

PLANNING ADVISORY BOARD ZONING COMMISSION

JANUARY 10, 2012

Case Number

ABN2012-1

Applicant

Jeff Short - Montana Refining Company

Owners

Public Right-of-Way

Property Location

6th St. NE south of 17th Ave. NE and north of the BNSF railroad tracks

Requested Action

Close a portion of 6th St NE right-of-way

Neighborhood Council

Neighborhood Council #3

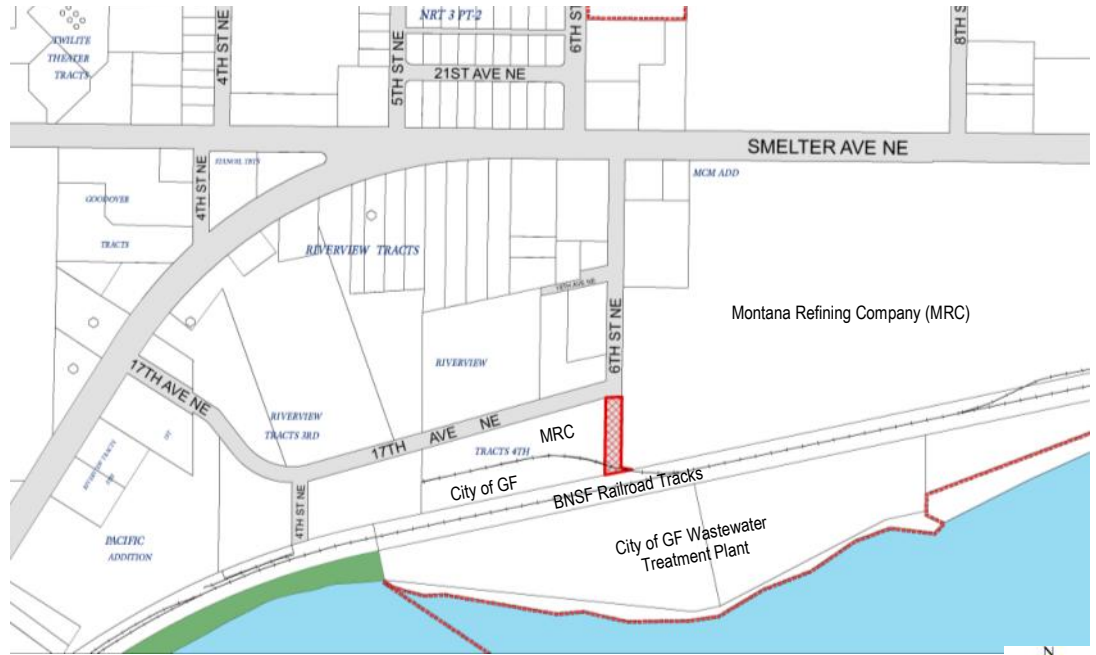
Recommendation

Approval of the request with Conditions.

Project Planner

Jana Cooper, RLA

STREET CLOSURE—6TH STREET NORTHEAST



Location Map

 **ROW Closure**



Summary

Project Description

Montana Refining Company, owners of land adjoining 6th Street NE, has submitted an application to close a portion of 6th Street Northeast generally located south of 17th Avenue Northeast and north of the Burlington Northern-Santa Fe (BNSF) railroad tracks, hereinafter referred to as “subject ROW.”

Background

- Legal Description: 6th Street Northeast located in Gov. Lot 3, Section 1, Township 20 North, Range 3 East, P.M.M. Great Falls, Cascade County, Montana.
- Subject Street Segment: 6th St NE: ±18,000 sq. ft. = ±0.41 acres

Agency Comment

Representatives from the City’s Public Works and Fire Department have been involved in the review process for this project. Neighborhood Council #3 has been advised. All comments by the above parties will be addressed by the applicant prior to final approval by the City Commission or in the conditions of approval in this report.

Existing Conditions

The existing characteristics of the subject ROW and adjacent properties include:

Existing Use: Public right-of-way that is paved, but does not have curb and gutter and is now open to public use. The subject ROW is a dead-end that is blocked to through traffic to the south by the Burlington Northern Santa Fe Railroad and the City of Great Falls Wastewater Treatment Plant. A vehicular crossing of the railroad does not exist.

Existing Zoning: Adjacent to 6th St. NE is property zoned I-2 Heavy Industrial to the east and I-1 Light Industrial to the west. Therefore the eastern half of the ROW is zoned I-2 and the western half is zoned I-1. No new development will be permitted in the area without a separate approval process. If, in the future, there is a proposal for development in the area, the street would need to be formally vacated and zoned to accommodate said development.

Adjacent Land Use: The property to the east of the subject ROW is owned by the applicant, Montana Refining Company (MRC). This property is zoned I-2 and used for refining operations and storage of equipment and materials. A portion of the abutting property to the west is also owned by MRC; this property is zoned I-1 and used for storage of material for refining operations. The remaining property to the west of the subject ROW is owned by the City of Great Falls. This property is also zoned I-1 and used for storage of City equipment. The property to the south of the proposed closure is a railroad spur owned by Burlington Northern Santa Fe Railroad.



View north on 6th Street Northeast.



View south on 6th Street Northeast.

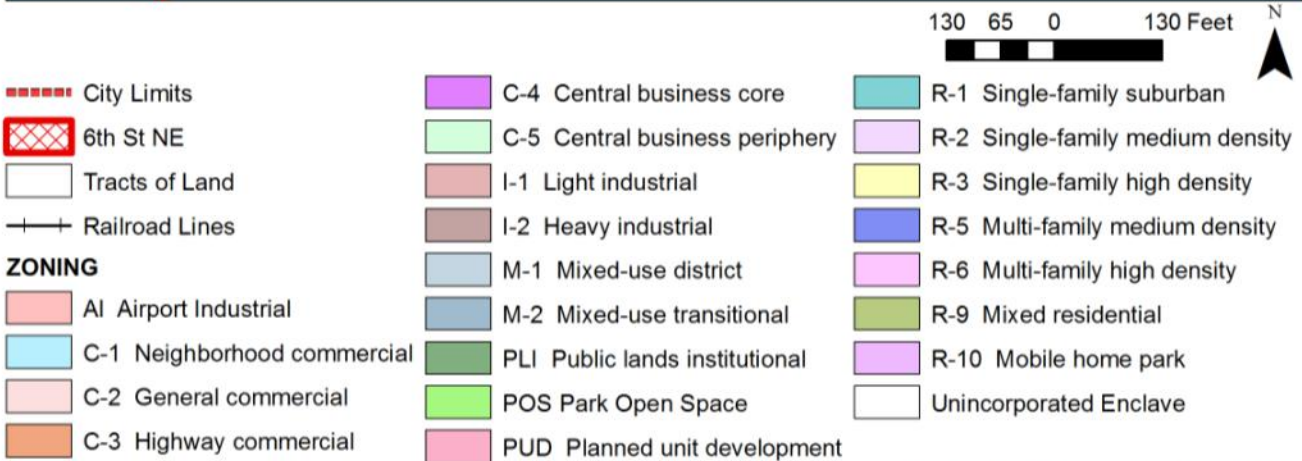
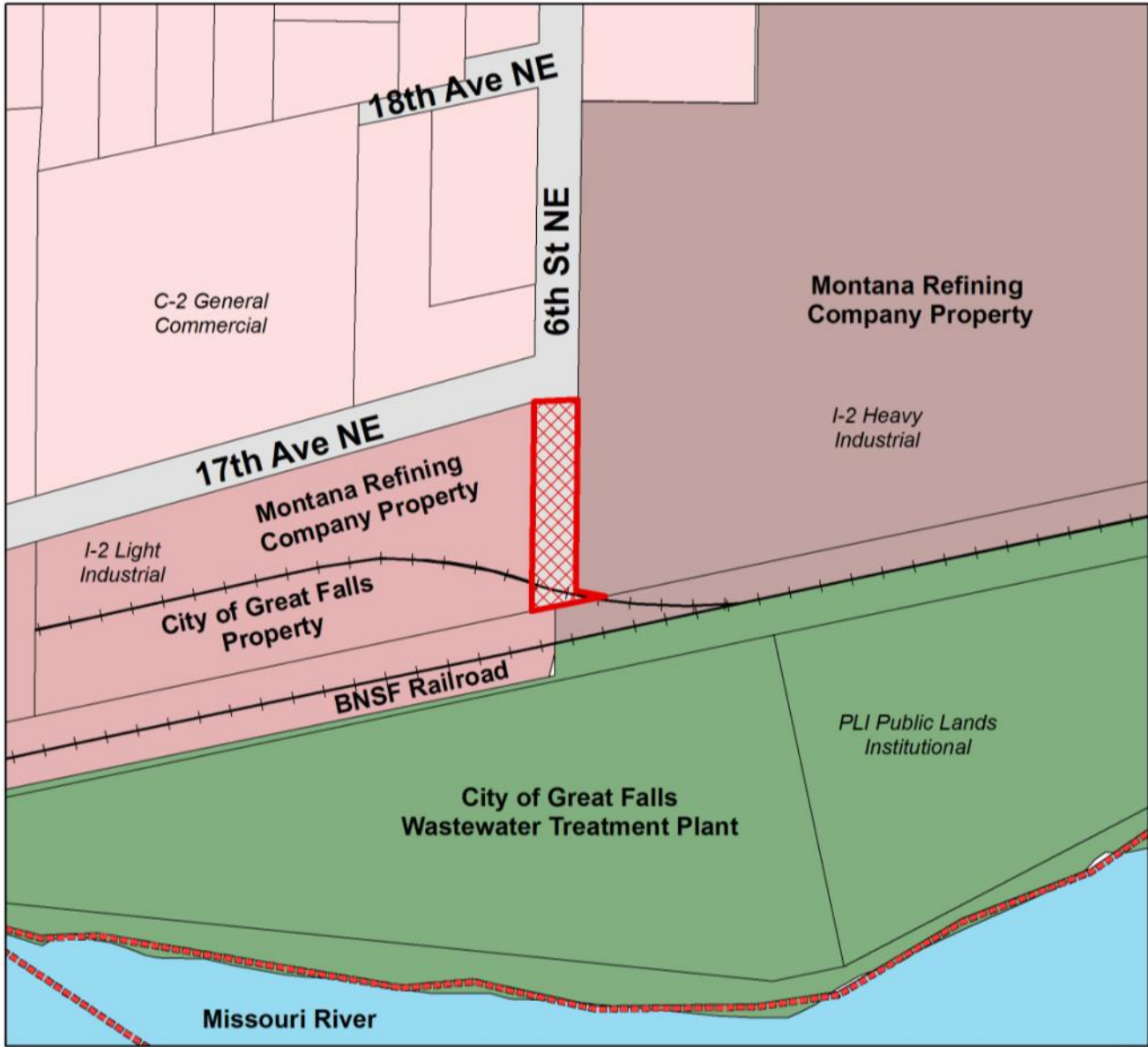


View south toward the City of Great Falls Wastewater Treatment Plant



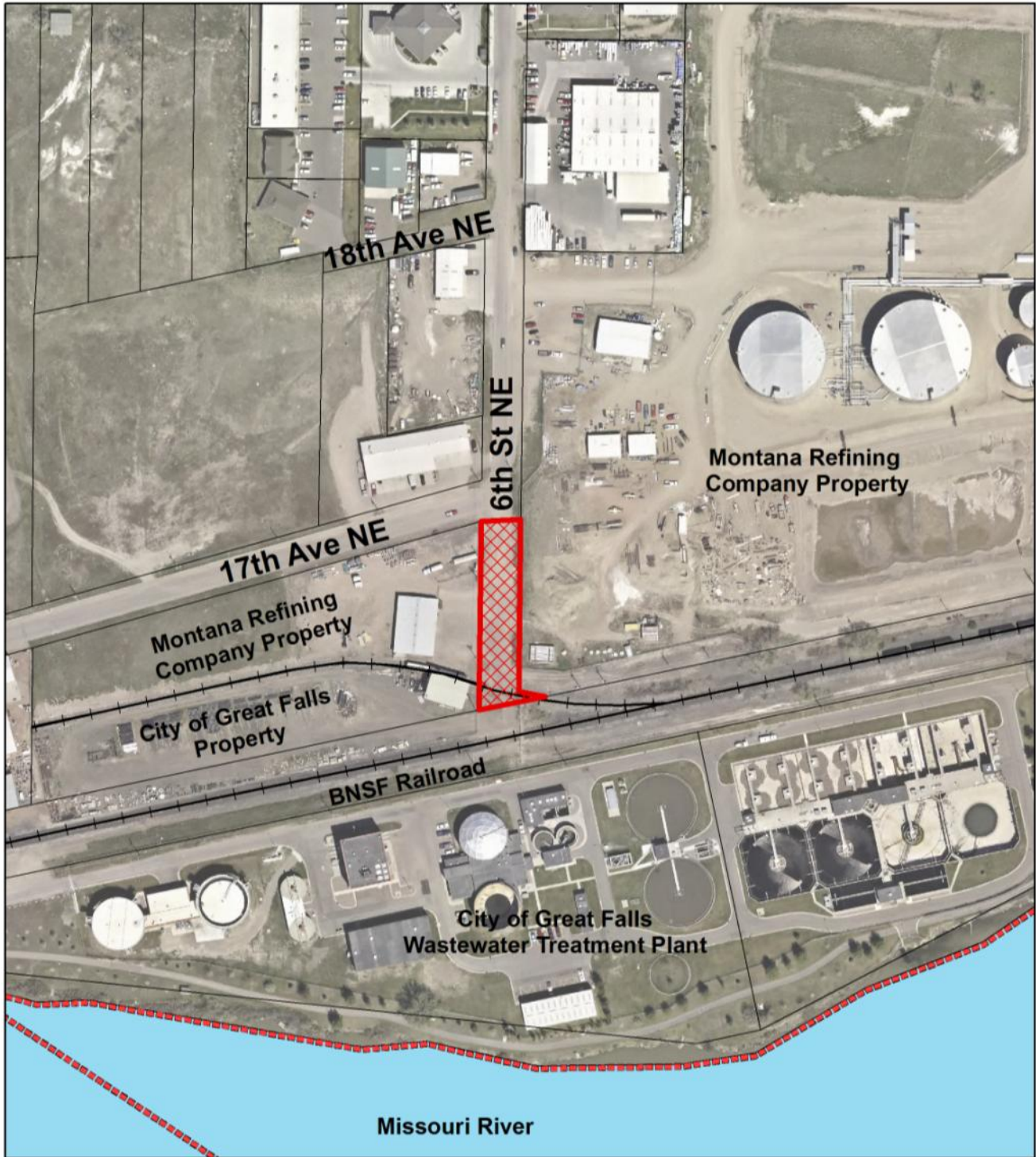
View west down BNSF Railroad Tracks Right of Way.





EXHIBIT A - VICINITY / ZONING MAP



MRC 6th St NE Closure - Zoning Map

EXHIBIT B - AERIAL PHOTO



-  6th St NE
-  City Limits
-  Tracts of Land
-  Railroad Lines



MRC 6th St NE Closure - Aerial Photo

Project Overview

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. (Refer to Exhibits A & B)

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. Montana Refining Company (MRC), the adjacent property owner 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 is allowed to approve the closure per Montana State Code section 7-14-4114, which 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 Conditions of Approval in the staff report as well as the attached memo supplied by the department. (See Exhibit E).

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 one property other than the MRC, who is requesting its closure. To facilitate access to this property, owned by the City of Great Falls, MRC has agreed to construct a new access off 17th Ave. NE. This new access shall be deeded property, a minimum 30 feet in width and recorded through an amended plat.

The deeding of 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. Once proof of ownership of this line is established, the easement shall then be reduced by a minimum 30 feet on the west end. This also shall occur through the amended plat process, and may be done simultaneously with the deeding of the new access. If the full easement has not been formally reflected on a plat, it must be done so at this time. 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. In addition, the project is consistent with the Land Use section of the Growth Policy because all of the affected properties have conforming land uses per the zoning code.

Neighborhood Council Input

The subject property is located in Neighborhood Council #3. The applicant presented to the Council on January 5, 2012. At the time this staff report was written, staff had not received any comments regarding the proposed closure. An update of any comments will be presented at the Planning Board Meeting on January 10, 2012.

Recommendation

It is recommended that the Planning Advisory Board recommend the City Commission approve the request to close a portion of 6th St. NE right-of-way generally located south of 17th Ave. NE and north of the BNSF railroad tracks containing approximately 0.41 acres all within in Gov. Lot 3, Section 1, Township 20 North, Range 3 East, P.M.M. Great Falls, Cascade County, Montana., subject to the conditions below:

Conditions of Approval

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 deeded to the City through the amended plat process. 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.

Review/Approval Process

Next Steps

1. The Planning Advisory Board recommendation will be presented to the City Commission.
2. City Commission will approve or deny the closure.
3. If approved, the applicant will submit any required documents for review and then file the required documents with the Cascade County Clerk and Recorder's Office.

Cc: Jim Rearden, Public Works Director

Dave Dobbs, City Engineer

Patty Cadwell, Neighborhood and Youth Council Coordinator

Jeff Short, Montana Refining Company, 1900 10th Street Northeast, Great Falls, MT 59404-1955

Spencer Woith, Woith Engineering Inc., P.O. Box 7326, Great Falls, MT 59406

EXHIBIT C - APPLICATION

CITY OF GREAT FALLS
 PLANNING & COMMUNITY DEVELOPMENT DEPT.
 P.O. BOX 5021, GREAT FALLS, MT, 59403-5021
 406.455.8415 • WWW.GREATFALLSMT.NET

DEVELOPMENT APPLICATION

Submittal Date: 11.30.11
 Application Number: ABN2011-4
 Paid (Official Use ONLY):

- Annexation: \$400
- Establish City Zoning: \$700
- Zoning Map Amendment: \$700
- Conditional Use Permit: \$700
- Planned Unit Development: \$700
- Subdivision Preliminary Plat: \$800
- Subdivision Minor Plat: \$600
- Subdivision Final Plat: \$300
- Amended Plat (6 or more lots): \$600
- Vacate Public Right of Way: \$200

CLOSE!

MONTANA REFINING COMPANY (6TH ST NE)
 Name of Project / Development:

MONTANA REFINING COMPANY
 Owner Name:

1900 10TH ST NE GREAT FALLS MONTANA 59404-1955
 Mailing Address:

(406) 761-4100 Phone: jshort@montanarefining.com Email:

WOITH ENGINEERING INC.
 Representative Name:

P.O. Box 7326 GREAT FALLS MT 59406
 Mailing Address:

(406) 761-1955 Phone: SPENCER.WOITH@WOITHENGINEERING.COM Email:

PROPERTY DESCRIPTION / LOCATION:

Mark/Lot: _____ Section: _____ Township/Block: _____ Range/Addition: _____

Street Address: _____

ZONING:

LAND USE:

Current: _____ Proposed: _____ Current: _____ Proposed: _____

I (We) the undersigned understand that the filing fee accompanying this application is not refundable. I (we) further understand that the fee pays for the cost of processing, and the fee does not constitute a payment for approval of the application. I (we) further understand that other fees may be applicable per City Ordinances.
 I (We) also attest that the above information is true and correct to the best of my (our) knowledge.

[Signature] Property Owner's Signature: 11/30/11 Date:

[Signature] Representative's Signature: 11-30-11 Date:

Form Creation Date: 08.25.2011



EXHIBIT D - PROPERTY OWNER PETITION



November 30, 2011

Montana Refining Company, Inc.
1900 Tenth Street N.E.
Great Falls, MT 59404

To Whom It May Concern:

Subject: 6th Street Northeast Closure

Please accept this letter acknowledging that MRC would prefer to have 6th Street Northeast closed.

Questions please call me at 406-454-9858.

Feel free to email me with any questions at dleach@montanarefining.com

Thanks,

A handwritten signature in cursive script, appearing to read "Dana Leach".

Dana Leach
Refinery Manager

EXHIBIT E - PUBLIC WORKS CONDITIONS MEMO

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