

# PLANNING ADVISORY BOARD ZONING COMMISSION

**MARCH 24, 2015**

***Case Number***

CUP2015-5

***Applicant/Owner***

Dana Hennen  
dba Phoenix Group

***Representative***

Dana Hennen

***Property Location***

114 2nd Street Northwest

***Parcel ID Number***

1780550

***Requested Action***

Conditional Use Permit  
for a Residence, townhouse

***Neighborhood Council***

Neighborhood Council #3

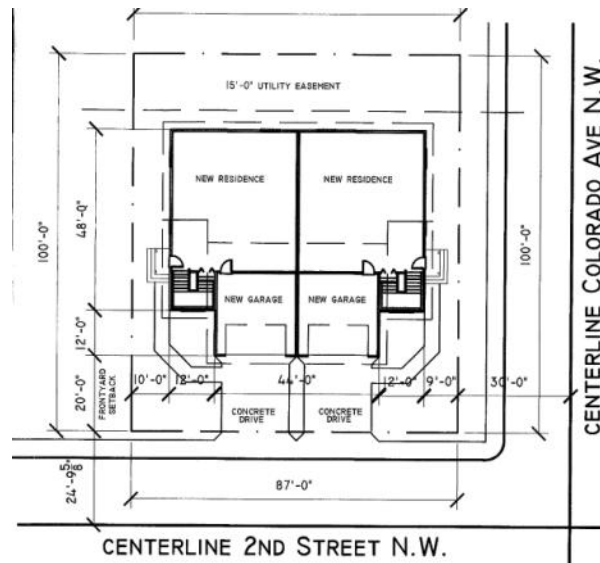
***Recommendation***

Approval of the request  
with Conditions

***Project Planner***

Gregory Gordos

## CONDITIONAL USE PERMIT - PHOENIX TOWNHOMES



### SITE PLAN

SCALE 1" = 20'-0"

A NEW HOME FOR:  
PHOENIX CONSTRUCTION

ADDRESS:  
114 2ND STREET N.W.  
LEGAL:  
LOT 6A, AMENDED LOT 6  
BLOCK 2  
VILES' & ROBINSON'S ACRE TRACTS  
GREAT FALLS, MT 59404

### Summary

The subject property is located on the corner of Colorado Avenue Northwest and 2nd Street Northwest, addressed as 114 2nd Street Northwest. The applicant is requesting a Conditional Use Permit, as required by City Code Exhibit 20-1 of Section 17.20.3.010, to allow for the construction of a Residence, townhouse in a R-2 district.

- Legal Description: Lot 6A, Block 2, Viles and Robinson Acre Tracts, S35, T21 N, R03 E, P.M.M.T., Cascade County, Montana

- Area: ±8,700 SF

### Agency Comment

Representatives from the City's Public Works and Fire Departments have been involved in the review process for this application. All comments made by the above parties have been addressed by the applicant, or in the conditions of this report.

### Existing Conditions

**Existing Zoning:** R-2 Single-family medium density

**Existing Land Use:** Vacant

**Proposed Land Use:** Residence, townhouse

### Project Background

Dana Hennen, the property owner, has proposed the use of a single residential lot for the creation of two (2) townhouse units. The lot requires a minor subdivision of the lot in addition to a Conditional Use Permit in order to create two separate properties for the townhome. The shared wall would divide the single two story structure. Sidewalk, curb and gutter improvement along both Colorado Avenue and 2nd Street Northwest would significantly improve what is a currently vacant lot adjacent to a commercial business. Each unit would have an attached garage facing 2nd Street Northwest.



View south along Colorado Avenue



View north from adjacent business



View north along 2nd Street Northwest



View west from 2nd Avenue Northwest



EXHIBIT A - ZONING MAP

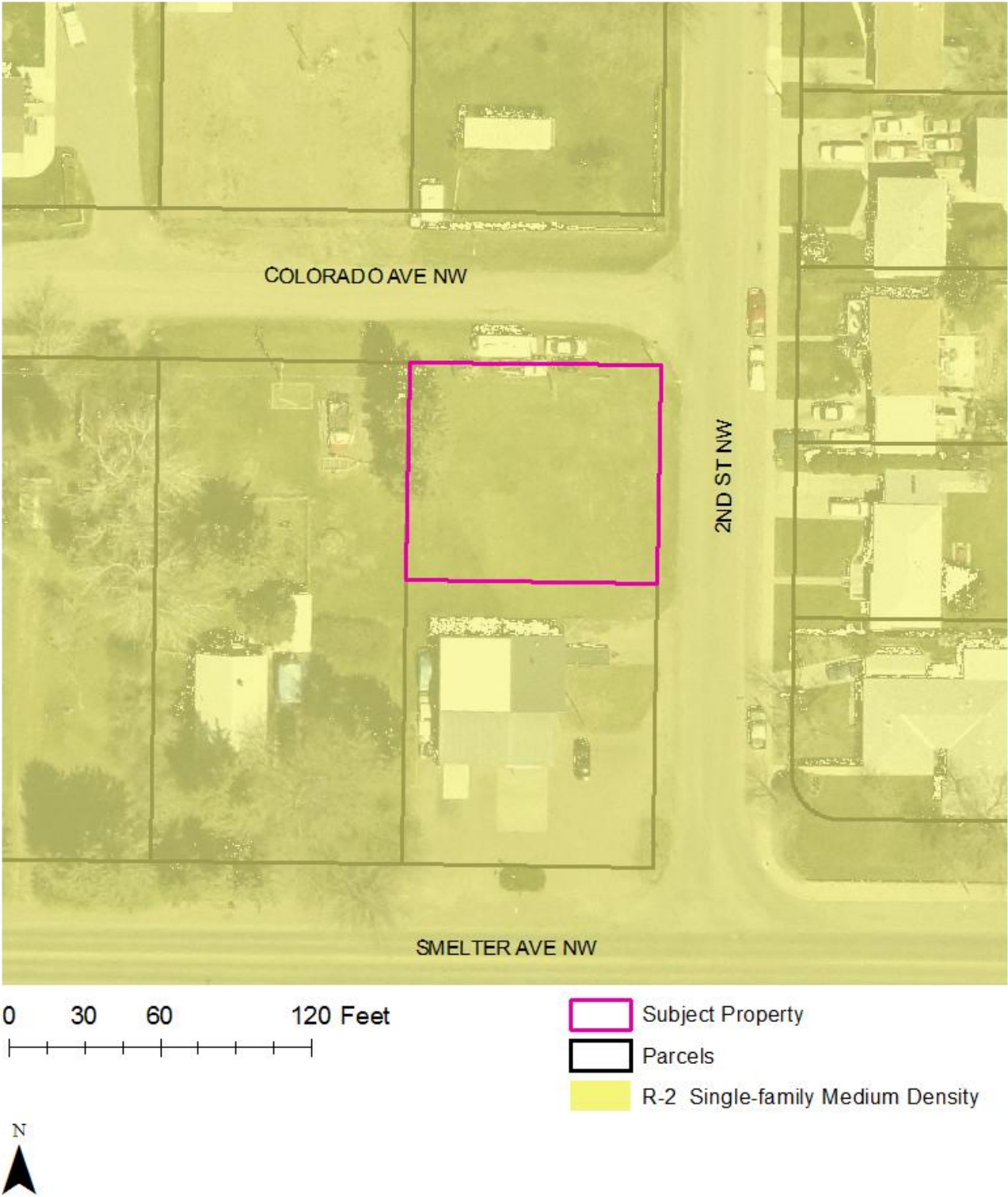
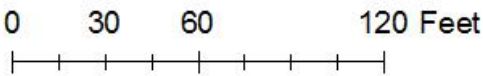




EXHIBIT B - AERIAL MAP



-  Subject Property
-  Parcels



## Conditional Use Permit

Chapter 20 of Title 17 of the Official Code of the City of Great Falls (OCCGF) requires a Conditional Use Permit (CUP) before permitting a use that is defined as a Residence, townhouse. A Residence, townhouse is defined as a building that contains multiple dwelling units where they are adjacent to one another on separate lots each having separate entrances. The CUP process is typically done to allow staff and the City's decision making bodies to establish appropriate conditions onto the project to protect the health, safety and general welfare of neighboring property owners and the public. Additionally, it gives the public the opportunity to voice any concerns or support they may have on the proposed development.

### **Project Description**

If approved, the CUP will allow the Phoenix Group, under property owner Dana Hennen, to construct the proposed townhouses. The project consists of two townhouse units, both with one floor above grade and a basement below, and a set of stairs joining the floors on the east side of the building. The prominent entrance for each unit is a garage facing 2nd Street Northwest, however, there are separate entryways with connections to the proposed sidewalk. Each unit contains two bedrooms and two bathrooms with a shared wall along the proposed property line. The front of the townhouses are set back twenty feet from the property line.

### **Zoning Analysis**

The proposed development is within the R-2 Single-family medium density zoning district. This zoning district is intended to accommodate primarily single-family homes in a residential setting, although commercial corridors such as 3rd Street NW and Smelter Avenue are within proximity to this neighborhood. The development standards of this zoning district facilitate buildings set back from the street and from their neighbors. Special standards applying to townhouse new construction requires this development to be set back twenty feet from 2nd Street Northwest, equal to R-2 zoning standards. The proposed development building envelope lines up with an adjacent commercial land use. Entrances for both units will face the street by utilizing concrete pathways leading to 2nd Street Northwest.

### **Traffic Analysis**

Traffic is expected to be minimal with the proposed development. Traffic flow will enter and exit from 2nd Street Northwest with each unit containing a front-facing garage. Driveway locations will prevent on-street parking. Units are a city block from Smelter Avenue Northwest and the flow of traffic will likely continue south from the proposed garages to this arterial road. Construction of curb, gutter and sidewalk along both street faces is required.

### **Parking**

Phoenix Townhomes would provide 2 non-accessible parking spaces per dwelling as required under Exhibit 36-1 of the Land Development Code. Spaces are provided within front-facing two-car garages facing 2nd Street Northwest.

### **Neighborhood Council Input**

The subject property is located in Neighborhood Council #3. Patty Cadwell, Neighborhood Council Coordinator, itemized the project on the Council's November 5th 2015 agenda. The council voted to support the project. To date, staff has received one question or comment regarding the project.



## Conditional Use Permit Basis of Decision

The basis for decision for Conditional Use Permits is listed in Section 17.16.36.040 of the Land Development Code. The Zoning Commission recommendation and the decision of the City Commission shall at a minimum consider the following criteria:

### **1. The conditional use is consistent with the City's Growth Policy and applicable neighborhood plans, if any.**

The proposed Conditional Use Permit request is consistent with the overall intent and purpose of the 2013 City Growth Policy Update. This project specifically supports Social, Environmental, and Physical Goals and Policies of the Growth Policy.

#### Social:

- *Soc 1.4.6: Encourage a variety of housing types and densities so that residents can choose by price or rent, location and place of work.* Approving the CUP provides a townhouse development option to residents in the northeast side of the city, providing an alternative to single-family detached housing and apartments while proposing for-ownership units with front-facing attached garages.
- *Soc 1.4.13 Protect the character, livability and affordability of existing neighborhoods by ensuring that infill development is compatible with existing neighborhoods.* Approving the CUP removes a vacant lot from the neighborhood and proposes a structure consistent with building setbacks of residences adjacent to the development (both minimum front yard setbacks equal 20 feet, per the Land Development Code Exhibit 20-4). Sidewalks connecting the neighborhood would be provided under this proposal.

#### Environmental:

- *Env 2.3: Enhance the urban built environment by promoting infill and redevelopment in the City.*  
This project utilizes vacant, residentially zoned land in Great Falls by utilizing existing infrastructure.

#### Physical:

- *Phy 4.1.4: Foster the development of safe, walkable, neighborhoods with a mix of uses and diversity of housing types.*  
The proposed development would provide curb-and-gutter street provisions where none currently exist and add sidewalks to both 2nd Street Northwest and Colorado Avenue Northwest. The developer has proposed concrete walkways to each unit from the street to provide safe, walkable access for residents. The proposed Residence, townhouse adds diversity of housing types while preserving the residential intent of the area.
- *Phy 4.1.5: Encourage and incentivize the redevelopment or adaptive reuse of vacant or underutilized properties so as to maximize the City's existing infrastructure.*  
Approval of the CUP allows development on the vacant site, maximizing the City's existing infrastructure.

No neighborhood plans have been adopted for this area.

### **2. 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 CUP allows the City to place appropriate conditions on specific projects to help mitigate or reduce the total off-site nuisances a project may have on the surrounding properties and environment. The conditions listed under the Conditions of Approval in this report apply specific measures to protect the health, safety, and general welfare of the public. It is not anticipated the proposed development will have an adverse impact on the surrounding properties or to the public.

### **3. 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.**

Development of the lot will not impair property values within the neighborhood and the project will not be injurious to the use and enjoyment of property in the immediate vicinity, as the development will comply with the development standards in the R-2 zoning district. Once completed, the project will be a compatible addition to the

urban environment of the block by providing comparable setbacks to adjacent commercial and residential uses in the area.

**4. 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 project will not impede the normal and ordinary development and improvement of surrounding properties. Adjacent property owners have been notified about the project. Staff has received comment regarding the neighborhood on November 17th. Neighbors to the proposed development voiced concerns regarding existing neighbors' storage of vehicles, in the neighborhood but not within the project area. The residents has no concern with on-site parking but voiced concerns about how current on-street parking is being utilized on Colorado Avenue Northwest. In addition, it was noted that a Swainson Hawk seasonally uses trees within the area for nesting. There are no plans by the developer to remove these trees on the western portion of the property.

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

Adequate services and infrastructure exist to operate the proposed project. Substantial investments by the applicant include installation of road curb and gutter per Public Works standards and installation of sidewalks on the property facing both Colorado Avenue Northwest and 2nd Street Northwest.

**6. 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 proposed project will be accessed from the 2nd Street Northwest public right-of-way. It is anticipated that the two units will create minimal traffic; the existing public street has adequate capacity to accommodate any new traffic.

**7. 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 proposed project will conform to all the applicable regulations of the Land Development Code, specifically within the R-2 zoning district, and all codes and ordinances of the City of Great Falls, the State of Montana, and all other applicable regulatory agencies.

### Staff Recommendation

Approval of the Conditional Use Permit will result in a Residence, townhouse being legally permitted on the subject property. The project should not have an adverse impact on the neighborhood and is consistent with the review criteria for Conditional Use Permits. Therefore, it is recommended that the Zoning Commission recommend to the City Commission that a Conditional Use Permit be granted to allow Danna Hennen dba Phoenix Group construct a Residence, townhouse on the property addressed as 114 2nd Avenue Northwest, subject to the Conditions of Approval.

### Recommendation for a Motion:

I move that the Zoning Commission recommends the City Commission approve the Residential, townhouse Conditional Use Permit for Lot 6A, Block 2, VILES AND ROBINSON ACRE TRACTS, Section 35, Township 21 North, Range 03 East, P.M.MT., City of Great Falls, Cascade County, Montana, the Findings of Fact, and Conditions of Approval listed in the staff report.

## Conditions of Approval

### **General**

1. **Approved Plans and Conditions:** Failure to build and/or operate the conditional use in accord with the approved plans and these conditions of approval is a violation of the Official Code of the City of Great Falls (OCCGF), subject to the penalties provided for such violations and/or to civil process to compel the correction of violations.
2. **Modifications:** It is understood that minor changes are often necessary during the development and operation of a conditional use. The Administrator (the Administrator is the City employee assigned by the City Manager to administer conditional uses) is hereby authorized to permit minor changes, as provided below.
  - a. **Revised Plans.** Before making changes, the Applicant must submit revised plans to the Administrator for review. Failure to do this before the proposed change is made is a violation of the OCCGF. The Administrator shall respond to all proposed changes within five (5) business days.
  - b. **Dimensional Changes.** Based on a review of the revised plans, the Administrator may permit minor dimensional changes provided that they do not result in a violation of the Conditions of Approval or the OCCGF.
  - c. **Materials Changes.** Based on a review of the revised plans, the Administrator may permit substitutions for proposed building materials provided that the proposed substitute has the same performance and, for exterior materials, appearance as the originally approved material.
  - d. **Public Works Changes.** Minor changes in the location and specifications of the required public improvements may be permitted. Revised plans showing such changes must be referred to and accepted by the Director of Public Works before being permitted by the Administrator.
  - e. **Substantial Change.** Substantial changes are not permitted. A new public review and permitting process will be required for such changes. 'Substantial Change' is defined here in order to clarify the contrasting term, 'Minor Change.' A Substantial Change changes the permitted use; the location or extent of the area proposed to be cleared, graded, or otherwise disturbed by more than 4,000 square feet (a smaller change in the area that will be cleared, graded, or otherwise disturbed may be treated as a minor dimensional change); the location, extent, or design of any required public improvement, except where a minor change is approved by the Director of Public Works and the Administrator; the approved number of lots, buildings, structures or units; or the size of any lot, building, or structure by more than 10% (a smaller change in the size of a lot, building, or structure may be treated as a minor dimensional change).
  - f. **Changes in Use.** Conditional uses are regulated as such because the use presents the possibility of significant impacts on the community. Therefore, changes in conditional uses must be strictly limited. A significant change in the type or level of activity, including changes in the number of employees or operating hours, or changes in the types of materials present on the site, may void the conditional use permit. Proposed changes should be reviewed with the Administrator, who may require that the permit be amended following the same public process used for its adoption.

### **Planning**

1. **Expiration:** The conditional use permit shall expire one (1) year after the date of issuance, if a Certificate of Occupancy has not been issued. The Administrator may extend the expiration date by up to one year if substantial work is ongoing. The Administrator may issue a Temporary Certificate of Occupancy that is valid for no more than one year if the only condition(s) remaining to be fulfilled involve landscaping that



cannot be successfully established until the weather permits.

2. **Abandonment.** If a conditional use ceases to operate for more than six (6) months, the conditional use permit is void.
3. **General Code Compliance:** The proposed project shall be developed consistent with the conditions of approval adopted by the City Commission, and all codes and ordinances of the City of Great Falls, the State of Montana, and all other applicable regulatory agencies.

### **Building**

1. **Building Plans:** The Applicant shall provide a full set of building plans that includes, but is not limited to, architectural plans to the Administrator for review and approval, prior to the issuance of zoning and building permits.

### **Fire**

1. **Building Plans:** The Applicant shall provide a full set of building plans for review and approval by the Great Falls Fire Department before zoning or building permits are issued by the Administrator.

### **Public Works**

1. **Civil Plans:** The Applicant shall provide a half size set of civil plans for review and approval by the Director of Public Works before zoning or building permits are issued by the Administrator. The Applicant will provide a full set of as-built plans to the Director of Public Works within 90 days after completion of the approved work.
2. **Water and Sewer:** The civil plans shall be accompanied by estimates of the project's demand for water, including fire flows, domestic and industrial water demand, and wastewater discharge amounts. A properly sized domestic water service line and sewer service line shall conform to standard City sizes.
3. Each townhome shall have a separate water and sewer service. The existing water and sewer service line(s) stubbed into the lot may be reused providing they are in accordance with current City Code and standards.
4. **Sidewalk Drains:** The Applicant shall submit plans to the Director of Public Works for review and approval showing compliance with City Standard Drawing 5-16 for any and all proposed sidewalk drains on either 2nd Street Northwest or Colorado Avenue Northwest adjacent to the property.
5. **Initial Compliance On and Off Site Civil:** The Applicant shall submit for review to the Director of Public Works any plans, specification and design report for any proposed on/off site public utilities not previously reviewed by Public Works and/or the Montana Department of Environmental Quality. Also, the site civil plans shall be submitted to the Director of Public Works for review.
6. The Developer shall be responsible for grading the boulevard areas to a +2% grade from top of curb to the property line and installing standard public sidewalk in the boulevard area along 2nd Street NW and Colorado Avenue. A standard sidewalk handicap ramp shall be installed at the southwest corner of the intersection. Driveways shall be in accordance with City codes and standards.
7. **Curb and Gutter:** The Developer shall be responsible for the installation and cost of street curb and gutter abutting 2nd Street NW and Colorado Avenue. Per request of the Developer, the City Engineers Office has agreed to survey site and design the curb and gutter alignment and grade. The Developer would reimburse the City for our design services and construction staking costs. Developer shall have his contractor perform excavation for the curb and gutter and the portion of the street being reconstructed, and install the curb and gutter. The City will supply and install the subgrade separation fabric, gravel base and asphalt pavement under curb and in reconstructed portion of the street at the City's cost.

**Acknowledgement Acceptance of Conditions:** No zoning or building permit shall be issued until the Applicant acknowledges in writing that it has received, understands, and agrees to comply with these conditions of approval.

### Review/Approval Process

#### **Next Steps**

1. The Zoning Commission recommendation will be presented to the City Commission.
2. City Commission will approve or deny the Conditional Use Permit.
3. If approved, the applicant will submit any required documents for review and then file the required documents with the Cascade County Clerk and Recorder's Office.

Cc: Jim Rearden, Public Works Director  
Dave Dobbs, City Engineer  
Patty Cadwell, Neighborhood Council Coordinator  
Dana Hennen, Phoenix Group [phoenixgroup@bresnan.net](mailto:phoenixgroup@bresnan.net)

## EXHIBIT A - APPLICATION

CITY OF GREAT FALLS  
PLANNING & COMMUNITY DEVELOPMENT DEPT.  
P.O. BOX 5021, GREAT FALLS, MT, 59403-5021  
406.455.8415 • WWW.GREATFALLSMT.NET

## DEVELOPMENT APPLICATION

Phoenix Townhomes  
Name of Project / Development:

DANA HENNER dba PHOENIX GROUP  
Owner Name:

722 2ND ST. SO. GREAT FALLS  
Mailing Address:

406 217 7080  
Phone:

DANA HENNER  
Representative Name:

524 4TH AVE. NO. #1 GREAT FALLS, MT. 59401  
Mailing Address:

406 217 7080  
Phone:

SAME AS ABOVE  
Email:

## PROPERTY DESCRIPTION / LOCATION:

6A 2  
Mark/Lot: Section: Township/Block: Range/Addition:

114 2ND ST. N.W.  
Street Address:

## ZONING:

R2 VACANT 2 TOWNHOMES  
Current: Proposed: Current: Proposed:

## LAND USE:

I (We), the undersigned, understand that the filing fee accompanying this application is not refundable. I (We) further understand that the fee pays for the cost of processing, and the fee does not constitute a payment for approval of the application. I (We) further understand that public hearing notice requirements and associated costs for land development projects are my (our) responsibility. I (We) further understand that other fees may be applicable per City Ordinances. I (We) also attest that the above information is true and correct to the best of my (our) knowledge.

Dana R Henner 9/15/15  
Property Owner's Signature: Date:

Dana Henner 9/15/15  
Representative's Signature: Date:

Submittal Date: \_\_\_\_\_  
Application Number: \_\_\_\_\_  
Paid (Official Use ONLY): ☐  
☐ Annexation: \$500  
☐ Preliminary Plat, Major: \$1,500 + \$50/lot  
☐ Revised Preliminary Plat: \$1,000  
☐ Final Plat, Major: \$1,500 + \$25/lot  
☒ Minor Subdivision: \$1,250  
☐ Amended Plat, Administrative: \$200  
☐ Amended Plat, Non-administrative: \$1,000  
☐ Zoning Map Amendment: \$2,000  
☒ Conditional Use Permit: \$1,500  
☐ Planned Unit Development: \$2,000  
☐ Vacate Public Right-of-Way: \$1,250  
☒ Public Hearing Notice



EXHIBIT B - PLAN SET (SITE PLAN, LANDSCAPE PLAN,  
ELEVATIONS)



PHOENIX CONSTRUCTION

114 2ND STREET N.W.

LOT 6A, AMENDED LOT 6

VILES' &amp; ROBINSON'S ACRE TRACTS

GREAT FALLS, MT 59404

SCALE 1" = 20'-0"

SCALE 1" = 20'-0"