



**Item:** Ordinance 3121 - to rezone and approve a conditional use permit for the Amended Plat of Lots 12 & 13, Block 446, Great Falls Original Townsite, Cascade County, Montana and addressed as 905-909 5th Avenue South

**From:** Charles Sheets, CFM, Development Review Coordinator, Planning and Community Development

**Initiated By:** NeighborWorks of Great Falls

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

**Action Requested:** City Commission accept Ordinance 3121 on first reading and set a public hearing for June 17, 2014.

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission (accept/deny) Ordinance 3121 on first reading and set a public hearing for June 17, 2014.”

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

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**Recommendation:** At the conclusion of a public hearing held on April 22, 2014, the Planning Advisory Board/Zoning Commission recommended the City Commission approve the Draft Amended Plat of the subject property, and based on the Findings for the Basis of Decision, approve the rezoning from the existing C-1 Neighborhood commercial district to R-3 Single-family high density district and approve a conditional use permit to allow construction of three townhomes, on the property legally described as Lots 12 & 13, Block 446, Great Falls Original Townsite, subject to the applicant fulfilling the following Conditions of Approval:

1. **General Code Compliance.** The proposed project shall be developed consistent with the conditions in this report, and all codes and ordinances of the City of Great Falls, the State of Montana, and all other applicable regulatory agencies.
2. **Amended Plat.** Provide an Amended Plat of the subject property which shall incorporate corrections of any errors or omissions noted by staff.
3. **Utilities.** The final engineering drawings and specifications for public improvements for the subject property shall be submitted to the City Public Works Department for review and approval.
4. **Land Use & Zoning.** Except as provided herein, development of the property shall be consistent with allowed uses and specific development standards for R-3 Single-family high density district and conditional use permit.
5. **Subsequent modifications and additions.** If after the establishment of the townhomes, the

owner proposes to expand or modify the use, buildings, and/or structures, the Director of the Planning Department shall determine in writing if such proposed change would alter the finding for one or more review criteria. If such proposed changes would alter a finding, the proposal shall be submitted for review as a new development application. If such proposed change would not alter a finding, the owner shall obtain all other permits as may be required.

6. **Covenant.** Developer shall provide a covenant for the lots in the subdivision related to maintenance and that each property owner for lots in subdivision shall be responsible for any current or future maintenance of their own property, the City shall not be responsible for any property maintenance in the subdivision.

The Zoning Commission recommended the City Commission approve rezoning the subject property from the existing C-1 Neighborhood commercial district to R-3 Single-family high density district and approve a conditional use permit to allow construction of three townhomes. The Planning Advisory Board recommended approval of a subsequent minor subdivision and Amended Plat of the subject property.

Public Notice for the Planning Advisory Board/Zoning Commission Public Hearing was published in the *Great Falls Tribune* on April 6, 2014.

#### **Background:**

The applicant is requesting approval to rezone two - 50' x 150' lots from C-1 Neighborhood commercial district to R-3 Single-family high density district, approval of a conditional use permit to construct townhomes on the subject site, and to subdivide the existing two lots into three for construction of three townhomes.

#### Rezoning/Conditional Use Permit Analysis

The subject property is located within the C-1 Neighborhood commercial zoning district. NWGF is proposing to construct townhomes on the property requiring it to be rezoned to match the adjoining R-3 Single-family high density district, along with the approval of a conditional use permit to allow townhomes be constructed. Townhomes are subject to special standards (listed below) which supersede the development standards of the R-3 zoning district.

#### Rezoning - Findings for the Basis of Decision:

The basis for decisions on zoning map amendments is listed in Section 17.16.40.030 of the Land Development Code. The recommendation of the Planning Advisory Board/Zoning Commission and a final decision by City Commission shall at a minimum consider the following criteria:

#### **1. The amendment is consistent with and furthers the intent of the City's growth policy.**

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.
- Soc1.4.6 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.

The Growth Policy identifies that Great Falls embodies balanced, compatible growth, while at the same time sets the task to review the zoning districts in which townhomes are permitted in order to expand this use, either by allowing it in more zoning districts or improving the review standards so as to make it more suitable for other zoning districts.

**2. The amendment is consistent with and furthers adopted neighborhood plans, if any.**

Great Falls is separated into nine Neighborhood Councils. The subject property is located in Neighborhood Council #7. The applicant's representative has met with that Council on April 14, 2014 and has received positive comments for the redevelopment.

**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.**

There are no plans or sub-area plans relevant to this project.

**4. The code with the amendment is internally consistent.**

The proposed rezoning is within the city limits. Adjacent properties to the east, north, and south, have similar zoning, residential uses and are fully developed. If approved, this project would be an extension of the R-3 Single-family high density district and consistent with applicable code.

**5. The amendment is the least restrictive approach to address issues of public health, safety, and welfare.**

The subject property is surrounded by the existing residential neighborhood. Any redevelopment within the City limits requires City review, including review of how the development will impact the public health, safety and welfare. The rezoning ultimately allows the applicant to address the needs for diverse housing options in the City and will have no negative effect on the public health, safety and welfare.

**6. The City has or will have the financial and staffing capability to administer and enforce the amendment.**

There is adequate staffing to administer and enforce the amendment.

### **Townhouse - Special Standards, 17.20.6.050**

A. **Number of dwelling units.** Each building shall contain from three (3) to eight (8) dwelling units. No more than five (5) dwelling units may be located in one (1) building, if the average lot frontage is less than twenty (20) feet.

B. **Lot dimension and area.** Each lot shall be a minimum of one thousand three hundred (1,300) square feet in area. Any portion of the lot less than sixteen (16) feet in width shall not be included in the calculation of the minimum required one thousand three hundred (1,300) square feet lot area. The minimum average lot width for the end dwelling unit of a townhouse structure shall be thirty-two (32) feet and the minimum lot area of the end dwelling unit shall be two thousand six hundred (2,600) square feet. The minimum lot width to depth ratio shall be no greater than one (1) to seven (7) and shall be based upon the portion of the lot eligible for inclusion in the above mentioned area calculation.

#### **C. Building setback line.**

1. **Front yard.** The minimum depth of a front yard shall be the depth required by the zoning district in which the townhouse is located. In those instances where the entrance to off-street parking spaces for an individual lot is from a public roadway, the minimum building setback line from the public road right-of-way shall be twenty (20) feet.

2. **Side yard.** Every dwelling which is the end unit of a townhouse structure shall have a minimum side yard depth required by the zoning district in which the townhouse is located.

3. **Rear yard.** The minimum depth of a rear yard shall be the depth required by the zoning district in which the townhouse is located, although the depth of a rear yard for a garage shall be twenty (20) feet where the vehicular entrance crosses the rear property line.

D. **Occupied area.** No more than fifty (50) percent of the lot area shall be occupied by a building.

E. **Utility service.** Each dwelling unit shall have independent service connections to all utilities, including water, sewer, and electricity.

F. **Subsequent divisions.** Individual townhouses may not be further subdivided.

G. **Driveways.** When the garage is located in the front of the townhouse, common driveways shall be used whenever possible. The width of a single driveway shall be eleven (11) feet and for a common driveway the width shall be eighteen (18) feet.

H. **Vertical off-sets.** When five (5) or more dwelling units are constructed, there shall be a vertical offset between each adjoining dwelling unit.

I. **Accessory buildings.** Accessory buildings, excluding garages and carports, shall not exceed one hundred (100) cumulative square feet.

J. **Front entrances.** Front entrances shall be clearly visible from the street and accentuated by a porch or other architectural feature.

### Conditional Use Permit Findings

#### **Primary Review Criteria**

The procedure for processing a conditional use permit is to conduct a public hearing before the Zoning Commission, which makes a recommendation to the City Commission. A second public hearing and a final decision regarding the conditional use permit application are the purview of the City Commission. The City Commission may, through a written agreement with the applicant, establish such conditions and restrictions upon the construction, maintenance and

operation of the conditional use is deemed necessary for the protection of the public interest and to secure compliance with standards and requirements. The City Land Development Code lists seven criteria to be applied to a request for a conditional use for evaluation purposes, including:

**The conditional use is consistent with City’s Growth Policy and applicable neighborhood plans, if any.**

As stated in the staff report, a goal in the Land Use Element of the Growth Policy is “to preserve and enhance the character, quality, and livability of existing neighborhoods.” Staff concludes that the proposed townhomes are consistent with the City’s Growth Policy due to the fact that the existing neighborhood consists of a mix of residential densities.

**That the establishment, maintenance or operation of the conditional use will not be detrimental to, or endanger the health, safety, morals, comfort or general welfare.**

The development of townhomes on the subject property will provide affordable residential home ownership opportunities for low to moderate income families. The establishment, maintenance or operation of the townhomes will not be detrimental to, or endanger the existing neighborhood.

**The conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.**

The proposed townhomes will not impact the normal and orderly development or improvement of the surrounding property. The surrounding neighborhood is established and built out.

**Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.**

All utilities, access roads, drainage etc., as required by the Official Code of the City of Great Falls, are existing on the subject property.

**Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.**

The existing public right-of-ways provide ingress and egress to the townhomes site. The addition of the townhomes will have minimal traffic impact so there should be minimal impact to traffic congestion in the vicinity of the subject property. The applicant will be required to provide additional off-street parking to meet code requirements.

**The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the City Commission.**

The development of the townhomes on the subject project site will complete the already existing residential neighborhood. The character of the neighborhood is unchanged by the addition of the townhomes. Moreover, occupancy of a previously vacant lots will increase neighborhood safety.

**The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.**

The character of the neighborhood will be maintained and the conditional use should not be injurious to the use and enjoyment of other property in the immediate vicinity.

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#### Subdivision Request

Concurrent with the rezoning and conditional use permit request, the applicant is also processing an amended plat that reconfigures the existing two lots into three lots. Creation of three lots

would allow for the construction of a three-unit townhome structure, resulting in three single-family residences, each located on a fee simple lot.

#### 2005 City of Great Falls Growth Policy

The proposed request is compatible with the 2005 Growth Policy, as it advances themes contained within the Policy, and is generally consistent with the general principles found in the document.

Goals of the Land Use element of the Great Falls Growth Policy include:

To support and encourage efficient, sustainable development and redevelopment throughout the community.

To support and encourage a compatible mix of land uses in newly developing areas.

To preserve and enhance the character, quality, and livability of existing neighborhoods.

It is anticipated that the City Commission, at the public hearing on June 17, 2014, will consider the annexation resolution, annexation agreement and subdivision for the subject property, in conjunction with Ordinance 3121.

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

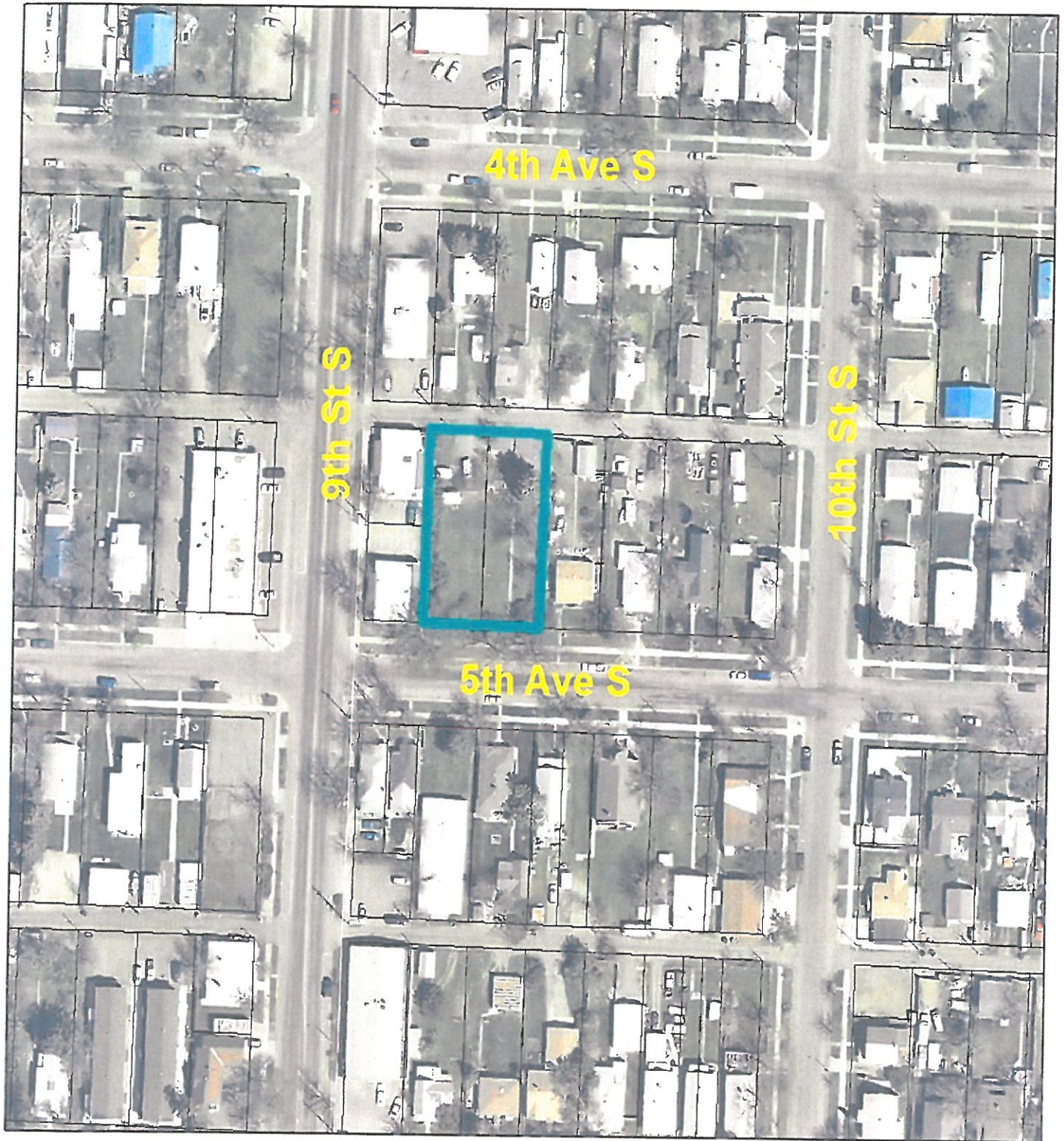
**Fiscal Impact:** Providing services is expected to be an additional cost to the City. Any increased costs may be covered by increased tax revenues from improved properties.


**Alternatives:** The City Commission could deny acceptance of Ordinance 3121 on first reading and not set the public hearing. However, such action would deny the applicant due process and consideration of a public hearing, as provided for in City Code and State Statute.

**Attachments/Exhibits:** Aerial Map  
Zoning Map  
Ordinance 3121  
Findings of Fact  
Draft Amended Plat

Cc: Jim Rearden, Public Works Director  
Dave Dobbs, City Engineer  
Patty Cadwell, Neighborhood Council Coordinator  
Keith Nelson, NeighborWorks, 509 1st Ave S, Great Falls, MT 59401

# AERIAL PHOTO









-  905-909 5th Ave S
-  Tracts of Land

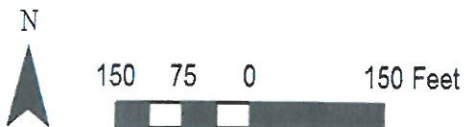




# VICINITY/ZONING MAP



- |                                                                                     |                          |                                                                                     |                                                 |
|-------------------------------------------------------------------------------------|--------------------------|-------------------------------------------------------------------------------------|-------------------------------------------------|
|  | 905-909 5th Ave S ZONING |  | C-1 Neighborhood Commercial                     |
|  | Tracts of Land           |  | R-3 Single-family High Density                  |
|                                                                                     |                          |  | R-9 Mixed Residential                           |
|                                                                                     |                          |  | PLI Public Lands and Institutional right-of-way |



ORDINANCE 3121

A ORDINANCE BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS TO REZONE THE PROPERTY LEGALLY DESCRIBED AS AMENDED PLAT OF LOTS 12 & 13, BLOCK 446, GREAT FALLS ORIGINAL TOWNSITE, CASCADE COUNTY, MONTANA, FROM THE EXISTING C-1 NEIGHBORHOOD COMERCIAL DISTRICT TO R-3 SINGLE-FAMILY HIGH DENSITY DISTRICT AND APPROVE A CONDITIONAL USE PERMIT

\* \* \* \* \*

WHEREAS, Lots 12 & 13, Block 446, Great Falls Original Townsite, Cascade County, Montana, are presently zoned C-1 Neighborhood commercial district; and,

WHEREAS, the property owner, NeighborWorks of Great Falls, has petitioned the City of Great Falls to rezone said property to R-3 Single-family high density district and approve a conditional use permit to construct townhomes; and,

WHEREAS, notice of assigning said zoning classification and conditional use permit to the subject property was published in the *Great Falls Tribune* advising that a public hearing on this zoning designation would be held on the 17th day of June, 2014, before final passage of said Ordinance herein; and,

WHEREAS, following said public hearing, it was found and decided that the said rezoning designation and conditional use permit be made.

WHEREAS, the zoning map amendment on said property meets the Basis of Decision requirements in the Official Code of the City of Great Falls, Section 17.16.40.030; and,

WHEREAS, the Great Falls Zoning Commission conducted a public hearing on June 17, 2014, to consider said rezoning from C-1 Neighborhood commercial district to R-3 Single-family high density district and conditional use permit to construct townhomes and at the conclusion of said hearing passed a motion recommending approval by the City Commission to rezone and approve the conditional use permit on the property legally described as Lots 12 & 13, Block 446, Great Falls Original Townsite, Cascade County, Montana.

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

Section 1. It is determined that the herein requested rezoning 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 Lots 12 & 13, Block 446, Great Falls Original Townsite, Cascade County, Montana be rezoned to R-3 Single-family high density district and approve a conditional use permit to construct townhomes.

Section 3. This ordinance shall be in full force and effect thirty (30) days after its passage and adoption by the City Commission.

APPROVED by the City Commission on first reading May 20, 2014.

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Michael J. Winters, Mayor

ATTEST:

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Lisa Kunz, City Clerk

(SEAL OF CITY)

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 City Commission, Ordinance 3121 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

(CITY SEAL)

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Lisa Kunz, City Clerk

## FINDINGS OF FACT

Amended Plat of Lots 12 & 13, Block 446, Great Falls Original Townsite,  
Cascade County, Montana

Prepared in Response to 76-3-608(3) MCA (2011)

### PRIMARY REVIEW CRITERIA

**Effect on Agriculture:** The lots within the subdivision are not currently being used for agricultural purposes. The proposed subdivision will not interfere with any irrigation system or present any interference with agricultural operations in the vicinity.

**Effect on Local Services:** When development occurs on the lots within the subdivision they will connect to City water and sewer mains. There is no required extension of utility mains as a part of this request. The City shall provide water and sewer service to the lots, which will be required to pay standard City fees for these services.

The lots within the subdivision will receive law enforcement and fire protection service from the City of Great Falls. The nearest fire station is ±0.2 miles from the subdivision site. Providing these services to the townhomes in the subdivision is expected to be a negligible cost to the City. Increased tax revenues from improved properties will likely cover any increased costs.

The subdivision will have a negligible impact on the cost of road maintenance as the residents will be required to pay street assessments once the lots have been developed. The developer will not be required to improve 5th Avenue South because it has existing curb, gutter and sidewalks adjacent to the subdivision.

**Effect on the Natural Environment:** The subdivision is not expected to adversely affect soils or the water quality or quantity of surface or ground waters. Any excess surface runoff will flow into existing storm drains in 3rd Street South and 5th Avenue South.

**Effect on Wildlife and Wildlife Habitat:** The subdivision is located in the urbanized area of the city. The subdivision is not in an area of significant wildlife habitat and will not result in closure of public access to hunting or fishing areas, nor to public lands.

**Effect on Public Health and Safety:** Based on available information, the subdivision is not subject to abnormal potential natural hazards such as flooding, wildfire, snow or rockslides, nor potential man-made hazards such as high voltage power lines, high-pressure gas lines, high traffic volumes, or mining activity.

### 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**

No new easements are required to accommodate public water mains and sanitary sewer mains and owner shall provide necessary utility easements to accommodate any private utilities to serve all lots of the minor subdivision.

## **LEGAL AND PHYSICAL ACCESS**

Legal and physical access to the subdivision is provided by the existing alley off of 9rd Street South, which is public right-of-way maintained by the City of Great Falls. With construction, alley access will be dedicated and improved to provide access to each lot being created.

### Infrastructure

#### **Streets & Utilities**

The applicant will not be required to provide improvements to 5th Avenue South because the existing roadway is built to City standards. There is an existing water main located in 5th Avenue South, and there is a sewer main in 5th Alley South. As development occurs on the lots in the subdivision, the owners will pay to connect service lines to those mains.

#### **Storm water Management**

There is a storm drain located in 9th Street South and all runoff from the subject properties will be required to flow towards the public street curb and into the City's existing storm drain system. The developer will not be required to make any improvements to this system.

#### **Traffic Analysis**

Additional traffic generated by the proposed development is minimal and can be adequately accommodated by the existing street network. Each lot in the subdivision has a separate legal access from the existing alley, and there is no cross-access between the two lots.

# DRAFT AMENDED PLAT/ SITE PLAN

## 5th Ave. So.

