



**Item:** Public Hearing - Resolution 10068 to Annex, Ordinance 3098 to assign City zoning to a tract of land proposed to be designated as Lot 5, Block 1, Division Addition located in the NE1/4 of Section 2, T20N, R3E, P.M.M. Cascade County, Montana (ASI Elderly Housing Development - Voyager Apartments)

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

**Initiated By:** Accessible Space, Inc., Developer

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

**Action Requested:** City Commission adopt Resolution 10068, Ordinance 3098 and Annexation Agreement all pertaining to the ASI Elderly Housing Development.

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**Public Hearing:**

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

**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission (adopt/deny) Resolution 10068 and (approve/disapprove) the Annexation Agreement all pertaining to ASI Elderly Housing Development.”

and:

“I move that the City Commission (adopt/deny) Ordinance 3098.”

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

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**Recommendation:** At the conclusion of a public hearing held October 23, 2012, the Planning Advisory Board conditionally approved the annexation of a tract of land, legally described above, and the Zoning Commission approved assigning a zoning classification of R-6 Multi-family high density residential district to said property upon annexation to the City. At the time, no citizens spoke at the public hearing for or against the project.

On February 18, 2014, City Commission accepted Ordinance 3098 on first reading and set the public hearing for March 18, 2014, to consider the resolution to annex and the annexation

agreement for the subject property simultaneously with Ordinance 3098. No citizens spoke for or against the project. The public hearing notice was published in the *Great Falls Tribune* on March 2, 2014.

Staff recommends approval of the proposed annexation and zoning of  $\pm 3.02$  acres of unincorporated land, herein referred to as subject property, subject to the following conditions of annexation being fulfilled:

1. Final build-out of the project shall be in substantial compliance with the final approved site plan documents, drawings and renderings.
2. The final engineering drawings and specifications for the required public improvements to serve ASI Great Falls Elderly Housing Development shall be submitted to the City Public Works Department for review and approval prior to any building permits being issued by the City.
3. A Grading Plan, State Stormwater Discharges Associated with Construction Activities Permit, and Stormwater Management Plan shall be developed to City standards and shall be submitted to the City Public Works Department for review and approval prior to issuance of building permits.
4. Applicant shall submit proposed project drawings including architectural, landscape, signage and lighting plans as required for review and approval by the Design Review Board prior to submittal of permit plans.
5. A geotechnical investigation and report prepared by a Professional Engineer (and indemnifying the City) with recommended building foundation design shall be submitted to the Planning and Community Development Department for review and approval prior to issuance of building permits.
6. An Annexation Agreement shall be prepared containing terms and conditions for development of the subject property including, but not limited to, agreement by application to:
  - a. Install within two years of the date of final City Commission approval, the public improvements reference in Paragraph Two above; and
  - b. Indemnify the City for any damages attributable to adverse soil or groundwater conditions.

The City Commission public hearing was initially set for December 4, 2012, but due to project financing not being secured, it was vacated. The applicant has now fully secured funding that includes equity from the future sale of 2014 9% Low Income Housing Tax Credits, HOME funds from the City of Great Falls, HOME funds from the Montana Department of Commerce, Federal Home Loan Bank Affordable Housing Program funds and conventional construction and permanent debt. The estimated total development cost is \$7.4 million or about \$195,000 per unit. Upon Commission approval, the applicant plans to start construction in September 2014, with construction completed in September 2015, and 100% lease-up by December 2015.

**Background:** The applicant, Accessible Space, Inc., is requesting annexation of the subject property, which consists of  $\pm 2.36$  acres. The subject property is an unincorporated enclave that is a vacant, undeveloped field. The subject property is currently part of a larger lot comprised of  $\pm 11.7$  acres and a minor subdivision has been processed in the County to create the  $\pm 2.36$  acre subject lot being annexed. In addition to the subject property, per MCA requirements, the abutting portions of Division Road, comprised of  $\pm 0.66$  acres, must also be annexed as a part of

the request. In total ±3.02 acres will be annexed into the City.

The applicant is proposing a 38-unit accessible, affordable senior rental development be located on the subject property. The proposed development will consist of a two-story building that will include 32 one-bedroom and 6 two-bedroom apartments for residents age 55 and above. From a market perspective, the project meets an important and growing need in the City of Great Falls, as Great Falls currently exceeds the state average for elderly residents. The 2010 Census indicates 16.6% of Great Falls' population is 65 and over, higher than the Montana average of 14.8%.

The project will include common areas such as a dining room with kitchen, community rooms for meetings and social gatherings, a library/lounge, a computer lab, an exercise room and supportive service staff. The building's design will include accessible features that accommodate the current and changing needs of seniors and elderly seniors. The subject property is in close proximity to services and amenities such as healthcare, shopping, restaurants and other services important to senior residents, including those with disabilities.

### Zoning Analysis

The subject property, upon annexation, shall be zoned R-6 Multi-family residential high density. This zoning is compatible with the surrounding neighborhood. The Land Development Code states that the R-6 Multi-family high density residential zoning district is intended to accommodate multi-family units of the highest density allowed in the City. These districts are typically found close to work and leisure, and are close to the downtown.

The proposed 38-unit housing development is consistent with the R-6 zoning district standards and is compatible with the existing neighboring uses. Section 17.16.40.030 of the Land Development Code lists criteria for the basis of decision, which must be considered in conjunction with amending zoning:

1. The amendment is consistent with and furthers the intent of the City's growth policy;
2. The amendment is consistent with and furthers adopted neighborhood plans, if any;
3. The amendment is consistent with other planning documents adopted by the City Commission, including the river corridor plan, transportation plan, and sub-area plans;
4. The code with the amendment is internally consistent;
5. The amendment is the least restrictive approach to address issues of public health, safety, and welfare;
6. The City has or will have the financial and staffing capability to administer and enforce the amendment.

Zoning the subject property R-6 Multi-family high density residential will enhance health, safety and welfare through application of City Codes and provision of municipal services. Therefore, staff concludes the above-cited criteria are substantially met.

### Infrastructure

The applicant will be required to improve the 40-foot road sections of Division Road along the subject parcel's frontage. The roadway will be improved to the City standards for sidewalks (western side only), paving, and curb and gutter. The owner will be reimbursed for a proportionate share of these improvements by the property owner to the east at such time as the

property is annexed into the City. Division Road is classified as a Collector roadway. There is sufficient capacity on the roadway to accommodate additional vehicular traffic that would be generated by the proposed development.

The 8-inch City sewer main shall be extended in Division Road from its existing location in 16th Avenue Northwest to the most northern property line. The 8-inch City water main shall be extended from its existing location in Division Road, at the southern property line of the subject site, to the northern property line. The applicant will need to extend the storm drain from its existing location north, as required by Public Works.

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

### 2013 City of Great Falls Growth Policy Update

The proposed rezoning is consistent with the overall intent and purpose of the 2013 City Growth Policy Update. This project strongly supports the Social and Physical portions of the Growth Policy, specifically the goals and principles to: 1) encourage a safe, adequate and diverse supply of housing and fair housing opportunities in the City; and 2) develop new and diverse housing supply throughout the City, including single-family residential, multi-family, and housing for those with special needs.

Additional supportive Policies that this project is consistent with include:

#### Social - Housing

- Soc1.4.1 Work with the private sector and non-profits to increase housing opportunities in the city.
- Soc1.4.2 Expand the supply of residential opportunities including single family homes, apartments, manufactured homes and assisted living facilities.
- Soc1.4.3 Encourage, promote and support adequate and affordable home ownership in the City.
- Soc1.4.4 Promote a range of housing options and supportive networks to help the elderly remain independent and "age in place."
- Soc1.4.5 Continue to support the development of accessible housing units for those with physical and mental challenges and special needs, including members of the community with disabilities, etc.
- Soc1.4.6 Encourage a variety of housing types and densities so that residents can choose by price or rent, location and place of work.

#### Physical - Land Use

- Phy4.1.3 Create a balanced land use pattern that provides for a diversity of uses that will accommodate existing and future development in the City.
- Phy4.1.4 Foster the development of safe, walkable neighborhoods, with a mix of uses and diversity of housing types.
- Phy4.1.5 Encourage and incentivize the redevelopment or adaptive reuse of vacant or underutilized properties so as to maximize the City's existing infrastructure.

#### Environmental - Urban Form

- Env2.3.1 In order to maximize existing infrastructure, identify underutilized parcels and areas with infill potential as candidates for redevelopment in the City.

The Growth Policy identifies that Great Falls embodies balanced, compatible growth, while at the same time sets the task to take a phased approach in terms of determining the status of unincorporated enclaves with respect to the City's needs. The subject property is located in one of the 34 enclaves in the City. This project will serve to annex a portion of an enclave in order to achieve both housing and infill development goals.

#### Neighborhood Council Input

The applicant originally gave a presentation to Neighborhood Council #3 on October 4, 2012. At that time, the Neighborhood Council voted in support of the project. The Council received current project information about the status of the project via email on February 4, 2014. A representative for the developer gave an update presentation to Neighborhood Council #3 at their regularly scheduled meeting on March 6, 2013. The Council continues to be in favor of the project.

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

**Fiscal Impact:** The annexation will marginally expand the fire and police service area, which will have a minimal fiscal impact on the City. While the project will be tax-exempt and therefore not subject to paying property taxes, it will benefit the community in terms of desirable new development, employment and additional services, all consistent with the intent of the Growth Policy.

**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:**

- Annexation Agreement
- Aerial Map
- Resolution 10068 with Attachment A
- Ordinance 3098 with Attachment A
- Draft Amended Plat
- Site Plan
- Conceptual Rendering

Cc: Jim Rearden, Public Works Director  
Dave Dobbs, City Engineer  
Patty Cadwell, Neighborhood Council Coordinator  
Jolene Wetterau, CDBG/HOME Administrator  
Dan Billmark, Accessible Spaces, Inc., [DBillmark@accessiblespace.org](mailto:DBillmark@accessiblespace.org)  
Michael Knisely, Distyle Design, [mknisely@distyledesign.com](mailto:mknisely@distyledesign.com)  
Mitchell Development, [melissa@mdandi.com](mailto:melissa@mdandi.com)  
Trevor McSpadden, Morrison-Maierle, Inc., [tmcspadden@m-m.net](mailto:tmcspadden@m-m.net)  
Eileen R. Piekarz, RCAC, [EPiekarz@rcac.org](mailto:EPiekarz@rcac.org)  
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Jana Cooper, TD&H Engineering, [Jana.Cooper@tdhengineering.com](mailto:Jana.Cooper@tdhengineering.com)

**ANNEXATION AGREEMENT FOR  
LOT 5, BLOCK 1, DIVISION ADDITION AND  
THE ABUTTING PORTION OF DIVISION ROAD ALL  
LOCATED IN NE 1/4 SECTION 2, TOWNSHIP 20 NORTH,  
RANGE 3 EAST, CASCADE COUNTY, MONTANA**

1. PREFACE

The following is a binding Agreement dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014, between Mitchell Development & Investments LLC, , hereinafter referred to as “Owner,” Accessible Space, Inc, a nonprofit corporation, and/or its assigns, hereinafter referred to as “Purchaser” and the CITY OF GREAT FALLS, MONTANA, a municipal corporation of the State of Montana, hereinafter referred to as “City,” regarding the requirements for filing the annexation to the corporate limits of City, Lot 5, Block 1, Division Addition, and the abutting portion of Division Road all located in NE 1/4 Section 2, Township 20 North, Range 3 East, Cascade County, Montana, hereinafter referred to as “Subject Property.”

2. PREVIOUS AGREEMENTS

Contractual arrangements between Owner and Purchaser regarding acquisition of Lot 5, Block 1, Division Addition, to the City of Great Falls, Montana.

3. SUPPORTING DOCUMENTS

- A. Amended Plat of Lot 5, Block 1, of the Amended Plat of Lot 4, Block 1, of the Amended Plat of Lot 3, Block 1, of the Amended Plat of Lot 2, Block 1, Division Addition, to the City of Great Falls, Montana located in NE 1/4 Section 2, Township 20 North, Range 3 East, Cascade County, Montana, prepared by Morrison Maierle, Inc, and filed of record in the Clerk and Recorder’s Office of Cascade County, Montana on the \_\_\_\_\_ day of \_\_\_\_\_, 2014. Document Number: \_\_\_\_\_
- B. Final engineering drawings, specifications and cost estimates prepared by Morrison Maierle, Inc, 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 and sidewalk. Said drawings and specifications will be provided upon completion and 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, and Owner, and consequently Purchaser, shall

provide, in conjunction with submittal and approval of the annexation, a financial surety to ensure the construction and installation of public improvements to serve the area within said amended plat.

- E. Documentation dated \_\_\_\_\_ 201\_\_, by \_\_\_\_\_ to indicate the capability of Owner, and consequently Purchaser, to pay for the public improvements referenced in Paragraph 3.B. hereinabove. A copy of the same is filed in the office of the Great Falls Planning Department.

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 amended 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. FEES AND CHARGES

- A. Prior to annexation of Subject Property, Owner, and consequently Purchaser, shall pay, in addition to the \$100.00 fee for Annexation Application, \$200.00 fee for Annexation Agreement, and \$100.00 fee for Resolution, \$700.00 for Establishing City Zoning, which have been paid, pay the following fees as provided by City policy and resolution;

a. Storm Sewer Fee (\$250/acre x 2.36 acres)	\$	590.00
b. Recording fees for Agreement and Resolution (\$11 per page x 11 pages)	\$	121.00
Total fees made payable to City of Great Falls	\$	711.00

- B. Owner, and consequently Purchaser, or its successors or assigns shall pay City for its expenses incurred in construction, testing, inspection and acceptance of public utilities to serve Subject Property 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 Subject Property shall not constitute a waiver by the City.

6. UNFORESEEN POTENTIALITIES

It is mutually recognized, understood and agreed by City and Owner, and consequently Purchaser, 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.

7. PUBLIC IMPROVEMENTS

Owner, and consequently Purchaser, agrees to complete within two (2) years of the date of this Agreement, the installation of the sanitary sewer mains, water mains, storm drainage improvements, paving, conduit for wiring for potential future public roadway lighting facilities, curb and gutter and sidewalk to serve Subject Property, according to plans referenced in Paragraph 3.B above and filed in the City Engineer's office and in accordance with standards of City.

8. FUTURE REIMBURSEMENTS

- A. Owner, and consequently Purchaser, shall pay the full cost of an eight inch (8") water main to be immediately installed in Division Road abutting Subject Property, but shall be entitled to reimbursement for one-half of the cost of the equivalent eight inch (8") water main from the owner of the unincorporated land east of Division Road, upon annexation of same to City.
- B. Owner, and consequently Purchaser, shall pay the full cost of an eight inch (8") sanitary sewer main to be immediately installed in Division Road abutting Subject Property, but shall be entitled to reimbursement for one-half of the cost of the equivalent eight inch (8") sanitary sewer main from the owner of the unincorporated land east of Division Road, upon annexation of same to City.
- C. Owner, and consequently Purchaser, shall pay the full cost of extending the storm drain to be immediately installed in Division Road abutting Subject Property, but shall be entitled to reimbursement for one-half of the cost of the storm drain from the owner of the unincorporated land east of Division Road, upon annexation of same to City.
- D. Owner, and consequently Purchaser, shall pay the full cost of an equivalent thirty-five foot (35') roadway including paving, curb, gutter and sidewalk to be immediately installed in Division Road abutting Subject Property, but shall be entitled to reimbursement for one-half of the cost of the equivalent roadway from the owner of the unincorporated land east of Division Road, upon annexation of same to City. The City shall reimburse the Owner, and consequently Purchaser, for the cost of pavement in excess of thirty-five feet (35') as referenced in Paragraph 8E below.
- E. Owner, and consequently Purchaser, shall provide City with its actual cost of the installation of the hereinabove mentioned water main, sanitary sewer main, storm sewer main and roadway within twelve (12) months after approval and acceptance thereof by City. In the event of Owner's failure to provide City with said cost data, City shall not be obliged to undertake collection of the reimbursement provided for herein, and the responsibility for collection thereof shall be that of Owner, its heirs, successors and assigns. Failure of Owner to provide City with said cost data for reimbursement as herein required shall in no way alter the obligation of any other party to make

reimbursement as provided for herein, said failure affecting only City's obligation to assist in collection thereof

9. PETITION TO WITHDRAW

The primary motive for annexation of Subject Property is the pending sale and transfer of Subject Property to Purchaser. Should the sale and transfer occur, the documents for annexation which are required to be recorded in the records of Cascade County shall be so recorded immediately prior to the recording of the transfer documents for the sale of the Subject Property. Should said sale and transfer not occur within twelve (12) months of the date of this Agreement, it is understood Owner may petition city to rescind approval of annexation thereby voiding the associated annexation documents.

10. SOIL AND/OR GROUNDWATER CONDITIONS

The Owner, and consequently Purchaser, 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.

11. SITE DUST MITIGATION

When the disturbance of land (e.g. grading) or construction activity has the potential to result in a significant increase of fugitive dust, the Developer shall take measures to mitigate and reduce resulting dust according to a City approved Dust Control Plan. Said Plan shall be submitted to, reviewed by, and approved by the City prior to any disturbance of land in the subject property.

12. MAINTENANCE DISTRICTS

Owner, and consequently Purchaser, waives 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 Subject Property.

13. FUTURE STORM DRAINAGE FACILITIES

Owner, and consequently Purchaser, hereby agrees to waive 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 which service Subject Property 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 Subject Property which is a contributor to the drainage sub-basin of which Subject Property is a part.

14. FUTURE ROADWAY IMPROVEMENTS

Owner, and consequently Purchaser, hereby agrees to waive right to protest creation of any future special improvement district for the Subject Property and further agrees to pay when deemed necessary by the City for proportionate share of said roadway improvements, including sidewalk, that may be installed with or without a special improvement district.

15. PUBLIC ROADWAY LIGHTING

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

16. WAIVER OF PROTEST OF ANNEXATION

Owner, and consequently Purchaser, does hereby waive any and all statutory procedure notice on right of protest to annexation of Subject Property, as provided for by State law.

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

After the public utilities 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, and consequently Purchaser, Owner, and consequently Purchaser, or its contractor shall warranty 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 Paragraph 3.B hereof, shall be subject to City's infrastructure inspection policy in place at the time of installation.

18. ANNEXATION PREREQUISITES

Subject Property 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. Subject

Property, upon annexation to City, will be provided fire protection services by City comparable to that provided incorporated properties.

19. CITY ACCEPTANCE AND ZONING

In consideration of the foregoing, City hereby accepts and approves Lot 5, Block 1, Division Addition, and abutting portion of Division Road all located in NE 1/4 Section 2, Township 20 North, Range 3 East, Cascade County, Montana, and will approve the property contained within the boundaries of said lot for incorporation by annexation into the corporate limits of the City of Great Falls, Montana with an assigned zoning classification of R-6 Multi-family high density residential district. It is hereby understood that the preceding language regarding zoning of lots in the Subject Property does not preclude City from reclassifying lots if an area wide reclassification is undertaken, in which event City agrees to reclassify said lots as a conforming use.

20. 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.

**CITY OF GREAT FALLS**

Party of the First Part

\_\_\_\_\_  
Gregory T. Doyon, City Manager

ATTEST:

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

(Seal of the City)

APPROVED FOR LEGAL CONTENT:

\_\_\_\_\_  
Sara R. Sexe, City Attorney

OWNER  
Party of the Second Part

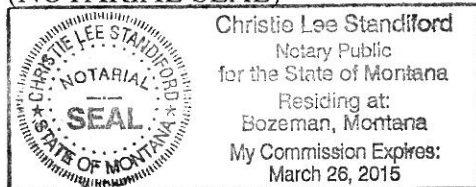
By:   
Ted Mitchell, Mitchell Development & Investments, LLC

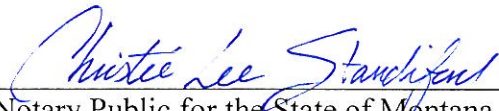
State of Montana                                 )  
County of Cascade                                 :ss.  
City of Great Falls                                 )

On this 6<sup>th</sup> day of March, 2014, before me, a Notary Public in and for the State of Montana, personally appeared Ted Mitchell, known to me to the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year certificate first above written.

(NOTARIAL SEAL)



  
Notary Public for the State of Montana  
Printed Name: CHRISTIE LEE STANDIFORD  
Residing at: Bozeman, Montana  
My commission Expires: March 26, 2015

PURCHASER

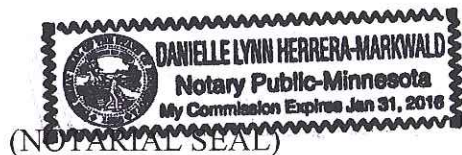
Party of the Second Part

By: [Signature]  
Dan Billmark, Accessible Space, Inc

State of Minnesota )  
County of Ramsay :ss.  
City of Saint Paul )

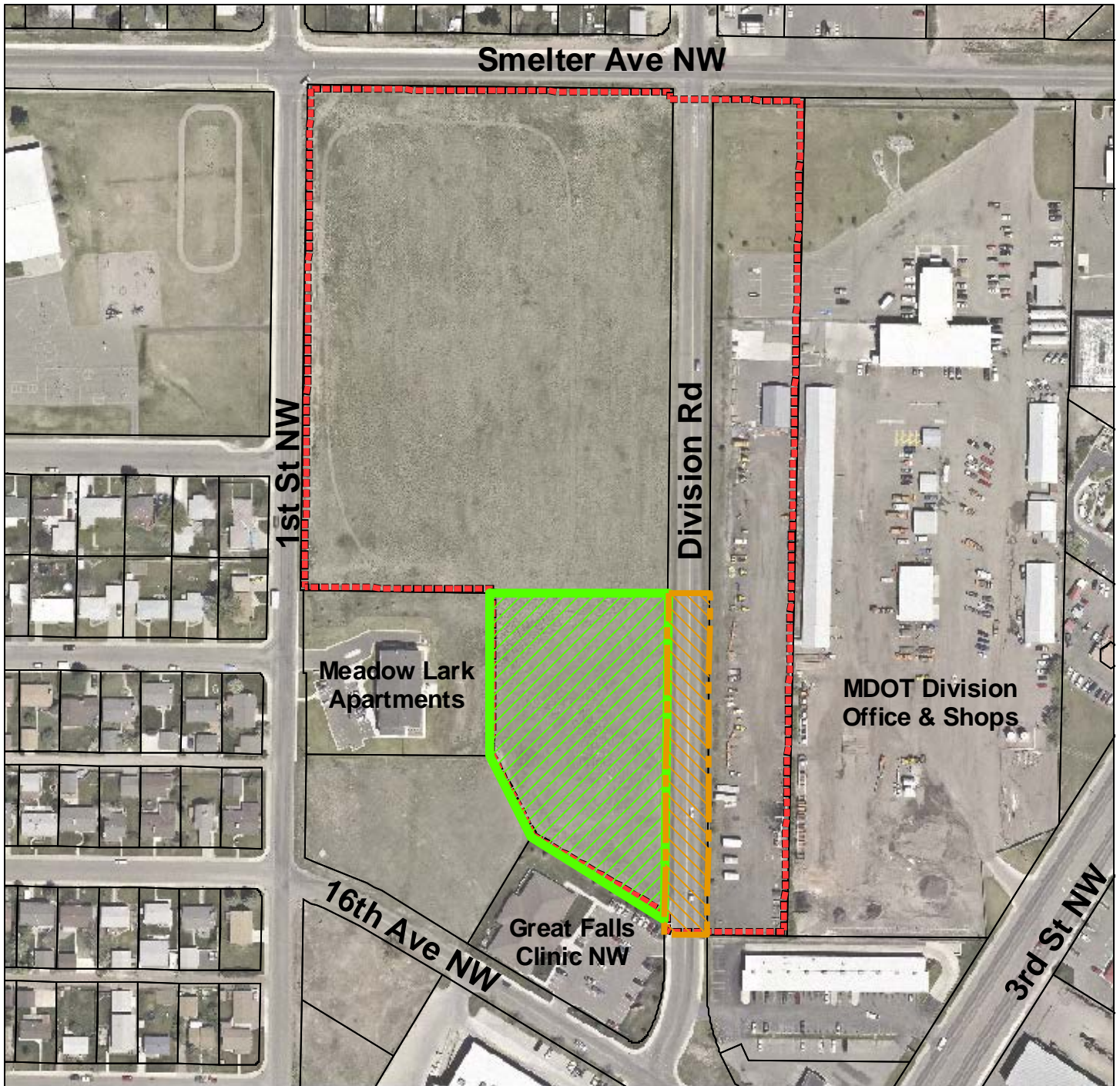
On this 7th day of March, 2014, before me, a Notary Public in and for the State of Minnesota, personally appeared Dan Billmark, known to me to the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year certificate first above written.



[Signature]  
Notary Public for the State of Minnesota  
Printed Name: Danielle Lynn Herrera-Markwald  
Residing at: Spring Lake Park, MN  
My commission Expires: 1-31, 2016

# Aerial Photo



 ASI Elderly Housing Development

 Division Road ROW

 City Limits

 Tracts of Land



## RESOLUTION 10068

A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, TO EXTEND THE BOUNDARIES OF SAID CITY TO INCLUDE A TRACT OF LAND PROPOSED TO BE DESIGNATED AS LOT 5, BLOCK 1, DIVISION ADDITION AND ABUTTING PORTION OF DIVISION ROAD ALL LOCATED IN NE 1/4 SECTION 2, TOWNSHIP 20 NORTH, RANGE 3 EAST, CASCADE COUNTY, MONTANA, AND ESTABLISH CONDITIONS FOR ANNEXATION IN ACCORDANCE WITH THE PROVISIONS 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:

A tract of land proposed to be designated as Lot 5, Block 1, Division Addition, located in NE 1/4 Section 2, Township 20 North, Range 3 East, Cascade County, Montana and containing  $\pm 2.36$  acres.

And,

A portion of Division Road located in the NE 1/4 Section 2, Township 20 North, Range 3 East, Cascade County, Montana, more particularly described as follows:

Commencing at the northeast corner of Lot 1, Block 1, Division Addition, said corner being the “True Point of Beginning”, proceed thence northerly  $\pm 479.11$  feet, along the western right-of-way line of Division Road to a point on the northeast corner of Lot 5, Block 1, Division Addition;

Thence easterly  $\pm 60$  feet, crossing Division Road to a point on the easterly right-of-way line of Division Road;

Thence southerly  $\pm 479.11$  feet along Division Road, to a point on the easterly right-of-way of Division Road;

Thence westerly  $\pm 60$  feet, crossing Division Road to a point on the westerly right-of-way line of Division Road; and the northeast corner of Lot 1, Block 1, Division Addition, being the “True Point of Beginning” containing  $\pm 0.66$  acres;

containing in all  $\pm 3.02$  acres more or less and all as shown on the map attached hereto marked Attachment A and by this reference made a part hereof; and,

WHEREAS, Mitchell Development & Investments, LLC, the legal owner of proposed Lot 5 in Block 1 of the Division Addition, in conjunction with the Accessible Space, Inc., the purchaser of said property, which property is currently located adjacent to the existing City limits, has requested that the City of Great Falls annex said property; and

WHEREAS, the City of Great Falls desires to annex said property and the full width of the Division Road right-of-way adjacent to said property under the provisions of Montana law; and

WHEREAS, the owner of the property in the territory to be annexed has signed a written application requesting annexation pursuant to statute to the City of Great Falls; and

WHEREAS, the governing body need not submit the question of annexation to the qualified electors, and has approved the application upon its merits; and

WHEREAS, the annexation of the property and adjacent right-of-way more particularly described above appears to be in the best interests of the present owner of the property and the City of Great Falls, Montana.

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

**Section 1.** It is the intention of the Great Falls City Commission to annex a tract of land proposed to be designated as Lot 5 in Block 1 of the Division Addition, and the full width of the Division Road right-of-way adjacent to said property, located in the NE 1/4 Section 2,

Township 20 North, Range 3 East, in Cascade County, Montana, as shown on Exhibit A attached hereto and by this reference made a part hereof.

This annexation will only be effective upon completion of zoning of the property and the following conditions:

1. **Infrastructure:** The property owner, and consequently purchaser, must install all infrastructure improvements required by the City, to City standards, or enter into a development agreement acceptable to the City that defines responsibility for installation or deferment of the improvements.
2. **Subsequent Minor Subdivision Approval:** The owner, and consequently purchaser, must apply for and receive approval of a minor subdivision in Cascade County, which creates Lot 5, Block 1, Division Addition, and file all associated paper work related to said subdivision prior to annexation.
3. **Review of New Construction:** The property owner, and consequently purchaser, must submit plans for review by the City of Great Falls for compliance with City infrastructure, zoning, and other Code requirements, provide proof of compliance with all building and fire codes for all new construction or remodels subsequent to the adoption of this resolution and prior to issuance of building permits, and pay all fees for such reviews in the same manner and on the same basis as do owners of properties already in the City.
4. **Taxes and Assessments:** Taxes and assessments must be paid and current at the time of filing the Resolution of Annexation.
5. **Fees and Charges:** The property owner, and consequently purchaser, shall pay all required fees as provided by City policy prior to annexation.
6. **Completion of Conditions:** These annexation conditions must be completed within one (1) year of the date of approval of this resolution. The property owner must notify City Planning in writing upon completion of the conditions for approval of annexation. If the conditions are not completed within that time frame, the City is under no obligation to annex the property and may discontinue any City services to the property, including water and sewer service.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on this 18<sup>th</sup> day of March, 2014.

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Michael J. Winters, Mayor

ATTEST:

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Lisa Kunz, City Clerk

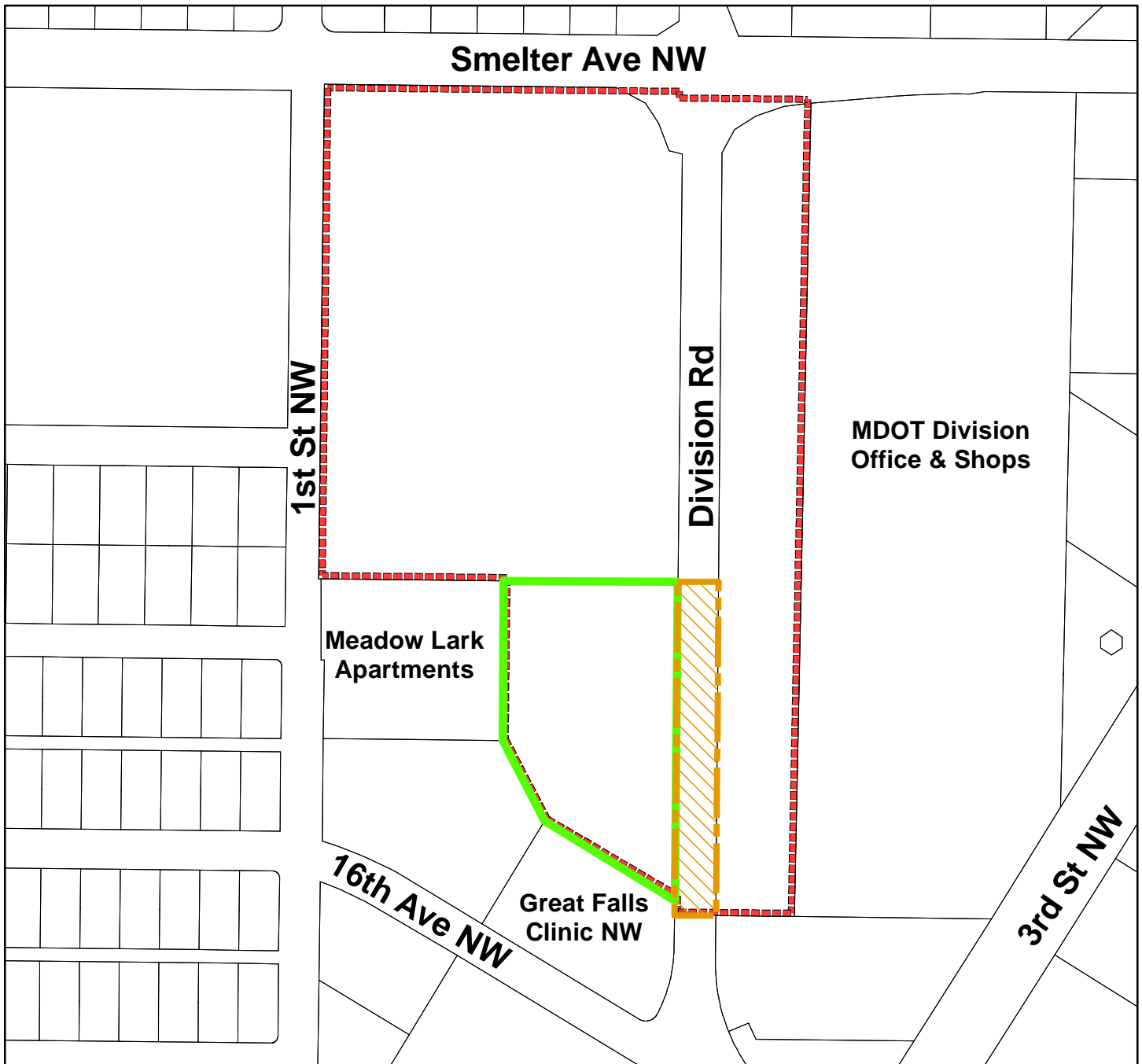
(SEAL OF THE CITY)





APPROVED FOR LEGAL CONTENT:

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Sara R. Sexe City Attorney

Attachment A  
Resolution 10068



-  Voyager Apartments Project Site
-  Division Road ROW
-  City Limits
-  Tracts of Land



ASI Elderly Housing Development

ORDINANCE 3098

AN ORDINANCE ASSIGNING A ZONING CLASSIFICATION  
OF R-6 MULTI-FAMILY HIGH DENSITY RESIDENTIAL  
DISTRICT TO LOT 5, BLOCK 1, DIVISION ADDITION,  
LOCATED IN THE NE1/4 OF SECTION 2, T20N, R3E, P.M.M.  
CASCADE COUNTY, MONTANA

\* \* \* \* \*

WHEREAS, Accessible Space, Inc. have petitioned the City of Great Falls to annex Lot 5, Block 1, Division Addition, located in the NE1/4 of Section 2, T20N, R3E, P.M.M. Cascade County, Montana consisting of  $\pm 2.36$ , herein referred to as subject property, and;

WHEREAS, Montana Code Annotated 7-2-4211 requires annexation of roads and right-of-way that are adjacent to the property being annexed in this case consisting of  $\pm 0.66$  acres of Division Road; and,

WHEREAS, the subject property is part of a larger lot comprised of  $\pm 11.7$  acres and a subdivision is being processed simultaneously in Cascade County to create the  $\pm 2.36$  subject property legally described as Lot 5, Block 1, Division Addition, located in the NE1/4 of Section 2, T20N, R3E, P.M.M. Cascade County, Montana; and,

WHEREAS, the subdivision in Cascade County shall be approved prior to City of Great Falls Commission taking action on Ordinance 3098; and,

WHEREAS, Accessible Space, Inc. have petitioned the subject property be assigned a zoning classification of R-6 Multi-family high density residential district upon annexation to the City; and,

WHEREAS, the abutting portion of the Division Road shall be assigned a zoning classification of R-6 Multi-family high density residential district consistent with adjacent properties upon annexation; and,

WHEREAS, notice of assigning said zoning classifications to subject property was published in the *Great Falls Tribune* advising that a public hearing on this zoning designation would be held on the 18<sup>th</sup> day of March, 2014, before final passage of said Ordinance herein; and,

WHEREAS, following said public hearing, it was found and decided that the said zoning designation be made;

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

Section 1. It is determined that the herein requested zoning designation will meet the criteria and guidelines cited in Section 76-2-304 Montana Code Annotated, and Section 17.16.40.030 of the Unified Land Development Code of the City of Great Falls.

Section 2. That the zoning of a Lot 5, Block 1, Division Addition, located in the NE1/4 of Section 2, T20N, R3E, P.M.M. Cascade County, Montana, be designated as R-6 Multi-family high density residential district classification 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 Lot 5, Block 1, Division Addition, located in the NE1/4 of Section 2, T20N, R3E, P.M.M. Cascade County, Montana, into the corporate limits of the City of Great Falls, Montana, whichever event shall occur later.

APPROVED by the City Commission on first reading February 18, 2014.

PASSED, APPROVED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on second reading March 18, 2014.

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Michael J. Winters, Mayor

ATTEST:

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Lisa Kunz, City Clerk

(CITY SEAL)

APPROVED FOR LEGAL CONTENT:

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Sara Sexe, 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 3098 in three conspicuous places within the limits of said City to-wit:

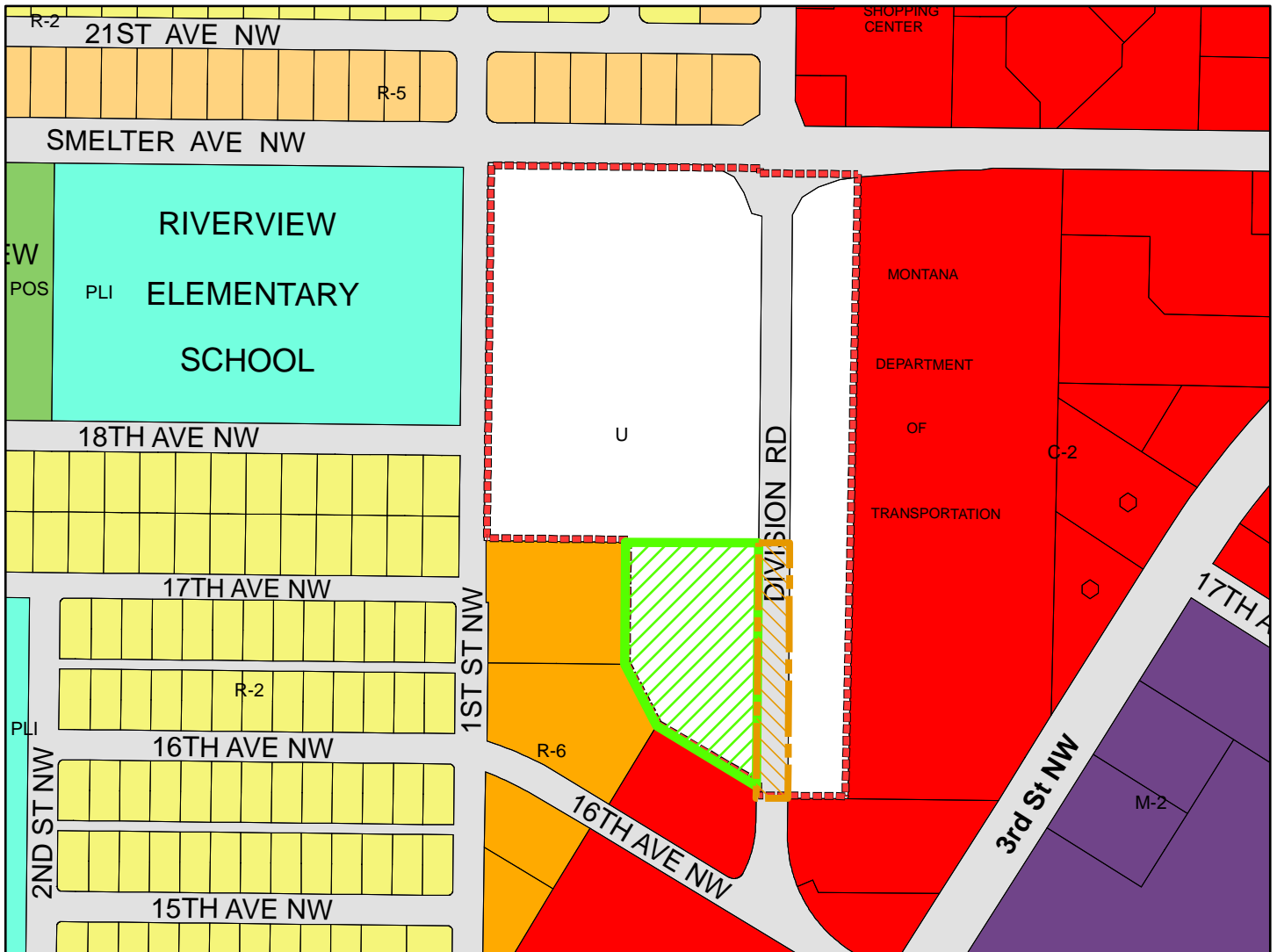
On the Bulletin Board, first floor, Civic Center Building;  
On the Bulletin Board, first floor, Cascade County Court House;  
On the Bulletin Board, Great Falls Public Library

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Lisa Kunz, City Clerk

(CITY SEAL)

# Ordinance 3098 Attachment A



	Voyager Apartments Project Site		R-6 Multi-family High Density		M-1 Mixed-use District
	Division Road ROW		R-9 Mixed Residential		M-2 Mixed-use Transitional
	City Limits		R-10 Mobile Home Park		I-1 Light Industrial
	Tracts of Land		PUD Planned Unit Development		I-2 Heavy Industrial
<b>ZONING</b>			C-1 Neighborhood Commercial		PLI Public Lands and Institutional
	R-1 Single-family Suburban		C-2 General Commercial		POS Parks and Open Space
	R-2 Single-family Medium Density		C-3 Highway Commercial		AI Airport Industrial
	R-3 Single-family High Density		C-4 Central Business Core		U Unincorporated Enclave
	R-5 Multi-family Medium Density		C-5 Central Business Periphery		right-of-way

240 120 0 240 Feet



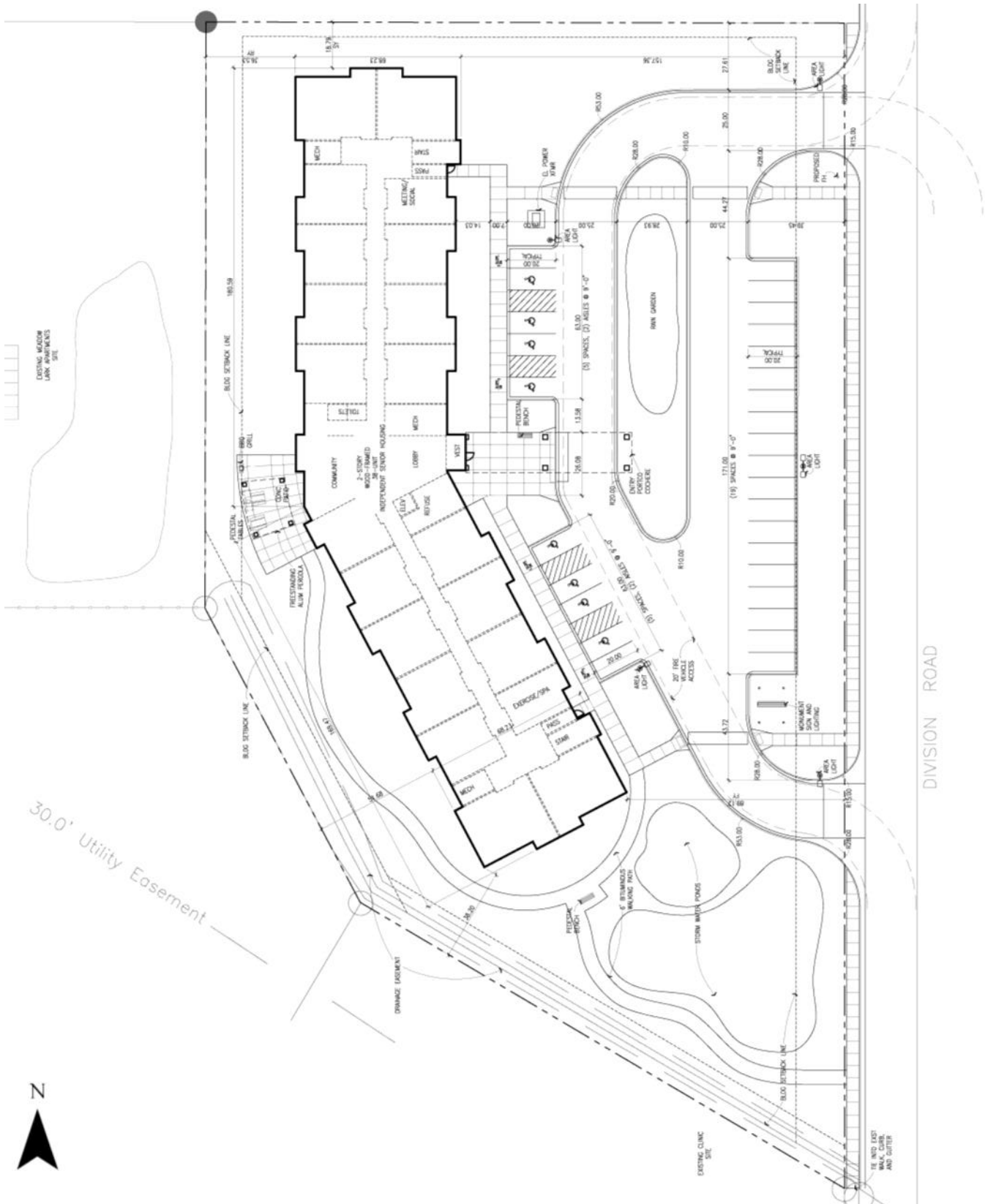
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ASI Elderly Housing Development



# SITE PLAN



SITE PLAN

[illegible]

## Conceptual Rendering

### ASI Elderly Housing Development - Voyager Apartments

