



Item: Resolution 9956, Intention to close a portion of 6th Street Northeast.

From: Jana Cooper, RLA, Planner II

Initiated By: Montana Refining Company, Adjacent Property Owner

Presented By: Mike Haynes, AICP, Director of Planning and Community Development

Action Requested: City Commission adopt Resolution 9956, setting a public hearing for March 6, 2012.

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission (adopt/deny) Resolution 9956 and set the public hearing for March 6, 2012.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

Staff Recommendation: At the conclusion of a public hearing held January 10, 2012, the Planning Advisory Board passed a motion recommending the City Commission approve the request to close a short segment of 6th Street Northeast right-of-way in the vicinity of 17th Avenue Northeast and BNSF Railroad right-of-way. MRC requested the street closure in order to be able to better secure their property in the interests of public safety.

Representatives from Public Works concurred in recommending the Planning Advisory Board approve the request to close the rights-of-way. The approval is subject to the applicant meeting conditions of approval that include:

1. A Development Agreement shall be prepared containing terms and conditions for the closure of 6th St. NE including but not limited to provisions for:
 - A. Access by City’s Public Works Department as necessary for inspection, maintenance, replacement or abandonment of the existing utilities. Utilities shall be protected from damage caused by any activities by the applicant and no permanent structures may be located within 10 feet of the centerline of any utility (railroad tracks exempted). Refer to attached memo from Public Works dated 12/22/2011.
 - B. Provide fire access for emergency vehicles and fire apparatus as necessary by the City’s Fire Department.
 - C. All new fencing/gating proposed for site shall be reviewed and approved by the City’s

Public Works and Fire Department.

- D. Provide access to the City owned lot south of 17th Ave. NE that is agreeable to the City. This access shall be a minimum of 30 feet wide, paved to meet City needs and provided in an easement to the City. The existing railroad spur on the parcel owned by MRC shall be shortened to not block City access to its parcel at any time.
- E. If street segment is ever reopened, the applicant shall return the closed segment of 6th St. NE to its existing condition. Acceptance of the street to its original condition will be approved by Public Works.

The Planning & Community Development Department is in receipt of one email in opposition to the project because of outstanding issues regarding MRC as a customer of Electric City Power (ECP). Two citizens spoke at the Public Hearing in favor of the street closure, two citizens spoke in opposition to the street closure and there were two general comments on the proposed action.

In response to the assertion that the Planning Advisory Board should defer action on the street closure until ECP matters were resolved, board members correctly asserted that their role was to consider and make recommendations to the City Commission on land use issues and there was no nexus between the proposed street closure and MRC's relationship with ECP.

Background: The applicant has submitted a request to close a segment of 6th St. NE generally located south of 17th Ave. NE extending approximately 300 feet south to the terminus of the street at the BNSF railroad tracks. The entire area to be closed is approximately 0.41 acres.

The segment of 6th St. NE requested for closure is public right-of-way and is paved without curb or gutter. The City's Public Works Department does not have a need to retain the 6th St. NE street segment to maintain adequate public traffic flows. MRC, owner of the property adjacent to the street proposed to be closed, will maintain access to adjoining properties for utility and emergency vehicles, as necessary, from 6th St. NE. The applicant is proposing to use the closed portion of 6th St. NE as a connection between their existing properties on the east and west side of the subject ROW.

There are three lots adjacent to the street segment that is proposed for closure. Two are owned by the applicant (MRC) and the third is owned by the City of Great Falls. Full and uninterrupted access to the City-owned lot is required by the City Public Works Department as a condition of approval (See Traffic Analysis). With an alternate access to the City property, the adjacent property owners would not be adversely affected by the proposed closure.

The City may approve the closure per Montana State Code section 7-14-4114, that states:

Procedure to discontinue streets.

1. The council may discontinue a street or alley or any part of a street or alley in a city or town, if it can be done without detriment to the public interest, upon:
 - (a) a petition in writing of all owners of lots on the street or alley; or
 - (b) (i) a petition in writing of more than 50% of the owners of lots on the street or alley; and
 - (ii) approval by a majority vote of the council.

2. Where the street or alley is to be closed for school purposes, the council may discontinue the street or alley upon a petition signed by 75% of the lot owners on the whole street or alley to be closed.
3. Before acting upon the petition, a notice must be published, stating when the petition will be acted on and what street or alley or part of a street or alley is asked to be vacated. The notice must be published as provided in 7-1-4127.

Improvements

City water mains (8-inch), sewer mains (15-inch) and storm drains are located in 6th St. NE. These utilities must be protected from damage and the City must have access to these utilities for inspection, maintenance, replacement and/or abandonment as the need arises. No permanent structures may be located within 10 feet of the centerline of any utility (railroad tracks are exempted). Further conditions for the closure required by the City Department of Public Works/Engineering can be found in the attached memo supplied by the department.

The applicant will also be required to provide fire access for emergency vehicles and fire apparatus as necessary by the Fire Department. The owners shall submit any plans for fencing or gating the property to the City's Public Works and Fire Departments for review for access requirements.

Traffic Analysis

The subject ROW proposed for closure has never been formally developed. It dead-ends at the BNSF spur line to MRC, and only serves property owned by MRC and the City of Great Falls. To facilitate access to the property owned by the City, MRC has agreed to construct a new access off 17th Ave. NE. This new access shall be a recorded easement, a minimum 30 feet in width.

The access shall include a shortening of the spur line that straddles the north boundary line of the City property to eliminate any need by the City to cross the rail line. This will ensure full and continuous access by the City to its property, without any potential blockage due to stored railroad cars. MRC must provide proof of the ownership/existence of the railroad easement. Finally, MRC must design and construct a paved access to the City property, with review and approval by the City Engineering Office.

2005 City of Great Falls Growth Policy

The transportation element of the City of Great Falls Growth Policy establishes strategies and actions to implement sound traffic and roadway management. The City of Great Falls Public Works Department has determined the only need for the subject ROW is to access the existing utilities located in the street if an alternate access to the City property is constructed; the right-of-way is not needed for future street development or general public transportation use.

Neighborhood Council Input

The subject property is located in Neighborhood Council #3. The applicant presented to the Council on January 5, 2012. At the meeting, Neighborhood Council #3 voted in support of the street closure. There was one question regarding increased traffic in the area.

Concurrences: Representatives from the City's Public Works and Fire Departments have been involved throughout the review and approval process for this request.

Fiscal Impact: Closure of the right-of-way will have minimal fiscal impact to the City. MRC will be required to maintain the closed portion of the street.

Alternatives: The City Commission could deny Resolution 9956 and not set the public hearing. However, such action would deny the applicant due process and consideration of a public hearing, as provided for in City Code and State Statute.

Attachments/Exhibits:

Resolution 9956 with Exhibit "A"

Aerial Photo

Public Works Memo

Cc:

Jim Rearden, Public Works Director

Dave Dobbs, City Engineer

Patty Cadwell, Neighborhood and Youth Council Coordinator

Jeff Short, Montana Refining Company, 1900 10th St NE, Great Falls, MT 59404-1955

RESOLUTION 9956

A RESOLUTION OF INTENTION BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, TO CLOSE A PORTION OF 6th STREET NORTHEAST, IN THE VICINITY OF 17TH AVENUE NORTHEAST AND BURLINGTON NORTHERN SANTA FE (BNSF) RIGHT-OF-WAY, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 7-14-4114, MONTANA CODE ANNOTATED AND DIRECTING NOTICE TO BE GIVEN AS PROVIDED BY LAW AS SHOWN IN EXHIBIT "A"

* * * * *

WHEREAS, the subdivision plat of 4th Supplement to Riverview Tracts, dedicated the right-of-way of 6th Street Northeast, in the vicinity of 17th Avenue Northeast and BNSF right-of-way; and,

WHEREAS, Montana Refining Company, owns the property adjoining 6th Street Northeast to the east and northwest and has petitioned the City of Great Falls to have said right-of-way be closed; and,

WHEREAS, the City of Great Falls owns the property adjoining 6th Street Northeast to the southwest and does not object to the closure of said right-of-way; and,

WHEREAS, it is determined retention and eventual improvement of 6th Street Northeast serves no practical or functional traffic related purpose; and,

WHEREAS, it is determined that 6th Street Northeast will be retained for use for utility purposes for existing public utilities.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

That Tuesday, the 6th day of March, 2012, at 7:00 P.M. in the Commission Chambers of the Civic Center, Great Falls, Montana, be and the same is hereby set as the time and place at which the City Commission shall hear all persons relative to the proposed closure of:

That portion of 6th Street Northeast between 17th Avenue Northeast and the BNSF which consists of a parcel of land 60 feet wide and approximately 300 feet long, extending from the south right-of-way line of 17th Avenue Northeast to the north right of way line of BNSF. The area so described shall encompass only dedicated right-of-way.

BE IT FURTHER RESOLVED BY SAID CITY COMMISSION that the City Clerk of the City shall forthwith cause notice of the Resolution to close by: (1) published twice in the Great Falls Tribune, the newspaper published nearest such land; and (2) posted in three public places.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on this February 7th, 2012.

Michael J. Winters, Mayor

ATTEST:

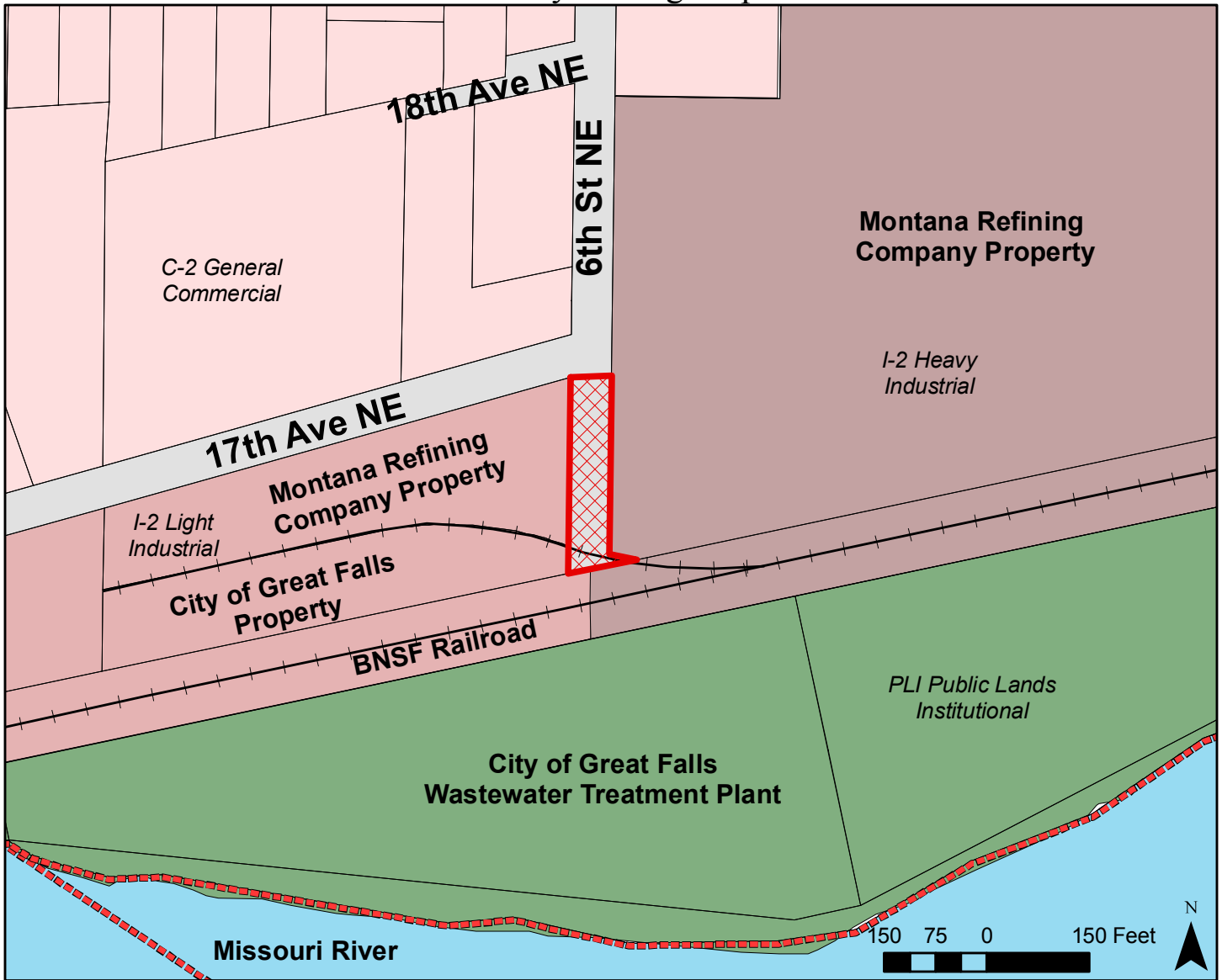
Lisa Kunz, City Clerk

(CITY SEAL)

APPROVED FOR LEGAL CONTENT:

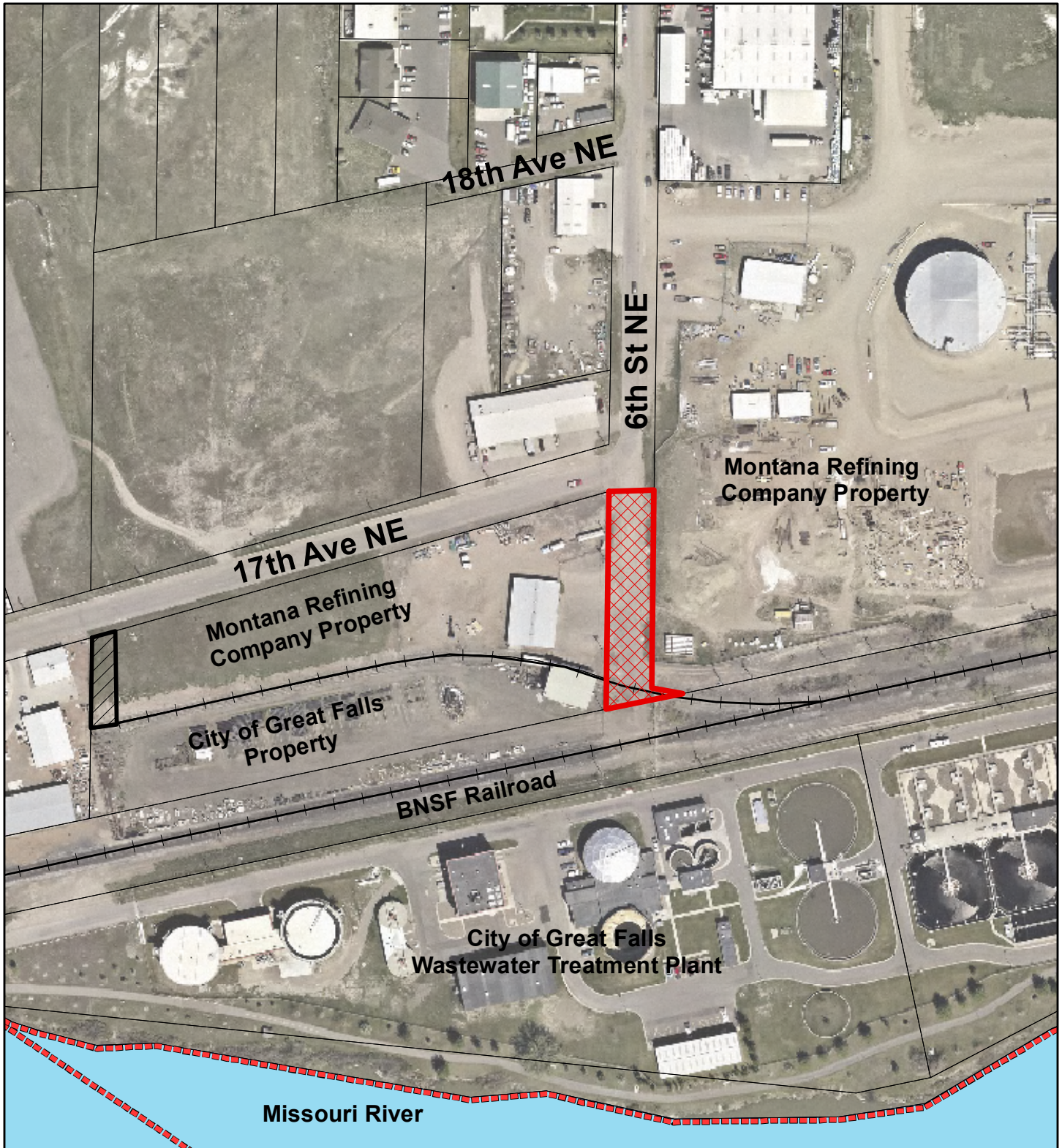
James W. Santoro, City Attorney






Exhibit A Vicinity/Zoning Map

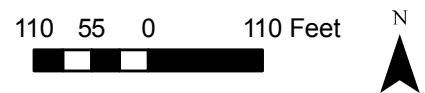


- | | | |
|---|--|--|
| ----- City Limits | C-4 Central business core | R-1 Single-family suburban |
| 6th St NE | C-5 Central business periphery | R-2 Single-family medium density |
| Tracts of Land | I-1 Light industrial | R-3 Single-family high density |
| —+—+ Railroad Lines | I-2 Heavy industrial | R-5 Multi-family medium density |
| ZONING | M-1 Mixed-use district | R-6 Multi-family high density |
| AI Airport Industrial | M-2 Mixed-use transitional | R-9 Mixed residential |
| C-1 Neighborhood commercial | PLI Public lands institutional | R-10 Mobile home park |
| C-2 General commercial | POS Park Open Space | Unincorporated Enclave |
| C-3 Highway commercial | PUD Planned unit development | |

Aerial Photo



-  6th St NE Closure Area
-  City Limits
-  Proposed City Access
-  Tracts of Land
-  Railroad Lines



City of Great Falls
Public Works/Engineering

INTER-OFFICE MEMORANDUM

December 22, 2011

TO: Jana Cooper, Current Planner II

FROM: Dave Dobbs, City Engineer *DD*

SUBJECT: Public Works Department Requirements for 6th Street NE (south of 17th Avenue NE) Closure to Montana Refining Company (MRC)

The Public Works Department is supportive of the proposed closure of 6th Street NE from the south right-of-way line (projected east) of 17th Avenue NE, to the north right-of-way line of the BNSF railroad spur. Since essential utilities are present and there is an access issue to the City's pipe yard property, we must insist on the following conditions:

1. There are existing water, sanitary sewer, and storm drain utilities within this right-of-way. These utilities must be protected from damage caused by MRC activities. The City must have access to these utilities for inspection, maintenance, replacement and/or abandonment as the need arises. We would also insist that no permanent structures be located within 10 feet on the centerline of any utility (railroad tracks exempted).
2. Access to the City's pipe yard property will be limited by this closure. In order to assure uninhibited access, a new driveway must be provided in an easement. The proposed location is from 17th Avenue NE to the northwest corner of the pipe yard (just east of the General Distributing property at 430 17th Avenue NE). This is acceptable to Public Works as long as MRC builds the driveway to City Specifications at MRC expense. If the closure of 6th Street NE is relinquished, this easement can also be released.
3. It is highly unlikely that access to the wastewater treatment plant via 6th Street will ever be reestablished. However, if this was to occur, the abandonment of 6th Street NE would have to be relinquished, reopening 6th Street NE. Prior to reopening, any removed or damaged asphalt on 6th Street would have to be replaced by MRC.

Currently, City utilities in this portion of 6th Street NE include an 8-inch water main (with a vault and valves); 15-inch sanitary sewer main (with a manhole); and a storm drain with an inlet. There are also non-city utilities including overhead power cables in this corridor. Public Works will not require relocation of these utilities as a condition for approving this closure. If MRC alters the surface elevation over the utilities in the future, the City must be notified and approve the alteration before this work starts.

cc. Jim Rearden, Public Works Director; Jim Young, Senior Civil Engineer; Jim Turnbow, Street Supervisor; Mike Judge, Utilities Supervisor