limited to, zoning variances, adjacent land use, design modifications, and/or a partial right-

of-way vacation or closure; A vacation and the adjacent land owner giving full ROW vacation to the City is the only feasible means of replacing the Caras Park land.

- e. Provide an analysis of potential tax impacts to the affected properties adjacent to the right-of-way proposed for vacation; and If the vacated land is added to the adjacent Bess Reed Park parcel it will add \$27.79 annually to the Business Improvement District and \$3.21 annually to City SID 24.
- f. A description of public benefits the property owner(s) adjacent to the proposed right-of-way vacation are willing to consider in exchange for the approval of the vacation, e.g. any public improvements, easements, walkways, bicycle paths, etc. The vacated land will continue to provide pedestrian access via sidewalks and paths and green space as part of Bess Reed Park.

#### D. ATTACHMENTS

As separate attachments (8.5" x 11" or 11" x 17"), provide the following materials with the site clearly identified. Required information may be combined on one attachment as long as the information is clearly presented. Please check the box if the material is included in the packet. If the material is not included in the submittal packet, please note "N/A"

- Petition to Vacate** the subject right(s)-of-way.
- A utility map** showing all utilities within and surrounding the proposed right(s)-of-way vacation.
- A cover letter** describing the purpose of the proposed right(s)-of-way vacation, existing site conditions, and a brief description of the proposed project.
- A vicinity map** showing the proposed right(s)-of-way vacation and the area within 300.
- An aerial photo** showing the subject right(s)-of-way.
- The current plat(s)** containing the subject right(s)-of-way and any easements.
- Site plans and building elevation drawings** of the proposed project associated with the right(s)-of-way vacation.
- A Zoning map** of the surrounding property extending at least 300 feet from the subject right(s)-of-way.
- A land use map** of the applicable vicinity and regional plans.

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

**PETITION NO. \_\_\_\_\_**  
**BEFORE THE CITY COUNCIL**  
**OF THE**  
**CITY OF MISSOULA**

**PETITION TO VACATE PUBLIC RIGHT-OF-WAY**

**COME NOW the undersigned and respectfully petition** the City Council of the City of Missoula to consider VACATING the herein described public right-of-way.

The petitioner(s) hereby:

1. Agrees to comply with any conditions described in the resolution that VACATES the herein described public right-of-way; and
2. Recognizes the fact that non-compliance will result in the VACATION becoming null and void and reverting to public right-of-way.

Petitioner(s) has prepared a submittal package describing the particulars of the request according to Missoula Municipal Code 12.04 and have attached the same to this petition for City Council review.

Dated this 5<sup>th</sup> day of March, 2021.

**DESCRIPTION OF RIGHT-OF-WAY SUBJECT TO THIS PETITION:** A PORTION OF PATTEE STREET LOCATED IN SOUTHWEST ONE-QUARTER OF SECTION 22, T13N, R19W, PMM, CITY OF MISSOULA, MISSOULA COUNTY, MONTANA, BEING MORE ARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF PARCEL A OF CERTIFICATE OF SURVEY NO, 3320; THENCE ALONG THE WEST RIGHT-OF-WAY OF PATTEE STREET, N25°27'58" E 33.73 FEET TO A NON-TANGENT POINT OF CURVATURE, SAID POINT HAVING A RADIAL BEARING OF N59° 10'07" E; THENCE AN ARC DISTANCE OF 45.83 FEET ALONG SAID NON-TANGENT CURVE, BEING CONCAVE TO THE NORTH, OF RADIUS 45.83 FEET AND DELTA 64°04'05" TO A POINT ON A NON-TANGENT LINE; THENCE ALONG SAID NON-TANGENT LINE, S64°21'20"E 31.15 FEET TO A POINT ON THE EAST RIGHT-OF-WAY OF PATTEE STREET; THENCE ALONG SAID EAST RIGHT-OF-WAY, S25°27'5f5"W 25.93 FEET TO A POINT ON THE NORTH BOUNDARY OF SAID PARCEL A; THENCE ALONG SAID NORTH BOUNDARY, N69°02'32"W 80.00 FEET TO THE POINT OF BEGINNING, CONTAINING 2, 129 SQUARE FEET.

**PETITIONER'S SIGNATURES:**

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Donna Gaukler

**STATE OF MONTANA )**  
                          ) ss.  
County of Missoula   )

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me the undersigned, a Notary Public for the State of Montana, personally appeared \_\_\_\_\_, 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 acknowledge to me that he/she/they executed the same.

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

(SEAL)

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Notary Public for the State of Montana.

Printed Notary Name \_\_\_\_\_

Residing at \_\_\_\_\_, Montana.

My Commission expires: \_\_\_\_\_

MM/DD/YYYY

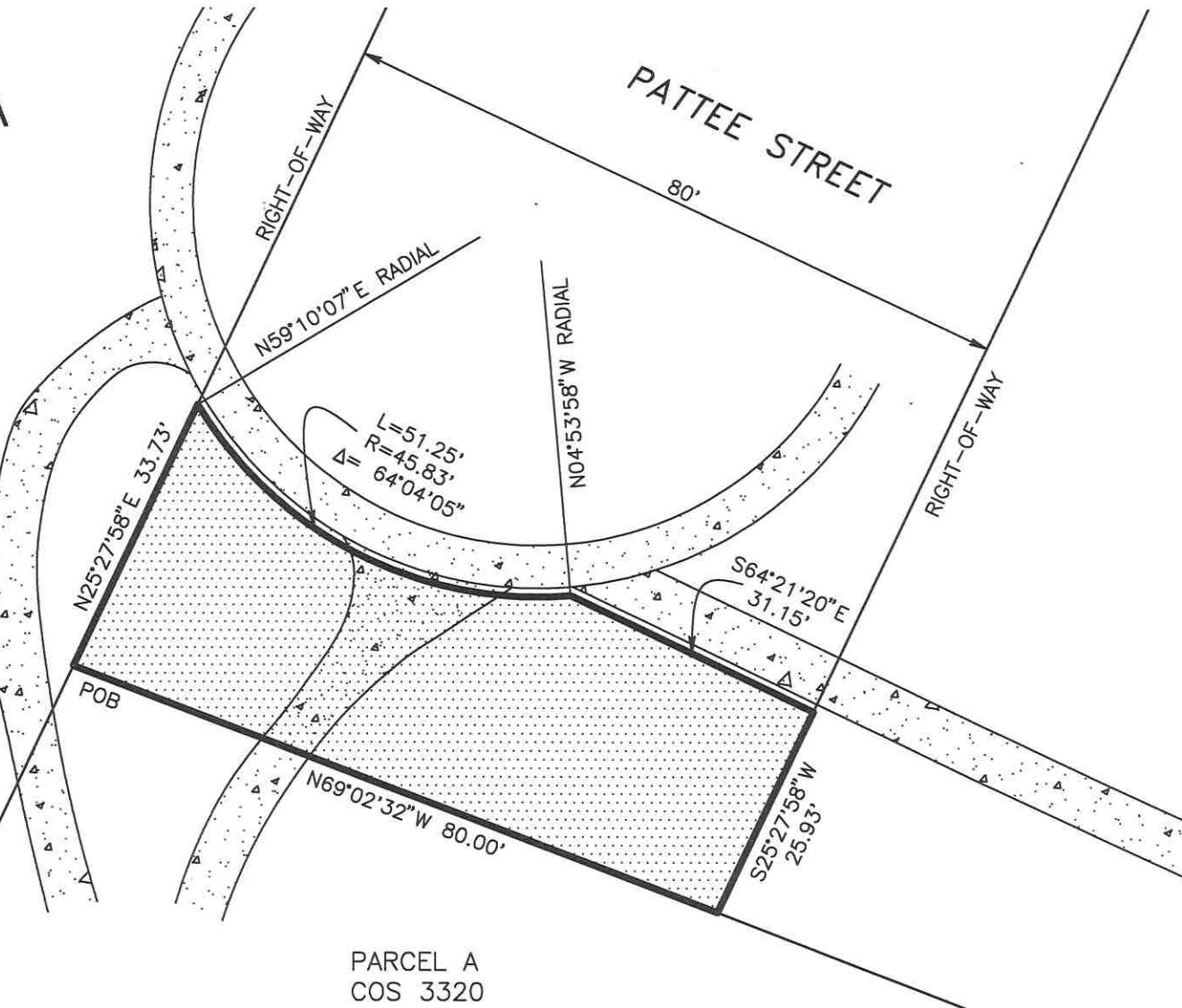
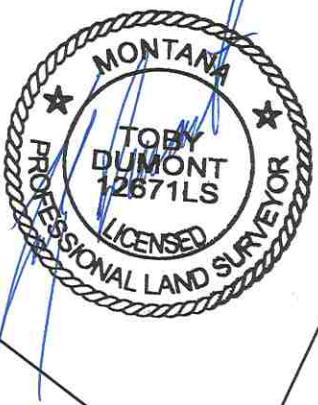
# EXHIBIT A



SCALE IN FEET

MARCH 3, 2021

TRACT 1  
COS 3505



PARCEL A  
COS 3320

## VACATION LEGAL DESCRIPTION

A PORTION OF PATTEE STREET LOCATED IN SOUTHWEST ONE-QUARTER OF SECTION 22, T13N, R19W, PMM, CITY OF MISSOULA, MISSOULA COUNTY, MONTANA, BEING MORE ARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF PARCEL A OF CERTIFICATE OF SURVEY NO. 3320; THENCE ALONG THE WEST RIGHT-OF-WAY OF PATTEE STREET, N25°27'58"E 33.73 FEET TO A NON-TANGENT POINT OF CURVATURE, SAID POINT HAVING A RADIAL BEARING OF N59°10'07"E; THENCE AN ARC DISTANCE OF 45.83 FEET ALONG SAID NON-TANGENT CURVE, BEING CONCAVE TO THE NORTH, OF RADIUS 45.83 FEET AND DELTA 64°04'05" TO A POINT ON A NON-TANGENT LINE; THENCE ALONG SAID NON-TANGENT LINE, S64°21'20"E 31.15 FEET TO A POINT ON THE EAST RIGHT-OF-WAY OF PATTEE STREET; THENCE ALONG SAID EAST RIGHT-OF-WAY, S25°27'58"W 25.93 FEET TO A POINT ON THE NORTH BOUNDARY OF SAID PARCEL A; THENCE ALONG SAID NORTH BOUNDARY, N69°02'32"W 80.00 FEET TO THE POINT OF BEGINNING, CONTAINING 2,129 SQUARE FEET.



# UTILITY MAP

## Pattee Street ROW Vacation

### Legend

Water - blue

Stormwater - green

Sewer - yellow & red



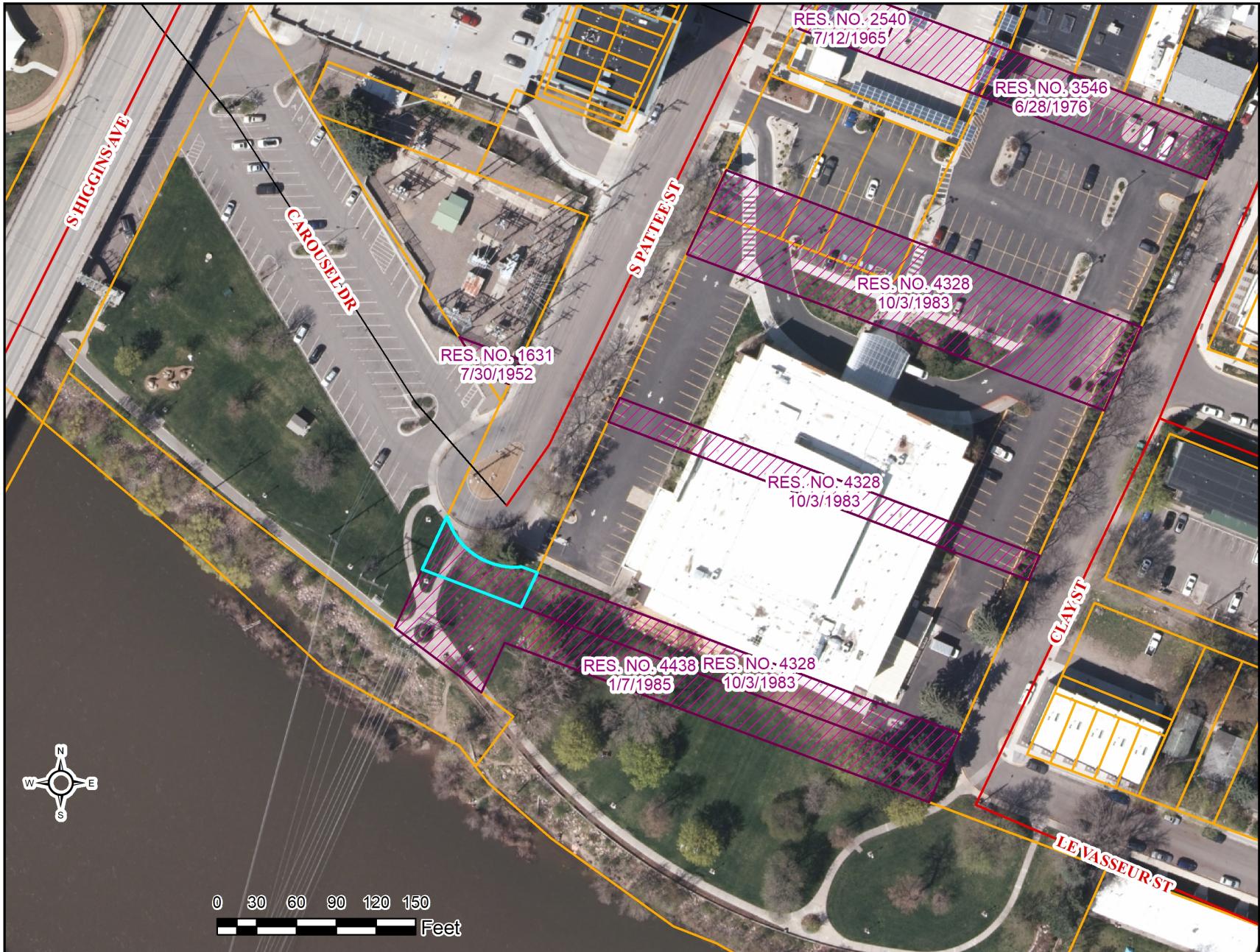
This map was created by the  
City of Missoula  
Development Services

## Vicinity Map

### Pattee St ROW Vacation

1 in = 249 ft



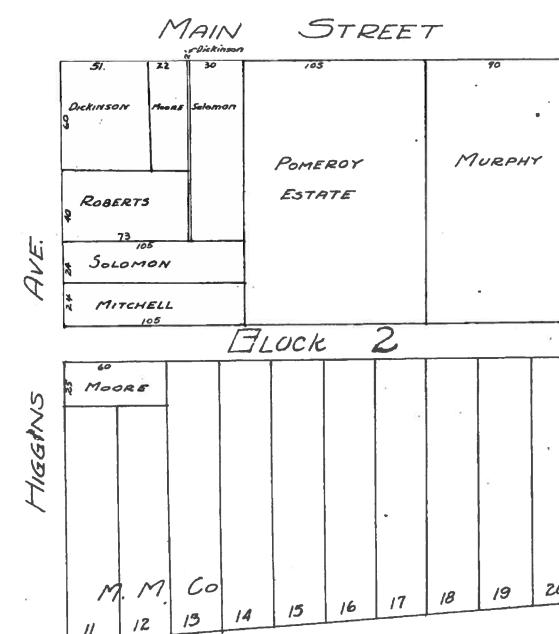


This map was created by the  
City of Missoula  
Development Services

1 in = 75 ft

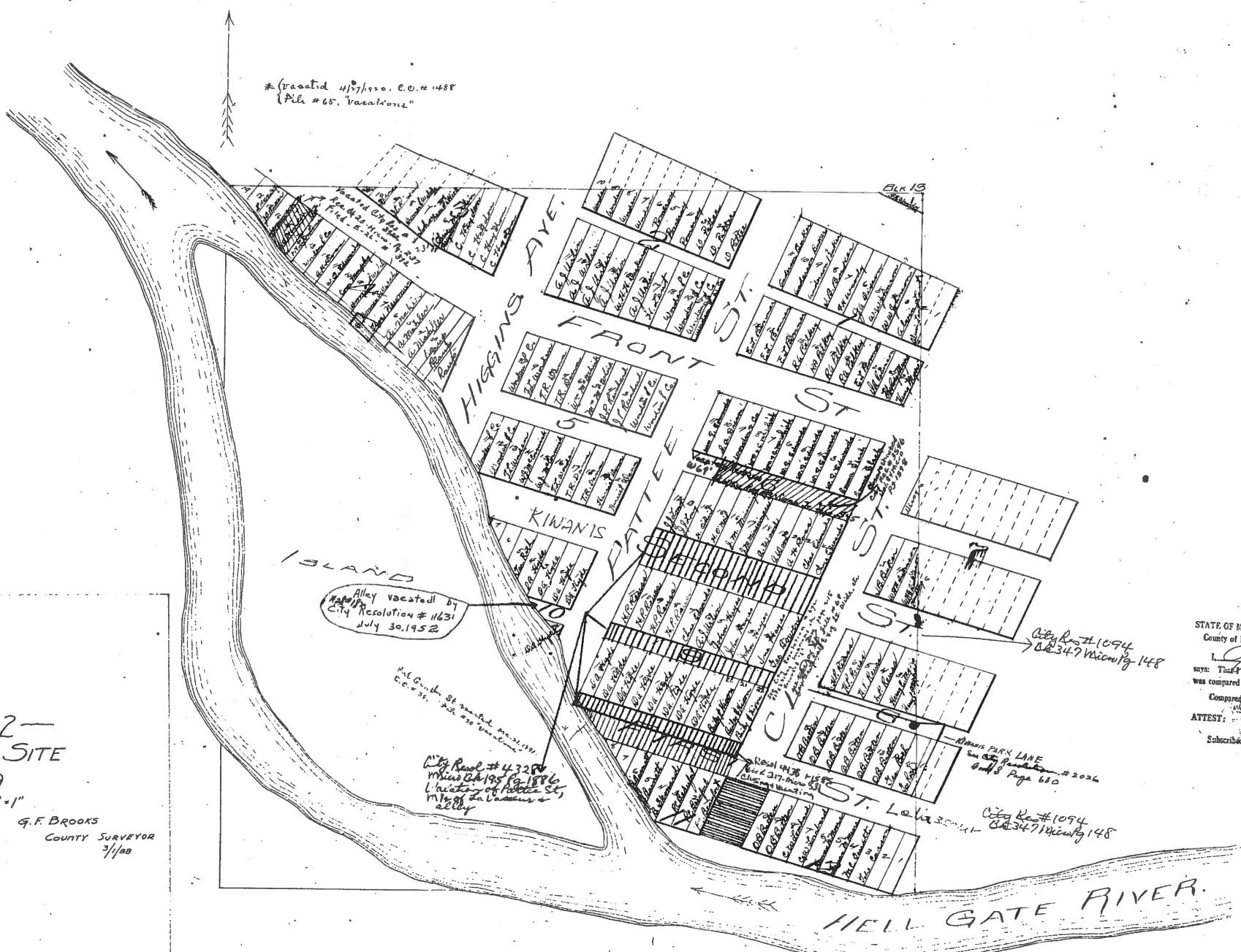


## Aerial Map Pattee St ROW Vacation



-BLOCK 2-  
OLD TOWN SITE  
MISSOULA  
SCALE 50' 1"

G. F. BROOKS  
COUNTY SURVEY  
3/1/88



Piled in the Recording Office of Missoula County, Montana Rec'd  
on the 5<sup>th</sup> day of April A.D. 1970.  
(Signed) Frank H. Woody  
County Recorder  
Missoula Co., Mont.

Timeline of Minnesota's 100  
Counties of Minnesota's

1 Q.D. Royal, County Clerk  
afforded to kindly certify that he has  
a correct copy of the original plan  
for witness whereof I have hereunto  
set my hand and seal of Monroe County this 6<sup>th</sup> day

STATE OF MONTANA, }  
County of Missoula. } ss. SURVEYOR'S CERTIFICATE

On my path deposit  
say. That I am an engineer under whose supervision the above  
was compared and find this a full, true and correct copy of the original  
Compared this 15th day of February 1925

ATTEST: *John H. Hall*  
Co. Superior of Minnesota Cavalry, U.S.  
Subscribed and sworn to before me this 1<sup>st</sup> day of May, 1864.

34-66

## AMENDED PLAT OF

## ORIGINAL TOWNSITE, BLOCK 6, LOTS 12 THROUGH 16

AMENDING LOTS 12 THROUGH 16 OF BLOCK 6 OF ORIGINAL TOWNSITE OF MISSOULA AND PORTIONS OF VACATED KIWANIS &amp; BANK STREETS

A SUBDIVISION OF THE CITY OF MISSOULA, MISSOULA COUNTY, MONTANA  
LOCATED IN THE SW 1/4 OF SECTION 22,  
T. 13 N., R. 19 W., PRINCIPAL MERIDIAN, MONTANA

## LEGAL DESCRIPTION: PERIMETER

A TRACT OF LAND BEING LOTS 12 THROUGH 16 OF BLOCK 6 OF ORIGINAL TOWNSITE OF MISSOULA A RECORDED SUBDIVISION OF MISSOULA COUNTY, MONTANA, AND PORTIONS OF THE VACATED RIGHTS-OF-WAY OF BANK AND KIWANIS STREETS, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 13 NORTH, RANGE 19 WEST, PRINCIPAL MERIDIAN, MONTANA; WHICH CAN BE MORE PARTICULARLY DESCRIBED AS FOLLOWS:

\* BEGINNING AT THE MOST WESTERLY CORNER OF LOT 11 OF SAID BLOCK 6; THENCE S69°04'44"E ALONG THE NORTHEASTERLY RIGHT-OF-WAY LINE OF SAID VACATED BANK STREET, 150.90 FEET TO THE INTERSECTION WITH THE NORTHEASTERLY PROLATION OF THE SOUTHEASTERLY LINE OF SAID LOT 16; THENCE S24°57'44"W ALONG SAID SOUTHEASTERLY LINE AND ITS NORTHEASTERLY AND SOUTHWESTERLY PROLATION, 194.18 FEET TO THE CENTERLINE OF VACATED KIWANIS STREET; THENCE N69°05'19"W ALONG SAID CENTERLINE, 152.60 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF PATTEE STREET; THENCE N25°27'16"E ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY LINE, 194.33 FEET TO THE POINT OF BEGINNING; CONTAINING 29,394 SQUARE FEET, MORE OR LESS; BEING SURVEYED AND MONUMENTED ACCORDING TO THIS PLAT.

## LEGAL DESCRIPTION: LOT 12A

LOT 12A OF ORIGINAL TOWNSITE, BLOCK 6, LOTS 12 THROUGH 16, A RECORDED SUBDIVISION OF MISSOULA COUNTY, MONTANA, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 13 NORTH, RANGE 19 WEST, PRINCIPAL MERIDIAN, MONTANA; CONTAINING 12,269 SQUARE FEET, MORE OR LESS; BEING SURVEYED AND MONUMENTED ACCORDING TO THIS PLAT.

## LEGAL DESCRIPTION: LOT 13A

LOT 13A OF ORIGINAL TOWNSITE, BLOCK 6, LOTS 12 THROUGH 16, A RECORDED SUBDIVISION OF MISSOULA COUNTY, MONTANA, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 13 NORTH, RANGE 19 WEST, PRINCIPAL MERIDIAN, MONTANA; CONTAINING 6,850 SQUARE FEET, MORE OR LESS; BEING SURVEYED AND MONUMENTED ACCORDING TO THIS PLAT.

## LEGAL DESCRIPTION: LOT 14A

LOT 14A OF ORIGINAL TOWNSITE, BLOCK 6, LOTS 12 THROUGH 16, A RECORDED SUBDIVISION OF MISSOULA COUNTY, MONTANA, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 13 NORTH, RANGE 19 WEST, PRINCIPAL MERIDIAN, MONTANA; CONTAINING 3,425 SQUARE FEET, MORE OR LESS; BEING SURVEYED AND MONUMENTED ACCORDING TO THIS PLAT.

## LEGAL DESCRIPTION: LOT 15A

LOT 15A OF ORIGINAL TOWNSITE, BLOCK 6, LOTS 12 THROUGH 16, A RECORDED SUBDIVISION OF MISSOULA COUNTY, MONTANA, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 13 NORTH, RANGE 19 WEST, PRINCIPAL MERIDIAN, MONTANA; CONTAINING 3,425 SQUARE FEET, MORE OR LESS; BEING SURVEYED AND MONUMENTED ACCORDING TO THIS PLAT.

## CERTIFICATE OF OWNER \*\*\*\*

THE UNDERSIGNED HEREBY CERTIFIES THAT THE PURPOSE OF THIS SURVEY IS TO RELOCATE COMMON BOUNDARIES BETWEEN ADJOINING PROPERTIES AND TO AGGREGATE LOTS, AND THAT NO ADDITIONAL PARCELS ARE CREATED; THEREFORE, THIS SURVEY IS EXEMPT FROM REVIEW AS A SUBDIVISION PURSUANT TO 76-3-207(1)(d) M.C.A. TO-WIT: FOR FIVE OR FEWER LOTS WITHIN A PLATTED SUBDIVISION, THE RELOCATION OF COMMON BOUNDARIES, AND 76-3-207(1)(f) M.C.A. TO-WIT: AGGREGATION OF PARCELS OR LOTS WHEN A CERTIFICATE OF SURVEY OR SUBDIVISION PLAT SHOWS THAT THE BOUNDARIES OF THE ORIGINAL PARCELS HAVE BEEN ELIMINATED AND THE BOUNDARIES OF A LARGER AGGREGATE PARCEL ARE ESTABLISHED. A RESTRICTION OR REQUIREMENT ON THE ORIGINAL PLATTED LOT OR ORIGINAL UNPLATTED PARCEL CONTINUES TO APPLY TO THOSE AREAS.

FURTHERMORE, THIS AMENDED PLAT IS INTENDED TO MERGE AND AGGREGATE LOTS 12 THROUGH 16 INCLUSIVE, BLOCK 6, ORIGINAL TOWNSITE OF MISSOULA AND VACATED BANK STREET PER CITY RESOLUTION NO. 2540 AND A PORTION OF VACATED BANK STREET PER CITY RESOLUTION NO. 3546 TO FORM LOT 12A, LOT 13A, LOT 14A, LOT 15A AND LOT 16A AS SHOWN HEREON PURSUANT TO 76-3-103(1)(b)(ii) AND 76-3-207(1)(f) M.C.A., AS WELL AS THE SUBDIVISION EXEMPTION AFFIDAVIT APPROVAL LETTER ISSUED BY THE OFFICE OF THE CITY ATTORNEY, MISSOULA, MONTANA, DATED OCTOBER 20, 2009.

\* FURTHERMORE, THIS AMENDED PLAT IS EXEMPT FROM REVIEW BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY PURSUANT TO A.R.M. 17.36.605 (2)(a) TO-WIT: A PARCEL THAT HAS NO EXISTING FACILITIES FOR WATER SUPPLY, WASTEWATER DISPOSAL, AND SOLID WASTE DISPOSAL, IF NO NEW FACILITIES WILL BE CONSTRUCTED ON THE PARCEL.

  
F. Patrick Lutermann  
AUTHORIZED OFFICER  
MISSOULA HOTEL 2006, LLC.

## ACKNOWLEDGEMENT \*\*\*\*

STATE OF Colorado

COUNTY OF Denver

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THIS 9th DAY  
OF November 2010 BY F. Patrick Lutermann, as Agent for  
Marion H. Herzen, manager of Inninia 2006,  
AS MISSOULA HOTEL 2006, LLC, a Colorado limited liability  
company, manager  
  
Lynn M. Rice  
NOTARY PUBLIC FOR THE STATE OF Colorado  
RESIDING AT 120 S. Belgrave St., Bldg. Denver, CO  
MY COMMISSION EXPIRES: 05-03-2011  
PRINTED NAME OF NOTARY PUBLIC: Lynn M. Rice  
My Commission Expires May 3, 2011

## CERTIFICATE OF SURVEYOR \*\*\*\*

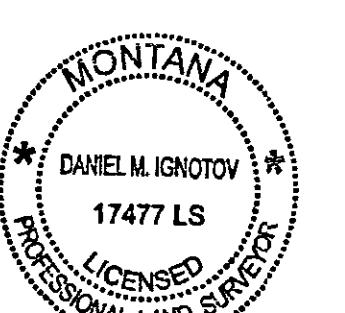
I, DANIEL M. IGNOTOV, PROFESSIONAL LAND SURVEYOR, MONTANA LICENSE NO. 17477LS, HEREBY CERTIFY THAT THIS PLAT IS A TRUE REPRESENTATION OF A SURVEY PERFORMED UNDER MY SUPERVISION AND WAS COMPLETED ON THE DATE SHOWN HEREON.

  
Daniel M. Ignotov  
P.L.S.  
MONTANA LICENSE NO. 17477LS  
FOR WGM GROUP, INC.
UNLESS SIGNED, SEALED, AND DATED, THIS IS A PRELIMINARY OR  
UNLAWFUL DOCUMENT AND CANNOT BE RELIED UPON IN WHOLE OR PART.

## EXAMINED AND APPROVED \*\*\*\*

STATE OF MONTANA

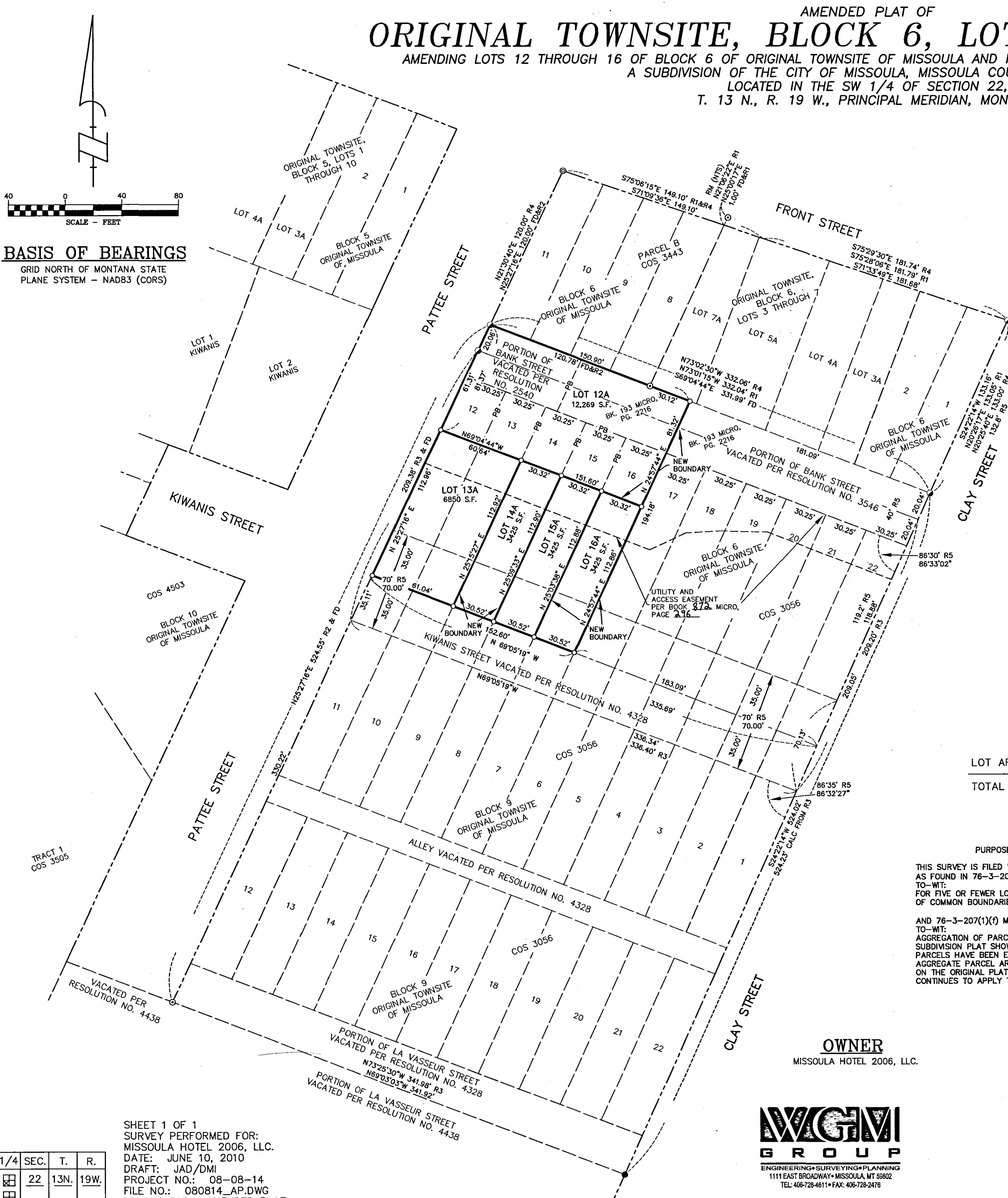
COUNTY OF MISSOULA

DATED THIS 19th DAY OF November, 2010  
MISSOULA CITY ENGINEERDATED THIS 18th DAY OF June, 2010  
MISSOULA CITY/COUNTY HEALTH DEPT.

10-5613

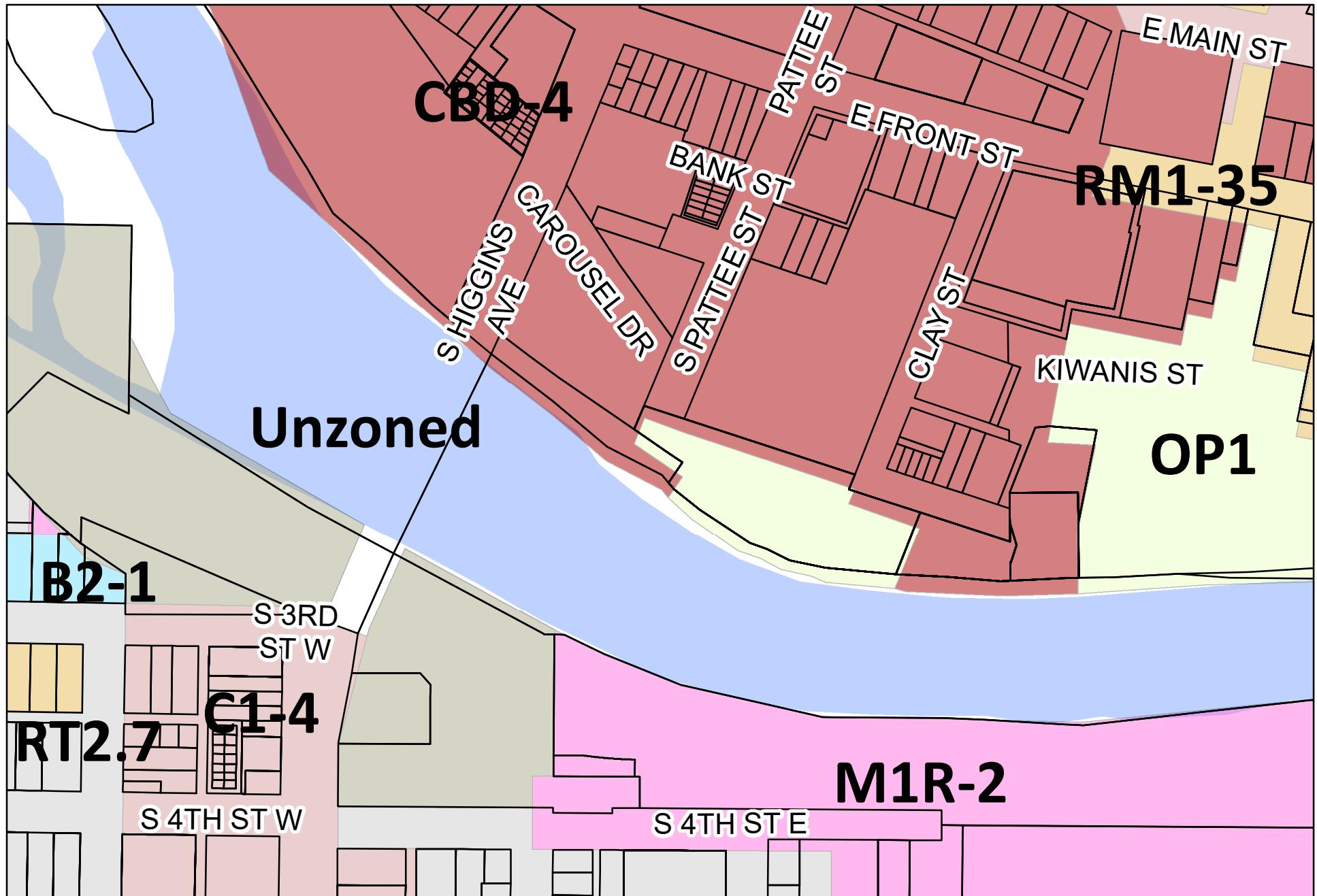
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OR BK 872 Pg 293 PR BK 872 Pg 299  
CTP BK 872 Pg 294 WD BK 872 Pg 300  
WD BK 872 Pg 295 CA BK 872 Pg 301  
E BK 872 Pg 296

PLAT004066 B: 34 P: 66 Pages: 1  
01/07/2011 11:24:11 AM Plat  
Vickie R Zeier, Missoula County Clerk & Recorder



1/4	SEC.	T.	R.
22	13N.	19W.	

34-66



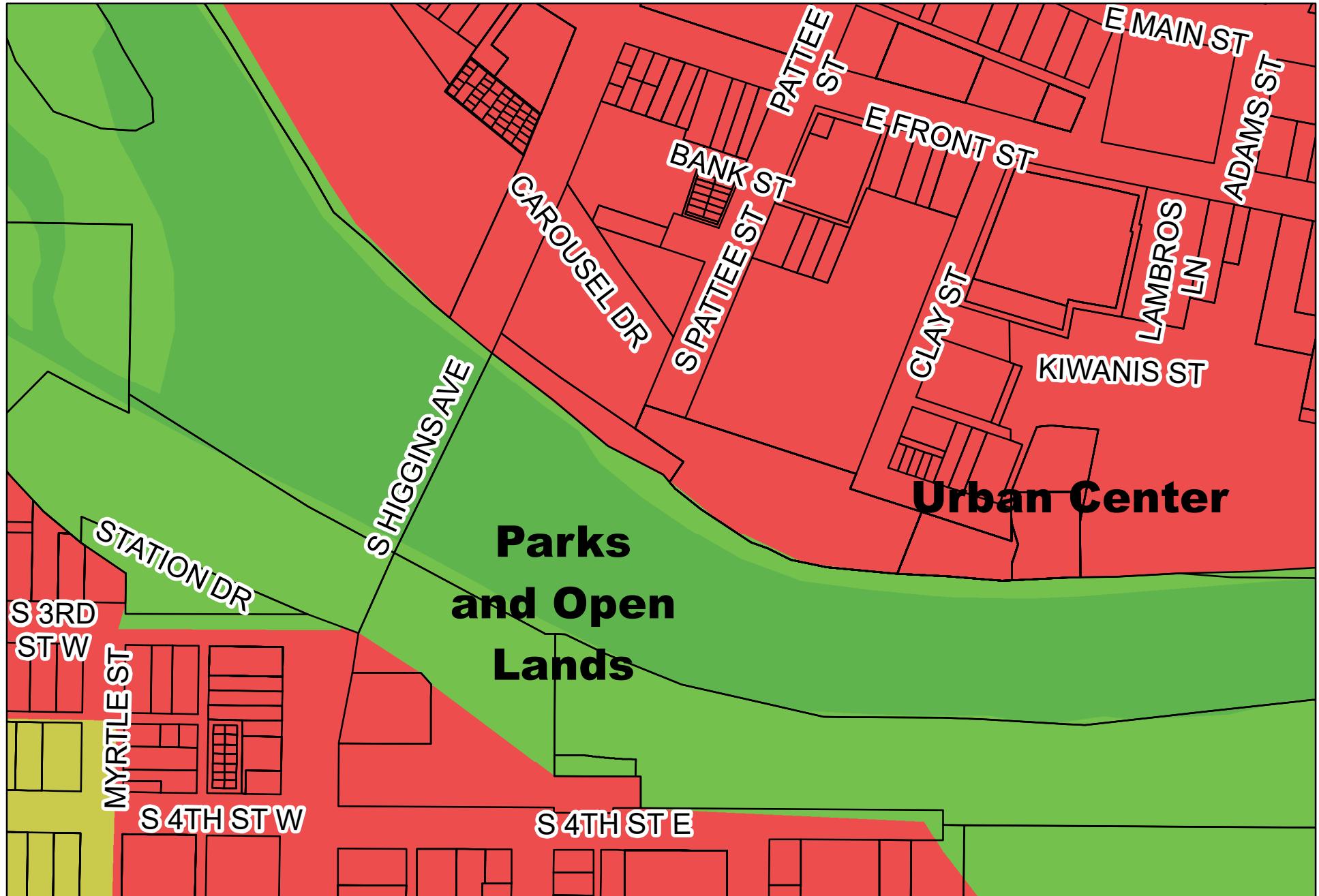
This map was created by the  
City of Missoula  
Development Services

## Zoning Map

### Pattee St ROW Vacation

1 in = 249 ft





This map was created by the  
City of Missoula  
Development Services

1 in = 249 ft

