



Agenda # 20  
*Commission Meeting Date: July 2, 2013*  
**CITY OF GREAT FALLS**  
**COMMISSION AGENDA REPORT**

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**Item:** Ordinance 3108 to assign City zoning to Tract 1 and Tract 3, Certificate of Survey 4705, and Mark 14R all located in the N1/2 NE1/4, Section 36, T21N, R3E, P.M.M. Cascade County, MT

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

**Initiated By:** Damon Carroll, Property Owner & Developer, & City of Great Falls

**Presented By:** Craig Raymond, Interim Director of Planning & Community Development

**Action Requested:** City Commission accept Ordinance 3108 on first reading and set a public hearing for August 6, 2013.

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission (accept/deny) Ordinance 3108 on first reading and set a public hearing for August 6, 2013.”

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

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**Recommendation:** At the conclusion of a public hearing held on May 14, 2013, the Planning Advisory Board recommended the City Commission approve the annexation of Skyline Heights Apartments and the City-owned water tower property legally described as Tract 1 and Tract 3, Certificate of Survey 4705, and Mark 14R all located in the N1/2 NE1/4, Section 36, T21N, R3E, P.M.M. Cascade County, MT, subject to fulfillment of the following Conditions of Approval:

1. Final build-out of the project shall be in substantial compliance with the final approved site plan documents and drawings as approved by the City Commission.
2. The final engineering drawings and specifications for the required public improvements to serve Skyline Heights Apartments shall be submitted to the City Public Works Department for review and approval prior to any building permits being issued by the City.
3. A Grading Plan, State Stormwater Discharges Associated with Construction Activities Permit, and Stormwater Management Plan shall be developed to City standards and shall be submitted to the City Public Works Department for review and approval prior to issuance of building permits.

4. Applicant shall submit proposed project drawings including architectural, landscape, signage and lighting plans as required for review and approval by the Design Review Board prior to submittal of permit plans.
5. A geotechnical investigation and report prepared by a Professional Engineer with recommended building foundation design shall be submitted to the Planning and Community Development Department for review and approval prior to issuance of building permits.
6. An Annexation Agreement shall be prepared containing terms and conditions for development of the subject property including, but not limited to, agreement by application to:
  - A. Install within two years of the date of final City Commission approval the public improvements referenced in Paragraph Two above; and
  - B. Indemnify the City for any damages attributable to adverse soil or groundwater conditions.
  - C. Escrow money for future upgrades to 36th Avenue Northeast, including sidewalks, as determined by Public Works.
  - D. Install a 6-foot privacy fence along the southern property line adjacent to any single-family residential uses.

The Zoning Commission recommended the City Commission approve assigning a zoning classification of PUD – Planned Unit Development, with an R-5 multi-family residential medium density as an underlying zoning to the Skyline Heights Apartment property and PLI – Public Lands and Institutional to the City-owned property.

Public Notice for the Planning Advisory Board/Zoning Commission Public Hearing was published in the *Great Falls Tribune* on April 28, 2013. There were 15 citizens that spoke at the public hearing: eight as proponents, five as opponents and two with general comments.

The City Commission tabled action on the proposed annexation and zoning due to legal concerns at a meeting held on June 4, 2013. Staff met with the Interim City Attorney and it was determined that the proposed PUD zoning with an R-5 underlay would not work in this case because it may not meet the legal requirements of PUD. The PUD was originally proposed to allow some flexibility in the zoning and permit the applicant to have a three-story building rather than the allowable two-story in the R-5 district. After subsequent legal review, the Interim City Attorney recommended that staff should proceed with the R-5 zoning to the City Commission and have the Board of Adjustment take action on the request to allow a three-story structure as a variance rather than a zoning issue.

**Background:** The subject property is generally located east of 14th Street Northeast and south of 36th Avenue Northeast. The applicant, Damon Carroll, is requesting annexation of ±1.1 acres from Cascade County into the City of Great Falls and establishing City zoning of R-5 Multi-family medium density zoning district. The subject property is currently vacant undeveloped land. The applicant is making the request in order to develop a 24-unit multi-family rental housing development adjacent to the southern and eastern property lines with the parking for the development adjacent to 36th Avenue Northeast (see attached Conceptual Site Plan for Skyline Heights Apartments).

In addition to the subject property, per MCA, the abutting portion of 14th Avenue Northeast, comprised of  $\pm 0.2$  acres, must also be annexed and zoned as a part of the request.

In conjunction, the City is proposing annexation of the City-owned water tower site located on the eastern adjacent lot and consisting of  $\pm 0.52$  acres. The City is proposing annexation in order to incorporate the City-owned property.

In total  $\pm 1.82$  acres will be annexed into the City.

An application was originally submitted for a 36-unit multi-family housing development on the subject property with a proposed zoning of R-6 Multi-family high density. That application was heard by the Planning Advisory Board/Zoning Commission on February 12, 2013, with a recommendation of denial to the City Commission. The applicant withdrew that application and has since resubmitted with the new proposal.

The parcel of land, owned by the applicant, Damon Carroll, upon annexation shall be zoned R-5 Multi-family residential medium density zoning district. According to the Land Development Code, the R-5 zoning classification is:

Intended to accommodate multi-family units not exceeding two-stories. Given the higher densities, these districts are typically close to work and leisure.

The applicant is proposing a three-story structure be built on the subject property, which does not meet the requirements of the R-5 district. The applicant will be submitting to the Board of Adjustment for a variance to the story allowance. This application is being processed concurrently with the annexation and zoning application. The Board of Adjustment meeting will be held on July 11, 2013 and their approval will be subject to the City Commission approving the annexation and zoning of the property at the public hearing proposed for August 6, 2013.

Additionally the applicant owns the undeveloped property west of the subject property. He has committed to filing a restrictive covenant on this land that would not permit multi-family development in perpetuity on this property (see attached Applicant Letter). The City does not enforce restrictive covenants.

The  $\pm 0.52$  acre City-owned water tower property, upon annexation, shall be zoned PLI - Public Lands and Institutional. According to the Land Development Code, the PLI zoning classification is:

Intended to include areas of significant public lands including public schools and significant public and quasi-public institutional uses or facilities.

The City does not have plans to redevelop the property.

### Improvements

The applicant will be required to escrow money to improve 36th Avenue Northeast across its frontage from 14th Street Northeast to its eastern property boundary. The City will also improve 36th Avenue Northeast across the frontage of the water tower property. The timing of the roadway improvements has not been determined. The roadway will be improved to City standards including paving, curb and gutter, and sidewalks. The owner and City will be

reimbursed for the northern half of the roadway by the property owner to the north at such time as the property is annexed into the City. The City received escrow money as a part of Watertower Park Addition to improve 14th Street Northeast to City standard; this street will be completed in conjunction with this project.

The City water (8") and sewer main (8") shall be extended in 14th Street Northeast from their existing location to 36th Avenue Northeast. The City received escrow money as a part of Watertower Park Addition to make these extensions. The applicant may need to extend the storm drain from its existing location north as required by Public Works.

The proposed development will have impervious surfaces of more than 15,000 square feet; therefore, the developer is required to provide a stormwater management plan in compliance with the City of Great Falls Storm Design Manual and City standards. The plan will be reviewed and approved by the Public Works Department prior to the issuance of building permits for the development.

#### Traffic Analysis

36<sup>th</sup> Avenue Northeast is classified as a Collector roadway, while 14<sup>th</sup> Street Northeast is a Local roadway. The function of a Collector roadway is to serve shorter local trips and feed traffic from local properties to the larger, higher-capacity Arterial roadway network. The function of a Local roadway is to primarily provide access to adjoining properties. A Collector road is typically a low to moderate capacity two-lane roadway, with travel speeds generally less than 35 mph. A Local road is also two-lane with limited capacity and with speeds not exceeding 25 mph.

While 36<sup>th</sup> Avenue Northeast is currently designed as a rural roadway, it is expected to be upgraded to an urban roadway design as development occurs and funding becomes available. The extension of 14<sup>th</sup> Street Northeast has funding and will be constructed by the City of Great Falls as an urban local roadway with curb, gutter and sidewalks.

Using a trip generation rate from the ITE Trip Generation Manual, a development of this size and type would be expected to generate an average of 6.59 trips per occupied dwelling unit on a weekday, for a total estimated daily trips of 159 trips per day. The 2012 traffic volume on 36<sup>th</sup> Avenue Northeast just west of the intersection of Bootlegger Trail was measured at 3,501 average vehicles per day. This volume is average for a roadway that collects traffic from such a large area - comparing closely to such other major Collector roadways as Park Drive near Gibson Park; 1<sup>st</sup> Avenue North at 37<sup>th</sup> Street; 8<sup>th</sup> Avenue North at 8<sup>th</sup> Street; 13<sup>th</sup> Street South of 24<sup>th</sup> Avenue South; and 32<sup>nd</sup> Street, south of 10<sup>th</sup> Avenue South.

Anecdotally, the intersection of 36<sup>th</sup> Avenue Northeast and Bootlegger Trail has been noted as the area intersection with the longest delays during the morning rush hour. Traffic generated by the development during "peak hour" – that is, the hour of the day generating the highest traffic – is expected to be generated at the rate of .46 vehicles per occupied dwelling unit for a one-hour period generally between 7 and 9 AM. This rate would equate to 11 vehicles during that hour. Assuming the vehicles are dispersed throughout the hour, there would be little to no observed impact upon congestion at the intersection of 36<sup>th</sup> Avenue Northeast and Bootlegger Trail.

The developer has two access points to the site: through a driveway on 36<sup>th</sup> Avenue Northeast and a driveway on 14<sup>th</sup> Street Northeast. The driveway on 36<sup>th</sup> Avenue North is properly located

at the far eastern end of the lot, providing a safe distance from the intersection of 14<sup>th</sup> Street Northeast, thereby reducing the chance of conflicts between turning vehicles. The driveway is still more than 350 feet from the intersection with Bootlegger Trail, allowing for adequate stacking room at current volumes. Future growth in traffic may necessitate the construction of a dedicated east-bound left turn lane, or other intersection improvements to reduce congestion that may occur as the area north of 36<sup>th</sup> Avenue Northeast grows and expands.

The two driveways provide easy through-movements for larger vehicles such as sanitation and fire/emergency response vehicles, and also allow for more than one exit point in the case of an evacuation. Finally, the two driveways serve to better disperse traffic to lessen congestion at any particular access point.

Pedestrian access and circulation, both along the rights-of-way and on the site, will be required to provide safe and accessible access to and from the site, including from the parking lot and the sidewalk on 14<sup>th</sup> Street Northeast to the entrances to the buildings. The applicant shall escrow the cost for sidewalks along 36<sup>th</sup> Avenue Northeast and be constructed at the same time as the street. No specific bicycle improvements are necessary, although the developer is encouraged to consider placement of bike racks on-site.

#### Growth Policy Conformance

The redesign of this project is consistent with the goals of the 2005 Great Falls Growth Policy – that is a desirable and prosperous city and community, with a diverse mix of land uses and housing types. With this redesign, the applicant has taken steps to respond to compatibility concerns.

The project will provide more diversity in terms of rental choices and housing stock, meeting an existing demand and need in the City. According to existing housing research, new construction of multi-family housing units has greatly fluctuated in the past.

Census data shows that the City has a disproportionate amount of aging housing stock. Given these conditions, the introduction of a new multi-family project, with amenities, meets a need in this community and will complement the introduction of more primary job opportunities in this vicinity.

Further, the project is consistent with Land Use Goals and Policies to:

- Support and encourage a compatible mix of land uses in newly developing areas.
- Encourage mixed land uses in new and redeveloping areas to achieve a high degree of self-containment, reduce auto dependence (or the amount of auto travel), and foster a strong live-work-play pattern of activity within neighborhoods.

Note: This goal may be achieved in the long term when it is anticipated that a full complement of uses are established in this developing neighborhood.

Finally, the project is consistent with Housing Goals and Policies to:

- To provide a diverse supply of safe and affordable housing for residents of all ages, needs, and income levels.
- Housing variety should be available in (differing) housing areas to provide all residents with location and price/rent choices.

- The City should strive to allow diverse housing opportunities to meet the needs of current and future population. Variety in dwelling types, sizes and prices in new developments should be promoted.

The applicant gave a presentation to Neighborhood Council #3 on March 7, 2013. The Neighborhood Council was concerned about:

- The possibility of an increase of traffic and more vehicles parked on the side streets
- That parking might be lost on the subject property if 36th Avenue Northeast was widened
- That the property to the west could also be developed as multi-family housing
- That the neighborhood was mostly single-family homes and R-5 zoning would be spot zoning

The Council suggested other locations for a multi-family development, but none worked for the applicant. There was further discussion on putting a deed restriction on the properties to the west. There was no vote at the meeting about the project. Staff received multiple phone calls and an email from a neighbor which was provided to staff by the Neighborhood Council (attached Neighbor Email).

It is anticipated that the City Commission, at the public hearing on August 6, 2013, will consider the annexation resolution and annexation agreement for the subject property, in conjunction with Ordinance 3108.

**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:** Providing services is expected to be a negligible additional cost to the City. Any increased costs may be covered by increased tax revenues from improved properties.

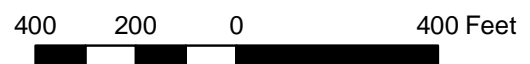
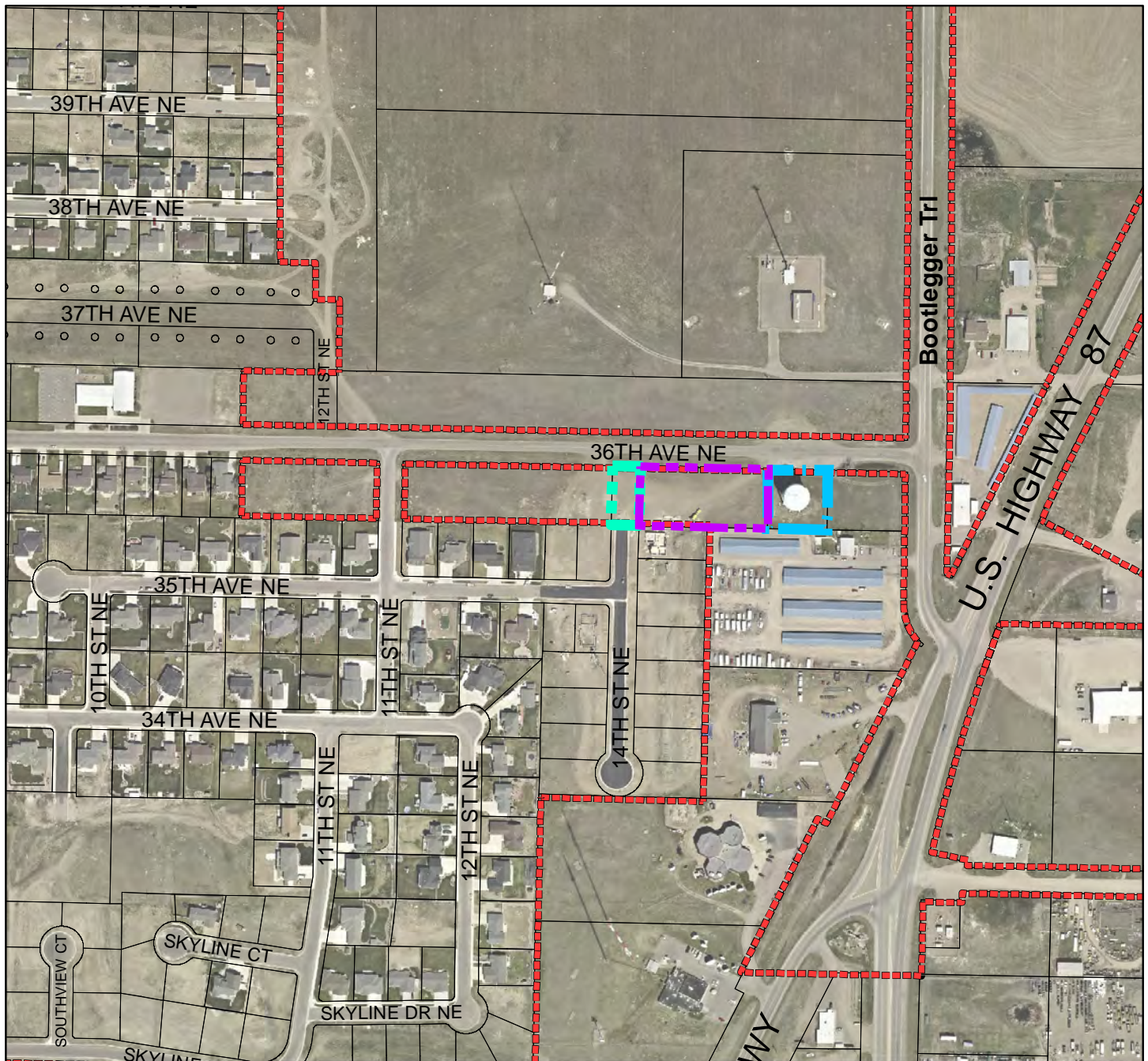
**Alternatives:** The City Commission could deny acceptance of Ordinance 3108 on first reading and not set the public hearing. However, such action would deny the applicant due process and consideration of a public hearing, as provided for in City Code and State Statute.

**Attachments/Exhibits:**

Aerial Photo  
Ordinance 3108 with Attachment A  
Conceptual Site Plan for Skyline Heights Apartments  
Applicant Letter  
Neighbor Email

Cc: Jim Rearden, Public Works Director  
Dave Dobbs, City Engineer  
Patty Cadwell, Neighborhood Council Coordinator  
Damon Carroll, Owner, pheasantrunbuilders@gmail.com

## Aerial Photo



## Skyline Heights Apartments

ORDINANCE 3108

AN ORDINANCE ASSIGNING A ZONING CLASSIFICATION OF R-5 MULTI-FAMILY RESIDENTIAL MEDIUM DENSITY DISTRICT TO TRACT 1 AND TRACT 3, CERTIFICATE OF SURVEY 4705 AND PLI – PUBLIC LAND AND INSTITUTIONAL DISTRICT TO MARK 14R ALL LOCATED IN THE N1/2 NE1/4, SECTION 36, TOWNSHIP 21 NORTH, RANGE 3 EAST, P.M.M. CASCADE COUNTY, MONTANA

\* \* \* \* \*

WHEREAS, Damon Carroll has petitioned the City of Great Falls to annex Tract 1 and Tract 3, Certificate of Survey 4705 consisting of  $\pm 1.3$  acres, located in the N1/2 NE1/4, Section 36, Township 21 North, Range 3 East, P.M.M. Cascade County, Montana; and,

WHEREAS, the City of Great Falls has requested to annex Mark 14R, consisting of  $\pm 0.52$  located in the N1/2 NE1/4, Section 36, Township 21 North, Range 3 East, P.M.M. Cascade County, Montana; and,

WHEREAS, Damon Carroll has petitioned Tract 1 and Tract 3, Certificate of Survey 4705, be assigned a zoning classification of R-5 Multi-family residential medium density district, upon annexation to the City; and,

WHEREAS, the City of Great Falls has requested Mark 14R be assigned a zoning classification of PLI – Public lands and institutional district, upon annexation to the City; and,

WHEREAS, notice of assigning said zoning classifications to Tract 1 and 3, Certificate of Survey 4705 and Mark 14R was published in the *Great Falls Tribune* advising that a public hearing on this zoning designation would be held on the 6<sup>th</sup> day of August, 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 classification of Tract 1 and 3, Certificate of Survey 4705 be designated as R-5 Multi-family residential medium density district, and Mark 14R be designated

as PLI – Public lands and institutional, as attached hereto as Attachment “A” and by this reference made a part hereof.

Section 3. 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 Tract 1 and 3, Certificate of Survey 4705 and Mark 14R all located in the N1/2 NE1/4, Section 36, Township 21 North, Range 3 East, P.M.M. Cascade County, Montana 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, Montana, on first reading July 2, 2013.

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

ATTEST:

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

(CITY SEAL)

APPROVED FOR LEGAL CONTENT:

\_\_\_\_\_  
David L. Nielsen, Interim City Attorney

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

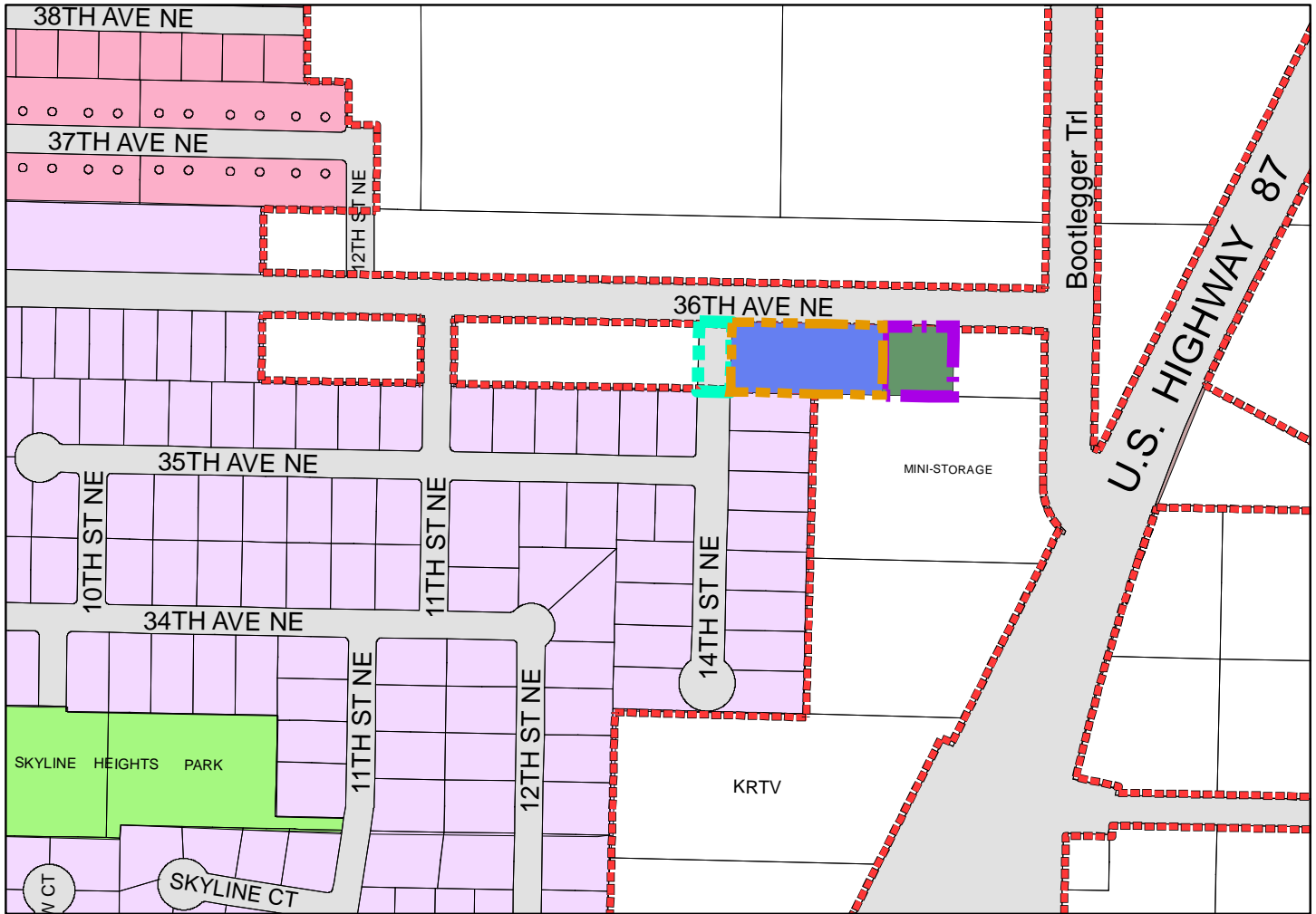
I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do certify that I did post as required by law and as prescribed and directed by the Commission, Ordinance 3108 in three conspicuous places within the limits of said City to-wit:

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

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

(CITY SEAL)

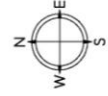
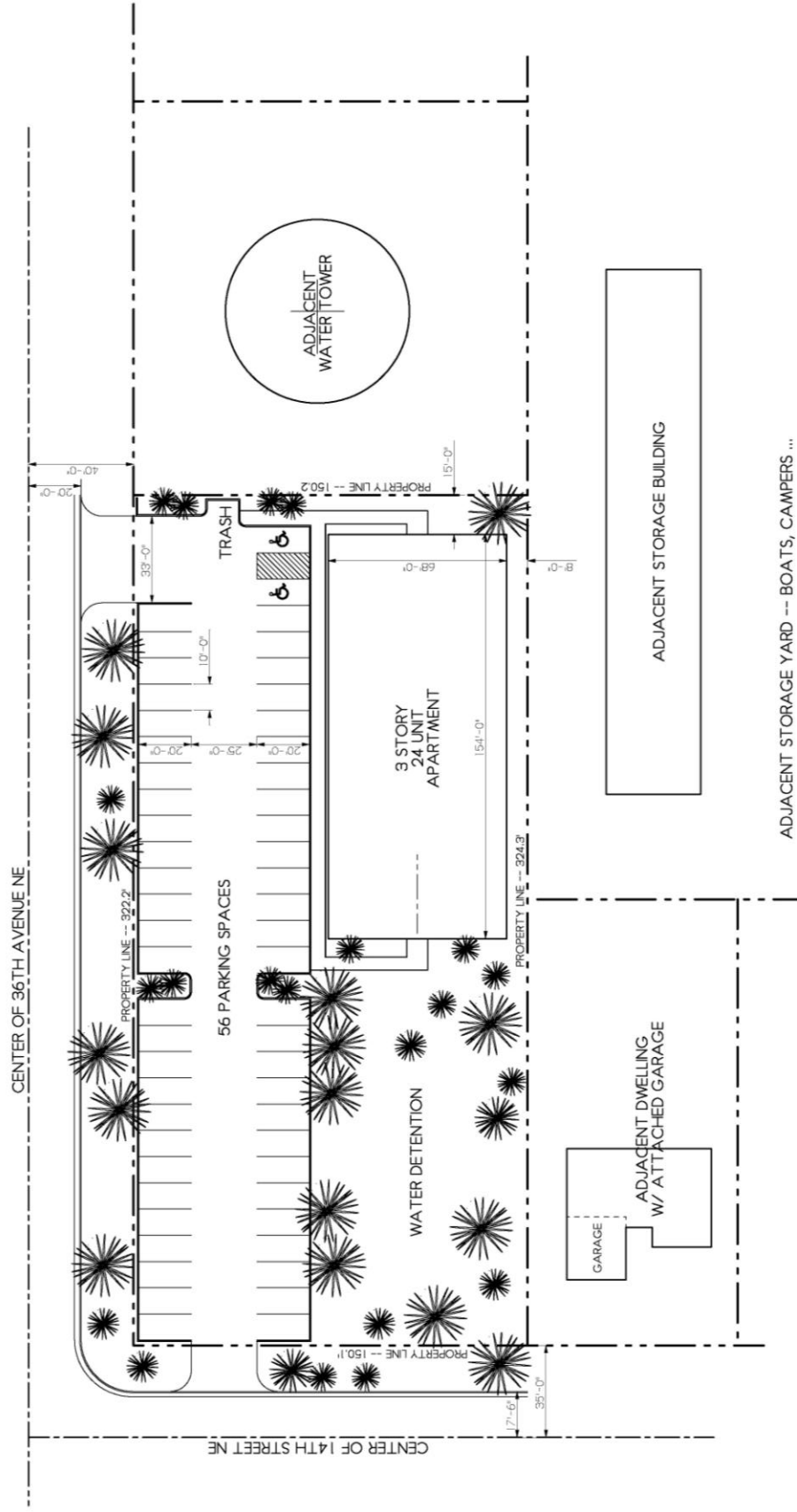
# Ordinance 3108 Attachment A



280 140 0 280 Feet



- |                                      |                                |                                   |
|--------------------------------------|--------------------------------|-----------------------------------|
| City Limits                          | C-3 Highway commercial         | PUD Planned unit development      |
| 14th St NE                           | C-4 Central business core      | R-1 Single-family suburban        |
| Skyline Heights Apartment R-5 Zoning | C-5 Central business periphery | R-2 Single-family medium density  |
| City Water Tower PLI Zoning          | 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>                        | M-1 Mixed-use district         | R-6 Multi-family high density     |
| AI Airport Industrial                | M-2 Mixed-use transitional     | R-9 Mixed residential             |
| C-1 Neighborhood commercial          | PLI Public lands institutional | R-10 Mobile home park             |
| C-2 General commercial               | POS Park Open Space            | Unincorporated                    |
|                                      |                                | Right of Way                      |
|                                      |                                | <b>Skyline Heights Apartments</b> |



SITE PLAN W/ ADJACENT PROPERTIES  
 SCALE 1" = 30.0'

**May 7, 2013**

**Great Falls Planning Advisory Board/Zoning Commission**

**RE: Pheasant Run Builders (Damon Carroll)  
Annexation of ±1.3 acres (Tract 1 and Tract 3)  
Certificate of Survey 4705  
N½ NE¼, Section 36, T21N, R3E, P.M.M.,  
Cascade County, Montana**

**To All Interested Parties:**

**In regards to the above referenced land and annexation, I offer the following proposal.**

**Contingent upon approval from the City of Great Falls and the GF Planning Board of the annexation of lots and construction of the 24-Plex in question (Tract 1 - rental housing project), I will put a restrictive deed on the opposing lot that no high-rise, multi-family dwelling will be constructed. What could be constructed would be a single-family dwelling, duplex, 4-plex, or townhouse.**

**I respectfully request consideration of this 24-plex construction by all parties.**

**Sincerely,**



**Damon Carroll  
Pheasant Run Builders**

**From:** Gessaman [<mailto:1kfalcon@gmail.com>]  
**Sent:** Tuesday, June 04, 2013 8:49 AM  
**To:** Lori Fay; Kathy Gessaman; Johnathon Kenneway  
**Cc:** Patricia Cadwell  
**Subject:** More Opposition to Water Tower Apartments

FYI.

Begin forwarded message:

**Date:** June 3, 2013 5:12:48 PM MDT  
**To:** "[1kfalcon@gmail.com](mailto:1kfalcon@gmail.com)" <[1kfalcon@gmail.com](mailto:1kfalcon@gmail.com)>  
**Subject:** City Commisioner Meeting

Dear Kathy,

Because you & Ron are both on our Neighborhood #3 Council, I am sending this e-mail to you as our representatives, please forward this to the other council members also.

I am requesting on behalf of the 15 signatures so far (more coming) on a petition opposing the annexation zoning change and future development of Water Tower Apartment -name per minutes of last council meeting- NOW referred to as Skyline Heights Apartment proposal that the Neighborhood Council #3 is to back us up in STRONGLY OPPOSING this project.

I spoke with you on the phone a couple days ago discussing property values decreasing, safety issues regarding increased traffic (especially 14 St NE being opened up and how the apartment complex will use 35th Ave NE as a raceway thru street to go west to Wal-mart & the use of 6th St NW from 36th to get to Sam's Club and other westside business') as well as, spot zoning etc.

After speaking with some neighbors, I am amazed that many are unaware of this project, generally most agree they would love to see single home residences built and oppose any size of multi-family complex rentals being constructed "in our backyards." As I stated in our phone conversation, multi-family projects typically are built near "spec or starter" homes, NOT in or next to a established custom upper end housing development!

Following the May meeting with the neighborhood council, Mr Carroll re-submitted his proposal from a 36 unit to a 24 unit to meet R-5 zoning. However, there is a variance to the R-5 in place now according to his Exhibit D site plan in the agenda report from city; this apartment will still be a 3 story box.

Concerning the restrictive deed language: per meeting notes and what was said to GF Planning Advisory Board/Zoning Commission, this deed restriction would prevent another multi-family unit from being built. See Exhibit E letter to zoning commission-final paragraph says what could be constructed would include duplex, as well as a 4 plex. I do not doubt his intended plans are to build 4-plex's on this site, thus really not giving up anything from 36 to 24 unit, which I think there is room to build three 4-plex's on said opposing west lot.

Our concerns are many, some of which you made known to the developer but we feel those concerns are very valid and that as taxpayers we are not being heard and being hung out to dry by the city pushing this project for one person and ignoring the wishes of an entire development of approximately 75 home owners.

Sincerely,