



**Planning Advisory Board/Zoning Commission  
2 Park Drive South, Great Falls, MT  
Gibson Room, Civic Center via Zoom  
Agenda for October 13, 2020  
3:00 PM**

**UPDATES CONCERNING PROCESS OF MEETINGS**

Due to the COVID-19 health concerns, the format of the Planning Advisory Board/Zoning Commission meeting will be held in a virtual video-conferencing environment. In order to honor the Right of Participation and the Right to Know (Article II, Sections 8 and 9 of the Montana Constitution), the City of Great Falls and Planning Advisory Board/Zoning Commission are making every effort to meet the requirements of open meeting laws:

- Planning Advisory Board/Zoning Commission members and City staff will attend the meeting via a remote location, using a virtual meeting method.
- The agenda packet material is available on the City's website: <https://greatfallsmt.net/meetings>. The Public may view and listen to the meeting on government access channel City-190, cable channel 190; or online at <https://greatfallsmt.net/livestream>.
- Public comment will be taken during the meeting as indicated on the agenda with an asterisk. Public participation is welcome in the following ways:
  - Attend in person. Refrain from attending in person if you are not feeling well. The City will require social distancing at the meeting, and may limit the number of persons in the Gibson Room according to applicable health guidelines.
  - Provide public comments via email. Comments may be sent via email before 12:00 PM on Tuesday, October 13, 2020, to: [jnygard@greatfallsmt.net](mailto:jnygard@greatfallsmt.net). Include the agenda item or agenda item number in the subject line, and include the name and address of the commenter. Written communication received by that time will be shared with the Planning Advisory Board/Zoning Commission and appropriate City staff for consideration during the agenda item and before final vote on the matter; and, will be so noted in the official record of the meeting.
  - Call-in. The public may call in during specific public comment periods at 406-761-4786. All callers will be in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be restricted to customary time limits. This is a pilot service to test the feasibility of expanded public participation by phone. We ask for your patience in the event there are technical difficulties

**OPENING MEETING**

1. Call to Order - 3:00 PM
2. Roll Call - Board Introductions
  - Peter Fontana - Chair
  - Charles Pankratz - Vice Chair
  - Dave Bertelsen
  - Kelly Buschmeyer
  - Tory Mills
  - Samantha Shinaberger
  - Laura Vukasin

3. Recognition of Staff
4. Approval of Meeting Minutes - September 22, 2020

## **BOARD ACTIONS REQUIRING PUBLIC HEARING**

5. Public Hearing – Annexation of the south 153.4 feet of the N1/2 SW1/4 SW1/4 NW1/4 excepting the West 30.0 feet which is County road in Section 35, T21N, R3E, P.M.M., Cascade County, Montana; the adjoining right-of-way of 6th Street NW; the adjoining right-of-way of Skyline Drive NW extended to the west right-of-way line of 6th Street NW; and establishment of R-6 Multi-family High Density zoning.

## **BOARD ACTIONS NOT REQUIRING PUBLIC HEARING**

### **COMMUNICATIONS**

### **PUBLIC COMMENT**

*Public Comment on any matter and that is within the jurisdiction of the Planning Advisory Board/Zoning Commission. Please keep your remarks to a maximum of five (5) minutes. Speak into the microphone, and state your name and address for the record.*

### **ADJOURNMENT**

*(Please exit the chambers as quickly as possible. Chamber doors will be closed 5 minutes after adjournment of the meeting.)*

*Assistive listening devices are available for the hard of hearing, please arrive a few minutes early for set up, or contact the City Clerk's Office in advance at 455-8451. Wi-Fi is available during the meetings for viewing of the online meeting documents.*

*Planning Advisory Board/Zoning Commission meetings are televised on cable channel 190 and streamed live at <https://greatfallsmt.net>. Meetings are re-aired on cable channel 190 the following Thursday at 7 p.m.*

**MINUTES OF THE MEETING  
GREAT FALLS PLANNING ADVISORY BOARD/ZONING COMMISSION  
SEPTEMBER 22, 2020**

**CALL TO ORDER**

The regular meeting of the Great Falls Planning Advisory Board/Zoning Commission was called to order by Chair Peter Fontana at 3:00 p.m. The meeting was held via Zoom in the Gibson Room at the Civic Center.

**ROLL CALL & ATTENDANCE**

Due to the COVID-19 health concerns, the format of the Planning Advisory Board/Zoning Commission meeting is being conducted in a virtual video-conferencing environment. In order to honor the Right of Participation and the Right to Know (Article II, Sections 8 and 9 of the Montana Constitution), public participation is welcomed and encouraged as follows:

- Attend in person. Refrain from attending in person if you are not feeling well. The City will require social distancing at the meeting, and may limit the number of persons in the Gibson Room according to applicable health guidelines.
- Provide public comments via email. Comments may be sent via email before 12:00 PM on Tuesday, September 22, to: [jnygard@greatfallsmt.net](mailto:jnygard@greatfallsmt.net). Include the agenda item or agenda item number in the subject line, and include the name and address of the commenter. Written communication received by that time will be shared with the Planning Advisory Board/Zoning Commission and appropriate City staff for consideration during the agenda item and before final vote on the matter; and will be so noted in the official record of the meeting.
- Call-in. The public may call in during specific public comment periods at 406-761-4786. All callers will be in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be restricted to customary time limits. We ask for your patience in the event there are technical difficulties.

Planning Board Members present electronically via Zoom:

Peter Fontana, Chair  
Charles Pankratz, Vice Chair  
Kelly Buschmeyer  
Tory Mills  
Samantha Shinaberger  
Laura Vukasin

Planning Board Members absent:

Dave Bertelsen

Planning Staff Members present:

Craig Raymond, Director Planning and Community Development  
Thomas Micuda, Deputy Director, Planning and Community Development  
Lonnie Hill, Planner I  
Shelley Francis, Permit Technician

Jamie Nygard, Sr. Admin Assistant

Other Staff present:

Joe Cik, Assistant City Attorney

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

## MINUTES

Chair Peter Fontana asked if there were any comments or corrections to the minutes of the meeting held on September 8, 2020. Seeing none, Ms. Vukasin moved to approve the minutes. Ms. Shinaberger seconded, and all being in favor, the minutes were approved.

### **BOARD ACTIONS REQUIRING PUBLIC HEARING**

**Annexation of Tract 1 and Remainder Tract 1-A of Certificate of Survey No. 4120, located in the SE ¼ of Section 14, Township 20 North Range 3 East, P.M.M., Cascade County, Montana and the adjoining right-of-way of Upper River Road from the south property line of Tract 1 to the existing City limits line to the north; and establishment of R-2 Single-family Medium Density zoning.**

Mr. Lonnie Hill, Planner I, presented to the board. He stated that the owners, Mary and Mark Staigmilller and Mike and Sheila Staigmilller, of the properties addressed as 2001, 2003, and 2005 Upper River Road, submitted an application to annex their properties into the City for the purpose of connecting to city water and sewer utilities. There is one existing residence addressed as 2001 Upper River Road on Remainder Tract 1-A, and two existing residences on Tract 1 addressed as 2003 and 2005 Upper River Road. Both properties are part of the Upper/Lower River Road Water Sewer District #5. Mr. Hill presented a map of the Upper/Lower River Road Water Sewer District. He stated that there are five districts total with the potential for more in the future. He stated that the districts were created to improve water quality, resolve public health issues, remove sources of ground water contamination in the area, and improve the tax base of the community. The districts were created and residents can opt to pay in to the improvement of public utilities.

Mr. Hill presented an Aerial Map of the property. He pointed out that with the annexation, there is a small piece of Blanchard Road behind the property. The annexation is not proposing any changes to the layout of the lot lines. All of the properties within Blanchard Tracts have access via Blanchard Road. The access will remain through Blanchard Road from Upper River Road. Mr. Hill presented a site photo to the board. The Findings of Fact for the annexation are that the property is contiguous to the City of Great Falls via Upper River Road. The annexation is consistent with the Growth Policy, specifically with the social and physical portions of the policy.

1. Social Policy 1.4.12 – When annexing land for residential development, consider the timing, phasing and connectivity of housing and infrastructure development.
2. Physical Policy 4.2.5 – Promote orderly development and the rational extension of infrastructure and City services.
3. Physical Policy 4.3.11 – Consider the following annexation incentives for water and sewer hook-ups so as to lessen the cost of improvements – Assistance through grant monies,

The applicant's intent for the annexation is to connect to the city's water and sewer services. Mr. Hill did also present a Zoning Map to the Board. The applicants have requested R-2 Single-family Medium Density zoning for both properties. The Findings of Fact for the zoning request were presented. The property aligns with the zoning of the surrounding area of Prospect Heights and it aligns with the current uses of the subject properties. The existing single-family home of Tract 1-A will fit the context of the surrounding area based on surrounding single family homes adjacent to the property. Tract 1 currently has two separate single-family homes, which is classified as a two-family residence in the zoning code and is permitted as a conditional use in the proposed R-2 zoning district. This and other existing non-conforming uses within the Upper/Lower River Road Water and Sewer Districts have been allowed to continue, when annexed into the City. Moving forward, use of the subject properties shall be consistent with the OCCGF Title 17, Chapter 64, Nonconformities.

**PETITIONER'S PRESENTATION**

Mary Staigmiller, 2003 Upper River Road, stated that the request revolves mostly around water and sewer access. There are no proposed changes to any of the homes or property lines. The property located at 2001 Upper River Road, Mike and Sheila Stagmiller's property, has a cistern. The properties at 2003 and 2005 Upper River Road, have city water through the Poor Farm Line. Since the new water line that was dug under the river to the golf course, the Poor Farm Line has started leaking. Every time it has leaks, the property owners that are on the Poor Farm Line, have to pay for the repairs. Since she has lived there, it has cost them over \$2000.00 in repairs. Additionally, any unmetered charges, due to the leaks, are being paid by the property owners on the Poor Farm Line which have averaged about \$30.00 a month for the last year or so.

**BOARD QUESTION AND ANSWER SESSION**

Chair Fontana asked how many people are on the Poor Farm Line. Ms. Staigmiller responded that she thought initially there were over 30 properties and now believes there are 27. Mr. Fontana also asked if the lot line of 2001 Upper River Road crossed over Blanchard Road and if there was an easement to allow access. Mr. Hill responded that the original plat from 1954 looks like it allowed 10.3 feet of access. Without having the property surveyed, it is assumed that there is adequate access. Mr. Fontana wanted to know if that would prevent any problems that may arise in the future. Mr. Hill responded that what is being presented today, does not change any of the property lines on the original plat and access via Blanchard Road will remain.

**PUBLIC QUESTIONS**

None.

**PROPONENTS**

None

**OPPONENETS**

None.

**BOARD DISCUSSION AND ACTION**

**MOTION:** That the Planning Advisory Board recommend the City Commission approve the Annexation of Tract 1 and Remainder Tract 1-A of Certificate of Survey No. 4120 and the adjoining right-of-way of Upper River Road from the south property line of Tract 1 to the existing City limits line to the north 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. Pankratz  
Second: Ms. Vukasin

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

**MOTION:** That the Planning Advisory Board recommend the City Commission approve the establishment of R-2 Single-family Medium Density zoning for Tract 1 and Remainder Tract 1-A of Certificate of Survey No. 4120 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. Pankratz  
Second: Mr. Mills

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

Mr. Fontana asked what the next steps would be for the applicant. Mr. Micuda responded that the application will move onto the City Commission’s agenda for both the first reading and zoning change as well as eventually a public hearing for the zoning and the annexation request. Mr. Fontana asked how many properties are left out in the area that could still be annexed into the City. Mr. Micuda answered that there is still a lot of Phase 5 that remains out of the city limits. Mr. Fontana asked if Phases 1-4 are fully annexed. Mr. Micuda responded that Phases 1-4 are fully annexed.

**COMMUNICATIONS**

Mr. Micuda did let the board know that there will be an agenda item for the October 13, 2020 meeting. It is for an Annexation and Zoning request at the Southeast corner of Skyline Drive and 6<sup>th</sup> Street NW. There is an applicant that is wanting to develop an apartment complex but the property needs to be annexed into the city and re-zoned, before he can come forward with the project.

**PUBLIC COMMENT**

None.

**ADJOURNMENT**

There being no further business, Chair Fontana adjourned the meeting at 3:23 p.m.

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
SECRETARY



Meeting Date: 10/13/2020

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

**Item:** Public Hearing – Annexation of the south 153.4 feet of the N1/2 SW1/4 SW1/4 NW1/4 excepting the West 30.0 feet which is County road in Section 35, T21N, R3E, P.M.M., Cascade County, Montana; the adjoining right-of-way of 6th Street NW; the adjoining right-of-way of Skyline Drive NW extended to the west right-of-way line of 6th Street NW; and establishment of R-6 Multi-family High Density zoning.

**Initiated By:** Skyline Heights, LLC

**Presented By:** Lonnie Hill, Planner I, Planning and Community Development

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

**Public Hearing:**

1. Chairman of the Board conducts public hearing, pursuant to the Official Code of the City of Great Falls (OCCGF) § 1.2.050 and Title 17, Chapter 16, Article 6.
2. Chairman of the Board closes public hearing and asks the will of the Board.

**Suggested Motion:**

Board Member moves:

- I. “I move that the Planning Advisory Board recommend the City Commission (approve/deny) the Annexation of the 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.”

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

And;

- II. “I move that the Zoning Commission recommend the City Commission (approve/deny) the establishment of R-6 Multi-family High Density zoning for the 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.”

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

**Summary:**

The applicant, Skyline Heights, LLC, is proposing annexation and establishment of R-6 Multi-family High Density zoning for a parcel approximately 2.15 acres generally located southeast of the intersection of Skyline Drive NW and 6<sup>th</sup> Street NW and legally described in the Staff Report. The

subject property is adjacent to the City limits of Great Falls on the south and east. The proposed development includes four 12-plex multi-family buildings for a total of 48 residential units. The project is expected to be built in phases over multiple years.

Public Notice for the Planning Advisory Board/Zoning Commission Public Hearing was published in the Great Falls Tribune on September 27, 2020, and a notice was sent in the mail to neighbors within 150 feet of the subject property.

**Background:**

**Annexation by Petition Request:**

The subject property consists of approximately 2.15 acres and is contiguous to the existing City limits to the south and to the east. The subject property is located within Cascade County with Urban Residential zoning and currently undeveloped. Existing single-family residential homes within the City are located to the east and a City owned water distribution facility is located to the south. There is a large tract of land north of Skyline Drive NW within Cascade County with Urban Residential zoning that is currently used for agricultural purposes, but is anticipated for future annexation and development. West of 6<sup>th</sup> Street NW is another tract of land within Cascade County with Urban Residential zoning that is currently owned and operated by the Missouri River Horseman. The right-of-way of both Skyline Drive NW and 6<sup>th</sup> Street NW are required to be annexed as part of the request, including the entire intersection of these two streets.

The basis for decision for an annexation by petition request is listed in OCCGF § 17.16.7.050. The recommendation of the Planning Advisory Board and the decision of the 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 Request:**

The subject property is proposed for establishment of R-6 Multi-family High Density zoning. The R-6 zoning district aligns with specific goals and objectives within the Growth Policy, including encouraging a diverse, safe, and affordable supply of housing in the City. This project will expand the supply of apartment residential opportunities and encouraging a variety of housing types and densities so that residents can choose by price or rent, location and place of work.

The proposed R-6 zoning also aligns with appropriate uses for the location of the site. The proposed project is at the corner of 6<sup>th</sup> Street NW and Skyline Drive NW, both of which function as collector streets. Generally, intersections of higher classification streets are appropriate for higher intensity of use. In this case, the location of an apartment complex adjacent to collector streets is advantageous to connect these residents to the greater community via 6th Street NW. In addition, the required improvements associated with developing the site are cost prohibitive to single-family residential use. The applicant will be responsible for extending utility mains and roadway improvements per City requirements. The commercial nature of the project will create perpetual revenue that can offset the cost of the improvements over time, which would not be possible with the development of single-family lots on the subject property.

The basis for decision on zoning map amendments is listed in OCCGF § 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 criteria which are attached as *Findings of Fact/Basis of Decision – Zoning Map Amendment*.



**Required Improvements:**

**Water Main Improvements.** The owner agrees to extend a sixteen (16) inch public water main through the public right-of-way of Skyline Drive NW from the existing sixteen (16) inch main to the east and run to the western boundary of the subject property. The improvement is to be owned and maintained by the City upon completion. The City shall pay for the costs associated with upsizing the water main.

**Sanitary Sewer Main Improvements.** Installation of a public sanitary sewer main shall extend from the existing eight (8) inch main located near the southeast corner of the City water plant. The line shall run north to the right-of-way of Skyline Drive NW and run west to the western boundary of the Subject Property. The improvement is to be owned and maintained by the City upon completion.

**Roadway and Sidewalk Improvements.** The owner agrees to construct Skyline Drive NW from the existing improved roadway section to the east to the intersection of 6th Street NW. Construction of this street shall include curb and gutter. The owner additionally agrees to install sidewalk, boulevard landscaping and trees along the south side of Skyline Drive NW along the frontage of the subject property. The owner agrees to dedicate the westernmost ten (10) feet of the Subject Property for use of public right-of-way of 6th Street NW.

**Future Improvements:**

The owner agrees to pay for its proportionate share of future improvements to 6th Street Northwest and its intersection with Skyline Drive Northwest when such improvements are deemed necessary by the City of Great Falls.

**Traffic Analysis:**

**Existing Traffic Volumes:** There are two regularly counted traffic volume count locations on 6th Street NW – one north of the subject property on the gravel section, and one south of the property near the crest of the hill. Additionally, a special count was taken in April 2015 on Skyline Drive NW, just west of 3rd Street NW, providing an indicator of traffic volume on Skyline Drive NW. Additionally, intersection volumes were counted in January 2020. The traffic for each location is shown on Table 1, along with the expected growth from the development.

**Trip Generation:** Using a trip generation rate from the ITE Trip Generation Manual, 9th Ed., a development of this type would be expected to generate an average of 6.65 trips per dwelling unit on a weekday, for a **total estimated average of 320 trips per weekday**.

Traffic from the proposed development during “peak hour” – that is, the hour of the day generating the highest traffic – is expected to be generated at the rate of .67 vehicles per dwelling unit for a one hour period generally between 4 and 6 PM. For the 48 units, **this equates to 33 vehicles during that hour** (Source: ITE Trip Generation Manual, 9th Ed., Land Use: Apartment (220)).

**Trip Distribution:** All of the trips generated by the site would use Skyline Drive NW due to the proposed location of the driveways. Because the most direct connection to the greater community is via 6th Street NW, it is expected that the majority of trips generated by the development would go/come from the west and south. For analysis of the probable impact of the proposed development, it is estimated that 80% of the trips would use Skyline Drive NW and 6th Street NW to the west/south, 20% would use Skyline Drive NW to the east, and a negligible number of new trips would use Skyline Drive and 6th Street NW to the west/north.

**Peak Hour Traffic:** Because the exits are proposed onto Skyline Drive NW, and assuming the direction of 80% of the trips generated by the development would be to/from the west, the **peak-hour volume on the east leg of the intersection would grow approximately 19% to around 170 vehicles.** The same number of vehicles are expected upon the south leg of the intersection, as well. Figure 2 shows a January 2020 peak hour count distribution, and Table 1 shows the projected growth by road segment.

Because nearly all of the movements through the intersection are north-to-east and west-to-south (movements that do not conflict), there is little peak-hour delay at the intersection. With the maximum estimated growth of 27 peak-hour trips, the west-bound traffic would increase to 86 – or, an average of around three vehicles every two minutes – up from around two vehicles every two minutes.

**TABLE 1**

STREET SEGMENT	VOLUME (DATE)	PROJECTED GROWTH	PROJECTED VOLUME	PEAK HOUR VOLUME	PROJECTED GROWTH	PROJECTED VOLUME
Skyline Dr. east of the site	1,927	64	1,991	220	6	226
Skyline Dr. west of the site	1,927	256	2,183	143	27	170
6 <sup>th</sup> St. NW south of the site	1,696	256	1,952	147	27	174
6 <sup>th</sup> St. NW north of the site	369	0	369	30	0	30

*Note: all numbers are vehicle trips per day or vehicle trips per peak hour*

**Traffic Recommendations/Conclusions:** The existing street network has sufficient capacity to accommodate the traffic that would be generated by the proposed development. Upgrading Skyline Drive NW to urban standards, with sidewalk, would ensure a safe, connected system would be in place. No additional traffic control would be necessary. Provision of bicycle storage facilities at each of the 12-plexes is recommended and encouraged. Such facilities would be installed in compliance with Title 17, Chapter 36 of the OCCGF.

Due to the upgrade of the roadway to urban standards and development of the subject property, establishment of final posted speeds on Skyline Drive NW should be performed after development of the subject development and reconstruction of Skyline Drive NW. Posted speeds on 6th Street NW are not expected to be immediately affected by the development.

**Neighborhood Council Input:**

The subject property is located adjacent to Neighborhood Council #3. There is no adopted neighborhood plan for Neighborhood Council #3, or any other Council within the City. The application presented to

Neighborhood Council #3 on October 1, 2020. The Council met again for a special meeting on October 8, 2020 to adopt a letter to be presented to the Planning Advisory Board/Zoning Commission.

**Concurrences:**

Representatives from the City’s Public Works, Legal, have been involved throughout the review and approval process for this project, and will continue to participate throughout the permit approval process. Both Engineering and Environmental Divisions of Public Works and the Legal Department have collaborated on the submitted Improvement Agreement.

**Fiscal Impact:**

Water and Sewer service will be provided by the City, and the cost of the connection improvements will be borne by the applicant per the agreed upon terms of the attached Improvement Agreement. The annexation will add a lot within the city which will increase the City’s tax base and increase revenue.

**Staff Recommendation:**

Staff recommends approval of the annexation of the tract legally described above and adjoining right-of-way of Skyline Drive NW and 6<sup>th</sup> Street NW, and assignment of R-6 zoning with conditions:

**Conditions of Approval for Annexation and Establishment of Zoning:**

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 specified in the attached Improvement Agreement for the Subject Property. The Improvement Agreement must be signed by the applicant and recorded at the Cascade County Clerk and Recorder.
3. **Land Use & Zoning.** Development of the property shall be consistent with the allowed uses and specific development standards of the R-6 Multi-family High Density zoning district.
4. **Utilities.** The final engineering drawings and specifications for public improvements for the subject property shall be submitted to the City for review and approval.

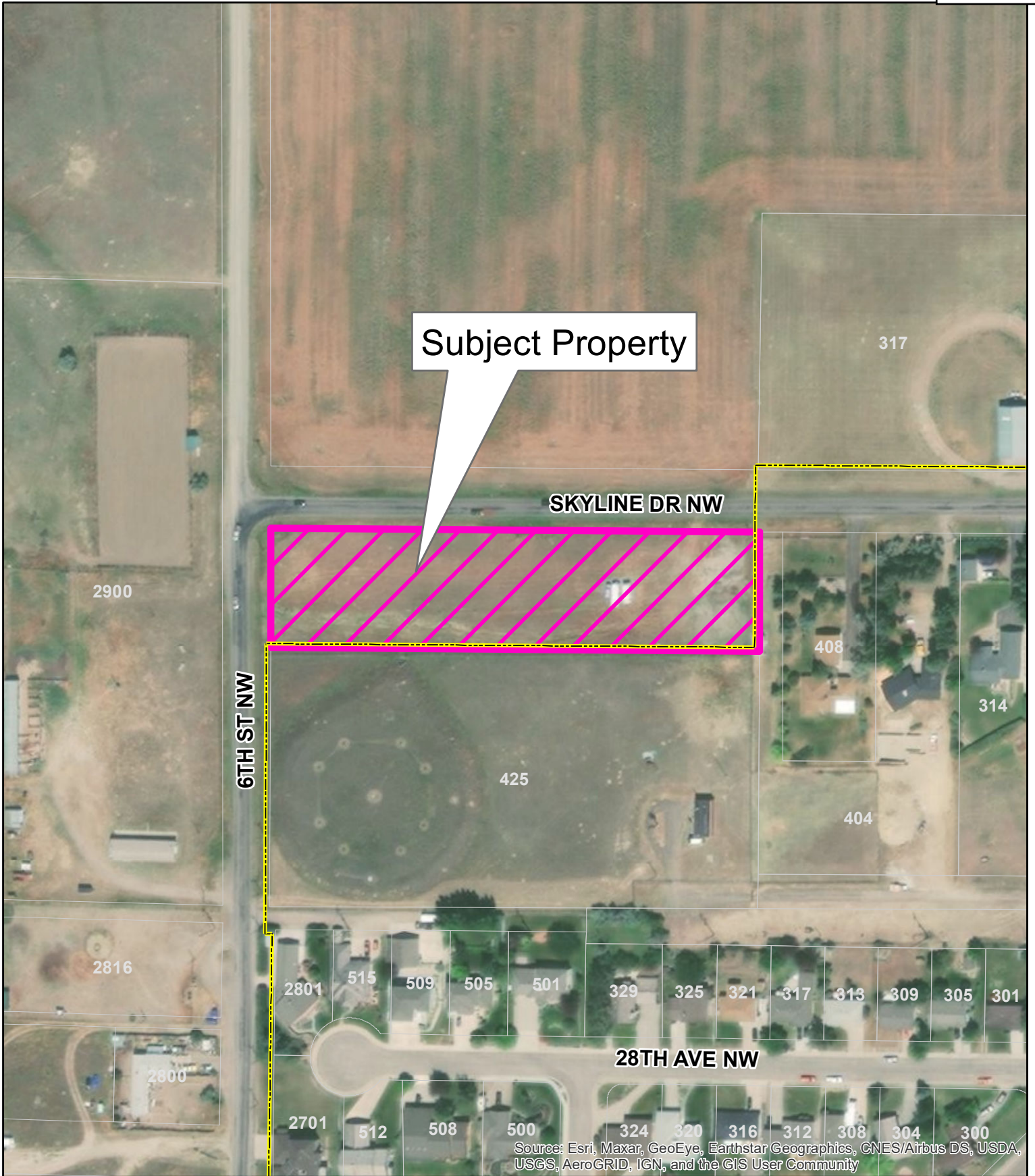
**Alternatives:**

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

**Attachments/Exhibits:**

- Aerial Map
- Zoning Map
- Proposed Zoning Map
- Project Narrative
- Findings Of Fact/Basis of Decision – Annexation
- Findings Of Fact/Basis of Decision – Zoning Map Amendment
- Allowable Uses by District for R-6
- Lot Area and Dimensional Standards for R-6
- Improvement Agreement Draft

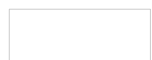
# Location Map



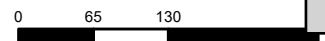
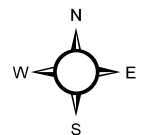
Subject Property



City Limits

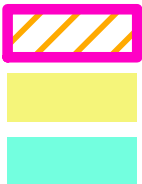
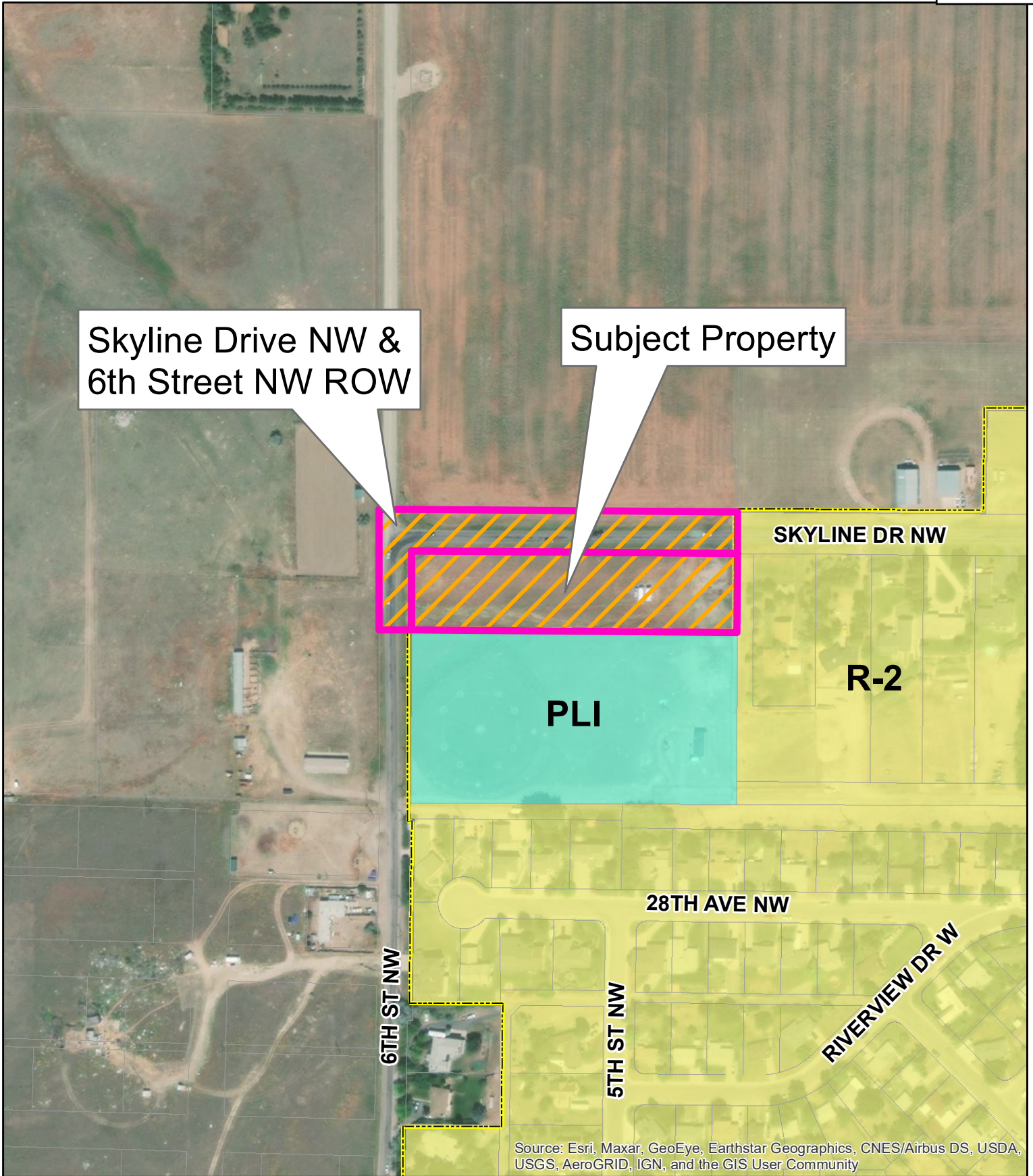


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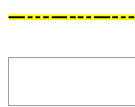
# Proposed Annexation and R-6 Zoning



Proposed Annexation and R-6 Zoning

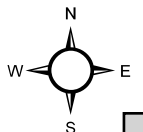
R-2 Single-family Medium Density

PLI Public Lands and Institutional



City Limits

Parcels



0 100 200



**SKYLINE HEIGHTS APARTMENTS**  
 S35, T21 N, R03 E, IN SW4NW4 MK 30  
 2.19 ACRES

**PROJECT DESCRIPTION:**

- ◇ FOUR NEW 12-PLEX UNITS ARE PROPOSED TO BE CONSTRUCTED ON THE EXISTING LOT IN CASCADE COUNTY.
- ◇ THE LOT IS CURRENTLY ZONED URBAN RESIDENTIAL AND IS PROPOSED TO BE ANNEXED INTO THE CITY LIMITS WITH A ZONING OF R-6.
- ◇ THE SITE WILL BE REGRADED FOR ACCESS, PARKING, AND DRAINAGE.
- ◇ SUNSET DRIVE WILL BE IMPROVED TO FULL CITY ROAD STANDARDS.



**FINDINGS OF FACT/BASIS OF DECISION – ANNEXATION**

The south 153.4 feet of the N1/2 SW1/4 SW1/4 NW1/4 excepting the West 30.0 feet which is County road in Section 35, T21N, R3E, P.M.M., Cascade County, Montana; and also the adjoining right-of-way of 6th Street NW and the adjoining right-of-way of Skyline Drive NW extended to the west right-of-way line of 6th Street NW

**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 property is contiguous to the existing City limits to the south and to the east.

**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 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 annexation specifically supports the following goals and policies:

Social – Housing

- Soc1.4.2 Expand the supply of residential opportunities including single family homes, apartments, manufactured homes, and assisted living facilities.
- Soc1.4.6 Encourage a variety of housing types and densities so that residents can choose by price or rent, location and place of work.
- Soc1.4.12 When annexing land for residential development, consider the timing, phasing and connectivity of housing and infrastructure development.

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.**

The subject property is located adjacent to Neighborhood Council #3. There is no adopted neighborhood plan for Neighborhood Council #3, or any other Council within the City. The application presented to Neighborhood Council #3 on October 1, 2020. The Council met again for a special meeting on October 8, 2020 to adopt a letter to be presented to the Planning Advisory Board/Zoning Commission.



**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 not located within any adopted plan or sub-area planning areas. The proposed improvements for all roads related to the development are consistent with City transportation planning documents and City standards. At this time, estimated traffic generation counts were provided for the development and an analysis of those counts have been included in the agenda report.

**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 capacity is adequate to provide public utility services to the subject property. A more detailed description of the various public utility services that will be provided to the development has been outlined in the Agenda Report as well as in the Improvement Agreement.

The adjacent properties to the east and south are currently receiving law enforcement and fire protection service from the City of Great Falls. The improvements will provide access to the subject property being annexed through the construction of two driveways connected by a drive isle. Providing street, law enforcement, and fire protection services is expected to be a manageable cost to the City. Because this development is on the outskirts of the urban area, the City will need to plan the future of emergency response to the area.

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

As part of the proposed annexation, the property is required to be developed to City standards. Skyline Drive NW will be improved to City standards to include curb and gutter. Water and sewer mains will be extended along Skyline Drive NW to the western edge of the property and will be designed and installed to City standards. Improvement of 6<sup>th</sup> Street NW will be deferred until the City designs and improves a larger section of the roadway, at which point the applicant will be required to pay its proportionate share of roadway improvements. Any future improvements to the subject property will also comply with City code requirements.

**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 subject property has been drafted and attached to the Agenda Report. This agreement outlines the responsibilities and costs for various improvements, and addresses 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 property is being surveyed and officially recorded with the County Clerk and Recorder as part of the requirements of the project.

**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.**

Water and sewer service will be extended to the subject property as part of the required improvements. The subject property will connect to these mains for City services.

**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 subject property is located within Cascade County with Urban Residential zoning and currently undeveloped. Existing single-family residential homes within the City are located to the east and a City owned water distribution facility is located to the south. There is a large tract of land north of Skyline Drive NW within Cascade County with Urban Residential zoning that is currently used for agricultural purposes, but is anticipated for future annexation and development. West of 6th Street NW is another tract of land within Cascade County with Urban Residential zoning that is currently owned and operated by the Missouri River Horseman.

**FINDINGS OF FACT – ZONING MAP AMENDMENT**

The south 153.4 feet of the N1/2 SW1/4 SW1/4 NW1/4 excepting the West 30.0 feet which is County road in Section 35, T21N, R3E, P.M.M., Cascade County, Montana; and also the adjoining right-of-way of 6th Street NW and the adjoining right-of-way of Skyline Drive NW extended to the west right-of-way line of 6th Street NW

**PRIMARY REVIEW CRITERIA:**

The basis for decision on zoning map amendments is listed in Official Code of the City of Great Falls (OCCGF) § 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 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 and 2) encourage a balanced mix of land uses throughout the City.

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

Social – Housing

- Soc1.4.2 Expand the supply of residential opportunities including single family homes, apartments, manufactured homes, and assisted living facilities.
- Soc1.4.6 Encourage a variety of housing types and densities so that residents can choose by price or rent, location and place of work.
- Soc1.4.12 When annexing land for residential development, consider the timing, phasing and connectivity of housing and infrastructure development.

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.**

The subject property is located adjacent to Neighborhood Council #3. There is no adopted neighborhood plan for Neighborhood Council #3, or any other Council within the City. The application presented to Neighborhood Council #3 on October 1, 2020. The Council met again for a special meeting on October 8, 2020 to adopt a letter to be presented to the Planning Advisory Board/Zoning Commission.

**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 not located within any adopted plan or sub-area planning areas. The proposed improvements for all roads related to the development are consistent with City transportation planning

documents and City standards. At this time, estimated traffic generation counts were provided for the development and an analysis of those counts have been included in the agenda report.

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

The proposed establishment of R-6 zoning is internally consistent. The proposed R-6 zoning aligns with appropriate uses for the location of the site. The proposed project is at the corner of 6th Street NW and Skyline Drive NW, both of which function as collector streets. Generally, intersections of higher classification streets are appropriate for higher intensity of use. In this case, the location of 48 apartment units adjacent to collector streets is advantageous to connect these residents to the greater community via 6th Street NW. In addition, the required improvements associated with developing the site are cost prohibitive to single-family residential use. The applicant will be responsible for extending utility mains and roadway improvements per City requirements. The commercial nature of the project will create the revenue that can offset the cost of the improvements over time, which would not be possible with the development of single-family lots.

**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 the subject property. The zoning assignment will have 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 administer and enforce the amendment if it is approved.

**Exhibit 20-1. Principal Uses by District**

Use	R-6	Special Standards
Agriculture, horticulture, nursery	-	17.20.6.005
Mobile home/park	-	17.20.6.010
Residence, single-family detached	P	
Residence, zero lot line	P	17.20.6.020
Residence, two-family	P	
Residence, multi-family	P	17.20.6.040
Residence, townhouse	P	17.20.6.050
Residence, manufactured/factory-built	P	17.20.6.060
Retirement home	P	
Community residential facility, type I	P	
Community residential facility, type II	P	
Day care center	C	
Emergency shelter	-	
Family day care home	P	
Group day care home	P	
Nursing home	C	
Campground	-	17.20.6.070
Hotel/motel	-	
Micro-brewery	-	
Restaurant	-	

Tavern	-	17.20.6.080
Agriculture sales	-	
Auction sales	-	
Construction materials sales	-	
Convenience sales	-	
General sales	-	
Manufactured housing sales	-	
Off-site liquor sales	-	
Secondhand sales	-	
Shopping center	-	
Administrative services	-	
Commercial kennel	-	17.20.6.090
Financial services	-	
Funeral home	-	
General services	-	
Professional services	C	
Sexually-oriented business	-	17.20.6.100
Veterinary clinic, large animal	-	
Veterinary clinic, small animal	-	17.20.6.110
Large equipment rental	-	
Small equipment rental	-	
General repair	-	

Vehicle fuel sales	-	
Vehicle repair	-	17.20.6.120
Vehicle sales and rental	-	
Vehicle services	-	
Agricultural commodity storage facility	-	
Climate controlled indoor storage	-	
Fuel tank farm	-	
Mini-storage facility	-	17.20.6.130
Freight terminal	-	
Warehouse	-	
Casino, type I	-	17.20.6.140
Casino, type II	-	17.20.6.150
Indoor entertainment	-	
Indoor sports and recreation	-	
Golf course/driving range	C	
Miniature golf	-	
Outdoor entertainment	-	
Park	P	
Recreational trail	P	
Administrative governmental center	-	
Animal shelter	-	17.20.6.160
Cemetery	C	17.20.6.170
Civic use facility	C	

Community center	C	
Community cultural facility	C	
Community garden	P	17.20.6.175
Public safety facility	C	
Worship facility	C	17.20.6.180
Health care clinic	-	
Health care facility	-	
Health care sales and services	-	
Commercial education facility	-	
Educational facility (K—12)	C	17.20.6.200
Educational facility (higher education)	-	
Instructional facility	-	
Composting facility	-	17.20.6.210
Recycling center	-	17.20.6.220
Solid waste transfer station	-	17.20.6.230
Amateur radio station	P	17.20.6.240
Telecommunication facility		17.20.6.250
Concealed facility	C	
Unconcealed facility	-	
Co-located facility	-	
Utility installation	C	
Airport	-	
Bus transit terminal	-	

Heli-pad	-	17.20.6.260
Parking lot, principal use	-	
Parking structure	-	
Railroad yard	-	
Taxi cab dispatch terminal	-	
Contractor yard, type I	-	17.20.6.270
Contractor yard, type II	-	17.20.6.280
Artisan shop	-	
Industrial, heavy	-	
Industrial, light	-	
Industrial park	-	
Junkyard	-	17.20.6.290
Light manufacturing and assembly	-	17.20.6.300
Motor vehicle graveyard	-	17.20.6.310
Motor vehicle wrecking facility	-	17.20.6.320

- The use is not permitted in the district

C The use is allowed through the conditional use process

P The use is permitted in the district by right, consistent with the development standards contained in Article 6 of this chapter, as appropriate

(Ord. No. 3056, § 1, 8-17-2010; Ord. No. 3068, § 2, 4-5-2011; Ord. No. 3087, § 1(Exh. A), 6-19-2012, eff. 7-19-2012; Ord. 3166, 2017)

**Exhibit 20-2. Accessory uses by district**

Use	R-6	Special Standards
Accessory living space	P	17.20.7.010
Agriculture, livestock	-	17.20.7.080
ATM, exterior	-	17.20.7.020
Bed and breakfast	C	17.20.7.030
Fences	P	17.20.7.040
Gaming, accessory	-	17.20.7.050
Garage, private	P	17.20.7.060
Home occupation	P	17.20.7.070
Private stable/barn	-	17.20.7.080
Residence, accessory	-	17.20.7.085
Roadside farmer's market	-	17.20.7.090
Storage containers	-	17.20.7.100
Wind-powered electricity systems	P	17.20.7.110

- The use is not permitted in the district

C The use is allowed in the district through the conditional use process

P The use is permitted in the district by right, consistent with the development standards contained in Article 7 of this chapter, as appropriate

(Ord. No. 3034, § 1, 7-21-2009; Ord. No. 3056, § 1, 8-17-2010; Ord. No. 3087, § 1(Exh. A), 6-19-2012, eff. 7-19-2012)



**Exhibit 20-3. Temporary uses by district (see 17.20.8.010 for Special Standards)**

Use	R-6	Special Standards
Garage sales	P	17.20.8.015
Itinerant outdoor sales	-	17.20.8.020
On-site construction office	P	17.20.8.030
On-site real estate sales office	P	17.20.8.040
Outdoor entertainment, temporary	-	
Sidewalk café	-	17.20.8.050
Sidewalk food vendor	-	17.20.8.060

- The use is not permitted in the district

C The use is allowed in the district through the conditional use process

P The use is permitted in the district by right, consistent with the development standards contained in Article 8 of this chapter, as appropriate

(Ord. No. 3056, § 1, 8-17-2010)

Article 4 - LOT AREA AND DIMENSIONAL STANDARDS

**Sections:**

17.20.4.010 - Generally.

Lots and buildings shall conform to the dimensional standards specified in Exhibit 20-4.

17.20.4.020 - Exceptions.

The following are exemptions to the standards:

1. The requirements for the rear yard on through lots do not apply when the area of such required rear yard is provided elsewhere on the lot.
2. Every part of a required yard shall be open from its lowest points to the sky unobstructed, except for the projections of sills, belt courses, cornices, and ornamental features not to exceed four (4) inches.
3. Open or lattice enclosed fire escapes, fireproof outside stairways, and solid floored balconies opening upon fire towers, projecting into a yard not more than five (5) feet or into a court not more than three and one-half (3½) feet and the ordinary projections of chimneys and flues shall be permitted where the same are so placed as not to obstruct the light and ventilation.
4. An unenclosed front porch on a single family residence may extend into the front yard setback up to nine (9) feet, provided the porch does not occupy more than sixty (60) percent of the width of the main part of the house.
5. Steps and eaves are allowed to encroach into the front and side yard setbacks.

**Exhibit 20-4. Development standards for residential zoning districts  
(see footnotes [4], [5] & [7] for general standards)**

Standard	R-6
Residential density	500 sq. feet of lot area per dwelling unit
Minimum lot size for newly created lots	7,500 sq. feet
Minimum lot width for newly created lots	50 feet
Lot proportion for newly created lots (maximum depth to width)	2.5:1
Maximum building height of principal building	65 feet
Maximum building height of detached private garage [1]	24 feet, but may not be higher than the uppermost elevation of the principal building
Maximum building height of other accessory buildings	12 feet

Minimum front yard setback [2]	15 feet
Minimum side yard setback [3]	5 feet; 10 feet if adjoining a R-1, R-2, R-3 district
Minimum rear yard setback [7]	15 feet
Maximum lot coverage of principal and accessory buildings	Corner lot: 70% Other types: 60%

[1] Attached private garages are considered a part of the principal building for application of height and setback development standards.

[2] An unenclosed front porch on a single family residence may extend into the front yard setback up to nine (9) feet, provided the porch does not occupy more than sixty (60) percent of the length of the main part of the house.

(Ord. 2950, 2007)

[3] See Section 17.20.6.020 for side yard requirements for zero lot-line projects and Section 17.20.7.010 for accessory buildings with accessory living spaces.

[4] Smaller lots and reduced setbacks and frontages may be accomplished through a Planned Unit Development (PUD).

[5] An existing structure that does not meet the setback requirements stated above can be rebuilt on its original foundation or the original foundation location.

[6] For townhouses, see Section 17.20.6.050 for additional and superseding requirements.

(Ord. 2950, 2007)

[7] Permitted accessory structures and buildings shall have a minimum rear setback of 2 feet in all residential zoning districts.

(Ord. 2950, 2007)

**IMPROVEMENT AGREEMENT FOR SKYLINE HEIGHTS APARTMENTS DEVELOPMENT, LEGALLY DESCRIBED AS THE SOUTH 153.4 FEET OF THE N1/2 SW1/4 SW1/4 NW1/4 EXCEPTING THE WEST 30.0 FEET WHICH IS COUNTY ROAD IN SECTION 35, T21N, R3E, P.M.M., CASCADE COUNTY, MONTANA**

The following is a binding Agreement dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020, between Joshua Johns, 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 a tract of land into the corporate limits of the City legally described as the south 153.4 feet of the N1/2 SW1/4 SW1/4 NW1/4 excepting the West 30.0 feet which is County road in Section 35, T21N, R3E, P.M.M., Cascade County, Montana, hereinafter referred to as "Subject Property". The 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 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 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 of the Subject Property;

**1.2** Insulates the Subject Property from the impact of changes in the City's zoning regulations, provided that no substantial changes in the development of the Subject Property are proposed;

**1.3** Requires the Owner to guarantee that the agreed-upon improvements contained in this agreement 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 improvements before they are accepted for operation and maintenance by the City;

**1.5** Waives protest and appeal 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 certain improvements made by the Owner are developed;

**1.8** Embodies certain conditions that are imposed by the City upon approval of the annexation of the Subject Property in order to facilitate their enforcement; and

**1.9** Indemnifies the City from challenges to its approval of the annexation of the Subject Property and holds it harmless from errors and omissions in the approval and oversight of the improvements

relating to development of the Subject Property.

**2. Duration.** The term of this Agreement begins at the date here above written and with the exceptions stated below, ends at the time the warranty required by Section 12 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 may be amended 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 improvements in accordance with the final construction plans may result in the City retaining the security required in Section 13 of this Agreement. It may also void this Agreement and the vested rights established by Section 9, below.

**2.3 Failure to Pay.** The Owner's failure to make timely payment of its share of any of the required improvements listed in Section 10, below, voids the Agreement and the vested rights established by Section 10. 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 Certificate of Survey.** The Certificate of Survey Number \_\_\_\_\_, to be filed on record in the Clerk and Recorder's Office of Cascade County, Montana, upon approval by the City of Great Falls.

**3.2 Construction Documents.** Engineering drawings, specifications, reports and cost estimates (preliminary and final), prepared for the Subject Property, consisting of documents for, but not limited to the public sanitary sewer, water, storm drain, and street improvements. Construction documents shall be designed in compliance with the City's Standards for Design and Construction Manual.

**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; and one electronic copy of public infrastructure, private utilities, and drainage facilities shall be supplied to the City of Great Falls 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 relating to the Subject Property, 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 of the Subject Property is a breach of, and may void, this Agreement. The Owner also understands that such failure is a violation of the OCCGF and is 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 Property, 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 fifteen (15) 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 annexation of the Subject Property 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. The 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. The absence of any fee from this Agreement which is lawfully charged by the City in connection with construction activity associated with the Subject Property shall not constitute a waiver by the City.

**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 or subsequent developer 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 paid at the times of tapping and connections.

**5.5 Storm Drain Fee.** The Owner is responsible to pay a storm drain fee in the amount of \$250 per acre for the Subject Property. This would equal a total of **\$537.50** for the total 2.15 acres of the Subject Property. 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 Property into the City.

**5.6 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, the \$500.00 application fee for annexation, and the \$200.00 application fee for an administrative plat 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.

**7. On-Site Improvements.** The on-site improvements required prior to certificate of occupancy of any structure built upon the Subject Property shall include everything required to provide water, sanitary sewer, sanitary sewer industrial pretreatment (as applicable), fire protection, storm drainage, storm water quality treatment, access, and other requirements as may be required by OCCGF. Access for purposes of emergency vehicles shall be installed to the City specifications prior to the issuance of any building permits for the Subject Property. The Owner shall provide public utility easements for all required public utilities. The Owner agrees to install on-site stormwater quality and quantity improvements consistent with City standards and submitted plans approved by the City of Great Falls, where applicable. Stormwater quantity and quality control measures must comply with standards of the City of Great Falls Storm Drainage Design Manual. The design, installation, inspection, and maintenance responsibilities of these improvements shall be approved by the City of Great Falls. Additionally, an enforceable operation and maintenance agreement with the City and the Owner is required to ensure private stormwater control measures function properly.

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

**9. Vested Rights.** The approval of this Agreement by the City create a vested right that protects the Owner from changes in the zoning regulations 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 of the Subject Property.

**10. Required Public Improvements.** The public improvements required for the development of the Subject Property shall be installed as shown on the final construction plans that are submitted to and approved by the City of Great Falls prior to issuance of the Certificate of Occupancy. As an alternative, the Owner may provide a financial security for said improvements as prescribed in Section 13. Any reimbursements owed to the Owner for the installation of public improvements are outlined in Section 14. Any reimbursements to be paid by the Owner for previously installed public improvements are outlined in Section 15.

**10.1 Water.** The Owner hereby agrees to extend a sixteen (16) inch public water main through the public right-of-way of Skyline Drive Northwest from the existing sixteen (16) inch main to the east and run to the western boundary of the Subject Property consistent with City standards and submitted plans approved by the City of Great Falls, including the addition of the required fire hydrant(s). 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 location of which shall be approved by the City. The improvement is to be owned and maintained by the City upon completion. The new water main installed as part of this project are required to be sixteen (16) inches rather than eight (8) inches in diameter. The City shall pay for the costs associated with upsizing the water main.

**10.2 Sanitary Sewer.** Installation of a public sanitary sewer main shall extend from the existing eight (8) inch main located near the southeast corner of the City water distribution facility. The line shall run north to the right-of-way of Skyline Drive Northwest and run west to the western boundary of the Subject Property consistent with City standards and submitted plans approved by the City of Great Falls. The improvements 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 location of which shall be approved by the City. The improvement is to be owned and maintained by the City upon completion.

**10.3 Roadways and Sidewalks.** The Owner agrees to construct Skyline Drive Northwest from the existing improved roadway section to the east to the intersection of 6<sup>th</sup> Street Northwest. Design and installation shall be consistent with City standards and submitted plans approved by the City of Great Falls. Construction of this street shall include curb and gutter. All street improvements are to be owned and maintained by the City upon completion. The Owner additionally agrees to install sidewalk, boulevard landscaping and trees along the south side of Skyline Drive Northwest along the frontage of the subject property.

As part of this agreement, the Owner agrees to dedicate the westernmost ten (10) feet of the Subject Property for use of public right-of-way of 6<sup>th</sup> Street Northwest. Improvements to 6<sup>th</sup> Street Northwest may be constructed at a future date when deemed necessary by the City.



**11. Future Required Public Improvements.** The Owner agrees to pay for its proportionate share of future improvements to 6<sup>th</sup> Street Northwest and its intersection with Skyline Drive Northwest when such improvements are deemed necessary by the City of Great Falls.

**12. 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 13 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 13 of this Agreement for the release of securities.

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

**13. 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 14. Following the final required inspection and City Approval of the public improvements, 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 all other improvements relating to the development of the Subject Property are 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 12 of this Agreement.

**14. Reimbursements owed to Owner.** Except as set forth herein, the City will assist in obtaining 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. The Owner shall provide the City with documentation and proof of its actual out-of-pocket costs for the installation of the hereinabove mentioned public improvements within four (4) months after approval and acceptance thereof by the City. In the event of the Owner's failure to provide the City with said cost data, the City shall not be obliged to undertake collection of future reimbursements provided for herein, and the responsibility for collection thereof shall be that of the 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.

A list of existing reimbursement obligations and anticipated future reimbursement obligations are listed below.

**14.1 Un-annexed Parcels to the North.** Property owners abutting public improvements installed by the Owner under this agreement shall be required by the City of Great Falls to pay proportional reimbursements to the Owner upon annexation.

**15. Maintenance Districts.** The 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 Property.

**16. Park District.** Owner acknowledges that the Subject Property is, by operation of law and pursuant to Resolution No. 10238, adopted by the City Commission on June 5, 2018, included within the boundaries of the Great Falls Park District Number 1. Owner acknowledges that property within the Great Falls Park District Number 1, including the Subject Property, is subject to annual assessments for the purposes of the Great Falls Park District Number 1 in amounts to be determined by the City Commission each year, in accordance with Resolution No. 10238, as it may be amended or supplemented.

**17. Public Roadway Lighting.** The 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 Property, and further agrees to pay for the installation of public roadway lighting which services the Subject Property that may be installed with or without a special lighting district.

**18. City Acceptance and Zoning.** In consideration of the terms of this Agreement, the City hereby accepts the Subject property for incorporation by annexation into the corporate limits of the City of Great Falls, Montana, with an assigned City zoning classification of R-6 Multi-family High Density for the Subject Property.

**19. 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.

**20. 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.

Joshua Johns

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

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

State of \_\_\_\_\_)

:ss.

County of \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year Two Thousand and Twenty, 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)