



**Item:** Ordinance 3099 to assign City zoning to Praise Tabernacle Church located at 2121 13<sup>th</sup> Ave S and legally described as Lots 1-8 and vacated alley, Block 8, Finlay Supplement to Prospect Park Addition, Section 18, T20N, R4E, Cascade County, MT.

**From:** Jana Cooper, RLA, Planner II, Planning and Community Development

**Initiated By:** Praise Tabernacle Church

**Presented By:** Mike Haynes, AICP, Director of Planning and Community Development

**Action Requested:** City Commission accept Ordinance 3099 on first reading and set a public hearing for January 15, 2013.

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission (accept/deny) Ordinance 3099 on first reading and set a public hearing for January 15, 2013.”

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

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**Recommendation:** At the conclusion of a public hearing held on May 8, 2012, the Planning Advisory Board approved, subject to the conditions or approval listed in the Planning Advisory Board staff report, the annexation and amended plat of 2121 13<sup>th</sup> Ave S. The Zoning Commission approved assigning a zoning classification of R-3 Single-family high density residential district with a Conditional Use Permit to allow a Worship Facility on 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 April 22, 2012. No citizens spoke at the public hearing for or against the project.

Staff recommends approval of the proposed annexation, amended plat and zoning of ±1.31 acres of unincorporated land legally described as Lots 1-8 and vacated alley, Block 8, Finlay Supplement to Prospect Park Addition, Section 18, Township 20 North, Range 4 East, Cascade County, MT.

**Background:** The Planning and Community Development Office has received an application from Praise Tabernacle Church requesting the following:

1. Amended Plat of Lots 1-8 and vacated alley in Block 8, Finlay Supplement to Prospect Park, Cascade County, Montana.
2. Annexation of said Plat, containing ±0.66 acres and abutting portions of 22nd Avenue South and 14th Street South, containing in all ±1.31 acres.

3. Establishing City zoning classification of R-3 Single-family high density district and granting a Conditional Use Permit for the existing Worship Facility, upon annexation.

Praise Tabernacle Church is an existing Worship Facility located at the southeast corner of 13th Street South and 21st Avenue South, which is on the jurisdictional boundary of the City of Great Falls. The Church is requesting annexation into the City of Great Falls in order to utilize and connect to existing public utilities adjacent to the subject property.

#### Annexation Request

Praise Tabernacle Church is requesting annexation of  $\pm 0.66$  acres into the City of Great Falls. The Church is requesting annexation due to health concerns by the City-County Health Department with the existing drain field on site. The subject property was platted in Cascade County as a part of Finlay Supplement to Prospect Park Addition. The subject property is comprised of 8 lots and a vacated alley.

In addition to the subject property, per MCA, the abutting portions of 14th Street South and 22nd Avenue South, comprised of  $\pm 0.65$  acres, must also be annexed as a part of the request. In total  $\pm 1.31$  acres will be annexed into the City.

There is an existing garage at 2215 13th Street South that appears to be encroaching on the portion of 22nd Avenue South right-of-way which is being annexed into the City. The garage was permitted to be built in the County in 1997. Staff recognizes the issue and will work with the property owner, Public Works and the City Attorney to resolve once the property is annexed into the City.

#### Rezone Request

The applicant is requesting the subject property be zoned as “R-3” Single-family high density residential. The R-3 zoning district is consistent with the surrounding zoning districts and land uses in the adjacent neighborhoods. Incorporated properties to the north are zoned R-3, and unincorporated properties adjoining the site have a Cascade County zoning designation of Urban Residential with a residential density comparable to the R-3 zoning district density.

#### Conditional Use Permit Request

A Worship facility requires conditional use approval in all residential zoning districts including the R-3 Single-family high density residential zoning district.

Section 17.16.36.040 of the Land Development Code states that the Zoning Commission’s recommendation and the City Commission’s decision to approve, conditionally approve, or deny an application shall be based on whether the application, staff report, public hearing, Zoning Commission recommendation, or additional information demonstrates that each of the following criteria have been satisfied:

1. The conditional use is consistent with the City’s growth policy and applicable neighborhood plans, if any.
2. The establishment, maintenance, or operation of the conditional use will not be detrimental to, or endanger the public health, safety, morals, comfort or general welfare.
3. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
4. The conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

5. Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.
6. Adequate measures have been or will be taken to provide ingress and egress so as to minimize traffic congestion in the public streets.
7. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the City Commission.

Based on the information provided by the applicant, and subject to approval of the annexation and zoning, the worship facility and any future expansion will continue to promote a strong and stable focal point for the neighborhood. Any future changes to the existing facility are subject to review by the Design Review Board and must conform to all applicable regulations. Staff concludes the above-cited criteria are substantially met.

#### Amended Plat Request

Upon annexation, rezoning and approval of the Conditional Use Permit, the applicant is required to process an Amended Plat for the subject property. The existing property is comprised of eight lots and a portion of a previously vacated alley that was subdivided as a part of Finlay Supplement to Prospect Park Addition. State statute requires review by the Planning Advisory Board and City Commission any subdivision that relocates common boundaries affecting six or more lots within a platted subdivision. The Amended Plat will consolidate the eight lots and alley into one lot, which eliminates conflicting property lines through the existing Worship Facility.

#### Improvements

Praise Tabernacle is adjacent to 13th Street South, 21st Avenue South, 14th Street South and 22nd Avenue South. 13th Street South is improved with paving, but there is no curb or gutter adjacent to the subject property. 21st Avenue South, 14th Street South and 22nd Avenue South are existing gravel roadways. Public Works Department has determined there is an \$8,500.00 reimbursement owed by the applicant for their proportionate share of water main improvements previously made in 13th Street South. Public Works is not requiring any escrow of funds for the improvement of the other adjacent right of ways. The owners will waive their right to protest a future special improvement district for roadway improvements as a condition of annexation into the City.

The applicant proposes to install water and sanitary sewer services from the City mains located in the abutting right-of-way of 21st Avenue South. There are existing 12-inch water main and a 24-inch sewer main in 21st Avenue South that will be utilized for services to the subject property. There is also a 30-inch water main in 21st Avenue South, which will not be used as a part of this project. The applicant will waive their right to protest a future special improvement district for water and sewer improvements as a condition of annexation into the City.

The parking lot located on the subject property is currently unpaved with millings. There are 37 existing parking spaces located on the subject property. The Worship Facility currently utilizes an additional 24 spaces on the right of way of 14th Street South. The parking requirements for a Worship Facility are one space per five seats or one space per fifty square feet of assemblage area, whichever is greater. According to the applicant, Praise Tabernacle Church has 216 seats and 2,950 sq. of assemblage area. The required amount of parking for Praise Tabernacle Church is 59 spaces. At this time the City will not require the Church to meet the current parking requirements; should future expansion of the facility occur, the City would reassess the parking facilities as a part of the request.

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.

There is an existing storm drain in 13th Street South. The applicant would 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.

#### 2005 City of Great Falls Growth Policy

The proposed annexation 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 supporting and encouraging a compatible mix of land uses in developing areas and preserving and enhancing the character, quality, and livability 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.

#### Neighborhood Council Input

The subject property is located in Neighborhood Council #6. The applicant presented the project information to Council #6 on May 2, 2012. At the time this staff report was written, there were no comments from the neighbors regarding the application.

It is anticipated the City Commission, at the public hearing on January 15, 2013, will consider the resolution to annex, annexation agreement and amended plat for the subject property concurrently with Ordinance 3099.

**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 deny acceptance of Ordinance 3099 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 Photo
- Ordinance 3099 with Attachment A
- Amended Plat
- Findings of Fact

Cc: Jim Rearden, Public Works Director  
Dave Dobbs, City Engineer  
Patty Cadwell, Neighborhood Council Coordinator  
Ron Erpelding, Praise Tabernacle Church, 2121 13<sup>th</sup> St S, Great Falls, MT 59405  
Tony Rand, Praise Tabernacle Church, itonyrand@hotmail.com




# Aerial Photo



----- City Limits

 Praise Tabernacle Site

 Adjacent Roadways to be Annexed

 Tracts of Land

140 70 0 140 Feet



N



Praise Tabernacle

ORDINANCE 3099

AN ORDINANCE ASSIGNING A ZONING CLASSIFICATION OF R-3 SINGLE-FAMILY HIGH DENSITY RESIDENTIAL DISTRICT, WITH A CONDITIONAL USE PERMIT FOR A WORSHIP FACILITY TO LOTS 1-8 AND VACATED ALLEY, BLOCK 8, FINLAY SUPPLEMENT TO PROSPECT PARK ADDITION, AND THE ABUTTING PORTIONS OF 14<sup>TH</sup> STREET SOUTH AND 22<sup>ND</sup> AVENUE SOUTH ALL LOCATED IN SECTION 18, TOWNSHIP 20 NORTH, RANGE 4 EAST, CASCADE COUNTY, MONTANA

\* \* \* \* \*

WHEREAS, Praise Tabernacle Church has petitioned the City of Great Falls to annex 2121 13<sup>th</sup> Ave S consisting of ±0.66 acres, described as Lots 1-8 and vacated alley, Block 8, Finlay Supplement to Prospect Park Addition, Section 18, Township 20 North, Range 4 East, Cascade County, MT, herein referred to as Subject Property, and;

WHEREAS, Praise Tabernacle Church has petitioned Subject Property be assigned a zoning classification of R-3 Single-family high density residential district with a Conditional Use Permit allowing a Worship Facility upon annexation to the City; and,

WHEREAS, Montana Code Annotated 7-2-4211 requires annexation of roads and right-of-way that are adjacent to the property being annexed in this case consisting of ±0.65 acres of 22<sup>nd</sup> Avenue South and 14<sup>th</sup> Street South; and,

WHEREAS, the abutting portions of 22<sup>nd</sup> Avenue South and 14<sup>th</sup> Street South shall be assigned a zoning classification of R-3 Single-family high density residential district consistent with adjacent properties 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 15<sup>th</sup> day of January, 2013, 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 Lots 1-8 and vacated alley, Block 8, Finlay Supplement to Prospect Park Addition, Section 18, Township 20 North, Range 4 East, Cascade County, MT, be designated as R-3 Single-family high density residential district classification with a Conditional Use allowing a Worship Facility as attached hereto as Attachment "A" and by this reference made a part hereof.

Section 3. That the zoning of said portion of 22<sup>nd</sup> Avenue South and 14<sup>th</sup> Street South right-of-way, Section 15, Township 20 North, Range 3 East, Cascade County, Montana, be designated as R-3 Single-family high density residential district classification consistent with adjacent properties as attached hereto as Attachment "A" and by this reference made a part hereof.

Section 4. 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 Lots 1-8 and vacated alley, Block 8, Finlay Supplement to Prospect Park Addition, and said portion of 22<sup>nd</sup> Avenue South and 14<sup>th</sup> Street South, Section 18, Township 20 North, Range 4 East, Cascade County, MT, into the corporate limits of the City of Great Falls, Montana, whichever event shall occur later.

APPROVED by the City Commission of the City of Great Falls on first reading December 18, 2012.

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Michael J. Winters, Mayor

ATTEST:

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Lisa Kunz, City Clerk

(CITY SEAL)

APPROVED FOR LEGAL CONTENT:

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David L. Nielsen, Interim 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 3099 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

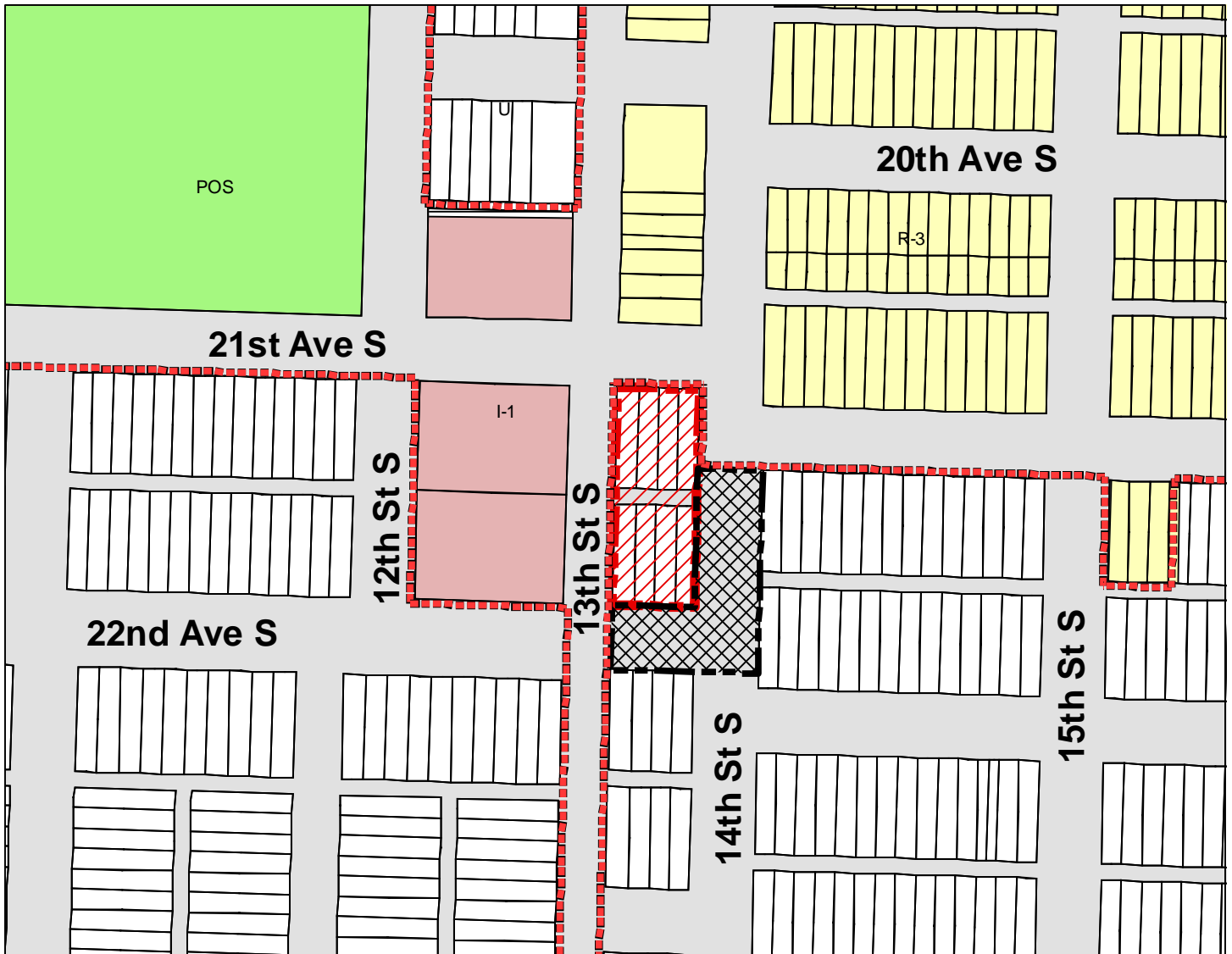
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Lisa Kunz, City Clerk

(CITY SEAL)



# Ordinance 3099 Attachment A



--- City Limits

Praise Tabernacle Site

Adjacent Roadways to be Annexed

Tracts of Land

## ZONING

AI Airport Industrial

C-1 Neighborhood commercial

C-2 General commercial

C-3 Highway commercial

C-4 Central business core

C-5 Central business periphery

I-1 Light industrial

I-2 Heavy industrial

M-1 Mixed-use district

M-2 Mixed-use transitional

PLI Public lands institutional

POS Park Open Space

PUD Planned unit development

R-1 Single-family suburban

R-2 Single-family medium density

R-3 Single-family high density

R-5 Multi-family medium density

R-6 Multi-family high density

R-9 Mixed residential

R-10 Mobile home park

Unincorporated Enclave

140 70 0 140 Feet



Praise Tabernacle Church

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Amended Plat Of  
**Lots 1 through 8, Block 8,**  
**Finlay's Supplement to Prospect Park**  
A Subvision in the NW1/4SW1/4 Section 18,  
Township 20 North, Range 4 East, P.M.M.,  
Cascade County, Montana

**PURPOSE**

The purpose of the survey shown on this plat was to aggregate eight lots into one lot and to add the vacated alley in the aggregated lot.

**CERTIFICATE OF SURVEY**

We, the undersigned property owners, do hereby certify that we have caused to be surveyed and the lots lines changed as shown on the attached plat, the following described tract of land:

Lots 1 through 8, Block 8, Finlay's Supplement to Prospect Park, a subdivision of the NW1/4SW1/4 Section 18, T20N, R4E, P.M.M., Cascade County, Montana, according to the official plat thereof on file in the office of the Cascade County Clerk and Recorder. Said tract being more fully described as follows:

Beginning at the south intersection of the centerlines of 14th Street South and 21st Avenue South; thence N 0°02'20"E, 60.15 feet along the centerline of 14th Street South; thence N89°54'W, 40.00 feet to the northeast corner of Block 8 and the TRUE POINT OF BEGINNING; thence N89°54'W, 105.48 feet along the north line of Block 8 to the northeast corner of Block 8 and the east right of way line of 13th Street South, a line parallel with and 30 feet easterly of the west line of Section 18; thence S 0°13'10"W, 269.59 feet along said east right of way to the southwest corner of Block 8; thence S89°54'E, 105.55 feet along the south line of Block 8 to the southeast corner of Block 8; thence N 0°02'20"E, 269.59 feet along the east line of Block 8 to the TRUE POINT OF BEGINNING; containing 28,445 square feet or 0.653 acre. The above described tract is to be known and designated as **Amended Plat of Lots 1 through 8, Block 8, Finlay's Supplement to Prospect Park.**

We certify that the purpose of this division of land was to aggregate eight lots into one and to include the vacated alley in the aggregated lot; therefore this division of land is exempt from review as a subdivision pursuant to Section 76-3-207 (1)(f), M.C.A.: "aggregation of parcels or lots when a certificate of survey or subdivision plat shows that the boundaries of the original parcels have been eliminated and the boundaries of a larger aggregate parcel are established. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas." Furthermore, we certify that this division of land is excluded from review by the Montana Department of Environmental Quality pursuant to Section 76-4-125(2)(d), M.C.A.: "divisions located within jurisdictional areas that have adopted growth policies pursuant to chapter 1 or within first-class or second-class municipalities for which the governing body certifies, pursuant to 76-4-127, that adequate storm water drainage and adequate municipal facilities will be provided".

We also certify that the purpose of this division of land was to aggregate the vacated alley with adjoining lots, therefore this division of land is exempt from review as a subdivision pursuant to Section 76-3-201(1)(a), M.C.A.: "(1) Unless the method of disposition is adopted for the purpose of evading this chapter, the requirements of this chapter may not apply to any division of land that: (a) is created by order of any court of record in this state or by operation of law or that, in the absence of agreement between the parties to the sale, could be created by an order of any court in this state pursuant to the law of eminent domain, Title 70, chapter 30." Furthermore, we certify that this division of land is excluded from review by the Montana Department of Environmental Quality pursuant to Section 76-4-125(2)(a), M.C.A.: "(2) A subdivision excluded from the provisions of chapter 3 must be submitted for review according to the provisions of this part, except that the following divisions or parcels, unless the exclusions are used to evade the provisions of this part, are not subject to review: (a) the exclusion cited in 76-3-201 and 76-3-204."

Date: \_\_\_\_\_  
GAYLE SLAGLE JOYCE SLAGLE

STATE OF MONTANA )  
County of Cascade ) ss

On this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_, before me, \_\_\_\_\_, a Notary Public in and for the State of Montana, personally appeared Gayle Slagle and Joyce Slagle, known to me to be the persons who executed the foregoing Certificate of Survey and they acknowledged to me that they executed the same.

Notary Public, State of Montana  
Residing at: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

**CERTIFICATE OF SURVEYOR**

I, James E. Hodges, Professional Engineer and Land Surveyor, do hereby certify that I made the survey as shown on this plat and that said survey is true and complete as shown.

Date: \_\_\_\_\_  
James E. Hodges, P.E. & L.S.  
Montana License No. 4593ES

**CERTIFICATE OF TREASURER**

I, Jamie Bailey, County Treasurer of Cascade County, Montana, do hereby certify that I examined the records covering the areas included on the accompanying **Amended Plat of Lots 1 through 8, Block 8, Finlay's Supplement to Prospect Park** and find that all taxes on same have been paid up to date.

Date: \_\_\_\_\_  
Jamie Bailey, Treasurer

**CONSENT OF BUYERS BY CONTRACT**

The undersigned buyers by contract do hereby join in and consent to the boundary line adjustments shown on this plat.

Date: \_\_\_\_\_  
PRAISE TABERNALE UPC  
By: Ron Erpelding, Pastor

STATE OF MONTANA )  
County of Cascade ) ss

On this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_, before me, \_\_\_\_\_, a Notary Public in and for the State of Montana, personally appeared Ron Erpelding, known to me to be the person who executed the foregoing Consent of Buyers By Contract, and he acknowledged to me that he executed the same.

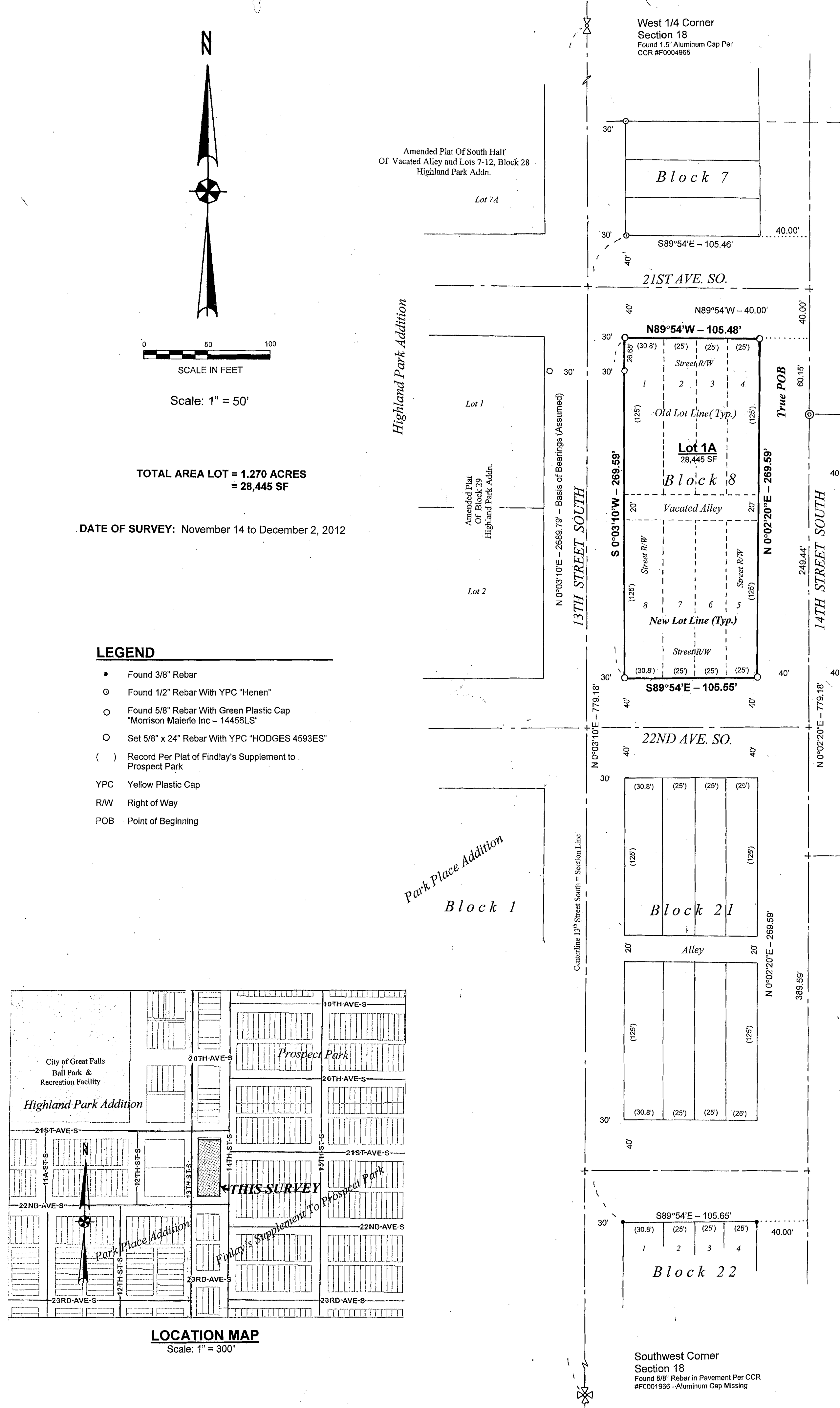
Notary Public, State of \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

Survey for: Praise Tabernacle UPC  
Owners: Gayle & Joyce Slagle

JAMES E. HODGES  
Professional Engineer & Land Surveyor  
Great Falls, Montana

1/4	SEC	TWP	RGE
NW	18	20N	4E
JOB NO.	2012-04		
F.B. NO.	LL		
DRAWN	JEH		
DATE	11/29/12		
		1	OF 1

**DRAFT**



**NOTES:**

1. It was not the intent of this survey to locate or show all easements which may affect the subject property.
2. The 20 feet wide east-west alley was vacated by Cascade County Commission on August 25, 1988.
3. Found 1/2" rebar monument is 0.24 feet west of southwest corner of Block 7
4. Found 3/8" rebar monument is 0.15 feet west of northwest corner of Block 22.

## Findings of Fact (Prepared in Response to 76-3-608(3) MCA)

### **PRIMARY REVIEW CRITERIA**

**Effect on Agriculture:** The subject property is not currently being utilized for agricultural purposes. The amended plat of the subject property will not interfere with any irrigation system or present any interference with agricultural operations in the vicinity. The land uses that exist in the vicinity of the subject property include single family residential homes and light industrial uses.

**Effect on Local Services:** The area within the amended plat is being annexed into the City of Great Falls and will be served by City water and sewer systems. The owner of the subject property shall establish an agreement with the City of Great Falls to pay for and install all utilities to the property. The City should not experience an appreciable increase in maintenance and operating costs. The subject property within the amended plat will pay regular water and sewer charges.

The subject property will receive law enforcement and fire protection services from the City of Great Falls. The nearest fire station is approximately 1.8 miles away. Providing these services to this property is expected to be a negligible cost to the City.

A paved public roadway borders the property to the west, gravel roadways border the property to the northeast and south. The owners will waive their right to protest a future special improvement district for improvements to the adjacent roadways within the amended plat.

**Effect on the Natural Environment:** The amended plat is not expected to adversely affect soils or the quality or quantity of ground water.

**Effect on Wildlife and Wildlife Habitat:** The subject property is located adjacent to an area containing urbanized development, is not in an area of significant wildlife habitat and will not result in closure of public access to hunting or fishing areas, nor to public lands.

**Effect on Public Health and Safety:** Based on available information, the subject property is not subject to abnormal potential natural hazards such as flooding, snow or rockslides, wildfire, nor potential man-made hazards such as high voltage power lines.

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

The amended plat of the subdivision meets the requirements of the Montana Subdivision and Platting Act and the surveying requirements specified in the Uniform Standards for Monumentation, and conforms to the design standards specified in the local subdivision regulations. The local government has complied with the subdivision review and approval procedures set forth in the local subdivision regulations.

### **EASEMENT FOR UTILITIES**

The owner is responsible to provide all necessary utility easements to accommodate water and sanitary sewer service lines to serve the subject property.

### **LEGAL AND PHYSICAL ACCESS**

Paved public roadways border the subject property and provide legal and physical access to the project.