



Item: Final Plat and Development Agreement for Great Bear No. 2 Subdivision-Phase II, being Lot 8, of Great Bear No. 2 Subdivision – Phase I located in the N1/2 Section 30, Township 21 North, Range 4 East, P.M.M., Cascade County, Montana, herein referred to as subject property.

From: Craig Raymond, Director of Planning & Community Development

Initiated By: Dali, LLC, Property Owner & Developer

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

Action Requested: City Commission approve the Final Plat and Development Agreement pertaining to Great Bear No. 2 Subdivision-Phase II.

Suggested Motions:

1. Commissioner moves:

“I move that the City Commission (approve/disapprove) the Final Plat and Development Agreement pertaining to Great Bear No. 2 Subdivision-Phase II.”

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

Recommendation: At the conclusion of a public hearing held on August 13, 2013, the Planning Advisory Board recommended the City Commission approve the Minor Plat of the subject property, subject to fulfillment of Conditions of Approval, which were provided in the Public Hearing Agenda Report from October 1, 2013 (see attachment).

City Commission set the public hearing for the subject property on September 3, 2013. Notice of Public Hearing before the City Commission for the Final Plat for the subject property was published in the *Great Falls Tribune* on September 15, 2013. City Commission held the public hearing on October 1, 2013, but official action was tabled until such time as the development agreement had been signed by the owner of the subject property. The executed development agreement is attached.

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 emergency response times related to this development.

Fiscal Impact: Providing services is expected to be an additional cost to the City. 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:

Development Agreement
Public Hearing Agenda Report from October 1, 2013

Cc: Jim Rearden, Public Works Director
Dave Dobbs, City Engineer
Patty Cadwell, Neighborhood Council Coordinator
Joe Stanek, joestanek@westernamericanretail.com
John Juras, TD&H, John.Juras@tdhengineering.com

**DEVELOPMENT AGREEMENT FOR
GREAT BEAR NO. 2 SUBDIVISION - PHASE II,
BEING LOT 8 OF GREAT BEAR NO. 2 SUBDIVISION – PHASE I,
LOCATED IN THE N1/2 SECTION 30, TOWNSHIP 21 NORTH,
RANGE 4 EAST, P.M.M., CASCADE COUNTY, MONTANA**

1. PREFACE

The following is a binding Agreement dated this _____ day of _____, 2013, between Dali, LLC, 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 subdivision of Great Bear No. 2 Subdivision-Phase II, being Lot 8 of Great Bear No. 2 Subdivision – Phase I, located in the N1/2 Section 30, Township 21 North, Range 4 East, P.M.M., Cascade County, Montana, hereinafter referred to as “Subdivision.”

2. SUPPORTING DOCUMENTS

- A. The Subdivision Plat of Great Bear No. 2 Subdivision – Phase I prepared for the Owner, and filed in the office of the Clerk and Recorder of Cascade County, Montana, on the _____ day of _____, 2013.
- B. The Subdivision Plat of Great Bear No. 2 Subdivision – Phase II prepared for the Owner, and filed in the office of the Clerk and Recorder of Cascade County, Montana, on the _____ day of _____, 2013.
- C. Engineering drawings, specifications and cost estimates prepared for the Subdivision, 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.
- D. Regarding the bonding requirements to ensure construction of public improvements as referenced in Section 76-3-507, MCA, Owner shall provide, in conjunction with submittal and approval of the final plat of any future phase within Great Bear No. 2 Subdivision – Phase II, a financial surety to ensure the construction and installation of public improvements to serve the area within said final plat.

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

3. 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 Subdivision, 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.

4. 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.

5. FEES AND CHARGES

- A. Prior to approval of Subdivision, Owner shall, in addition to the Plat Fee of \$800.00 which has been paid, pay the recording fees of \$121.00 (\$11.00 per page x 11 pages) as provided by City policy, ordinances and resolutions.
- 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.

6. INFRASTRUCTURE IMPROVEMENTS

Owner hereby agrees to dedicate the 60-foot access and utility easement located between Lots 3 and 4 of the Subdivision as public right-of-way and complete the installation of infrastructure (sanitary sewer mains, water mains, storm drainage improvements, paving,

curb and gutter, conduit for wiring for potential future public roadway lighting facilities) to serve Lot 5 of Subdivision prior to any development on Lots 3, 4 or 5 of Subdivision.

All improvements shall be in accordance with all City and State design and construction codes, specifications, standards and other requirements. The storm drainage improvements shall include 100-year 2-hour storm capacity channel and / or conduit to accommodate peak flows from the drainage basin above and convey those flows across the Subdivision to the natural drainage channel to the east. Storm drain improvements shall be provided to serve all lots within the subdivision in accordance with the City's Storm Drainage Design Manual. Additionally, upon written approval from the City Public Works Director, City may grant extension of the two-year completion date as deemed appropriate.

7. CENTRAL MONTANA AGRICULTURE & TECHNOLOGY PARK TAX INCREMENT FINANCING DISTRICT

It is mutually understood that the Subdivision is part of the existing Central Montana Agriculture and Technology Park Tax Increment Financing Industrial District (CMATP TIFID) that currently comprises the Great Bear No. 2 Subdivision, Malt Plant property (Lot 2, Block 1, International Malting Company LLC Addition), and the ADF International property (Lot 1A, Block 1, International Malting Company LLC Addition).

It is mutually understood that the Owner of the proposed Subdivision has sought to use funds in the CMATP TIFID to pay for eligible infrastructure improvements in the TIFID, with the increment from future development of those properties within the TIFID anticipated to repay expenses incurred by Owner for additional eligible infrastructure improvements. Priority for expending funds in the CMATP TIFID may be given to infrastructure improvements that serve all owners in the TIFID. City's costs, including those for TIFID administration and over-sizing utilities, are also eligible for reimbursement from the TIFID. TIFID expenditures are at the discretion of the City Commission.

8. FUTURE INFRASTRUCTURE FACILITIES

Owner hereby agrees to waive right to protest any future area wide special improvement district for infrastructure to pay a proportionate share of any future infrastructure improvements which 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 infrastructure demand of which Subdivision is a part.

9. STORM DRAINAGE PLAN FOR INDIVIDUAL LOTS

Owner hereby agrees to prepare plans and design reports, and construct improvements in accordance with the City's Storm Drain Design Manual prior to the development of each lot. Those improvements shall be designed to release flows at pre-development conditions. Said improvements will be privately owned, operated, and maintained. Said drainage plans and design reports shall be submitted, reviewed and approved by the City

Public Works Department prior to City issuing an occupancy permit for the Subdivision. The drainage plan may require an agreement with upstream and or downstream contributor land owner(s) for permanent use of existing pond facilities, as well as repairs and future maintenance to these pond facilities. Owner further agrees to be responsible for and to mitigate any downstream impacts that may result from surface runoff from Subdivision.

10. REQUIRED UPSIZING OF IMPROVEMENTS

- A. Owner agrees to install an oversized water main as determined by the City's Public Works Department to serve Lot 5 of Subdivision instead of the standard eight-inch (8") water main in the portion of Subdivision. City agrees to reimburse the Owner for its actual costs incurred by the over sizing cost of water main installed in Subdivision within (30) days of its acceptance of the installations and appropriate billing, including provisions of adequate information and documentation supporting said costs. These costs to the City shall be eligible for reimbursement from the TIFID.
- B. Owner agrees to install an oversized storm sewer main and drainage basin as determined by the City's Public Works Department instead of the standard sized storm drainage facilities in portions of the Subdivision abutting other properties. City agrees to reimburse the Owner for its actual costs incurred by the over sizing cost of storm sewer main installed in Subdivision within (30) days of its acceptance of the installations and appropriate billing, including provisions of adequate information and documentation supporting said costs. These costs to the City shall be eligible for reimbursement from the TIFID.

11. RESTRICTIONS ON DEVELOPMENT OF LOT 5, IN SUBDIVISION

As plans for infrastructure associated with Lot 5 of Subdivision have presently not been formalized, Owner hereby agrees not to place or erect any structure or improvement and or infrastructure upon said Lot 5, Great Bear Subdivision No.2 – Phase II or attempt to further subdivide the area defined by said Subdivision until plans and financing for the necessary infrastructure to serve said Lot 5 have been reviewed and approved by City's Public Works Department.

12. INFRASTRUCTURE EASEMENTS

Owner hereby agrees to provide to City, prior to Owner receiving service from said water, sanitary sewer systems and storm drain system, reasonable appropriate easements to accommodate said water, sanitary sewer and storm drain systems to serve Subdivision. Owner further agrees to provide, when reasonably deemed necessary by City, any additional easements within the Subdivision to accommodate future infrastructure, including, but not limited to, the sanitary sewer mains, water mains, storm drainage improvements, paving, sidewalk, conduit for wiring for potential future public roadway lighting facilities, curb and gutter, referenced in Paragraph 6 herein, with the location of said easements to be determined mutually between Owner and City.

13. MAINTENANCE DISTRICTS

Owner waives its right to protest the lawful creation by City of maintenance districts for any proper purpose including, but not limited to, fire hydrant, street maintenance and

Special Lighting Maintenance Districts and shall pay the proportionate share of the costs associated with said maintenance districts as they may be applied to lots in Subdivision.

14. MASTER PLAN AND RESULTANT INFRASTRUCTURE

Owner hereby agrees to cooperate and participate with development of an overall conceptual plan for the contemplated value added agricultural commodities park comprising in part the Subdivision. Owner further agrees, if and when deemed necessary by City, to dedicate public road, utility right-of-way, easements for utilities, and vehicular and pedestrian access and to extend and pay for proportionate share of all sanitary sewer mains, lift stations, water mains, storm drainage improvements and detention facilities, paving, sidewalk, conduit for wiring for potential future public roadway lighting facilities, curb and gutter to the boundaries of Subdivision.

15. 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, fines, penalties, 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 as to that owner 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, fine, penalty, 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.

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

After the public utilities, drainage and street improvements described in Paragraph 2 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.

Installation of the public utilities and street improvements described in this Agreement shall be subject to City's infrastructure inspection policy in place at the time of installation.

17. PUBLIC ROADWAY LIGHTING


In connection with the lawful implementation of any future Special Lighting Maintenance Districts for public roadway lighting facilities that service Subdivision, Owner agrees to pay for its proportionate share of the costs associated with roadway lighting which services Subdivision that may be installed with or without a Special Lighting Maintenance District.

18. 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 seals the day, month and year first hereinabove written.

CITY OF GREAT FALLS
A Municipal Corporation of the State of Montana
Party of the First Part



Gregory T. Doyon, City Manager

ATTEST:

Lisa Kunz, City Clerk

(Seal of the City)

REVIEWED FOR LEGAL CONTENT:



Sara R. Sexe, City Attorney

DALI LLC, S. JOSEPH STANEK
Party of the Second Part

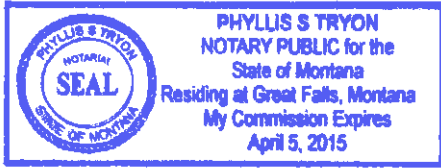
Dali LLC by S Joseph Stanek

State of Montana
County of Cascade
City of Great Falls

:ss.

On this 3rd day of Oct, 2013, before me, the undersigned, a Notary Public for the State of Montana, personally appeared S. Joseph Stanek, known to me to be the person whose name is subscribed to the foregoing instrument within and acknowledged to me that (s)he executed the same.

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



(NOTARIAL SEAL)

Phyllis A Tryon
Notary Signature

Notary Signature Printed
Notary Public for the State of _____
Residing at _____
My commission expires _____, 20____



Item: Public Hearing – Final Plat and Development Agreement for Great Bear No. 2 Subdivision-Phase II, being Lot 8, of Great Bear No. 2 Subdivision – Phase I located in the N1/2 Section 30, Township 21 North, Range 4 East, P.M.M., Cascade County, Montana

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

Initiated By: Dali, LLC, Property Owner & Developer

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

Action Requested: City Commission approve the Final Plat and Development Agreement pertaining to Great Bear No. 2 Subdivision-Phase II.

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:

1. Commissioner moves:

“I move that the City Commission (approve/disapprove) the Final Plat and Development Agreement pertaining to Great Bear No. 2 Subdivision-Phase II.”

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

Recommendation: At the conclusion of a public hearing held on August 13, 2013, the Planning Advisory Board recommended the City Commission approve the Minor Plat of Great Bear No. 2 Subdivision-Phase II, subject to fulfillment of the following Conditions of Approval:

1. The minor plat of Great Bear No. 2 Subdivision - Phase II shall incorporate correction of any errors or omissions noted by staff.
2. The final engineering drawings and specifications for the required public improvements including storm drain improvements to serve the minor plat shall be submitted to the City Public Works Department for review and approval prior to consideration of the minor plat by the City Commission.
3. The minor plat of Great Bear No. 2 Subdivision - Phase II shall show the dedication of a drainage/utility easement, which shall traverse said plat to accommodate an existing drainage channel. This easement shall be 30-feet wide as required by Public Works.

4. The applicant shall provide a public improvements master plan for the entire subdivision in order to ensure proper access and utility service to Lot 5. Additionally, the applicant shall provide City any easements for public improvements, including, but not limited to, streets, sanitary sewer mains, water mains and storm drainage facilities to serve lots in the subdivision.
5. A Grading Plan, State Stormwater Discharges Associated with Construction Activities Permit, and Stormwater Management Plan shall be developed to City standards for each lot in the subdivision and shall be submitted to the City Public Works Department for review and approval prior to issuance of building permits.
6. A development agreement shall be prepared containing terms and conditions for development of subject property including agreement by the applicant:
 - a. to adhere to all provisions emanating from the resolution of Condition 3) above;
 - b. to indemnify and hold City harmless for any damages that may be sustained as a result of adverse soil and/or groundwater conditions;
 - c. assign the obligation for installing and paying for all remaining public infrastructure in future phases of Great Bear Subdivision;
 - d. mitigate down stream impacts of stormwater runoff;
 - e. pay proportional share of regional drainage improvements;
 - f. dedicate and improve to City standard, the 60-foot access and utility easement between Lots 3 and 4 at such time as development occurs on Lots 3, 4 or 5 and provide a 100-foot turn-around at the northern terminus if the roadway is not a through street;
 - g. extend an 8-inch water and 8-inch sewer main in the utility easement proposed between Lots 3 and 4 to serve Lots 3, 4 and 5. This extension shall be required at such time as any development occurs on Lots 3, 4 or 5 within the subdivision.

Public Notice for the Planning Advisory Board/Zoning Commission Public Hearing was published in the *Great Falls Tribune* on July 28, 2013. One citizen spoke at the public hearing as a proponent of the project.

City Commission set the public hearing for Great Bear No.2 Subdivision– Phase II on September 3, 2013. Notice of Public Hearing before the City Commission for the Final Plat for Great Bear No.2 Subdivision– Phase II was published in the *Great Falls Tribune* on September 15, 2013.

Background: The 48.615 acre subject property is located east of U.S. Highway 87 in the northern portion of the City of Great Falls. The property is legally described as Great Bear No. 2 Subdivision - Phase II, Being Lot 8, of Great Bear No. 2 Subdivision – Phase I located in the N1/2 Section 30, Township 21 North, Range 4 East, P.M.M., Cascade County, Montana, herein referred to as subject property.

The applicant is requesting a minor plat of the subject property which would subdivide Lot 8 of Great Bear No. 2 Subdivision - Phase I into 5 heavy industrial zoned lots. The applicant submitted a Final Plat (attached), which shows the layout for the industrial lots. Lot 5 is expected to be further subdivided for future phases.

The subject property is located in the Central Montana Agriculture and Technology Park (CMATP) Tax Increment Financing Industrial District (TIFID), which was created to help fund public infrastructure deficiencies in the district. All of the property owners in the TIFID understand that funds in the TIFID are limited and must be spent on public infrastructure improvements. The

expenditure of any TIFID funds are at the discretion of the City Commission. The applicant has applied for the use of TIFID funds for portions of the public improvements within the subdivision.

The property was originally subdivided as a part of the International Malting Company, LLC Addition in 2005. Per Montana Code Annotated (MCA), any minor subdivision that is not a first minor subdivision from a tract of record is a subsequent minor subdivision and the governing body may require the subdivision meet or exceed the requirements that apply to a first minor subdivision. A public hearing before the Planning Advisory Board and City Commission is not required for a first minor subdivision; because this is a subsequent minor subdivision, a public hearing is required.

The basis for decision to approve, conditionally approve, or deny a proposed subdivision is whether the subdivision application, preliminary plat, applicable environmental assessment, public hearing, planning board recommendations, or additional information demonstrate that development of the proposed subdivision meets the requirements of 76-3-608 MCA. The governing body shall issue written findings of fact that weigh the criteria of 76-3-608 (3) MCA. Staff has provided a Findings of Fact (attached) as a result of critical review of each required criteria. The conditions of approval for the subdivision are derived from these findings.

Improvements

Public Works has a concern that there is not an overall master plan for the project. This is in part because specific industrial uses have not been identified. In order to efficiently design for public improvements including water, sewer and storm drain, it is helpful to have an understanding of the overall plan for an area. Because the applicant has not provided a firm Master Plan for the entire subdivision, Public Works will have to make assumptions on future needs for the development. This may cause additional cost to the applicant due to over- or under-sizing of improvements. Further, the applicant shall be required to provide a public improvements master plan for the entire subdivision in order to ensure proper access and utility service to Lot 5.

There is one proposed internal roadway between Lots 3 and 4 of the subdivision. This roadway is proposed to be dedicated as public right-of-way and maintained by the City. Public Works is requiring that the roadway design shall include paving, curb and gutter, but are not requiring the roadway be dedicated or installed until such time as development occurs on Lots 3, 4 or 5. Additionally, due to potential of large truck traffic, Public Works shall require a 100-foot diameter temporary graveled cul-de-sac at the terminus of any dead-end streets within the subdivision.

There is an existing 16-inch water transmission main located on the north edge of the Great Bear Avenue right-of-way. The applicant has not provided engineering plans at this time, but Public Works expects the water system design to be similar to that of Phase I and does not anticipate any major challenges. The applicant shall be required to extend an 8-inch water main in the utility easement proposed between Lots 3 and 4 to serve Lot 5. This extension shall be required at such time as any development occurs on Lots 3, 4 or 5 within the subdivision. Public Works will be reviewing the water system design reports and plans for compliance with design requirements and regulations. Consideration of adjacent service areas and future main extensions will be part of the review. Because there is no overall master plan for the area, the City may require the applicant to extend additional water mains within this development.

There is an existing sanitary sewer force main and sewage lift station located on the east side of the Malteurop property east of the subject property and adjacent to Black Eagle Road. A sewer main will be extended from this lift station along the north side of the Malteurop property to the southeast

corner of this property. This extension is anticipated to be complete by October, 2013, and is being funding by existing CMATP TIFID funds.

The applicant has provided engineering plans for the on-site sewer system as a part of Phase I. Public Works expects the sewer system design to be extended as a part of Phase I and does not anticipate any major challenges. Public Works has reviewed the preliminary and final sewer system design reports and plans for compliance with design requirements and regulations. Consideration of adjacent service areas and future main extensions has been a part of the review. The applicant shall be required to extend an 8-inch sanitary sewer main in the utility easement proposed between Lots 3 and 4 to serve said lots. This extension shall be required at such time as any development occurs on Lots 3, 4 or 5 within the subdivision. Because there is no overall master plan for the area, the City may require the applicant to extend additional sanitary sewer mains within this development.

The applicant is working with Public Works regarding requirements for stormwater discharge, storage, conveyances, and on-and off-site improvements. Public Works will review the preliminary and final storm drainage system design reports and plans for compliance with the City's Storm Drainage Design Manual. Consideration of upstream and downstream properties and future storm drain extensions is being evaluated by a project approved by the City Commission using CMATP TIFID funds. There is an existing 30-foot drainage/utility easement across Phase I of the subdivision that shall be maintained as a part of this subdivision for stormwater conveyance across the property in an existing drainage channel. The developer shall be responsible for drainage improvements within the subdivision.

The proposed development may 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.

City of Great Falls Growth Policy

Great Bear No. 2 Subdivision – Phase II is envisioned as a planned comprehensive industrial development center for residents and businesses in the City and the County. This project is a step toward the creation of a much desired primary job and employment center for the City of Great Falls. Recent surveys have found that the City's residents recognize the need for, and strongly support, actions toward the creation of new and diverse forms of employment in Great Falls.

This project is consistent with the newly adopted Growth Policy and the following economic goals: 1) Diversify and strengthen the City's economic base by ensuring growth, quality development, and employment opportunities; 2) Encourage businesses and industries that will utilize existing infrastructure; and, 3) Attract new businesses, and support the expansion of existing businesses, in a manner that bolsters economic opportunities in the City.

In addition, Objective 3.4 of the Economic Section calls for the continuance of efforts to expand, retain, and attract new businesses to Great Falls. Eco3.2.7 states that potential growth areas for industry should be identified. Eco3.7.6 calls for the City to develop, maintain and utilize infrastructure that ensures "shovel ready" industrial sites.

It is a generally accepted planning principle that large industrial areas and employment centers should be planned and located based on site requirements, ease of access, environmental impacts, long-term relationships to residential areas and the potential for generating growth. This location,

although on the City's periphery, is advantageous for industrial development in that it is separate, but reasonably accessible, from residential areas.

To conclude, the newly adopted Growth Policy makes allowable actions to proactively direct development through public investment in infrastructure and to encourage businesses and industries that will utilize existing (and planned for) infrastructure. This application is consistent with the implementation of these policies.

Neighborhood Council Input

The subject property is located in Neighborhood Council #3. Patty Cadwell, Neighborhood Council Coordinator, provided information to the Neighborhood Council on August 1, 2013. There were no comments from the Neighborhood Council at the time this staff report was written. The Neighborhood Council did not vote on the proposed project. Staff has received no other public comment.

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 emergency response times related to this development.

Fiscal Impact: Providing services is expected to be an additional cost to the City. Increased costs may be covered by increased tax revenues from improved properties.

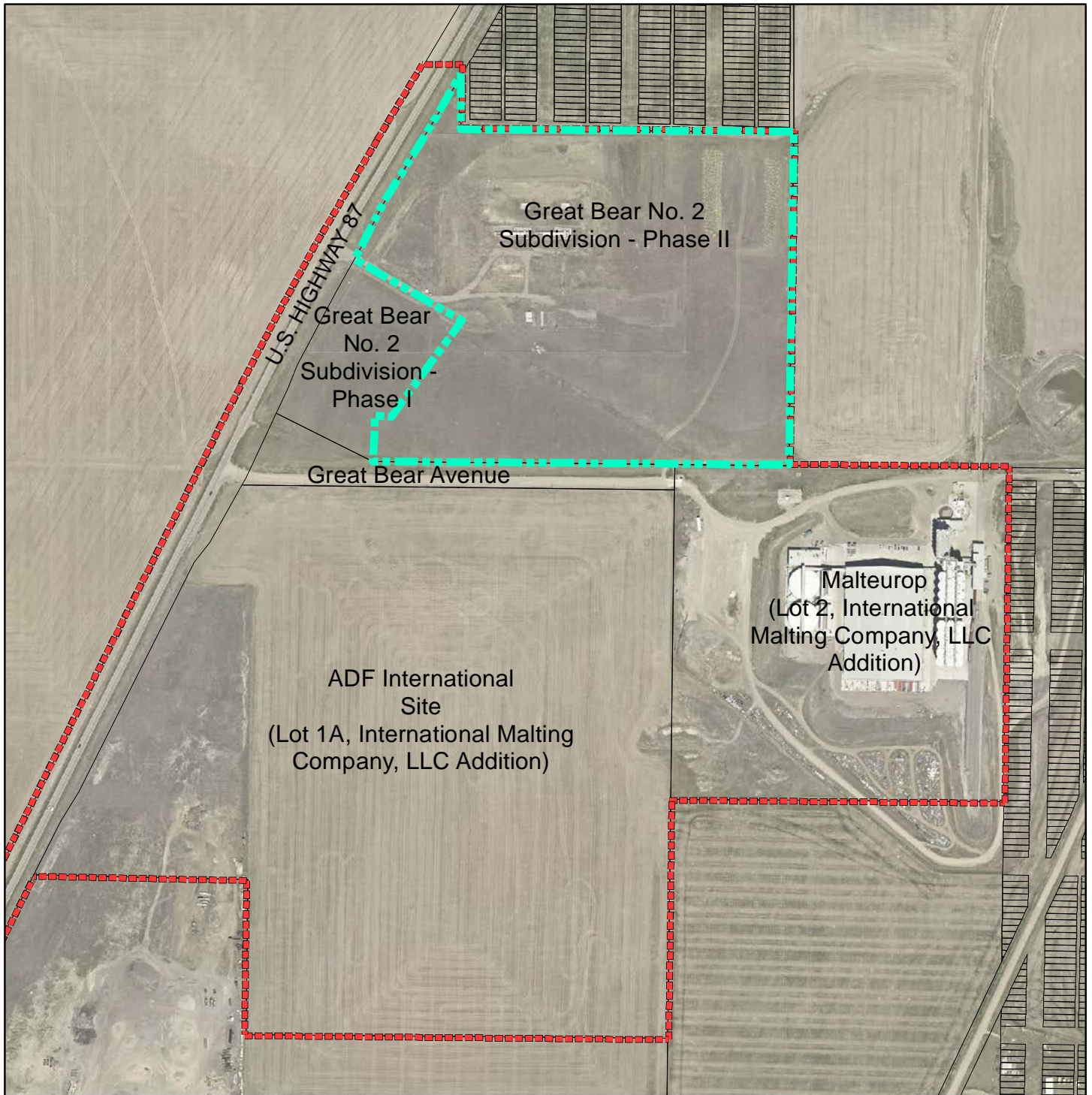
Alternatives: If there are justifiable reasons to do so, the City Commission could deny the requested action to the extent allowed in City Code and State Statute.

Attachments/Exhibits:

- Aerial Photo
- Zoning Map
- Final Plat
- Findings of Fact
- Development Agreement
- Fire Chief Memo

Cc: Jim Rearden, Public Works Director
Dave Dobbs, City Engineer
Patty Cadwell, Neighborhood Council Coordinator
Joe Stanek, joestanek@westernamericanretail.com
John Juras, TD&H, John.Juras@tdhengineering.com

Aerial Photo



Great Bear No 2 Subdivision - Phase II

City Limits



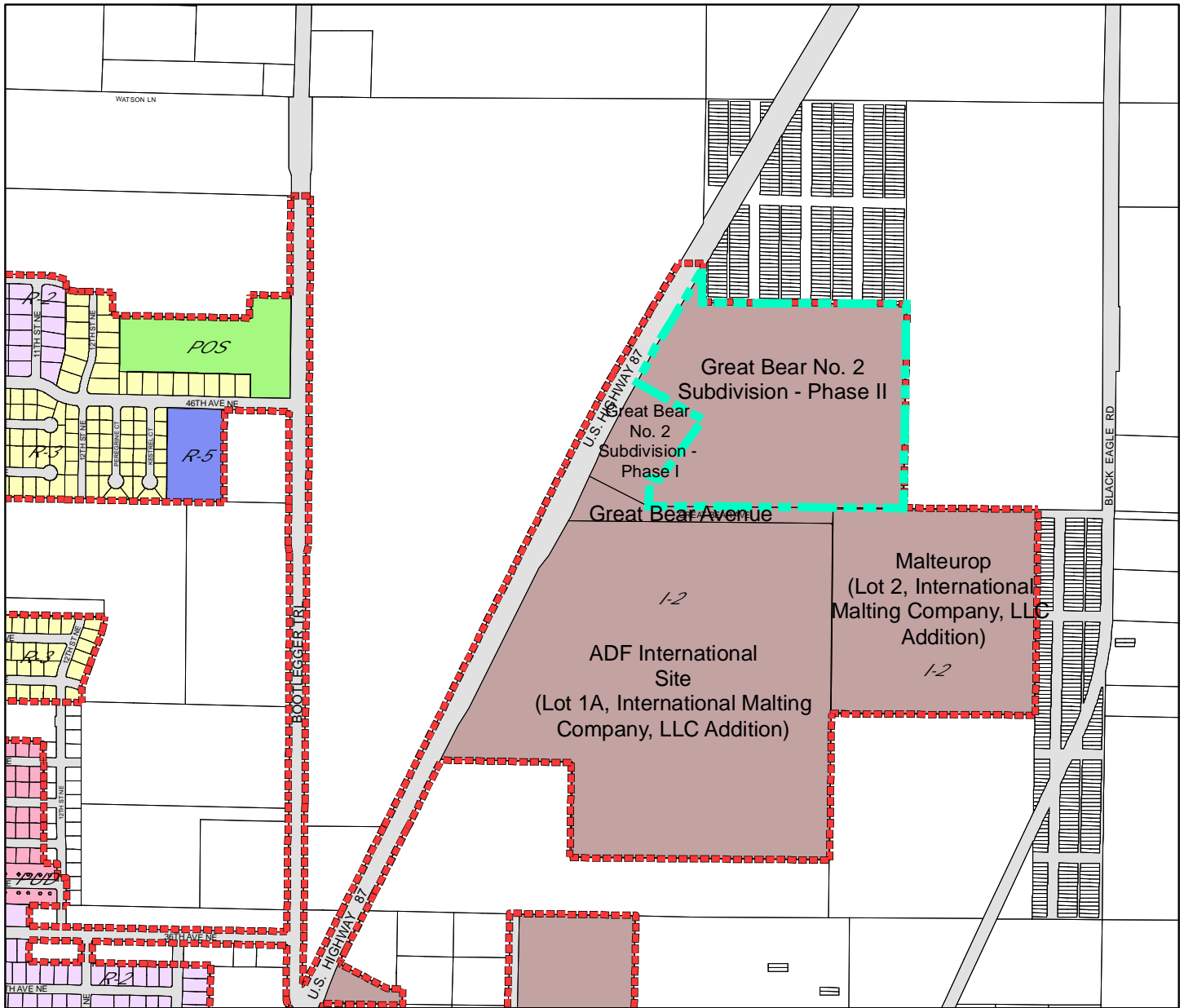
Tracts of Land



N

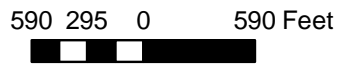


Zoning Map



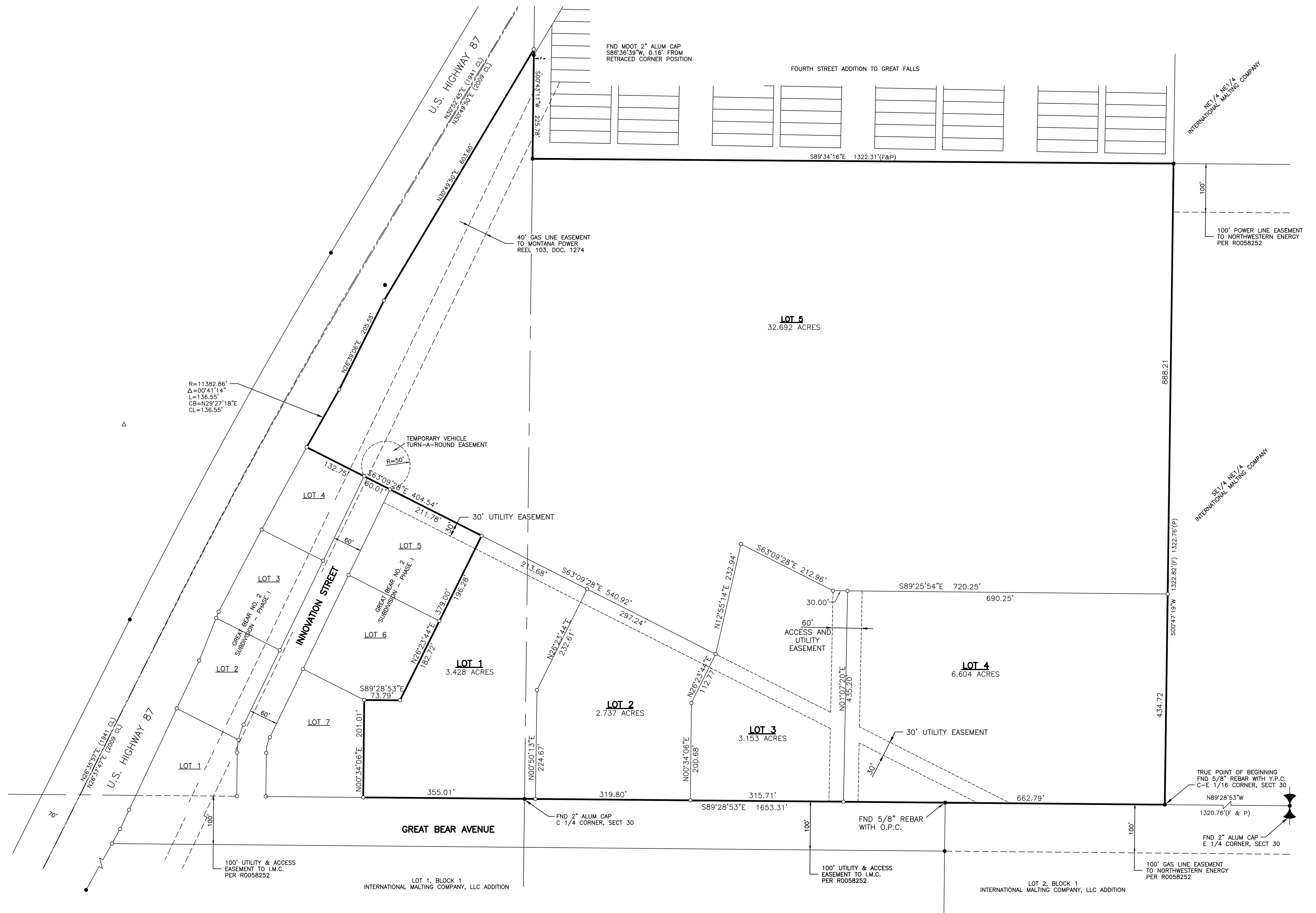
Legend

Parcels	C-4 Central business core	R-1 Single-family suburban
City Limits	C-5 Central business periphery	R-2 Single-family medium density
Great Bear No 2 Subdivision - Phase II	I-1 Light industrial	R-3 Single-family high density
RofW	I-2 Heavy industrial	R-5 Multi-family medium density
ZONING	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
C-3 Highway commercial	PUD Planned unit development	



GREAT BEAR NO. 2 SUBDIVISION - PHASE II
 BEING LOT 8 OF THE GREAT BEAR NO. 2 SUBDIVISION - PHASE I,
 LOCATED IN THE N1/2 OF SECTION 30, T21N, R4E, P.M.M., CITY OF GREAT FALLS, CASCADE COUNTY, MONTANA

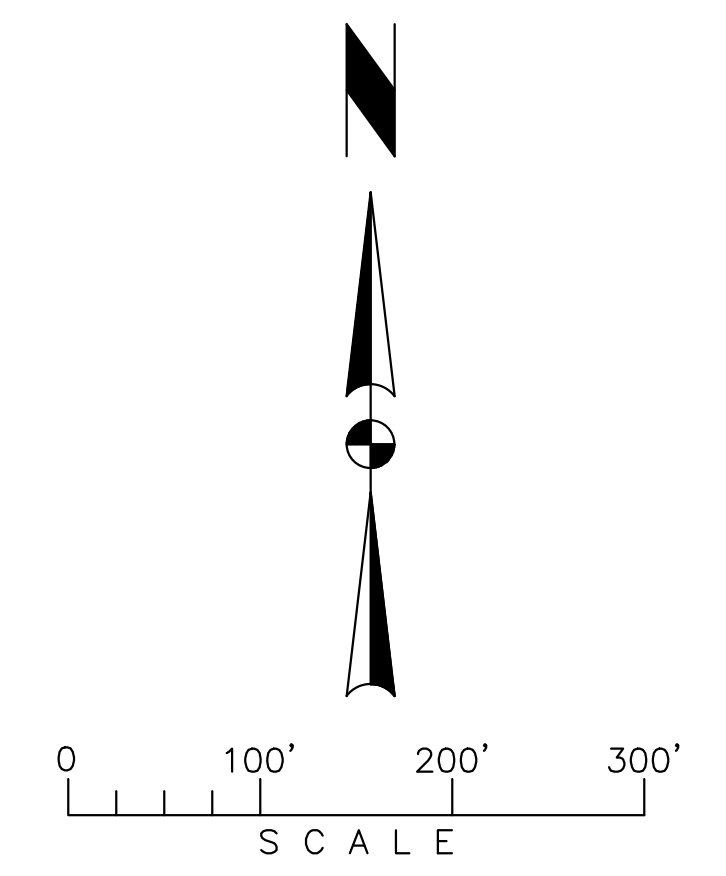
LAND OWNER: DALI LLC



TOTAL AREA
48.615 ACRES

LEGEND

- SUBDIVISION BOUNDARY
- SET 3/8" REBAR WITH "15625LS KENCZKA" YPC
- FOUND MONUMENT AS NOTED
- FOUND SECTION CORNER
- FOUND QUARTER CORNER
- EASEMENT LINE
- LOT LINE
- SECTION LINE
- FIELD MEASUREMENT (F)
- PLATTED MEASUREMENT (P)



SHEET 1 OF 2

	DRAWN BY: TWC	DATE: 8/13	QUALITY CHECK:
	SURVEYED BY: DRK	JOB NO. 10-276	FIELDBOOK
THOMAS, DEAN & HOSKINS, INC.			
ENGINEERING CONSULTANTS			
GREAT FALLS-BOZEMAN-KALISPELL-HELENA			MONTANA
SPOKANE			WASHINGTON
LEWISTON			IDAHO

GREAT BEAR NO.2 SUBDIVISION - PHASE II
BEING LOT 8 OF THE GREAT BEAR NO. 2 SUBDIVISION - PHASE I,
LOCATED IN THE N1/2 OF SECTION 30, T21N, R4E, P.M.M., CITY OF GREAT FALLS, CASCADE COUNTY, MONTANA

LAND OWNER: DALI LLC

CERTIFICATE OF CONSENT

I, the undersigned property owner, do hereby certify that I have caused to be surveyed, subdivided, and platted into lots, blocks, streets, and easements as shown by the within described plat, the following described tract of land to wit:

A tract of land being Lot 8 of the Great Bear No. 2 Subdivision - Phase I, located in the N1/2 of Section 30, Township 21 North, Range 4 East, P.M.M., City of Great Falls, Cascade County, Montana, and being more particularly described as follows:

Beginning at the East Quarter Corner of said Section 30, thence North 89°28'53" West along the Mid-Section line of said Section 30, a distance of 1320.76 feet to the Center-East Sixteenth Corner of said Section 30, being the Southeast corner of said Lot 8, Great Bear No. 2 Subdivision - Phase I, and the True Point of Beginning; thence North 89°28'53" West along the Southerly line of said Lot 8 and all following courses being along the exterior boundary of said Lot 8, a distance of 1653.31 feet; thence North 00°34'06" East, a distance of 201.01 feet; thence South 89°28'53" East, a distance of 73.79 feet; thence North 26°23'44" East, a distance of 379.00 feet; thence North 63°09'28" West, a distance of 404.54 feet to the Easterly right-of-way of U.S. Highway 87; thence along said Easterly right-of-way on a non-tangent curve to the right, having a Radius of 11382.86 feet, a Delta of 0°41'14", an Arc Length of 136.55 feet; thence North 26°39'06" East along said Easterly right-of-way, a distance of 205.55 feet; thence North 30°49'50" East along said Easterly right-of-way, a distance of 603.60 feet; thence South 00°43'11" West, a distance of 225.78 feet to the Center-North Sixteenth Corner of said Section 30; thence South 89°34'16" East, a distance of 1322.31 feet to the Northeast Sixteenth Corner of said Section 30; thence South 00°47'19" West, a distance of 1322.82 feet to the True Point of Beginning and containing 48.615 acres.

The above described tract of land is to be known and designated as the GREAT BEAR NO. 2 SUBDIVISION - PHASE II, City of Great Falls, Cascade County, Montana, and the lands included in all streets and avenues shown on said plat are hereby granted and donated to the use of the public forever. The undersigned hereby also grants and donates unto the City of Great Falls all of the area shown as utility easements to allow for the non-exclusive use of the City and other firms, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, television, water, sewer or storm drain services to the public or to the private owners of the lots, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under, and across each as designated on this plat as "Utility Easement," to have and to hold forever.

Dated this _____ day of _____, A.D., 20_____

DALI LLC

State of Montana)
 : ss
County of Cascade)

On this _____ day of _____, 20_____, before me, the undersigned, a Notary Public for the State of Montana, personally appeared, _____, known to me to be the person who executed the Certificate of Dedication. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public for the State of Montana
Residing at Great Falls, Montana
My commission expires _____

CERTIFICATE OF GREAT FALLS PLANNING ADVISORY BOARD

We, the undersigned, Thor Swensson, President of the City Planning Advisory Board of the City of Great Falls, Cascade County, Montana, and Michael Haynes, Secretary of said City Planning Advisory Board, do hereby certify that the accompanying plat of the GREAT BEAR NO. 2 SUBDIVISION - PHASE II, has been submitted to the said City Planning Advisory Board for examination by them, and was found by them to conform to law, and was approved at their regular meeting held on the _____ day of _____, 20_____.

Thor Swensson
President, Great Falls Planning Advisory Board

Michael Haynes
Secretary, Great Falls Planning Advisory Board

CERTIFICATE OF CITY COMMISSION

I, Gregory T. Doyon, City Manager of the City of Great Falls, Montana, do hereby certify that the accompanying plat of the GREAT BEAR NO. 2 SUBDIVISION - PHASE II, was duly examined and approved by the City Commission of the City of Great Falls, at its regular meeting held on the _____ day of _____, 20_____.

City Manager, City of Great Falls, Montana

CERTIFICATE OF PUBLIC SERVICE DIRECTOR

I, Jim Reardon, Public Service Director for City of Great Falls, Montana, do hereby certify that I have examined the accompanying plat of the GREAT BEAR NO. 2 SUBDIVISION - PHASE II, and the survey it represents, and find the same conforms to regulations governing the platting of lands, and to presently platted adjacent land, as near as circumstances will permit, and I hereby approve the same.

Dated this _____ day of _____, A.D., _____

Public Works Director, City of Great Falls, Montana

CERTIFICATE DISPENSING WITH PARK OR PLAYGROUND

I, Gregory T. Doyon, City Manager for the City of Great Falls, Montana, do hereby certify that since the accompanying plat of the GREAT BEAR NO. 2 SUBDIVISION - PHASE II, is a subdivision into parcels that are all nonresidential, the City Commission of the City of Great Falls, Montana, in accordance with Section 76-3-621(3)(c), M.C.A., dispensed with any park or playground requirements, during its regular meeting held on the _____ day of _____, 20_____.

Dated this _____ day of _____, A.D., 20_____

City Manager, City of Great Falls, Montana

CERTIFICATE OF AVAILABILITY OF MUNICIPAL SERVICES

I, Gregory T. Doyon, City Manager for the City of Great Falls, Montana, do hereby certify that adequate municipal facilities for the supply of water and disposal of sewage and solid waste are available to the above described property, namely, the said facilities of the City of Great Falls, Montana, and this certificate is made pursuant to Section 76-4-124, M.C.A., thereby permitting the Clerk and Recorder of Cascade County, Montana, to record the accompanying plat.

Dated this _____ day of _____, A.D., 20_____

City Manager - City of Great Falls, Montana

CERTIFICATE OF COUNTY TREASURER

I, Jamie Bailey, County Treasurer of Cascade County, Montana, do hereby certify that I have examined the records covering the areas included in the accompanying plat of the GREAT BEAR NO. 2 SUBDIVISION - PHASE II, and find that taxes in same have been paid for the last five years.

Dated this _____ day of _____, A.D., _____

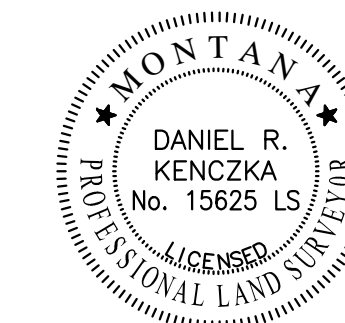
County Treasurer, Cascade County, Montana

CERTIFICATE OF SURVEYOR

I, the undersigned, Daniel R. Kenczka, Professional Land Surveyor, Montana Registration NO. 25625LS, do hereby certify that I supervised the survey of this GREAT BEAR NO. 2 SUBDIVISION - PHASE II, and platted same as shown on the accompanying plat and as described in accordance with the provisions of the Montana Subdivision and Platting Act, Sections 76-3-101 through 76-3-614, M.C.A., and Cascade County.

Dated this _____ day of _____, A.D., _____

Daniel R. Kenczka, Montana Reg. No. 15625LS



FINDINGS OF FACT
FOR MINOR PLAT OF GREAT BEAR NO. 2 SUBDIVISION - PHASE II, A SUBDIVISION
LOCATED IN THE N1/2 SECTION 30, T21N, R4E, P.M.M, CASCADE COUNTY, MONTANA
(PREPARED IN RESPONSE TO 76-3-608(3) MCA)

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

Primary Review Criteria:

Effect on Agriculture/Agricultural water user facilities: The subject property is not currently being utilized for dry land crop production. No effects on agricultural water user facilities have been identified for this project. The applicant does not anticipate any impacts to the downstream irrigation water users due to this subdivision.

Effect on Local Services: Access to the proposed subdivision is from Great Bear Avenue and U.S. Highway 87, a controlled access highway, which is maintained by the State of Montana. Great Bear Avenue is being dedicated as a part of Great Bear No. 2 Subdivision - Phase I. The final plat of Phase I is set for a public hearing before the City Commission on September 3, 2013. The City Commission also approved existing funds in the CMATP TIFID to make necessary improvements to Great Bear Avenue. It is anticipated that this roadway will be upgraded by October, 2013. Once the roadway is improved and dedication is finalized, the City of Great Falls will be responsible for maintenance.

Access to municipal infrastructure and public services is available in the vicinity of the subject property. The applicant shall be responsible for extending the utility mains. The City should not experience an appreciable increase in maintenance and operating costs. As development occurs in the subdivision, owners will pay regular water and sewer charges.

The City Engineer is requiring the development to restrict off-site flows to predevelopment levels by developing retention and/or detention systems on each lot, which will be reviewed by the City's Public Works Department. In addition, the applicant will be responsible as a condition of the subdivision to mitigate all downstream impacts caused by the development.

The subdivision will receive law enforcement and fire protection service from the City of Great Falls. The nearest fire station is ±3.0 miles from the subdivision site. The Fire Chief has provided a memo stating a concern for travel time (approximately 7 minutes) to the proposed subdivision (see Exhibit F - Fire Chief Memo). Staff has coordinated with the Fire Department, which supports the project, but want to clarify to the applicant that response times are longer than what is recommended, which could ultimately affect insurance rates in the area. Providing these services to the lots in the subdivision is expected to be a negligible cost to the City.

Per Montana Code Annotated 76-21-621(3)(b), park dedication is not required for subdivisions that are all nonresidential, therefore no park land or payment in lieu of park land is required.

Effect on the Natural Environment: The subdivision is not expected to adversely affect soils, the water quality or quantity of surface or ground waters. Surface runoff will flow easterly ultimately to an existing retention pond located in the County, east of the subject property. The City's Public Works Department has completed a preliminary draft stormwater study for the area, and noted improvements to the existing drainage system are needed. The applicant shall be responsible for his proportional share of improvements to the drainage system.

Effect on Wildlife/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 traffic volumes, or mining activity. The subdivision does have a

high-pressure gas line that runs from north-south on the western portion of the site. The Applicant will be required to demonstrate the necessary easements and proper safety measures to protect the public health and safety from this hazard.

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 applicant shall provide necessary utility easements to accommodate water mains, sanitary sewer mains, stormwater easements and private utilities to serve all lots in the subdivision.

LEGAL AND PHYSICAL ACCESS

The main legal and physical access to the subdivision is provided by U.S. Highway 87. Great Bear Avenue provides access from the Highway, each lot in the subdivision will be accessed off of Great Bear Avenue.

**DEVELOPMENT AGREEMENT FOR
GREAT BEAR NO. 2 SUBDIVISION - PHASE II,
BEING LOT 8 OF GREAT BEAR NO. 2 SUBDIVISION – PHASE I,
LOCATED IN THE N1/2 SECTION 30, TOWNSHIP 21 NORTH,
RANGE 4 EAST, P.M.M., CASCADE COUNTY, MONTANA**

1. PREFACE

The following is a binding Agreement dated this _____ day of _____, 2013, between Dali, LLC, 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 subdivision of Great Bear No. 2 Subdivision-Phase II, being Lot 8 of Great Bear No. 2 Subdivision – Phase I, located in the N1/2 Section 30, Township 21 North, Range 4 East, P.M.M., Cascade County, Montana, hereinafter referred to as “Subdivision.”

2. SUPPORTING DOCUMENTS

- A. The Subdivision Plat of Great Bear No. 2 Subdivision – Phase I prepared for the Owner, and filed in the office of the Clerk and Recorder of Cascade County, Montana, on the _____ day of _____, 2013.
- B. The Subdivision Plat of Great Bear No. 2 Subdivision – Phase II prepared for the Owner, and filed in the office of the Clerk and Recorder of Cascade County, Montana, on the _____ day of _____, 2013.
- C. Engineering drawings, specifications and cost estimates prepared for the Subdivision, 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.
- D. Regarding the bonding requirements to ensure construction of public improvements as referenced in Section 76-3-507, MCA, Owner shall provide, in conjunction with submittal and approval of the final plat of any future phase within Great Bear No. 2 Subdivision – Phase II, a financial surety to ensure the construction and installation of public improvements to serve the area within said final plat.

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

3. 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 Subdivision, 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.

4. 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.

5. FEES AND CHARGES

- A. Prior to approval of Subdivision, Owner shall, in addition to the Plat Fee of \$800.00 which has been paid, pay the recording fees of \$121.00 (\$11.00 per page x 11 pages) as provided by City policy, ordinances and resolutions.
- 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.

6. INFRASTRUCTURE IMPROVEMENTS

Owner hereby agrees to dedicate the 60-foot access and utility easement located between Lots 3 and 4 of the Subdivision as public right-of-way and complete the installation of infrastructure (sanitary sewer mains, water mains, storm drainage improvements, paving,

curb and gutter, conduit for wiring for potential future public roadway lighting facilities) to serve Lot 5 of Subdivision prior to any development on Lots 3, 4 or 5 of Subdivision.

All improvements shall be in accordance with all City and State design and construction codes, specifications, standards and other requirements. The storm drainage improvements shall include 100-year 2-hour storm capacity channel and / or conduit to accommodate peak flows from the drainage basin above and convey those flows across the Subdivision to the natural drainage channel to the east. Storm drain improvements shall be provided to serve all lots within the subdivision in accordance with the City's Storm Drainage Design Manual. Additionally, upon written approval from the City Public Works Director, City may grant extension of the two-year completion date as deemed appropriate.

7. CENTRAL MONTANA AGRICULTURE & TECHNOLOGY PARK TAX INCREMENT FINANCING DISTRICT

It is mutually understood that the Subdivision is part of the existing Central Montana Agriculture and Technology Park Tax Increment Financing Industrial District (CMATP TIFID) that currently comprises the Great Bear No. 2 Subdivision, Malt Plant property (Lot 2, Block 1, International Malting Company LLC Addition), and the ADF International property (Lot 1A, Block 1, International Malting Company LLC Addition).

It is mutually understood that the Owner of the proposed Subdivision has sought to use funds in the CMATP TIFID to pay for eligible infrastructure improvements in the TIFID, with the increment from future development of those properties within the TIFID anticipated to repay expenses incurred by Owner for additional eligible infrastructure improvements. Priority for expending funds in the CMATP TIFID may be given to infrastructure improvements that serve all owners in the TIFID. City's costs, including those for TIFID administration and over-sizing utilities, are also eligible for reimbursement from the TIFID. TIFID expenditures are at the discretion of the City Commission.

8. FUTURE INFRASTRUCTURE FACILITIES

Owner hereby agrees to waive right to protest any future area wide special improvement district for infrastructure to pay a proportionate share of any future infrastructure improvements which 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 infrastructure demand of which Subdivision is a part.

9. STORM DRAINAGE PLAN FOR INDIVIDUAL LOTS

Owner hereby agrees to prepare plans and design reports, and construct improvements in accordance with the City's Storm Drain Design Manual prior to the development of each lot. Those improvements shall be designed to release flows at pre-development conditions. Said improvements will be privately owned, operated, and maintained. Said drainage plans and design reports shall be submitted, reviewed and approved by the City

Public Works Department prior to City issuing an occupancy permit for the Subdivision. The drainage plan may require an agreement with upstream and or downstream contributor land owner(s) for permanent use of existing pond facilities, as well as repairs and future maintenance to these pond facilities. Owner further agrees to be responsible for and to mitigate any downstream impacts that may result from surface runoff from Subdivision.

10. REQUIRED UPSIZING OF IMPROVEMENTS

- A. Owner agrees to install an oversized water main as determined by the City's Public Works Department to serve Lot 5 of Subdivision instead of the standard eight-inch (8") water main in the portion of Subdivision. City agrees to reimburse the Owner for its actual costs incurred by the over sizing cost of water main installed in Subdivision within (30) days of its acceptance of the installations and appropriate billing, including provisions of adequate information and documentation supporting said costs. These costs to the City shall be eligible for reimbursement from the TIFID.
- B. Owner agrees to install an oversized storm sewer main and drainage basin as determined by the City's Public Works Department instead of the standard sized storm drainage facilities in portions of the Subdivision abutting other properties. City agrees to reimburse the Owner for its actual costs incurred by the over sizing cost of storm sewer main installed in Subdivision within (30) days of its acceptance of the installations and appropriate billing, including provisions of adequate information and documentation supporting said costs. These costs to the City shall be eligible for reimbursement from the TIFID.

11. RESTRICTIONS ON DEVELOPMENT OF LOT 5, IN SUBDIVISION

As plans for infrastructure associated with Lot 5 of Subdivision have presently not been formalized, Owner hereby agrees not to place or erect any structure or improvement and or infrastructure upon said Lot 5, Great Bear Subdivision No.2 – Phase II or attempt to further subdivide the area defined by said Subdivision until plans and financing for the necessary infrastructure to serve said Lot 5 have been reviewed and approved by City's Public Works Department.

12. INFRASTRUCTURE EASEMENTS

Owner hereby agrees to provide to City, prior to Owner receiving service from said water, sanitary sewer systems and storm drain system, reasonable appropriate easements to accommodate said water, sanitary sewer and storm drain systems to serve Subdivision. Owner further agrees to provide, when reasonably deemed necessary by City, any additional easements within the Subdivision to accommodate future infrastructure, including, but not limited to, the sanitary sewer mains, water mains, storm drainage improvements, paving, sidewalk, conduit for wiring for potential future public roadway lighting facilities, curb and gutter, referenced in Paragraph 6 herein, with the location of said easements to be determined mutually between Owner and City.

13. MAINTENANCE DISTRICTS

Owner waives its right to protest the lawful creation by City of maintenance districts for any proper purpose including, but not limited to, fire hydrant, street maintenance and

Special Lighting Maintenance Districts and shall pay the proportionate share of the costs associated with said maintenance districts as they may be applied to lots in Subdivision.

14. MASTER PLAN AND RESULTANT INFRASTRUCTURE

Owner hereby agrees to cooperate and participate with development of an overall conceptual plan for the contemplated value added agricultural commodities park comprising in part the Subdivision. Owner further agrees, if and when deemed necessary by City, to dedicate public road, utility right-of-way, easements for utilities, and vehicular and pedestrian access and to extend and pay for proportionate share of all sanitary sewer mains, lift stations, water mains, storm drainage improvements and detention facilities, paving, sidewalk, conduit for wiring for potential future public roadway lighting facilities, curb and gutter to the boundaries of Subdivision.

15. 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, fines, penalties, 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 as to that owner 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, fine, penalty, 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.

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

After the public utilities, drainage and street improvements described in Paragraph 2 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.

Installation of the public utilities and street improvements described in this Agreement shall be subject to City's infrastructure inspection policy in place at the time of installation.

17. PUBLIC ROADWAY LIGHTING

In connection with the lawful implementation of any future Special Lighting Maintenance Districts for public roadway lighting facilities that service Subdivision, Owner agrees to pay for its proportionate share of the costs associated with roadway lighting which services Subdivision that may be installed with or without a Special Lighting Maintenance District.

18. 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 seals the day, month and year first hereinabove written.

CITY OF GREAT FALLS
A Municipal Corporation of the State of Montana
Party of the First Part

Gregory T. Doyon, City Manager

ATTEST:

Lisa Kunz, City Clerk

(Seal of the City)

REVIEWED FOR LEGAL CONTENT:

Sara R. Sexe, City Attorney

DALI LLC, S. JOSEPH STANEK
Party of the Second Part

State of _____)
County of _____
City of _____)

:ss.

On this _____ day of _____, 2013, before me, the undersigned, a Notary Public for the State of _____, personally appeared S. Joseph Stanek, known to me to be the person whose name is subscribed to the foregoing instrument within and acknowledged to me that (s)he 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 Signature

Notary Signature Printed
Notary Public for the State of _____
Residing at _____
My commission expires _____, 20 _____

(NOTARIAL SEAL)

Memorandum

Great Falls Fire Rescue

TO: Jana Cooper
FROM: Fire Chief Randy McCamley
DATE: July 31, 2012
RE: Great Bear Phase II



Thank you for the opportunity to comment on the Great Bear Development project. Great Falls Fire Rescue would like to share with the developer and prospective business owners our concerns with the emergency response distance associated with this project. Due to the distance of the proposed development to the closest city fire station, we determine the travel time to be approximately seven (7) minutes or greater. This emergency travel time is calculated by using a generally accepted emergency travel time formula and historical response time data when available.

The National Fire Protection Agency (NFPA) **1710** 5.2.4.1.1 *"The fire department's fire suppression resources shall be deployed to provide for the arrival of an engine company within 240-second travel time to 90 percent of the incidents as established in Chapter 4"*

Based on the travel distance and the corresponding travel time, Great Falls Fire Rescue is concerned with meeting the developer's emergency response performance outcomes and expectations. If you have any questions concerning this information please contact my office.

Sincerely,

A handwritten signature in cursive script that reads "Randall McCamley".

Fire Chief
Randall McCamley