



**Item:** Resolution 10008 - vacation of Grand Street right-of-way located in the Amended Plat of Blocks 1 and 2, American Brewery Addition, Section 10, Township 20 North, Range 3 East, P.M.M., Cascade County, Montana.

**From:** Galen Amy, Planner I, Planning and Community Development

**Initiated By:** Third Avenue Corporation, Property Owner

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

**Action Requested:** City Commission conduct public hearing, adopt Resolution 10008 and approve agreement.

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**Public Hearing:**

1. Mayor conducts public hearing, calling three times each for proponents and opponents.
2. Mayor closes public hearing and asks the will of the Commission.

**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission (adopt/deny) Resolution 10008.”

2. Mayor calls for a second, discussion, and calls for the vote after each motion.
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**Staff Recommendation:** At the conclusion of a public hearing held January 8, 2013, the Planning Advisory Board passed a motion recommending the City Commission approve the request to vacate Grand Street right-of-way, generally located west of 14<sup>th</sup> Street Southwest and north of 5<sup>th</sup> Avenue Southwest.

Representatives from Public Works concurred in recommending the Planning Advisory Board approve the request to vacate the right-of-way. The approval is subject to the applicant meeting conditions of approval that include:

1. The Amended Plat of the Amended Plat of Blocks 1 and 2, American Brewery Addition, Section 10, Township 20 North, Range 3 East, P.M.M., Cascade County, Montana shall incorporate correction of any errors or omissions noted by staff.
2. The amended plat for the subject property shall be submitted to the City Public Works and/or

Planning and Community Development Department for review and approval prior to filing at the County Clerk and Recorder's Office.

The Planning & Community Development Department has received no letters of opposition to the project.

**Background:** The applicant has submitted a request to vacate Grand Street, which extends ±242 feet between the previously vacated (Ord. 768) West Avenue and 14th Street Southwest, and comprises approximately ±0.28 acres. Please refer to the aerial photo and draft amended plat of the subject property for more information.

Grand Street is a public right-of-way which was never developed as a street. In addition a portion of the existing former brewery building was constructed on the subject right-of-way. The City's Public Works Department does not have a need to retain Grand Street to maintain adequate public traffic flows, nor do they need to retain it for future use as a public utility easement for water, sewer or storm drain purposes. Upon abandonment, all of Grand Street that is part of this application would revert to and become a part of the abutting Blocks 1 and 2, which are both owned by Third Avenue Corporation. The applicant has provided a draft amended plat incorporating the vacated street into the adjacent properties.

The amended plat also rearranges the property lines of Block 1 and 2. The new property lines of Block 2 will incorporate the entire building that is situated on the Grand Street right-of-way. No new lots are created by the boundary line adjustment, therefore City Commission approval is not required for said adjustment. The boundary line adjustment also brings Block 2 into conformance with the Land Development Code.

Currently, Montana Metal Fabrications operates their metal fabrication business out of the former brewery building located on the subject property. The application to vacate the right-of-way and to adjust the property lines was initiated by Montana Metal Fabrications, who intends to purchase the property legally described as Block 2. They wish to maintain legal access to the property and ample space on the north and west side of the building to maneuver trucks. No property owners in the vicinity will be adversely effected by the right-of-way vacation.

The City may approve the vacation of right-of-way per Montana Code Annotated (MCA) section 7-3-4448.

#### City's Right to Sell the Right-of-Way

Generally land in the right-of-way is dedicated to the City for public use, which includes public access and certain utility uses. The right-of-way dedicated to the City is not fee title property that can be sold or traded. Once the right-of-way is determined to not be needed for public use, it can be vacated, in which case the title reverts to the adjacent property owner.

The adjacent property owner does not own the land until the reversion is completed. To meet the standards of the City's Land Development Code and the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA), the lot needs to be resurveyed, and an amended plat filed with the County Clerk and Recorder, to incorporate the vacation of right-of-way.

### Improvements

As abovementioned, Public Works does not have a need to retain the subject right-of-way to maintain adequate traffic flow. There are no existing utilities within the subject right-of-way, and Public Works has determined there is not a future need for public utilities, therefore the right-of-way does not need to be maintained as an easement.

### Transportation/2005 City of Great Falls Growth Policy

The transportation element of the City of Great Falls Growth Policy establishes strategies and actions to implement sound traffic and roadway management. In this case, the right-of-way was never developed to City standards and is not in public use. The right-of-way is blocked to through traffic due to a building being constructed there. Thus, the right-of-way is not needed for future street development or transportation use. All of the affected properties will have conforming land uses per the zoning code.

### Neighborhood Council Input

Patty Cadwell, Neighborhood and Youth Council Coordinator, provided information regarding the request to vacate the right-of-way to Neighborhood Council #2 on December 5, 2012. On December 12, 2012, Mark Leo, Big Sky Civil & Environmental, met with the Neighborhood Council to provide project information. There were general questions about the project, and the Council did not make a recommendation for or against the project.

### City Commission

On February 5, 2013, City Commission adopted Resolution of Intent 10004 to vacate the Grand Street right-of-way and set the public hearing for March 5, 2013.

As required by Section 7-14-4114, MCA, due notice of the intent to consider Resolution 10008 was provided through notices of public hearing published in the *Great Falls Tribune* on February 17, 2013 and February 24, 2013.

**Concurrences:** Representatives from the City's Public Works and Fire Departments have been involved throughout the review and approval process for this request.

**Fiscal Impact:** Closure of the right-of-way will have no fiscal impact to the City.

**Alternatives:** If there are justifiable reasons to do so, the City Commission could deny the requested action to the extent allowed in City Code and State Statute.

**Attachments:** Resolution of Intention 10008 with Exhibit A  
Aerial Photo  
Draft Amended Plat

Cc: Jim Rearden, Public Works Director  
Dave Dobbs, City Engineer  
Patty Cadwell, Neighborhood and Youth Council Coordinator  
Ted Weissman, Third Avenue Corporation, PO Box 507, Fairfield, IA, 52556  
Mark Leo, ES, Big Sky Civil & Environmental, Inc. [mleo@bigskyce.com](mailto:mleo@bigskyce.com)

RESOLUTION 10008

A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, TO VACATE GRAND STREET, LOCATED WEST OF 14TH STREET SOUTHWEST AND NORTH OF 5TH AVENUE SOUTHWEST, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 7-3-4448, MONTANA CODE ANNOTATED AND DIRECTING NOTICE TO BE GIVEN AS PROVIDED BY LAW AS SHOWN IN EXHIBIT A

\* \* \* \* \*

WHEREAS, the subdivision plat American Brewery Addition dedicated the right-of-way of Grand Street, located west of 14th Street Southwest and north of 5th Avenue Southwest; and,

WHEREAS, Third Avenue Corporation owns the property adjoining Grand Street to the north, south, and west and has petitioned the City of Great Falls to have said right-of-way be vacated; and,

WHEREAS, the City of Great Falls owns the property adjoining Grand Street to the east and does not object to the closure of said right-of-way; and,

WHEREAS, the City Commission of the City of Great Falls, Montana, passed and adopted on the 5<sup>th</sup> day of February, 2013, Resolution 10004, titled "A RESOLUTION OF INTENTION BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, TO VACATE GRAND STREET;" and,

WHEREAS, the City Manager of said City pursuant to said Resolution 10004 and in accordance with the provisions of section 7-14-4114, Montana Code Annotated, forthwith caused noticed of said Resolution 10004 to be published in the *Great Falls Tribune*; and,

WHEREAS, the publication of said notice was published in the *Great Falls Tribune* on February 17, 2013 and February 24, 2013; and

WHEREAS, it is determined that vacation of Grand Street will not be detrimental to public interest; and,

WHEREAS, it is determined that retention and eventual improvement serves no practical of functional traffic related purpose; and,

WHEREAS, it is determined that Grand Street will not be retained for use for utility purposes for future or existing public utilities; and,

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

That Tuesday, the 5th day of March, 2013, at 7:00 P.M. in the Commission Chambers of the Civic Center, Great Falls, Montana, be and the same is hereby set as the time and place at which the City Commission shall hear all persons relative to the proposed vacation of right-of-way.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on this 5<sup>th</sup> day March, 2013.

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Michael J. Winters, Mayor

ATTEST:

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Lucy Hallett, Deputy City Clerk

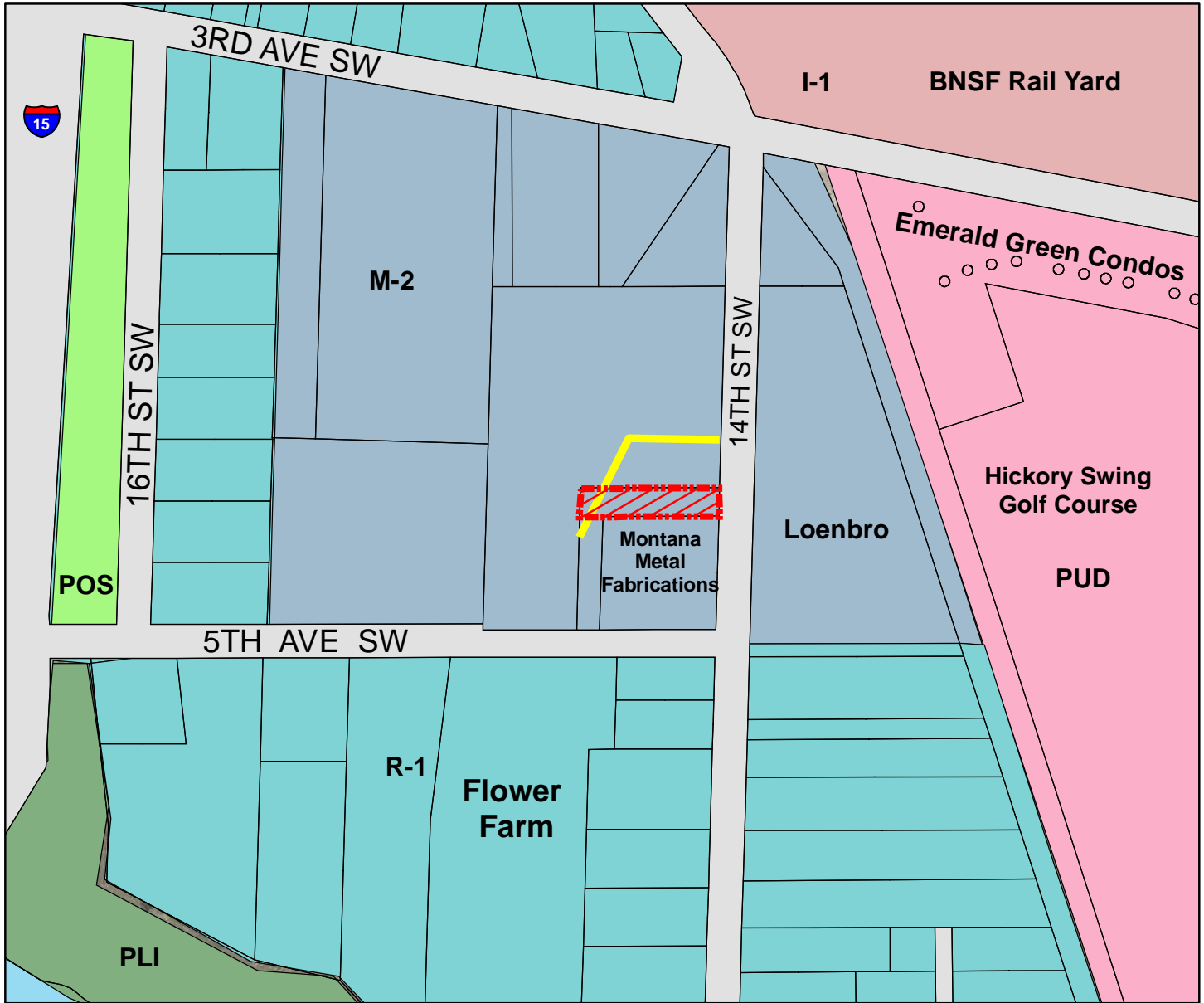
(CITY SEAL)

APPROVED FOR LEGAL CONTENT:

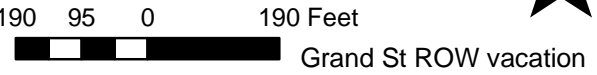
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David L. Nielsen, Interim City Attorney

# Exhibit A - Vicinity/Zoning Map



- |               |                                   |                   |                                |  |                                  |
|---------------|-----------------------------------|-------------------|--------------------------------|--|----------------------------------|
|               | Grand Street vacation area        |                   | C-5 Central business periphery |  | R-2 Single-family medium density |
|               | Proposed boundary line adjustment |                   | I-1 Light industrial           |  | R-3 Single-family high density   |
|               | Tracts of Land                    |                   | I-2 Heavy industrial           |  | R-5 Multi-family medium density  |
| <b>ZONING</b> |                                   |                   |                                |  |                                  |
|               | AI Airport Industrial             |                   | M-1 Mixed-use district         |  | R-6 Multi-family high density    |
|               | C-1 Neighborhood commercial       |                   | M-2 Mixed-use transitional     |  | R-9 Mixed residential            |
|               | C-2 General commercial            |                   | PLI Public lands institutional |  | R-10 Mobile home park            |
|               | C-3 Highway commercial            |                   | POS Park Open Space            |  | Unincorporated Enclave           |
|               | C-4 Central business core         |                   | PUD Planned unit development   |  | Right-of-Way                     |
|               | R-1 Single-family suburban        | 190 95 0 190 Feet |                                |  |                                  |





# Aerial Photo



Grand Street vacation area



Proposed boundary line adjustment



Tracts of Land

190 95 0 190 Feet

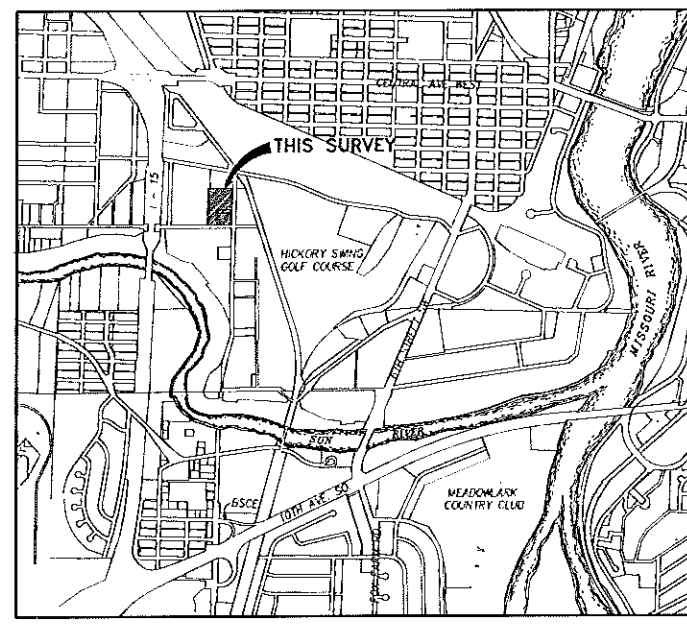
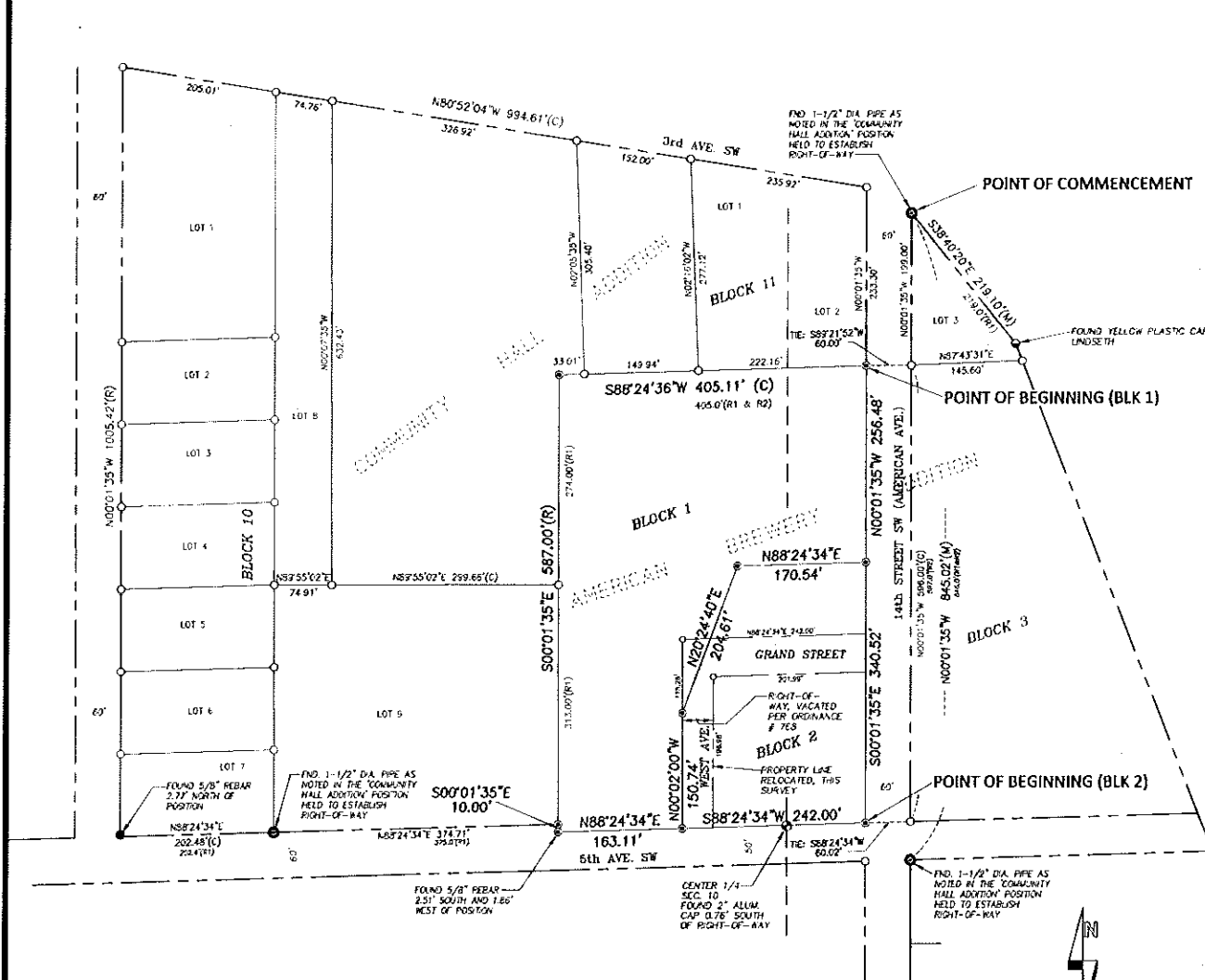


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Grand St ROW vacation

**AMENDED PLAT OF THE AMENDED PLAT OF  
BLOCKS 1 AND 2, AMERICAN BREWERY ADDITION TO THE CITY OF GREAT FALLS, CASCADE COUNTY MONTANA**  
A SUBDIVISION IN SECTION 10, T.20 N., R.3 E., P.M.M., CASCADE COUNTY MONTANA



**CERTIFICATE OF SURVEY**

I, \_\_\_\_\_, AUTHORIZED REPRESENTATIVE OF THIRD AVENUE CORPORATION, OWNER OF THE SUBJECT PROPERTY, DO HEREBY CERTIFY THAT I HAVE CAUSED TO BE SURVEYED AND LOT LINES ADJUSTED, AS SHOWN BY THE AMENDED PLAT OF AMENDED PLAT HEREUNTO INCLUDED, THE FOLLOWING DESCRIBED TRACTS OF LAND TO-WIT:

THE AMENDED PLAT OF THE AMENDED PLAT OF BLOCKS 1 AND 2 OF THE AMERICAN BREWERY ADDITION TO THE CITY OF GREAT FALLS, SITUATED IN SECTION 10, T. 20 N., R. 3 E., P.M.M., CASCADE COUNTY, MONTANA, MORE FULLY DESCRIBED AS FOLLOWS:

**LEGAL DESCRIPTION:**

**BLOCK 1:**  
COMMENCING AT THE NORTH EAST CORNER OF BLOCK 2 OF THE COMMUNITY HALL ADDITION TO THE CITY OF GREAT FALLS, WHICH IS A FOUND 1-1/2 INCH PIPE;  
THENCE ALONG THE EAST RIGHT-OF-WAY OF AMERICAN AVENUE S00°01'35"E A DISTANCE OF 100.00 FEET TO A POINT;  
THENCE DEPARTING FROM SAID EAST RIGHT-OF-WAY S88°21'52"W A DISTANCE OF 60.00 FEET TO THE WEST RIGHT-OF-WAY OF AMERICAN AVE AND THE NORTH EAST CORNER OF BLOCK 1 OF THE AMERICAN BREWERY ADDITION, SAID POINT IS ALSO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;  
THENCE S88°24'36"W A DISTANCE OF 405.11 FEET TO AN ANGLE POINT;  
THENCE S00°01'35"E A DISTANCE OF 587.00 FEET TO THE NORTH RIGHT-OF-WAY OF ELM STREET;  
THENCE ALONG SAID NORTH RIGHT-OF-WAY S00°01'35"E A DISTANCE OF 100.00 FEET TO AN ANGLE POINT;  
THENCE CONTINUING ALONG SAID NORTH RIGHT-OF-WAY N88°24'34"E A DISTANCE OF 163.11 TO AN ANGLE POINT;  
THENCE DEPARTING FROM SAID NORTH RIGHT-OF-WAY N00°01'35"W A DISTANCE OF 150.74 FEET TO AN ANGLE POINT;  
THENCE N00°14'40"E A DISTANCE OF 204.61 FEET TO AN ANGLE POINT;  
THENCE N88°24'34"E A DISTANCE OF 170.54 FEET TO A POINT THAT LIES ON THE WEST RIGHT-OF-WAY OF AMERICAN AVENUE;  
THENCE ALONG SAID WEST RIGHT-OF-WAY N00°01'35"W A DISTANCE OF 256.48 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED, CONTAINING 3.815 ACRES.

**BLOCK 2:**  
COMMENCING AT THE NORTH EAST CORNER OF BLOCK 2 OF THE COMMUNITY HALL ADDITION TO THE CITY OF GREAT FALLS, WHICH IS A FOUND 1-1/2 INCH PIPE;  
THENCE ALONG THE EAST RIGHT-OF-WAY OF AMERICAN AVENUE S00°01'35"E A DISTANCE OF 795.00 FEET TO THE SOUTH WEST CORNER OF BLOCK 3, AMERICAN BREWERY ADDITION TO THE CITY OF GREAT FALLS;  
THENCE DEPARTING FROM SAID EAST RIGHT-OF-WAY S88°24'34"W A DISTANCE OF 60.00 FEET TO THE INTERSECTION OF THE NORTH RIGHT-OF-WAY OF ELM STREET AND THE WEST RIGHT-OF-WAY, AMERICAN AVENUE, SAID POINT IS ALSO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;  
THENCE ALONG THE NORTH RIGHT-OF-WAY OF ELM STREET S88°24'34"W A DISTANCE OF 242.00 FEET TO AN ANGLE POINT;  
THENCE DEPARTING FROM SAID NORTH RIGHT-OF-WAY N00°01'35"W A DISTANCE OF 150.74 FEET TO AN ANGLE POINT;  
THENCE N88°24'40"E A DISTANCE OF 204.61 FEET TO AN ANGLE POINT;  
THENCE N88°24'34"E A DISTANCE OF 170.54 FEET TO A POINT THAT LIES ON THE WEST RIGHT-OF-WAY OF AMERICAN AVENUE;  
THENCE ALONG SAID WEST RIGHT-OF-WAY S00°01'35"E A DISTANCE OF 340.52 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED, CONTAINING 1.735 ACRES.

THE ABOVE DESCRIBED TRACTS ARE DESIGNATED AND TO BE KNOWN AS THE AMENDED PLAT OF THE AMENDED PLAT OF BLOCKS 1 AND 2, AMERICAN BREWERY ADDITION TO THE CITY OF GREAT FALLS.

PURPOSE:  
THE PURPOSE OF THIS SURVEY IS TO ADJUST EXISTING LOT LINES. NO ADDITIONAL LOTS WERE CREATED. THEREFORE, THIS SURVEY IS EXEMPT FROM REVIEW AS A SUBDIVISION PURSUANT TO M.C.A. 76-3-207 (1) (c).

AUTHORIZED REPRESENTATIVE OF THIRD AVENUE CORPORATION (OWNER)

STATE OF MONTANA )  
COUNTY OF CASCADE ) SS

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2012, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC FOR THE STATE OF MONTANA, PERSONALLY APPEARED \_\_\_\_\_, WHOSE NAME IS SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME. IN WITNESS WHEREOF, I HAVE SET MY HAND AND AFFIXED MY NOTORIAL SEAL THE DAY AND YEAR FIRST ABOVE WRITTEN.

NOTARY PUBLIC FOR THE STATE OF MONTANA  
PRINTED NAME: \_\_\_\_\_  
RESIDING AT: \_\_\_\_\_  
MY COMMISSION EXPIRES: \_\_\_\_\_

**CERTIFICATE OF COUNTY TREASURER**

JAMIE BAILEY, COUNTY TREASURER OF CASCADE COUNTY, MONTANA, DO HEREBY CERTIFY THAT I HAVE EXAMINED THE RECORDS COVERING THE AREAS INCLUDED IN THE ACCOMPANYING AMENDED PLAT AND FIND THAT ALL TAXES ON SAME HAVE BEEN PAID TO DATE AND ARE NOT DELINQUENT, DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2012.

COUNTY TREASURER OF CASCADE COUNTY, MONTANA

**CERTIFICATE OF SURVEYOR**

MARK LEO, BEING A DULY REGISTERED PROFESSIONAL ENGINEER AND LAND SURVEYOR IN THE STATE OF MONTANA, DO HEREBY CERTIFY THAT UNDER MY SUPERVISION, THE AMENDED SURVEYORING PLAT SHOWN HEREON WAS MADE DURING THE MONTH OF JUNE, 2012, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 76-3-401 M.C.A.

MARK LEO, P.E. A.L.S. #192263 DATE \_\_\_\_\_

- LEGEND**
- POSITION ONLY, NO MONUMENT FOUND OR SET
  - REBAR WITH PLASTIC CAP, STAMPED UNDSETH
  - ⊙ FOUND 1.5" DIA. IRON PIPE
  - ⊕ SET 5/8" REBAR W/ ORANGE PLASTIC CAP - STAMPED LED
  - ⊖ FOUND 2" ALLM. CAP
  - (C) CALCULATED DIMENSION
  - (M) FIELD MEASURED DIMENSION
  - (R) RECORD DIMENSION
- RECORD DOCUMENTS:**
- (R1) CORRECTED PLAT OF "COMMUNITY HALL ADDITION".
  - (R2) AMENDED PLAT OF "AMERICAN BREWERY ADDITION".
  - (R3) AN UNSTAMPED, UNSIGNED ALTA/ACSM LAND TITLE SURVEY BY MICHAEL HENEN - PROVIDED BY OWNER AND USED AS REFERENCE ONLY.

SHEET TITLE		
JOB NO.	DRAWING NAME	SHEET
FILE NO.	DRAWN BY	DATE
BSC ENGINEERS & ENVIRONMENTAL, LLC ENGINEERS - PLANNERS - DESIGNERS - LAND SURVEYORS - ENVIRONMENTAL SPECIALISTS		
1595 14th ST SW P.O. BOX 3625 GREAT FALLS, MT 59483 (406)727-2185 OFFICE (406)727-3656 FAX		www.blsgkyce.com