



**Item:** Corrected Resolution of Intent 10077 - Intention to vacate 26th Avenue Southwest

**From:** Galen Amy, Planner II, Planning and Community Development

**Initiated By:** Louis Erck, Erck Hotels

**Presented By:** Craig Raymond, Director of Planning and Community Development

**Action Requested:** City Commission adopt corrected Resolution of Intent 10077.

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**Suggested Motions:**

1. Commissioner moves:

“I move that the City Commission (adopt/deny) corrected Resolution of Intent 10077.”

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

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**Recommendation:** At the May 20, 2014 City Commission meeting, the City Commission adopted Resolution of Intent 10077 to vacate 26th Avenue Southwest from 14th Street Southwest to its terminus, located in the vicinity of Hilton Garden Inn. 26th Avenue Southwest is primarily used by the applicant, and with the preliminary design of the Hilton Garden Inn convention center, it is apparent that the applicant should acquire and maintain this right-of-way, which is the impetus for the request to vacate the subject right-of-way.

Subsequent to the May 20, 2014 adoption of Resolution 10077, it was noted by staff that certain procedural steps needed to change for processing vacation of right-of-way applications. This corrected Resolution of Intent reflects those changes deemed necessary in order to proceed with the processing of this and future vacation of right-of-way applications. The corrected Resolution also corrects clerical errors including reference to State statutes and the dates of public hearing and adoption.

At the same May 20, 2014 meeting, the City Commission also accepted Ordinance 3120 on first reading, to rezone the vacant lot, abutting said right-of-way to the south, from R-5 Multi-family medium density to C-2 General commercial, which is legally described as Lot 1, Block 2, Hilton Garden Inn Addition, Section 15, T20N, R3E, Cascade County, MT, and set the public hearing for the proposed project for June 17, 2014.

**Concurrences:** Representatives from the City’s Public Works, Park and Recreation and Fire Departments have been involved throughout the review and approval process for this project.

**Fiscal Impact:** Approval to vacate the subject right-of-way will result in the applicant becoming responsible for any future maintenance costs and rezoning will allow the applicant to redevelop a large vacant lot. The improvements will increase the tax base of the City.

**Alternatives:** Due process requires that the City Commission hold a public hearing whether or not the project is approved.

**Attachments/Exhibits:** Corrected Resolution of Intent 10077 with Attachment A

Cc: Jim Rearden, Public Works Director  
Dave Dobbs, City Engineer  
Patty Cadwell, Neighborhood Council Coordinator  
Laurie Price, Erck Hotels Representative, [laurie@erckhotels.com](mailto:laurie@erckhotels.com)  
Jana Cooper, PLA | TD&H Engineering, [Jana.Cooper@tdhengineering.com](mailto:Jana.Cooper@tdhengineering.com)

**CORRECTED** RESOLUTION 10077

A RESOLUTION OF INTENTION BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, TO VACATE 26TH AVENUE SOUTHWEST, IN THE VICINITY OF 14TH STREET SOUTHWEST AND PARK GARDEN ROAD, AS SHOWN IN ATTACHMENT A, AND BY THIS REFERENCE MADE A PART HEREOF, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 7-3-4448 ~~and 7-14-4114~~, MONTANA CODE ANNOTATED, AND DIRECTING NOTICE TO BE GIVEN AS PROVIDED BY LAW

\* \* \* \* \*

WHEREAS, the subdivision plat of Hilton Garden Inn Addition dedicated the right-of-way of 26th Avenue Southwest, located west of 14th Street Southwest and north of Park Garden Road; and

WHEREAS, Montana Code Annotated (MCA), 2013, Section ~~7-14-4114~~ **7-3-4448** states sets forth, in pertinent part: ~~(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; and,~~

**(1) . . . Before vacating any street or part thereof or narrowing any street, the commission shall first pass a resolution declaring its intention to do so; and**

WHEREAS, Russell Country Investors, LLC owns all of the property adjoining 26th Avenue Southwest to the north and Bleskin Peter D Revocable Trust owns all of the property adjoining 26th Avenue Southwest to the south, and Kenneth and Marlene Zent own the property adjoining to 26th Avenue Southwest to the west; and,

WHEREAS, Russell Country Investors, LLC and Bleskin Peter Revocable Trust have petitioned in writing to the City of Great Falls to have the 26th Avenue Southwest right-of-way vacated, ~~which meets the above referenced MCA statute;~~ and,

WHEREAS, the City of Great Falls owns the adjoining 14th Street Southwest right-of-way to the east of 26th Avenue Southwest, and does not object to the vacation of said right-of-way; and,

WHEREAS, it is determined retention of 26th Avenue Southwest is not necessary to maintain adequate public traffic flows or circulation in the area; and,

WHEREAS, it is determined that the width of 26th Avenue Southwest will be retained as a utility easement for existing public utilities.

WHEREAS, it is determined that the width of 26th Avenue Southwest will be retained as a public access easement for existing residential properties currently served by 26th Avenue Southwest.

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

That Tuesday, the ~~20<sup>th</sup>~~ **17<sup>th</sup>** day of ~~May~~ **June**, 2014, 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~~ **vacation** of:

26<sup>th</sup> Avenue Southwest, located in the vicinity of 14<sup>th</sup> Street Southwest and Park Garden Road, beginning at the junction with 14<sup>th</sup> Street Southwest and continuing west and terminating at the cul-de-sac. Said right-of-way extends ±899.25 feet and comprises ±1.078 acres, the entirety of this right-of-way is requested to be vacated.

BE IT FURTHER RESOLVED BY SAID CITY COMMISSION that ~~the City Clerk of the City shall forthwith cause notice of the Resolution of Intention to vacate be published twice in the Great Falls Tribune, the newspaper published nearest such land.~~ **service and publication of the Resolution of Intention to Vacate be made in accordance with § 7-3-4448, MCA.**

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on ~~May 20~~ **June 3**, 2014.

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Michael J. Winters, Mayor

ATTEST:

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Lisa Kunz, City Clerk

(CITY SEAL)

APPROVED FOR LEGAL CONTENT


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
Sara R. Sexe, City Attorney

# Resolution of Intent 10077

## Attachment A



 Requested vacation of ROW

 Tracts of Land

150 75 0 150 Feet

