



**Planning Advisory Board/Zoning Commission Agenda
Civic Center, 2 Park Drive South, Great Falls, MT
2 Park Drive South
February 12, 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- January 22, 2019

BOARD ACTIONS REQUIRING PUBLIC HEARING

5. Public Hearing – Annexation of a tract of land legally described as Grandview Tracts, Section 13, T20N, R3E, Lot 5, P.M.M., Cascade County, Montana and establishment of R-2 Single-family Medium Density zoning.

COMMUNICATIONS

6. Next Meeting Agenda- Tuesday, February 26, 2019
-Minor subdivision to create a new commercial lot in the Westwood Plaza subdivision- 135 NW Bypass
-Request for Annexation, Establishment of R-5 zoning, and lot aggregation for Beehive Homes project
7. 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
January 22, 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
Dave Bertelsen
Kelly Buschmeyer
Anthony Houtz
Tory Mills
Charles Pankratz
Samantha Shinaberger
Patrick VanWorth

Planning Board Members absent:

Michael Wedekind, Vice Chair

Planning Staff Members present:

Craig Raymond, Director P&CD
Thomas Micuda, Deputy Director P&CD
Erin Borland, Planner II
Alex Dachs, Planner II
Connie Tryon, Sr. Admin Assistant

Other Staff present:

Joseph Cik, Assistant City Attorney

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 8, 2019. Seeing none, Mr. Bertelsen moved to approve the minutes. Mr. VanWorth seconded, and all being in favor, the minutes were approved.

BOARD ACTIONS REQUIRING PUBLIC HEARING

Rezone request for 2800 Upper River Road

Erin Borland, Planner II, said the applicants are requesting that a 9,000 square foot piece of their residential property be rezoned from R-1 Single Family Suburban to I-1 Light Industrial. The tract of land that is proposed to be rezoned was previously zoned Industrial when it resided in the County. When annexed into the City as part of the Upper/Lower River Road water and sewer district, Phase 2 annexation in 2009, it was rezoned to R-1. The applicants own several parcels in the area, some of which are currently zoned I-1 Light Industrial which includes an existing business. Ms. Borland said the surrounding area has a variety of zoning and uses.

Ms. Borland said they are looking to rezone only a portion of their residential lot as part of a boundary line adjustment. The applicants would like to build a storage building for the existing business on the 9,000 square foot piece of land once rezoned. The surrounding neighbors have expressed some concerns including how the rezone would affect the residential value of their properties, how the proposed storage building would affect their views, and what the noise impact would be.

Ms. Borland reviewed the Findings of Fact as listed in the staff report. She pointed out the rezone does not conflict with any portion of City Code. She also noted that in order to mitigate neighborhood concerns, a landscape buffer will be required as part of the conditions of approval listed in the staff report. Ms. Borland said staff supports the request and recommends approval.

PETITIONER'S PRESENTATION

There was no petitioner's presentation.

PUBLIC QUESTION AND ANSWER SESSION

Mr. Houtz asked what the front yard set back is for I-1. Ms. Borland said there will be a side yard and rear yard set back. The front yard set back would face the south where the access drive is located.

There was discussion and clarification on where the owners who submitted letters of concern resided in relation to the applicant's property.

Mr. Fontana inquired about the City limit line, and there was discussion on the annexation phases of the Upper/Lower River Road water and sewer district annexation.

Mr. Pankratz asked what types of businesses are allowed in I-1. Mr. Micuda listed a variety of uses including light- industrial, light manufacturing, and light contractor yards. He pointed out the owners have been using the property for a number of years for their business on their already zoned I-1 property, and this request simply moves the boundary of the zoning line 60 feet.

Mr. Houtz inquired about the access easement and why it showed incorrectly on the plat. There was discussion on where the easement actually is, and that will be corrected once the plat is finalized.

Mr. VanWorth clarified that the property was originally zoned Light Industrial at one point in time, before being annexed into the City.

Darlene Cashman, neighboring property owner representing Hall Charter Transit Service, asked if staff was aware that their driveway was being used as an access road to the applicant's property. Ms. Borland said no, staff was not made aware.

PUBLIC COMMENT

Darlene Cashman, neighboring property owner representing Hall Charter Transit Service, expressed concerns regarding what portion of the property will be used for their business, and the noise level that will be generated from the proposed building. She said they were originally told the proposed building would be used to make bricks, and asked whether or not the applicant had told staff what the building would be used for. Mr. Micuda said the applicant has not given any indication that the building would be used for anything other than storage. However, the rezone would not prevent him from changing his mind, as long as the use conforms to a light industrial use. She expressed again her concern for the noise level.

BOARD DISCUSSION AND ACTION

MOTION: That the Zoning Commission recommend the City Commission approve the rezoning request from R-1 Single-family Suburban to I-1 Light Industrial for the subject property as legally described in the Staff Report, and the accompanying Findings of Fact, subject to the Conditions of Approval being fulfilled by the applicants.

Made by: Mr. VanWorth
Second: Ms. Shinaberger

VOTE: All in favor, the motion carried.

COMMUNICATIONS

Next Meeting Agenda – Tuesday, February 12, 2019

- Steve Johnson Annexation

Petitions & Applications Received:

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

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

There being no further business, Chair Pete Fontana adjourned the meeting at 3:49 p.m.

CHAIRMAN

SECRETARY



Agenda #: _____
Commission Meeting Date: _____

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

Item: Public Hearing – Annexation of a tract of land legally described as Grandview Tracts, Section 13, T20N, R3E, Lot 5, P.M.M., Cascade County, Montana and establishment of R-2 Single-family Medium Density zoning.

Initiated By: Steve and Crystal Johnson

Presented By: Brad Eatherly, Planner I, Planning and Community Development

Action Requested: Recommendation to the City Commission

Public Hearing:

1. Chairman of the Board/Commission conducts public hearing, calling three times each for proponents and opponents.
2. Chairman of the Board/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 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.”

And;

II. “I move that the Zoning Commission recommend the City Commission (approve/deny) 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.”

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

Summary:

The applicants own a parcel of land located on the north side of 21st Avenue South, legally described as Grandview Tracts Lot 5. During the summer of 2018, the applicants met with City staff to discuss the possibility of annexing the property into the city in order to have access to City water and sewer. The applicants have proposed building a single family home and garage on the parcel for their own personal use and have received a permit for this construction from the County.

Background:

Annexation Request:

The subject property proposed for annexation is located in an area known as the Upper and Lower River Road Water and Sewer District where City water and sewer services have been installed, and as such, gradual annexation of unincorporated parcels has been proposed by the Water and Sewer District. This particular parcel is located within Service District 5. Up to this point, Districts 1, 2, most of District 3, and District 4 have been annexed into the city. District 5 will be the next to be annexed at an undetermined date. The applicant who is owner of the subject property requires annexation because of the desire to use City water and sewer services the new home being constructed.

The basis for a 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 City Commission shall at a minimum consider the criteria which are attached as Findings of Fact – Annexation.

Establishment of Zoning:

The subject property of the annexation is proposed to have an R-2 Single-family medium density zoning designation. Although the lot is larger than normal, this zoning category was selected because it is the same zoning designation for properties located directly to the south, north, and west of the annexation area. Any future building construction or building additions will be governed under the standards of the R-2 zoning district.

The basis for decision on zoning map amendments is listed in OCCGF §17.16.40.030. The recommendation of the Zoning Commission and decision of the City Commission shall at a minimum consider the criteria which are attached as Findings of Fact – Zoning Map Amendment.

Neighborhood Council Input:

The applicants plan to attend the meeting for Neighborhood Council #6 on February 6, 2019, and any recommendations will be reported to the Planning Board/Zoning Commission and reflected in the agenda report to the City Commission.

Concurrences:

Representatives from the City’s Public Works, and Legal Departments have been involved throughout the review process for this project. Any comments provided from these various departments have been incorporated in this report.

Fiscal Impact:

Water, sewer, and sanitation services are currently provided by the City to the adjacent properties. Upon approval of the annexation, new water and sewer service lines will be installed to the annexed property. The cost of said improvements will be borne by the applicant per the agreed upon terms in the attached Improvement Agreement. The annexation of the property will increase the City’s tax base.

Staff Recommendation:

Staff recommends approval of the annexation and assignment of R-2 Single-family Medium Density zoning with the following conditions:

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 specified in the attached Improvement Agreement for the subject property. The Improvement Agreement must be signed by the applicant and recorded with the Cascade County Clerk and Recorder's Office.

3. Utilities. The connection of on-site utilities for the subject property shall be approved by the City Public Works Department.

4. 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).

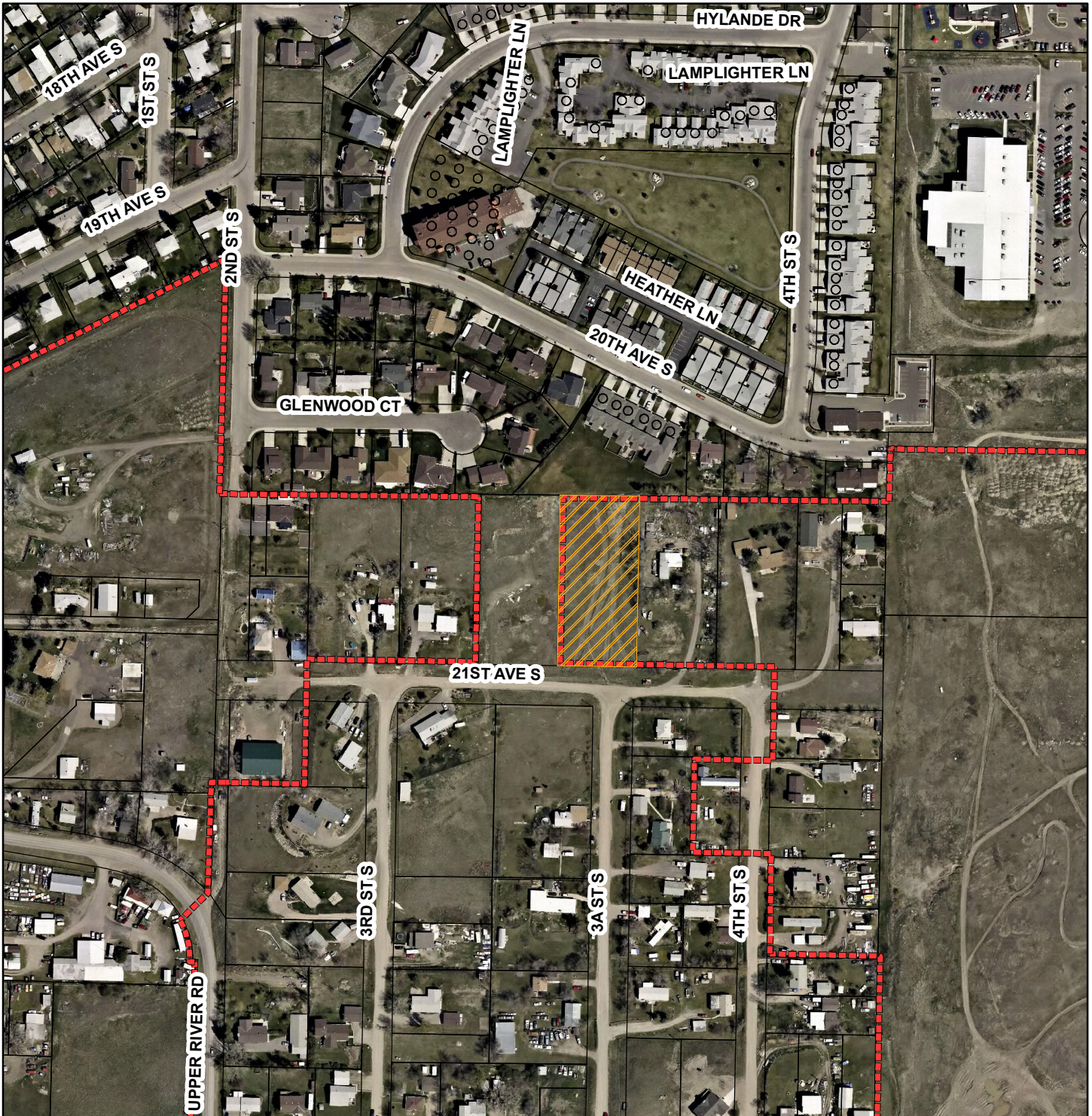
Alternatives:


The Planning Advisory Board/Zoning Commission could recommend denial of the annexation and establishment of zoning to the City Commission. For these actions, the Planning Advisory Board/Zoning Commission must provide alternative Findings of Fact/Basis of Decision for the denial of annexation and establishment of zoning.

Attachments/Exhibits:

- Aerial Map
- Zoning Map
- Findings of Fact/Basis of Decision – Annexation
- Findings of Fact/Basis of Decision – Zoning Map Amendment
- Draft Improvement Agreement

AERIAL MAP




 Subject Property

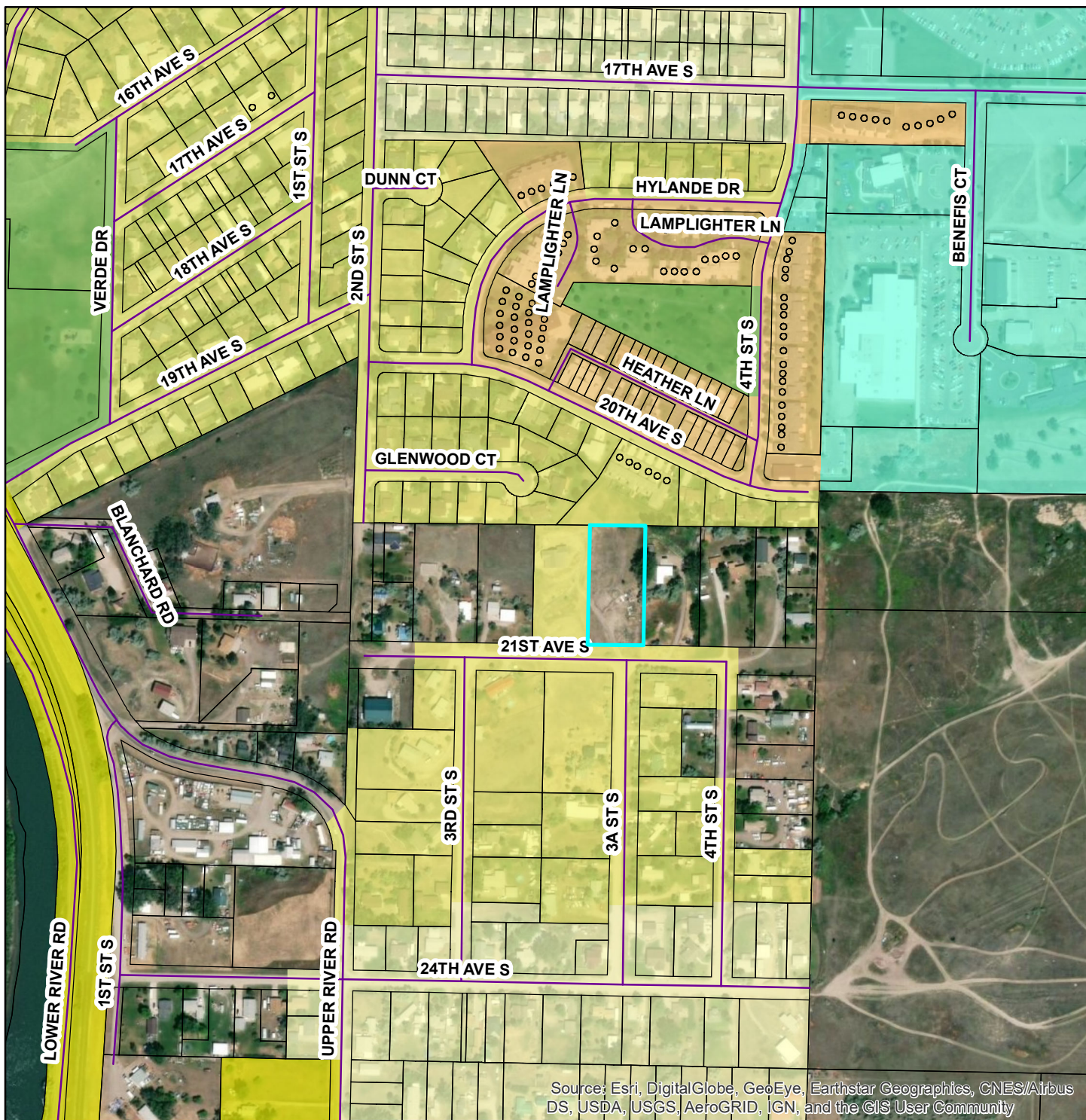
 City Streets

 City Limits










320 160 0 320 Feet



ZONING MAP



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

-  CityStreets
-  City Limits
-  Parcels
-  R-1 Single-family Suburban
-  R-2 Single-family Medium Density
-  R-3 Single-family High Density
-  R-5 Multi-family Medium Density
-  PLI Public Lands and Institutional
-  POS Parks and Open Space



FINDINGS OF FACT – ANNEXATION

Grandview Tracts, Lot 5, Section 13, T20N, R3E, PMM, Cascade County, Montana.

PRIMARY REVIEW CRITERIA:

The basis for decision on annexation is listed in 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 City Commission shall at a minimum consider the following criteria:

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

The subject property is contiguous to the existing City limits, with previously annexed property being present to the north, south, and west of the proposed annexation area.

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. Additionally, the annexation specifically supports the following policies:

Soc1.4.12 When annexing land for residential development, consider the timing, phasing and connectivity of housing and infrastructure development.

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

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 #6. The applicants plan to meet with neighborhood Council #6 on February 6, 2019.

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 property is located on a local street. As a result, there is no specific guidance in the Long Range Transportation Plan that would apply to this single lot annexation. As noted in the staff report, the subject property is located within the 5th Service District of the Upper and Lower River Road Water and Sewer District. Previously, Service Districts 1, 2, most of 3, and 4 have been annexed into the City. District 5 will be the next in line to be annexed at an undetermined date. The Upper and Lower River Road Water and Sewer District was created in order to improve water quality, resolve public health issues, remove sources of groundwater contamination, and improve the tax base of the community.

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

Water and sewer mains were extended under the Upper and Lower River Road Water and

Sewer District. Service lines were stubbed to the property line. Water and sewer connection fees were to be paid by the District. The applicant is required to pay a storm drain fee as a condition of the required annexation agreement. Although the streets in this area of the community are substandard, with gravel surfacing rather than asphalt, curb, gutter, and sidewalks, the impact of just a single lot on City services is minimal.

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

Any future improvements to the subject property will comply with current City code requirements. As noted above, the applicant will not be required to bring the portion of the right-of-way, including the street and boulevard, up to city standards.

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 property has been drafted outlining the responsibilities and costs for annexation requirements. This Agreement has been attached to the report. This Agreement addresses special improvement districts.

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

The subject property has been surveyed and recorded prior to this petition. The plat of Grandview Tracts is on file 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 to this property have already been addressed with the District 5 water and sewer project.

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

The subject property 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 property is 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 property is not used for the uses listed above. The properties surrounding the subject property are existing residences.

FINDINGS OF FACT – ZONING MAP AMENDMENT

Grandview Tracts, Lot 5, Section 13, T20N, R3E, PMM, Cascade County, Montana.

PRIMARY REVIEW CRITERIA:

The basis for decision on zoning map amendments is listed in 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 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 assignment of R-2 Single-family medium density is consistent with the overall intent and purpose of the 2013 City Growth Policy Update. Additionally the policies that this establishment of zoning is consistent with include:

Social - Housing

Soc1.4.12 When annexing land for residential development, consider the timing, phasing and connectivity of housing and infrastructure development.

Physical - Land Use

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

Phy4.3.2 Plan for the provision of appropriate infrastructure improvements, where needed, to support development.

The Growth Policy identifies that Great Falls embodies balanced, compatible growth. The approval of the annexation with the establishment of R-2 zoning will create balanced growth that is compatible with the adjacent properties as well as carry out the vision of the adjacent zoning districts surrounding the property.

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 #6. The applicants plan to meet with neighborhood Council #6 on February 6, 2019.

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

The subject property is located on a local street. As a result, there is no specific guidance in the Long Range Transportation Plan that relates to transportation policy. As noted in the staff report, the subject property is located within the 5th Service District of the Upper and Lower River Road Water and Sewer District. Previously, Service Districts 1, 2, most of 3, and 4 have been annexed into the City. District 5 will be the next in line to be annexed at an undetermined date. The Upper and Lower River Road Water and Sewer District was created in order to

improve water quality, resolve public health issues, remove sources of groundwater contamination, and improve the tax base of the community.

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 existing zoning. The proposed single-family home will fit in with the context of the neighborhood based on the surrounding single family homes adjacent to the property. 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 this property. The zoning assignment has no impact on these issues.

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.

ANNEXATION AGREEMENT
A TRACT OF LAND LEGALLY DESCRIBED AS GRANDVIEW TRACTS, LOT, 5, LOCATED IN SECTION
4, TOWNSHIP 20 NORTH, RANGE 4 EAST, P.M.M., CASCADE COUNTY, MONTANA.

The following is a binding Agreement dated this _____ day of _____, 2019, between Steven and Crystal Johnson hereinafter referred to as "Owners", and the City of Great Falls, Montana, a municipal corporation of the State of Montana, hereinafter referred to as "City", regarding the requirements for annexation of a tract of land into the corporate limits of the City legally described as a portion of Grandview Tracts, Lot 5, located in Section 13, Township 20 North, Range 3 East, P.M.M., City of Great Falls, Cascade County, Montana, hereinafter referred to as "Subject Property". Owners of the aforementioned Subject Property agree to, and is bound by, the provisions of this Agreement, and by signing this Agreement, therefore agrees to terms applicable to the Subject Property. 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 Owners, as required by the City's approval of the supporting documents. Generally, this Agreement:

1.1 Declares that the Owners are 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 Owners to guarantee that the promised on-site improvements are made in a timely manner by as required by the Official Code of the City of Great Falls (OCCGF);

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

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

2.1 Legal Documentation. Legal documents, including but not limited to any easements, covenants, and restrictions establishing the authority and responsibilities of Owners, which may be recorded in the Clerk and Recorder's Office of Cascade County, Montana.

3. Changes. The Owners understand that failure to install required improvements in accord with the final construction plans is a breach of, and may void, this Agreement. The Owners also understand 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) are hereby authorized to allow minor changes to approved plans, as provided below:

3.1 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:

3.1.1 Before making changes, the Owners 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.

3.1.2 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 Property or the OCCGF.

3.1.3 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.

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

3.2 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":

3.2.1 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.

4. Fees. The Owners understand that it is required to pay the following fees as they come due during the development process.

4.1 Recording Fees. The Owners are responsible for all recording fees at the rate charged by Cascade County at the time a document or plat is submitted for recording.

4.2 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 Subject Properties shall not constitute a waiver by the City.

4.3 Storm Drain Fee. The Owners are 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 **\$316.00** for storm drain fee of the Subject Property. The total storm drain fee to be paid to the City no later than 30 days after City Commission action to annex Phase 1 of the Subject Properties into the City.

4.4 Application Fees. In addition to the fees outlined above, application fees paid by the Owners are: the \$2,000.00 application fee for zoning map amendment and the \$500.00 application fee for Annexation, which have been paid prior to this Agreement.

5. Site Conditions. The Owners warrant 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 Owners further warrant 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 Owners hold 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, and access. Access for purposes of emergency vehicles shall be installed to the specifications of the Public Works Department. If necessary, the Owners shall provide public utility easements for all required public utilities.

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 trenching for the installation of utilities.

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

9. Maintenance Districts. Owners hereby agree 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 Property.

10. City Acceptance and Zoning. In consideration of the terms of this Agreement, the City hereby accepts the subject property incorporation by annexation into the corporate limits of the City of Great Falls, Montana, with an assigned zoning classification of R-2 Single-family Medium Density.

11. 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 Owners are 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 Owners, nor any third party may rely upon the City's limited review or approval.

The Owners 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 Owners' properties described herein. Upon the transfer of ownership of the properties, the prior owner's (whether it is the Owners 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.

12. 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:

(NOTARIAL SEAL)