



**Planning Advisory Board/Zoning Commission Agenda**  
**Civic Center, 2 Park Drive South, Great Falls, MT**  
**City Commission Chambers**  
**February 26, 2019**  
**3:00 PM**

**OPENING MEETING**

1. Call to Order 3:00 P.M.
2. Roll Call- Board Introductions  
  
Peter Fontana- Chair  
Michael Wedekind- Vice Chair  
Dave Bertelsen  
Kelly Buschmeyer  
Anthony Houtz  
Tory Mills  
Charles Pankratz  
Samantha Shinaberger  
Patrick VanWorth
3. Recognition of Staff
4. Approval of Meeting Minutes- February 12, 2019

**BOARD ACTIONS REQUIRING PUBLIC HEARING**

5. Public Hearing – Annexation of Lots 8-21, Block 30 of the Replat of Lincoln Heights, located in the S1/4 of Section 18, Township 20 North, Range 4 East, PMM, City of Great Falls, Cascade County, MT and the adjoining right-of-way of 15th Alley South; establishment of R-5 Multi-family Medium Density zoning, and Non-Administrative Plat to aggregate the subject properties.

**BOARD ACTIONS NOT REQUIRING PUBLIC HEARING**

6. Minor Subdivision – Westwood Plaza, a subdivision of Lot 2 of the Amended Plat of Block 1, Westwood No. 2 Addition located in the N1/2 of Section 2, Township 20 North, Range 3 East, P.M.M., Cascade County, MT.
7. Ordinance 3197, “An Ordinance Amending Title 1, Chapter 2, of the Official Code of the City of The City of Great Falls (OCCGF) Adding Section 050 Establishing A Public Hearing Procedure.”
8. Ordinance 3198, “An Ordinance Amending Title 17, Chapter 16, Article 6, of The Official Code of The City of Great Falls (OCCGF), Pertaining to Public Hearings.”

## **COMMUNICATIONS**

9. Next Meeting Agenda- Tuesday, March 12, 2019

-None

10. Petitions & Applications Received

-Heisler/Calumet Non-Administrative Plat and Rezone

## **PUBLIC COMMENT**

## **ADJOURNMENT**

**MINUTES OF THE MEETING  
OF THE  
GREAT FALLS PLANNING ADVISORY BOARD/ZONING COMMISSION  
February 12, 2019**

**CALL TO ORDER**

The regular meeting of the Great Falls Planning Advisory Board/Zoning Commission was called to order by Chair Pete Fontana at 3:00 p.m. in the Commission Chambers of the Civic Center.

**ROLL CALL & ATTENDANCE**

Planning Board Members present:

Pete Fontana, Chair  
Michael Wedekind, Vice Chair  
Kelly Buschmeyer  
Anthony Houtz  
Tory Mills  
Charles Pankratz  
Samantha Shinaberger  
Patrick VanWorth

Planning Board Members absent:

Dave Bertelsen

Planning Staff Members present:

Craig Raymond, Director P&CD  
Thomas Micuda, Deputy Director P&CD  
Brad Eatherly, Planner I

Other Staff present:

Joseph Cik, Assistant City Attorney  
Darcy Dea, Deputy City Clerk

Mr. Raymond affirmed a quorum of the Board was present.

**MINUTES**

Chair Pete Fontana asked if there were any comments or corrections to the minutes of the meeting held on January 22, 2019. Seeing none, Mr. VanWorth moved to approve the minutes. Mr. Houtz seconded, and all being in favor, the minutes were approved.

## **BOARD ACTIONS REQUIRING PUBLIC HEARING**

### **Annexation Grandview Tracts**

Brad Eatherly, Planner I, reviewed an aerial map of the subject property located on the north side 21<sup>st</sup> Avenue South. The applicants are requesting annexation for their property located in an area known as the Upper and Lower River Road Water and Sewer District, this particular parcel being located within Service District 5. The applicant is requesting annexation with the desire to use City water and sewer services with a new home being constructed. The owners are also requesting an establishment of an R-2 Single-family medium density zoning designation.

Mr. Eatherly reviewed the Findings of Fact as listed in the staff report, and said staff supports the annexation and zoning designation.

### **PETITIONER'S PRESENTATION**

There was no petitioner's presentation.

### **PUBLIC QUESTION AND ANSWER SESSION**

Mr. Fontana inquired about the phases of annexation in the Upper and Lower River Road Water and Sewer District, and why some have fully annexed in and some have not. Mr. Raymond explained that some people just don't want to annex into the City, despite the opportunity to hook into City sewer and water.

Mr. Pankratz noted the Findings of Fact reference the streets in the project area have gravel streets, and asked if other areas in the City have gravel streets. Mr. Eatherly said it is typical in that area. Mr. Raymond added as projects develop, better connectivity and paved roads are developing as well.

### **PUBLIC COMMENT**

There was no public comment.

### **BOARD DISCUSSION AND ACTION**

**MOTION:** That the Planning Advisory Board recommend the City Commission approve the annexation of the subject property as legally described in the staff report, the Draft Improvement Agreement, and the accompanying Findings of Fact/Basis of Decision, subject to the Conditions of Approval being fulfilled by the applicant.

Made by: Mr. VanWorth  
Second: Mr. Mills

**VOTE:** All in favor, the motion carried.

**MOTION:** That the Zoning Commission recommend the City Commission approve the establishment of R-2 Single-family Medium Density zoning for the subject property as legally described in the staff report, and the accompanying Findings of Fact/Basis of Decision, subject to the Conditions of Approval being fulfilled by the applicant.

Made by: Mr. Pankratz  
Second: Mr. Houtz

VOTE: All in favor, the motion carried.

### **COMMUNICATIONS**

#### Next Meeting Agenda – Tuesday, February 26, 2019

- Westwood Plaza Minor Subdivision
- Beehive Homes Annexation, Zoning Assignment, and Non-administrative Subdivision

#### Petitions & Applications Received:

- Heisler/Calumet Non-administrative Plat and Rezone

### **PUBLIC COMMENT**

There was no public comment.

### **ADJOURNMENT**

There being no further business, Chair Pete Fontana adjourned the meeting at 3:16 p.m.

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CHAIRMAN

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SECRETARY



Agenda #: \_\_\_\_\_  
Commission Meeting Date: \_\_\_\_\_

**CITY OF GREAT FALLS  
PLANNING ADVISORY BOARD / ZONING COMMISSION AGENDA REPORT**

**Item:** Public Hearing – Annexation of Lots 8-21, Block 30 of the Replat of Lincoln Heights, located in the S1/4 of Section 18, Township 20 North, Range 4 East, PMM, City of Great Falls, Cascade County, MT and the adjoining right-of-way of 15<sup>th</sup> Alley South; establishment of R-5 Multi-family Medium Density zoning, and Non-Administrative Plat to aggregate the subject properties.

**Initiated By:** K&V Family Properties LLC

**Presented By:** Erin Borland, Planner II, Planning and Community Development

**Action Requested:** Recommendation to the City Commission.

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**Public Hearing:**

1. Chairman of the Planning Advisory Board/Zoning Commission conducts public hearing, calling three times each for proponents and opponents.
2. Chairman of the Planning Advisory Board/Zoning Commission closes public hearing and asks the will of the Board.

**Suggested Motion:**

1. Board Member moves:

I. "I move that the Planning Advisory Board recommend the City Commission (approve/deny) the annexation of the subject properties as legally described in the Staff Report, the Improvement Agreement, and the accompanying Findings of Fact/Basis of Decision, subject to the Conditions of Approval being fulfilled by the applicants."

And;

II. "I move that the Zoning Commission recommend the City Commission (approve/deny) the establishment of R-5 Multi-family Medium Density zoning for the subject properties as legally described in the Staff Report, and the accompanying Findings of Fact/Basis of Decision, subject to the Conditions of Approval being fulfilled by the applicant."

And;

III. "I move that the Planning Advisory Board recommend the City Commission (approve/deny) the amended plat aggregating the subject properties as legally described in the Staff Report, and the accompanying Findings of Fact/Basis of Decision, subject to the Conditions of Approval being fulfilled by the applicant."

2. Chairman calls for a second, discussion, and calls for the vote.

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**Background:**

The applicant, K & V Family Properties LLC is requesting annexation, establishment of zoning, a non-administrative plat and to vacate a portion 15<sup>th</sup> Alley South in order to develop the properties to accommodate two 18-bed BeeHive Homes assisted living facilities. The property is legally described as the Amended plat of Lots 8-21, Block 30 of the Replat of Lincoln Heights, and consists of 1.028 acres.

Public Notice for the Planning Advisory Board/Zoning Commission Public Hearing was published in the Great Falls Tribune on February 10, 2019. To date, Staff has received no correspondence regarding the project.

**Annexation by Petition**

Along with the storage unit properties to the west, the lots in the subject properties are considered as an unincorporated enclave surrounded to the north, east, south and west by City limits. The applicant is requesting annexation of 14 lots and the adjoining right-of-way of 15<sup>th</sup> Alley South in order to develop the vacant parcels. Annexation of the subject properties will require the applicant to install public infrastructure which is outlined in this agenda report as well as in the draft Improvement Agreement that is attached.

The basis for decision for an annexation by petition request is listed in the OCCGF §17.16.7.050. The recommendation of the Planning Advisory Board and the decision of City Commission shall at a minimum consider the criteria which are attached as Findings of Fact/Basis of Decision – Annexation by Petition.

**Establishment of Zoning**

As stated previously, the applicant is proposing to develop the subject properties with two assisted living facilities similar to the existing BeeHive Homes facilities to the South. In conjunction with the annexation, the applicant is requesting establishment of zoning. Based on the adjacent zoning district and the use, the applicant is requesting R-5 Multi-family medium density zoning designation. Assisted living facilities are a permitted use in this zoning district.

The basis for decision on zoning map amendments, i.e. rezoning or zone changes, is listed in the OCCGF §17.16.40.030. The recommendation of the Zoning Commission and the decision of City Commission shall at a minimum consider the criteria which are attached as Findings of Fact/Basis of Decision – Zoning Map Amendment.

**Non-Administrative Plat**

Based on the proposed development, the applicant is requesting review of an amended plat that will aggregate all 14 lots together. If approved, the annexation request will also bring a portion of 15<sup>th</sup> Alley South into the City limits. As a part of this development application, the applicant will request the City Commission vacate the alley to create one parcel.

The aggregation is necessary to go through the amended plat process because of Montana Code Annotated (MCA) 76-3-207 (2) (a) which states:

"within a platted subdivision filed with the county clerk and recorder, a division, redesign, or rearrangement of lots that results in an increase in the number of lots or that redesigns or

rearranges six or more lots must be reviewed and approved by the governing body before an amended plat may be filed with the county clerk and recorder."

Based on the above State Statute, Staff has prepared the Findings of Fact based on the criteria for a subdivision. The recommendation of the Planning Advisory Board and the decision of City Commission shall at a minimum consider the criteria which are attached as Findings of Fact/Basis of Decision – Subdivision.

**Improvements:**

Roadways and Alleys: Pursuant to the Improvement Agreement attached, the applicant proposes to construct 14th Avenue South consistent with City standards and submitted plans approved by the City of Great Falls Engineering Division. Construction of this street shall include curb and gutter, sidewalks, and boulevard trees. All street improvements are to be owned and maintained by the City upon completion. The applicant additionally proposes to install sidewalks along the west side of 25th Street South and along the north side of 15th Avenue South.

Utilities: The applicant is responsible for the installation of all public utilities as well as on site utilities to serve the proposed development. These public utilities include the extension of the water main through 14<sup>th</sup> Avenue South and the extension of the sanitary sewer main through the county right-of-way of 15<sup>th</sup> Alley South. This right-of-way runs through the middle of the adjacent storage unit business. The applicant must gain permission from both the owner and County before commencing this work. The recording of an easement for the City to access the sewer main is also required.

Stormwater Management: The applicant is proposing to construct underground detention that will ultimately tie into the City's existing storm drain system. The applicant is responsible for the installation of stormwater quality and quantity improvements consistent with City standards and submitted plans approved by the City of Great Falls Public Works Department.

**Neighborhood Council Input:**

The subject properties are located in Neighborhood Council #5. The applicant presented the project to the Neighborhood Council on January 21, 2019, and the Council voted unanimously in support of the project.

**Concurrences:**

Representatives from the City's Public Works, Legal, and Fire/Rescue Departments have been involved throughout the review and approval process for this project, and will continue throughout the permit approval process. Both the Engineering and Environmental Divisions of Public Works have collaborated on the submitted Improvement Agreement, as well as the design review of the proposed infrastructure improvements.

**Fiscal Impact:**

Services will be provided by the City, and the cost of infrastructure improvements will be borne by the applicant per the agreed upon terms of the attached Improvement Agreement. The City will reimburse the applicant for the proportionate share of costs of public improvements as outlined in the attached Improvement Agreement. The annexation and aggregation will take 14 lots and the proposed vacated alley right-of-way, and create one lot for the proposed development of assisted living facilities which will increase the City's tax base and increase revenue.



**Staff Recommendation:**

Staff recommends approval of the annexation of Lots 8-21, Block 30 of the Replat of Lincoln Heights, located in the S1/4 of Section 18, Township 20 North, Range 4 East, PMM, City of Great Falls, Cascade County, MT and the adjoining right-of-way of 15th Alley South; establishment of R-5 Multi-family Medium Density zoning; and the Amended Plat to aggregate the subject properties with the following conditions of approval:

**Conditions of Approval:**

**1. General Code Compliance.** The proposed project shall be developed consistent with the conditions in this report, and all codes and ordinances of the City of Great Falls, the State of Montana, and all other applicable regulatory agencies.

**2. Improvement Agreement.** The applicant shall abide by the terms and conditions as well as pay all fees and reimbursements specified in the attached Improvement Agreement for the Subject Properties. The Improvement Agreement must be signed by the applicant and recorded for the Subject Properties.

**3. Amended Plat.** Provide a revised Amended Plat of the subject property, showing the proposed aggregation, containing all easements required by the City of Great Falls. The revised Plat shall incorporate corrections of any errors or omissions noted by Staff.

**4. Easements.** An easement document is to be drafted for review by Staff granting the City access through the adjacent property to the proposed off-site sanitary sewer main in the County right-of-way.

**5. Utilities.** The final engineering drawings and specifications for the on-site utilities for the subject property shall be submitted to the City Public Works Department for review and approval.

**6. Off-Site Sanitary Sewer.** Prior to the construction of the sanitary sewer main extension, written consent shall be provided from the adjacent property owner and the County.

**7. Land Use & Zoning.** The development standards and land uses for the subject property shall be consistent with the Official Code of the City of Great Falls (OCCGF).

**8. Subsequent modifications and additions.** If after establishment of the zoning, the owner proposes to expand or modify the use, buildings, and/or structures, the Director of the Planning and Community Development Department shall determine in writing if such proposed change would alter the finding for one or more review criteria. If such proposed changes would alter a finding, the proposal shall be submitted for review as a new development application. If such proposed change would not alter a finding, the owner shall obtain all other permits as may be required.

**Alternatives:**



The Planning Advisory Board/Zoning Commission could recommend denial of the annexation, establishment of zoning request, and the non-administrative plat to the City Commission. For these actions, the Planning Advisory Board/Zoning Commission must provide separate Findings of Fact/Basis of Decision for the annexation, establishment of zoning, and the subdivision. If this is the case, the Planning Advisory Board/Zoning Commission recommendations would advise the City Commission to deny the proposed development.

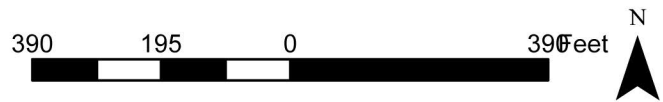
**Attachments/Exhibits:**

- Aerial Map
- Zoning Map
- Project Narrative
- Findings of Fact/Basis of Decision – Annexation
- Findings of Fact/Basis of Decision – Zoning Map Amendment
- Draft Plat
- Findings of Fact/Basis of Decision - Subdivision
- Proposed Site Plan
- Draft Improvement Agreement

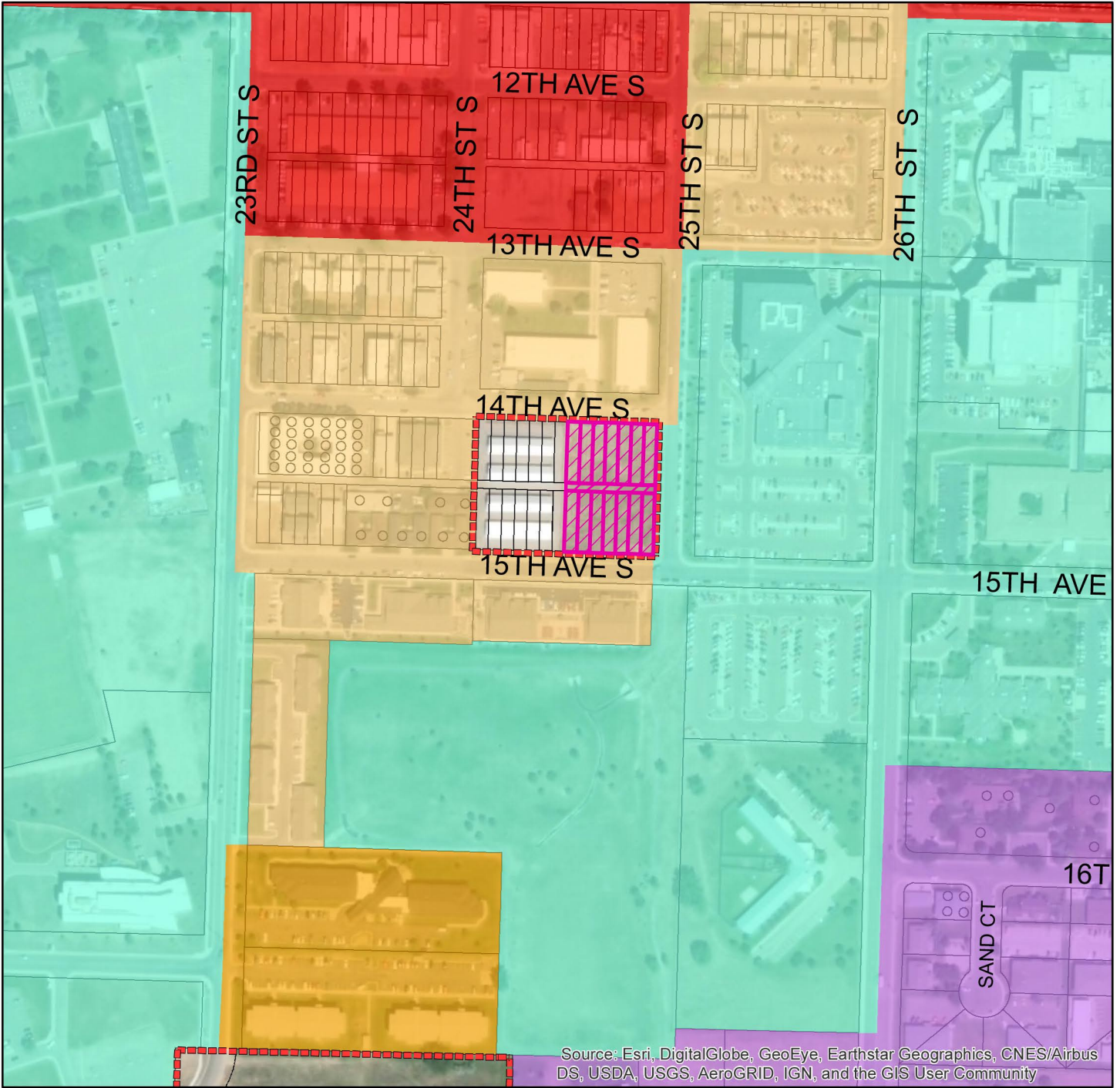
# AERIAL MAP











-  Subject Properties
-  Tracts of Land

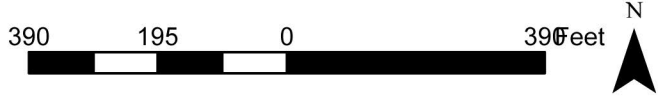


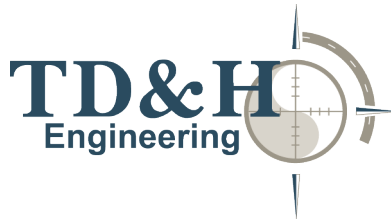
# ZONING MAP



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

-  Subject Properties
-  R-5 Multi-family Medium Density
-  R-6 Multi-family High Density
-  C-2 General Commercial
-  M-1 Mixed-use District
-  PLI Public Lands and Institutional
-  U Unincorporated Enclave
-  Tracts of Land





## BEEHIVE: ANNEXATION/ZONING/SUBDIVISION/VACATE RIGHT-OF-WAY NARRATIVE

TD&H ENGINEERING JOB NO. 18-031

The owners of property located on the southwest corner of 14<sup>th</sup> Ave S and 25<sup>th</sup> St S are requesting annexation, zoning map amendment, subdivision (amended plat) and to vacate a portion of 15<sup>th</sup> Alley South in order to develop two 18-bed assisted living (retirement home) facilities on the property. The property is legally described as the Amended plat of Lots 8-21, Block 30 of the Replat of Lincoln Heights, located in the S1/4 of Section 18, Township 20 North, Range 4 East, PMM, City of Great Falls, Cascade County, MT. The property consists of a total of 1.028 acres.

The subject property is an unincorporated enclave located in Cascade County. The Owners would like to request annexation of the property into the City of Great Falls limits and an initial zoning of R-5 Multi-family Medium Density. Retirement home is a permitted use in the R-5 zoning district, retirement home includes assisted living facilities per the land development code. The newly proposed lot meet the standards of the City of Great Falls Land Development Code per the follow table:

Standard	R-5 Requirement	Provided Lot 8B
Residential Density	1,875 sq. ft. of lot area per dwelling unit	N/A
Min Lot Size	7,500 sq. ft.	1.028 ac
Min Lot Width	50 feet	175 ft
Lot Proportion	2.5:1	175'x256'
Max Building Height Principal Building	45 feet	Buildings will not exceed 45 feet
Maximum building height of detached private garage	24 feet; but not higher than the uppermost elevation of principal building	N/A
Max Building Height Accessory Building	12 feet	Accessory Buildings will not exceed 12 feet
Min Front Yard Setback	10 feet	10 feet provided
Min Side Yard Setback	4 feet; 8 feet if adjoining an R-1, R-2, R-3 district	4 feet provided
Min Rear Yard Setback	10 feet for lots less than 150 feet in depth; 15 feet for lots 150 in depth and over	15 feet provided
Maximum Lot Coverage	Corner Lot 70%; Other Lots 60%	Does not exceed 70% coverage

The property currently consists of 14 individual lots, in conjunction with the annexation and zoning the owners are requesting an amended plat to aggregate all 14 lots into one lot. There is also an existing alley, 15<sup>th</sup> Alley South, that bisects the property the owners are requesting that this alley be vacated for the length of their property. The existing alley, runs for two blocks east west in the vicinity of the project from 23<sup>rd</sup> St S to 25<sup>th</sup> Street South. The property to the west of the proposed project consists of existing storage units and is also an unincorporated enclave. There is a significant grade change between that property and the existing alley to the west, it is unlikely the alley will ever develop in the future. The owners have had previous discussions with the City's Public Works department and they stated they were in support of vacating this portion of alley.

The Owners have been in discussion with Public Works regarding future extension of public utilities to serve the proposed lot. At this time it is planned to extend the sewer from the west to the property within the alley, the owners will provide an easement for the sanitary sewer. Water exists in 26<sup>th</sup> St S and 15<sup>th</sup> Ave S it is anticipated water will connect to one of these existing mains. Storm water will meet the requirements of the City of Great Falls. It is anticipated that underground storage will need to be utilized. Final installation of public/private utilities will occur at the time of development for the new lot, the Owner's will work with the City at that time to finalize the plans.

J:\2018\18-031 Bee Hive Homes\DOCUMENTS\APPLICATION\05\_BeeHive Narrative-18-031.doc

## FINDINGS OF FACT/BASIS OF DECISION – ANNEXATION

Amended plat of Lots 8-21, Block 30 of the Replat of Lincoln Heights, located in the S1/4 of Section 18, Township 20 North, Range 4 East, PMM, City of Great Falls, Cascade County, Montana and the right-of-way of 15th Alley South.

### PRIMARY REVIEW CRITERIA:

The basis for decision on annexation is listed in the Official Code of the City of Great Falls §17.16.7.050 of the Land Development Code. The recommendation of the Planning Advisory Board and the decision of the City Commission shall at a minimum consider the following criteria:

#### **1. The subject property is contiguous to the existing City limits.**

The subject properties are contiguous to the existing City limits, with previously annexed property being present to the north, east, and south of the proposed annexation area. Along with the storage unit business to the west, the subject site is considered an unincorporated enclave wholly surrounded by City limits. This is shown on the aerial map exhibit included in the agenda report.

#### **2. The proposed annexation is consistent with the City's growth policy.**

The proposed annexation is consistent with the overall intent and purpose of the 2013 City Growth Policy Update. This project is strongly supported by the Social, Environmental and Physical portions of the Growth Policy, specifically the goals and principles to 1) encourage a diverse, safe, and affordable supply of housing in the City; 2) enhance the urban built environment by promoting infill and redevelopment in the City; and 3) encourage a balanced mix of land uses throughout the City.

Additionally, the annexation specifically supports the following goals and policies:

#### Social - Housing

- Soc1.4.1 Work with the private sector and non-profits to increase housing opportunities in the city.
- Soc1.4.2 Expand the supply of residential opportunities including single family homes, apartments, manufactured homes, and assisted living facilities.
- Soc1.4.5 Continue to support the development of accessible housing units for those with physical and mental challenges and special needs, including members of the community with disabilities, etc.
- Soc1.4.12 When annexing land for residential development, consider the timing, phasing and connectivity of housing and infrastructure development.

#### Environmental – Urban Form

- Env2.3.1 In order to maximize existing infrastructure, identify underutilized parcels and areas with infill potential as candidates for redevelopment in the City.

#### Physical – Land Use

- Phy4.1.1 Promote and incentivize infill development that is compatible with the scale and character of established neighborhoods.
- Phy4.1.3 Create a balanced land use pattern that provides for a diversity of uses that will accommodate existing and future development in the City.
- Phy4.1.5 Encourage and incentivize the redevelopment or adaptive reuse of vacant or underutilized properties so as to maximize the City's existing infrastructure.

Physical – Zoning

- Phy4.2.5 Promote orderly development and the rational extension of infrastructure and City services.

Physical - Efficient Infrastructure

- Phy4.3 Optimize the efficiency and use of the City's public facilities and utilities.
- Phy4.3.2 Plan for the provision of appropriate infrastructure improvements, where needed, to support development.

**3. The proposed annexation is consistent with applicable neighborhood plans, if any.**

Great Falls is separated into nine Neighborhood Councils. There are no adopted Neighborhood Plans for any of the Councils within the City. The subject properties are located in Neighborhood Council #5. The applicant presented the project to the Neighborhood Council on January 21, 2019, and the council voted unanimously in support of the project.

**4. The proposed annexation is consistent with other planning documents adopted by the City Commission, including a river corridor plan, transportation plan, and sub-area plans.**

The subject properties does not lie within any adopted plan or sub-area planning areas. The proposed improvements for all proposed roads in the development are consistent with City transportation planning documents.

**5. The City has, or will have, the capacity to provide public services to the subject property.**

The City Public Works Department has verified that the capacity is adequate to provide these services. A full description of the various public services that will be provided to the development has been outlined in the agenda report as well as in the attached Improvement Agreement.

The subject properties are surrounded by City properties that are currently receiving law enforcement and fire protection services from the City of Great Falls. Providing these services to the proposed development is expected to be a manageable cost to the City.

**6. The subject property has been or will be improved to City standards.**

The proposed development includes the construction of two assisted living facilities with associated parking, landscaping and utilities onsite. The lots will be serviced by city roads and utilities. This proposed public infrastructure will be built to all City standards as outlined in the attached Improvement Agreement for the subject properties.

**7. The owner(s) of the subject property will bear all of the cost of improving the property to**



**City standards and or/ the owner(s) has signed an agreement waiving the right of protest to the creation of a special improvement district created to pay, in whole or in part, any necessary improvement.**

An Improvement Agreement for the properties has been drafted outlining the responsibilities and proportionate share of costs for various improvements. The Improvement Agreement has been attached to the agenda report. This Improvement Agreement does address the creation of any special improvement districts.

**8. The subject property has been or will be surveyed and officially recorded with the County Clerk and Recorder.**

The subject properties have been previously surveyed and recorded with the County Clerk and Recorder when they were subdivided in the County. An amended plat is proposed to aggregate the subject properties together, including the right-of-way of 15<sup>th</sup> Alley South which the applicant has petitioned to vacate. If the proposed project is approved for annexation by the City Commission, the applicant will revise the amended plat based on Staff comment and the conditions of approval and then will record the plat with the County Clerk and Recorder.

**9. The City will provide both water and sewer service to each of the uses in the subject property that may require potable water and waste water treatment and disposal.**

Public improvements for City water and City sewer services have been addressed fully in the agenda report as well as in the attached Improvement Agreements.

**10. The subject property is not located in an area the City Commission has designated as unsuitable for annexation.**

The subject properties are is not located in an area the City Commission has designated as unsuitable for annexation.

**11. The subject property is not located in another city or town. (See: 7-2-4608 (1), MCA)**

The subject properties are not located in another city or town.

**12. The subject property is not used in whole or in part for agriculture, mining, smelting, refining, transportation, or any other industrial or manufacturing purpose or any purpose incidental thereto. (See: 7-2-4608 (2), MCA)**

The subject properties are not used for the uses listed above. The properties are vacant parcels that rest in the County.

## FINDINGS OF FACT/BASIS OF DECISION – Zoning Map Amendment

Amended plat of Lots 8-21, Block 30 of the Replat of Lincoln Heights, located in the S1/4 of Section 18, Township 20 North, Range 4 East, PMM, City of Great Falls, Cascade County, Montana and the right-of-way of 15th Alley South.

### PRIMARY REVIEW CRITERIA:

The basis for decision on zoning map amendments is listed in the Official Code of the City of Great Falls §17.16.40.030 of the Land Development Code. The recommendation of the Zoning Commission and the decision of the City Commission shall at a minimum consider the following criteria:

#### 1. The amendment is consistent with and furthers the intent of the City's growth policy.

The proposed zoning map amendment is consistent with the overall intent and purpose of the 2013 City Growth Policy Update. This project is strongly supported by the Social and Physical portions of the Growth Policy, specifically the goals and principles to 1) encourage a diverse, safe, and affordable supply of housing in the City; and 2) encourage a balanced mix of land uses throughout the City.

Additionally, the zoning map amendment specifically supports the following goals and policies:

#### Social - Housing

- Soc1.4.1 Work with the private sector and non-profits to increase housing opportunities in the city.
- Soc1.4.2 Expand the supply of residential opportunities including single family homes, apartments, manufactured homes, and assisted living facilities.
- Soc1.4.5 Continue to support the development of accessible housing units for those with physical and mental challenges and special needs, including members of the community with disabilities, etc.

#### Environmental – Urban Form

- Env2.3.1 In order to maximize existing infrastructure, identify underutilized parcels and areas with infill potential as candidates for redevelopment in the City.

#### Physical – Land Use

- Phy4.1.1 Promote and incentivize infill development that is compatible with the scale and character of established neighborhoods.
- Phy4.1.3 Create a balanced land use pattern that provides for a diversity of uses that will accommodate existing and future development in the City.
- Phy4.1.5 Encourage and incentivize the redevelopment or adaptive reuse of vacant or underutilized properties so as to maximize the City's existing infrastructure.

#### Physical – Zoning

- Phy4.2.5 Promote orderly development and the rational extension of infrastructure and City services.

#### Physical - Efficient Infrastructure

- Phy4.3 Optimize the efficiency and use of the City's public facilities and utilities.
- Phy4.3.2 Plan for the provision of appropriate infrastructure improvements, where needed, to

support development.

**2. The amendment is consistent with and furthers adopted neighborhood plans, if any.**

Great Falls is separated into nine Neighborhood Councils. There are no adopted Neighborhood Plans for any of the Councils within the City. The subject properties are located in Neighborhood Council #5. The applicant presented the project to the Neighborhood Council on January 21, 2019, and the council voted unanimously in support of the project.

**3. The amendment is consistent with other planning documents adopted by the City Commission, including a river corridor plan, transportation plan, and sub-area plans.**

The subject properties do not lie within any adopted plan or sub-area planning areas. The proposed improvements for all proposed roads in the development are consistent with City transportation planning documents.

**4. The code with the amendment is internally consistent.**

The proposed establishment of zoning is not in conflict with any portion of the existing City Code and will be consistent with the adjacent multi-family zoning to the south where similar facilities are existing. The proposal will not be injurious to the use and enjoyment of other property in the immediate vicinity, nor substantially diminish and impair property values in the neighborhood.

**5. The amendment is the least restrictive approach to address issues of public health, safety, and welfare.**

There are no existing public health, safety or welfare issues that have been identified for these properties. Street and utility infrastructure have been proposed with consideration of the potential development possibilities of surrounding properties.

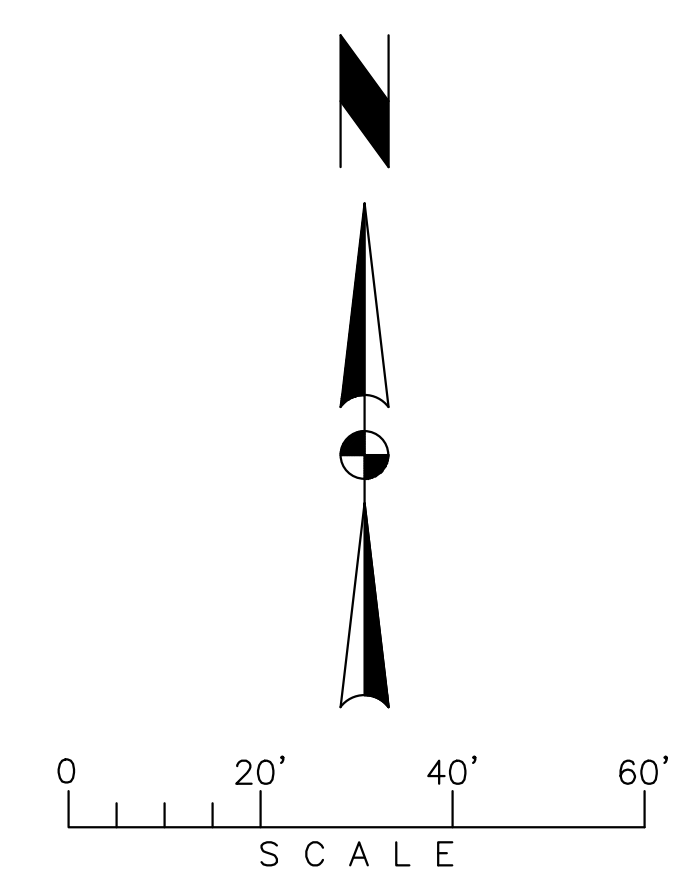
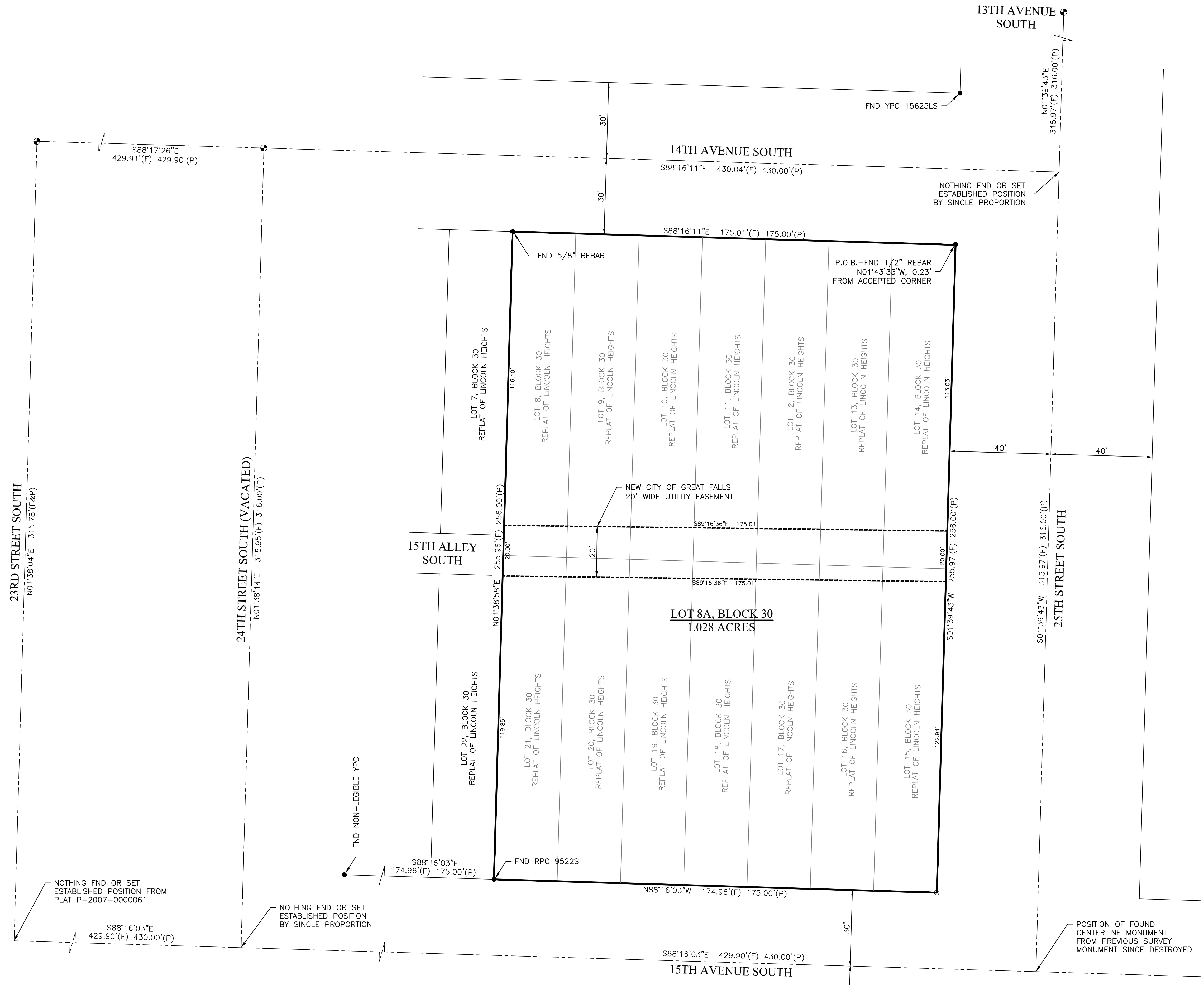
**6. The City has or will have the financial and staffing capability to administer and enforce the amendment.**

The City has the financial and staffing capability to enforce the amendment if it is approved. The zoning map amendment will only affect the subject properties and they will be developed in a manner consistent with the zoning for this area.

# AN AMENDED PLAT OF LOTS 8-21, BLOCK 30, OF THE REPLAT OF LINCOLN HEIGHTS, INCLUDING THOSE PORTIONS OF THE VACATED 15TH ALLEY SOUTH

LOCATED IN THE NE1/4 OF SECTION 18, T20N, R4E, P.M.M., CITY OF GREAT FALLS, CASCADE COUNTY, MONTANA

LANDOWNER: K & V FAMILY PROPERTIES LLC



### LEGEND

- FND CENTERLINE MONUMENT
- SET PROPERTY PIN  
- 18"x5/8" REBAR/YPC 15625LS
- FOUND PROPERTY PIN
- PLAT BOUNDARY
- - - NEW EASEMENT THIS PLAT
- LOT LINE
- LOT LINE BEING DELETED THIS PLAT
- (F) FOUND/FIELD MEASUREMENT
- (P) PLAT RECORD DISTANCE
- LOT 1 LOT BEING AGGREGATED THIS PLAT

BASIS OF BEARING:  
GRID NORTH, MONTANA STATE PLANE COORDINATE SYSTEM, ESTABLISHED WITH SURVEY QUALITY GPS

- PURPOSE OF SURVEY:
- TO AGGREGATE THE VACATED PORTION OF 15TH ALLEY SOUTH AND LOTS 8-21, BLOCK 30, OF THE REPLAT OF LINCOLN HEIGHTS, INTO ONE LOT.
  - TO CREATE A NEW CITY OF GREAT FALLS UTILITY EASEMENT

- EASEMENT NOTES:
- EASEMENTS OF RECORD MAY EXIST THAT ARE NOT SHOWN ON THIS AMENDED PLAT.
  - WITH THE FILING OF THIS AMENDED PLAT, A NEW EASEMENT TO THE CITY OF GREAT FALLS WILL BE CREATED AND ACCEPTED.
  - NO KNOWN EXISTING UTILITIES ARE LOCATED IN THE VACATED PORTION OF 15TH ALLEY SOUTH. THEREFORE WITH THE FILING OF THIS AMENDED PLAT, THE CITY OF GREAT FALLS IS APPROVING AND GIVING UP EASEMENT RIGHTS TO SAID VACATED ALLEY.

	DRAWN BY: DRK SURVEYED BY: KJV	DATE: 1-15-19 JOB NO. 18-031	QUALITY CHECK: X FIELDBOOK: X
	GREAT FALLS-BOZEMAN-KALISPELL-SHELBY SPOKANE LEWISTON WATFORD CITY		MONTANA WASHINGTON IDAHO NORTH DAKOTA

# AN AMENDED PLAT OF LOTS 8-21, BLOCK 30, OF THE REPLAT OF LINCOLN HEIGHTS, INCLUDING THOSE PORTIONS OF THE VACATED 15TH ALLEY SOUTH

LOCATED IN THE NE1/4 OF SECTION 18, T20N, R4E, P.M.M., CITY OF GREAT FALLS, CASCADE COUNTY, MONTANA

LANDOWNER: K & V FAMILY PROPERTIES LLC

### CERTIFICATE OF CONSENT

I(we), the undersigned property owner(s), do hereby certify that I(we) have caused to surveyed and platted into lots, blocks, and easements, the following described tract of land in the City of Great Falls, Cascade County, Montana, to-wit:

A tract of land being Lots 8-21, Block 30, of the Replat of Lincoln Heights, including those accumulated portions of the vacated 15th Alley South, located in the NE1/4 of Section 18, Township 20 North, Range 4 East, P.M.M., City of Great Falls, Cascade County, Montana, and being more particularly described as follows:

Beginning at the Northeast corner of said Block 30, being the intersection of the Southerly right-of-way line of 14th Avenue South and the Westerly right-of-way line of 25th Street South; thence South 01°39'43" West along said Westerly right-of-way line, a distance of 255.97 feet to the Southeast corner of said Block 30, being the intersection with the Northerly right-of-way line of 15th Avenue South; thence North 88°16'03" West along said Northerly right-of-way line, a distance of 174.96 feet to the Southwest corner of said Lot 21 of Block 30; thence North 01°38'58" East along the Westerly boundary line of said Lots 8 and 21 of Block 30, a distance of 255.96 feet to the Northwest corner of said Lot 8 of Block 30, being a point on the Southerly right-of-way line of 14th Avenue South; thence South 88°16'11" East along said Southerly right-of-way line, a distance of 175.01 feet to the Point of Beginning and containing 1.028 acres, along with and subject to any existing easements.

The above described tract of land is to be known and designated as AN AMENDED PLAT OF LOTS 8-21, BLOCK 30, OF THE REPLAT OF LINCOLN HEIGHTS, INCLUDING THOSE PORTIONS OF THE VACATED 15TH ALLEY SOUTH, City of Great Falls, Cascade County, Montana.

Acceptance of shown new City of Great Falls easement:

A perpetual easement benefiting the City of Great Falls for the construction, maintenance, enlarging, reducing, replacing, or removal of underground utilities including above ground fire hydrants, valve boxes, and lids for accessing underground utilities, together with all necessary appurtenances thereto, in, under, through and across the real property shown on this plat together with right to excavate and refill ditches and/or trenches throughout the location of said general utilities. The City of Great Falls or its designee agrees that in the event of any excavation within said easement for purpose of maintenance or repair, the area shall be backfilled and/or restore the surface to its then existing condition. For the protection of said easement, the property owner shall not make or construct any buildings, retaining walls, trees, shrubs, bushes, or other structures that would impair the maintenance or operation of the utilities placed therein. Asphalt and Portland cement concrete paving, grass, traffic signs, mail boxes, fences, irrigation sprinkler systems are permissible improvements within the land covered by this easement. This grant of easement shall run with the land and shall be binding upon and shall inure to the benefit of the City of Great Falls, Montana its successors and assigns.

To the fullest extent permitted by law, the property owner shall indemnify, defend, and save City, its agents, representatives, employees, and officers harmless from and against any and all claims, actions, costs, fees, losses, liabilities or damages of whatever kind or nature arising from or related to property owner's use of the real property described herein, except for the City's actions under this grant of easement.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2019.

\_\_\_\_\_  
K & V FAMILY PROPERTIES LLC

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

Title \_\_\_\_\_

State of Montana )  
: ss  
County of Cascade)

On this \_\_\_\_\_ day of \_\_\_\_\_, 2019, before me, the undersigned, a Notary Public for the State of Montana, personally appeared, \_\_\_\_\_, known to me to be the person who executed the Certificate of Ownership. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public for the State of Montana (Notarial Seal)  
Residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_

### CERTIFICATE OF EXCLUSION

I, the undersigned property owner, do hereby certify that this accompanying plat is excluded from subdivision review, pursuant to ARM 17.36.605(3), stating "Aggregations of parcels are not subdivisions subject to review, except that an aggregation is subject to review under 76-4-130, MCA, if any parcel included in the aggregation has a previous approval issued under Title 76, chapter 4, Part 1, MCA".

### CERTIFICATE OF EXEMPTION

I, the undersigned property owner, do hereby certify that this accompanying plat is exempt from subdivision review, pursuant to Section 76-3-207(1)(f) M.C.A., stating the following aggregations of tracts are not subdivisions; "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".

### CERTIFICATE OF PUBLIC WORKS DIRECTOR

I, Jim Rearden, Public Works Director for the City of Great Falls, Montana, do hereby certify that I have examined the accompanying plat of the AN AMENDED PLAT OF LOTS 8-21, BLOCK 30, OF THE REPLAT OF LINCOLN HEIGHTS, INCLUDING THOSE PORTIONS OF THE VACATED 15TH ALLEY SOUTH, and the survey it represents, find that same conforms to regulations governing the platting of lands and presently platted adjacent land, as near as circumstances will permit, do hereby approve the same.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
JIM REARDEN, Public Works Director  
City of Great Falls, Montana

### CERTIFICATE OF CITY COMMISSION

I, Gregory T. Doyon, City Manager of the City of Great Falls, Montana, do hereby certify that the accompanying plat of the AN AMENDED PLAT OF LOTS 8-21, BLOCK 30, OF THE REPLAT OF LINCOLN HEIGHTS, INCLUDING THOSE PORTIONS OF THE VACATED 15TH ALLEY SOUTH, was duly examined and approved by the City Commission of the City of Great Falls, Montana, at its regular meeting held on the \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
GREGORY T. DOYON, City Manager  
City of Great Falls, Montana

### CERTIFICATE OF GREAT FALLS PLANNING BOARD

We, the undersigned, Peter Fontana, President of the Great Falls Planning Board, City of Great Falls, Montana, and Craig Raymond, Secretary of said Great Falls Planning Board, do hereby certify that the accompanying plat of the AN AMENDED PLAT OF LOTS 8-21, BLOCK 30, OF THE REPLAT OF LINCOLN HEIGHTS, INCLUDING THOSE PORTIONS OF THE VACATED 15TH ALLEY SOUTH, has been submitted to the said Great Falls Planning Board, for examination by them and was approved at its regular meeting held on the \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Peter Fontana, President  
Great Falls Planning Board

\_\_\_\_\_  
CRAIG RAYMOND, Secretary  
Great Falls Planning Board

### CERTIFICATE OF SURVEYOR

I, the undersigned, Daniel R. Kenczka, Professional Land Surveyor, Montana Registration No. 15625LS, do hereby certify that I supervised this Plat of the AN AMENDED PLAT OF LOTS 8-21, BLOCK 30, OF THE REPLAT OF LINCOLN HEIGHTS, INCLUDING THOSE PORTIONS OF THE VACATED 15TH ALLEY SOUTH, and platted same as shown on the accompanying plat and as described in accordance with the provisions of the Montana Subdivision and Platting Act, Sections 76-3-101 through 76-3-614, M.C.A., and Cascade County.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2019.

\_\_\_\_\_  
Daniel R. Kenczka, Montana Reg. No. 15625LS



### CERTIFICATE OF COUNTY TREASURER

I, Diane C. Heikkila, County Treasurer of Cascade County, Montana, do hereby certify that I have examined the records covering the areas included in the accompanying plat of the AN AMENDED PLAT OF LOTS 8-21, BLOCK 30, OF THE REPLAT OF LINCOLN HEIGHTS, INCLUDING THOSE PORTIONS OF THE VACATED 15TH ALLEY SOUTH, and find that the current taxes are not delinquent.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2019.

\_\_\_\_\_  
County Treasurer, Cascade County, Montana

### EASEMENT NOTES:

1. EASEMENTS OF RECORD MAY EXIST THAT ARE NOT SHOWN ON THIS AMENDED PLAT.
2. WITH THE FILING OF THIS AMENDED PLAT, A NEW EASEMENT TO THE CITY OF GREAT FALLS WILL BE CREATED AND ACCEPTED.
3. NO KNOWN EXISTING UTILITIES ARE LOCATED IN THE VACATED PORTION OF 15TH ALLEY SOUTH. THEREFORE WITH THE FILING OF THIS AMENDED PLAT, THE CITY OF GREAT FALLS IS APPROVING AND GIVING UP EASEMENT RIGHTS TO SAID VACATED ALLEY.

BASIS OF BEARING:  
GRID NORTH, MONTANA STATE PLANE COORDINATE SYSTEM, ESTABLISHED WITH SURVEY QUALITY GPS

### PURPOSE OF SURVEY:

1. TO AGGREGATE THE VACATED PORTION OF 15TH ALLEY SOUTH AND LOTS 8-21, BLOCK 30, OF THE REPLAT OF LINCOLN HEIGHTS, INTO ONE LOT.
2. TO CREATE A NEW CITY OF GREAT FALLS UTILITY EASEMENT

	DRAWN BY: DRK SURVEYED BY: KVF	DATE: 1-15-19 JOB NO. 18-031	QUALITY CHECK: X FIELDBOOK X
	GREAT FALLS-BOZEMAN-KALISPELL-SHELBY SPOKANE LEWISTON WATFORD CITY		MONTANA WASHINGTON IDAHO NORTH DAKOTA

## **FINDINGS OF FACT/BASIS OF DECISION – MONTANA SUBDIVISION AND PLATTING ACT**

Amended plat of Lots 8-21, Block 30 of the Replat of Lincoln Heights, located in the S1/4 of Section 18, Township 20 North, Range 4 East, PMM, City of Great Falls, Cascade County, Montana and the right-of-way of 15th Alley South.

(PREPARED IN RESPONSE TO 76-3-608(3) MCA)

### **PRIMARY REVIEW CRITERIA:**

**Effect on Agriculture and Agricultural Water User Facilities:** Along with the storage unit properties to the west, the lots in the project site to be aggregated are considered as an unincorporated enclave surrounded to the north, east, south and west by City limits. The owner of the subject properties has petitioned to annex all the properties as well as the county right-of-way of 15<sup>th</sup> Alley South. The properties are currently vacant in the county and are not currently being used for agricultural purposes. Thus, the proposed project site will not interfere with any agricultural irrigation system or present any interference with agricultural operations in the vicinity.

**Effect on Local Services:** The development of lots in the project site will result in extensions and connections to City water and sewer mains. The owner will pay the cost of extending these utility mains as well as bare the cost of all required stormwater management facilities. The Public Works Department has verified that the City has adequate capacity for the proposed project. The owner will provide the required submittals for review of all public infrastructure as well as all onsite utilities and stormwater facilities to the Public Works Department for review. Surrounding properties are currently receiving law enforcement and fire protection service from the City of Great Falls. Providing these services to the subject properties is expected to be a manageable cost to the City, and increased tax revenues from improved properties may cover increased costs.

**Effect on the Natural Environment:** Development of the proposed site is not expected to adversely affect soils or the water quality or quantity of surface or ground waters. Surface drainage from the subdivision will flow to a proposed underground stormwater facility which will ultimately be treated on site and then released into the existing storm drain system. The design of this proposed system will be reviewed and approved by the Public Works Department.

**Effect on Wildlife and Wildlife Habitat:** The proposed lots to be aggregated are surrounded by the existing hospital to the east, the existing soroptimist village to the north, existing storage units in the county to the west, and the existing BeeHive facilities to the south. This is not in an area of significant wildlife habitat beyond occasional migrating fowl.

**Effect on Public Health and Safety:** Based on available information, the proposed lots to be aggregated are not subject to abnormal natural hazards nor potential man-made hazards.

Development of the proposed site will not have a negative effect on Public Health and Safety. As noted above, due to the proposed site being surrounded by City limits, it is will be feasible to provide all City services.

**REQUIREMENTS OF MONTANA SUBDIVISION AND PLATTING ACT, UNIFORM STANDARDS FOR MONUMENTATION, AND LOCAL SUBDIVISION REGULATIONS**

The lots in the proposed site to be aggregated meet the requirements of the Montana Subdivision and Platting Act and the surveying requirements specified in the Uniform Standards for Monumentation and conforms to the design standards specified in the local subdivision regulations. The local government has complied with the subdivision review and approval procedures set forth in the local subdivision regulations.

**EASEMENT FOR UTILITIES**

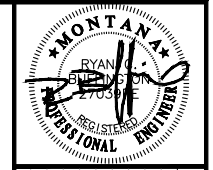
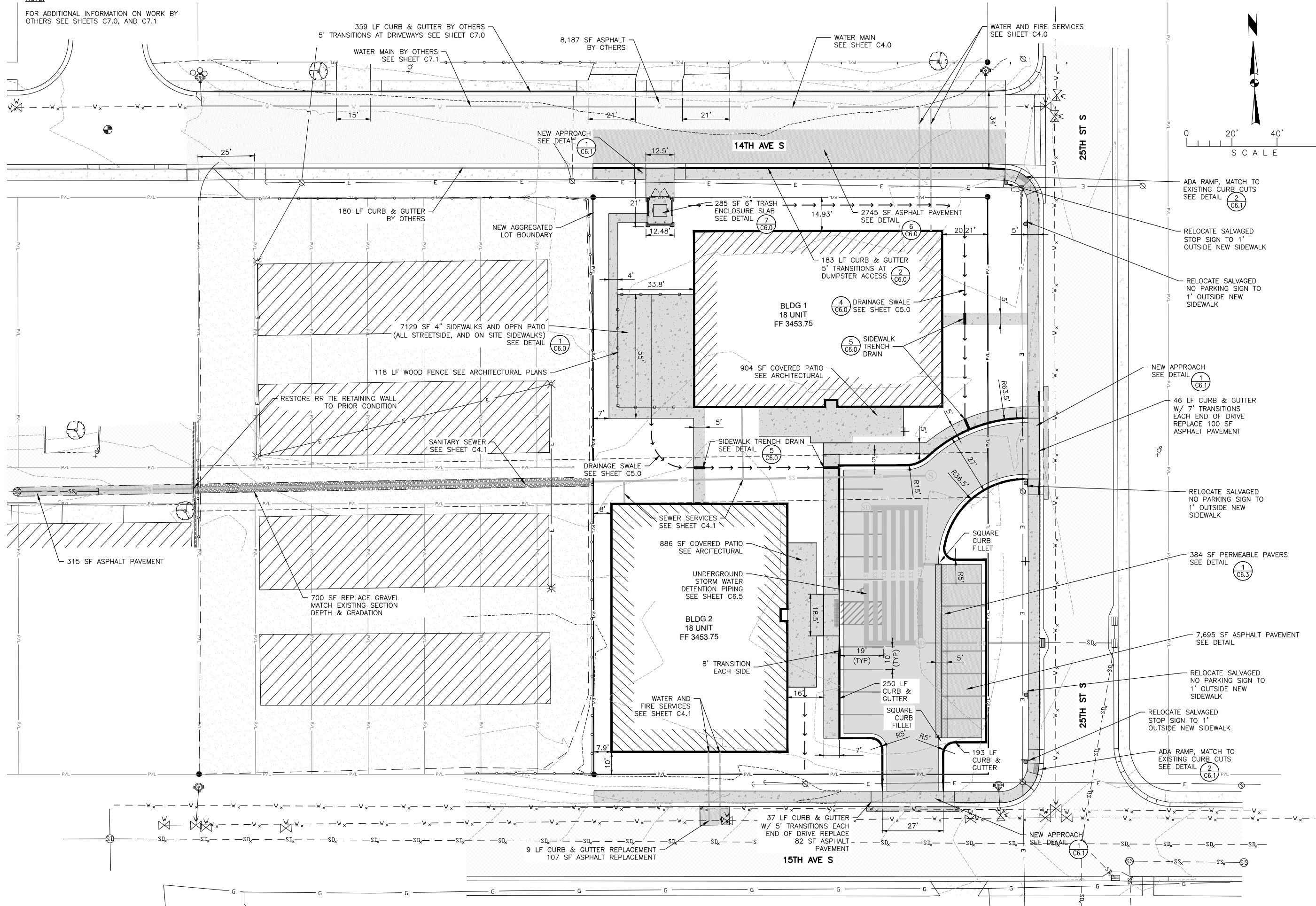
The developer shall provide necessary utility easements to accommodate water mains, sanitary sewer mains and private utilities to serve the proposed lots.

**LEGAL AND PHYSICAL ACCESS**

Legal and physical access to the proposed development will be from 25<sup>th</sup> Street South and 15<sup>th</sup> Avenue South. These are all existing roads that are currently in City limits and are maintained by the City of Great Falls.

J:\2018\18-031 Bee Hive Homes\CADD\CIVIL\18-031 C3.X SITE.dwg, 1/29/2019 4:25:31 PM, CDF

NOTE:  
FOR ADDITIONAL INFORMATION ON WORK BY OTHERS SEE SHEETS C7.0, AND C7.1



REV	DATE	REVISION



DRAWN BY: RCB/CDF  
 DESIGNED BY: RCB  
 QUALITY CHECK: RCB  
 DATE: 01-28-2019  
 JOB NO: 18-031  
 FIELDBOOK: XX

**BEEHIVE HOMES**  
**GREAT FALLS, MONTANA**

**SITE LAYOUT PLAN**



**IMPROVEMENT AGREEMENT FOR BEEHIVE HOMES DEVELOPMENT  
(LOTS 8-21, BLOCK 30, OF THE REPLAT OF LINCOLN HEIGHTS),  
LOCATED IN THE NE 1/4 OF SECTION 18, TOWNSHIP 20 NORTH, RANGE 4 EAST, P.M.M.,  
CASCADE COUNTY, MONTANA**

The following is a binding Agreement dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019, between K&V Family Properties LLC, hereinafter referred to as "Owner", and the City of Great Falls, Montana, a municipal corporation of the State of Montana, hereinafter referred to as "City", regarding the requirements for the annexation of fourteen tracts of land and the adjacent portion of 15th Alley South into the corporate limits of the City legally described as Lots 8-21, Block 30 of the Replat of Lincoln Heights, located in the NE 1/4 of Section 18, Township 20 North, Range 4 East, P.M.M., City of Great Falls, Cascade County, Montana, hereinafter referred to as "Subject Properties". Owner agrees to, and is bound by, the provisions of this Agreement, and by signing this Agreement, therefore agrees to terms applicable to the Subject Properties. The City is authorized to enter into this Agreement by §17.68.010-040 of the Official Code of the City of Great Falls (OCCGF).

**1. Purpose.** The purpose of this Agreement is to ensure that certain improvements are made and certain conditions are fulfilled by the Owner, as required by the City's approval of the annexation and supporting documents. Generally, this Agreement:

**1.1** Declares that the Owner is aware of and has properly accounted for any natural conditions that may adversely affect the Development;

**1.2** Insulates the Development from the impact of changes in the City's subdivision and zoning regulations, provided that no substantial changes in the Development are proposed;

**1.3** Requires the Owner to guarantee that the promised on-site improvements are made in a timely manner by providing the financial securities required by the Official Code of the City of Great Falls (OCCGF);

**1.4** Provides for the inspection and warranty of the required on-site improvements before they are accepted for operation and maintenance by the City;

**1.5** Waives protest by the Owner and its successors against the creation of special improvement districts that would provide and maintain necessary infrastructure;

**1.6** Establishes how necessary changes of final construction plans required by the Agreement may be made with the approval of the City;

**1.7** Contemplates reimbursements to the Owner when neighboring properties that benefit from improvements made by the Owner are developed;

**1.8** Embodies certain conditions that were imposed upon approval of the development in order to facilitate their enforcement; and

**1.9** Indemnifies the City from challenges to its approval of the Development and holds it harmless

from errors and omissions in the approval and oversight of the project.

**2. Duration.** The term of this Agreement begins when it is signed by the City Manager and, with the exceptions stated below, ends at the time the warranty required by Section 10 of this Agreement on the required improvements installed by the Owner, expires and the funds securing that warranty are released.

**2.1 If Work Does Not Begin.** This Agreement is void if final construction plans for the Development are not submitted for approval within three years of the date of the City Manager's signature on this Agreement.

**2.2 Failure to Build.** The Owner's failure to complete on-site improvements in accordance with the final construction plans may result in the City retaining the security required in Section 11 of this Agreement. It may also void this Agreement and the vested rights established by Section 8, below.

**2.3 Failure to Pay.** The Owner's failure to make timely payment of its share of any of the off-site improvements listed in Section 13, below, voids the Agreement and the vested rights established by Section 8. It may also result in the City attempting to collect the amount due by any lawful means.

**3. Supporting Documents.** Each of the following supporting documents are to be submitted for review and approval by the City.

**3.1 Amended Plat.** The Amended Plat of Lots 8-21, Block 30, of the replat of Lincoln Heights, filed on record in the Clerk and Recorder's Office of Cascade County, Montana.

**3.2 Construction Documents.** Engineering drawings, specifications, reports and cost estimates (preliminary and final), prepared for the Subject Properties, consisting of documents for, but not limited to the public sanitary sewer, water, storm drain, and street improvements.

**3.3 As Built Drawings.** "As Built" reproducible 4 mil mylar drawings and one electronic copy of public infrastructure, private utilities, and drainage facilities shall be supplied to the City of Great Falls Engineering Division and Environmental Division office upon completion of the construction.

**3.4 Legal Documentation.** Legal documents, including but not limited to any articles of incorporation, bylaws, covenants, and declarations establishing the authority and responsibilities of owners, which may be recorded in the Clerk and Recorder's Office of Cascade County, Montana.

**4. Changes.** The Owner understands that failure to install required improvements in accordance with the final construction plans approved for the Development is a breach of, and may void, this Agreement. The Owner also understands that failure to build in compliance with approved plans is a breach of this Agreement and a violation of the OCCGF, subject to the penalties provided for such violations. The City recognizes, however, that minor changes are often necessary as construction proceeds and the Administrator (the Administrator is the person or persons charged by the City Manager with the administration of this improvement agreement) is hereby authorized to allow minor changes to approved plans, as provided below:

**4.1 Minor Changes.** Minor changes to engineering documents and such revisions to the engineering drawings as are deemed appropriate and necessary by the Administrator and which do not materially affect the hereinabove mentioned Subject Properties, can be made as follows:

**4.1.1** Before making changes, the Owner must submit revised plans to the Administrator for review. Failure to do this before the proposed change is made may be considered by the City to be a breach of this Agreement and a violation of the OCCGF. The Administrator shall respond to all proposed changes within ten (10) business days of receipt of the revised plans.

**4.1.2** Based on a review of the revised plans, the Administrator may permit minor dimensional changes provided they do not result in a violation of the conditions of approval for the Subject Properties or the OCCGF.

**4.1.3** Based on a review of the revised plans, the Administrator may permit substitutions for proposed building and construction materials provided that the proposed substitute has the same performance and, for exterior materials, appearance as the originally approved material.

**4.1.4** Minor changes in the location and specifications of the required public improvements may be permitted by the Administrator. Owner must submit revised plans showing such changes to the Administrator. Revised plans are not accepted until approved by the Administrator.

**4.2 Substantial Changes.** Substantial changes are not permitted by this Agreement. A new public review and permitting process will be required for such changes. "Substantial Change" versus "Minor Change" is described as follows in order to further clarify what may be permitted as a "Minor Change":

**4.2.1** A substantial change adds one or more lots; changes the approved use; changes the location or extent of the area proposed to be cleared, graded, or otherwise disturbed by more than 4,000 square feet (a smaller change in the area that will be cleared, graded, or otherwise disturbed may be treated as a minor dimensional change); changes the location, extent, or design of any required public improvement, except where a minor change is approved by the Administrator; changes the approved number of buildings, structures or units; or the size of any building or structure by more than 10%. A smaller change in the size of a lot, building, or structure may be treated as a minor dimensional change.

**5. Fees.** The Owner understands that it is required to pay the following fees as they come due during the development process.

**5.1 Recording Fees.** The Owner is responsible for all recording fees at the rate charged by Cascade County at the time a document or plat is submitted for recording.

**5.2 Engineering Inspections.** The Owner is responsible to pay all applicable engineering fees established by Resolution of the City of Great Falls or its successors.

**5.3 Permit Fees.** The Owner is responsible to pay all applicable planning and building permit fees established by Resolution of the City Commission of the City of Great Falls.

**5.4 Connection and Construction Fees.** Water service tapping and water and sewer service connection fees will be assessed at the times of tapping and connections. The absence of any fee from this Agreement which is lawfully charged by the City in connection with construction activity associated with the Subject Properties shall not constitute a waiver by the City.

**5.5 Storm Drain Fee.** The Owner is responsible to pay a storm drain fee in the amount of \$250 per acre for each lot proposed for annexation. This would equal a total of **\$257** for the total 1.028 acres of the Subject Properties. The total storm drain fee is to be paid to the City no later than 30 days after City Commission action to annex the Subject Properties into the City.

**5.7 Application Fees.** In addition to the fees outlined above, application fees paid by the Owner are: the \$2,000.00 application fee for establishment of zoning, \$1,000 application fee for the non-administrative plat, \$1,250 for the intent to vacate 15<sup>th</sup> Alley South and the \$500.00 application fee for Annexation, which have been paid prior to this Agreement.

**6. Site Conditions.** The Owner warrants that it has conducted site investigations sufficient to be aware of all natural conditions, including, but not limited to, flooding, slopes, and soils characteristics, that may affect the installation of improvements on the site and its development for the approved use. The Owner further warrants that all plans submitted pursuant to this Agreement and all applications for building permits within the Development will properly account for all such conditions. The Owner holds the City harmless for natural conditions and for any faults in their own assessment of those conditions.

**6. On-Site Improvements.** The on-site improvements shall include everything required to provide water, sanitary sewer, sanitary sewer industrial pretreatment (as applicable), fire protection, storm drainage, storm water quality treatment, and access. Access for purposes of emergency vehicles shall be installed to the specifications of the Public Works Department. The Owner shall provide public utility easements for all required public utilities. The design, installation, inspection, and maintenance responsibilities of these improvements shall be approved by the City of Great Falls Public Works Department.

**7. Permits.** This Agreement must be approved by the City Commission and signed by the City Manager before permits for any work will be approved, including, but not limited to, grading for streets or trenching for the installation of utilities.

**8. Vested Rights.** The approval of this Agreement by the City create a vested right that protects the Owner from changes in the zoning and subdivision requirements of Title 17 of the OCCGF until this Agreement expires, as provided in Section 2 of this Agreement. This vested right does not exempt the Owner from compliance with other provisions of the OCCGF, including specifically those intended to prevent and remediate public nuisances, nor does it protect the Owner from changes in the City's building codes and fees, development fees, and inspection fees. This vested right does not exempt the owner from compliance with changes to state and federal requirements. This vested right may be voided, in whole or in part, if the Owner proposes substantial changes in the approved final construction plans of the Development.

**9. Required Public Improvements.** The public improvements required for the Development shall be installed as shown on the final construction plans that are submitted to and approved by the Engineering Department prior to recording the Resolution for annexation. As an alternative, the Owner may provide a financial security for said improvements as prescribed in Section 11. Any reimbursements owed to the Owner for the installation of public improvements are outlined in Section 12. Any reimbursements to be paid by the owner for previously installed public improvements are outlined in Section 13.

**9.1 Water.** The Owner hereby agrees to extend public approximately 339 In ft of water main through 14<sup>th</sup> Avenue South between 24<sup>th</sup> Street South and 25<sup>th</sup> Street South consistent with City standards and submitted plans approved by the City of Great Falls Engineering Division, including the addition of fire hydrants. The improvements shall be in accordance with City and Montana Department of Environmental Quality standards and approved plans and specifications. Any portion of water main service located outside of the public right-of-way shall be located in a minimum 20-foot wide public utility easement. The improvement is to be owned and maintained by the City upon completion.

**9.2 Sanitary Sewer.** The Owner hereby agrees to extend approximately 375 In ft of public sanitary sewer main in the vacated 15<sup>th</sup> Alley S consistent with City standards and submitted plans approved by the City of Great Falls Engineering Division. The improvement shall be in accordance with City and Montana Department of Environmental Quality standards and approved plans and specifications. Any portion of sewer main service located outside of the public right-of-way shall be located in a minimum 20-foot wide public utility easement. The improvement is to be owned and maintained by the City upon completion.

**9.3 Roadways and Sidewalks.** The Owner agrees to construct 14th Avenue South from 24<sup>th</sup> Street South to 25<sup>th</sup> Street South consistent with City standards and submitted plans approved by the City of Great Falls Engineering Division. Construction of this street shall include curb and gutter, sidewalks and boulevard trees. All street improvements are to be owned and maintained by the City upon completion. The Owner additionally agrees to install sidewalks along the west side of 25<sup>th</sup> Street South and along the north side of 15<sup>th</sup> Avenue South.

**9.4 Stormwater.** The Owner agrees to install stormwater quality and quantity improvements consistent with City standards and submitted plans approved by the City of Great Falls Public Works Department. Stormwater quantity control measures must comply with standards of the City of Great Falls Storm Drainage Design Manual. The Owner additionally agrees to extend and construct new stormwater pipe consistent with City standards and submitted plans approved by the City of Great Falls Engineering Division to convey stormwater from the Development to the existing storm system. Pipe size and all other construction specifications shall comply with City standards and submitted plans approved by the City of Great Falls Public Works Department. Any portion of storm main service located outside of the public right-of-way shall be located in a minimum 20-foot wide public utility easement.

**10. Warranty, Ownership and Inspection of Public Improvements.** The Owner is responsible for the repair or replacement of any faults in the materials or workmanship of the required on-site and off-site public improvements for a period of two years from the date those improvements are accepted for maintenance by the City. This warranty will be enforced by the City retaining 10% of the security

required by Section 11 of this Agreement for the two-year warranty period. That sum will be released at the end of two years unless the parties are involved in a dispute about the condition, repair, or replacement of any of the required improvements, in which case funds will be held by the City until that dispute is resolved. The release of warranty funds follow the procedure established in Section 11 of this Agreement for the release of securities.

Installation of all public streets, sidewalks, curb ramps, water, sewer, storm drain, and other public improvement required for the Subject Properties shall be subject to the City's inspection policy in place at the time of installation.

**11. Security for Public Improvements.** The Owner shall, upon approval of the annexation, and before the installation of the required public improvements listed in this Agreement, provide the City with a performance bond, an irrevocable letter of credit, or another form of security acceptable to the Administrator in an amount equal to one hundred thirty-five percent (135%) of the costs of the required public improvements.

The security required by this section shall be returned or released upon acceptance of the required improvements, except as provided in Section 12. Following the final required inspection, the Director of Public Works shall promptly inform the Administrator, in writing, that all improvements have been inspected and are acceptable for maintenance by the City. If the Development is in compliance with all conditions of approval, this Agreement, and the OCCGF, the Administrator shall then instruct the City Clerk to release the security to the Owner, minus the retained portion to be held in warranty as required by Section 10 of this Agreement.

**12. Reimbursements owed to Owner.** Except as set forth herein, the City will assist in obtaining initial reimbursements due from other adjacent or benefitted property owners under this Agreement, however the Owner remains responsible for any legal enforcement of the terms of this agreement against future benefitted owners. The Owner shall provide the City with documentation of its actual out-of-pocket costs for the installation of the hereinabove mentioned improvements within four (4) months after approval and acceptance thereof by the City. In the event of Owner's failure to provide the City with said cost data, the City shall not be obliged to undertake collection of the reimbursements provided for herein, and the responsibility for collection thereof shall be that of Owner, its heirs, successors and assigns. Failure of the Owner to provide the City with said cost data for reimbursement as herein required shall in no way alter the obligation of any other party to make reimbursement as provided for herein. Said failure will affect only the City's obligation to assist in collection thereof.

**12.1 Annexed Parcels to the North.** Pursuant to the annexation agreement of Lots 15-28, Block 27, Replat of Lincoln Heights Addition, the Owner of Lots 15-28 is to pay its proportionate share of the cost of the water main and the roadway for the frontage of the lots along 14<sup>th</sup> Avenue South. The amount to be reimbursed shall be determined by the Engineering Division's evaluation of the Owner's actual improvement cost. The reimbursement amount shall be based on actual quantity of improvements constructed. In the event that the improvement costs are not provided by the Owner or they are determined by the City to be unreasonable, the City will determine the reimbursement amount using standard bid and/or material prices. The Owner of Lots 15-28 shall be responsible for constructing the sidewalk for the frontage of the lots along 14th Avenue South.

**12. Un-Annexed Parcels to the West.** At the time of future annexation of the parcels west of the Subject Properties, the owners of said parcels are responsible to pay reimbursements to the Owner of the Subject Properties for its proportionate share of the cost of the sewer main extended through the properties as well as the cost of the water main construction and roadway construction for the frontage of the lots along 14<sup>th</sup> Avenue South.

**13. Reimbursements paid by the Owner.** The Owner is responsible for paying the following reimbursements as specified below.

**13.1 25th Street South.** The Owner shall reimburse the Owner of Lot 1A, Block 28 of Lincoln Heights Addition for the proportionate share of the roadway, between 14th Avenue South and 15th Avenue South. The reimbursement is to be paid to the City no later than 30 days after City Commission action to annex the Subject Properties into the City.

**14. Maintenance Districts.** Owner hereby agrees to waive its right to protest and appeal the lawful creation by the City of maintenance districts for any proper purpose including, but not limited to, fire hydrant and street maintenance and shall pay the proportionate share of the costs associated with said maintenance districts as they may be applied to the Subject Properties.

**15. Public Roadway Lighting.** Owner hereby agrees to waive its right to protest and appeal any future special lighting district for public roadway lighting facilities that service the Subject Properties, and further agrees to pay for its proportionate share of the costs associated with roadway lighting which services the Subject Properties that may be installed with or without a special lighting district.

**16. City Acceptance and Zoning.** In consideration of the terms of this Agreement, the City hereby accepts the subject properties for incorporation by annexation into the corporate limits of the City of Great Falls, Montana, with an assigned zoning classification of R-5 Multi-family Medium Density.

**17. Limitation of Liability.** The City will conduct a limited review of plans and perform inspections for compliance with requirements set forth in this agreement and/or in applicable law. The scope of such review and inspections will vary based upon development type, location and site characteristics. The Owner is exclusively responsible for ensuring that the design, construction drawings, completed construction, and record drawings comply with acceptable engineering practices, State requirements, and other applicable standards. The City's limited plans review and inspections are not substantive reviews of the plans and engineering. The City's approval of any plans or completed inspections is not an endorsement of the plan or approval or verification of the engineering data and plans. Neither the Owner, nor any third party may rely upon the City's limited review or approval.

The Owner shall indemnify, hold harmless and defend the City of Great Falls, its officers, agents, servants and employees and assigns from and against all claims, debts, liabilities, fines, penalties, obligations and costs including reasonable attorney fees, that arise from, result from or relate to obligations relating to that owner's properties described herein. Upon the transfer of ownership of the properties, the prior owner's (whether it is the Owner that signed this agreement or a subsequent owner) indemnity obligation herein for the transferred properties is released as to that owner and the indemnity obligation runs to the new owner of the properties. Only the owner of the parcel of property at the time the City incurs the claim, debt, liability, fine, penalty, obligation or cost is obligated to indemnify, and no owner of properties is obligated to indemnify for adverse conditions on property

owned by someone else. This indemnification by the owner of the property shall apply unless such damage or injury results from the gross negligence or willful misconduct of the City.

**18. Binding Effect.** The provisions, covenants and terms of this Agreement shall run with the land and bind the present owners, their devisees, heirs, successors, and assigns; and any and all parties claiming by, through, or under them, shall be taken to agree and covenant with each of the parties to the Agreement, their devisees, heirs, successors and assigns, to conform to the provisions, covenants and terms of this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seal the day, month and year first hereinabove written.

THE CITY OF GREAT FALLS, MONTANA  
A Municipal Corporation of the State of Montana

\_\_\_\_\_  
Gregory T. Doyon, City Manager

ATTEST:

\_\_\_\_\_  
Lisa Kunz, City Clerk

(Seal of City)

APPROVED FOR LEGAL CONTENT\*:

\_\_\_\_\_  
Sara R. Sexe, City Attorney

\*By law, the City Attorney may only advise or approve contract or legal document language on behalf of the City of Great Falls, and not on behalf of other parties. Review and approval of this document was conducted solely from the legal perspective, and for the benefit, of the City of Great Falls. Other parties should not rely on this approval and should seek review and approval by their own respective counsel.

K&V Family Properties LLC

By: \_\_\_\_\_

Its: \_\_\_\_\_



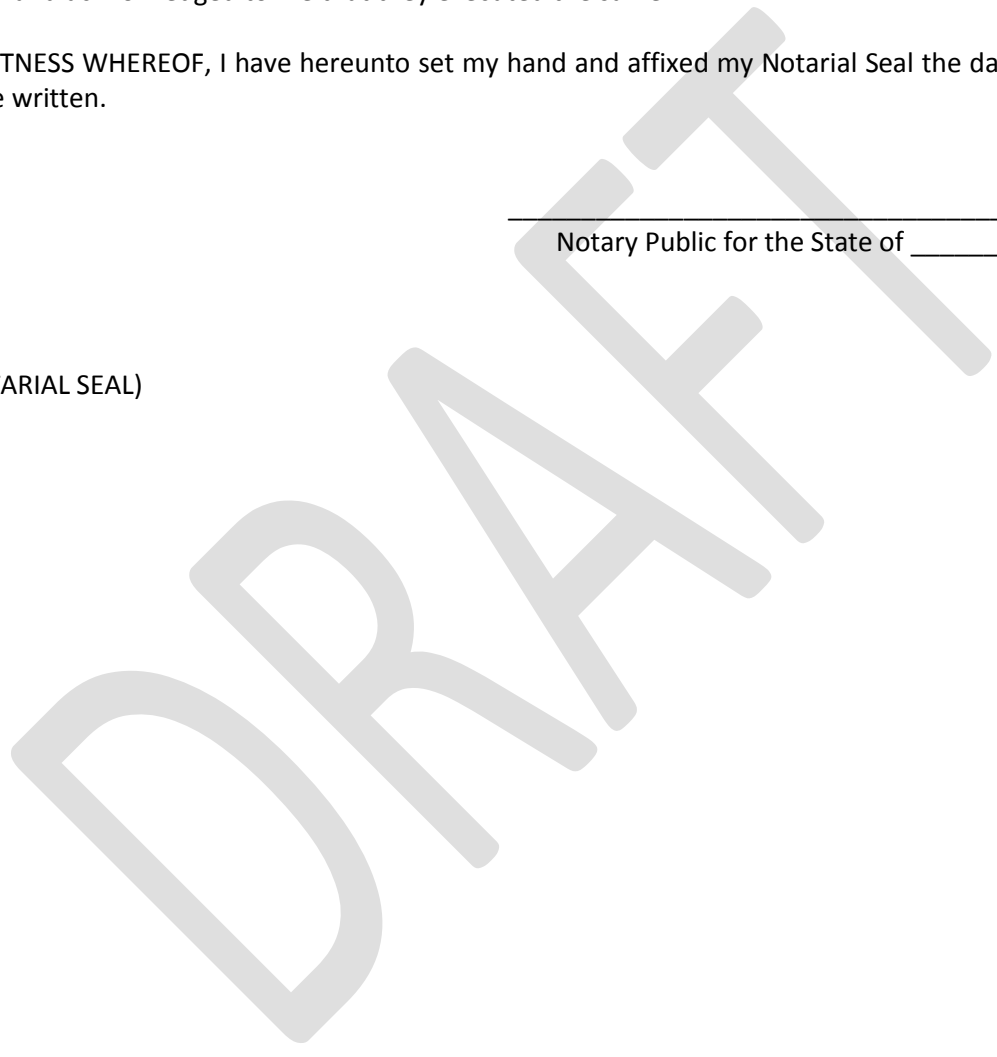
State of \_\_\_\_\_ )  
  :ss.  
County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year Two Thousand and Nineteen, before me, the undersigned, a Notary Public for the State of \_\_\_\_\_, personally appeared \_\_\_\_\_, known to me to the persons whose names are subscribed to the instrument within and acknowledged to me that they executed the same.

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

\_\_\_\_\_  
Notary Public for the State of \_\_\_\_\_

(NOTARIAL SEAL)





Agenda #: \_\_\_\_\_  
Commission Meeting Date: \_\_\_\_\_

**CITY OF GREAT FALLS  
PLANNING ADVISORY BOARD / ZONING COMMISSION AGENDA REPORT**

- Item:** Minor Subdivision – Westwood Plaza, a subdivision of Lot 2 of the Amended Plat of Block 1, Westwood No. 2 Addition located in the N1/2 of Section 2, Township 20 North, Range 3 East, P.M.M., Cascade County, MT.
- Initiated By:** JPK Westwood Plaza Owner LLC.
- Presented By:** Brad Eatherly, Planner I, Planning and Community Development
- Action Requested:** Recommendation to the City Commission.
- 

**Suggested Motion:**

1. Board Member moves:

“I move that the Planning Advisory Board recommend the City Commission approve the minor subdivision of Lot 2 of Westwood Plaza No. 2 Addition as legally described in the Staff Report, and the accompanying Findings of Fact, subject to the Conditions of Approval being fulfilled by the applicant.”

2. Board Member calls for a second, discussion, and calls for the vote.
- 

**Background:** Westwood Plaza is a commercial development located off of the Northwest Bypass. Commercial businesses located on Lot 2 include Ulta Beauty, Dollar Tree, Staples, and TJ Maxx. Domino’s Pizza and Nickel Ante Casino abut the parcel on the southwest corner. A previous minor subdivision occurred creating Lot 2A just east of the subject property. Lot 2A contains a building with two businesses – Sherwin Williams and Linda Michaels Salon and Day Spa. The total size of Lot 2 comes to +/- 6.627 acres. The purpose of this application is to subdivide Lot 2 at Westwood Plaza into 2 individual parcels. All utilities, with the exception of a public water main which needs to be extended to provide service to the new lot, are located nearby, either within the Northwest Bypass right-of-way or elsewhere within the original Lot 2.

**Minor Subdivision Request:**

The applicant is requesting a minor subdivision of the subject property to create two lots. The proposed Lot 2C will become a pad site in order to facilitate the development of a new commercial building by way of Ground Lease or build to suit, and will be +/-0.885 acres.

The proposed newly created lot conforms to the C-2 General Commercial district development standards in terms of lot area and lot width. Based on conversations with the applicant, staff believes that a new building can be constructed on the lot and meet C-2 district standards for setbacks, height, and building coverage.

**Conditions on Lot 2C:** There is an existing encroachment on the westerly property boundary of the proposed Lot 2C. This encroachment is related to several back-out parking spaces associated with the adjoining business to the west. The owners are working with the neighboring property to eliminate the encroachment or provide an easement for the encroachments on the plat that both parties can agree upon. All existing encroachments on the newly created lot must be removed or reflected in shared agreements with adjoining property owners.

An existing free-standing sign for Staples is located on the proposed Lot 2C parcel. The Staples store is located on the existing parcel that has been proposed for subdivision. The proposed subdivision would change the status of this sign from “on-premise” to “off-premise.” This will require a sign easement, and the applicant should be aware that the continued presence of the sign triggers compliance with the Official Code of the City of Great Falls (OCCGF) 17.60.4.020(B)(8), which states:

“If a premise is subsequently subdivided after a freestanding sign allocation has been established for the premise, the subsequently created parcels shall share the freestanding sign allocation; shall share the same freestanding sign pole or monument; and, the owner/subdivider is responsible for allocating the freestanding signage amongst the separately created parcels at the time of each sale or lease.”

**Access:** The applicant has been in discussion with the Montana Department of Transportation regarding access to the site from the Northwest Bypass. MDT will only allow, a “right-in” turn for westbound motorists. As a result, the applicant will have to gain access to provide egress from the new lot through the adjoining properties to the west. Fortunately, shared parking and access arrangements already exist that simply need to be updated.

**Utilities:** A sewer main currently runs underneath the Northwest Bypass and should be readily available for connection to future development of Lot 2C. A City storm drain line runs along the north side of the Bypass and can be used to outlet storm water. At the time of future construction, the developer of Lot 2C will need to provide a full drainage report and demonstrate that water quality and quantity standards can be met through either surface or underground detention. Finally, there is an existing water main that is not on either Lot 2B or 2C that would need to be extended to the west to provide domestic water to the site.

The basis for a decision to approve, conditionally approve, or deny a proposed subdivision is whether it is demonstrated that development of the proposed subdivision meets the requirements of the Montana Code Annotated (MCA). Staff has developed Findings of Fact for the proposed subdivision, and Staff concludes that the subdivision meets the requirements provided by 76-3-608(3) MCA. The Findings of Fact are attached for review.

**Neighborhood Council Input:**

Per Montana Code Annotated and the Official Code of the City of Great Falls (OCCGF) 17.16.4.010 Table 16-2, minor subdivisions do not require public notification. As such, the Neighborhood Council 3 has not been notified as of yet.

**Concurrences:**

Representatives from City’s Public Works, Legal, and Fire/Rescue Departments have been involved through the review process of the Westwood Plaza subdivision. All comments have been taken into consideration for recommendation of the project.

**Fiscal Impact:** City utility services are currently being provided to the existing developments within the proposed Lot 2B. As noted above, utility services can be accessed for the proposed Lot 2C. The owners have been and will continue to be engaged with City Public Works in regards to utilities for the proposed Lot 2C.

**Staff Recommendation:**

Staff recommends approval of the minor subdivision of Lot 2 of the Westwood Plaza with conditions.

**Conditions of Approval:**

1. The applicant shall be required to create an easement document for the existing free-standing sign on the proposed Lot 2C. This easement shall also be shown on the amended plat.
2. The applicant shall provide 20 foot wide easements for all existing utilities within the proposed parcels. This includes a private storm drain line that already exists on the property.
3. A utility easement shall be added to the amended plat depicting the future extension of the City's water main from the adjoining lot to the east.
4. All encroachments shall be removed or reflected in shared agreements with adjoining property owners.

**Alternatives:**

The Planning Advisory Board could deny the minor subdivision. For this action, the Planning Advisory Board must provide alternative Findings of Fact to support a denial of the subdivision request.

**Attachments/Exhibits:**

Aerial Map  
Zoning Map  
Findings of Fact – Subdivision  
Narrative  
Draft Amended Plat  
Alta Map

## **FINDINGS OF FACT/BASIS OF DECISION – MONTANA SUBDIVISION AND PLATTING ACT**

Minor subdivision of Lot 2 of the amended plat of Block 1, Westwood No. 2 Addition, located in the N1/2 of Section 2, Township 20 North, Range 3 East, P.M.M., Cascade County, MT. (PREPARED IN RESPONSE TO 76-3-608(3) MCA)

### **PRIMARY REVIEW CRITERIA:**

**Effect on Agriculture and Agricultural Water User Facilities:** The minor subdivision is located on the Northwest Bypass which is located in city limits and surrounded by development. Thus, the proposed minor subdivision will not interfere with any agricultural irrigation system or present any interference with agricultural operations in the vicinity.

**Effect on Local Services:** Lots in the proposed subdivision are currently served or will be served from public mains at the time of development. The Owner will pay the cost of the service lines from these utility mains. Additionally, the Owner will pay to extend an existing eight (8) inch water main to provide service for development of the new lot. The owners of the two lots created by the subdivision will pay regular water and sewer charges, and monthly storm drain charges. The property proposed for this subdivision is currently receiving law enforcement and fire protection service from the City of Great Falls and the subdivision does not propose any changes to the current services.

**Effect on the Natural Environment:** The subdivision is not expected to adversely affect soils or the water quality or quantity of surface or ground waters. Although no designs have been submitted, future development on the new lot will be required to address both storm water quality and quantity control either through an underground detention system or a small above-ground system with Best Management Practices (BMPs) for water quality treatment.

**Effect on Wildlife and Wildlife Habitat:** The subdivision is surrounded by existing development with commercial to the east and west, CM Russell High School to the north, and the fairgrounds to the south. This is not in an area of significant wildlife habitat beyond occasional migrating fowl.

**Effect on Public Health and Safety:** Based on available information, the subdivision is not subject to abnormal natural hazards nor potential man-made hazards. The subdivision itself will not have a negative effect on Public Health and Safety. Although the new lot will have frontage along the Northwest Bypass, it will be restricted by the Montana Department of Transportation to only have right-in access from this street. As a result, the newly created lot will require additional easement access through adjoining property to protect public safety.

### **REQUIREMENTS OF MONTANA SUBDIVISION AND PLATTING ACT, UNIFORM STANDARDS FOR MONUMENTATION, AND LOCAL SUBDIVISION REGULATIONS**

The subdivision meets the requirements of the Montana Subdivision and Platting Act and the surveying requirements specified in the Uniform Standards for Monumentation and conforms to the design standards specified in the local subdivision regulations. The local government has

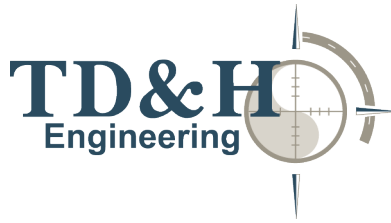
complied with the subdivision review and approval procedures set forth in the local subdivision regulations.

**EASEMENT FOR UTILITIES**

The owners shall provide necessary utility easements to accommodate water mains, sanitary sewer mains and private utilities, both existing and future, to serve both lots of the subdivision.

**LEGAL AND PHYSICAL ACCESS**

As noted previously, legal and physical access to the new lot will be from several shared access drives throughout the shopping center which has been addressed in an existing shared parking, access and maintenance agreement that will be revised with the approval of this subdivision. All existing encroachments on the newly created lot must be removed or reflected in shared agreements with adjoining property owners.



## WESTWOOD PLAZA MINOR SUBDIVISION NARRATIVE

### TD&H ENGINEERING JOB NO. 18-284

The owners of Westwood Plaza are requesting a minor subdivision of their property legally described as Lot 2 of the Amended Plat of Lot 2, Block 1, Westwood No. 2 Addition located in the N1/2 of Section 2, Township 20 North, Range 3 East, PMM, City of Great Falls, Cascade County, MT. The property consists of a total of 6.627 acres and the Owners are requested a single lot subdivision of the property. The newly created lots would consist of 5.742 (Lot 2B) acres for the northerly lot and 0.885 (Lot2C) acres for the southerly lot.

The reason(s) for the request being made is to separate the pad site from the rest of the property, which provides for the following:

- 1) To facilitate the development of a new building by way of Ground Lease or Build to Suit.
- 2) Will allow a tenant and/or lender to be able to secure their interests in the outparcel without being tied to the overall parcel that has other and/or existing commitments.

The subject property is zoned C-2 General Commercial, the two newly proposed lots meet the standards of the City of Great Falls Land Development Code per the follow table:

Standard	C-2 Requirement	Provided Lot 2B	Provided 2C
Residential Density	N/A	N/A	N/A
Min Lot Size	7,500 sq. ft.	5.742 ac	0.885 acres
Min Lot Width	50 feet	418 ft	171 ft
Lot Proportion	N/A	N/A	N/A
Max Building Height Principal Building	65 feet	Existing	Will meet code when developed, or require variance if adjustment is necessary
Max Building Height Accessory Building	24 feet; but not higher than the uppermost elevation of principal building	Existing	Will meet code when developed, or require variance if adjustment is necessary
Min Front Yard Setback	None	Existing	Will meet code when developed, or require variance if adjustment is necessary
Min Side Yard Setback	10 feet each side	Existing	Will meet code when developed, or require variance if adjustment is necessary
Min Rear Yard Setback	1/10 of lot depth, but not less than 1/10 of building height	Existing	Will meet code when developed, or require variance if adjustment

			is necessary
Maximum Lot Coverage	Corner Lot 70%; Other Lots 60%	Existing	Will meet code when developed, or require variance if adjustment is necessary

There is an existing encroachment on the westerly property boundary of the project. The owners are working with the neighboring property to eliminate the encroachment or provide an easement for the encroachments on the plat that both parties can agree upon.

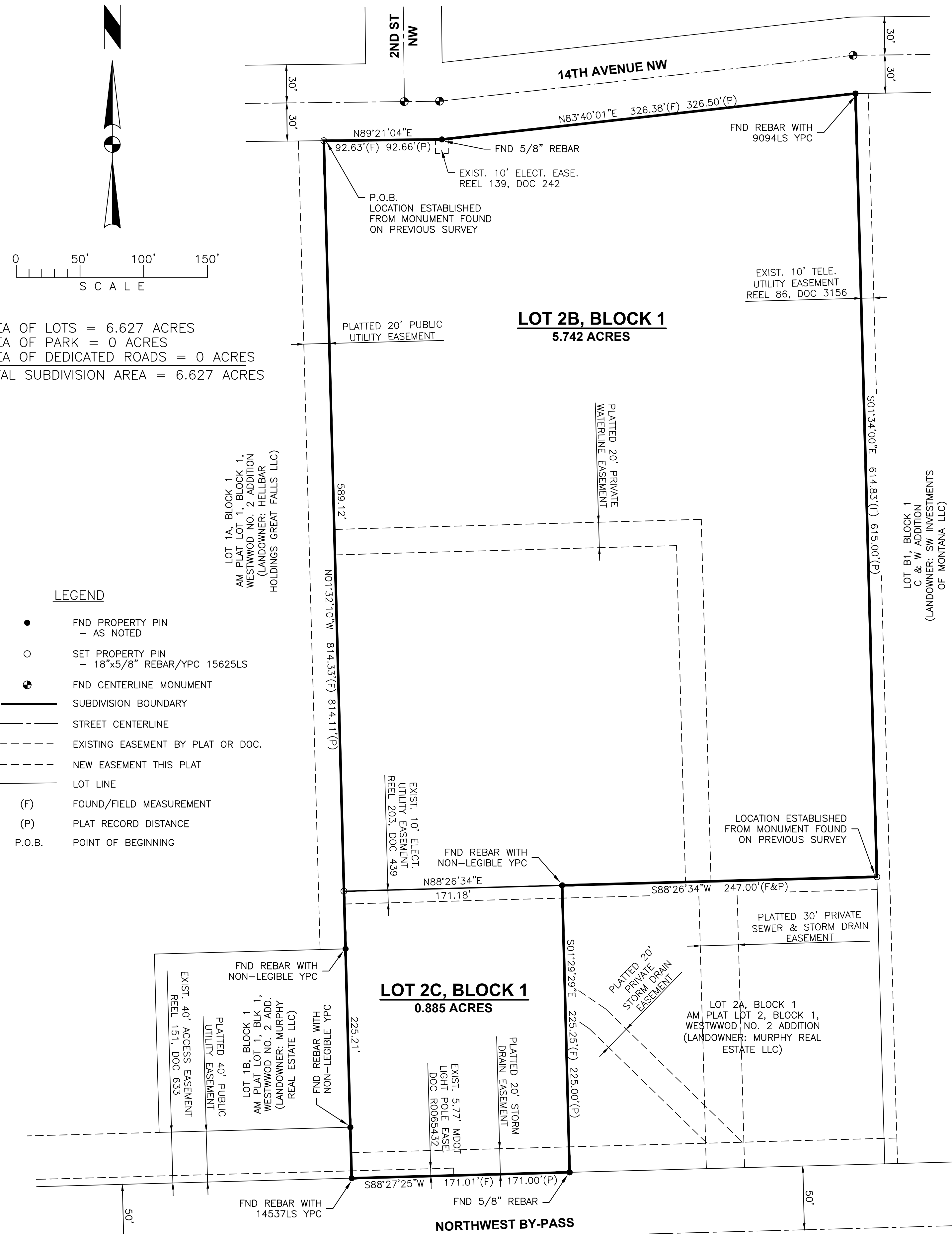
The Owners have been in discussion with Public Works regarding future extension of public utilities to serve the proposed lot. Final installation of public/private utilities will occur at the time of development for the new lot, the Owner's will work with the City at that time to finalize the plans.

J:\2018\18-284 JPK Westwood Plaza Subdivision\DOCUMENTS\SUBDIVISION\05\_Westwood Subdivision NARRATIVE.DOC



# AN AMENDED PLAT OF LOT 2 OF THE AMENDED PLAT OF LOT 2, BLOCK 1, WESTWOOD NO. 2 ADDITION LOCATED IN THE N1/2 OF SECTION 2, T20N, R3E, P.M.M., CITY OF GREAT FALLS, CASCADE COUNTY, MONTANA

LANDOWNER: SSG WP LLC



AREA OF LOTS = 6.627 ACRES  
 AREA OF PARK = 0 ACRES  
 AREA OF DEDICATED ROADS = 0 ACRES  
 TOTAL SUBDIVISION AREA = 6.627 ACRES

**LEGEND**

- FND PROPERTY PIN - AS NOTED
- SET PROPERTY PIN - 18"x5/8" REBAR/YPC 15625LS
- ⊙ FND CENTERLINE MONUMENT
- SUBDIVISION BOUNDARY
- - - STREET CENTERLINE
- - - EXISTING EASEMENT BY PLAT OR DOC.
- - - NEW EASEMENT THIS PLAT
- LOT LINE
- (F) FOUND/FIELD MEASUREMENT
- (P) PLAT RECORD DISTANCE
- P.O.B. POINT OF BEGINNING

**CERTIFICATE OF OWNERSHIP**

I (we), the undersigned property owner(s), do hereby certify that I (we) have caused to be surveyed, subdivided, and platted into lots, blocks, and easements, the following described tract of land in the City of Great Falls, Cascade County, Montana, to-wit:  
 A tract of land being Lot 2 of the Amended Plat of Lot 2, Block 1, Westwood No. 2 Addition, located in the N1/2 of Section 2, Township 20 North, Range 3 East, P.M.M., City of Great Falls, Cascade County, Montana, and being more particularly described as follows:  
 Beginning at the Northwest corner of said Lot 2, being a point on the Southerly right-of-way line of 14th Avenue NW; thence North 89°21'04" East along said Southerly right-of-way line, a distance of 92.63 feet; thence North 83°40'01" East along said Southerly right-of-way line, a distance of 326.38 feet to the Northeast corner of said Lot 2; thence South 01°34'00" East along the Easterly boundary line of said Lot 2, a distance of 614.83 feet to the Southeast corner of said Lot 2; thence South 88°26'34" West along the Southerly boundary line of said Lot 2, a distance of 247.00 feet to the Southerly corner of said Lot 2; thence South 01°29'29" East along said Southerly boundary line of said Lot 2, a distance of 225.25 feet to a point on the Northerly right-of-way line of the Northwest By-Pass; thence South 88°27'25" West along said Northerly right-of-way line, a distance of 171.01 feet to the Southwest corner of said Lot 2; thence North 01°32'10" West along the Westerly boundary line of said Lot 2, a distance of 814.33 feet to the Point of Beginning and containing 6.627 acres, along with and subject to any existing easements.  
 The above described tract of land is to be known and designated as AN AMENDED PLAT OF LOT 2 OF THE AMENDED PLAT OF LOT 2, BLOCK 1, WESTWOOD NO. 2 ADDITION, City of Great Falls, Cascade County, Montana, and the lands included in all streets, avenues, and parks or public lands shown on said plat are hereby granted and donated to the use of the public forever.

**CERTIFICATE OF EXEMPTION FROM PARK DEDICATION**

I (we), the undersigned property owner(s), do hereby certify that being this subdivision is into parcels that are all nonresidential, a park dedication will not be required pursuant to 76-3-621(3)(b) MCA, stating "(3) A park dedication may not be required for: (b) subdivision into parcels that are all nonresidential".

Dated this \_\_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_\_

SSG WP LLC  
 Printed Name \_\_\_\_\_  
 Title \_\_\_\_\_  
 State of Montana )  
 : ss  
 County of Cascade)

On this \_\_\_\_\_ day of \_\_\_\_\_, before me, the undersigned, a Notary Public for the State of Montana, personally appeared, \_\_\_\_\_, known to me to be the person who executed the Certificate of Ownership. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
 Notary Public for the State of Montana  
 Residing at \_\_\_\_\_  
 My commission expires \_\_\_\_\_

**CERTIFICATE OF PUBLIC WORKS DIRECTOR**

I, Jim Rearden, Public Works Director for the City of Great Falls, Montana, do hereby certify that I have examined the accompanying plat of the AN AMENDED PLAT OF LOT 2 OF THE AMENDED PLAT OF LOT 2, BLOCK 1, WESTWOOD NO. 2 ADDITION, and the survey it represents, find that same conforms to regulations governing the platting of lands and presently platted adjacent land, as near as circumstances will permit, do hereby approve the same.

Dated this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

JIM REARDEN, Public Works Director  
 City of Great Falls, Montana

**CERTIFICATE OF CITY COMMISSION**

I, Gregory T. Doyon, City Manager of the City of Great Falls, Montana, do hereby certify that the accompanying plat of the AN AMENDED PLAT OF LOT 2 OF THE AMENDED PLAT OF LOT 2, BLOCK 1, WESTWOOD NO. 2 ADDITION, was duly examined and approved by the City Commission of the City of Great Falls, Montana, at its regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

GREGORY T. DOYON, City Manager  
 City of Great Falls, Montana

BASIS OF BEARING:  
 EAST BOUNDARY LINE OF LOT 2 OF THE AMENDED PLAT OF LOT 2, BLOCK 1, WESTWOOD NO. 2 ADDITION, BEING S00°34'00"E  
 PURPOSE OF SURVEY:  
 TO CREATE 2 LOTS FROM LOT 2 OF THE AMENDED PLAT OF LOT 2, BLOCK 1, WESTWOOD NO. 2 ADDITION

**CERTIFICATE OF AVAILABILITY OF MUNICIPAL SERVICES**

I, Gregory T. Doyon, City Manager of the City of Great Falls, Montana, do hereby certify that the City Commission of the City of Great Falls, Montana, at its regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, found that adequate municipal facilities for the supply of water and the disposal of sewage and solid waste, are available to the above described property, namely the said facilities of the City of Great Falls, Montana, and this certificate is made pursuant to Section 76-4-125(2)(d) M.C.A., permitting the Clerk and Recorder of Cascade County, Montana, to record the accompanying plat.

GREGORY T. DOYON, City Manager  
 City of Great Falls, Montana

**CERTIFICATE OF GREAT FALLS PLANNING BOARD**

We, the undersigned, Peter Fontana, President of the Great Falls Planning Board, City of Great Falls, Montana, and Craig Raymond, Secretary of said Great Falls Planning Board, do hereby certify that the accompanying plat of AN AMENDED PLAT OF LOT 2 OF THE AMENDED PLAT OF LOT 2, BLOCK 1, WESTWOOD NO. 2 ADDITION, has been submitted to the said Great Falls Planning Board, for examination by them and was approved at its regular meeting held on the \_\_\_\_ day of \_\_\_\_\_.

Peter Fontana, President  
 Great Falls Planning Board

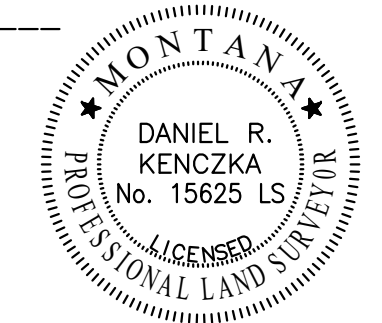
CRAIG RAYMOND, Secretary  
 Great Falls Planning Board

**CERTIFICATE OF SURVEYOR**

I, the undersigned, Daniel R. Kenczka, Professional Land Surveyor, Montana Registration No. 15625LS, do hereby certify that I supervised this Plat of the AN AMENDED PLAT OF LOT 2 OF THE AMENDED PLAT OF LOT 2, BLOCK 1, WESTWOOD NO. 2 ADDITION, and platted same as shown on the accompanying plat and as described in accordance with the provisions of the Montana Subdivision and Platting Act, Sections 76-3-101 through 76-3-614, M.C.A., and Cascade County.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_\_

Daniel R. Kenczka, Montana Reg. No. 15625LS



**CERTIFICATE OF COUNTY TREASURER**

I, Jamie Bailey, County Treasurer of Cascade County, Montana, do hereby certify that I have examined the records covering the areas included in the accompanying plat of the AN AMENDED PLAT OF LOT 2 OF THE AMENDED PLAT OF LOT 2, BLOCK 1, WESTWOOD NO. 2 ADDITION, and find that the current taxes are not delinquent.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_\_

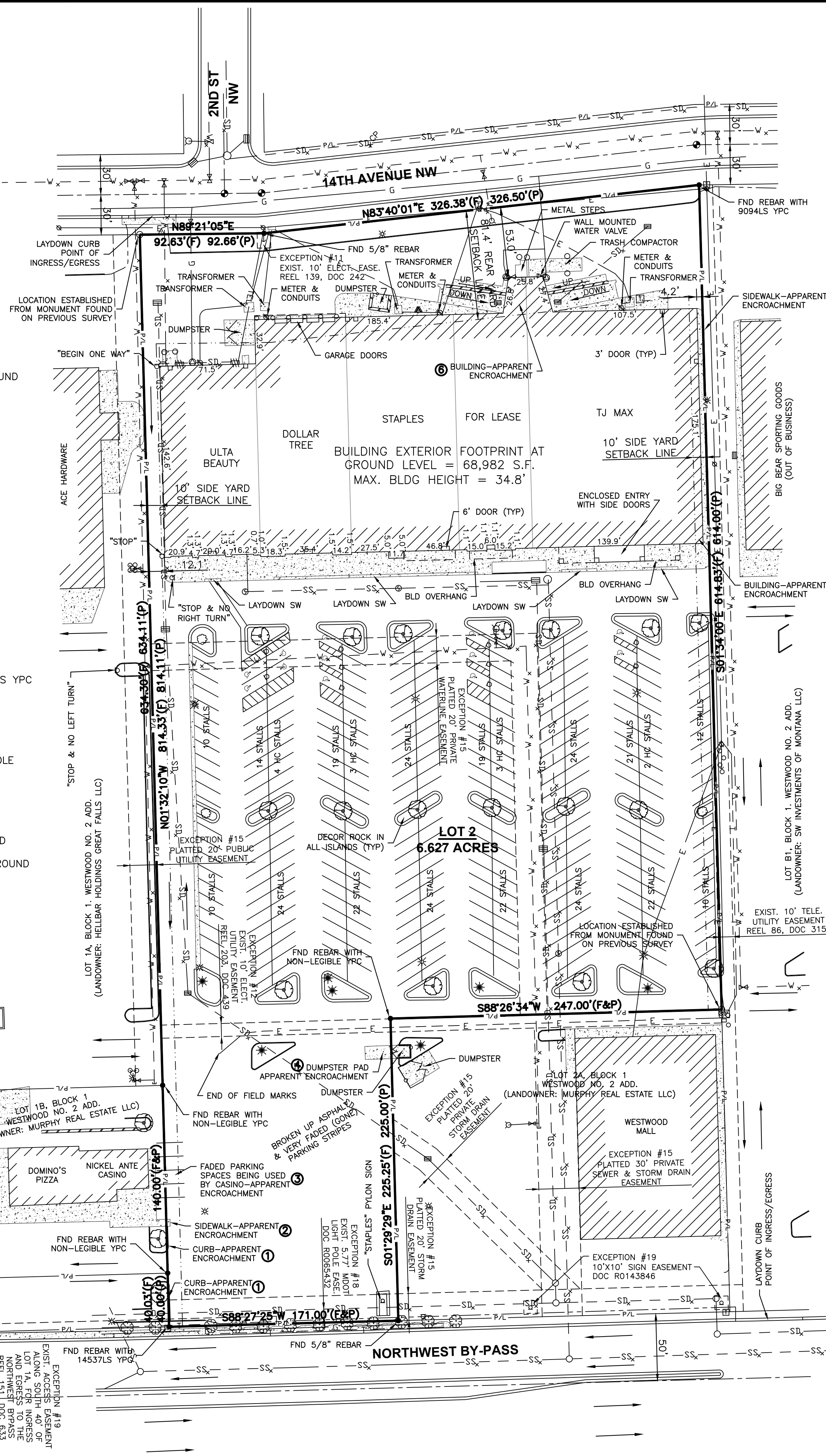
\_\_\_\_\_  
 County Treasurer, Cascade County, Montana

<b>TD&amp;H</b> Engineering	DRAWN BY: DRK	DATE: 8-30-18	QUALITY CHECK: X
	SURVEYED BY: RFS	JOB NO. 18-284	FIELDBOOK X
GREAT FALLS-BOZEMAN-KALISPELL-SHELBY SPOKANE LEWISTON WATFORD CITY			MONTANA WASHINGTON IDAHO NORTH DAKOTA

**LEGEND**

**EXISTING DESCRIPTION**

- BARRIER POST
- BUILDING
- BUILDING SETBACK LINE
- CENTERLINE MONUMENT
- CLEANOUT
- CONCRETE
- CONTROL POINT
- CURB BOX
- CURB & GUTTER
- EDGE OF ASPHALT
- EDGE OF GRAVEL
- ELECTRICAL BOX
- ELECTRICAL OUTLET
- ELECTRIC - OVERHEAD
- ELECTRIC - UNDERGROUND
- FENCE - CHAIN LINK
- FIRE HYDRANT
- GAS
- GAS METER
- GAS VALVE
- GATE
- GUY WIRE
- INLET
- LIGHT POLE
- PAINT STRIPE
- POWER POLE
- PROPERTY LINE
- PROPERTY PIN FOUND - AS NOTED
- 
- RETAINING WALL
- ROOF DRAIN
- SANITARY SEWER
- SANITARY SEWER MANHOLE
- STORM DRAIN
- STORM DRAIN MANHOLE
- TELEPHONE RISER
- TELEPHONE - OVERHEAD
- TELEPHONE - UNDERGROUND
- TRAFFIC SIGN
- TREE - CONIFEROUS
- TREE - DECIDUOUS
- WALL HYDRANT
- WATERLINE
- WATER VALVE



THIS ALTA/NSPS LAND TITLE SURVEY REFERENCE'S FIRST AMERICAN TITLE INSURANCE COMPANY'S COMMITMENT FOR TITLE INSURANCE, FILE NO. 698090-GF, WITH AN EFFECTIVE DATE OF AUGUST 24, 2018, AT 7:30 A.M.

**TITLE COMMITMENT LEGAL DESCRIPTION**

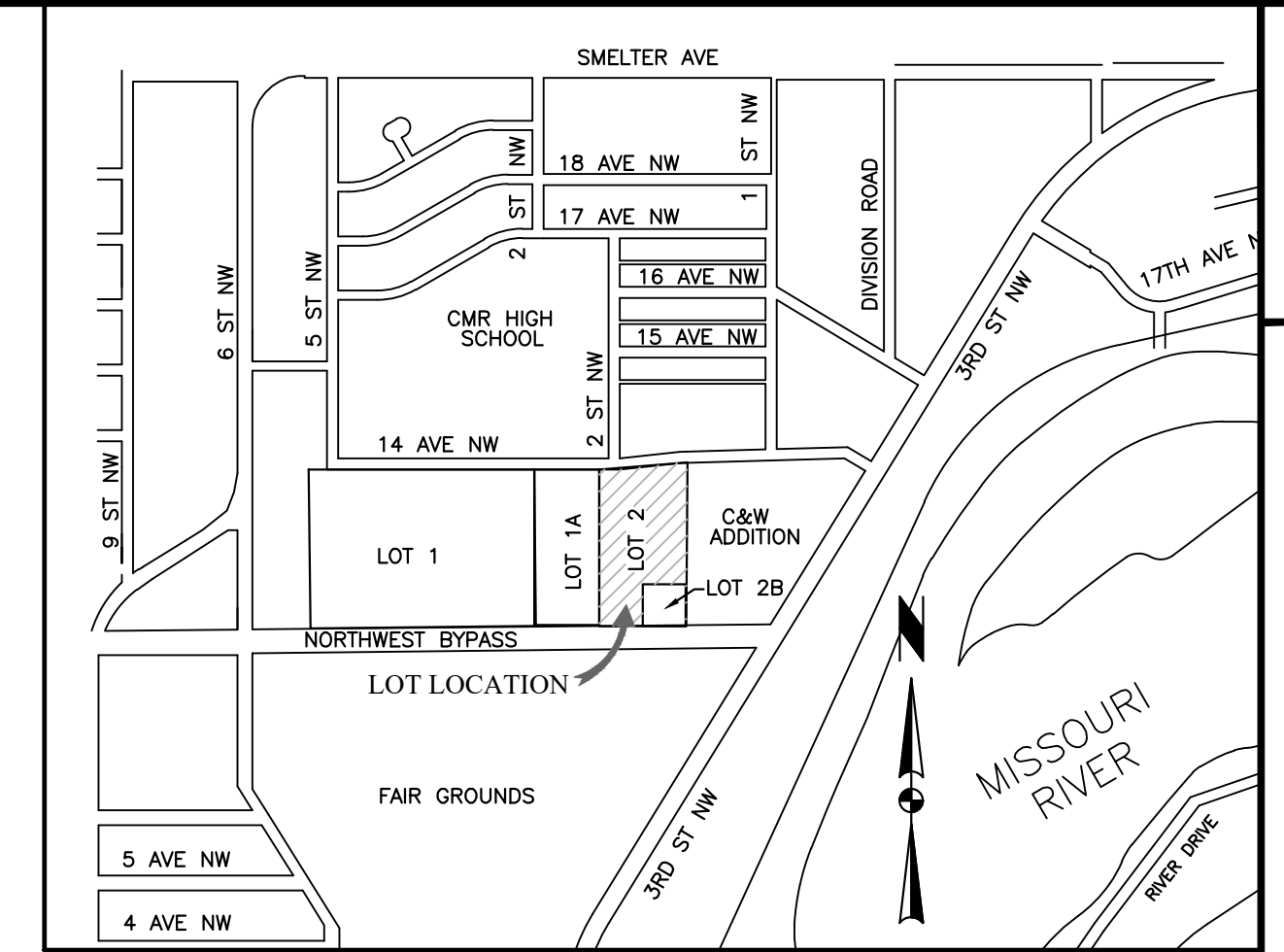
LOT 2, OF AMENDED PLAT OF LOT 2, BLOCK 1, WESTWOOD NO. 2, AN ADDITION TO GREAT FALLS, CASCADE COUNTY, MONTANA, ACCORDING TO THE OFFICIAL MAP OR PLAT THEREOF ON FILE AND OF RECORD IN THE OFFICE OF THE CLERK AND RECORDER OF SAID COUNTY.

**FLOOD ZONE DESIGNATION:**

THE SUBJECT PROPERTY FALLS ENTIRELY WITHIN ZONE X, "AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN", AS SHOWN ON THE FLOOD INSURANCE RATE MAP "CASCADE COUNTY, MONTANA, AND INCORPORATED AREAS", MAP NUMBER 30013C0340E, WITH AN EFFECTIVE DATE OF MARCH 19, 2013.

**EXISTING PARKING STALLS:**

REGULAR STALLS = 301  
HANDICAP STALLS = 12



**VICINITY MAP**

**SURVEY RELATED - SCHEDULE BII EXCEPTIONS**

EXCEPTION NUMBER	DOCUMENT	DESCRIPTION
4	-	APPARENT ENCROACHMENTS FOUND FROM THE ACCURATE AND COMPLETE SURVEY - NOTED ON PLAN.
9	BK 59 PG 612	RESERVATIONS CONTAINED IN WARRANTY DEED - DOES AFFECT THE LOT, NOT PLOTTABLE.
10	REEL 99 DOC 1556	TERMS AND CONDITIONS CONTAINED IN AGREEMENT - DOES AFFECT THE LOT, NOT PLOTTABLE.
11	REEL 139 DOC 242	MONTANA POWER COMPANY ELECTRIC AND COMMUNICATION EASEMENT - DOES AFFECT THE LOT, PLOTTED ON PLAN.
12	REEL 203 DOC 439	MONTANA POWER COMPANY ELECTRIC AND COMMUNICATION EASEMENT - DOES AFFECT THE LOT, PLOTTED ON PLAN.
13	REEL 304 DOC 223	USAGE EASEMENT AGREEMENT FOR BERL'S RESTAURANT, NOW OCCUPIED BY NICKEL ANTE CASINO AND DOMINO'S. - DID INITIALLY AFFECT THE LOT, BUT APPEARS TO BE TERMINATED ACCORDING TO THE CONDITIONS IN SECTION 7. COVENANTS, CONDITIONS, AND RESTRICTIONS - DOES AFFECT THE LOT, NOT PLOTTABLE.
14	REEL 305 DOC 1144	EASEMENTS AS SHOWN ON PLAT 786 AND PRIOR PLATS - DOES AFFECT THE LOT, PLOTTED ON PLAN.
15	PLAT 786	10' MONTANA POWER COMPANY EASEMENT SHOWN AS #7 OF ALTA SURVEY - COULD NOT FIND ON SURVEY?
16	-	APPARENT ENCROACHMENTS AS SHOWN ON THE ALTA SURVEY BY DANIEL KENCZKA, TD&H ENGINEERING.
17	-	a. MELAQUE OLD DRIVE THRU SIGN - HAS BEEN REMOVED b. MELAQUE CONCRETE RAMP-MAJORITY REMOVED, STILL SLIGHTLY ENROACHES-SEE ENCROACHMENT 2 ON PLAN c. MELAQUE CURB - STILL EXISTS - SEE ENCROACHMENT 1 ON PLAN MOOT LIGHT STANDARD EASEMENT - DOES AFFECT THE LOT, PLOTTED ON PLAN.
18	R0065432	ACCESS EASEMENT ALONG SOUTH 40' OF LOT 1A - DOES AFFECT ACCESS TO THE LOT, PLOTTED ON PLAN.
19	REEL 151 DOC 633 R0143846	SUPPLEMENTAL DECLARATION REGARDING COMMON AREAS AND GRANT OF RECIPROCAL EASEMENT - DOES AFFECT THE LOT - SIGN EASEMENTS IN ADJACENT LOT 2A PLOTTED ON PLAN.
20	REEL 311 DOC 551 R0288092	MEMORANDUM OF LEASE - DOES AFFECT THE LOT, NOT PLOTTABLE. FIRST AMENDMENT TO MEMORANDUM OF LEASE - DOES AFFECT THE LOT, NOT PLOTTABLE.
21	R0037724	ASSIGNMENT OF LEASES - DOES AFFECT THE LOT, NOT PLOTTABLE.
23	R0143846	COVENANTS, CONDITIONS, AND RESTRICTIONS - DOES AFFECT THE LOT, NOT PLOTTABLE.
24	R0143848 R0287716 R0307513	CO-OWNERSHIP AGREEMENT - DOES AFFECT THE LOT, NOT PLOTTABLE. FIRST AMENDMENT AND RESTATED CO-OWNERSHIP AGREEMENT - DOES AFFECT THE LOT, NOT PLOTTABLE. MEMORANDUM OF LEASE - DOES AFFECT THE LOT, NOT PLOTTABLE.
26	R0334204	MEMORANDUM OF LEASE - DOES AFFECT THE LOT, NOT PLOTTABLE.
27	R0339877	TRUST INDENTURE - DOES AFFECT THE LOT, NOT PLOTTABLE.
28	R0339878	ASSIGNMENT OF LESSOR'S INTEREST IN LEASES - DOES AFFECT THE LOT, NOT PLOTTABLE.
29	R0340011	TRUST INDENTURE - DOES AFFECT THE LOT, NOT PLOTTABLE.
30	R0340012	ASSIGNMENT OF LESSOR'S INTEREST IN LEASES - DOES AFFECT THE LOT, NOT PLOTTABLE.
31	R0345964	IMPROVEMENT DEFERRAL AGREEMENT FOR ULTA DEVELOPMENT PROJECT - DOES AFFECT THE LOT, NOT PLOTTABLE.
32	R0013992	NOTICE OF A RIGHT TO CLAIM A LIEN - DOES AFFECT THE LOT, NOT PLOTTABLE.

**PROPERTY ADDRESS:**

PROPERTY ADDRESS  
AS LISTED IN THE MT CADASTRAL WEB SITE  
135 NORTHWEST BYPASS  
GREAT FALLS, MT 59404

BUSINESS ADDRESSES:  
135, 205, 207, 209 NORTHWEST BYPASS  
GREAT FALLS, MT 59404

**ZONING:**

C-2, GENERAL COMMERCIAL

MIN. FRONT YARD - 0 FEET  
MIN. SIDE YARD - 10 FEET  
MIN. REAR YARD - 1/10TH OF LOT DEPTH, BUT NOT LESS THAN 1/10TH OF BUILDING HEIGHT.  
MAX. BUILDING HEIGHT OF PRINCIPAL BUILDING: 65 FEET  
MAX. BUILDING HEIGHT OF ACCESSORY BUILDING: 24 FEET, BUT NOT HIGHER THAN PRINCIPAL BUILDING  
MAX. LOT COVERAGE OF BUILDINGS: 70% CORNER LOT, 60% OTHER LOTS

**APPARENT ENCROACHMENTS**

- ① CURB (APPROX 0.5' TO 1') IN SOUTHWEST CORNER OF PROPERTY
- ② SIDEWALK (APPROX 2.1') IN SOUTHWEST CORNER OF PROPERTY
- ③ FADED PARKING SPACES ALONG EAST SIDE OF NICKEL ANTE CASINO
- ④ CONCRETE DUMPSTER PAD ALONG WEST EDGE OF LOT 2A
- ⑤ SIDEWALK (APPROX 0.8') ALONG EAST SIDE OF MAIL BUILDING
- ⑥ BUILDING EXTENDS INTO 10' SIDE YARD SETBACK LINE AND REAR YARD SETBACK (1/10TH LOT DEPTH = 81.4')

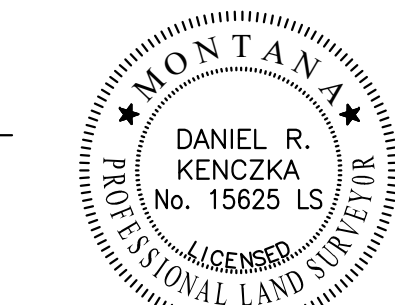
**SURVEYOR'S CERTIFICATE:**

- TO:
- BROADWAY ESTATES WESTWOOD PLAZA LLC
  - JPK WESTWOOD PLAZA OWNER LLC
  - BROADWAY ESTATES LLC
  - SSG WP, LLC, A UTAH LIMITED LIABILITY COMPANY
  - FIRST AMERICAN TITLE INSURANCE COMPANY
  - FIFTH THIRD BANK

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2016 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 6(a), 6(b), 7(a), 7(b)(1), 7(c), 8, 9, 10(a), 11, 13, 14, 16, 17, and 19 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON SEPTEMBER 8, 2018.

DATED THIS 22ND DAY OF SEPTEMBER, 2018.

SIGNED: DANIEL R. KENCZKA  
MT REG. NO. 15625LS  
TD&H ENGINEERING  
1800 RIVER DR NO.  
GREAT FALLS, MT 59401



ALL SHOWN UNDERGROUND UTILITIES THAT COULD NOT BE IDENTIFIED BY SURFACE FEATURES WERE SURVEYED FROM FIELD MARKS ESTABLISHED BY A "ONE CALL" UTILITY LOCATE, TICKET #18081251.

**SURVEYOR'S NOTES**

- a. THERE ARE NO BUILDING PARTY WALLS WITH RESPECT TO ADJOINING PROPERTIES.
- b. THERE IS NO VISIBLE EVIDENCE OF RECENT EARTH MOVING, BUILDING CONSTRUCTION, OR BUILDING ADDITIONS
- c. THERE ARE NO KNOWN PROPOSED CHANGES IN STREET RIGHT OF WAY LINES AND NO VISIBLE EVIDENCE OF RECENT STREET OR SIDEWALK CONSTRUCTION

**BASIS OF BEARING**

EAST LINE OF LOT 2 AS SHOWN ON THE AMENDED PLAT OF LOT 2, BLOCK 1, WESTWOOD NO. 2 ADDITION, BEING S1°34'00"E

REVISIONS

BY	DATE	DESCR

THOMAS, DEAN & HOSKINS, INC.  
ENGINEERING CONSULTANTS  
MONTANA  
WASHINGTON  
IDAHO


TD&H  
GREAT FALLS - BOZEMAN - KALISPELL - HELENA  
SPRINGFIELD - BUTTE  
REVISION

DRAWN BY: DRK  
DESIGNED BY: DRK  
QUALITY CHECK: DRK  
DATE: 9-22-18  
JOB NO. 18-112  
FIELDBOOK

ALTA/NSPS LAND TITLE SURVEY  
135 NORTHWEST BYPASS, GREAT FALLS, MONTANA  
LOT 2, BLOCK 1, OF THE AMENDED PLAT OF  
LOT 2, BLOCK 1, WESTWOOD NO. 2 ADDITION

# AERIAL MAP



 Subject Property

 City Limits

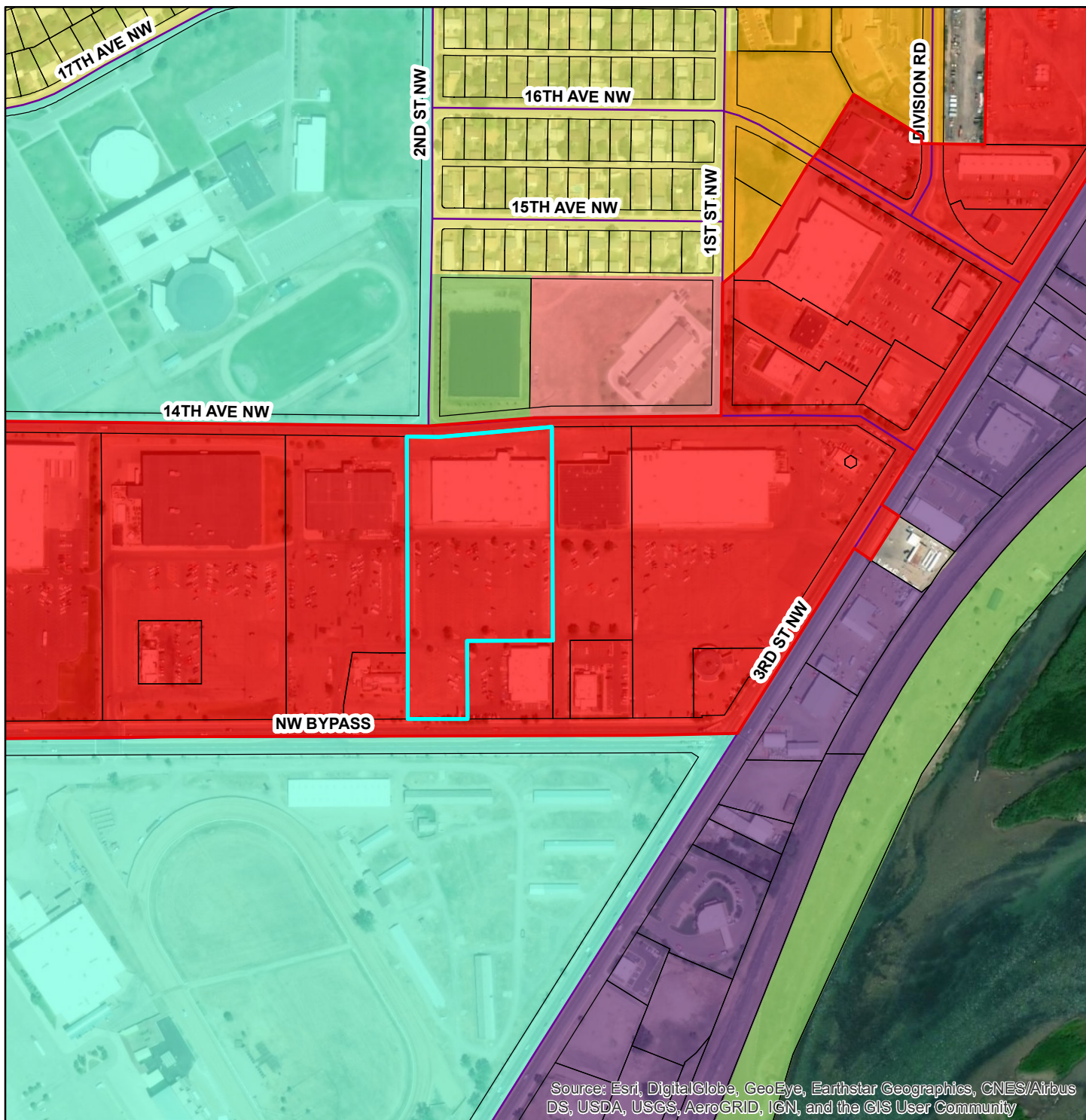
550 275 0 550 Feet



N



# ZONING MAP



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

- Subject Property
- R-2 Single-family Medium Density
- R-6 Multi-family High Density
- C-1 Neighborhood Commercial
- C-2 General Commercial
- M-2 Mixed-use Transitional
- PLI Public Lands and Institutional
- POS Parks and Open Space
- U Unincorporated Enclave





Agenda #: \_\_\_\_\_  
Commission Meeting Date: Feb. 26,  
2019

**CITY OF GREAT FALLS  
PLANNING ADVISORY BOARD / ZONING COMMISSION AGENDA REPORT**

**Item:** Ordinance 3197, “An Ordinance Amending Title 1, Chapter 2, of the Official Code of the City of The City of Great Falls (OCCGF) Adding Section 050 Establishing A Public Hearing Procedure.”

**From:** Legal Department

**Initiated By:** Legal Department

**Presented By:** Joseph Cik, Assistant City Attorney

**Action Requested:** Recommendation to the City Commission.

---

**Suggested Motion:**

1. Board Member moves:

“I move that the Planning Advisory Board recommend the City Commission adopt Ordinance 3197.”

2. Board Member calls for a second, discussion, and calls for the vote.

---

**Background:**

Members of the City Commission and Staff have examined numerous sections of the OCCGF and have noticed various types of deficiencies throughout numerous sections of the code. The deficiencies vary from typographical errors, needed updates, and conflicts with State and Federal law. Additionally, the OCCGF conflicts in various places with itself. In an effort to cure these issues, City staff has assembled input from the different departments to continue a comprehensive revision of the Code.

The Ordinance under consideration would amend OCCGF Title 1, Chapter 2, to establish a universal public hearing procedure. Staff is requesting the Planning Advisory Board recommendation that the Ordinance under consideration be adopted by the City Commission. This recommendation is requested because the Planning Advisory Board regularly conducts public hearings. Additionally, the provisions governing the conduct of public hearings will require amendments to OCCGF Title 17. For further historical and factual background for Staff’s recommendation, refer to the Agenda Report for Ordinance 3198 also on this meeting’s agenda.

**Concurrences:**

City Manager’s Office  
Planning and Community Development  
City Clerk’s Office

**Fiscal Impact:**

None

**Staff Recommendation:**

Staff recommends that the Planning Advisory Board recommend that the City Commission adopt Ordinance 3197.

**Alternatives:**

The Planning Advisory Board could recommend that the City Commission not adopt Ordinance 3197, or the board could table the item to a date certain for further suggested amendments.

**Attachments/Exhibits:**

Ord. 3197

Ord. 3197 Exhibit "A"

**ORDINANCE 3197**

**AN ORDINANCE AMENDING TITLE 1, CHAPTER 2, OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF), ADDING SECTION 050 ESTABLISHING A PUBLIC HEARING PROCEDURE.**

\* \* \* \* \*

**WHEREAS**, the City Commission established Title 1 of the OCCGF pertaining to general provisions of City government; and

**WHEREAS**, the City Commission wishes to establish a universal procedure for conducting public hearings by all City Commissions, Boards, Councils and Committees; and

**WHEREAS**, establishing a universal procedure is appropriate in the general provisions of the OCCGF; and

**WHEREAS**, at its regularly scheduled February \_\_, 2019, meeting, the Great Falls Planning Advisory Board voted to recommend that the City Commission adopt Ordinance 3197.

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

Section 1. OCCGF Title 1, Chapter 2, Section 050, pertaining to public hearing procedures is hereby established as depicted by Exhibit "A" attached hereto and by reference incorporated herein; and

Section 2. This ordinance shall be in full force and effect thirty (30) days after public hearing and final adoption by the City Commission.

ACCEPTED by the City Commission of the City of Great Falls, Montana on first reading March \_\_, 2019.

ADOPTED by the City Commission of the City of Great Falls, Montana on second reading and public hearing April \_\_, 2019.

---

Bob Kelly, Mayor

ATTEST:

(CITY SEAL)

---

Lisa Kunz, City Clerk

APPROVED FOR LEGAL CONTENT:

---

Sara R. Sexe, City Attorney

State of Montana    )  
County of Cascade   : ss  
City of Great Falls   )

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do certify that I did post as required by law and as prescribed and directed by the Commission, Ordinance 3197 on the Great Falls Civic Center posting board and the Great Falls City website.

---

Lisa Kunz, City Clerk

(CITY SEAL)



Title 1 - GENERAL PROVISIONS

**Chapter 2 GENERAL PROVISIONS**

**Sections:**

**1.2.050 Public Hearing Procedure.**

Unless otherwise specified in the OCCGF, or by stipulation of the parties, all public hearings held by any City Commission, Council, Board, or Committee will follow the public hearing procedure set forth in the OCCGF, Title 17.

(Ord. 3197, 2018).

DRAFT



Agenda #: \_\_\_\_\_  
Commission Meeting Date: February 26,  
2019

**CITY OF GREAT FALLS**  
**PLANNING ADVISORY BOARD / ZONING COMMISSION AGENDA REPORT**

**Item:** Ordinance 3198, “An Ordinance Amending Title 17, Chapter 16, Article 6, of The Official Code of The City of Great Falls (OCCGF), Pertaining to Public Hearings.”

**From:** Legal Department

**Initiated By:** Legal Department

**Presented By:** Joseph Cik, Assistant City Attorney

**Action Requested:** Recommendation to the City Commission.

---

**Suggested Motion:**

1. Board Member moves:

“I move that the Planning Advisory Board recommend the City Commission adopt Ordinance 3198.”

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

---

**Background:**

Members of the City Commission and Staff have examined numerous sections of the OCCGF and have noticed various types of deficiencies throughout numerous sections of the code. The deficiencies vary from typographical errors, needed updates, and conflicts with State and Federal law. Additionally, the OCCGF conflicts in various places with itself. In an effort to cure these issues, City staff has assembled input from the different departments to continue a comprehensive revision of the Code.

OCCGF Title 17 is the Great Falls Land Development Code. As such, it is the largest and most complex of all OCCGF Titles. The Ordinance under consideration is the second Ordinance that has been presented in City Staff’s overall code revision effort pertaining to Title 17.

The intent of the OCCGF amendments proposed by the Ordinance under consideration is to establish a City-wide universal public hearing process. Ordinance 3197, also on this meeting’s agenda would amend the OCCGF general provisions to refer all boards or commissions to the provisions amended by the Ordinance under consideration. This will provide assistance to presiding officers to conduct public hearings efficiently, educate and inform the public, and allow a uniform process for public participation in City government. This proposed process will apply to public hearings on land use issues and non-land use issues.

The first substantive amendment to the public hearing procedures outlined in OCCGF §17.2.6.020 is to require applicants to provide all written material before the agenda for the subject meeting is posted. This will provide more opportunity for Staff, and the governing body conducting the public hearing, to review the material for substance. This would also reduce the need for postponing actions on agenda items.

The next substantive change proposed by the Ordinance under consideration, would be amending OCCGF §17.16.6.030. The proposed amendments to that section would include allowing the individual boards or commissions to adopt policies for allowing public questions to the applicant and/or City Staff. This procedure is already being utilized by the Planning Advisory Board and Zoning Commission. If the Ordinance is adopted, all questions must be directed to the presiding officer then directed to appropriate staff, the applicant, or the applicant's representative.

Finally, the Ordinance under consideration would provide that the presiding officer may allow additional public comment, after the hearing is closed, if the motion presented by the member of the board substantially deviates from the publicly advertised suggested motion. This would allow the body to hear limited public comment regarding the motion without the need to either re-open the public hearing, continue the hearing, or postpone the action on the item.

Ord. 3198 Exhibit "A" is a document illustrating the provisions that will replace the current OCCGF Title 17 with added language in **bold** and deleted language in ~~strike through~~. Exhibit "B", attached to this agenda report, illustrates the proposed Code in clean format.

**Concurrences:**

City Manager's Office  
Planning and Community Development  
City Clerk's Office

**Fiscal Impact:**

None

**Staff Recommendation:**

Staff recommends that the Planning Advisory Board recommend the City Commission adopt Ordinance 3198.

**Alternatives:**

The Planning Advisory Board may recommend that the City Commission not adopt Ordinance 3198, or the board may table the item to a date certain for further suggested amendments.

**Attachments/Exhibits:**

Ord. 3198  
Ord. 3198 Exhibit "A"  
Ord. 3198 Exhibit "B"

**ORDINANCE 3198**

**AN ORDINANCE AMENDING TITLE 17, CHAPTER 16, ARTICLE 6, OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF), PERTAINING TO PUBLIC HEARINGS.**

\* \* \* \* \*

**WHEREAS**, the City Commission established Title 17 of the OCCGF outlining provisions pertaining to and known as the Land Development Code; and

**WHEREAS**, Title 17, Chapter 16, Article 6, contains the OCCGF provisions pertaining to the procedure for conducting public hearings; and

**WHEREAS**, the City Commission has the need to amend the procedure for the conducting of public hearings by all City Commissions, Boards, Councils and Committees; and

**WHEREAS**, the City Commission wishes to create consistency in procedure while still protecting citizens' rights to due process; and

**WHEREAS**, at its regularly scheduled February \_\_, 2019, meeting, the Great Falls Planning Advisory Board voted to recommend that the City Commission adopt Ordinance 3198.

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

Section 1. OCCGF Title 17, Chapter 15, Article 6, pertaining to public hearings is hereby amended as depicted by Exhibit "A" attached hereto and by reference incorporated herein with deleted language identified by ~~strikeout~~ and inserted language **bolded**; and

Section 2. This ordinance shall be in full force and effect thirty (30) days after public hearing and final adoption by the City Commission.

ACCEPTED by the City Commission of the City of Great Falls, Montana on first reading March \_\_, 2019.

ADOPTED by the City Commission of the City of Great Falls, Montana on second reading and public hearing April \_\_\_\_, 2019.

\_\_\_\_\_  
Bob Kelly, Mayor

ATTEST:

(CITY SEAL)

\_\_\_\_\_  
Lisa Kunz, City Clerk

APPROVED FOR LEGAL CONTENT:

\_\_\_\_\_  
Sara R. Sexe, City Attorney

State of Montana    )  
County of Cascade : ss  
City of Great Falls )

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do certify that I did post as required by law and as prescribed and directed by the Commission, Ordinance 3198 on the Great Falls Civic Center posting board and the Great Falls City website.

\_\_\_\_\_  
Lisa Kunz, City Clerk

(CITY SEAL)

Exhibit "A"

Title 17 LAND DEVELOPMENT CODE

**Article 6 PUBLIC HEARINGS**

**Sections:**

~~17.16.6.010 Legislative findings.~~

~~17.16.6.020 General requirements.~~

~~17.16.6.030 Procedure.~~

~~17.16.6.040 Continuances.~~

~~17.16.6.050 Public comment.~~

**17.16.6.010 Legislative findings.**

**17.16.6.020 General requirements.**

**17.16.6.030 Procedure.**

**17.16.6.040 Additional Public Hearing in Subdivision Applications.**

**17.16.6.050 Continuances and Additional Hearings.**

**17.16.6.060 Public comment.**

**17.16.6.010 Legislative findings.**

The City Commission makes the following findings:

- 1.—**A.** Public hearings should be conducted in an orderly, timely, and efficient manner; **and**
- 2.—**B.** Public ~~input~~ **participation** is important and should be encouraged.

**17.16.6.020 General requirements.**

- A.—~~Meetings to be public.~~ All public hearings shall be conducted in a place that is open to the public.
- B.—~~Notice of meetings.~~ **B.** Notice of public hearings shall be given as provided for in Article 4 of this chapter **Chapter and/or in accordance with other applicable laws and regulations.**
- C.—~~Minutes.~~ The body conducting the hearing shall keep minutes ~~of the proceedings, indicating~~ **in compliance with Mont. Code Ann. §2-3-212.**
- D. **All public hearings pertaining to land use and development shall be conducted pursuant to the provisions of this Article.**
- E. **To allow public access to the attendance of each member, and the vote of each member on each question. The applicant's materials:**
  1. **must be submitted to the appropriate body conducting the hearing shall approve the minutes, and upon approval shall become part liaison in advance of the posting of the meeting agenda for the public, but**

Exhibit "A"

Title 17 LAND DEVELOPMENT CODE

2. **if after receipt of the staff agenda report, an applicant has additional materials for electronic viewing at the meeting, those materials must be provided to the appropriate body liaison no less than 72 hours prior to the meeting.**
- F. **Members of the public record are encouraged to submit written information prior to the public hearing.**

**17.16.6.030 Procedure.**

The body conducting the public hearing shall follow the following general procedure:

- 1.—**A. The presiding officer shall announce the purpose and subject of, and open, the public hearing;**
- 2.—**B. The presiding officer shall ask the staff to present a staff report, if required, on the matter at issue;**
- 3.—**C. The presiding officer shall allow the applicant (either directly or through a representative) to provide a presentation. The applicant's presentation at the hearing is limited to ten minutes, subject to extension at the discretion of the presiding officer with the concurrence of the body;**
- D. **The body conducting the public hearing may adopt optional processes to allow for public questions for the purposes of understanding and clarification. If such processes are adopted, before requesting comments from proponents or opponents, the presiding officer will call for questions from the public, which will be accepted and answered in the following manner:**
  1. **All questions from the public shall be directed to the presiding officer; and**
  2. **After all questions have been presented to the presiding officer, the officer shall close the question period and request that the staff and/or the applicant provide responses to the questions;**
- E. **Members of the body conducting the public hearing may then direct questions to both the applicant and staff, if present. staff and/or to the applicant for the purposes of understanding and clarification of issues regarding the application;**
- 4.—**F. No member of the body or public shall express, or engage in, substantive opinions or discussion during the question periods;**
- G. **The presiding officer shall ask for statements comments, not questions, from the public who are in favor of the application;**
- 5.—**H. The presiding officer shall ask for statements comments, not questions, from the public who oppose the application;**
- 6.—**I. The presiding officer shall call for discussion of the members of the body conducting the public hearing during which time they may ask questions of the applicant and staff, if present. 7.—The presiding officer shall ask the applicant if he/she wishes to (1) respond to any comment made by an individual during the proceeding; (2) submit additional information; (3) and/or amend respond to any comment made during the question or public comment periods. The applicant's submission or response is limited to five minutes, subject to extension at the discretion of the presiding officer with the concurrence of the body;**
- J. **The presiding officer shall close the public hearing;**

Exhibit "A"

Title 17 LAND DEVELOPMENT CODE

- K. **The presiding officer shall call for a motion regarding the application-**
- ~~8. Following discussion, a motion to approve or deny the application or a, and after the motion to recommend approval or denial, as appropriate, shall be made and is seconded-, the presiding officer shall call for discussion from the members of the body; and~~
- M. **After the discussion by the members of the body, the presiding officer shall call for a vote.**

**17.16.6.040 Additional Public Hearing in Subdivision Applications.**

In subdivision applications, before a motion to approve, deny, amend, or otherwise regarding an application, the body shall determine, under the provisions of Mont. Code Ann. §76-3-615(2)(b), whether the public comments or documents presented during the public hearing constitute new information which has not been previously submitted for public examination and comment.

- A. **If the body determines that new information at the hearing meets the terms of Mont. Code Ann. §76-3-615(2)(b), the body may:**
  - 1. **Approve, conditionally approve, or deny the proposed subdivision without basing its decision on the new information if the governing body determines that the new information is either irrelevant or not credible; or**
  - 2. **Schedule, or direct City staff to schedule, a subsequent public hearing for consideration of only the new information that may impact the findings and conclusions that the body will rely upon in making its decision.**
- B. **An additional public hearing set according to this process, suspends the time requirements for final decision during the time between the original and the subsequent public hearings.**

**17.16.6.050 Continuances, Additional Comment and Public Comment.**

- ~~A. **Initiation.** The applicant or applicant's representative may request a continuance during the proceedings and the body conducting the public hearing may agree to grant the continuance upon a showing of good cause. Likewise, the body conducting the public hearing may ask the applicant for a~~
- B. **A public hearing which has been formally closed may not be reopened. If after a public hearing has been closed, a seconded motion substantially deviates from the publicly noticed suggested motion, the presiding officer may offer an opportunity for additional public comment on the motion before final action;**
- C. **The body, upon motion and vote, may call for an additional public hearing, if the body determines that new, relevant and credible information has been presented during the public hearing which the public and/or the body has not had a reasonable opportunity to comment upon and/or to consider.**
- ~~D. **A granted** continuance, who is not under compulsion to grant such continuance.**B. Effect.** A continuance stops the time clock for making a decision. or an additional public hearing suspends any time requirements for final decision during the time between the original and the subsequent public hearings.~~



Exhibit "A"

Title 17 LAND DEVELOPMENT CODE

**17.16.6.05060 Public comment.**

- A. ~~Time limitations on public comment.~~ **If limits are not previously established by the body, the** presiding officer may impose time limits on each individual **members of the public** who ~~wishes~~ **wish** to speak to assure completion of the agenda in a timely manner.
- B. ~~Written comment.~~ **B.** Members of the public may submit written statements to the body conducting the public hearing **prior to the body taking final action on the item.**

Exhibit "B"

Title 17 LAND DEVELOPMENT CODE

**Article 6 PUBLIC HEARINGS**

**Sections:**

- 17.16.6.010 Legislative findings.
- 17.16.6.020 General requirements.
- 17.16.6.030 Procedure.
- 17.16.6.040 Additional Public Hearing in Subdivision Applications.
- 17.16.6.050 Continuances and Additional Hearings.
- 17.16.6.060 Public comment.

**17.16.6.010 Legislative findings.**

The City Commission makes the following findings:

- A. Public hearings should be conducted in an orderly, timely, and efficient manner; and
- B. Public participation is important and should be encouraged.

**17.16.6.020 General requirements.**

- A. All public hearings shall be conducted in a place that is open to the public.
- B. Notice of public hearings shall be given as provided for in Article 4 of this Chapter and/or in accordance with other applicable laws and regulations.
- C. The body conducting the hearing shall keep minutes in compliance with Mont. Code Ann. §2-3-212.
- D. All public hearings pertaining to land use and development shall be conducted pursuant to the provisions of this Article.
- E. To allow public access to the application materials, the applicant's materials:
  - 1. must be submitted to the appropriate body liaison in advance of the posting of the meeting agenda for the public, but
  - 2. if after receipt of the staff agenda report, an applicant has additional materials for electronic viewing at the meeting, those materials must be provided to the appropriate body liaison no less than 72 hours prior to the meeting.
- F. Members of the public are encouraged to submit written information prior to the public hearing.

**17.16.6.030 Procedure.**

The body conducting the public hearing shall follow the following general procedure:

## Exhibit "B"

### Title 17 LAND DEVELOPMENT CODE

- A. The presiding officer shall announce the purpose and subject of, and open, the public hearing;
- B. The presiding officer shall ask the staff to present a staff report on the matter at issue;
- C. The presiding officer shall allow the applicant (either directly or through a representative) to provide a presentation. The applicant's presentation at the hearing is limited to ten minutes, subject to extension at the discretion of the presiding officer with the concurrence of the body;
- D. The body conducting the public hearing may adopt optional processes to allow for public questions for the purposes of understanding and clarification. If such processes are adopted, before requesting comments from proponents or opponents, the presiding officer will call for questions from the public, which will be accepted and answered in the following manner:
  - 1. All questions from the public shall be directed to the presiding officer; and
  - 2. After all questions have been presented to the presiding officer, the officer shall close the question period and request that the staff and/or the applicant provide responses to the questions;
- E. Members of the body conducting the public hearing may then direct questions to staff and/or to the applicant for the purposes of understanding and clarification of issues regarding the application;
- F. No member of the body or public shall express, or engage in, substantive opinions or discussion during the question periods;
- G. The presiding officer shall ask for comments, not questions, from the public who are in favor of the application;
- H. The presiding officer shall ask for comments, not questions, from the public who oppose the application;
- I. The presiding officer shall ask the applicant if the applicant wishes to submit additional information and/or respond to any comment made during the question or public comment periods. The applicant's submission or response is limited to five minutes, subject to extension at the discretion of the presiding officer with the concurrence of the body;
- J. The presiding officer shall close the public hearing;
- K. The presiding officer shall call for a motion regarding the application, and after the motion is seconded, the presiding officer shall call for discussion from the members of the body;  
and
- M. After the discussion by the members of the body, the presiding officer shall call for a vote.

#### **17.16.6.040 Additional Public Hearing in Subdivision Applications.**

In subdivision applications, before a motion to approve, deny, amend, or otherwise regarding an application, the body shall determine, under the provisions of Mont. Code Ann. §76-3-615(2)(b), whether the public comments or documents presented during the public hearing constitute new information which has not been previously submitted for public examination and comment.

- A. If the body determines that new information at the hearing meets the terms of Mont. Code Ann. §76-3-615(2)(b), the body may:

Exhibit "B"

Title 17 LAND DEVELOPMENT CODE

1. Approve, conditionally approve, or deny the proposed subdivision without basing its decision on the new information if the governing body determines that the new information is either irrelevant or not credible; or
  2. Schedule, or direct City staff to schedule, a subsequent public hearing for consideration of only the new information that may impact the findings and conclusions that the body will rely upon in making its decision.
- B. An additional public hearing set according to this process, suspends the time requirements for final decision during the time between the original and the subsequent public hearings.

**17.16.6.050 Continuances, Additional Comment and Public Comment.**

- A. The applicant or applicant's representative may request a continuance during the proceedings and the body conducting the public hearing may grant the continuance upon a showing of good cause.
- B. A public hearing which has been formally closed may not be reopened. If after a public hearing has been closed, a seconded motion substantially deviates from the publicly noticed suggested motion, the presiding officer may offer an opportunity for additional public comment on the motion before final action;
- C. The body, upon motion and vote, may call for an additional public hearing, if the body determines that new, relevant and credible information has been presented during the public hearing which the public and/or the body has not had a reasonable opportunity to comment upon and/or to consider.
- D. A granted continuance or an additional public hearing suspends any time requirements for final decision during the time between the original and the subsequent public hearings.

**17.16.6.060 Public comment.**

- A. If limits are not previously established by the body, the presiding officer may impose time limits on members of the public who wish to speak to assure completion of the agenda in a timely manner.
- B. Members of the public may submit written statements to the body conducting the public hearing prior to the body taking final action on the item.