



Item: Public Hearing – Resolution 10015 to Annex, Ordinance 3091 to assign City Zoning, Annexation Agreement and the Final Plat all pertaining to Northview Addition, Phase 10 located in SE1/4 Section 25, T21N, R3E, Cascade County, Montana

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

Initiated By: Jim Workman Construction Co., Property Owner and Developer

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

Action Requested: City Commission adopt Resolution 10015, Ordinance 3091, the Final Plat and Annexation Agreement all pertaining to Northview Addition, Phase 10.

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 Motions: (Each motion to be separately considered)

1. Commissioner moves:

“I move that the City Commission (adopt/deny) Resolution 10015 and (approve/disapprove) the Final Plat and Annexation Agreement all pertaining to Northview Addition, Phase 10.”

and;

“I move that the City Commission (adopt/deny) Ordinance 3091.”

2. Mayor calls for a second, discussion, and calls for the vote after each motion.
-

Recommendation: At the conclusion of a public hearing held January 9, 2007, the Planning Advisory Board conditionally recommended approval of the preliminary plat of Northview Addition, Phases 2-7 (which includes the area proposed as Northview Addition, Phase 10), and the Zoning Commission recommended approval of assigning a zoning classification of PUD Planned unit development district to each phase upon annexation to the City. During a meeting held February 6, 2007, the City Commission conditionally approved the Preliminary Plat of Northview Addition, Phases 2-7, as recommended by the Planning Advisory Board/Zoning Commission.

Ordinance 3091 to assign City zoning for Northview Addition, Phase 10, was accepted by the City Commission on first reading on April 2, 2013. Notice of Public Hearing before the City Commission for the annexation, establishment of City zoning, and Final Plat for Northview Addition, Phase 10, was published in the *Great Falls Tribune* on April 21, 2013.

Background: The applicant has completed development of the first eight phases of Northview Addition. The applicant now requests approval of the annexation, zoning and final plat of Phase 10. Phase 10 is located on the proposed 12th Street Northeast extension, north of 36th Avenue Northeast, east of 9th Street Northeast. Northview Addition, Phase 10, consists of ±6.26 acres and creates 20 single-family residential lots. In conjunction, the City is proposing annexation of a portion of 12th Street Northeast right-of-way consisting of ±0.2 acres.

Preliminary plans for Phase 9, which will be the final phase of Northview, have been submitted to the City, but the developer is not moving forward with Phase 9 at this time. Annexation and development of Northview Phase 10 will leave Phase 9 as an unincorporated enclave. The Planning and Community Development Department has received a memo from the Fire Department (attached) stating their concerns regarding unincorporated enclaves. The Planning and Community Development Department shares the Fire Department's concern about unincorporated enclaves. However, because the development is consistent with the Growth Policy, staff is in support of this application. In addition, the developer has committed to finishing the final phase of Northview within a reasonable period of time, and Phase 10 will include the substantial completion of the street network, which will be a significant benefit to traffic flow in the area.

At the conclusion of a Public Hearing held on February 26, 2013, the Planning Advisory Board and Zoning Commission passed motions recommending approval of the final plat of Northview Addition, Phase 10, subject to the following conditions:

1. The Final Plat of Northview Addition, Phase 10, shall incorporate correction of any errors or omissions noted by staff, including provision of a notification clause to purchasers regarding soil conditions.
2. The final engineering drawings, specifications and cost estimates for public improvements for Northview Addition, Phase 10, shall be submitted to the City Public Works Department for review and approval prior to consideration of the annexation by the City Commission.
3. An Annexation Agreement shall be prepared containing terms and conditions for annexation of the area within the Final Plat, including, but not limited to, agreement by applicant to:
 - a) install, within two years of the date of annexation, the public improvements referenced in Condition 2 above;
 - b) indemnify and hold the City harmless for any damages that may be sustained as a result of adverse soil and/or groundwater conditions;
 - c) adhere to the attached PUD Site Plan in conjunction with the development of Phase 10;
 - d) assign the obligation for the installing, and paying for all remaining, public infrastructure in future phases of Northview Addition; and,
 - e) pay all applicable fees owed as a condition of annexation, as determined in annexation agreement.

4. A financial surety in the amount determined by the Public Works Department (i.e. personal check or certificate of deposit) shall be established in the name of the applicant and City for the proportionate share of the cost of roadway and 8-inch water main for Phase 10 in the segment of 12th Street Northeast to cross Mark 14E1, Section 36, Township 21 North, Range 3 East.
5. The applicant shall extend 40th Avenue Northeast easterly for future development and storm water conveyance.
6. The developer shall comply with all of the stipulated conditions that were part of the Preliminary Plat approved by the City Commission on February 6, 2007.

The City is proposing to annex ± 0.2 acres of unincorporated 12th Street Northeast right-of-way in order to extend 12th Street Northeast from 36th Avenue Northeast to 37th Avenue Northeast. Funds for this extension have been escrowed over time as a part of the development of previous Northview Addition Phases.

The developer is requesting a final plat along with annexation and the PUD zoning amendment. The final plat consists of ± 6.26 acres, which the applicant has proposed to subdivide into 21 single-family residential lots. Public Works has reviewed the plat and has determined that an easterly roadway connection is necessary at 40th Avenue Northeast. Public Works has determined this extension is necessary in order to accommodate future development to the east to provide greater overall roadway connectivity in the area, the Planning and Community Development Department concurs. In addition, the connection would provide better surface conveyance for storm water runoff from the property to the east and south of Northview Addition (see Annexation Agreement 8B). The extension of 40th Avenue Northeast would eliminate one lot, which would leave 20 lots in Phase 10. The applicant is not in favor of providing the required extension.

Phase 10 of Northview Addition will include extension of 12th Street Northeast from 36th Avenue Northeast to 41st Avenue Northeast. The completion of 12th Street Northeast will ultimately provide residents of Northview access to 36th Avenue Northeast from 9th Street Northeast or 12th Street Northeast, substantially completing the street network for the subdivision. The roadways within the subdivision will be improved to City standards with paving, curb and gutter. The timing for improvements to 12th Street Northeast, from 36th Avenue Northeast to 37th Avenue Northeast, has not been determined due to the fact that the City is contemplating improvements to 36th Avenue Northeast. It would be beneficial to construct these two streets simultaneously.

City water (8-inch) mains will be extended from the stubbed lines off of 37th Avenue Northeast. The proposed water main in 12th Street Northeast will connect to the existing mains located in the right-of way of the avenues within Northview. City sewer (8-inch) mains will be extended from the current location in Northview Avenue east through the proposed Northview Addition, Phase 9, to 12th Street Northeast to serve Phase 10. The developer will provide a temporary easement for the City utility mains that are being extended onto the property not yet developed. Easements will be provided within the plat for the installation of private utilities.

Based on land contours, the area generally slopes to the north. The City Engineer's Office has had a regional stormwater detention master plan designed to serve this, and future development, in the area. As each development is annexed, the developer is required to pay the estimated

proportionate share of reimbursements for said improvements. Additionally, the developer shall design a temporary stormwater system to convey stormwater through the undeveloped Phase 9 of Northview until that phase is developed.

The developer will fulfill the subdivision's park obligation by paying a fee in lieu of dedicating park land, which is acceptable to the Park and Recreation Department.

The developer is proposing an amendment to the original PUD site plan as a part of Phase 10 of the subdivision. The approved plan called for condominium units on the east side of 12th Street Northeast and single-family lots to the west. The proposed plan requests single-family lots for all of Phase 10. The developer has submitted the attached revised PUD site plan to be adopted.

The original PUD site plan required the following:

- Lot size range: 8,953 to 8,976 sq. ft.
- Minimum lot width: 88 ft.
- Lot proportion for newly created lots (maximum depth to width): 1.6:1
- Maximum building height of principal building: 35 ft.
- Maximum building height of accessory detached buildings: 24 ft., but may not be higher than the uppermost elevation of the principal building.
- Front Yard Setback: 25 ft.
- Side Yard Setback: Principal building and accessory buildings: 6 ft. each side.
- Rear Yard Setback: 10 ft.
- Maximum lot coverage of principal and accessory buildings: Corner lot: 55% Other lots: 50%

The applicant proposes to make amendments to the PUD site plan for Phase 10 which include:

- Lot size range: 8,700 to 9,700 sq. ft.
- Minimum lot width: 75 ft.
- Lot proportion for newly created lots (maximum depth to width): 1.25:1
- Maximum building height of principal building: 35 ft.
- Maximum building height of accessory detached buildings: 24 ft., but may not be higher than the uppermost elevation of the principal building.
- Front Yard Setback: 25 ft.
- Side Yard Setback: Principal Buildings: 6 ft.
- Side Yard Setback: Accessory Buildings: 2 ft. and must meet building code
- Rear Yard Setback: 10 ft.
- Maximum lot coverage of principal and accessory buildings: Corner lot: 55%; Other lots: 50%
- Creation of single-family units in lieu of condominium units on the east side of 12th Avenue Northeast.

Northview Addition, Phase 10, is consistent with the general goals and desires of the 2005 Growth Policy in that it is a planned development. The Growth Policy provides that a variety of residential uses and housing types should be available throughout the urbanized area to provide choices in location and pricing to meet the needs of the community. Current policy states that land uses should be planned and located so they do not result in adverse impacts to other residential uses, and should be designed to discourage urban and suburban sprawl through

incentives, regulations, and other public policies. Finally, it states that development should proactively be directed to where there is public investment in infrastructure.

In addition, the Growth Policy states that we should coordinate efforts to resolve urban services issues and provide a smooth planning transition when jurisdictional issues occur. The creation of unincorporated enclaves should be addressed and eliminated as soon as feasible.

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. The Fire Department has submitted a memo voicing concerns about the creation of unincorporated enclaves.

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

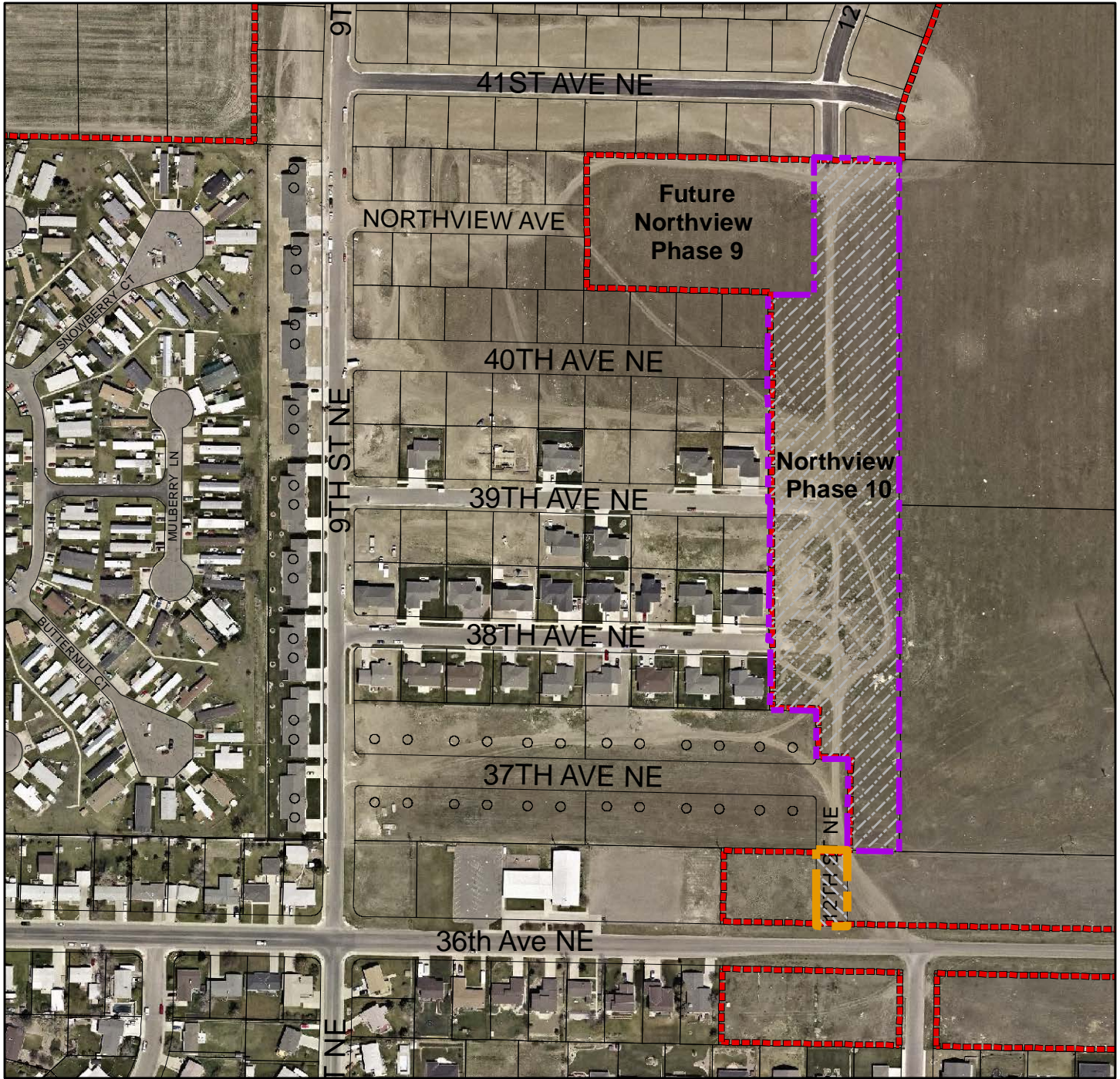
Alternatives: If there are justifiable reasons to do so, the City Commission could deny the requested action to the extent allowed in City Code and State Statute.

Attachments/Exhibits:

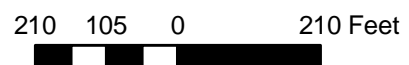
- Aerial Photo
- Ordinance 3091 with Attachment A
- Resolution 10015 with Attachment A
- Findings of Fact
- Reduced copy Final Plat
- Annexation Agreement
- Fire Chief Memo

Cc: Jim Rearden, Public Works Director
Dave Dobbs, City Engineer
Patty Cadwell, Neighborhood Council Coordinator
Susan Connell, Cascade County, sconnell@co.cascade.mt.us
Jim Workman Construction Co., 1024 36th Avenue Northeast, Great Falls, MT 59404
Woith Engineering, woithengineering@yahoo.com

Aerial Photo



- City Limits
- Tracts of Land
- Northview Phase 10
- 12th St NE



Northview Phase 10

ORDINANCE 3091

AN ORDINANCE ASSIGNING A ZONING CLASSIFICATION OF PUD PLANNED UNIT DEVELOPMENT DISTRICT TO NORTHVIEW ADDITION, PHASE 10, AND A PORTION OF 12TH STREET NORTHEAST, LOCATED IN THE SE¼ SECTION 25, TOWNSHIP 21 NORTH, RANGE 3 EAST, P.M.M., CASCADE COUNTY, MONTANA

* * * * *

WHEREAS, Jim Workman Construction Co. has petitioned the City of Great Falls to annex Northview Addition, Phase 10, consisting of ±6.26 acres, located in the SE¼ of Section 25, Township 21 North, Range 3 East, P.M.M., Cascade County, Montana; and,

WHEREAS, the City of Great Falls has requested to annex a portion of 12th Street Northeast right-of-way, consisting of ±0.2 acres, located in the SE ¼ of Section 25, Township 21 North, Range 3 East, P.M.M., Cascade County, Montana; and,

WHEREAS, Jim Workman Construction Co. and the City have petitioned Northview Addition, Phase 10, and said portion of 12th Street Northeast, be assigned a zoning classification of PUD Planned unit development district, upon annexation to the City; and,

WHEREAS, notice of assigning said zoning classifications to Northview Addition, Phase 10, and a portion of 12th Street Northeast, was published in the *Great Falls Tribune* advising that a public hearing on this zoning designation would be held on the 7th day of May, 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 Northview Addition, Phase 10, and a portion of 12th Street Northeast, be designated as PUD Planned unit development district, subject to the building envelopes and setbacks 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 Northview Addition, Phase 10, and a portion of 12th Street Northeast into the corporate limits of the City of Great Falls, Montana, whichever event shall occur later.

APPROVED by the City Commission on first reading April 2, 2013.

PASSED, APPROVED, AND ADOPTED by the City Commission of the city of Great Falls, Montana, on second reading May 7, 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 3091 in three conspicuous places within the limits of said City to-wit:

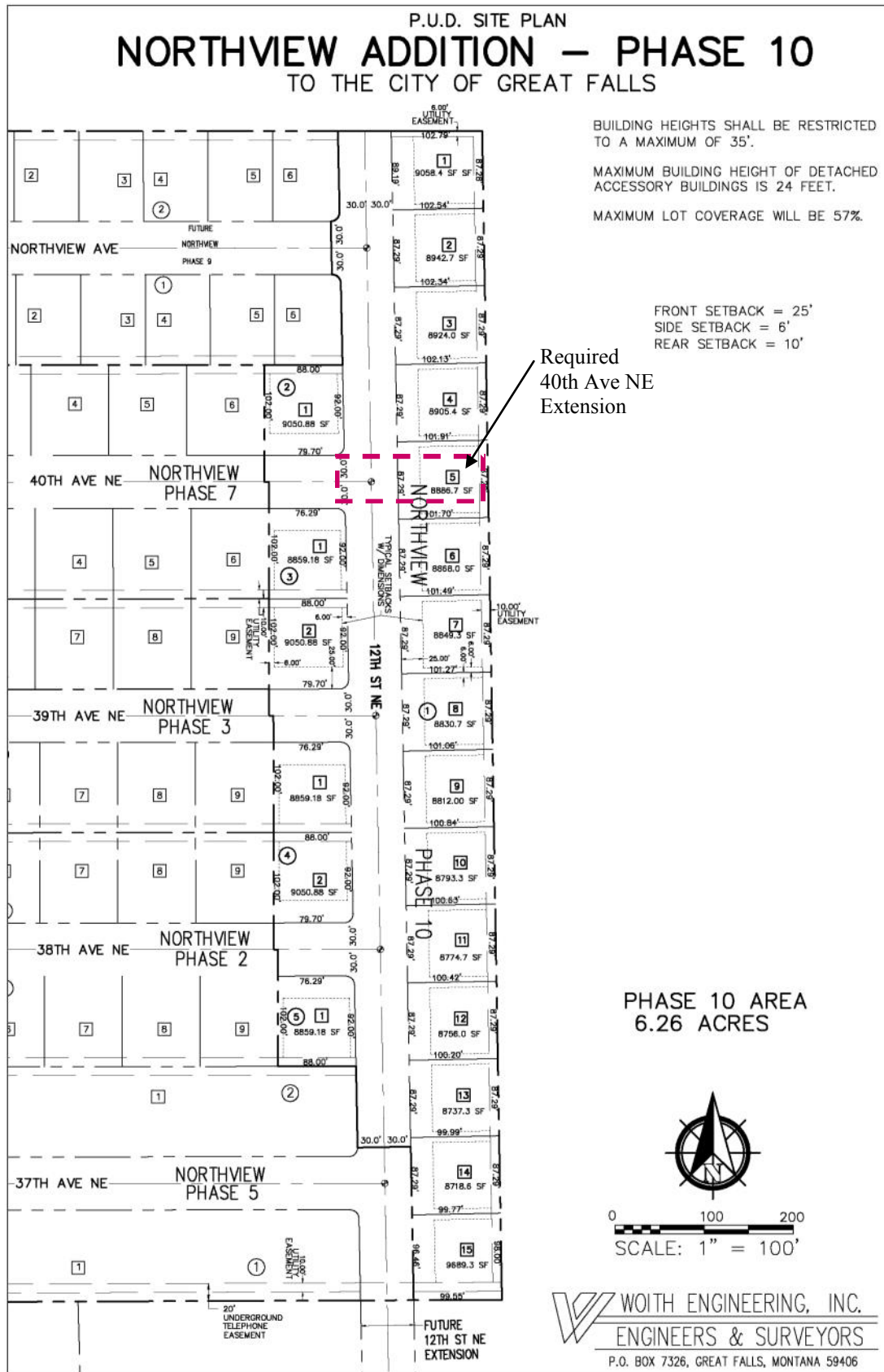
On the Bulletin Board, first floor, Civic Center Building;
On the Bulletin Board, first floor, Cascade County Court House;
On the Bulletin Board, Great Falls Public Library

Lisa Kunz, City Clerk

(CITY SEAL)

ORDINANCE 3091 ATTACHMENT A

NORTHVIEW ADDITION, PHASE 10 PUD SITE PLAN



RESOLUTION 10015

A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, TO EXTEND THE BOUNDARIES OF SAID CITY TO INCLUDE NORTHVIEW ADDITION, PHASE 10, AND A PORTION OF 12TH STREET NORTHEAST, LOCATED IN THE SE1/4 OF SECTION 25, TOWNSHIP 21 NORTH, RANGE 3 EAST, P.M.M., CASCADE COUNTY, MONTANA, IN ACCORDANCE WITH THE PROVISION OF SECTION 7-2-4601, MONTANA CODE ANNOTATED; ALL AS SHOWN ON THE MAP ATTACHED HERETO MARKED ATTACHMENT "A" AND BY THIS REFERENCE MADE A PART HEREOF.

* * * * *

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 without the boundaries thereof, certain tracts or parcels of land situated in the County of Cascade, State of Montana, and described as follows:

Northview Addition, Phase 10, and a portion of 12th Street Northeast, located in the SE1/4 of Section 25, Township 21 North, Range 3 East, Cascade County, Montana, and containing ±6.46 acres,

all as shown on the map attached hereto marked Attachment "A" and by this reference made a part hereof and according to the final plat of Northview Addition, Phase 10; and,

WHEREAS, Section 7-2-4601, Montana Code Annotated, provides that whenever the owners of real property contiguous to any incorporated city of the first class petition to have said property made a part of the municipal corporation, such lands may be embraced within the corporate limits thereof and the boundaries of such city of the first class extended so as to include the same; and,

WHEREAS, the owner of the hereinabove described property has submitted a petition to have said property annexed to the City of Great Falls.

NOW, THEREFORE, the City Commission finds that it is to the best interest of the City of Great Falls and its inhabitants to proceed with the incorporation of said territory into the City of Great Falls; and,

WHEREAS, all of the proceedings herein have been conducted in strict compliance with and in conformity to the law and constitution of the State of Montana, and all conditions, acts, and things required to be done precedent to and in the passage and adoption of this resolution have been properly and legally done, and performed;

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

That the boundaries of the City of Great Falls, Montana, be and the same are hereby extended so as to embrace and include within the corporate limits of said city all of the land hereinabove described, included as: "NORTHVIEW ADDITION, PHASE 10, AND A PORTION OF 12TH STREET NORTHEAST, LOCATED IN THE SE1/4 OF SECTION 25, TOWNSHIP 21 NORTH, RANGE 3 EAST, P.M.M., CASCADE COUNTY, MONTANA."

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

That the Cascade County Clerk and Recorder is hereby authorized and directed to change the appropriate district boundaries of the City of Great Falls, Montana, to include said tract of land; and,

That this Resolution shall become effective from and after the date of the filing of said document in the office of the Cascade County Clerk and Recorder.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on this 7th day of May, 2013.

Michael J. Winters, Mayor

ATTEST:

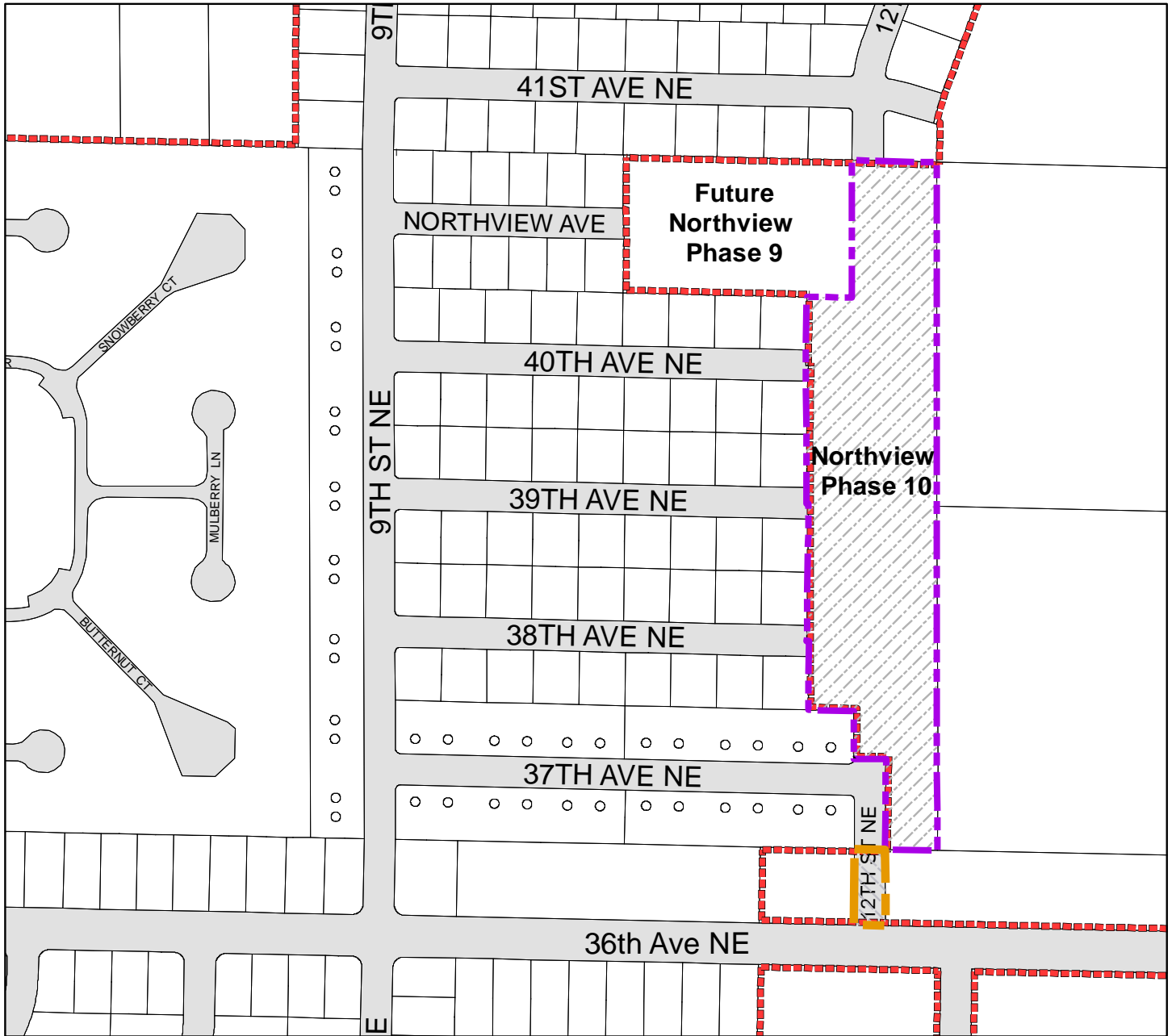
Lisa Kunz, City Clerk





(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

David L. Nielsen, Interim City Attorney

Attachment A Resolution 10015



-  City Limits
-  Tracts of Land
-  Northview Phase 10
-  12th St NE

220 110 0 220 Feet



FINDINGS OF FACT
FOR FINAL PLAT OF NORTHVIEW ADDITION PHASE 10, A SUBDIVISION LOCATED WITHIN
SE ¼, SECTION 25, T21N, R3E, P.M.M, CASCADE COUNTY, MONTANA
(PREPARED IN RESPONSE TO 76-3-608(3) MCA)

PRIMARY REVIEW CRITERIA

Effect on Agriculture: Utilization of the subdivision site for dry land crop production has diminished due to its proximity to urban residential development. Approval of the subdivision will not interfere with any irrigation system or present any interference with agricultural operations in the vicinity.

Effect on Local Services: Lots in the subdivision will connect to City water and sewer mains. The developer will pay the cost of extending the utility mains. The City should not experience an appreciable increase in maintenance and operating costs. The occupants of homes within the subdivision will pay regular water and sewer charges.

The subdivision will receive law enforcement and fire protection service from the City of Great Falls. The nearest fire station is ±2.7 miles from the subdivision site. Providing these services to the homes in the subdivision is expected to be a negligible cost to the City. Increased tax revenues from improved properties will likely cover any increased costs.

Public streets will be extended into the subdivision to serve the proposed residential units, but the subdivision will have a negligible impact on the cost of road maintenance. The developer will have responsibility to install curb, gutter and paving in the roadways within the subdivision. The developer will also incur an obligation of escrowing the cost of City roadway section and 8-inch water main in the future 12th Street Northeast to 36th Avenue Northeast, across Mark 14E1, Section 36, Township 21 North, Range 3 East.

Effect on the Natural Environment: The subdivision is not expected to adversely affect soils or the water quality or quantity of surface or ground waters. Any excess surface runoff will flow northwesterly ultimately to private retention ponds that the developer has paid a proportionate share of the design and construction.

Effect on Wildlife and Wildlife Habitat: The subdivision is located adjacent to an area containing urbanized development. The subdivision 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 subdivision is not subject to abnormal potential natural hazards such as flooding, wildfire, snow or rockslides, nor potential man-made hazards such as high voltage power lines, high-pressure gas lines, high traffic volumes, or mining activity. The subdivision does border an open field which contains a single radio transmitting tower.

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

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 developer shall provide necessary utility easements to accommodate water mains, sanitary sewer mains and private utilities to serve all lots of the Final Plat.

LEGAL AND PHYSICAL ACCESS

Legal and physical access to the subdivision is provided by the abutting 37th, 38th, 39th, 40th and Northview Avenues Northeast, which are public right-of-way maintained by the City of Great Falls. Within each phase, right-of-way will be dedicated and improved to provide access to each lot being created.

**ANNEXATION AGREEMENT FOR
NORTHVIEW ADDITION, PHASE 10
LOCATED IN SECTION 25,
TOWNSHIP 21 NORTH, RANGE 3 EAST,
CASCADE COUNTY, MONTANA**

1. PREFACE

The following is a binding Agreement dated this _____ day of _____, 2013, between JIM WORKMAN CONSTRUCTION CO., hereinafter referred to as “Owner,” and the CITY OF GREAT FALLS, MONTANA, a municipal corporation of the State of Montana, hereinafter referred to as “City,” regarding the requirements for annexation to the corporate limits of City, of NORTHVIEW ADDITION, PHASE 10, in Section 25, Township 21 North, Range 3 East, Cascade County, Montana, hereinafter referred to as “Subdivision.”

2. PRIOR ACTIONS

- A. The Preliminary Plat of Northview Addition, Phases 2-7, including Phase 10, prepared by Woith Engineering, was conditionally approved by City on February 6, 2007.
- B. City Commission approved the agreement dated February 2, 2010, providing for the extension of the approval of the Preliminary Plat of Northview Addition Phases 2-7, including Phase 10, until February 6, 2015.

3. SUPPORTING DOCUMENTS

- A. Final Plat of Northview Addition, Phase 10, prepared by Woith Engineering, and to be filed of record in the Clerk and Recorder’s Office of Cascade County, Montana.
- B. Final engineering drawings, specifications and cost estimates prepared by Woith Engineering, consisting of documents for sanitary sewer mains, water mains, storm drainage improvements, paving, conduit for wiring for potential future public roadway lighting facilities, curb and gutter. Said drawings and specifications are on file in the City Engineer’s office.
- C. Final offsite temporary easement documents prepared by Woith Engineering, granting easement to the City of Great Falls perpetual right-of-way easement for construction, access, and maintenance of temporary roadway, cul-de-sac and for the water and sewer

mains located on the remaining portion of property legally described as Mark 5B, Section 25, Township 25 North, Range 3 East, Cascade County.

- D. Legal documents, including articles of incorporation, bylaws and covenants, establishing and outlining responsibilities of the Homeowner's Association, shall be filed in the Clerk and Recorder's Office of Cascade County, Montana.

4. AMENDMENTS

Minor changes to engineering documents and such revisions to the engineering drawings as are deemed appropriate and necessary by City's Engineer and City's Public Works Department and which do not materially affect the hereinabove mentioned final plat, can be made as follows:

- A. The proposed revision will be submitted to City's Public Works Department for review and, if approved, the City Engineer or Public Works Director will sign and adequately annotate the change.
- B. The annotated revision becomes a part of this Agreement upon City's Public Works Department approval.
- C. Changes during construction shall be made by change order approved by City's Public Works Department.
- D. "As Built" reproducible drawings shall be supplied to City's Engineer upon completion of the construction.
- E. All amendments to this Agreement, except as allowable above in this section, shall be in writing and approved by City and Owner.

5. UNFORESEEN POTENTIALITIES

It is mutually recognized, understood and agreed by City and Owner that subsequent to the time this agreement was entered into, events may occur and actions may be taken which were unforeseen by either party or both parties hereto. In this perspective, it is, therefore, agreed that the parties may by mutual subsequent agreement modify the terms, conditions and covenants of this Agreement.

6. FEES AND CHARGES

- A. Prior to annexation of Subdivision, Owner shall pay, in addition to the \$300.00 fee for final plat, \$100.00 fee for Annexation Application, \$200.00 fee for Annexation Agreement, and \$100.00 fee for Resolution, which have been paid, pay the following fees as provided by City policy and resolution;
 - a. Storm Sewer Fee (\$250/acre x 6.26 acres) \$ 1,565.00
 - b. Park Fee in Lieu of Land Dedication \$ 4,131.60
(6.26 x 11% x \$6,000/acre)
 - c. Proportionate share of cost for:
 - Future Regional Storm Water Detention Pond \$ 27,191.37
(\$4,343.67/acre x 6.26 acres)
 - d. 12th Street Northeast Extension (\$793.65 per acre) \$ 4,968.25
(\$540.46/acre for Street x 6.26 acres)
(\$253.19/acre for Water Main x 6.26 acres)
 - e. Recording fees for Agreement and

<u>Resolution (\$11 per page x 11 pages)</u>	\$ 121.00
Total fees made payable to City of Great Falls	\$ 37,977.22

- B. Owner or its successors or assigns shall reimburse City for its expenses incurred in testing and acceptance of public utilities to serve Subdivision at the rates charged by City for said work at the time performed.
- C. Water tapping, water connection, sewer service tapping, and sewer connection fees will be assessed at the time of installation.
- D. The absence of any fee from this agreement lawfully charged by the City in connection with construction activity associated with Subdivision shall not constitute a waiver by the City.

7. OFF-SITE IMPROVEMENTS

Owner shall pay the full cost of an eight-inch (8") water main and standard City local roadway section to be installed as an extension of 12th Street Northeast between the south boundary of the subdivision and the traveled way of 36th Avenue Northeast. That extension crosses Tract 3, Certificate of Survey #4706, Section 36, Township 21 North, Range 3 East and a portion of 36th Avenue N.E. right-of-way. The Owner's proportionate share of the cost of this public improvement is estimated in Item 6.A.d 12th Street Northeast Extension above. At such time the actual cost of the above referenced roadway and remaining water main is determined, an amount equal to said costs shall be transferred from the above referenced account to the City. Upon said transfer, any remaining balance in the above referenced account shall be released to the Owner.

8. PUBLIC IMPROVEMENTS

- A. Owner agrees to complete within two (2) years of the date of this Agreement, the installation of the sanitary sewer and water mains, drainage facilities, street curb & gutter and paving, traffic signage, and conduit for public roadway lighting to serve the Subdivision, in accordance with the drawings and specifications referenced in Paragraph 3.B above and filed in the City Engineer's office.
- B. Owner agrees to complete within two (2) years of the date of this Agreement, an extension of 40th Avenue Northeast easterly from 12th Street Northeast to the eastern property boundary of the Subdivision including installation of street curb and gutter and paving, water and sewer mains, and conduit for public roadway lighting facilities.

C. RESTRICTIONS ON BUILDING PERMITS AND OCCUPANCY

Building permits for lots in Subdivision shall not be issued until the contracts for installation of the public improvements have been executed. Owner acknowledges that City will not permit the occupancy of any residential structure in Subdivision until street improvements and water and sanitary sewer mains within Subdivision have been installed, tested and accepted by City, which acceptance will not be unreasonably withheld by City.

D. SOIL AND/OR GROUNDWATER CONDITIONS

The owner of the property in the Subdivision shall indemnify, hold harmless and defend the City of Great Falls, its officers, agents, servants and employees and assigns from and against

all claims, debts, liabilities, obligations and costs including reasonable attorney fees, that arise from, result from or relate to adverse soil or groundwater conditions on the owner's property in the Subdivision. This indemnity obligation runs with the land. Upon the transfer of ownership of the property in the Subdivision, the prior owner's (whether the Owner that made this annexation agreement or a subsequent owner) indemnity obligation for adverse soil or adverse groundwater conditions for the transferred property is released and the indemnity obligation runs to the new owner of the property. Only the owner of the parcel of property with the adverse conditions at the time the City incurs the claim, debt, liability, obligation or cost is obligated to indemnify and no owner of property in the Subdivision is obligated to indemnify for adverse conditions on property owned by someone else.

This indemnification by the owner of the property in the Subdivision shall apply unless such damage or injury results from the negligence, gross negligence or willful misconduct of the City.

E. MAINTENANCE DISTRICTS

Owner hereby agrees to waive its right to protest the lawful creation by City of maintenance districts for any proper purpose including, but not limited to, fire hydrant and street maintenance and shall pay the proportionate share of the costs associated with said maintenance districts as they may be applied to lots in Subdivision.

F. FUTURE STORM DRAINAGE FACILITIES

Owner hereby agrees to waive its right to protest any future area wide special improvement district for storm drainage facilities and further agrees to pay for proportionate share of any future storm drainage improvements that service Subdivision that may be installed with or without an area wide special improvement district. The term "area wide" as used herein, means any area larger than that covered by Subdivision, which is a contributor to the drainage sub-basin of which Subdivision is a part.

G. PUBLIC ROADWAY LIGHTING

Owner hereby agrees to waive its right to protest any future special lighting district for public roadway lighting facilities that service Subdivision, and further agrees to pay for proportionate share of the costs associated with roadway lighting which service Subdivision that may be installed with or without a special lighting district.

H. SIDEWALKS

It is hereby agreed that the following exception to the strict adherence of Subdivision requirements will be permitted: sidewalks serving and abutting any lot in Subdivision shall be installed as a condition of final occupancy by the then lot owner within six (6) months (allowing for unfavorable weather conditions only) of occupancy. It is understood that the above provision regarding sidewalks shall not preclude City from exercising its authority provided by Chapter 12.28, Municipal Code of the City of Great Falls pertaining to sidewalks.

I. WAIVER OF PROTEST OF ANNEXATION

Owner hereby agrees to waive any and all statutory procedure notice on right of protest to annexation of Subdivision, as provided for by State law.

J. WARRANTY, OWNERSHIP AND INSPECTION OF UTILITY AND STREET IMPROVEMENTS

A. After the public utilities, drainage and street improvements described in Paragraph 3.B. hereof have been installed and accepted by City, the same shall be in all respects treated, owned and maintained as though the same had been constructed and installed by City. However, to the extent installed by Owner, Owner or its contractor shall guarantee said improvements against defective work and materials for a period of two (2) years from date of acceptance of the completed improvements by City.

B. Installation of the public utilities and street improvements described in Paragraph 3.B. hereof, shall be subject to City's infrastructure inspection policy in place at the time of installation.

K. ANNEXATION PREREQUISITES

Subdivision is contiguous to City; is not included within the boundary of any other incorporated municipality; and is not a part of any fire district existing or organized under any of the provisions of Chapter 33, Title 7, of the Montana Code Annotated. Subdivision, upon annexation to City, will be provided fire protection services by City comparable to that provided incorporated properties.

L. CITY ACCEPTANCE AND ZONING

In consideration of the foregoing, City hereby accepts and approves the final plat of Northview Addition, Phase 10 and will approve the property contained within the boundaries of the Subdivision for incorporation by annexation into the corporate limits of the City of Great Falls, Montana, with an assigned zoning classification of PUD Planned unit development district. It is hereby understood that this does not preclude City from reclassifying Subdivision if an area wide reclassification is undertaken, in which event City agrees to reclassify said Subdivision as a conforming use.

M. ADHERENCE TO SITE PLAN

Owner hereby agrees that development upon lots within Subdivision shall be substantially in accordance with the Site Plan attached to the zoning Ordinance approved in conjunction with said Subdivision and applicable City Codes, and the terms and conditions contained in this Agreement.

N. BINDING EFFECT

The provisions, covenants and terms of this Agreement shall run with the land and bind the present owners, their devisees, heirs, successors, and assigns; and any and all parties claiming by, through, or under them, shall be taken to agree and covenant with each of the parties to the Agreement, their devisees, heirs, successors and assigns, to conform to the provisions, covenants and terms of this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seal the day, month and year first hereinabove written.

THE CITY OF GREAT FALLS, MONTANA
A Municipal Corporation of the State of Montana

Gregory T. Doyon, City Manager

ATTEST:

Lisa Kunz, City Clerk

(Seal of City)

APPROVED FOR LEGAL CONTENT:

David L. Nielsen, Interim City Attorney

JIM WORKMAN CONSTRUCTION CO.
A Corporation of the State of Montana

Jim Workman, President

State of Montana)

:ss.

County of Cascade)

On this _____ day of _____, in the year Two Thousand and Thirteen, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Jim Workman, known to me to be the persons whose names are subscribed to the instrument within and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public for the State of Montana

(NOTARIAL SEAL)

Notary Public for the State of Montana (Printed)
Residing at _____
My commission Expires _____, 20____

JIM WORKMAN CONSTRUCTION CO.
A Corporation of the State of Montana

Kathleen Workman, Secretary

State of Montana)

:ss.

County of Cascade)

On this _____ day of _____, in the year Two Thousand and Thirteen, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Kathleen Workman, known to me to the persons whose names are subscribed to the instrument within and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public for the State of Montana

(NOTARIAL SEAL)

Notary Public for the State of Montana (Printed)
Residing at _____
My commission Expires _____, 20 _____



GREAT FALLS FIRE RESCUE

105 9th Street South
Great Falls, MT 59401

Phone: 406-727-8070
Fax: 406-454-2454

February 1, 2013

To: Planning Director Mike Haynes

From: Stephen A. Hester, Assistant Chief of Operations

Re: Annexation, Zoning (Amending PUD) and Final Plat of North-view Phases 10

Thank you for the opportunity to review the proposed annexation. While the Fire Department is generally in support of growth, we feel it's important to go on the record with our public safety concerns.

While this annexation shall increase the department's jurisdiction area it should not have much of an impact on response times because the proposed annexation is within or inside of existing city boundaries.

However, this annexation shall create response problems due to the unincorporated conclaves that it will create. With each unincorporated conclave that the City creates, it also creates jurisdictional and response conflict with regard to emergency response from both the City's emergency responders and County's emergency responders.

In order to prevent the creation islands of property that require County emergency responder to cross into the City's jurisdiction and to prevent the City from responding to incidents in these areas, it is our recommendation that both the properties be incorporated into this annexation.

Respectfully submitted,

Stephen A. Hester
Assistant Chief, Operations