



- Item:** Resolution 9985, a Resolution of Intent to annex portions of the Sun River and 13<sup>th</sup> Ave SW, and Ordinance 3095 to assign City Zoning to 1359 13<sup>th</sup> Ave SW, legally described as Mark 1, Sun River Bridge Garden Tracts, Section 15, T20N, R3E, Cascade County, MT and portion of abutting 13<sup>th</sup> Ave SW right-of-way and Sun River
- From:** Jana Cooper, RLA, Planner II, Planning and Community Development
- Initiated By:** Deloris M. Russell Trust, Property Owner
- Presented By:** Mike Haynes, AICP, Director of Planning and Community Development
- Action Requested:** City Commission adopt Resolution 9985 and accept Ordinance 3095 on first reading and set a public hearing for October 2, 2012.
- 

**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission (adopt/deny) Resolution 9985.”

and;

“I move that the City Commission (accept/deny) Ordinance 3095 on first reading and set a public hearing for October 2, 2012.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls for the vote after each motion.
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**Recommendation:** At the conclusion of a public hearing held June 26, 2012, the Planning Advisory Board conditionally approved the annexation of 1359 13<sup>th</sup> Ave SW, and the Zoning Commission approved assigning a zoning classification of R-1 Single-family low density residential district to the property upon annexation to the City. Public Notice for the Planning Advisory Board/Zoning Commission Public Hearing was published in the *Great Falls Tribune* on June 10, 2012. Staff received one comment from a neighboring property regarding the annexation and how it would affect their property.

City Commission set a Public Hearing for said annexation and zoning on July 17, 2012, but that hearing was vacated by the Commission on August 7, 2012. The Applicant was working on financial issues related to the project, which have since been resolved.

Staff recommends approval of the proposed annexation and zoning of  $\pm 1.85$  acres of unincorporated land legally described as Mark 1, Sun River Bridge Garden Tracts, Section 15, T20N, R3E, Cascade County, MT and portions of abutting 13<sup>th</sup> Ave SW right-of-way and Sun River.

**Background:** The owner of 1359 13<sup>th</sup> Street Southwest is requesting annexation of their property that consists of  $\pm 0.67$  acres. There is a single family residence on the property and the owner is making the request in order to extend and connect to City water services and utilize existing City sewer services.

In addition to the subject property, a portion of the Sun River abutting the subject property consisting of  $\pm 0.55$  acres and, per MCA, the abutting portions of 13th Avenue Southwest, comprised of  $\pm 0.63$  acres, are also being annexed as a part of the request. In total  $\pm 1.85$  acres will be annexed into the City.

The subject property abuts 13th Avenue Southwest, which is paved without curb, gutter or sidewalks. Properties west of the subject property are already annexed into the City, but the adjacent right-of-way has not been annexed. In order to simplify maintenance responsibility, the City's Street Division requires 13th Avenue Southwest be annexed from 14th Street Southwest to the eastern property line of the subject property. As a condition of annexation, any roadway section (paving, gravel and subgrade) that is disturbed during construction activities of the project shall be restored to their original condition. Public Works is not requiring any escrow of funds for the improvement of 13th Avenue Southwest. The owners will waive their right to protest a future special improvement district for roadway improvements as a condition of annexation.

There is an existing 8-inch water main located in 14th Street Southwest. The applicant proposes to extend an 8-inch City water main from the existing main to the eastern boundary of the subject property and connect service to this line. There is an existing 14-inch sewer in 13th Avenue Southwest. The applicant will be required to connect to the existing sewer and pay any reimbursement owed for the installation of this line. As a condition of annexation, the owner will be required to install a fire hydrant in a location determined by Public Works and the Fire Department. The existing properties adjacent to 13th Avenue Southwest that are already annexed into the City will be responsible for their portion of the new water main per existing agreements on file at the Planning and Community Development office and the owner will be eligible for reimbursement of the water main and hydrant as the remaining properties which are not currently in the City are annexed.

The request does not include a proposal for any new development; therefore, it is reasonable to assume that there would be no increased traffic demands caused by this request.

The applicant will not be required to extend storm drain facilities in the area. Any future expansion of facilities is subject to review by the Department of Public Works for applicable storm water regulations. The owner will waive their right to protest a future special improvement district for any storm drain improvements as a condition of annexation.

Zoning of the subject property will enhance health, safety and welfare through application of City Codes and provision of municipal services.

Section 76-2-304 Montana Code Annotated lists criteria and guidelines which must be considered in conjunction with establishing municipal zoning on land:

(1) Zoning regulations must be:

(a) made in accordance with a growth policy; and

(b) designed to:

(i) secure safety from fire and other dangers;

(ii) promote public health, public safety, and the general welfare; and

(iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

(2) In the adoption of zoning regulations, the municipal governing body shall consider:

(a) reasonable provision of adequate light and air;

(b) the effect on motorized and nonmotorized transportation systems;

(c) promotion of compatible urban growth;

(d) the character of the district and its peculiar suitability for particular uses; and

(e) conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

Applicable policy statements include “residential land uses should be planned and located so that they do not result in adverse impacts upon one another.” Therefore, staff concludes the above-cited criteria are substantially met.

The proposed development is compatible with the 2005 Growth Policy, as it advances specific Goals, Policies, and Action Strategies contained within the related plan elements, and is also in line with the general themes and principles found in the document. Plan elements related to the proposed development include providing infill development and protecting and enhancing the character of existing neighborhoods. The Growth Policy also states that annexations should be logical and efficient extensions of the City’s boundaries and service areas, which applies to this project.

Patty Cadwell, Neighborhood Council Coordinator, presented the project to Neighborhood Council #1 on May 15, 2012. There were no comments from Neighborhood Council #1, but the Planning Department has received one question from the owner of the property to the east, which is located in the county, who wanted to know how the annexation would affect their property.

It is anticipated the City Commission, at the public hearing on October 2, 2012, will consider the resolution to annex and an annexation agreement for 1359 13<sup>th</sup> Ave SW, simultaneously with Ordinance 3095.

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

**Fiscal Impact:** The annexation will marginally expand the fire and police service area, which will have a minimal fiscal impact on the City. The City should see a slight increase in tax revenues from the improvements being made to the property.

**Alternatives:** The City Commission could not adopt Resolution 9985 and deny acceptance of Ordinance 3095 on first reading and not set the public hearing. However, such action would

deny the applicant due process and consideration of a public hearing, as provided for in City Code and State Statute.

**Attachments/Exhibits:**

Aerial Map

Resolution of Intent 9985 with Attachment A

Ordinance 3095 with Attachment A

Cc: Jim Rearden, Public Works Director

Dave Dobbs, City Engineer

Patty Cadwell, Neighborhood Council Coordinator

Deloris M. Russell Trust, c/o Linda Stirling, 1375 13<sup>th</sup> Ave SW #12, Great Falls, MT  
59404


Sandy Mares, West Great Falls, Flood Control District, 429 19th St SW, Great Falls, MT  
59404

# Aerial Map



 13th Ave SW ROW Related to Resolution 9985

 Sun River Related to Resolution 9985

 1359 13th Ave SW

 City Limits

 Tracts of Land

80 40 0 80 Feet



1359 13th Ave SW

RESOLUTION 9985

A RESOLUTION OF INTENTION BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, TO EXTEND SAID CITY BOUNDARIES TO INCLUDE A SEGMENT OF 13<sup>TH</sup> AVENUE SOUTHWEST AND A PORTION OF THE SUN RIVER, SECTION 15, TOWNSHIP 20 NORTH, RANGE 3 EAST, CASCADE COUNTY, MONTANA, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 7-2-4402, MONTANA CODE ANNOTATED

\* \* \* \* \*

WHEREAS, the City of Great Falls is a city incorporated under the laws of the State of Montana, and having a population of more than ten thousand (10,000) is a city of the first class; and,

WHEREAS, there is contiguous to said City, but outside the boundaries thereof, a segment of 13<sup>th</sup> Avenue Southwest, Section 15, Township 20 North, Range 3 East, Cascade County, Montana, more particularly described as follows:

Commencing at the Northwest corner of Lot 3, Sun River Garden Tracts, said corner being the "True Point of Beginning", proceed thence northerly  $\pm 60.0$  feet, crossing the 13<sup>th</sup> Avenue Southwest right-of-way to a point on the easterly right-of-way line of 14<sup>th</sup> Street Southwest and the Southwest corner of Mark 2AC, Sun River Bridge Garden Tracts;

Thence Easterly  $\pm 455$  feet along the northerly right-of-way line of 13<sup>th</sup> Avenue Southwest, to a point on the easterly right-of-way of 13<sup>th</sup> Avenue Southwest and the Southeast corner of Mark 1, Sun River Bridge Garden Tracts;

Thence Southerly  $\pm 60$  feet, crossing the 13<sup>th</sup> Avenue Southwest right-of-way to a point on the southerly right-of-way line of 13<sup>th</sup> Avenue Southwest and the Northeast corner of Mark 2C Sun River Bridge Garden Tracts;

Thence Westerly  $\pm 455$  feet along the southerly right-of-way line of 13<sup>th</sup> Avenue Southwest, to a point on the eastern right-of-way of 14<sup>th</sup> Street Southwest and the Northeast corner of Lot 3 Sun River Bridge Garden Tracts, being the "True point of Beginning";

containing  $\pm 0.63$  acres more or less; and,

WHEREAS, there is contiguous to said City, but outside the boundaries thereof, a portion of the Sun River, Section 15, Township 20 North, Range 3 East, Cascade County, Montana, more particularly described as follows:

Commencing at the Northwest corner of Mark 1, Sun River Bridge Garden Tracts and the High Water Mark of the Sun River, said corner being the "True Point of

Beginning”, proceed thence northerly  $\pm 266$  feet, crossing the Sun River to a point along the northerly High Water Mark of the Sun River and the southern property line of the West Great Falls Flood Levee;

Thence Easterly  $\pm 102$  feet along the northerly High Water Mark of the Sun River, to a point along the High Water Mark of the Sun River and the southern property line of the West Great Falls Flood Levee;

Thence Southerly  $\pm 235$  feet, crossing the Sun River to a point along the High Water Mark of the Sun River and the Northeast corner of Mark 1, Sun River Bridge Garden Tracts;

Thence Westerly  $\pm 93$  feet along the northerly property line of Mark 1, Sun River Bridge Garden Tracts and the High Water Mark of the Sun River, to a point along the southern High Water Mark of the Sun River and the Northwest corner of Mark 1, Sun River Bridge Garden Tracts, being the “True Point of Beginning”;

containing  $\pm 0.55$  acres more or less and containing in all  $\pm 1.18$  acres as shown on the map attached hereto, marked Attachment “A” and by this reference made a part hereof; and,

WHEREAS, Section 7-2-4402, Montana Code Annotated, provides that whenever any land contiguous to a municipality is owned by the State of Montana or by any agency, instrumentality, or political subdivision or whenever any of the foregoing have a beneficial interest in any land contiguous to a municipality, such land may be incorporated and included in the municipality to which it is contiguous and may be annexed thereto and made a part thereof; and,

WHEREAS, the City has obtained a Request for Annexation of the subject segment of right-of-way and portion of Sun River from the Deloris M. Russell Trust, property owner of 1359 13<sup>th</sup> Avenue Southwest legally described as Mark 1, Sun River Bridge Garden Tracts located in the NE $\frac{1}{4}$  of Section 15, Township 20 North, Range 3 East, Cascade County, Montana.

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

That in its judgment it will be to the best interest of said City of Great Falls and the inhabitants thereof that the boundaries of said City of Great Falls shall be extended so as to include: “A SEGMENT OF 13<sup>TH</sup> AVENUE SOUTHWEST AND A PORTION OF THE SUN RIVER IN NE $\frac{1}{4}$ , SECTION 15, TOWNSHIP 20 NORTH, RANGE 3 EAST, CASCADE COUNTY, MONTANA.”

BE IT FURTHER RESOLVED BY SAID CITY COMMISSION: That Tuesday, the 2<sup>nd</sup> day of October, 2012, at 7:00 P.M., in the Commission Chambers at the Great Falls Civic Center, Great Falls, Montana, be and the same is hereby set as the time and place for a public hearing at which time the Great Falls City Commission shall hear all persons and all things relative to the proposed annexation of “A SEGMENT OF 13<sup>TH</sup> AVENUE SOUTHWEST AND A PORTION OF THE SUN RIVER IN NE $\frac{1}{4}$ , SECTION 15, TOWNSHIP 20 NORTH, RANGE 3 EAST, CASCADE COUNTY, MONTANA.”

BE IT FURTHER RESOLVED BY SAID CITY COMMISSION: That the City Clerk of said City shall, at the aforesaid public hearing before the said City Commission and after expiration of a twenty (20) day period following the first publication of notice of passage of this Resolution, lay

before the City Commission all communications in writing by her so received pertaining to said annexation.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on this 4<sup>th</sup> day of September, 2012.

\_\_\_\_\_  
Michael J. Winters, Mayor

ATTEST:

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

(SEAL OF THE CITY)

APPROVED FOR LEGAL CONTENT:

\_\_\_\_\_  
James W. Santoro, City Attorney

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

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Resolution 9985 was placed on its final passage and passed by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the 4<sup>th</sup> day of September, 2012.

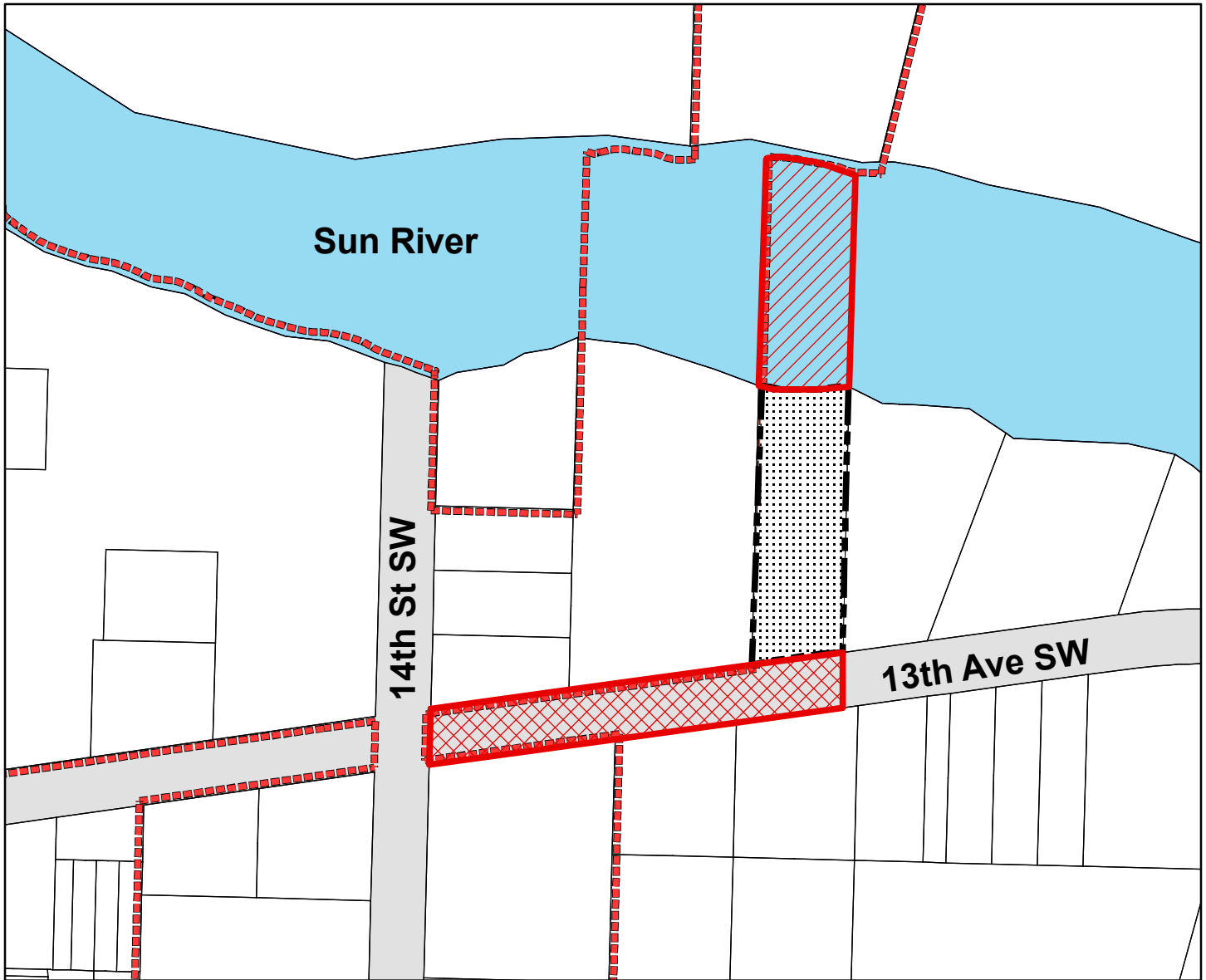
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this 4<sup>th</sup> day of September, 2012.







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

(SEAL OF CITY)



# Attachment A Resolution 9985



-  City Limits
-  13th Ave SW ROW Related to Resolution 9985
-  Sun River Related to Resolution 9985
-  1359 13th Ave SW
-  Tracts of Land
-  Right-of-Way



1359 13th Ave SW

ORDINANCE 3095

AN ORDINANCE ASSIGNING A ZONING CLASSIFICATION OF R-1 SINGLE-FAMILY LOW DENSITY RESIDENTIAL DISTRICT TO MARK 1, SUN RIVER BRIDGE GARDEN TRACTS, AND ABUTTING PORITON OF THE SUN RIVER AND 13<sup>TH</sup> AVENUE SOUTHWEST RIGHT-OF-WAY FROM 14<sup>TH</sup> STREET SOUTHWEST TO THE EASTERN BOUNDARY OF THE SUBJECT PROPERTY ALL LOCATED IN SECTION 15, TOWNSHIP 20 NORTH, RANGE 3 EAST, CASCADE COUNTY, MONTANA

\* \* \* \* \*

WHEREAS, Deloris M. Russell Trust has petitioned the City of Great Falls to annex Mark 1, Sun River Bridge Garden Tracts and abutting portion of the Sun River and 13<sup>th</sup> Avenue Southwest right-of-way from 14<sup>th</sup> Street Southwest to the eastern boundary of the subject property consisting of ±1.85 acres, located in Section 15, Township 20 North, Range 3 East, Cascade County, Montana, herein referred to as Subject Property, and;

WHEREAS, Deloris M. Russell has petitioned Mark 1, Sun River Bridge Garden Tracts be assigned a zoning classification of R-1 Single-family low density residential district upon annexation to the City; and,

WHEREAS, the abutting portion of the Sun River shall be assigned a zoning classification of PLI – Public Lands and Institutional upon annexation; and,

WHEREAS, the portion of 13<sup>th</sup> Avenue Southwest from 14<sup>th</sup> Street Southwest to the eastern boundary of Mark 1, Sun River Bridge Garden Tracts shall be assigned zoning consistent with the adjacent properties including R-1 Single-family low density, R-6 Multi-family high density and C-2 General commercial upon annexation; and,

WHEREAS, notice of assigning said zoning classifications to Subject Property was published in the *Great Falls Tribune* advising that a public hearing on this zoning designation would be held on the 2<sup>nd</sup> day of October, 2012, before final passage of said Ordinance herein; and,

WHEREAS, following said public hearing, it was found and decided that the said zoning designation be made;

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

Section 1. It is determined that the herein requested zoning designation will meet the criteria and guidelines cited in Section 76-2-304 Montana Code Annotated, and Section 17.16.40.030 of the Unified Land Development Code of the City of Great Falls.

Section 2. That the zoning of Mark 1, Sun River Bridge Garden Tracts, Section 15, Township 20 North, Range 3 East, Cascade County, Montana, be designated as R-3 Single-family high density residential district classification attached hereto as Attachment "A" and by this reference made a part hereof.

Section 3. That the zoning of the Sun River abutting Mark 1, Sun River Bridge Garden Tracts, Section 15, Township 20 North, Range 3 East, Cascade County, Montana, be designated as PLI Public Lands and Institutional district classification attached hereto as Attachment "A" and by this reference made a part hereof.

Section 4. That the zoning of a portion of 13<sup>th</sup> Avenue Southwest from 14<sup>th</sup> Street Southwest to the eastern boundary of Mark 1, Sun River Bridge Garden Tracts, Section 15, Township 20 North, Range 3 East, Cascade County, Montana, be designated as R-1 Single-family low density, R-6 Multi-family high density and C-2 General commercial consistent with the adjacent properties upon annexation as attached hereto as Attachment "A" and by this reference made a part hereof.

Section 5. This ordinance shall be in full force and effect thirty (30) days after its passage and adoption by the City Commission or upon filing in the office of the Cascade County Clerk and Recorder the resolution annexing Mark 1, Sun River Bridge Garden Tracts and abutting portion of the Sun River and 13<sup>th</sup> Avenue Southwest right-of-way from 14<sup>th</sup> Street Southwest to the eastern boundary of the subject property consisting of ±1.85 acres, located in Section 15, Township 20 North, Range 3 East, Cascade County, Montana, whichever event shall occur later.

APPROVED by the City Commission of the City of Great Falls, Montana on first reading September 4, 2012.

\_\_\_\_\_  
Michael J. Winters, Mayor

ATTEST:

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

(CITY SEAL)

APPROVED FOR LEGAL CONTENT:

\_\_\_\_\_  
James W. Santoro, City Attorney

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

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do certify that I did post as required by law and as prescribed and directed by the Commission, Ordinance 3095 in three conspicuous places within the limits of said City to-wit:

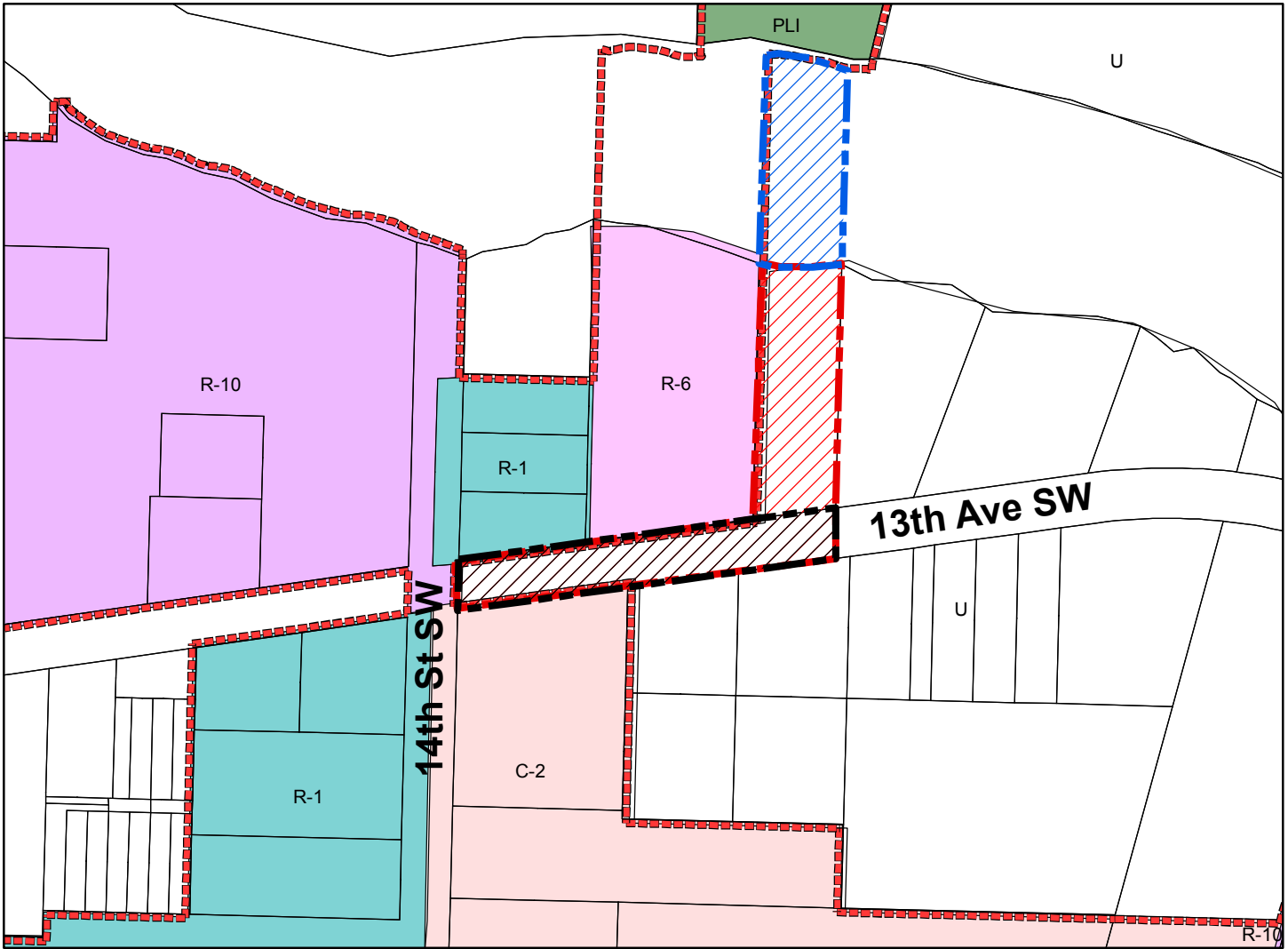
- On the Bulletin Board, first floor, Civic Center Building;
- On the Bulletin Board, first floor, Cascade County Court House;
- On the Bulletin Board, Great Falls Public Library



























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Lisa Kunz, City Clerk

(CITY SEAL)

# Attachment A Ordinance 3095



 1359 13th Ave SW Annexation Area	 C-4 Central business core	 R-1 Single-family suburban
 13th Ave SW Annexation Area	 C-5 Central business periphery	 R-2 Single-family medium density
 Sun River Annexation Area	 I-1 Light industrial	 R-3 Single-family high density
 City Limits	 I-2 Heavy industrial	 R-5 Multi-family medium density
 Tracts of Land	 M-1 Mixed-use district	 R-6 Multi-family high density
<b>ZONING</b>	 M-2 Mixed-use transitional	 R-9 Mixed residential
 AI Airport Industrial	 PLI Public lands institutional	 R-10 Mobile home park
 C-1 Neighborhood commercial	 POS Park Open Space	 Unincorporated Enclave
 C-2 General commercial	 PUD Planned unit development	
 C-3 Highway commercial		

125 62.5 0 125 Feet

