



**City Commission Meeting Agenda**  
**2 Park Drive South, Great Falls, MT**  
**Commission Chambers, Civic Center**  
**March 05, 2024**  
**7:00 PM**

The agenda packet material is available on the City's website: <https://greatfallsmt.net/meetings>. The Public may view and listen to the meeting on government access channel City-190, cable channel 190; or online at <https://greatfallsmt.net/livestream>.

Public participation is welcome in the following ways:

- Attend in person.
- Provide public comments in writing by 12:00 PM the day of the meeting: Mail to City Clerk, PO Box 5021, Great Falls, MT 59403, or via email to: [commission@greatfallsmt.net](mailto:commission@greatfallsmt.net). Include the agenda item or agenda item number in the subject line, and include the name of the commenter and either an address or whether the commenter is a city resident. Written communication received by that time will be shared with the City Commission and appropriate City staff for consideration during the agenda item and before final vote on the matter; and, will be so noted in the official record of the meeting.

**Meeting Decorum Statement**

1. Members of the public shall address their comments to the presiding officer and the Commission as a body and not to any individual member of the Commission or City staff.
2. Speakers shall keep their comments germane to the subject item on the agenda or, during petitions and communications, matters of significant public interest which are within the jurisdiction of the Commission.
3. Be respectful and do not engage in disorderly or boisterous conduct, including but not limited to applause, booing, or making any remarks that are, threatening, profane, abusive, personal, or slanderous that disturbs, disrupts, or otherwise impedes the orderly conduct of our meeting.
4. Signs, placards, banners, or other similar items shall not be permitted in the audience during our City Commission meeting.
5. Remain seated, unless addressing the body at the podium or entering or leaving the meeting. Private or informal conversations may occur outside of the Chambers. Obey any lawful order of the Presiding Officer to enforce the Rules of Decorum.
6. A complete copy of Rule 10 pertaining to the public participation is available on the table in the Commission Chambers and is included with the Meeting posting on the City's Website.

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL / STAFF INTRODUCTIONS**

**AGENDA APPROVAL**

**CONFLICT DISCLOSURE / EX PARTE COMMUNICATIONS**

**PROCLAMATIONS**

1. National Deaf Youth Day [March 6, 2024] and Community Week of Compassion and Fast [March 3-9, 2024]

## **MILITARY UPDATES**

2. Miscellaneous Reports and announcements from Malmstrom Air Force Base.

## **PETITIONS AND COMMUNICATIONS**

*(Public comment on any matter that is not on the agenda of the meeting and that is within the jurisdiction of the City Commission. Please keep your remarks to a maximum of 3 minutes. When at the podium, state your name and either your address or whether you are a city resident for the record.)*

3. Miscellaneous reports and announcements.

## **NEIGHBORHOOD COUNCILS**

4. Miscellaneous reports and announcements from Neighborhood Councils.

## **BOARDS AND COMMISSIONS**

- [5.](#) Appointment to the Business Improvement District Board of Trustees.
- [6.](#) Designate City Commission Representative to the Policy Coordinating Committee for Transportation Planning.
7. Miscellaneous reports and announcements from Boards and Commissions.

## **CITY MANAGER**

8. Miscellaneous reports and announcements from City Manager.

## **CONSENT AGENDA**

*The Consent Agenda is made up of routine day-to-day items that require Commission action. Items may be pulled from the Consent Agenda for separate discussion/vote by any Commissioner.*

- [9.](#) Minutes, February 20, 2024, Commission Meeting.
- [10.](#) Total Expenditures of \$3,000,805 for the period of February 8, 2024 through February 21, 2024, to include claims over \$25,000, in the amount of \$2,544,418.
- [11.](#) Contracts List.
- [12.](#) Approve Final Payment for the Sanitary Sewer Trenchless Rehabilitation Phase 25 project, totaling \$51,296.90. This comprises \$50,783.93 to Planned and Engineered Construction, Inc. and \$512.97 to the State Miscellaneous Tax Fund and authorize the City Manager to make these payments.
- [13.](#) Approve an application for FEMA, Assistance to Firefighters Grant for Operations and Safety Equipment in the amount of \$74,570.25.
- [14.](#) Set a public hearing on Resolution 10536, Park and Recreation Fees, for March 19, 2024.
- [15.](#) Set a public hearing on Resolution 10540, Golf Fees, for March 19, 2024.

**Action: Approve Consent Agenda as presented or remove items for separate discussion and/or vote by any Commission member. After motion is made, Mayor requests a second to the motion, public comment, Commission discussion, and calls for the vote.**



## **PUBLIC HEARINGS**

16. Business Improvement District (BID) FY2024 Budget Amendment. *Action: Conduct a public hearing and approve or deny the amendment. (Presented by Kellie Pierce)*
17. Montana State-Local Infrastructure Partnership Act (SLIPA). *Action: Conduct a public hearing and approve or not approve the recommendation for use of funds allocated to the City of Great Falls by the Montana State-Local Infrastructure Partnership Act. (Presented by Tom Hazen)*

## **OLD BUSINESS**

18. Amendment to the original Consulting Agreement with PowerGas Corporation executed on November 7, 2023. *Action: Approve or not approve the amendment. (Presented by Greg Doyon/Melissa Kinzler)*

## **NEW BUSINESS**

19. Administrative Minor Subdivision Plat of Lot 1, Block 2 of the New Castle Condominiums, City of Great Falls, Cascade County, Montana. *Action: Approve or deny the Amended Plat. (Presented by Brock Cherry)*
20. Ordinance 3264, To rezone the property addressed as 805 2nd Street SW, from R-1 Single-family Suburban to M-2 Mixed-use Transitional. (Bay View Apartments) *Action: Accept or not accept Ord. 3264 on first reading and set or not set a public hearing for April 2, 2024. (Presented by Brock Cherry)*

## **ORDINANCES / RESOLUTIONS**

### **CITY COMMISSION**

21. Miscellaneous reports and announcements from the City Commission.
22. Commission Initiatives.

## **ADJOURNMENT**

*(Please exit the chambers as quickly as possible. Chamber doors will be closed 5 minutes after adjournment of the meeting.)*

*Assistive listening devices are available for the hard of hearing, please arrive a few minutes early for set up, or contact the City Clerk's Office in advance at 455-8451. Wi-Fi is available during the meetings for viewing of the online meeting documents.*

*Commission meetings are televised on cable channel 190 and streamed live at <https://greatfallsmt.net>. City Commission meetings are re-aired on cable channel 190 the following Wednesday morning at 10 am, and the following Tuesday evening at 7 pm.*

***Rule 10. Public Participation (Excerpt from Great Falls City Commission Rules of Conduct and Procedure of Commission Meetings [Resolution 10322 adopted November 19, 2019 and as amended by Resolution 10359 adopted July 7, 2020]***

Procedures for encouraging and assisting public participation, and established protocol and rules of decorum at public meetings held by the City Commission, are as follows:

1. Persons addressing the Commission shall come to the podium and provide for the record that person's name and either their address or whether they are a City resident, and, if applicable, the person, firm or organization the person represents.
2. Speakers shall address their comments to the presiding officer and the Commission as a body and not to any individual member of the Commission or City staff.
3. Public hearings and public comment periods on agenda items, unless otherwise provided by law, are in the nature of advisory hearings before the Commission. They are held for the purpose of noticing legislative facts, and receiving expressions of public opinion on a question, including the views of interested parties.
4. During public hearings and public comment periods, speakers shall limit their address to the Commission on agenda items to five (5) minutes, unless further time is granted by the presiding officer with the concurrence of the Commission. During the petitions and communications portion of any meeting, speakers shall limit their address to the Commission to three (3) minutes, unless further time is granted by the presiding officer with the concurrence of the Commission.
5. Speakers shall keep their comments germane to the subject item on the agenda or, during petitions and communications, matters of significant public interest which are within the jurisdiction of the Commission. Public comment generally is not intended for a two-way dialogue between speaker(s), Commission member(s), and/or the City Manager or City staff; however, the presiding officer, with the concurrence of the Commission, may allow questions to be asked of or by speakers.
6. Speakers shall refrain from irrelevant or unduly repetitious communications or other behaviors, which disrupt, disturb or impede the orderly conduct of the meeting, or incite violence.
7. Speakers are prohibited from using vulgar, discriminatory, profane or impertinent speech, or personal attacks and personal accusations, which disrupt, disturb or impede the orderly conduct of the meeting, or incite violence.
8. Speakers and persons in the audience shall not delay or interrupt the proceedings or refuse to obey the orders of the presiding officer.

9. Audio/Visual (AV) equipment is reserved for City Commission deliberations for clarity and understanding of issues to make decisions on matters that impact the City. Citizens may submit data, views, or arguments, orally or in written form, to the Commission or City Clerk, prior to or during the meeting. Citizens wishing to submit written information while at podium shall place it on the table next to the podium, unless directed otherwise by the presiding officer.
10. Any person, including one with special needs, who may want to offer public comment on any matter, may provide a written statement for the record to the City Clerk for distribution to the Commission in lieu of offering oral comment. The time limits set forth above shall apply to any oral presentation or reading of any such written statement of testimony.
11. Objects that are deemed a threat or perceived to be a threat to persons at the meeting or the facility infrastructure are not allowed and the object, or the person possessing the object, may be subject to search for weapons and other dangerous materials. The Chief of Police or his designee(s) are authorized to remove items and/or individuals from the meeting rooms if a threat exists or is perceived to exist.
12. Speakers and persons in the audience shall refrain from creating, provoking or participating in any type of disturbance, which disrupts, disturbs or impedes the orderly conduct of City business or which incites violence, including but is not limited to, unwelcome physical contact, or verbal, physical or emotional abuse or intimidation.
13. Cell phones, pagers, smart phones or other electronic communication devices shall be put in silence mode during meetings. Persons who need to place or receive a telephone call are requested to leave the chambers for that purpose.
14. Anything other than a prepared statement by the speaker and/or related supporting documents or items is prohibited at the podium.
15. Failure to comply with the rules of decorum which disturbs, disrupts or impedes the orderly conduct of the meeting shall, at the discretion of the presiding officer, be ruled out of order, and may result in the speaker's removal from the podium, removal from the meeting and/or possible arrest.



**MONTANA SCHOOL**  
*for the Deaf & the Blind*

# PROCLAMATION

**WHEREAS,** this proclamation is the result of one of the priorities established at the NAD Conference in Atlanta in 2014 to recognize deaf and hard of hearing youth across America. March 6th has been proclaimed National Deaf Youth Day since 2017; and

**WHEREAS,** Deaf History Month, which starts on March 13th, has been celebrated for years to honor the first deaf president being selected to lead a university. However, we must not forget that the student leaders mobilized the Deaf President Now movement on March 6th, 1988. These four student leaders recognized how the NAD provided them leadership experience to become self-advocates and demand equality; and

**WHEREAS,** to remember this historic day and the importance of deaf youth, the NAD is setting March 6th as National Deaf Youth Day. Our deaf and hard of hearing youth are leaders today and they must be recognized and celebrated; and

**WHEREAS,** Montana School for the Deaf and the Blind is committed to supporting and recognizing this important day.

**NOW, THEREFORE, I, CORY REEVES, MAYOR OF THE CITY OF GREAT FALLS,** do hereby proclaim March 6, 2024 as

## NATIONAL DEAF YOUTH DAY

in the City of Great Falls, and urge all citizens to work together with MSDB and the communities to meet the needs of our deaf and hard of hearing youth in many areas, especially in education and employment. We look forward to seeing what local communities and State Associations do on March 6th.



**IN WITNESS WHEREOF,** I have hereto set my hand and caused the Seal of the City to be affixed this 5<sup>th</sup> day of March, 2024.

Cory Reeves, Mayor

# PROCLAMATION

- WHEREAS,** community service has always been a part of America's heritage and Great Falls' heritage; and
- WHEREAS,** the number of those in need in our area seems to be an always growing number and the people of our community have always shown a sincere desire to help those in need; and
- WHEREAS,** a number of faith-based and partner organizations approached the City of Great Falls in 2020 with a plan to help those in need in our community; and
- WHEREAS,** the City of Great Falls embraced this concept, out of which is borne the Community Week of Compassion for Those in Need; and
- WHEREAS,** the City of Great Falls and its citizens have discovered that the Week of Compassion is a very worthwhile cause that will make a difference in the lives of many in our community; and
- WHEREAS,** donations of the cost of one or two meals, or more if possible, are being accepted at the City Manager's Office, Stockman Bank (all 3 branch locations), and the Great Falls Rescue Mission, for this worthy cause.

**NOW, THEREFORE, I, CORY REEVES, MAYOR OF THE CITY OF GREAT FALLS,** do hereby proclaim March 3-9, 2024, as

## Community Week of Compassion and Fast

in the City of Great Falls, and urge all citizens to join us in setting aside one day during this week to fast and pray for guidance, grace, and protection for our great City and Nation as we address the challenges of our time and the concerns of those in need.



IN WITNESS WHEREOF, I have hereto set my hand and caused the Seal of the City to be affixed this 5<sup>th</sup> day of March, 2024.

Cory Reeves, Mayor



Commission Meeting Date: March 5, 2024

**CITY OF GREAT FALLS  
COMMISSION AGENDA REPORT**

**Item:** Appointment to the Business Improvement District Board of Trustees

**From:** City Manager's Office

**Initiated By:** City Commission

**Presented By:** City Commission

**Action Requested:** Appoint one member to the Business Improvement District Board of Trustees to fill the remainder of a four-year term through June 30, 2024.

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**Suggested Motion:**

1. Commissioner moves:

"I move that the City Commission (appoint/not appoint) Erica Ferrin to the Business Improvement District Board of Trustees to fill the remainder of a four-year term through June 30, 2024."

2. Mayor requests a second to the motion, public comment, Commission discussion, and calls for the vote.

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**Summary and BID Board Recommendation:**

Michelle Houghton (Bebbington) was appointed to the Business Improvement District (BID) Board in December 2021 with a term end date of June 30, 2024. She recently resigned from the Board. The City advertised for the vacancy to solicit citizen interest through the City's website and the local media. An application was received from Erica Ferrin who will represent the Pennington Property owned by Matthew Robb at 427 Central Avenue. Ms. Ferrin is the Owner/Operator of GRAE + Co at this location and Mr. Robb has sent consent to the BID to allow Ms. Ferrin to represent his property.

The BID Board met on February 08, 2024 and made a recommendation to the City Commission to appoint Ms. Ferrin to fill the vacancy.

**Background:**

The Business Improvement District Board of Trustees consists of seven members appointed by the City Commission. Members must be owners of property within the District or their assignees (§ 7-12-1121, MCA). The BID oversees the functions, operations, management and administration as necessary to carry out the purposes and objectives of the Business Improvement District.

During past meetings the Board discussed the need for Board members with the following backgrounds:

- Developer/construction experience
- Finance experience
- Social media/marketing experience

Members of this board are:

Keith Cron	7/5/2023 – 6/30/2027
Jason Kunz	7/1/2019 – 6/30/2027
Alison Fried	2/7/2017 – 6/30/2025
Sherrie Arey	7/7/2020 – 6/30/2024
Max Grebe	8/16/2016 – 6/30/2024
Neal DuBois	7/21/2020 – 6/30/2027
Michelle Houghton (Bebbington)	12/8/2021 – 6/30/2024 (RESIGNED)

Citizen interested in the Board:

Erica Ferrin

**Alternatives:** The City Commission could choose to not appoint during this meeting and schedule an interview for Ms. Ferrin or request staff to continue advertising for the position.

**Attachments:**

Application






**BOARDS AND COMMISSIONS  
CITIZEN INTEREST FORM**  
(PLEASE PRINT OR TYPE)

*Thank you for your interest. Citizen volunteers are regularly appointed to the various boards and commissions. This application subject to Montana Right to Know laws.*

Board/Commission Applying For: <b>BID</b>		Date of Application: <b>1/17/24</b>	
Name: <b>ERICA FERRIN</b>			
Home Address: <b>W518 40th St SW</b>		Email address: <b>gracelandco.mt@gmail.com</b>	
Home Phone: <b>—</b>	Work Phone: <b>—</b>	Cell Phone: <b>406 868 8578</b>	
Occupation: <b>owner/operator GRAE + CO.</b>		Employer: <b>Self</b>	
Would your work schedule conflict with meeting dates? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (If yes, please explain)			
Related experiences or background: <b>—</b>			
Educational Background: <b>high school, Trade school (cosmetology)</b>			
<b>IF NECESSARY, ATTACH A SEPARATE SHEET FOR YOUR ANSWERS TO THE FOLLOWING:</b>			
Previous and current service activities: <ul style="list-style-type: none"> <li>• volunteer with Great Falls ski &amp; board club / highway clean up</li> <li>• Downtown chicks</li> <li>• help w/ many downtown events &amp; clean up w/ DGFA</li> </ul>			
Previous and current public experience (elective or appointive): <b>—</b>			
Membership in other community organizations: <ul style="list-style-type: none"> <li>* DGFA</li> <li>* ski &amp; board club</li> <li>* Downtown chicks</li> </ul>			

Have you ever worked for or are you currently working for the City of Great Falls? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, where and when?	
Do you have any relatives working or serving in any official capacity for the City of Great Falls? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, who, which department, and relationship?	
Have you ever served on a City or County board? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, what board and when did you serve?	
Are you currently serving on a Board? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, which board?	
Are you a Qualified Elector? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> (Any citizen of Cascade County 18 years of age or older who meets the registration and residence requirements provided by law is a qualified elector unless he is serving a sentence for a felony in a penal institution or is of unsound mind, as determined by a court.)	
Please describe your interest in serving on this board/commission? I would like to be more involved in our community as a business owner & operator, and become more knowledgeable about what's going on	
Please describe your experience and/or background which you believe qualifies you for service on this board/commission? I have worked in our downtown community for 12+ years and I am very passionate about making it a better place for our future.	
Additional comments:	
Signature 	Date:

If you are not selected for the current opening, your application may be kept active for up to one year by contacting the City Manager's office. Should a board/commission vacancy occur within 30 days from the last City Commission appointment, a replacement member may be selected from citizen interest forms submitted from the last advertisement. For more information, contact the City Manager's office at 455-8450.

**Return this form to:**

Mail: City Manager's Office  
P.O. Box 5021  
Great Falls, MT 59403

Hand Deliver: City Manager's Office  
Civic Center, Room 201  
2 Park Drive South

Email:  
kartis@greatfallsmt.net





Commission Meeting Date: March 5, 2024

**CITY OF GREAT FALLS  
COMMISSION AGENDA REPORT**

**Item:** Designate City Commission Representative to the Policy Coordinating Committee for Transportation Planning

**From:** Andrew Finch, Senior Transportation Planner

**Presented By:** Brock Cherry, Planning & Community Development Director

**Action Requested:** Designate representative to the Policy Coordinating Committee

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission designate \_\_\_\_\_ as our representative on the Policy Coordinating Committee.”

2. Mayor requests a second to the motion, public comment, Commission discussion, and calls for the vote.

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**Staff Recommendation:** That the Commission appoint one of its members as its representative on the Policy Coordinating Committee for transportation planning.

**Summary:** The Policy Coordinating Committee (PCC) guides transportation planning in the Great Falls area. As outlined in the attached 2005 Cooperative Agreement, the City Commission representative on the PCC is a “Commission Designee”, appointed from its membership.

**Background:** The Great Falls Metropolitan Transportation Planning Process is a federally mandated program designed to provide a cooperative, comprehensive and continuing process for identifying, prioritizing and funding the transportation needs of the City of Great Falls and surrounding growth areas.

The transportation planning process is guided by the PCC and the Technical Advisory Committee (TAC), a group of public agency transportation practitioners representing various area transportation stakeholders. The role of the TAC is to advise the Policy Coordinating Committee (PCC), which is the representative body ultimately responsible for overseeing transportation planning within the Great Falls Metropolitan Area.

The City’s participation in the Metropolitan Transportation Planning Process is outlined in a 2005 Cooperative Agreement among the various agencies involved in building, managing and maintaining the transportation network in the Great Falls area. This Agreement outlines the roles, responsibilities and mutual understandings of the cooperating and participating agencies. In the Agreement, as well as in the PCC’s Bylaws, the PCC is comprised of:

Commission Designee	City of Great Falls
Chairman	Cascade County Commission
Chairman	Great Falls Transit District Board
Chairman	Great Falls Planning Advisory Board
Chairman (President)	Cascade County Planning Board
Great Falls District Administrator	Montana Department of Transportation
Montana Division Administrator	Federal Highway Administration (non-voting)

The Commission Designee allows the City Commission flexibility in appointing its representative from its membership, rather than it automatically being its highest elected official. However, the mayor has usually served as the Commission representative. Mayor Bob Kelly was the Commission's previous PCC representative, serving since 2018. With the retirement of Mayor Kelly, the City Commission must designate a new representative. Because there is no stated guidance on limitation of the representative's term, the appointed representative would serve until replaced.

The PCC meets "as-needed", when action or deliberation by the Committee is needed or appropriate. Typically, the PCC meets 2-4 times a year. The time commitment from the Commission's Designee will be minimal.

For further information on the role of the PCC, MPO and Transportation Planning in general, informational documents have been attached to this report.

**Fiscal Impact:** There will be no fiscal impact as a result of this appointment.

**Alternatives:** The City Commission could elect to not designate a representative, but would lose representation on a body that shapes public policy for transportation in the Great Falls area.

**Attachments:**

- Cooperative Agreement – Great Falls Metropolitan Transportation Planning Process
- Great Falls Metropolitan Planning Organization (MPO) – Brief Overview
- Transportation Planning General Overview (PowerPoint)

## COOPERATIVE AGREEMENT

### GREAT FALLS METROPOLITAN TRANSPORTATION PLANNING PROCESS

THIS AGREEMENT is made and entered into this 6<sup>th</sup> day of December, 2005, by and between the STATE OF MONTANA, DEPARTMENT OF TRANSPORTATION, hereinafter referred to as "STATE," the CITY OF GREAT FALLS, hereinafter referred to as "CITY," the COUNTY OF CASCADE, hereinafter referred to as "COUNTY," the GREAT FALLS TRANSIT DISTRICT BOARD, hereinafter referred to as "TRANSIT BOARD," the GREAT FALLS PLANNING ADVISORY BOARD, hereinafter referred to as "CITY PLANNING BOARD," and the CASCADE COUNTY PLANNING BOARD, hereinafter referred to as "COUNTY PLANNING BOARD."

**WITNESSETH THAT:**

WHEREAS, Title 23, Chapter 1, Section 134 of the United States Code and Title 49, Chapter 53, Section 5303 of the United States Code require that a Metropolitan Planning Organization (MPO) be designated for each metropolitan area, as a condition to the receipt of Federal highway and transit funds, that the metropolitan area has a continuing, cooperative, and comprehensive transportation planning process that results in plans and programs that consider all transportation modes and supports community development and sound goals and that lead to the development and operation of an integrated, intermodal transportation system that facilitates the efficient, economic movement of people and goods; and,

WHEREAS, the Great Falls City-County Planning Board was the MPO for the Great Falls metropolitan planning area since December, 1973 and was dissolved; and,

WHEREAS, the parties to this Agreement desire to continue to cooperate in the transportation planning process now in progress and further desire to insure that transportation planning is an integral part of continuing, cooperative and comprehensive planning; and,

WHEREAS, the City Planning Board has been designated by this agreement as the MPO by the Governor of the State of Montana and affected local units of government representing 75 percent of the population in the entire metropolitan area as the Metropolitan Planning Organization (MPO), which designation may be clarified as needed; and,

WHEREAS, the Policy Coordinating Committee has been established as the official governing body of the Great Falls Metropolitan Transportation Planning Process, thus having final local approval of all Federal Surface Transportation Program-Urban Funded transportation projects in the Great Falls Metropolitan Planning Area; and,

WHEREAS, Title 23, U.S.C., Section 104 (f), provides planning funds (PL) for the purpose of carrying out metropolitan transportation planning requirements of Section 134 of the Title; and,

WHEREAS, the State and designated MPO shall execute a separate agreement for the distribution of PL funds.

NOW, THEREFORE, BE IT RESOLVED that the parties hereto do mutually agree to:

1. Cooperatively carry out transportation planning and programming in the Great Falls Metropolitan Planning Area through the following established forum and process:

- A. The Policy Coordinating Committee shall manage the executive business of the Great Falls Metropolitan Transportation Planning Process and develop and keep current transportation planning in the Great Falls Metropolitan Planning Area. The Policy Coordinating Committee shall consist of the following officials:

Commission Designee – City of Great Falls  
 Chairman – Board of Cascade County Commissioners  
 Chairman – Great Falls Transit District Board  
 Chairman – Great Falls Planning Advisory Board  
 Chairman – Cascade County Planning Board  
 District Administrator – Montana Department of Transportation.  
 District Administrator – Federal Highway Administration (Non-voting)

- B. The Technical Advisory Committee shall provide technical advice to the Policy Coordinating Committee and technical direction to and coordination of the metropolitan transportation planning staff. The Technical Advisory Committee shall, at a minimum, consist of the following members:

Manager – Great Falls Transit District  
 Director of Public Works – City of Great Falls  
 City Engineer – City of Great Falls  
 Maintenance Operations Chief – City of Great Falls  
 Street Supervisor – City of Great Falls  
 Traffic Supervisor – City of Great Falls  
 Planning Director – City of Great Falls  
 Senior Transportation Planner – City of Great Falls  
 County Sanitarian – City-County Health Department  
 Planning Director – Cascade County  
 Road Supervisor – Cascade County  
 Traffic Regulator – Cascade County  
 Public Works Director/Surveyor – Cascade County  
 District Construction Supervisor – Montana Department of Transportation  
 District Engineering Services Supervisor – Montana Department of Transportation  
 Statewide & Urban Planning Supervisor – Montana Department of Transportation  
 Deputy Base Civil Engineer – Malmstrom Air Force Base  
 Manager – Great Falls International Airport  
 Planning & Research Engineer – Federal Highway Administration (Non- voting)  
 Manager – Federal Aviation Administration (Non-voting)

- C. A Citizens Advisory Committee may be established to act as a sounding board for proposals advanced by the Technical Advisory Committee and Policy Coordinating Committee. Appointment to the committee shall be by the Policy Coordinating Committee.
- D. Transportation Study Area At a minimum, continuing, cooperative and comprehensive transportation planning will be conducted in that portion of the Great Falls area that is expected to become urbanized during any forecast period. Said area shall be referenced as the Great Falls Transportation Study Area. The type of any transportation planning that may be conducted outside the transportation study area will be determined by the Technical Advisory Committee and approved by the Policy Coordinating Committee.

E. Scope of Services The transportation planning process shall be:

- 1) Cooperative, in that, the State, County, City, Planning Boards and Transit Board shall cooperatively accomplish the transportation planning process in response to the needs and changes occurring in the study area.
- 2) Comprehensive, in that, all elements affecting metropolitan area development and transportation shall be considered. These elements and requirements are described in various documents published by the U. S. Department of Transportation.
- 3) Continuing, in that, the planning process is intended to continue indefinitely and shall be maintained as long as this Agreement is in force.

The operational scope of the transportation planning process will involve conducting the following general activities:

- (a) Collect, maintain, analyze and disseminate basic planning information and engineering data.
- (b) Serve the public and private sectors, especially by providing current information concerning plans, programs, projects, recommendations and implementation schedules.
- (c) Prepare, update and revise long and short range transportation plans to consider all transportation modes in the transportation study area; develop transportation improvement programs for project implementation; prepare, update and revise a public involvement plan; and, conduct air quality conformity determinations, to the extent required, for new or revised transportation plans and improvement programs.
- (d) Prepare and distribute studies, reports, maps, plans, etc., for documentation and information purposes; participate in meetings, seminars, etc., at all levels of government; coordinate planning and plan implementation activities; and, conduct public information and involvement programs.
- (e) Research, investigate and develop estimating, forecasting and related planning procedures.

F. Work Program – An annual unified planning work program shall be prepared by the participating agencies, which defines the urban transportation and transportation related planning activities to be conducted within the Great Falls area, regardless of funding sources. The unified planning work program shall include:

- 1) a brief discussion of program objectives and accomplishments during the previous 12 month period;
- 2) a task by task description and discussion of proposed planning activities; and,
- 3) appropriate funding information.



2. Mechanisms governing the agreement are as follows:
- A. Changes in Agreement – Any alteration, extension or supplement to the terms of this agreement, as detailed herein, shall be agreed to, in writing, by the signatory parties.
  - B. Bylaws – Both the Policy Coordinating Committee and the Technical Advisory Committee shall adopt and comply with bylaws as are justified and warranted to enact the purposes of this Agreement.
  - C. Term of Agreement – This Agreement shall be for a perpetual term unless changed as provided for in paragraph 2.A. above, or terminated in the manner described as follows: Any party may terminate its interests and obligations under this Agreement by giving at least ninety (90) days notice, in writing, to the other parties.
  - D. Previous Agreements – This Agreement supersedes previous Agreements between the State, City, County, Planning Boards and Transit Board executed on June 24, 1964, October 12, 1971, December 19, 1972, June 27, 1978, July 1, 1981, March 9, 1983, and April 17, 1997.

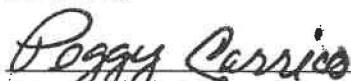
IN WITNESS WHEREOF, the parties hereto have affixed their hands and seals the day and year first above written.

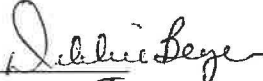
CASCADE COUNTY

By: 

Chairman, Board of County Commissioners

ATTEST:

  
County Clerk & Recorder

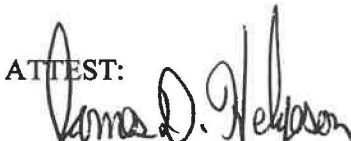
  
Deputy

GREAT FALLS TRANSIT DISTRICT BOARD

By: 

Chairman

ATTEST:

  
Manager, Great Falls Transit District

GREAT FALLS PLANNING ADVISORY BOARD

By: 

Chairman

ATTEST:

  
Secretary, Planning Board

CITY OF GREAT FALLS

By: \_\_\_\_\_

City Manager

ATTEST:

Deputy

Carolyn Horst  
City Clerk

STATE OF MONTANA,  
DEPARTMENT OF TRANSPORTATION

By: \_\_\_\_\_

Director

Jeffrey  
Legal Counsel,  
State of Montana, Department of Transportation

CASCADE COUNTY PLANNING BOARD

By: \_\_\_\_\_

Chairman

ATTEST:

John Neal  
Secretary, Planning Board

CONCURRED IN AND AGREED TO:

Brian Schweitzer  
Brian Schweitzer, Governor  
STATE OF MONTANA

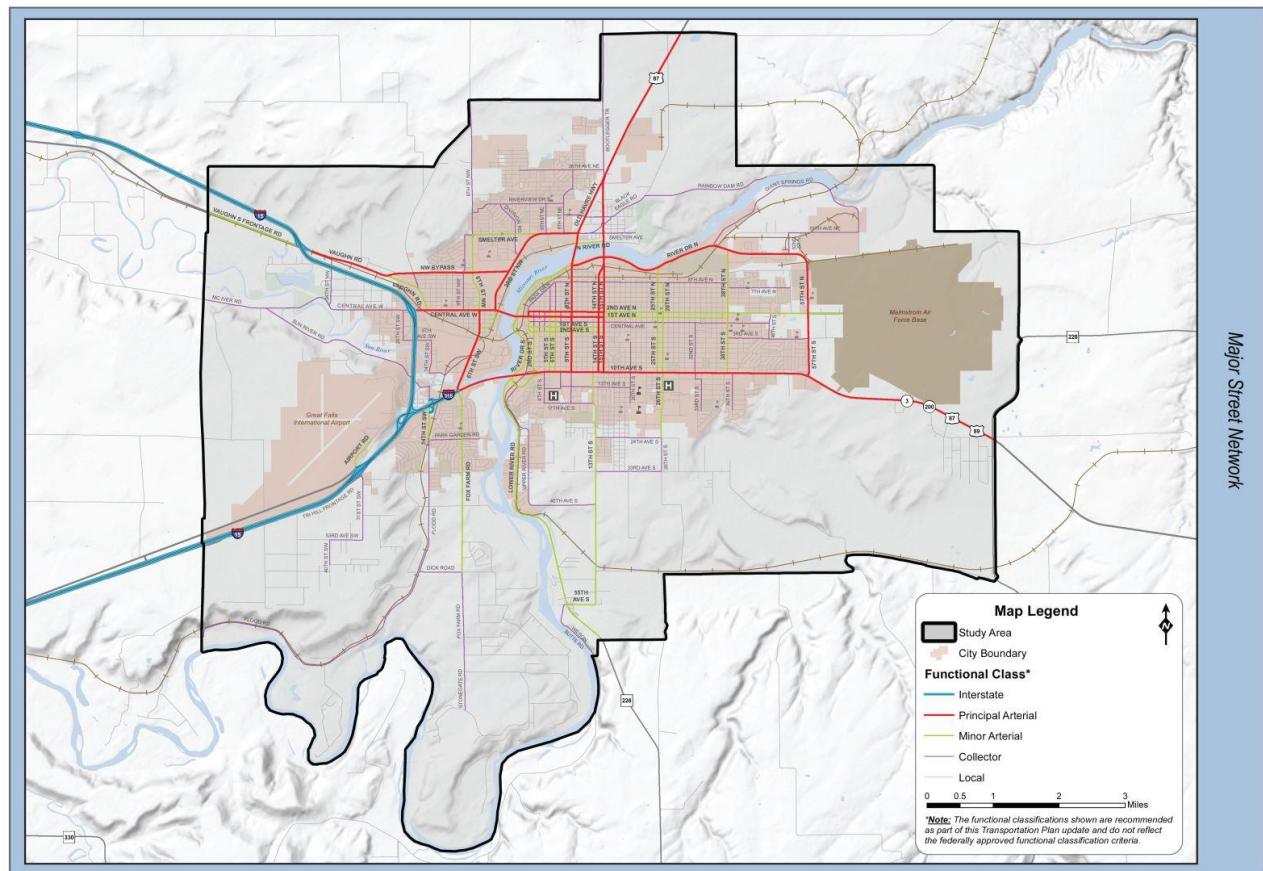
ATTEST:

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# GREAT FALLS METROPOLITAN PLANNING ORGANIZATION (MPO)

## A BRIEF OVERVIEW

The Great Falls METROPOLITAN PLANNING ORGANIZATION (MPO) is a local organization with representation from the various area local governments that is charged with guiding the local transportation planning process. The MPO process is required by Federal law for areas with an urbanized area over 50,000 population, in order to receive Federal transportation dollars and spend them on “Federal-Aid” roads. The jurisdictional area of the MPO generally encompasses the City of Great Falls and an area of more dense development surrounding the City. The current area is shown on the map below:



The MPO is guided by the “POLICY COORDINATING COMMITTEE (PCC),” which makes policy decisions on MPO transportation issues and plans. The PCC is made up of representatives from the County Commission; City Commission; Montana Dept. of Transportation-Great Falls District; Great Falls Transit District; City and County Planning Boards.

The principal purpose of the POLICY COORDINATING COMMITTEE is to manage the executive business of the Great Falls Metropolitan Area Transportation Planning Process and to

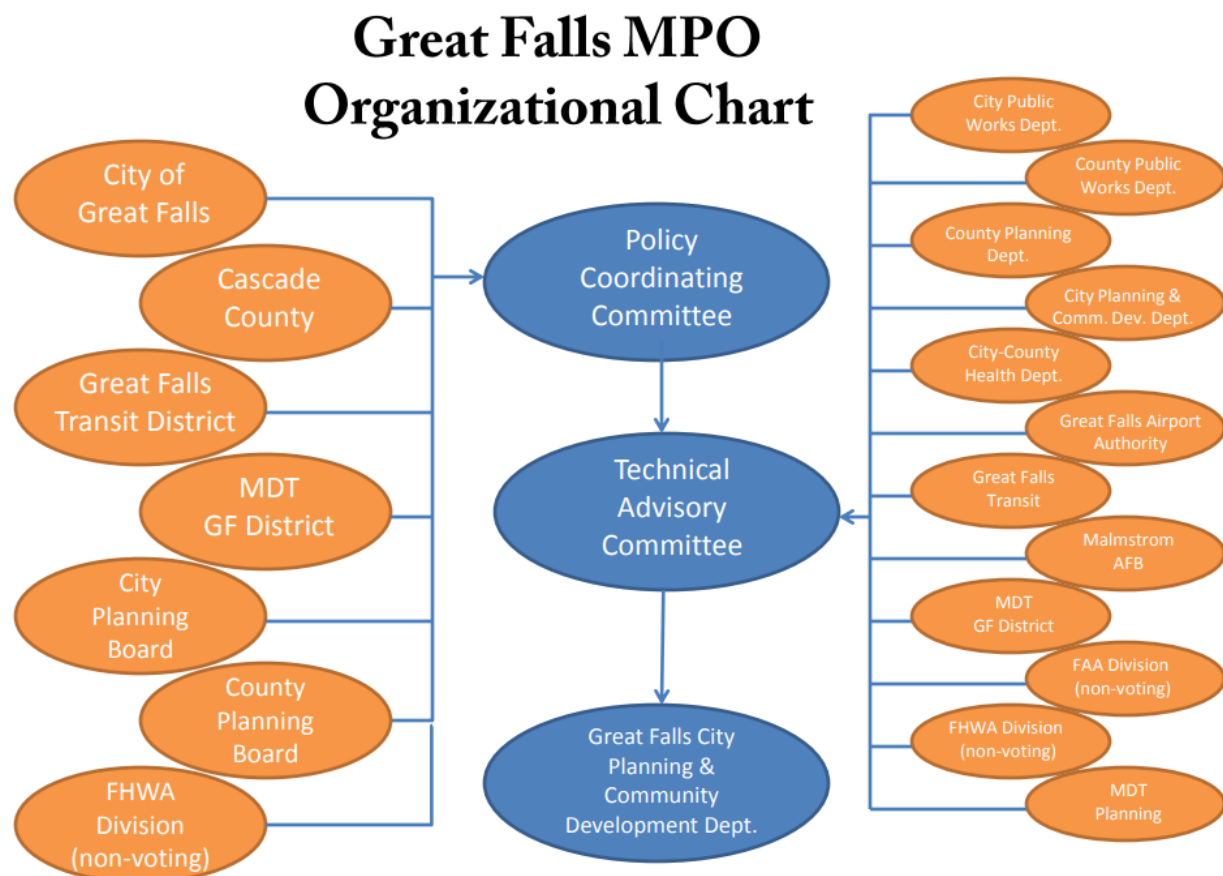
develop and keep current urban transportation planning in the Great Falls area. Typically, the major duty of this committee is to approve all long and short range construction programs for the Great Falls urban area, as well as transportation plans. The Committee has performed this function in the past without becoming too deeply involved in the management of the process.

Generally, the PCC meets 3-4 times a year, with meetings called as-needed to conduct the business of the MPO.

The POLICY COORDINATING COMMITTEE consists of the following members:

- Commission Designee – City of Great Falls
- Chairman – Board of County Commissioners
- Chairman – Great Falls Transit District
- Chairman – Great Falls Planning Advisory Board
- President – Cascade County Planning Board
- District Administrator – Montana Dept. of Transportation, Great Falls District
- District Administrator – Federal Highway Administration, Montana (non-voting)

A general organizational chart for the MPO is shown below:



The PCC is advised by the TECHNICAL ADVISORY COMMITTEE (TAC), made up of staff members from the City, County, State, City-County Health, Airport, Transit District and Malmstrom AFB. The City Planning & Community Development Department provides staff for the MPO, and performs day-to-day business.

The TECHNICAL ADVISORY COMMITTEE consists of the following members:

Manager – Great Falls Transit District  
 Director of Public Works – City of Great Falls  
 City Engineer – City of Great Falls  
 Maintenance Operations Chief – City of Great Falls  
 Street Supervisor – City of Great Falls  
 Traffic Supervisor – City of Great Falls  
 Planning Director – City of Great Falls  
 Senior Transportation Planner – City of Great Falls  
 County Sanitarian – City-County Health Department  
 Planning Director – Cascade County  
 Road Supervisor – Cascade County  
 Traffic Regulator – Cascade County  
 Public Works Director – Cascade County  
 District Construction Supervisor – Montana Department of Transportation  
 District Engineering Services Supervisor – Montana Department of Transportation  
 Statewide & Urban Planning Supervisor – Montana Department of Transportation  
 Deputy Base Civil Engineer – Malmstrom Air Force Base  
 Manager – Great Falls International Airport  
 Planning & Research Engineer – Federal Highway Administration (Non-voting)  
 Manager – Federal Aviation Administration (Non-voting)

The principal duties of this Committee are to provide technical advice to the PCC and technical direction to and coordination of the transportation planning efforts (such as studies, plans, and other required MPO products).

## PRODUCTS

The main planning products produced by the MPO include:

### **Planning Work Program**

Planning work programs are developed to make sure that the planning is conducted efficiently and comprehensively, and that it addresses all pertinent issues required by Federal regulations.

The Unified Planning Work Program is a yearly product that describes all urban transportation and transportation-related planning activities that are anticipated over the next year, and documents work to be performed with federal planning assistance – including funding distributions. The most recent work program is found at the following link:

[https://greatfallsmt.net/sites/default/files/fileattachments/planning\\_and\\_community\\_development/page/41061/upwp\\_ffy2024\\_final.pdf](https://greatfallsmt.net/sites/default/files/fileattachments/planning_and_community_development/page/41061/upwp_ffy2024_final.pdf)

### **Long Range Transportation Plan**

A Long Range Transportation Plan is prepared and adopted to identify transportation needs, guide transportation decision-making, and help prioritize expenditure of dollars for transportation improvements over the life of the Plan (20 years). The most recent Plan is found here:

[https://greatfallsmt.net/sites/default/files/fileattachments/planning\\_and\\_community\\_development/page/41061/greatfallslrtp\\_final\\_amendment1\\_reduced.pdf](https://greatfallsmt.net/sites/default/files/fileattachments/planning_and_community_development/page/41061/greatfallslrtp_final_amendment1_reduced.pdf)

The MPO is currently preparing an update to the Long Range Transportation Plan. The website for this effort can be found here:

<https://www.greatfallstransplan.com/>

### **Transportation Improvement Program**

A Transportation Improvement Program (TIP) is a capital improvement plan that outlines committed projects by funding source, project phase, and year of expenditure. This program ensures that the transportation plan will be implemented in an orderly, efficient manner and represents a statement as to how the transportation system will improve and how public transportation dollars will be spent over a five-year period.

It is regularly updated, with extensive coordination between the MPO staff and Montana Dept. of Transportation. The current TIP can be found here:

[https://greatfallsmt.net/sites/default/files/fileattachments/planning\\_and\\_community\\_development/page/41061/2021-2025\\_tip\\_amendment\\_3\\_final.pdf](https://greatfallsmt.net/sites/default/files/fileattachments/planning_and_community_development/page/41061/2021-2025_tip_amendment_3_final.pdf)

### **Special Studies**

The MPO also produces special studies or plans, such as corridor plans and sub-area plans such as the North Great Falls Sub-Area Transportation Study, found here:

[https://greatfallsmt.net/sites/default/files/fileattachments/planning\\_and\\_community\\_development/page/41061/ngf\\_transportation\\_study\\_final\\_050922.pdf](https://greatfallsmt.net/sites/default/files/fileattachments/planning_and_community_development/page/41061/ngf_transportation_study_final_050922.pdf)



# TRANSPORTATION PLANNING

**Andrew Finch, Senior Planner**

## Transportation Network

- **Roadways** - Most major roadways in Great Falls are “Federal Aid” routes. Minor maintenance on some Federal Aid-Urban (FAU) routes are performed by the City, with the remainder of Federal Aid routes maintained by the State (39 miles). The City maintains all other streets and alleys, and the County others within the Urban Area.
- **Sidewalks** – Sidewalks adjoining new developments are constructed by the adjoining property. Sidewalk maintenance is the responsibility of the adjoining property owner or tenant. Gaps on major roadways may be constructed by City or State.
- **ADA Curb Ramps** – City and State are steadily upgrading corners to provide for ADA access, with priority going to major roadways and routes to school.
- **Bike Paths** – maintained by the City, FW&P with assistance from non-profit





# Transportation Planning Process

Great Falls Metropolitan Planning Organization (MPO) guides local cooperative transportation planning process

- MPO process required by Federal law for cities over 50,000, in order to receive Federal transportation dollars and spend them on "Federal-Aid" roads
- City and County Commissions appoint commissioners to represent them on the Policy Coordinating Committee (PCC), which makes ultimate decision on Transportation Planning issues and plans
- PCC is made up of representatives from County Commission; Federal Highway Administration; City Commission; Montana Dept. of Transportation; Transit District; City and County Planning Boards
- PCC is advised by the Transportation Advisory Committee (TAC), made up of staff members from the City, County, State, City-County Health, Airport, Transit District and Malmstrom AFB.
- City Planning & Community Development Department provides staff for the MPO, performs day-to-day business

## POLICY COORDINATING COMMITTEE MEMBERSHIP

(Vacant), City Commission Designee

Carl Donovan, Great Falls Transit District Chairman

Dave Bertelsen, City Planning Advisory Board Chairman

Jim Wingerter, MDT Great Falls District Administrator

Elliott Merja, Cascade County Planning Board President

Jim Larson, County Commission Chair

## TRANSPORTATION ADVISORY COMMITTEE MEMBERSHIP

Kevin Angland	Planner, Cascade County Planning Department
Russell Brewer	Civil Engineer, City of GF Engineering Division
Ryck Cayer	Deputy Base Civil Engineer, Malmstrom Air Force Base
John Faulkner	Director, Great Falls International Airport Authority
Andrew Finch	Senior Transportation Planner, City of GF
Nadine Hanning	Manager, Great Falls Transit District
Sandy Johnson	Superfund Coordinator, City-County Health Department
Eric Boyd	Street Supervisor, City of GF Street Division
Jay Manuel	Operations Engineer, Great Falls District - MDT
(vacant)	Deputy Director, City of GF Planning & Community Development
Jesse Patton	City Engineer, City of GF Engineering Division
Les Payne	Director, Cascade County Public Works Department
Geoff Streeter	Planner, Statewide & Urban Planning - MDT
Rick Schutz	Superintendent, Cascade County Road & Bridge Division
Chris Gaub	Director, City of GF Public Works Department
Chris Ward	District Projects Engineer, Great Falls District - MDT
Charity Yonker	Director, Cascade County Planning Department

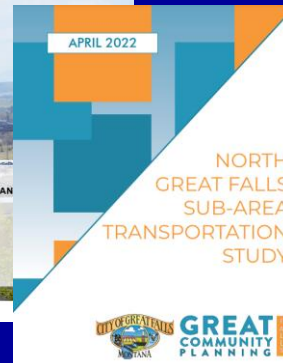


## Transportation Plan

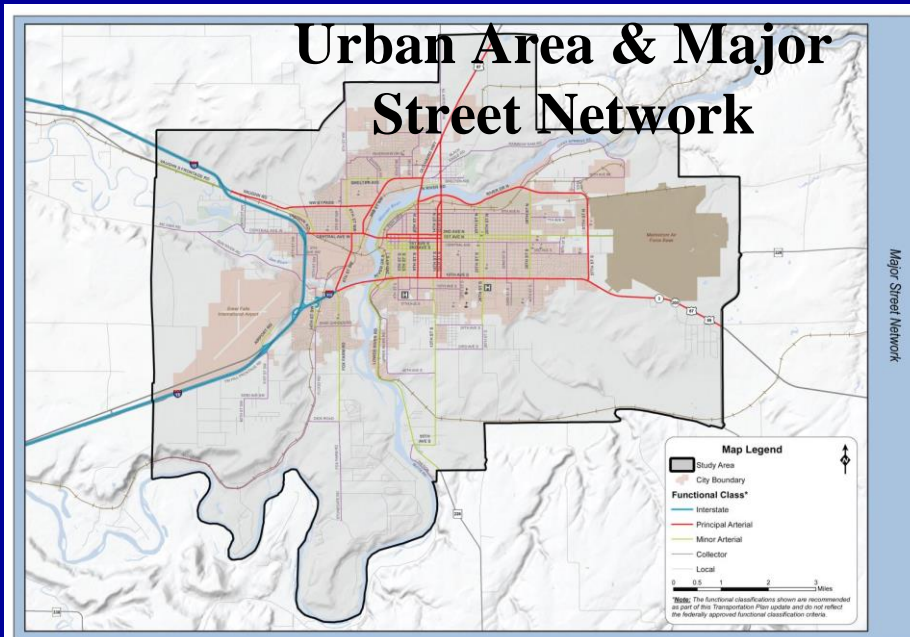
- A local **Long Range Transportation Plan** identifies needs over the next 20 years, and recommends projects for implementation. Includes “Urban Area” around the city, and concentrates on Major Street Network.
- Every 5 years, an update to the area’s Long Range Transportation Plan is performed. An update is just kicking off – NC’s will be notified of meetings.
- Plan is followed by a 5-year capital improvements program, called a **Transportation Improvements Program (TIP)**. This document balances all the various projects, project phases and funding sources, and is the means to move a project forward.



# Long Range Transportation Planning



## Urban Area & Major Street Network



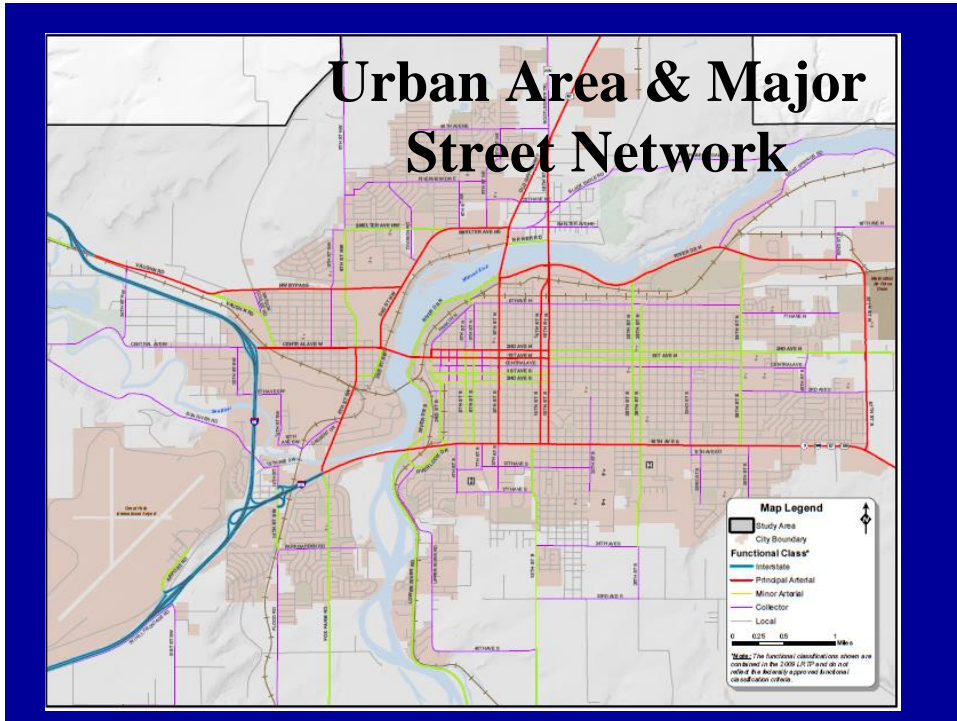


Table 4.3: Existing Signalized Intersection LOS

ID	Intersection	AM Peak Hour		PM Peak Hour	
		Delay (Sec)	LOS	Delay (Sec)	LOS
1	3 <sup>rd</sup> Street NW / 14 <sup>th</sup> Avenue NW	12.3	B	14.2	B
2	9 <sup>th</sup> Street N / 8 <sup>th</sup> Avenue N	18.5	B	19.7	B
3	9 <sup>th</sup> Street N / 2 <sup>nd</sup> Avenue N	15.0	B	15.4	B
4	9 <sup>th</sup> Street N / 1 <sup>st</sup> Avenue N	11.3	B	15.1	B
5	9 <sup>th</sup> Street / Central Avenue	18.2	B	21.6	C
6	9 <sup>th</sup> Street S / 1 <sup>st</sup> Avenue S	9.1	A	11.8	B
7	9 <sup>th</sup> Street S / 2 <sup>nd</sup> Avenue S	6.8	A	10.6	B
8	10 <sup>th</sup> Avenue S / Fox Farm Road	44.5	D	41.8	D
9	10 <sup>th</sup> Avenue S / 26 <sup>th</sup> Street S	14.1	B	32.3	C
10	10 <sup>th</sup> Avenue S / 32 <sup>nd</sup> Street S	18.3	B	25.9	C
11	14 <sup>th</sup> Street SW / 16 <sup>th</sup> Avenue SW	12.6	B	15.0	B
12	14 <sup>th</sup> Street SW / Marketplace Drive	14.4	B	20.8	C
13	14 <sup>th</sup> Street SW / Ramp B	12.7	B	15.9	B
14	38 <sup>th</sup> Street N / River Drive N	11.6	B	11.1	B
15	57 <sup>th</sup> Street N / 10 <sup>th</sup> Avenue N	21.7	C	25.5	C
16	Central Avenue W / 3 <sup>rd</sup> Street NW	31.5	C	37.8	D
17	Park Drive N / 1 <sup>st</sup> Avenue N	14.9	B	20.2	C
18	River Drive N / 1 <sup>st</sup> Avenue N	30.2	C	109.1	F
19	Smelter Avenue / 6 <sup>th</sup> Street NE	12.9	B	10.4	B
20	Smelter Avenue / 10 <sup>th</sup> Street NE	58.2	E	70.3	E
<b>Intersections Counted by MDT</b>					
M.1	10 <sup>th</sup> Avenue S / 2 <sup>nd</sup> Street S	20.4	C	36.9	C
M.2	10 <sup>th</sup> Avenue S / 5 <sup>th</sup> Street S	14.0	B	28.0	C
M.3	10 <sup>th</sup> Avenue S / 7 <sup>th</sup> Street S	10.5	B	15.0	B
M.4	10 <sup>th</sup> Avenue S / 9 <sup>th</sup> Street S	15.3	B	25.4	C
M.5	10 <sup>th</sup> Avenue S / 11 <sup>th</sup> Street S	7.6	A	5.0	A
M.6	10 <sup>th</sup> Avenue S / 13 <sup>th</sup> Street S	11.4	B	16.5	B
M.7	10 <sup>th</sup> Avenue S / 14 <sup>th</sup> Street S	17.9	B	21.2	C
M.8	10 <sup>th</sup> Avenue S / 15 <sup>th</sup> Street S	7.1	A	12.6	B
M.9	10 <sup>th</sup> Avenue S / 20 <sup>th</sup> Street S	9.4	A	15.2	B

## Intersection Level of Service

ID	Intersection	AM Peak Hour		PM Peak Hour	
		Delay (Sec)	LOS	Delay (Sec)	LOS
M.10	10 <sup>th</sup> Avenue S / 23 <sup>rd</sup> Street S	12.7	B	23.1	C
M.11	10 <sup>th</sup> Avenue S / 25 <sup>th</sup> Street S	19.4	B	24.1	C
M.12	10 <sup>th</sup> Avenue S / 38 <sup>th</sup> Street S	16.7	B	19.2	B
M.13	10 <sup>th</sup> Avenue S / 39 <sup>th</sup> Street S	6.5	A	8.3	A
M.14	10 <sup>th</sup> Avenue S / 43 <sup>rd</sup> Street S	8.8	A	9.0	A
M.15	10 <sup>th</sup> Avenue S / 49 <sup>th</sup> Street S	4.5	A	5.6	A
M.16	River Drive N / 9 <sup>th</sup> Street N	25.3	C	29.6	C
M.17	River Drive N / 15 <sup>th</sup> Street N	49.1	D	46.9	D
M.18	Central Avenue NW / 6 <sup>th</sup> Street NW	22.4	C	25.4	C
M.19	NW Bypass / 3 <sup>rd</sup> Street NW	17.2	B	29.4	C

# Crash Rate & Severity

Table 6.1: Intersection Crashes

ID	Intersection	Total Crashes	Fatal	Incap. Injury	Injury	Crash Rate	Severity Index	Severity Rate
1	3 <sup>rd</sup> Street NW / 14 <sup>th</sup> Avenue NW	19	0	0	6	0.65	1.63	1.06
2	9 <sup>th</sup> Street N / 8 <sup>th</sup> Avenue N	13	0	0	4	0.75	1.62	1.21
3	9 <sup>th</sup> Street N / 2 <sup>nd</sup> Avenue N	32	0	2	13	1.64	2.25	3.70
4	9 <sup>th</sup> Street N / 1 <sup>st</sup> Avenue N	25	0	0	6	1.01	1.48	1.50
5	9 <sup>th</sup> Street / Central Avenue	16	0	0	7	0.83	1.88	1.56
6	9 <sup>th</sup> Street S / 1 <sup>st</sup> Avenue S	23	0	0	10	1.30	1.87	2.43
7	9 <sup>th</sup> Street S / 2 <sup>nd</sup> Avenue S	12	0	0	4	0.63	1.67	1.05
8	10 <sup>th</sup> Avenue S / Fox Farm Road	149	0	0	41	2.88	1.55	4.47
9	10 <sup>th</sup> Avenue S / 26 <sup>th</sup> Street S	78	0	0	22	1.53	1.56	2.39
10	10 <sup>th</sup> Avenue S / 32 <sup>nd</sup> Street S	66	0	2	21	1.80	1.85	3.33
11	14 <sup>th</sup> Street SW / 16 <sup>th</sup> Avenue SW	6	0	0	1	0.37	1.33	0.50
12	14 <sup>th</sup> Street SW / Marketplace Drive	23	0	0	6	1.58	1.52	2.41
13	14 <sup>th</sup> Street SW / Ramp B	21	0	0	6	0.89	1.57	1.40
14	38 <sup>th</sup> Street N / River Drive N	3	0	0	1	0.20	1.67	0.33



## Other items in Plan

- Transit (bus) needs
- Volumes and congestion
- Projected conditions, based upon traffic model
- Bicycle plan, pedestrian needs (“Active” transportation)
- Safety
- Freight (movement of goods)
- Context appropriate design – environmental, access management, etc.
- Security
- Financial Plan
- **Short-Range and Long-Range list of recommended projects**



## Selected Major Projects – recent and planned

- Fox Farm Rd. Pavement Preservation (completed).
- Sidewalk/Trail/Bike Facility projects –
  - River Drive South Trail Segment (Broadwater Bay to Water Park)
  - NW Great Falls Sidewalk Infill project
- Stuckey Road paving (completed).
- Watson Coulee Rd. reconstruction (w/roundabout at Vaughn Rd)
- Airport Interchange Improvements
- 9<sup>th</sup> St. NW – reconstruct, upgrade to urban standards
- 4<sup>th</sup> Ave S/Gibson Park Entrance pedestrian improvements (completed)



**An Update to the Long Range Transportation Plan is nearing completion** – the update's website can be found at: <https://www.greatfallstransplan.com/>

## Questions?



**JOURNAL OF COMMISSION PROCEEDINGS**  
**February 20, 2024**

Regular City Commission Meeting

Mayor Reeves presiding  
 Commission Chambers Room 206

**CALL TO ORDER: 7:00 PM**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL/STAFF INTRODUCTIONS:** City Commission members present: Cory Reeves, Joe McKenney, Rick Tryon, Shannon Wilson and Susan Wolff. Also present were City Manager Greg Doyon and Deputy City Manager Chuck Anderson; Public Works Director Chris Gaub; Planning and Community Development Director Brock Cherry; Finance Director Melissa Kinzler, ARPA Project Manager Sylvia Tarman, and Grant Administrator Tom Hazen; City Attorney David Dennis; Police Chief Jeff Newton; and Deputy City Clerk Darcy Dea.

**AGENDA APPROVAL:** There were no proposed changes to the agenda by the City Manager or City Commission. The Agenda was approved as presented.

**CONFLICT DISCLOSURE/EX PARTE COMMUNICATIONS:** Commissioner McKenney disclosed that when he was a Cascade County Tavern Association board member, the Tavern Association did make donations to the Children's Museum. Due to there being no personal gain or loss, he intends to participate in Agenda Item 13. With regard to Agenda Item 14, as a licensed realtor, he may have comments related to his expertise in the area of nuisance properties. Again, there is no personal gain or loss and he intends to participate.

Commissioner Tryon disclosed that he is employed part-time with Stray Moose Productions in Black Eagle, and it is his understanding that is one of the properties the Children's Museum has considered purchasing. He intends to vote on Agenda Item 13.

**COMMUNITY INITIATIVES**

**1. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS FROM CITY COUNTY HEALTH DEPARTMENT (CCHD).**

**Health Officer Abigail Hill** reported that, starting in March, deep dive presentations into the different programs and services provided by the CCHD to Cascade County and Great Falls residents will be provided.

Health Officer Hill reported the following:

- Flu cases have started to subside with about 35 cases each week in the month February
- RSV cases are beginning to spike, which is typical for the month of February
- Covid cases have been declining since the spike in October



## JOURNAL OF COMMISSION PROCEEDINGS

### February 20, 2024

Vaccines are available at the CCHD for all of those respiratory illnesses. Vaccines aren't to prevent the disease, but to reduce hospitalizations and the severity of those diseases. The CCHD also offers several immunizations.

Syphilis cases have been on the radar at the County, State and National level. There has been a 50% increase in syphilis cases since 2022. CCHD had 63 cases last year. A concern that they are all trying to help resolve is that they are seeing more pregnant women with syphilis, which then leads to congenital syphilis if not treated. One of CCHD's strategic planning goals for this year is to host clinics to do testing and discuss treatment.

Commissioner Wilson is the City's representative on the Board of Health (BOH). As part of its five-year strategic planning process, the BOH will engage the community on what it wants to see the Health Department do to fill in the gaps.

The Health Department will also be engaging the City from a public health lens on things like transportation, sidewalks, housing, growth and development and how that impacts determinants of health. It is having those discussions with stakeholders on things that they have seen in other Montana communities that have worked, and how they can look at growth and development from a health equity standpoint.

2.

### PETITIONS AND COMMUNICATIONS

**Howard Schneider**, 68 Bend View Lane, and **Kathleen Barbo**, 15 Gopher Drive, on behalf of the Gore Hill Fire Department District, reported that multiple people have reported at their board meetings that the Great Falls Fire Department plans on taking over a portion of their district. If this rumor is true, why haven't they been notified and what is the plan? If the City took over the Gore Hill Fire Department, there would be a ripple effect on all other volunteer fire departments. They just want to make sure everybody is safe.

Mayor Reeves and City Manager Greg Doyon responded that they heard nothing of this. Manager Doyon will follow up with Fire Chief Jones.

### NEIGHBORHOOD COUNCILS

3.

### MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

**Wayne Young**, 615 5<sup>th</sup> Avenue SW, member of Neighborhood Council 3, reported that the main topic of discussion at their November and February 14<sup>th</sup> meetings was the proposed zone change for the Bay View Apartment Project from the current R-1 zoning at 2<sup>nd</sup> Street SW and Bay Drive, to M-2 zoning to allow for the Bay View Apartment project.

Based on all the feedback from the citizens that live in the area, along with negative feedback that occurred at the February 13, 2024 Planning Advisory Board/Zoning Commission meeting, the Council voted 5-0 to recommend to the City Commission not to approve the zoning change. When this matter comes before the City Commission for consideration, the Council humbly requests that the concerns from citizens living in the area be examined, and that the Commission vote against the

**JOURNAL OF COMMISSION PROCEEDINGS**  
**February 20, 2024**

zoning change. Some of the points of concern include: increased traffic, lack of a comprehensive traffic study, no sidewalks in the area, narrow boulevard, lack of adequate parking, increased use of on-street parking creating additional hazards, noise increase, altering the landscape of the quiet neighborhood, possible negative impact to property values, no property value impact study completed, potential lack of water supply due to increased demand, adequate drainage, potential increase in crime.

Mr. Young further commented that there is a lack of evidence that there is an apartment shortage in Great Falls. Also, any further increase in contractors and personnel for the Sentinel project will have housing provided for them. Even if there is an influx of population, this neighborhood is not well suited for this kind of large complex. There are also concerns about different land uses after rezoning.

During the November and February meetings, the Council received over 100 signed letters with phone numbers and addresses from citizens living in the neighborhood who oppose the zoning change. The zoning change would not be a win for the people who live in this neighborhood.

**BOARDS AND COMMISSIONS**

**4. DESIGNATE CITY COMMISSION REPRESENTATIVE TO THE POLICY COORDINATING COMMITTEE FOR TRANSPORTATION PLANNING.**

Planning and Community Development Director Brock Cherry reported that this item is a request for a member of the Commission to fulfill a role pertaining to the City's transportation planning efforts and future strategies. The Policy Coordinating Committee is ultimately responsible for overseeing transportation planning within the Great Falls Metropolitan Area.

Mayor Reeves requested additional time for the Commission members to consider this appointment.

City Manager Doyon responded that additional information about the job detail will be provided for Commission consideration at the next meeting.

**5. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Commissioner Wolff reported that she serves on the Airport Authority Board. At last month's board meeting, it was reported that they had 181,000 boardings for 2023, and that is higher than pre-Covid.

**CITY MANAGER**

**6. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

City Manager Greg Doyon made the following announcements:

- The City is seeking members to serve on the Parking Advisory Committee. Citizen interest applications can be found on the City's website.

**JOURNAL OF COMMISSION PROCEEDINGS**  
**February 20, 2024**

- The Animal Shelter was awarded a \$5,000 grant from Best Friends Animal Society for sharing data related to animal welfare and well-being in Cascade County. The money will be used for enhancing care, food and kennels at the Shelter.
- Deputy City Manager Chuck Anderson is the City's liaison on the Montana Defense Alliance that recently held its annual meeting. He expressed appreciation to the Alliance for advocating for the Montana Air National Guard, Malmstrom Air Force Base and general homeland security units, and the attendance of several Commission members.
- Planning and Community Development Director Brock Cherry will be the keynote speaker tomorrow at the Great Falls Area Chamber of Commerce luncheon. Director Cherry will discuss the Growth Management Plan for the City.
- The Great Falls Bulldogs were undefeated this year and won the State championship. His two daughters were recognized for their efforts.

**CONSENT AGENDA.**

7. Minutes, February 6, 2024, City Commission Meeting.
8. Total Expenditures of \$4,844,347 for the period of January 18, 2024 through February 7, 2024, to include claims over \$25,000, in the amount of \$4,038,309.
9. Contracts List.
10. Approve the cancellation of City of Great Falls checks that remain outstanding and unpaid for a period of one (1) year or longer as authorized by § 7-6-4303, MCA, and authorize redistribution to the General Fund and the Municipal Court Unclaimed Restitution Fund.
11. Approve a Professional Services Agreement in the amount not to exceed \$272,700 to Advanced Engineering and Environmental Services, for engineering services associated with Lift Station 4 Upgrades and Replacement, and authorize the City Manager to execute the agreement documents.  
**OF 1817.2**
12. Set the public hearing for the FY2024 Business Improvement District Budget Amendment for March 5, 2024.

**Commissioner Tryon moved, seconded by Commissioner Wolff, that the City Commission approve the Consent Agenda as presented.**

Mayor Reeves asked if there were any comments from the public or discussion amongst the Commissioners.

Hearing none, Mayor Reeves called for the vote.

Motion carried 5-0.

**PUBLIC HEARINGS**

**JOURNAL OF COMMISSION PROCEEDINGS****February 20, 2024****13. CHILDREN'S MUSEUM OF MONTANA (CMOM) LEASE - #22 RAILROAD SQUARE (a/k/a ZELLERBACH BUILDING, T20N R3E S11).**

Mayor Reeves declared the public hearing open and asked for presentation of the agenda report.

City Manager Greg Doyon reported that the recommended action is that the Commission approve a lease agreement with the CMOM for the property located at #22 Railroad Square, that essentially amounts to a one (1) year renewal with a one (1) year administrative extension option. The CMOM has leased the property, formerly known as the Zellerbach Building, since September of 1997.

On December 2, 2003, the City Commission approved a lease agreement for 15-years with an automatic five (5) year renewal. On January 2, 2019, the Commission approved a lease agreement for the renewal period through November 20, 2023.

The last renewal term allowed the CMOM to accomplish a few important things. It provided CMOM with five-years to search for, locate, and occupy an alternative location, as it was indicated the City was looking at that space for its needs. The Zellerbach Building is needed to provide additional office space for City administration and uses. Use of the building makes sense as the City already owns it and it is adjacent to the City's Administrative Center and campus. He noted that there hasn't been any formal studies on what it would take to occupy the space to renovate it.

For background information, he shared that he has been looking for additional space since he has been here for administrative units of the City. Specifically, for legal, Court, and Planning and Community Development. More recently, the need for converting space in the Civic Center became more pressing with Court needs. There was a proposed renovation of the Court in the basement. That proposal didn't find favor with the Court or the Commission, and staff was directed to look at the Missouri Room. Previously, the Missouri Room had been off limits to expand into for additional space needs until the prior Commission. An invitation for bids is out for that project. There were also concerns of occupying the basement due to some flooding events that occurred. On top of that, there was another Municipal Court Judge elected. The two judges are in the same small, cramped office in the basement. While moving the Municipal Court to the Missouri Room may address court space needs in the immediate future, it would be more optimum long term for the criminal and civil divisions of the Legal department to be in one space. With the Missouri room being converted into two court rooms, it makes sense that the Legal department, in the future, be moved under one unit to Planning and Community Development.

The City will need to somehow reclaim the downstairs court space for meeting space and IT training needs, which will be eliminated with expansion of Court up to the Missouri Room. Conceptually, the thought is to eventually move Planning and Community Development out of this building and into the Zellerbach Building, unless there is a more affordable option that comes available to the City to explore.

The highlights of the Lease Agreement include a one (1) year term effective December 1, 2023. The lease may be administratively extended for an additional one (1) year, in the event the CMOM has not relocated. The current lease payment is \$1 annually. After the first two (2) years, the City Commission will annually consider and review the Lease for another year. After two years, the Commission may consider market rate lease adjustments, or other modifications, at its sole

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discretion. CMOM will still be required to pay all utility costs, maintenance and repairs of the building and its systems.

Manager Doyon introduced CMOM Executive Director Sherrie Neff and noted that she was previously provided a copy of the Lease Agreement. His understanding is that CMOM has explored some other options, and Ms. Neff is available for questions.

Mayor Reeves asked Sherry Neff if she had additional information to report.

**CMOM Executive Director Sherrie Neff** expressed appreciation to the Commission for considering an extension of the Lease Agreement. Through Covid and other situations, CMOM has not been able to move. They are looking at the Stray Moose building in Black Eagle and working their way through the process. If everything goes well, CMOM will have a new home. She appreciates the Commission giving CMOM time to work through the process.

Mayor Reeves asked if the Commissioners had any questions of staff.

Commissioner Wolff inquired who decides what the maintenance and repair needs are.

Manager Doyon responded that it is loosely defined in the Lease Agreement. He would characterize it as basic maintenance. If there was need for a major repair, like a failed roof, the City would have to work through that since it owns the building.

Mayor Reeves asked if there were any comments from the public in support of or in opposition to the Children's Museum of Montana Lease of #22 Railroad Square.

Hearing none, Mayor Reeves closed the public hearing and asked the will of the Commission.

**Commissioner Wolff moved, seconded by Commissioner Tryon, that the City Commission approve a Lease Agreement with the Children's Museum of Montana for the property located at #22 Railroad Square.**

Mayor Reeves asked if there was any discussion amongst the Commissioners.

Commissioner Wilson commented that, as a former EPA tag advisor, she follows the Black Eagle tag activities. They are starting to work on operable unit two, which includes the Stray Moose area, that is being considered by the CMOM. They have quite a challenge to meet the requirements to be able to occupy the building. She asked the Commission to be patient because it is going to take them a while to work through it. If CMOM is really serious about this property, they do have some challenges ahead with it.

Commissioner McKenney commented that this is a challenging situation for the City and CMOM. Our local government needs to expand, and it certainly makes sense to expand the local government

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campus into a building the City owns. Times have changed, and the City needs that space back for its local government operations.

It is also very challenging for the CMOM, especially economically. CMOM has been leasing this space for \$1. Their new space is not going to be a dollar. The City has done its best expressing that local government or local taxpayers need this space. Hopefully, the CMOM understands that the Commission is going above and beyond to help them move at a pace that they can.

There being no further discussion, Mayor Reeves called for the vote.

Motion carried 5-0.

**14. RESOLUTION 10533, DECLARING CERTAIN PROPERTY LOCATED AT 613 9<sup>TH</sup> AVENUE SOUTH, LOT 11, BLOCK 498, GREAT FALLS ORIGINAL TOWNSITE, A NUISANCE, ORDER THE NUISANCE BE ABATED, AND AUTHORIZE CITY STAFF TO FORCE ABATEMENT IF NECESSARY.**

Mayor Reeves declared the public hearing open and asked for presentation of the agenda report.

Planning and Community Development Director Brock Cherry reported that code enforcement actions are complaint driven. One full-time employee is responsible for code enforcement set forth in the summary section of the agenda report. It is always the goal early on to try to remedy the situation. Staff never wants to get it to this level.

The time frame concerning this item is very important. The City first received complaints starting in 2019. Multiple departments have come to the table in order to find a remedy for this situation. The Code Enforcement Officer has had the aid of the Legal Department and Police Department.

This action includes a property owner who has chosen not to interact with City staff in any way for almost five years. City staff have done their due diligence in making sure that the City is not interfering with any due process that the property owner has.

Director Cherry reviewed pictures of the property that included non-compliant vehicles, rubbish, boarded up windows and doors. The City had secured a warrant to enter the property, but were unable to enter the property due to so much rubbish and debris that they couldn't conduct a thorough search. There is reason to believe that not only is this a source of blight and something unfortunate for the surrounding neighborhood, but there could be safety issues as well for whoever is inhabiting that property.

The requested action is that the Commission move forward with the abatement process.

Mayor Reeves asked if the Commissioners had any questions of staff.

Commissioner Tryon inquired if someone was actually living in the dwelling.



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Director Cherry responded that he doesn't believe there is any sort of long term tenant, but he can't account for any transient activity that may be happening.

Mayor Reeves asked if there were any comments from the public in support of Resolution 10533.

**Jeff Joy**, 609 9<sup>th</sup> Avenue South, commented that he has owned and lived at the property next door to the nuisance property since 1999. Out of all the years that the Wellings have lived at that property, he has never witnessed them perform any maintenance to improve or upkeep that property. It has been years now since they have all left and moved out. Over all those years, he personally ran off many transients coming onto the property and rummaging through things.

He described a police involved incident in 2021 or 2022 that involved a person on that property fighting with the officer. The point being that, not only is this property unbelievably bad and terrible looking to the neighborhood around it, but it is dangerous because it attracts transients who are lawless and don't care. He has since moved from 609 9<sup>th</sup> Avenue South, but he can't sell the property because he is at risk of not being able to sell it at actual marketable value due to the nuisance property next door. Mr. Joy urged the Commission's adoption of Resolution 10533.

Mayor Reeves asked if there were any comments from the public in opposition to Resolution 10533.

Hearing none, Mayor Reeves closed the public hearing and asked the will of the Commission.

**Commissioner Wolff moved, seconded by Commissioner Tryon, that the City Commission adopt Resolution 10533.**

Mayor Reeves asked if there was any discussion amongst the Commissioners.

Commissioner Tryon inquired about next steps.

Director Cherry responded that staff will begin to review what is necessary in order to remedy the issue. The City may have to look at utilizing the private sector in order to fix the issues. A lien will be placed on the property for City monies used to remedy this property.

Commissioner Wolff commented that she drove by the property and it truly is in need of a lot of work and abatement.

Deputy City Attorney Rachel Taylor added that, if the Resolution is adopted, the property owner will have 10-days to start abatement and be completed within 30-days. The City will send the property owner a copy of the resolution, and the resolution will be recorded.

Mayor Reeves received clarification that the owner moving one vehicle, for example, is not sufficient.

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Commissioner McKenney inquired of Mr. Joy if he lived in the house next door to the nuisance property.

Mr. Joy clarified that he owns the property and currently rents the property to family members.

Commissioner McKenney inquired of Mr. Joy if people were currently living at, or coming and going from, the nuisance property.

Mr. Joy responded that he has witnessed people showing up at the property late at night from the alley. He cannot say for sure if someone is currently in there. At the advice of the Code Enforcement Officer, he has never gone onto the property. He does know that the Code Enforcement Officer and other City staff have put up boards on the doorways. In the last several days those boards have all been removed like people are trying to come and go through there. Or, he wouldn't be surprised if it was property owner James Welling Jr. or his uncle or father coming and going because, every once in a while, he will see some new junk or stuff in the backyard that shows up in the middle of the night, or maybe they will stop by to pick up something.

Commissioner McKenney inquired next steps after staff enters the property to make a determination of risk of life or damage.

Deputy City Attorney Taylor clarified that by adoption of the resolution the Commission is declaring the property a nuisance. The property owner then gets a chance to abate that nuisance himself. If he fails to do so, the City will perform the abatement to clean up that property, to attempt to remove the blight from the area, and then secure that property so there are no more transients going back and forth. Before that time, if the City does need to execute that abatement itself, staff will obtain another warrant from the court, post that warrant on the property 24-hours giving notice the abatement is happening.

Commissioner Tryon received clarification that individuals on the small works roster will commonly perform this sort of work when it comes to abating problem properties.

There being no further discussion, Mayor Reeves called for the vote.

Motion carried 5-0.

**OLD BUSINESS**

**15. GREAT FALLS POLICE DEPARTMENT EVIDENCE BUILDING EXPANSION.**  
**OF 1684.3**

ARPA Project Manager Sylvia Tarman reported that, as discussed at the last meeting, City staff have been working with the Police Department and BSpark Architecture over the last two years to complete a design for a new evidence storage facility for the Police Department. The design was completed in November 2023, and the project was put out for bid in mid-December. Bids were opened January 23, 2024. The bid was broken up into a base bid plus contingency for the

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construction of the facility, with 2 Additional Alternates. Wadsworth Builders and James Talcott Construction provided bids for the project. Upon reviewing the bids after the bid opening, City staff noticed that Wadsworth did not include their contingency total, Line 2a, in their overall base bid total, Line 1.

#### Wadsworth Builders Bid

requirements of the Work, hereby agrees to furnish all material, labor, equipment and services, including all scheduled allowances, necessary to complete the construction of the above-named project for the stipulated sum of:

1. THREE MILLION TWO HUNDRED FIFTY THOUSAND Dollars (\$ 3,250,000.00)
2. MISCELLANEOUS ITEMS: Provide a contingency line item for miscellaneous items in the amount of 2.5% of the Base Bid Price and INCLUDED as part of the Base Bid Price offered above.

a. The amount for miscellaneous items is:

EIGHTY ONE THOUSAND TWO HUNDRED FIFTY Dollars (\$ 81,250.00).

ADDITIVE ALTERNATE #1: Provide and install dumbwaiter per Drawings and Specifications

1. ONE HUNDRED TWENTY SEVEN THOUSAND Dollars (\$ 127,700.00).

SEVEN HUNDRED

ADDITIVE ALTERNATE #2: Provide perimeter fence, man gate and cantilever vehicle gates with operators per Drawings and Specifications.

1. EIGHTY FIVE THOUSAND EIGHT HUNDRED Dollars (\$ 85,800.00).

#### Talcott Construction Bid

requirements of the Work, hereby agrees to furnish all material, labor, equipment and services, including all scheduled allowances, necessary to complete the construction of the above-named project for the stipulated sum of:

1. Three million, three hundred thousand, five hundred Dollars (\$ 3,300,500).
2. MISCELLANEOUS ITEMS: Provide a contingency line item for miscellaneous items in the amount of 2.5% of the Base Bid Price and INCLUDED as part of the Base Bid Price offered above.

a. The amount for miscellaneous items is:

Eighty thousand five hundred Dollars (\$ 80,560).

ADDITIVE ALTERNATE #1: Provide and install dumbwaiter per Drawings and Specifications

1. One hundred sixty four thousand Dollars (\$ 164,000).

ADDITIVE ALTERNATE #2: Provide perimeter fence, man gate and cantilever vehicle gates with operators per Drawings and Specifications.

1. One hundred and four thousand Dollars (\$ 104,000).

This discrepancy was very apparent on the face of the bid, and by doing a simple calculation, one can see that \$81,250.00 is exactly 2.5% of \$3,250,000.00. Therefore, Wadsworth's base bid, or Line 1, should have been \$3,331,250.00. Upon discovering this error, City Staff called both Wadsworth and Talcott representatives to confirm what the intent of the bid was. Talcott's representative confirmed their intended bid was as presented. Wadsworth's representative confirmed that they had made an error and had not added Line 2a to Line 1, and their combined base bid should have read \$3,331,250.00. All the numbers were presented on the face of the bid, and the mistake became apparent upon review. No new information was presented or included. Staff simply evaluated the numbers that were presented on the face of the bid, and confirmed the intent of the bidder. Correcting clear irregularities and clerical mistakes is a well-established practice in the construction industry and staff believes is an appropriate use in this case.

After correcting for the discrepancy, Wadsworth's base bid price was higher than Talcott's base bid. However, after assessing the corrected bids and the City's allocated budget, City staff decided to move forward with the base bid and the 2 Additional Alternatives. Therefore, Wadsworth emerged as the apparent low bidder. In this case, whether the bid was corrected or not, the City is able to move forward with all proposed options, so Wadsworth still would have been the low bidder after inclusion of the add-on bid amounts. The adjustment of Wadsworth's bid did not materially affect the result of the bid.

After careful consideration and in-depth research into the governing rules and regulations applicable to this process, staff is confident that both original bids are responsible and responsive, and therefore should be considered as corrected. As the City has the allocated budget to complete the base bid and both Additional Alternatives, the apparent low bidder in this process is Wadsworth Construction. City staff recommend award of the contract to Wadsworth. Brad Talcott, through his attorney Max Davis, has filed a formal complaint about awarding the bid to Wadsworth.

City Attorney David Dennis reported that the Commission heard a little bit about this dispute during the work session, and he is assuming that Mr. Talcott and his attorney will be explaining their side of the situation here tonight as well. In brief, the City received a protest from Mr. Talcott, two letters

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from his attorney, and multiple communications from Mr. Talcott. Their position is that the City cannot consider Wadsworth's bid because it is non-responsive. In other words, their claim is that since the bid did not comply with the material terms of the bid document, that it is non-responsive and has to be thrown out. The assertion would be that, because they didn't add line 2a, as is instructed there, back into their base bid number to come up with a base bid number plus contingency, that technically it didn't comply.

It is a complicated legal scheme that governs bidding like this, but it can also be simplified. There is federal law, state law, laws that apply to municipalities, and there is case law. This situation comes down to one issue, and that is whether staff had the ability to waive the irregularity or informality in the bid, or the variance in the completion or presentation of the bid by Wadsworth. That question comes down to essentially whether or not the change is material, whether the difference or the correction or the mistake was material. Material is defined as: A variance is material when it gives a bidder a substantial advantage or benefit not enjoyed by other bidders. This is truly the question that is being looked at tonight. It is whether the presentation of Wadsworth's bid and staff's clarification of their bid, gave Wadsworth a substantial advantage over Talcott.

City Attorney Dennis pointed out that, in a letter received from Mr. Davis, he cites the *Martel* case that actually spells out this particular test for materiality. Paraphrasing, it states, deviations and irregularities which do not give one bidder a substantial advantage over other bidders are types of irregularities that can be waived by public officers. That was actually done in that case.

The issue before the Commission is whether or not the variance made any difference or gave Wadsworth an advantage in actually bidding this contract. Any way you slice it, it doesn't change the outcome of the bid process here. With the two additional alternatives being added on, Wadsworth's bid was lower. No matter how Wadsworth answered the question that was posed by staff, they still had the lowest bid. The bottom line is they still had the lower bid. That is the position of staff that it is not a material variance from the bid documents. That said, the Commission has before it the ability to take any action it wants. The Commission can award the contract to Talcott, award the contract to Wadsworth, or reject all bids and readvertise.

**Commissioner Tryon moved, seconded by Commissioner McKenney, that the City Commission award a contract in the amount of \$3,544,750 to Wadsworth Builders Company, Inc. for the Great Falls Police Department Evidence Building Expansion Project utilizing American Rescue Plan Act funds, and authorize the City Manager to execute the contract documents.**

Mayor Reeves asked if there were any comments from the public.

**Max Davis**, Attorney for James Talcott Construction, incorporated by reference the comments he made at the work session. Talcott strenuously disagrees with the conclusion of City staff. A responsive bid under Montana law means that it conforms in all material respects to the invitation for bids or requests for proposals. The Wadsworth bid did not. Attorney Dennis referred to the 1983 case of *Martel Construction vs. Montana State Board of Examiners* as set forth in his February 14<sup>th</sup> letter. The Court said, yes, irregularities can be waived. However, the Supreme Court said the agency could only waive irregularities which are immaterial. He has not heard Mr. Dennis or Ms. Tarman say \$81,000 is an immaterial variance. That is the gist of the disagreement. At the end of

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the day, when the Wadsworth bid was corrected by City staff, it is about \$24,000 under the Talcott bid. It is the position of James Talcott Construction that bid did not conform in all material respects to the invitation for bids. Wadsworth goofed. The goof is material, and the bid should not be considered. On behalf of James Talcott Construction, he opposed Commissioner Tryon's motion.

There being no further comments, Mayor Reeves asked if there was any discussion amongst the Commissioners.

Commissioner Wolff commented that she really struggled with this one because Wadsworth and Talcott both have had projects with the City, and both are well known builders and contractors in the city. She thoroughly respects staff. But, she does struggle with the fact that the original bid was not done correctly. In her work life things need to be done correctly, especially in a bidding environment. She will be voting no on this.

Commissioner Wilson commented that she struggled with it too. She would be inclined to have the project be re-bid since it was done incorrectly the first time. Talcott Construction has done a lot of good things in the community and so has Wadsworth. She has great respect for both of them, and she also trusts City staff.

Commissioner Tryon commented that the bottom line is, if Ms. Tarman did not make the attempt to contact and clarify, then he thinks there is a real problem. If she did, then he is inclined to vote for the motion.

ARPA Project Manager Tarman clarified that bids are opened in a public environment. Both parties came to the bid opening and the bids were read out loud. As soon as she went back to her desk with the documents and looked at the numbers, something wasn't quite right. She ran the math, and the numbers didn't add up the way that she would expect them to. At that point, she placed a phone call to Talcott's representative and reiterated their bid numbers, commented that the numbers add up the way that they look like they should, inquired if that is what they intended, and was responded to in the affirmative.

She then called Wadsworth's representative and stated their bid numbers look a little off. She asked that they explain to her what the intent was. They were on their way back to their office and said they would look at the numbers and get back to her and confirm what happened. About 10 minutes later, they called and said, yes, we goofed. We did not add line 2a to line 1. The number should be \$3,331,250.

That process did happen immediately after the bid opening.

Commissioner Tryon commented that he wasn't sure re-bidding would be the fair way to go now that everybody knows what the numbers are. But, it is an option. He inquired the time involved if the project was rebid.

ARPA Project Manager Tarman responded approximately three weeks to rebid the project.

Commissioner Tryon inquired how that would affect the project. His priority is getting the evidence building done. He hates that they are in this situation.

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ARPA Project Manager Tarman responded, as far as ARPA timelines, their biggest concern is getting the project obligated, which means the project has to be under contract by December of this year. The only thing that might suffer is some of their lead times on equipment. But, given supply chain issues none of that is guaranteed. It would throw a little bit of a roadblock into the project, but it wouldn't be insurmountable.

Commissioner Tryon asked staff to address the environment they are in now with the numbers out there in the public domain. He commented that he was taken aback and didn't appreciate the City being threatened with a lawsuit if the contract wasn't awarded to Talcott. The City could find itself in the same situation with Wadsworth. The City Attorney addressed the fact that no matter how you cut the numbers, Wadsworth's numbers were lower. He will be voting in favor of the motion based on the clarification he received and based on the fact that the numbers are lower. His responsibility is what is best for the taxpayers of Great Falls.

City Attorney Dennis responded, practically speaking, re-bidding the project probably is not the best situation for either contractor. But, it is within the discretion of the Commission to do that.

With regard to the threatened lawsuit, City Attorney Dennis commented that the City could get sued regardless of any action took here today. He read from a 2022 case that describes the burden that a plaintiff would have in bringing a lawsuit against the commission in making a discretionary action like this one, where you're awarding a public contract.

“When a party challenges the award of a public contract, a claim for relief accrues under the following circumstances:

(1) The plaintiff must timely assert its claim as an aggrieved taxpayer. (2) The claim must seek a remedy that will protect the rights of the aggrieved taxpayer from the potential harm that will occur. (3) The plaintiff must then show that the process by which the public works contract was awarded resulted from an abuse of discretion, i.e. the municipality's discretionary decision was tainted by an act of bad faith, fraud, corruption, or was otherwise arbitrary in some manner.”

Mayor Reeves concurred with Commissioner Tryon's comments. He will be supporting the motion based on facts that staff presented, and the case law. If he heard staff correctly, the Commission is compliant with State and Federal law, policies and procedures, and case law.

There being no further discussion, Mayor Reeves called for the vote.

Motion carried 3-2 (Commissioners Wilson and Wolff dissenting).

**NEW BUSINESS**

**16. CIVIC CENTER PARTIAL HVAC RENOVATIONS, CHANGE ORDER #1 OF 1750.2.**

ARPA Project Manager Sylvia Tarman reported that the Civic Center Partial HVAC Renovations project includes upgrades to the HVAC system throughout the Civic Center to increase efficiency and operability. The project went out for bid in October of 2022, and bids were opened March 8,



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2023. The construction contract was awarded to Wadsworth Builders in April 2023. Since the project was awarded, significant changes have been proposed for the Missouri Room, and the HVAC design had to be changed to accommodate the new Municipal Court footprint.

This change represents a significant design change for the proposed HVAC systems in that part of the building. The changes include sizing down and adding HVAC units, re-aligning mechanical ducting and hydronic piping, re-aligning electrical wiring and panels, as well as additional mechanical penetrations and curbing through the roof at the north end of the building. This change order also includes some scope reductions in other areas, as City staff and Cushing decided that the units planned for the Mansfield Theater and Lobby area would likely not be needed, as the hallway units installed last year are performing very well and keep that area comfortable as is.

This change order includes all of the known HVAC work for the current Court design. City staff and Cushing Terrell thought it would be most beneficial and cost effective to complete all of the HVAC work under the current contract, rather than try to include separate HVAC work in the Court construction project.

This project is being funded with American Rescue Plan Act (ARPA) funds. This change order will increase the project funding by \$65,971.22, for a new contract total \$1,192,671.22. Staff is expecting this change to take care of the needed HVAC work for the Court project, and therefore is expecting the Court project budget to come in under the estimated total ARPA budget. Staff will work with the design and construction personnel to mitigate any cost impacts this may have on the overall ARPA allocation. Staff is still tracking to keep within our allocated ARPA budget for all projects thus far.

City staff and Cushing Terrell have reviewed the proposed changes and are confident this proposal satisfies the needed changes to incorporate the new Municipal Court footprint into the Missouri Room space. Therefore, staff recommends that the Commission award Change Order #1, in the amount of \$65,971.22 to Wadsworth Builders to complete the necessary work for the Civic Center Partial HVAC Renovations project.

**Commissioner Wolff moved, seconded by Commissioner Wilson, that the City Commission approve Change Order #1 for the Civic Center Partial HVAC Renovations Project in the amount of \$65,971.22 for Wadsworth Builders utilizing American Rescue Plan Act funds, and authorize the City Manager to execute the contract documents.**

Mayor Reeves asked if there were any comments from the public. Hearing none, Mayor Reeves asked if there was any discussion amongst the Commissioners.

Commissioner Wilson inquired how the City was sitting with ARPA funds.

ARPA Project Manager Tarman responded that, based on the current projects that are contracted with allocated ARPA budgets, about \$65,000 remains under the City's total ARPA allocation. That amount may fluctuate with the GFPD and Court projects.

Commissioner Wilson inquired if there was a contingency fund.

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ARPA Project Manager Tarman commented that contingencies have been built in to the last projects. Other projects that require change orders are being managed by scope reductions in other areas to enable the rest of the projects to be completed.

Commissioner Wolff noted the deducts in the agenda report, and she expressed appreciation to ARPA Project Manager Tarman for keeping track and all the work she is doing.

ARPA Project Manager Tarman added that the hallway units that were installed for the HR project have performed really well. Based on that and discussions with the architect, two more units are planned for the hallway on the north end of the building.

There being no further discussion, Mayor Reeves called for the vote.

Motion carried 5-0.

**17. COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING AGREEMENT WITH THE GREAT FALLS PARK AND RECREATION DEPARTMENT FOR THE PURCHASE OF FOUR (4) MOTION TREK POOL LIFTS FOR THE ELECTRIC CITY WATER PARK.**

Grant Administrator Tom Hazen reported that this agreement will finance the purchase of four lifts to assist individuals with mobility limitations entering and exiting the Aquatics facility. This project is an appropriate use of CDBG funds, which increases the capabilities of the Park and Recreation Department, and has received a full endorsement of reviewing City Staff.

The authorizing statute of the Community Development Block Grant (CDBG) program requires that every funded activity must meet one of three national objectives. Of the three, providing a benefit to low and moderate income (LMI) persons is often referred to as the “primary” national objective of CDBG. There are four categories of activities that the Department of Housing and Urban Development (HUD) has identified as addressing this objective. The Limited Clientele Services category applies to this project.

Activities in the Limited Clientele category benefit specific groups of people rather than every individual. These groups may include the homeless, the elderly, or, in the case of this particular project, the disabled. These groups are “generally presumed to be LMI” by HUD. Projects designed to offer training and/or employment support to these groups will be eligible activities. Additionally, and appropriate to the project at hand, the removal of public facility architectural barriers to the mobility of elderly persons or the severely disabled will be allowable expenses.

This project will purchase four chairs that are designed to provide access to public swimming facilities to disabled individuals that are unable to enter pools without assistance. This will satisfy not only CDBG eligibility requirements but will also allow Great Falls aquatic facilities to maintain compliance with Americans with Disabilities Act requirements.

This application has been reviewed by the City Grant Committee and unanimously approved.

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For these reasons, the recommended action is that the Commission approve the agreement allocating \$23,396.00 to the Great Falls Park and Recreation Department for the purchase of four Motion Trek Pool Lifts.

**Commissioner Wolff moved, seconded by Commissioner Tryon, that the City Commission approve the CDBG Funding Agreement in the amount of \$23,396 to the Park and Recreation Department for the purchase of four (4) Motion Trek Pool Lifts.**

Mayor Reeves asked if there were any comments from the public or discussion amongst the Commissioners. Hearing none, Mayor Reeves called for the vote.

Motion carried 5-0.

**18. AMENDMENT TO HOME INVESTMENT PARTNERSHIP FUNDING AGREEMENT TO SUPPORT RENOVATION OF THE BAATZ BUILDING AT 402 2<sup>ND</sup> AVENUE SOUTH.**

Grant Administrator Tom Hazen reported that the Baatz Building Project is a project that has been discussed previously in this setting. On May 16, 2023, the City Commission unanimously approved two funding agreements totaling \$2,150,000.45 of HOME and HOME ARP allocations to the rehabilitation of the property located at 400 2nd Avenue South. This redevelopment will convert a vacant structure into 24 permanent supportive housing units.

This project is an exceptionally complicated undertaking. The Baatz project is being spearheaded by the partnership of NeighborWorks Great Falls (NWGF) and Homeword, a housing services Non-Profit located in Missoula. There are 13 unique funding sources contributing to this project from Local, State, and Federal Sources. Meeting each of the unique pre-qualifying requirements and ensuring that these entities were harmonious took a significant amount of time.

NWGF submitted the first application for HOME funding to the City in January of 2022. That application was not acted on for a variety of reasons including Environmental Compliance considerations, aligning other financial considerations, and awaiting the City's Amended Action Plan for utilization of its HOME-ARP allocation. An updated application was submitted in October of 2022 and, as previously noted, ultimately approved in May of 2023.

This project has experienced the same cost increases due to supply shortages, inflation, and other considerations that many of the City's own capital improvement projects have witnessed. The Baatz project budget as compiled in 2022 reflected a total project cost of \$11,489,247.00. Updated to today's numbers to include external factors, that total cost has risen to \$13,850,528.00, an increase of \$2,381,280.00.

NWGF requests increasing the original HOME allocation of \$1,277,495.00 to \$2,500,000.00 to account for a portion of this increase. It should be noted that NWGF is not asking the City alone to cover the entirety of the budget increase. The organization has secured increased allocations from other funding sources and has committed to ongoing pursuit of additional funding opportunities as they present themselves.

**JOURNAL OF COMMISSION PROCEEDINGS**  
**February 20, 2024**

The City currently has sufficient HOME funds to accommodate this request. HOME funds, unlike CDBG, are not currently subject to a timeliness requirement. However, if the Government adopted such a measure the City's current balance of funds would be considered "Newly Untimely" if measured by the same metrics as CDBG. Once spent, this increased award would sufficiently reduce the City's balance of HOME funds to a compliant figure with these standards.

The project has also been unanimously approved by the City's grant committee. As this is an award that has been previously approved by the City Commission, funds a project that benefits the Great Falls community, and contributes to Great Falls usage of federal funds in a timely manner, staff requests that this award be approved.

**Commissioner Wilson moved, seconded by Commissioner McKenney, that the City Commission approve the amendment to the HOME Funding Agreement increasing funding to NeighborWorks Great Falls for the renovation of the Baatz building from \$1,277,495 to \$2,500,000.**

Mayor Reeves asked if there were any comments from the public.

**Sherrie Arey**, NeighborWorks Great Falls Executive Director, commented that the Baatz Block project will create 25 permanent supportive apartments by renovating a historic 1913 building in the downtown area which has suffered from chronic vacancy and blight for many years.

Permanent supportive housing combines affordable housing assistance with voluntary support services to address the needs of people who are experiencing homelessness. The service providers that they have MOU's with to help provide those services are Opportunities, Inc. and Many Rivers Whole Health, in conjunction with the Continuum of Care group in Great Falls. They also have a variety of funders and are continuing to look for funds for other amenities and furnishings for the building.

The redevelopment of this building will benefit the Great Falls community in multiple ways. First, it's adapting and reusing a space that is vacant, boarded up and causing blight in the community. Second, the direct result of a permanent supportive housing model is safe, stable housing essential for health. An ever growing body of research has documented that housing combined with supportive services can lead to improved overall health and lower public costs associated with the use of crisis services.

NWGF budget, which was created in 2021, has been updated a variety of times. This increase can be attributed to the ongoing construction challenges, including mechanical, electrical, plumbing and materials availability and cost volatility. These combined factors have resulted in budget increases. NWGF has worked diligently with contractor Guy Tobacco. They found different ways to adjust and save. Bids came in \$2 million over budget. They worked with those contractors to help bring those bids down. This Amendment will assure the longevity of this project, and includes adding back security systems, cameras, intercoms, security doors, durable finishes and windows, and a complete first floor replacement.

She expressed appreciation to City staff and for the Commission's support. NWGF looks forward to bringing this project to fruition around this time next year.

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**February 20, 2024**

**Jake Clark**, Great Falls Development Alliance (GFDA), commented that housing is needed at all levels, and this is a level that doesn't exist in our community currently. This is the first permanent supportive housing project in our community. GFDA is deeply committed to this project, both financially and otherwise. It's very mission bound for GFDA. He urged the Commission to remain committed to it as well.

Mayor Reeves asked if there was any discussion amongst the Commissioners.

Commissioner Tryon commented that he supports the Baatz project. He questioned if there were other HOME or HOME ARP funding opportunities for other projects that would be impacted by this increased allocation.

Grant Administrator Hazen responded that, at this time, this is the one project that has been proposed to the City for HOME funding. HOME is a little bit different from CDBG in that it is more limited to who can access those funds and put them into play.

Commissioner Tryon commented that the costs have escalated by about \$2,200,000. He inquired the other funding sources to make up the difference.

NWGF Executive Director Arey responded they were very lucky to have Guy Tabacco reevaluating the bids, and smaller grants to help in different areas. They are trying to continue to keep this project without any debt. The sustainability is going to be critical for the support services. The funding received will offset the individual's costs, and rents received will go back to operations of the building and not debt service. About \$130,000 has been committed from other funding sources to fill the gap. There is also a contingency with the hope of not having too many more surprises.

Commissioner Tryon inquired if some of the other 13 entities involved would be contributing to the funding.

NWGF Executive Director Arey responded that most of those other entities are through similar contracts. NWGF did approach the County for more ARPA funds, but the County is tapped out on ARPA funds. The guarantors on this project are NWGF and Homeward. So, at the end of the day, any amount of costs that are left is theirs to pay.

There being no further discussion, Mayor Reeves called for the vote.

Motion carried 5-0.

**ORDINANCES/RESOLUTIONS**

**CITY COMMISSION**

**19. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Commissioner Wilson commented that she is an officer for the BFW in Black Eagle and American Legion in downtown Great Falls. Three or four years ago they took on a project and collected 3,000 signatures to request the State and Federal Governments put a long term nursing/assisted living home in the Great Falls area for Veterans.

**JOURNAL OF COMMISSION PROCEEDINGS**  
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There are three Veterans homes in the state: Columbia Falls is 213 miles away, Butte is 160 miles away, and Glendive is 350 miles away. There are over 100,000 Veterans in this state, and just over 30,000 in North Central Montana. It is a hardship for families to visit their loved ones in those facilities so far away.

Copies of the petitions were sent to our congressional delegation, Governor Gianforte, and Mayor Kelly. They followed up by testifying at the Veterans Affairs Interim Committee. Commissioner McKenney also testified how Great Falls needs a long-term care facility for our Veterans.

One of the members of that Committee brought forward HB 264, which provided the funds for a study to determine the need for a care facility for our Veterans in this area. She, along with several other American Legion members attended the Governor's signing of that bill.

Cards asking people to participate in the survey were mailed out to Montana Veterans titled "Your long term independence. Let's plan on it." There are about 42,000 Veterans in the state that are enrolled in VA healthcare. She knows of Veterans in the healthcare system that have not received the cards. There is a short timeline to get this study done. The card says the survey closes Monday, April 8<sup>th</sup>, but that date has been extended to the end of May.

The first step in getting a facility here is to get as many Veterans in this area to participate in this study. Spouses and partners of Veterans can answer the survey. Friends and caretakers, on behalf of the Veteran, and relatives such as adult children can participate in the survey. She urged those people to complete the on-line survey at [Veteransurvey.mt.gov](http://Veteransurvey.mt.gov).

Mayor Reeves suggested Commissioner Wilson also reach out to the local media to help get the word out.

**20. COMMISSION INITIATIVES.**

Commissioner Tryon requested consensus to move forward with a formal request to the Great Falls Public Library Board of Trustees to enter into a discussion/negotiation surrounding the 1993 management agreement between the City and the Library Board. The 1993 agreement is outdated. He believes an updated, new agreement should be negotiated that would be a better arrangement for all parties involved.

Commissioner McKenney agreed with Commissioner Tryon. He added that the community recently passed a levy for the Library which tells him the community wants an exciting and modern Library. The current agreement really does not meet the needs between the City and the Library to bring the Library forward the way he thinks the community is expecting or of the goals of the Library Trustees or its supporters. It does seem appropriate that this is the time to look at renegotiating an agreement.

Mayor Reeves concurred with Commissioner Tryon.

Commissioner Wilson commented that she does not have any problems with looking at the agreement, but she is not inclined to go against the will of the voters on the Library issue.



**JOURNAL OF COMMISSION PROCEEDINGS**  
**February 20, 2024**

Commissioner Wolff would like to know who is going to be involved in those conversations. It is a time to really discuss what the future will look like because whatever was happening in 1993 is not what is happening now. The Library is a very dynamic place and the services they are providing are very different. This gives the Library Trustees and the Library Director an opportunity to have an agreement that better reflects what the goals and the mission of the Library are today and into the future.

City Manager Doyon commented that, the first question would be whether the Trustees want to sit down and have that conversation as well. If that is in the affirmative, then he suggested a limited group to see what issues are out on the table. Because of the public interest with this, there is going to have to be progress communicated at Commission meetings as they work their way through it. The agreement is certainly dated. He thinks that there are other models that could be looked at. He thinks it is difficult for the Library Director to answer to two bosses. He suggested a Commissioner and staff person report back, if the Trustees are willing to enter into that conversation.

Library Director Susie McIntyre commented that the next Library Board agenda could be amended if the Library Board wanted to add a discussion about this proposal and how they would like to move forward.

**ADJOURNMENT**

There being no further business to come before the Commission, **Commissioner Tryon moved, seconded by Mayor Reeves, to adjourn the regular meeting of February 20, 2024, at 8:58 p.m.**

Motion carried 5-0.

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Mayor Cory Reeves

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Deputy City Clerk Darcy Dea

**Minutes Approved: March 5, 2024**



Commission Meeting Date: March 5th, 2024

**CITY OF GREAT FALLS  
COMMISSION AGENDA REPORT**

**ITEM:** \$25,000 Report  
Invoices and Claims in Excess  
of \$25,000

**PRESENTED BY:** Finance Director

**ACTION REQUESTED:** Approval with Consent Agenda

**LISTING OF ALL ACCOUNTS PAYABLE CHECKS ISSUED AVAILABLE ONLINE AT**

<https://greatfallsmt.net/finance/checkregister>

**TOTAL CHECKS ISSUED AND WIRE TRANSFERS MADE ARE NOTED BELOW WITH AN  
ITEMIZED LISTING OF ALL TRANSACTIONS GREATER THAN \$25,000:**

ACCOUNTS PAYABLE CHECKS FROM NEW WORLD	02/08/2024 - 2/21/2024	596,215.23
ACCOUNTS PAYABLE CHECKS FROM MUNIS	02/08/2024 - 2/21/2024	2,159,610.19
MUNICIPAL COURT CHECKS	02/08/2024 - 2/21/2024	8,652.35
MISCELLANEOUS ACCOUNTS PAYABLE WIRES	02/08/2024 - 2/21/2024	236,326.76

TOTAL: \$ 3,000,804.53

**GENERAL FUND**

**FIRE**

L N CURTIS & SONS	FIRE TURNOUTS GLOBE JACKETS & PANTS	42,229.00
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**DEBT SERVICE**

MOTOROLA SOLUTIONS INC	ANNUAL PAYMENT RADIO EQUIPMENT	231,570.00
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**SPECIAL REVENUE FUNDS**

**COVID RECOVERY**

CTA ARCHITECTS ENGINEERS	CIVIC CENTER COURTROOM REMODEL	85,811.70
CTA ARCHITECTS ENGINEERS	CIVIC CENTER COURTROOM REMODEL	55,904.00
ROUNTREE CONSTRUCTION	PEACE PLACE CONSTRUCTION JAN 2024	92,302.35

**DEBT SERVICE FUNDS**

**WEST BANK TID BONDS**

TALCOTT PROPERTIES LLC	TIF REIMBURSEMENT WEST BANK	190,038.48
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**CAPITAL PROJECT FUNDS**

**ENTERPRISE FUNDS**

**WATER**

UNITED MATERIALS OF GREAT FALLS	LOWER NORTHSIDE WMR PH 2/PMT6	61,990.99
<b>SEWER</b>		
PEC INC PLANNED & ENGINEERED	SAN SEW TRENCHLESS REHAB PH5/PMT 2	146,015.71
TD&H ENGINEERING	LIFT STATION #1 REPAIRS & SUP FM/PMT24	61,045.32
<b>SANITATION</b>		
CASCADE ENGINEERING, INC	580-96 GALLON REFUSE CONTAINERS	34,727.20
<b>INTERNAL SERVICE FUNDS</b>		
<b>HEALTH &amp; BENEFITS</b>		
HEALTH CARE SERVICE CORP	BCBS HEALTH INSURANCE JAN 2024	904,522.63
SUN LIFE FINANCIAL	SUN LIFE DENTAL AND VISION JAN 2024	48,398.72
<b>TRUST AND AGENCY FUNDS</b>		
<b>PAYROLL CLEARING</b>		
STATE TREASURER	MONTANA TAXES	68,899.20
FIREFIGHTER RETIREMENT	FIREFIGHTER RETIREMENT EMPLOYEE & EMPLOYER CONTRIBUTIONS	52,587.71
STATEWIDE POLICE RESERVE FUND	POLICE RETIREMENT EMPLOYEE & EMPLOYER CONTRIBUTIONS	74,911.80
PUBLIC EMPLOYEE RETIREMENT	PUBLIC EMPLOYEE RETIREMENT EMPLOYEE & EMPLOYER CONTRIBUTIONS	143,146.55
POLICE SAVINGS & LOAN	EMPLOYEE CONTRIBUTIONS	
US BANK	FEDERAL TAXES, FICA & MEDICARE	223,619.95
<b>UTILITY BILLS</b>		
ENERGY WEST RESOURCES INC	NATURAL GAS CHARGES JAN 2024	26,696.62
<b>CLAIMS OVER \$25,000 TOTAL:</b>		\$ <u>2,544,417.93</u>

**CITY OF GREAT FALLS, MONTANA  
COMMUNICATION TO THE CITY COMMISSION**

**DATE: March 5, 2024**

**ITEM:** CONTRACTS LIST  
Itemized listing of administratively approved contracts.  
(Listed contracts are available for inspection in the City Clerk's Office.)

**PRESENTED BY:** Lisa Kunz, City Clerk  
**ACTION REQUESTED:** Ratification of Contracts through the Consent Agenda

**MAYOR' S SIGNATURE:** \_\_\_\_\_

**CONTRACTS LIST**

	DEPARTMENT	OTHER PARTY (PERSON OR ENTITY)	PERIOD	AMOUNT	PURPOSE
<b>A</b>	Park & Recreation and Legal Department	Babb Land Surveying, Inc.	Current	Total amount not to exceed \$50,000	Amendment No. 3 to Professional Services Agreement to include Third Revised Scope of Work to complete all research, calculations, surveying, drafting, consultation and coordination for approval required to produce Certificate of Survey to accomplish boundary line adjustment, retracement of existing parcels and aggregation of existing parcels for the parcels that presently make up the Pasta Montana, LLC lease parcel as shown on Certificate of Survey #3295; produce five (5) easement legal descriptions and exhibits; complete work necessary to effect dedication of 25 <sup>th</sup> Street right-of-way adjacent to subject parcels [CR: 050322.9B; 2022.2; 2021.30]

<b>B</b>	City Manager	United States Air Force – Malmstrom Air Force Base (MAFB)	Expires 03/16/2024	N/A	Ratification of Memorandum for Record terminating SPC-MLM-2-04-0032 permit. Upon expiration, MAFB will take over maintaining the intersection and landscaping for the tract of land at 57 <sup>th</sup> Street & 10 <sup>th</sup> Avenue North [ <b>OF 1256</b> ; CR: 031919.12F, 121917.14A, 041712.8G, and 031604.14]
<b>C</b>	Public Works	Russell Country Drug Task Force (RCDTF)	01/01/2024 – 12/31/2025	\$9,336 for 3 vehicles paid to City=\$28,008	Vehicle Lease Agreement for use of (1) 2021 Gray Ford F-150, (2) 2021 Gray Dodge Ram, and (3) 2021 Black Jeep Cherokee by the members of the RCDTF.



Commission Meeting Date: March 5, 2024

**CITY OF GREAT FALLS  
COMMISSION AGENDA REPORT**

**Item:** Final Payment: Sanitary Sewer Trenchless Rehabilitation Phase 25, O. F. 1675.8

**From:** Engineering Division

**Initiated By:** Public Works Department

**Presented By:** Christoff T. Gaub, Public Works Director

**Action Requested:** Approve Final Pay Request

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission (approve/not approve) Final Payment for the Sanitary Sewer Trenchless Rehabilitation Phase 25 project, totaling \$51,296.90. This comprises \$50,783.93 to Planned and Engineered Construction, Inc. and \$512.97 to the State Miscellaneous Tax Fund and (authorize/not authorize) the City Manager to make these payments.”

2. Mayor requests a second to the motion, public comment, Commission discussion, and calls for the vote.

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**Staff Recommendation:**

Approve the final payment totaling \$51,296.90. This comprises \$50,783.93 to Planned and Engineered Construction, Inc. and \$512.97 to the State Miscellaneous Tax Fund.

**Summary:**

This sanitary sewer-lining project is a continuation of an ongoing maintenance and repair program to rehabilitate deteriorated sanitary sewer mains using trenchless technologies. This phase restored 20,015 linear feet of varying diameter sewer main, the equivalent of 45 city blocks. The rehabilitated mains serve primarily residential areas.

**Background:**

Citizen Participation

The construction activity was planned and phased to minimize impact on the citizens of Great Falls. The contractor was required to keep all sewer mains functioning during construction by utilizing bypass pumping. Overall, traffic interruptions were limited since the majority of mains are located along alleyways and residential city streets. When a sewer service interruption was necessary for the work, customers affected were notified in a timely manner and all interruption related needs of the homeowner were met until service was re-established.



Workload Impacts

The Utilities and Engineering Divisions of the City's Public Works Department completed sewer main inspections that were used to identify and prioritize mains that needed rehabilitation. The City Engineering staff designed the lining project and also performed construction inspection and contract administration.

Purpose

This project was a continuation of previous projects that rehabilitated deteriorated sewer mains using technology and techniques that are a less disruptive manner than traditional open trenching and pipe replacement. Although the sewer mains were functioning, the aged/deteriorated mains had developed pits, cracks, and holes. These defects not only made routine maintenance difficult but also could have led to raw sewage leaking into ground water.

By using Cured-in-Place-Pipe (CIPP), the project extends the service life and alleviates the issues stated above. Trenchless technology provides the City with a low cost solution that greatly reduces disruption and eliminates utility conflicts caused by open trench replacements.

Project Work Scope

This project lined 20,015 linear feet of 8, 9, 10, and 15-inch diameter sewer mains at sixty-eight (68) locations spread around the City. These locations were prioritized based on factors such as the condition seen during video camera investigation, age, and material type.

Evaluation and Selection Process:

Three responsive bids were received for this project, one from National Power Rodding (\$1,229,573.20), one from Insituform (\$1,034,910.00), and one from and Planned and Engineered Construction, Inc. (\$858,950.00) which were opened on March 8, 2023. Planned Engineering and Construction, Inc. provided the low bid and executed all necessary bid documents.

Final Payment:

The final project cost is \$825,938.00, which is less than the original award of \$858,950.00. A majority of the cost savings is due to approximately 900 lineal feet of 9 inch that was removed from the original contract due to these mains being unable to be lined. There have been two payments made to PEC Inc. for \$620,878.98 and \$146,015.71 as well as \$6,271.50 and \$1,474.91 to the State Miscellaneous Tax Fund, thus the final pay will be the remaining project cost.

Conclusion:

City Staff recommends making the final payment of \$50,783.93 to Planned and Engineered Construction, Inc. and \$512.97 to the State Miscellaneous Tax Fund. City staff verified that Planned and Engineered Construction, Inc. has completed all work and punch list items in accordance with the plans and the contract. The two year warranty period started on February 1, 2024.

**Fiscal Impact:**

Funding will come from Sanitary Sewer Enterprise Fund.

**Alternatives:**

The City Commission could vote to deny Final Payment and request City staff to continue validating project completion.

**Attachments/Exhibits:**

OF 1675.8 Final Pay Documents; OF 1675.8 Project Summary

**Planned and Engineered Construction, Inc**  
**3400 Centennial Drive**  
**Helena, MT 59601**

**Telephone 406/447-5050**  
**Fax 406/443-8583**  
**www.pechelena.com**

**APPLICATION FOR PAYMENT SUMMARY SHEET**

Owner: City of Great Falls, MT  
 PO Box 5021  
 Great Falls, MT 59403

Bill To: City of Great Falls, MT  
 PO Box 5021  
 Great Falls, MT 59403

Invoice Number: 003  
 Invoice Date: 2-Feb-24  
 Project Name: Sanitary Sewer Trenchless Rehabilitation - Phase 25  
 Contract No:  
 Engineer:

Period - From:  
 Period - To:  
 PEC Project # C2304  
 Contract Completion Date:

ITEM	DESCRIPTION	UOM	BID EST.	BID	TOTAL	CURRENT PAY REQUEST		PREVIOUS PAY REQUEST		TOTAL PAY REQUESTS	
			QTY	PRICE	BID EST.	QTY	PRICE	QTY	PRICE	QTY	PRICE
101	Clean and TV Pipe	LF	18,153	\$5.00	\$90,765.00		\$0.00	16,840.0	\$84,200.00	16,840.0	\$84,200.00
102	Install 8" CIPP	LF	11,313	\$33.00	\$373,329.00		\$0.00	10,262.0	\$338,646.00	10,262.0	\$338,646.00
103	Install 9" CIPP	LF	2,953	\$35.00	\$103,355.00		\$0.00	1,721.0	\$60,235.00	1,721.0	\$60,235.00
104	Install 10" CIPP	LF	3,848	\$36.00	\$138,528.00		\$0.00	4,857.0	\$174,852.00	4,857.0	\$174,852.00
105	Install 15" CIPP	LF	39	\$250.00	\$9,750.00		\$0.00		\$0.00		\$0.00
106	Internally Reinstall Laterals	EA	261	\$50.00	\$13,050.00		\$0.00	271.0	\$13,550.00	271.0	\$13,550.00
107	Internally Remove Excess Calcium Deposits	EA	20	\$500.00	\$10,000.00		\$0.00	99.0	\$49,500.00	99.0	\$49,500.00
108	Mobilization	LS	1	\$30,173.00	\$30,173.00		\$0.00	1.0	\$30,173.00	1.0	\$30,173.00
109	Misc. Work	Unit	90,000	\$1.00	\$90,000.00		\$0.00		\$0.00		\$0.00
Work Change Directive 1											
101	Clean and TV Pipe	LF	1,862	\$5.00	\$9,310.00		\$0.00	1,864.0	\$9,320.00	1,864.0	\$9,320.00
102	Install 8" CIPP	LF	1,862	\$33.00	\$61,446.00		\$0.00	1,864.0	\$61,512.00	1,864.0	\$61,512.00
106	Internally Reinstall Laterals	EA	19	\$50.00	\$950.00		\$0.00	42.0	\$2,100.00	42.0	\$2,100.00
110	Reinstall Services in Fold and Form	LS	1	\$1,850.00	\$1,850.00		\$0.00	1.0	\$1,850.00	1.0	\$1,850.00

COMMENTS:

**PROJECT SUMMARY SHEET:**  
**Sanitary Sewer Trenchless Rehabilitation Phase 25, O.F. 1675.8**  
**FY 2024 Capital Improvement Plan**  
**Current as of: February 5, 2024**

**Description:** Lining project to increase the usable life of sanitary sewer mains that can be upwards of 100 years old, without open trenching and increasing the impact to the citizens.

**Justification:** We can essentially put in 10,000 – 20,000 feet (approximately 30 – 40 blocks) of new main without open trenching in less time and for much less money than if we were to open trench the new mains. Phase 25 lined over 20,000 ft of sewer main, including 3 addition mains that were marked as urgent after the bidding process. There is currently over 650,000 feet of sanitary sewer that will need to be lined or replaced. Any main that is not PVC will need to be lined or replaced, some of the mains are over 120 years old and still in place.

**Scope:** Line 20,015 ft of 8,9,10, and 15 inch sanitary sewer main, reinstating 380 service connections.

**Added to CIP:** 2018

**CIP Timeline:** On track

**Cost:**

- CIP programmed cost/FY: \$1.1M/FY23/FY24
- Current Working Estimate: \$892,928.00
- Awarded Cost: \$858,950.00
- Final Cost: 825,938.00

**Funding Source(s):** Utilities (Sewer Enterprise Fund)

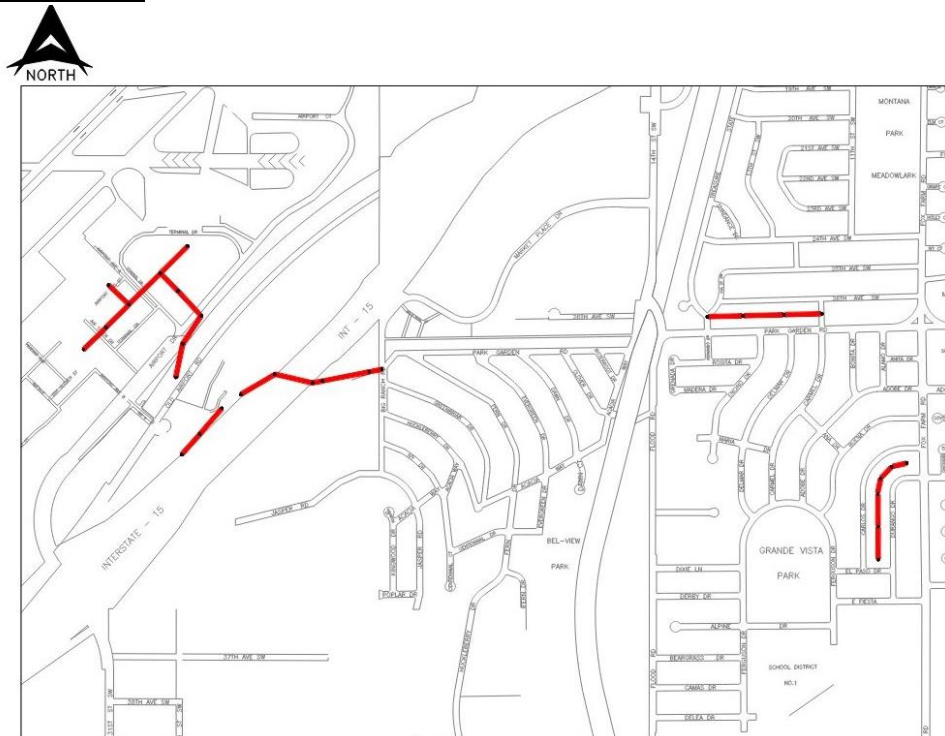
**Planned Execution Method:** Design-Bid-Build

**Planned Construction CY:** Winter 2023

**Current Project Stage (Estimated Completion Date):** Planning (Fall 2023), Design (Winter 2023), Bid (March 2023), Award (March 2023), Construction (November 2023 – February 2024), Warranty (February 2026)

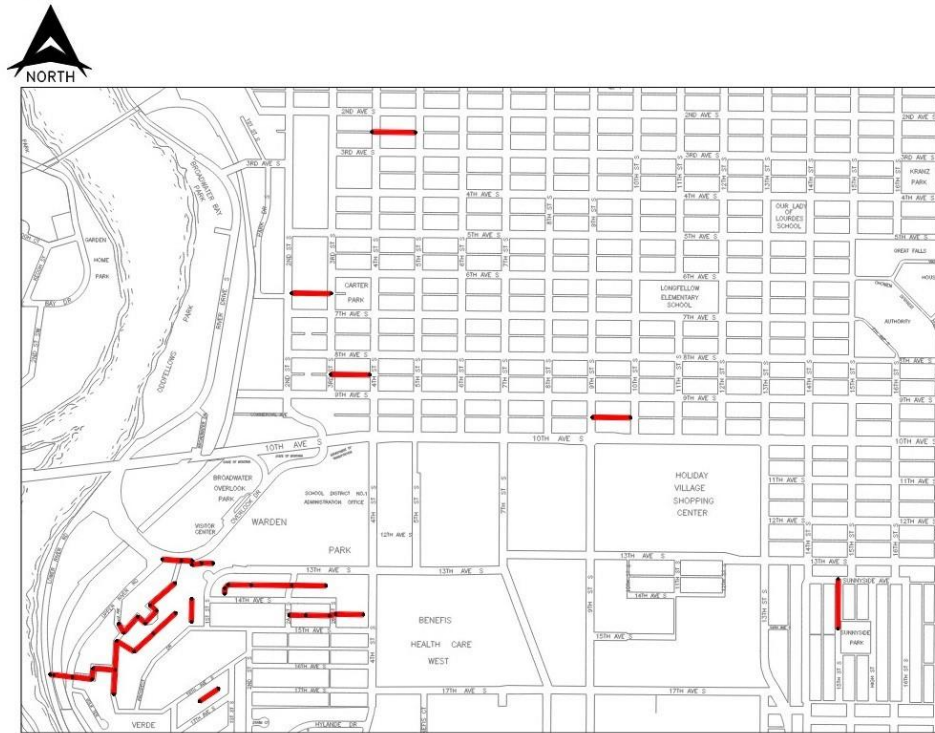
- Design Method: In-House
- Contractor: Planned and Engineered Construction, Inc.

**Map & Site Pictures:**



OF 1675.8  
 13-15-2023  
 VICINITY MAP  
 1 of 3  
 SANITARY SEWER TRENCHLESS  
 REHABILITATION PHASE 25

**PROJECT SUMMARY SHEET:**  
**Sanitary Sewer Trenchless Rehabilitation Phase 25, O.F. 1675.8**  
**FY 2024 Capital Improvement Plan**  
**Current as of: February 5, 2024**



OF 1675.8  
3-15-2023

VICINITY MAP  
2 of 3

SANITARY SEWER TRENCHLESS  
REHABILITATION PHASE 25




OF 1675.8  
3-15-2023

VICINITY MAP  
3 of 3

SANITARY SEWER TRENCHLESS  
REHABILITATION PHASE 25

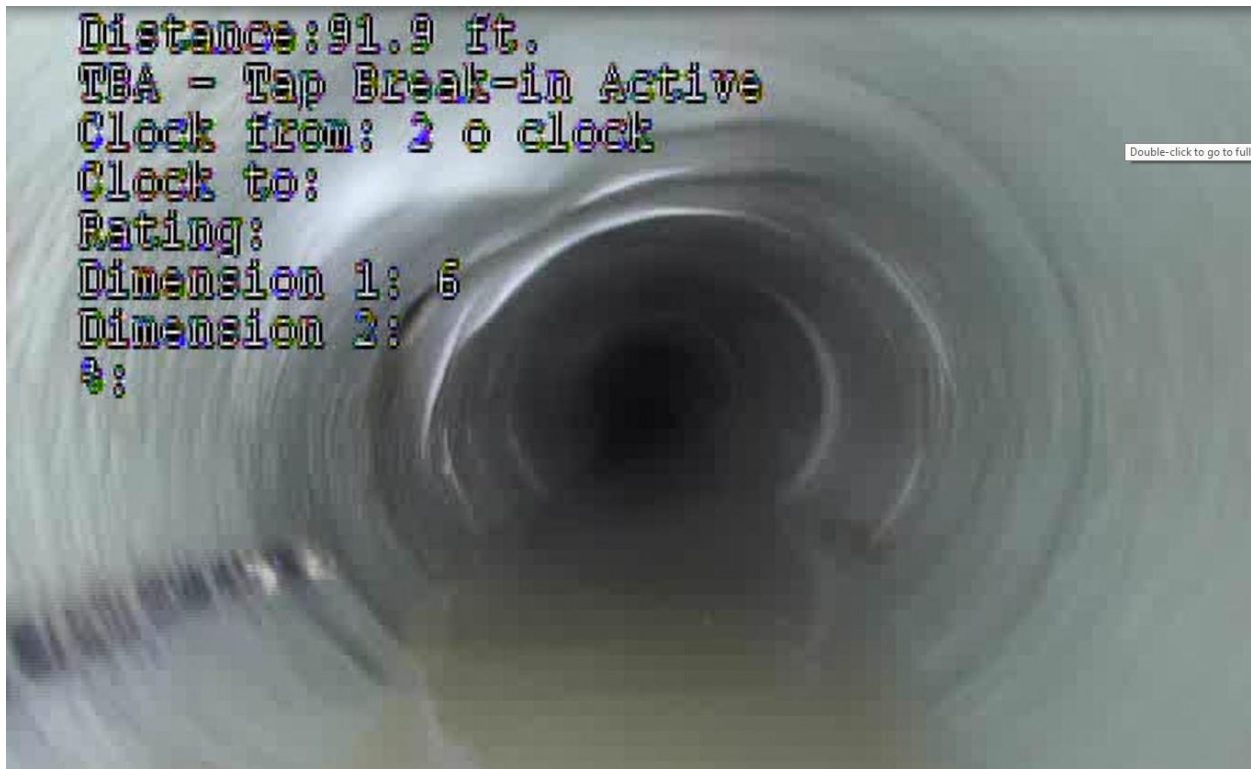




**PROJECT SUMMARY SHEET:**  
**Sanitary Sewer Trenchless Rehabilitation Phase 25, O.F. 1675.8**  
**FY 2024 Capital Improvement Plan**  
**Current as of: February 5, 2024**



*9" clay tile sewer main with a fracture.*



*Same 9" sewer main that is lined, now PVC main inside the clay tile main with no surface disturbance.*



Commission Meeting Date: March 5, 2024

**CITY OF GREAT FALLS  
COMMISSION AGENDA REPORT**

**Item:** Application for FEMA, Assistance to Firefighters Grant for Operations and Safety Equipment

**From:** Jeremy Jones, Fire Chief

**Initiated By:** Robert Shupe, Assistant Fire Chief

**Presented By:** Jeremy Jones, Fire Chief

**Action Requested:** Approve Application Submission to FEMA for Operations and Safety Equipment for Great Falls Fire Rescue.

**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission (approve/not approve) an application to the Federal Emergency Management Agency (FEMA) through the Assistance to Firefighters Grant (AFG) program for Operations and Safety Equipment in the amount of \$74,570.25.”

2. Mayor requests a second to the motion, public comment, Commission discussion, and calls for the vote.

**Staff Recommendation:** Staff recommends that the City Commission approve the application submission to FEMA through the Assistance to Firefighters Grant (AFG) for Operations and Safety Equipment for a total of \$74,570.25.

**Summary:** Great Falls Fire Rescue would like to apply for a FEMA/AFG micro grant that would pay 90% or \$67,791.14 of the cost to purchase new operations and safety equipment consisting of fire hose and thermal imaging cameras. Currently, GFFR has not been able to replace a majority of the operational and safety equipment through normal budgetary means. If successful in being awarded a grant, the city’s 10% AFG match would be \$6,779.11. This match would come from the department’s safety equipment fund.

**Background:** Great Falls Fire Rescue has not been able to replace a large amount of emergency operations and safety equipment due to the increased costs of equipment and status quo budgets. GFFR has a line item budget of \$50,000 for safety equipment to cover these types of equipment as well as many others that need to be replaced. It is not feasible to attempt to address these items through normal budgetary means. We have utilized this account to provide matching fund allotments for these grants in the past, such as the diesel exhaust systems. One of the pieces of equipment needing to be replaced is fire attack hose that was placed into service in 2001. Much of this hose has been failing annual hose testing or being damaged on actual fire responses. FEMA acknowledges that fire hose has an intermediate life expectancy

of 8-14 years. Much of our hose is well beyond that time line. Thermal imaging cameras are used to assist finding victims in zero visibility conditions. They also help firefighters find the seat of a fire, hidden fire and dangers such as holes in floors and structural collapses. Currently we have shortages due to aging hose needing replacement and our thermal imagers are frequently out of service and have become unreliable.

**Fiscal Impact:** The total cost of the emergency operations and safety equipment is \$74,570.25. The Assistance to Firefighters Grant would pay 90% or \$67,791.14 and per the agreement; the City of Great Falls shall pay a 10% match of the total cost or \$6,779.11.

The matching funds from the city would come out of the fire department operations budget specific to safety equipment line item.

**Alternatives:** Reject the grant application and determine other avenues to replace the equipment.

**Concurrences:** Fiscal Services

**Attachments:** None at this time as grant application is being constructed.





Commission Meeting Date: March 5, 2024

**CITY OF GREAT FALLS  
COMMISSION AGENDA REPORT**

**Item:** Resolution 10536 Park and Recreation Fees

**From:** Park and Recreation Department

**Initiated By:** Park and Recreation Department

**Presented By:** Steve Herrig, Park and Recreation Director

**Action Requested:** Set a Public Hearing

**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission (set/not set) a public hearing on Resolution 10536, Establish Park and Recreation Fees, for March 19, 2024.”

2. Mayor requests a second to the motion, public comment, Commission discussion, and calls for the vote.

**Staff Recommendation:** Staff recommends that the City Commission set a public hearing on Resolution 10536 to Establish Park and Recreation Fees on March 19, 2024. Resolution 10536 would repeal Resolution 10296 (Community Recreation Center Fees), Resolution 9614 (Park Rental and Special Event Fees), Resolution 10050 (Swimming Pool Fees), and Resolution 10132 (Multi Sports Fees) and set a new fee structure beginning upon approval.

**Background:** Fees have not been adjusted for park rentals and special events since 2006, swimming pools since 2014, multi sports since 2016, and the community recreation center since 2019. This resolution will bring the current four resolutions into one resolution and will set the fees for the new recreation and aquatic center coming online this spring.

**Fiscal Impact:** The fiscal impact should be positive on the Park and Recreation budget. Staff has looked at the current fees, done fee comparisons, used the provided pro forma, looked at several cost recovery models, and worked with our finance department to develop fees that will allow us to provide services and programs which will minimize the impact on the general fund. The new facility will most likely need 2-3 years of operation in order to stabilize the budget. With this resolution we have also introduced a non-resident fee on certain fees at the new facility. Some of the challenges with developing the fees for the AHBS facility is the use of the pro forma to help guide us on the budget. Since the original pro forma was done, there were changes in wages, utility costs, and inflation in general. We did work with our consultant in November to update the numbers the best we could. We do have specific personnel identified to open the facility, but we have combined several positions and cut some positions to keep expenses down. Park and Recreation will hold monthly budget review meetings for the first year of operations to

monitor/address any budget concerns. Park and Recreation may need the City Commission to adjust fees during the upcoming year.

**Alternatives:** An alternative would be to not increase fees and just set the fees for the new recreation and aquatic center, but would leave the department with budget constraints. Adjusting the fees was expected with the opening of the new facility.

**Concurrences:** On January 8, 2024, the Park and Recreation Advisory Board discussed staff's proposal and recommended approval by the commission. Staff has had several discussions and approves the fees as presented.

**Attachments/Exhibits:** Resolution 10536 Park and Recreation Fees.

**RESOLUTION NO. 10536****A RESOLUTION TO ESTABLISH PARK AND RECREATION FEES**

\*\*\*\*\*

**WHEREAS**, the Park and Recreation Department’s primary focus is to enhance the overall health and livability of our community; and

**WHEREAS**, the Great Falls Park and Recreation staff have strived to operate quality facilities and programs at affordable prices and promote extraordinary recreation experiences in our community over the years; and

**WHEREAS**, the City Commission adopted Resolution 10296, “A Resolution Establishing Usage Fees for the Community Recreation Center” on June 18, 2019, Resolution 9614, “A Resolution to Establish Street Closure, Park Rental and Special Events with Alcoholic Beverage Permit Fees” on October 17, 2006, Resolution 10050, “A Resolution Establishing Swimming Pool Fees for Electric City Water Park, Water Tower, Jaycee, and Natatorium Swimming Pools” on February 18, 2014, Resolution 10132, “A Resolution to Establish Fees for the Multi Sports Softball Program” on March 15, 2016; and

**WHEREAS**, having considered the cost of operation, administration, and maintenance of both facilities and programs, it is understood that adjustments to fees need to take place in order cover the expenses of operations; and

**WHEREAS**, the above-referenced fees are consolidated herein for convenience, and fees for the new Scheels Aim High Big Sky Aquatics and Recreation Center are established; and

**WHEREAS**, a notice of the Resolution to Establish Park and Recreation Fees was published in the *Great Falls Tribune*, a newspaper of general circulation in Cascade County, on March 10, 2024, and March 17, 2024, in the form and manner prescribed by MCA Section 7-1-4127; and

**WHEREAS**, the City Commission conducted a public hearing during a regular scheduled meeting of the City Commission on March 19, 2024, at the Civic Center, 2 Park Drive South, Commission Chambers Room 206, Great Falls, Montana, at 7:00 p.m., and did consider costs and public comment regarding the establishment of park and recreation fees for the department.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA**, that the fee structure for passes, rentals, programs, events, memberships, and equipment are hereby established as follows:

<b>Park Rental</b>	<b><u>Current</u></b>	<b><u>Proposed</u></b>	<b><u>Proposed NR</u></b>	<b><u>Details</u></b>
Premier Park Rental - 3 HR Block	\$35 for All Day Rental 1-75 \$50 for All Day Rental 76-150 \$75 for All Day Rental 151-250 \$100 for All Day Rental 251+	\$65	NA	premier park rental (park that includes: restroom, pavilion, etc.) west bank, west kiwanis, oddfellows, lions, elks.
All Day Rental	NA	\$150	NA	* non event rate

Non Premier Park Rental - 3 HR Block	\$35 for All Day Rental	\$50	NA	park rental (park without amenities).
All Day Rental	NA	\$120	NA	* non event rate
Park Event - 3 HRS	NA	\$100	NA	over 100 participants
Additional Hour	NA	\$25	NA	over 100 participants
* Commercial Events need to contact the Park and Recreation office.				

<b>Gibson Band shell</b>	<b><u>Current</u></b>	<b><u>Proposed</u></b>	<b><u>Proposed NR</u></b>	<b><u>Details</u></b>
8-12 p.m.	All Day Rental with Electricity \$75	\$150	NA	includes electricity
1-5 p.m.	All Day Rental w/out Electricity \$50	\$150	NA	includes electricity
6-10 p.m.		\$150	NA	includes electricity
All Day Rental	NA	\$250	NA	includes electricity

<b>Gibson Flower Garden</b>	<b><u>Current</u></b>	<b><u>Proposed</u></b>	<b><u>Proposed NR</u></b>	<b><u>Details</u></b>
3 HRS	2HR Rental \$75	\$100	NA	3 hr
Each Additional Hour	Additional HR \$25	\$25	NA	per hr

<b>Court Rentals &amp; Horseshoe Pitching Boxes</b>	<b><u>Current</u></b>	<b><u>Proposed</u></b>	<b><u>Proposed NR</u></b>	
Per Hour Per Court or Pitching Box - Per HR/Per Court or Box	NA	\$5	NA	hurd court or jaycee pickle ball court or horseshoe
All Day Court Rental	NA	\$300	NA	hurd court or jaycee pickle ball court

<b>Multi Sports Complex</b>	<b><u>Current</u></b>	<b><u>Proposed</u></b>	<b><u>Proposed NR</u></b>	<b><u>Details</u></b>
Field no field prep	\$12/HR Per Field	\$25	NA	nonleague
Full Day Per Field no field prep	NA	\$150	NA	nonleague
Field Tournament no field prep	\$100 Per Field	\$175	NA	tournament
4 Fields All Day no field prep	NA	\$500	NA	tournament
8 Fields All Day no field prep	\$720 - 8 Fields All Day	\$1,000	NA	tournament
Field prep, lines, dragging per field	NA	\$55	NA	tournament
Secondary Field refresh	NA	\$35	NA	field prep after initial prep
Vehicle - Overnight	\$20/Per vehicle	\$20	NA	overnight vehicle permit

Concessions - Less than 12 Teams -If City Provides.	NA	\$50	NA	concessions - less than 12 teams - if city provides
Concessions - 13 - 23 Teams - City Provides	NA	\$50	NA	concessions - 13 - 23 teams - city provides
Concessions - Over 24 Teams - No Fee. City Provides	NA	\$0	NA	concessions - over 24 teams - no fee. city provides
School Teams	\$700	\$775	NA	
Adult Softball	\$725	\$800	NA	summer league - singles
Adult Softball	\$925	\$995	NA	summer league - doubleheaders
Adult Softball	\$275	\$350	NA	fall league

<b>Race/Fun Run/Parade</b>	<b><u>Current</u></b>	<b><u>Proposed</u></b>	<b><u>Proposed NR</u></b>	<b><u>Details</u></b>
Application	NA	\$35	NA	processing fee
Application	NA	\$35	NA	street closure

<b>Barricades &amp; Candles</b>	<b><u>Current</u></b>	<b><u>Proposed</u></b>	<b><u>Proposed NR</u></b>	<b><u>Details</u></b>
Candles and Barricades	NA	\$1/daily Per Candles \$3/Daily Per Barricade	NA	any damage or loss of barricades or candles will result in full replacement cost at renters expense
Trailer of Barricades/Candles	NA	\$150/Daily - Barricades/Candles	NA	trailer of 64 (2 5/16 ball hitch)
Not available during Ice Breaker, 4th of July or other Park & Rec Events		*Not available during Ice Breaker, 4th of July or other Park & Rec Events	NA	
Staff Setup	NA	\$500	NA	charge per trailer for any delivery or setup of barricades or candles by city staff

<b>Permits</b>	<b><u>Current</u></b>	<b><u>Proposed</u></b>	<b><u>Proposed NR</u></b>	<b><u>Details</u></b>
Metal Detector Permit	\$5	\$25	NA	annual permit
Alcohol Permit	\$50 - Refundable	\$75	NA	per park rental/as requested
Food Vendor Permit	\$100/Day and or Event; \$750/Annually	\$110/Day and or Event; \$810/Annually	NA	per approval
Non Food Vendor Permit	NA	\$100	NA	per approval
Plant Trees on Public Right-Of-Way	NA	\$40	NA	non-boulevard district
Plant Trees on Public Right-Of-Way	NA	No Fee	NA	boulevard district households

Boulevard Tree Removal & Replacement	NA	\$40	NA	non-boulevard district
Boulevard Tree Removal & Replacement	NA	No Fee	NA	boulevard district households
Photography (Professional) & media Productions)	NA	\$35	NA	per approval

<b>Pools</b>	<b><u>Current</u></b>	<b><u>Proposed</u></b>	<b><u>Proposed NR</u></b>	<b><u>Details</u></b>
ECWP Rental Entire Facility	\$750	\$875	NA	rental up to 499
ECWP Rental Mitchell Only	\$500	\$600	NA	rental up to 499
ECWP Day Pass Youth	\$6	\$7	NA	youth 3-17
ECWP Day Pass Adults	\$9	\$10	NA	adult 18+
ECWP Pool Punch Pass Youth	\$54	\$60	NA	youth 3-17, 10 punch
ECWP Pool Punch Pass Youth	\$135	\$200	NA	youth 3-17, 30 punch
ECWP Pool Punch Pass Adult	\$81	\$85	NA	adult 18+, 10 punch
ECWP Pool Punch Pass Adult	\$203	\$285	NA	adult 18+, 30 punch
ECWP Concession Fee	NA	\$50	NA	fee for concession availability
NH Pool Day Passes Youth	\$3	\$4	NA	youth 3-17
NH Pool Day Passes Adult	\$5	\$6	NA	adult 18+
NH Pool Rental 50 (Less)	\$150	\$175	NA	rental up to 50
NH Pool Rental 50 (+)	\$200	\$225	NA	rental 50 +
NH Pool Punch Pass Youth	\$27	\$34	NA	youth 3-17, 10 punch
NH Pool Punch Pass Adult	\$45	\$51	NA	adult 18+, 10 punch

*10 & 30 Visit Passes are good for two years from purchase. 10 & 30 Visit Passes are calculated at 10x & 30x Daily Admission minus 1.5 visits cost.*

### Scheels Aim High Big Sky

<b>Monthly Auto Bill Memberships</b>	<b><u>Current</u></b>	<b><u>Proposed</u></b>	<b><u>Proposed NR</u></b>	<b><u>Details</u></b>
Adult	NA	\$56	\$70	adult 18 - 60
Youth/Senior/Disabled/Corporate/Military	NA	\$40	\$50	youth 3-17, senior 61+, corporate 50+ employees
Family	NA	\$96	\$120	max of 6 family members

<b>Annual Memberships</b>	<b><u>Current</u></b>	<b><u>Proposed</u></b>	<b><u>Proposed NR</u></b>	<b><u>Details</u></b>
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Adult	NA	\$574	\$718	adult 18 - 60
Youth/Senior/Disabled/ Corporate/Military	NA	\$410	\$513	youth 3-17, senior 61+, corporate 50+ employees
Family	NA	\$987	\$1,234	max of 6 family members

<b>Day Pass</b>	<b><u>Current</u></b>	<b><u>Proposed</u></b>	<b><u>Proposed NR</u></b>	<b><u>Details</u></b>
Adult	NA	\$10	\$13	adult 18 - 60
Youth/Senior/Disabled/ Corporate/Military	NA	\$7	\$9	youth 3-17, senior 61+, corporate 50+ employees
Family	NA	\$30	\$38	max of 6 family members

<b>12 Visit Pass</b>	<b><u>Current</u></b>	<b><u>Proposed</u></b>	<b><u>Proposed NR</u></b>	<b><u>Details</u></b>
Adult	NA	\$105	\$130	adult 18 - 60
Youth/Senior/Disabled/ Corporate/Military	NA	\$74	\$93	youth 3-17, senior 61+, corporate 50+ employees

*12 Visit Pass is good for two years from purchase. 12 Visit Pass is calculated at 12x Daily Admission minus 1.5 visits cost.*

<b>Aquatics</b>	<b><u>Current</u></b>	<b><u>Proposed</u></b>	<b><u>Proposed NR</u></b>	<b><u>Details</u></b>
Lane rental	NA	\$9	\$11	per hr - 1 lane- max 2 Lanes
Full Lap Pool Rental	NA	\$125	\$156	per hr - minimum 3 hrs
Full Rec Pool Rental	NA	\$95	\$119	per hr - minimum 3 hrs
Full Aquatic Rental 2 Pools	NA	\$255	\$319	per hr - minimum 3 hrs-after hours
Full Facility Rental	NA	\$800	\$1,000	per hr - minimum 3 hrs-after hours
Lessons	NA	\$70	\$88	8 lessons
Private Lesson	NA	\$45	\$56	per session

<b>New Classes/Programs</b>	<b><u>Current</u></b>	<b><u>Proposed</u></b>	<b><u>Proposed NR</u></b>	<b><u>Details</u></b>
	NA	\$20 plus program expenses	NA	

<b>Camps</b>	<b><u>Current</u></b>	<b><u>Proposed</u></b>	<b><u>Proposed NR</u></b>	<b><u>Details</u></b>
Summer Camp 1 week General	\$170	\$190	NA	1 week
Summer Camp Outdoor 1 week	\$180	\$200	NA	1 week
Summer Camp Sports/WOG	\$80	\$100	NA	1 week



<b>Leagues</b>	<b><u>Current</u></b>	<b><u>Proposed</u></b>	<b><u>Proposed NR</u></b>	<b><u>Details</u></b>
Volleyball Leagues	\$120	\$150	NA	10 games
Adult Basketball	\$675	\$700	NA	10 games

<b>Birthday Parties</b>	<b><u>Current</u></b>	<b><u>Proposed</u></b>	<b><u>Proposed NR</u></b>	<b><u>Details</u></b>
Birthday Party Option 1	NA	\$225	\$281	base
Birthday Party Option 2	NA	\$375	\$469	base
Birthday Party Option 3	NA	\$675	\$844	base
Classroom Non-Party/Non-Swim	NA	\$75	\$94	base

<b>Court and Studio Rental</b>	<b><u>Current</u></b>	<b><u>Proposed</u></b>	<b><u>Proposed NR</u></b>	<b><u>Details</u></b>
Half Court Rental	NA	\$30	\$38	per hr
Full Court Rental	NA	\$55	\$69	per hr
Aerobic Studio Rental	NA	\$60	\$75	per hr - 2 hr minimum

**Corporate Memberships - \$250 annual administrative fee**

**3% credit card processing fee charged on all credit card transactions**

BE IT FURTHER RESOLVED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA that Resolutions 10296, 9614, 10050, and 10132 are hereby repealed.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana, this 19<sup>th</sup> day of March, 2024.

ATTEST:

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

\_\_\_\_\_  
Cory Reeves, Mayor

(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

\_\_\_\_\_  
David Dennis, City Attorney



Commission Meeting Date: March 5, 2024  
**CITY OF GREAT FALLS**  
**COMMISSION AGENDA REPORT**

**Item:** Resolution 10540 Golf Fees  
**From:** Park and Recreation Department  
**Initiated By:** Great Falls Golf LLC  
**Presented By:** Steve Herrig, Park and Recreation Director  
**Action Requested:** Set a Public Hearing to establish Golf Fees for March 19, 2024

**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission (set/not set) a public hearing on Resolution 10540, Establish Golf Fees, for March 19, 2024.”

2. Mayor requests a second to the motion, public comment, Commission discussion, and calls for the vote.

**Staff Recommendation:** Staff recommends that the City Commission set a public hearing on Resolution 10540 to Establish Golf Fees on March 19, 2024. Resolution 10540 would repeal Resolution 10495 and set a new fee structure beginning with the 2024 golf season.

**Background:** In an effort to maintain current operations, anticipate future demands, and promote the golfing community, fees need to be established that will help offset expenditures relating to operation, administration, equipment replacement, capital-improvement, debt, and labor costs associated with the Eagle Falls Golf Club (EF) and Anaconda Hills Golf Course (AH). Fees have not been increased since March 7, 2023, and therefore, Great Falls Golf LLC, along with staff recommends, the following:

**Eagle Falls Golf Club 2024 Proposed Pricing**

Category	Item Description	2024	2024 Proposal	% Increase
Green Fees				
	Monday - Friday			
	Weekday 18 Holes	\$37.00	\$38.00	3%
	Weekday Mid-Day Rate	\$24.00	\$25.00	5%

	Weekday Twilight Rate	\$22.00	\$23.00	5%
	Weekday 9 Holes	\$23.00	\$24.00	5%
	<b>Saturday - Sunday</b>			
	Weekend 18 Holes	\$40.00	\$41.00	3%
	Weekend Mid-Day Rate	\$30.00	\$31.00	4%
	Weekend Twilight Rate	\$22.00	\$23.00	5%
	Weekend 9 Holes	\$24.00	\$25.00	5%
<b>Cart Fees</b>				
	18-Holes	\$17.00	\$17.00	0%
	Mid-Day	\$14.00	\$14.00	0%
	TW Rate / 9-Holes	\$11.00	\$11.00	0%
<b>Range Fees</b>				
	Small	\$5.00	\$6.00	20%
	Large	\$9.00	\$10.00	12%
<b>Other</b>				
	Rental Clubs	\$15.00	\$15.00	0%
	Push Carts	\$5.00	\$5.00	0%
	Cart Storage - Gas	\$285.00	\$390.00	2%
	Cart Storage - Electric	\$335.00	\$340.00	2%

### Anaconda Hills Golf Course 2024 Proposed Pricing

<b>Category</b>	<b>Item Description</b>	<b>2023</b>	<b>2024 Proposal</b>	<b>% Increase</b>
<b>Green Fees</b>				
	<b>Monday - Friday</b>			
	Weekday 18 Holes	\$33.00	\$34.00	3%
	Weekday Mid-Day Rate	\$24.00	\$25.00	5%
	Weekday Twilight Rate	\$22.00	\$23.00	5%
	Weekday 9 Holes	\$23.00	\$24.00	5%
	<b>Saturday - Sunday</b>			
	Weekend 18 Holes	\$37.00	\$38.00	3%
	Weekend Mid-Day Rate	\$27.00	\$28.00	4%
	Weekend Twilight Rate	\$22.00	\$23.00	5%
	Weekend 9 Holes	\$24.00	\$25.00	5%
<b>Cart Fees</b>				
	18-Holes	\$17.00	\$17.00	0%
	Mid-Day	\$14.00	\$14.00	0%
	TW Rate / 9-Holes	\$11.00	\$11.00	0%
<b>Range Fees</b>				
	Small	\$5.00	\$6.00	20%
	Large	\$9.00	\$10.00	12%
<b>Membership</b>				

<b>Other</b>				
	Rental Clubs	\$15.00	\$15.00	0%

### Great Falls Golf Passes 2024 Proposed Pricing

<u>Category</u>	<u>Item Description</u>	<u>2023 Price</u>	<u>2024 Proposal</u>	<u>% Increase</u>
<b>Membership</b>				
<b>Eagle Falls</b>	Adult Full	\$760.00	\$775.00	2%
	Adult Weekday Only	\$610.00	\$625.00	3%
	Junior Full	\$235.00	\$240.00	3%
	Junior Weekday only	\$185.00	\$185.00	0%
<b>Membership</b>				
<b>Anaconda</b>	Adult Full	\$695.00	\$710.00	3%
	Adult Weekday Only	\$510.00	\$520.00	2%
	Junior Full	\$215.00	\$220.00	3%
	Junior Weekday only	\$175.00	\$175.00	0%
<b>Joint Passes</b>				
	Adult Full	\$889.00	\$905.00	2%
	Adult Weekday Only	\$689.00	\$700.00	2%
	Junior Full	\$260.00	\$265.00	2%
	Junior Weekday only	\$200.00	\$200.00	0%
<b>Carts</b>				
	Daily Trail Fee	\$17.00	\$17.00	0%
	Season Trail Fee	\$354.00	\$360.00	2%
	Annual Cart Plan	\$835.00	\$835.00	0%

**Fiscal Impact:** The fiscal impact is undetermined at this time.

**Alternatives:** An alternative would be to not set the public hearing therefore denying the increase golf course fees.

**Attachments/Exhibits:** Resolution 10540, Establish Golf Fees

**RESOLUTION NO. 10540****A RESOLUTION TO ESTABLISH GOLF FEES FOR EAGLE FALLS GOLF CLUB AND ANACONDA HILLS GOLF COURSE**

\*\*\*\*\*

**WHEREAS**, the Park and Recreation Department's primary focus, in partnership with Great Falls Golf LLC is to enhance the overall health and livability of our community; and

**WHEREAS**, the Great Falls Golf LLC staff, with support from the Great Falls Park and Recreation staff, have strived to operate quality facilities and programs at affordable prices and promote an extraordinary golfing experience in our community over the past 5 years; and

**WHEREAS**, the City Commission adopted Resolution 10495, "A Resolution to Establish Golf Fees for Eagle Falls Golf Club and Anaconda Hills Golf Course" on March 7, 2023; and

**WHEREAS**, having considered the cost of operation, administration, and maintenance of both golf courses under the responsibility and care of the Great Falls Golf LLC over the five years, it was understood that adjustments to fees would be forthcoming; and

**WHEREAS**, a notice of the Resolution to Establish Golf Course Fees was published in the *Great Falls Tribune*, a newspaper of general circulation in Cascade County, on March 10, 2024, and March 17, 2024, in the form and manner prescribed by MCA Section 7-1-4127; and

**WHEREAS**, the City Commission conducted a public hearing during a regular scheduled meeting of the City Commission on March 19, 2024, at the Civic Center, 2 Park Drive South, Commission Chambers Room 206, Great Falls, Montana, at 7:00 p.m., and did consider costs and public comment regarding the establishment of golf fees for Eagle Falls Golf Club and Anaconda Hills Golf Course.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA**, that the fee structure for season passes, trails, greens, cart storage and rental are hereby established as follows:

<b>Eagle Falls Golf Club 2024 Proposed Pricing</b>			
<u>Category</u>	<u>Item Description</u>	<u>2023</u>	<u>2024 Proposal</u>
<b>Green Fees</b>			
	<b>Monday - Friday</b>		
	Weekday 18 Holes	\$37.00	\$38.00
	Weekday Mid-Day Rate	\$24.00	\$25.00
	Weekday Twilight Rate	\$22.00	\$23.00
	Weekday 9 Holes	\$23.00	\$34.00
	<b>Saturday - Sunday</b>		
	Weekend 18 Holes	\$40.00	\$41.00

	Weekend Mid-Day Rate	\$30.00	\$31.00
	Weekend Twilight Rate	\$22.00	\$23.00
	Weekend 9 Holes	\$24.00	\$25.00
<b>Cart Fees</b>			
	18-Holes	\$17.00	\$17.00
	Mid-Day	\$14.00	\$14.00
	TW Rate / 9-Holes	\$11.00	\$11.00
<b>Range Fees</b>			
	Small	\$5.00	\$6.00
	Large	\$9.00	\$10.00
<b>Other</b>			
	Rental Clubs	\$15.00	\$15.00
	Push Carts	\$5.00	\$5.00
	Cart Storage - Gas	\$285.00	\$290.00
	Cart Storage - Electric	\$335.00	\$340.00
<b>Anaconda Hills 2024 Proposed Pricing</b>			
<u>Category</u>	<u>Item Description</u>	<u>2023</u>	<u>2024 Proposal</u>
<b>Green Fees</b>			
	<b>Monday - Friday</b>		
	Weekday 18 Holes	\$33.00	\$34.00
	Weekday Mid-Day Rate	\$24.00	\$25.00
	Weekday Twilight Rate	\$22.00	\$23.00
	Weekday 9 Holes	\$23.00	\$24.00
	<b>Saturday - Sunday</b>		
	Weekend 18 Holes	\$37.00	\$38.00
	Weekend Mid-Day Rate	\$27.00	\$28.00
	Weekend Twilight Rate	\$22.00	\$23.00
	Weekend 9 Holes	\$24.00	\$25.00
<b>Cart Fees</b>			
	18-Holes	\$17.00	\$17.00
	Mid-Day	\$14.00	\$15.00
	TW Rate / 9-Holes	\$11.00	\$11.00
<b>Range Fees</b>			
	Small	\$5.00	\$6.00
	Large	\$9.00	\$10.00
<b>Other</b>			
	Rental Clubs	\$15.00	\$15.00
<b>Great Falls Golf Passes 2024 Proposed Pricing</b>			
<u>Category</u>	<u>Item Description</u>	<u>2023</u>	<u>2024 Proposal</u>
<b>Eagle Falls</b>			
	Adult Full	\$760.00	\$775.00

	Adult Weekday Only	\$610.00	\$625.00
	Junior Full	\$235.00	\$240.00
	Junior Weekday only	\$185.00	\$185.00
<b>Anaconda</b>			
	Adult Full	\$695.00	\$710.00
	Adult Weekday Only	\$510.00	\$520.00
	Junior Full	\$215.00	\$220.00
	Junior Weekday only	\$175.00	\$175.00
<b>Joint Passes</b>			
	Adult Full	\$889.00	\$905.00
	Adult Weekday Only	\$689.00	\$700.00
	Junior Full	\$260.00	\$265.00
	Junior Weekday only	\$200.00	\$200.00
<b>Carts</b>			
	Daily Trail Fee	\$17.00	\$17.00
	Season Trail Fee	\$354.00	\$360.00
	Annual Cart Plan	\$835.00	\$835.00

BE IT FURTHER RESOLVED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA that Resolution 10495 is hereby repealed.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana, this 19<sup>th</sup> day of March, 2024.

ATTEST:

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

\_\_\_\_\_  
Cory Reeves, Mayor

(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

\_\_\_\_\_  
David Dennis, City Attorney





Commission Meeting Date: March 5, 2024

**CITY OF GREAT FALLS  
COMMISSION AGENDA REPORT**

**Item:** Business Improvement District (BID) FY2024 Budget Amendment

**From:** Kellie Pierce, BID Executive Director

**Initiated By:** Business Improvement District Board of Directors

**Presented By:** Kellie Pierce, BID Executive Director

**Action Requested:** City Commission conduct a public hearing for the Business Improvement District (BID) FY2024 Budget Amendment and approve the Amendment.

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission (approve/not approve) the FY2024 Business Improvement District Budget Amendment.”

2. Mayor requests a second to the motion, public comment, Commission discussion, and calls for the vote.

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**Board Recommendation:** The BID recommends that the City Commission approve the FY2024 BID Budget Amendment.

**Background:** The Commission approved the 2023/2024 BID Budget and Work Plan on July 18, 2023. The actual amount of assessments levied was higher than the approved budget by an amount of \$39,272.54.

**Fiscal Impact:** There is no fiscal impact to the City of Great Falls. The budget amendment reflects a 7.3% increase in the overall budget from \$539,650 to \$578,922.

**Alternatives:** The City Commission could choose not to approve the budget amendment. The additional funds would not be able to be utilized during the current year.

**Concurrences:** Finance staff is responsible for assessing and collecting the revenues for the BID. BID maintains a staff to fulfil the strategic plan as set by the Board of Directors.

**Attachments/Exhibits:**

BID 2023/2024 Work Plan

Amended Budget

Letter from BID Executive Director

2/8/2024 Board of Directors Meeting Minutes

Legal Notice



# GREAT FALLS BUSINESS IMPROVEMENT DISTRICT WORK PLAN 2023-2024

Agenda #16.



The Great Falls Business Improvement District (BID) is authorized by Montana Code Annotated, Title 7, Chapter 12, Part 11.

The map of the Great Falls Business Improvement District boundaries is attached as a part of this document. As of July 1, 2022, the BID has expanded to include twenty (20) additional parcels. This is the first time the BID has changed its boundaries since its original creation. As of July 1, the BID will have 212 parcels within its boundaries.

The BID was first created in 1989, we serve as the second oldest BID in the State of Montana, working with the smallest budget. We have successfully been recreated every ten (10) years since 1989. We exist until we work toward recreation next in 2029. BID services are designed to supplement existing City services and will be in addition to City services that are currently provided in Downtown Great Falls.

The mission of the Great Falls Business Improvement District (BID) is to represent the unique interests of the business and property owners located within the district. The goal of the BID is to create an environment that is appealing to shoppers, office workers, residents, tourists, and new businesses and investors. Overall, the BID is responsible for downtown revitalization through economic development, real estate development, short and long-range planning, grant program administration, and physical and environmental improvement programs.

This is an ambitious work plan outlined by the BID Board and Executive Director.

The plan will be fluid as funding, conditions and priorities evolve. In no particular order, the plan includes and may not be limited to the following:

## **The BID will provide the following services within the designated boundaries over the next fiscal year:**

### **➤ Downtown Property Investments**

- Invest in downtown properties through our grant programs.
  - Grant programs may include, but are not limited to:
    - Interior Grant
    - Business Incentive Grant
- Utilize additional grant programs to supplement BID grant monies
  - Tax Increment Financing (TIF)
    - The BID will continue to support the Downtown Development Partnership (DDP) in administering the Downtown TIF
    - The BID may pursue TIF Funds for extraordinary projects
  - Community Block Development Grants (CDBG)
  - Seek additional revenue streams, as deemed appropriate.
- Continue efforts to expand the boundaries of the BID to provide our services to additional property owners as our work continues to improve Downtown Great Falls
- Streetscape Improvements
- Conversion of One-ways

### **➤ Downtown Safety & Security**

- Continue to take a lead role in organization and promoting Downtown Safety & Education
  - Working with partner organizations of the Downtown Safety Alliance
  - Organization of the Downtown Safety Alliance
  - Support the BRIC Officer from the Great Falls Police Department
  - Support the Great Falls Police Department's Volunteer Program
  - Management of the Coins for a Cause Program
  - Addition of part-time staff to help in day-to-day revitalization and safety



# GREAT FALLS BUSINESS IMPROVEMENT DISTRICT WORK PLAN 2023-2024

Agenda #16.



## ➤ Unifying Entities

- Communication
  - Provide our property & business owners information on the BID and our programs
    - BID insert in the Downtown Association's eblast at a minimum of once a month
    - Regular Press Releases in regard to BID activities/events
  - Bring more awareness to the Community about the work of the BID
- Volunteers
  - Continue support of the Downtown Chicks, an established pool of volunteers that can be utilized as a resource for events & special projects
  - Continue support of the Building Active Communities Initiative (BACI)
  - Support the annual Serve Day, NWGF CommUnity Clean-Up and other volunteer led events when focused on Downtown
  - Work with organizations to coordinate improvement efforts of our downtown
- Downtown Partnerships
  - The BID will be an active participant in the Downtown Development Partnership (DDP), working to implement the Downtown Master Plan
    - The BID representative will be available to serve in an officer capacity on the Board of the DDP
    - The BID will take the lead on citywide Wayfinding Implementation
    - Support the pursuit of a Downtown Revitalization Plan
  - The BID will support the Downtown Great Falls Association (DGFA)
  - The BID will support the Downtown Business Development Officer, an employee of the Great Falls Development Authority
  - The BID will support the following organizations, the Great Falls Area Chamber of Commerce and Montana Tourism via Convention Visitors Bureau membership
- Advocacy
  - Relay and support a unified voice for Downtown
  - Advance policies
  - Increased partnerships and opportunities to promote the heart of the City
- City Boards
  - Serve as ex-officio on the Historic Preservation Advisory Commission

## ➤ Beautification

- Downtown Public Art Projects
  - The BID will serve as the lead in the organization of ArtsFest MONTANA
    - Pursue lighting the existing murals
  - Continue support of the Urban Art Project
  - The BID will continue creation of additional Traffic Signal Box artwork within the Downtown Master Plan boundaries, utilizing DDP funding, as that funding permits
- Trash Removal
- Graffiti Removal
- Snow Removal
- Flower Maintenance
- Tree Maintenance
  - Utilizing funding for tree maintenance from the Downtown TIF through FY 2026
- Holiday Décor – including upgrades to current inventory
- Banners/Flags
- Sound System



# GREAT FALLS BUSINESS IMPROVEMENT DISTRICT WORK PLAN 2023-2024

Agenda #16.



## ➤ Administration

- Day to day matters
- Reporting
- Staffing & support
- Continued educational opportunities for staff
- Attendance at regional and national conferences for growth and education opportunities

## Assessment Formula:

The assessment of the BID consists of the following:

- A flat fee of \$200.00 for each lot or parcel without a Land Use Code of 125,
- A flat fee of \$50.00 for each lot or parcel with a designated Land Use Code of 125 which is a residential condominium,
- An assessment of \$.00165 times the market valuation as provided by the Montana Department of Revenue, and
- An assessment of \$.015 times the square footage of the land area.

## BID Governance:

As per MCA 7.12.11 the Board shall consist of not less than five or more than seven owners of property within the district or their assignees. The Great Falls BID has consisted of seven property owners, or their representatives, since its inception in 1989. These property owners volunteer to serve and are appointed by the City Commission.

## Program Structure:

The BID delivers programs and services for the area of the district that pays into the BID. The BID has its own board, work plan and staff to support programming. The BID follows the principles of the National Main Street Program, having worked to succeed the highest level of membership in this program as an Accredited Program. The National Main Street program has four pillars; Design (BID), Economic Vitality (GFDA), Promotion (DGFA) and Organization which is largely led by the BID.

## AMENDED BID BUDGET FY 2024

### Revenues

Assessments	\$303,272
Assessment Receivable	\$15,000
Coins for a Cause	\$500
Downtown Art - Sponsorships	\$25,000
Interest Income	\$150
TIF Funds - ArtsFest	\$50,000
TIF Funds - Tree Work	\$25,000
Grant Funds - Wayfinding	\$60,000
Prior Year Carryover - Cash	\$100,000

### Total Revenues

**\$578,922**

### Expenses

Advertising	\$350
Web Design	\$250
Beautification	\$8,000
Art Downtown	\$50,000
Flowers	\$15,000
Sound System	\$5,000
Snow Removal	\$12,000
Trash Removal	\$20,000
Tree Program	\$30,000
Holiday Décor	\$36,272
Business Grants Approved	\$42,500
Business Grants - Interior	\$40,000
Business Grants - Business Incentive Grant	\$20,000
Coins for a Cause	\$500
Contract Services	\$18,000
Donations	\$2,000
Dues & Subscriptions	\$3,600
Employee Benefits	\$300
Insurance	\$5,000
Miscellaneous	\$-
Office Equipment	\$1,000
Office expense	\$1,500
Payroll taxes	\$25,000
Professional Services	\$5,000
Rent	\$5,210
Salaries	\$128,000
Special Projects	\$15,250
Supplies	\$4,000
Taxes, Licenses & Fees	\$35
Telephone/Internet	\$1,000
Travel & Education	\$13,000
Main Street Conference	\$5,000

Urban Art Project	\$0
Utilities	\$300
Wayfinding	\$60,000
<b>Total Expenses</b>	<b>\$573,067</b>
<b>Net Revenue/Loss</b>	<b>\$5,855</b>



## Great Falls Business Improvement District

318 Central Avenue, Great Falls MT – 406-727-5430 – [kellie@downtowngreatfalls.net](mailto:kellie@downtowngreatfalls.net)  
[www.greatfallsBID.com](http://www.greatfallsBID.com)

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Agenda #16.

February 8, 2024

Dear Mayor and City Commissioners,

The Great Falls Business Improvement District expanded the district boundaries in FY22 resulting in an increase in assessments, along with an increase in property values of current parcels. The increase in assessments equated to \$39,272.54. The BID board approved the budget amendment for funds to be allocated to projects and personnel in the current fiscal year. The BID is requesting to allocate \$18,000 to personnel to add an additional part-time employee to contribute to the overall revitalization efforts of our expanded area and contribute to employee training efforts. The remaining amount of \$21,272.54 will go towards beautification efforts of updating holiday décor to be able to include our newly expanded area and add lighting to Central Avenue during our darkest months. There is zero fiscal impact to the City of Great Falls since additional assessments paid fall within the BID's operating budget. Included is also the updated work plan that reflects the board approved amendments.

Sincerely,

**Kellie Pierce**

Kellie Pierce  
Executive Director



**Business Improvement District**  
**318 Central Avenue**  
**Hybrid - In-Person and via ZOOM**  
**Recording available via the City of Great Falls records request**  
**February 8, 2024**

Board Present: Jason Kunz, Neal DuBois, Sherrie Arey, Keith Cron, Alison Fried  
 Board Absent: Max Grebe  
 Staff Present: Kellie Pierce

- I. **Call to order & Roll Call:** Jason called the meeting to order at 9:03am; roll call of all present, a quorum was established.
- II. **Guests/Public Comment:** There was no public comment at this time.
- III. **BID Board: Conflict of Interest:** There were no Board members with a conflict of interest with any items on the agenda at this time.  
**Board Vacancy-** Kellie noted that Michelle Houghton resigned from the board as of 1/5/2024, leaving a vacancy. The City posted the opening and received one application from Erica Ferrin, representing the Pennington Property, owned by Matthew Robb. Mr. Robb did send consent to have Erica represent his property. Sherrie motioned to recommend Erica Ferrin as a BID Board Member to fill the remaining term, Neal seconded. **Motion passed unanimously.**
- IV. **Approval of minutes from 1/11/2024 Board meeting:** Neal motioned to approve the meeting minutes from the 1/11/2024 Board meeting, as presented. Keith seconded. **Motion passed unanimously.**
- V. **Financials: Budget Amendments:** Kellie reported that items to be considered for the additional funding the BID will be receiving are registration for Leadership MT, Holiday Décor, and the addition of part-time staff. Discussion was had on what the staff person would be doing, including general maintenance items around the district boundaries, clean up efforts, etc. Kellie explained the breakdown of the expenses to include a total of \$39,727.54. Sherrie motioned to approve the budget amendment to include \$10,000 for Leadership MT expenses, \$8,000 for a part-time employee for this fiscal year, and the remaining 21,727.54 for holiday décor. Neal seconded. **Motion passed unanimously.**

**Monthly Financials:** The Board did not receive financials, Kellie stated that since we have converted to Quickbooks Online there has been some delay in getting the books to reconcile. The board will receive December, January, and February financial statements which include the Balance Sheet, P&L, and the P&L/Budget comparison at the March meeting.

VI. **BID Business:**  
**Beautification:**

**1<sup>st</sup> Ave N Underpass:** Jason noted that we should keep this item on the agenda even though he doesn't see anything happening with it this year, we will have a discussion with Cameron Moberg when he is here for ArtsFest. Alison mentioned inquiring with the property owners on each of the four corners of the underpass about potential funding.

**ArtsFest:** Kellie reported that the contract with Cameron was approved last month, and they are working on securing walls. The committee is meeting regularly to get plans underway.

**Alley Lighting Project:** Kellie reported that she spoke with Tony Houtz and he apologized for dropping the ball, he is working on getting new bid requests ready to send back to the contractors and will be in touch.

**Banners:** Scott Reasoner has inquired about hanging Voyagers banners downtown during the summer months. Kellie sent out the current banner policy for the board to review and send suggested edits. No edits were received, so conversation was had on what the policy should be. Sherrie suggested that we

leave the policy as is, and Kellie should have a conversation with Scott about the current proposal and come to an agreement, the board agreed.

**Holiday Décor:** Kellie reported on the holiday décor that she found. She received a quote from Holiday Outdoor Décor for 55 pieces to be mounted on the period lighting along Central, the quote was \$17,408.75. Sherrie motioned for Kellie to purchase the holiday décor, pending the approval of the budget amendment. Alison seconded – **Motion passed unanimously.**

**Downtown Great Falls Association:** Harley Severns was introduced as the new Event and Marketing Coordinator, as Celeste will be moving at the end of March. Celeste reported on Craft Beer Week planning and Mimosa Showdown planning. Celeste reported on website updates and the calendar of events.

**Downtown Partnership: Downtown Lighting:** Christian reported that Dan Reardon is still working on this and hopes to have a progress report for the February DDP meeting.

**Downtown TIF District:** Kellie reported that the TIF is still at about \$4.8M and continues to be healthy, no major TIF requests at this time, a potential application from the Big Dipper group.

**Wayfinding - Kiosks:** Kellie reported that the signs are being constructed, showed proofs of what a few of the signs will look like and is editing them this week.

**Parking Commission:** Kellie noted that the Parking Commission won't come back to regular meetings until the board vacancies are filled, she noted that she will serve as the BID ex-officio. Sherrie inquired on where to find the application.

**Downtown Safety Alliance:** Kellie reported that the DSA meets the first Tuesday of the month. This month there were concerns from business owners about harassment from groups regarding inclusivity of the LGBTQ community in their businesses and making people aware of the spread of hatefulness in the community.

**Grant Programs:** Kellie reported that there are no grants at this time.

**Great Falls Development Alliance:** Christian recapped his BDO report that was sent to the board in their packets. He stated the Fire Within nominations are open and the event will be April 18, 2024 at Haute Hive.

**Hello Lamp Post:** Kellie reported that she received the quote for contract renewal and felt it was a little high considering some of the glitches they ran into in getting the first contract fulfilled, she will go back to them and ask for a lower bid.

**National Main Street Conference:** Kellie reported that the conference will be held in Birmingham, AL May 6-8. Discussion was held on who will be attending, Jason and Alison expressed interest. Sherrie motioned to allow Kellie to use the BID Credit Card to pay for conference registrations and expenses. Neal seconded. **Motion passed unanimously.**

**Personnel:** Kellie reported that she has vacation planned Feb 21-28 and asked board members to pop in and check on things for her while she is away.

**Work Plan FY2024:** Kellie reported that she will update the work plan to reflect the budget amendment items.

VII. **New Business:** Kellie reported that the BID was approved for a \$50k line of credit through Stockman Bank, Jason and Sherrie will need to go sign documents.

VIII. **Public Comment:** There was no public comment at this time.

IX. **Adjournment:** Meeting adjourned at 10:15

Jason Kunz, Chair

Kellie Pierce, Staff

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attention Legal Ads

## NOTICE OF PUBLIC HEARING

Notice is hereby given that the Business Improvement District (BID) Fiscal Year 2023/2024 Budget Amendment will be brought before the Great Falls City Commission for public hearing in the Commission Chambers Room 206, Civic Center Building, 2 Park Drive South, Great Falls, Montana, on Tuesday, March 5, 2024, at 7:00 o'clock p.m. Any interested person may appear and speak for or against said BID Budget Amendment or submit written comments to the City Clerk, City of Great Falls, P.O. Box 5021, Great Falls, MT 59403, or by email to [commission@greatfallsmt.net](mailto:commission@greatfallsmt.net) before 12:00 PM on Tuesday, March 5, 2024. Written communication received by that time will be shared with the City Commission and appropriate staff for consideration during the agenda item and before final vote on the matter.

Documents pertaining to this agenda item are posted on the City's website at <https://greatfallsmt.net> under "Meetings," and are on file for public inspection during regular office hours at the City Clerk's Office, 2 Park Drive South, Room 204, Great Falls, MT, or contact us at (406) 455-8451.

/s/ Lisa Kunz  
City Clerk

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DO NOT PUBLISH BELOW THIS LINE:

Publication dates: February 25 and March 3, 2024



Commission Meeting Date: March 5, 2024

**CITY OF GREAT FALLS  
COMMISSION AGENDA REPORT**

**Item:** Montana State-Local Infrastructure Partnership Act

**From:** Finance Department

**Initiated By:** Tom Hazen, Grant and Project Administrator, Finance Department

**Presented By:** Tom Hazen, Grant and Project Administrator, Finance Department

**Action Requested:** Conduct a public hearing and approve the Recommendation for Use of Funds Allocated to the City of Great Falls by the Montana State-Local Infrastructure Partnership Act.

**Public Hearing:**

1. Mayor conducts public hearing, pursuant to OCCGF 1.2.050 and Title 17, Chapter 16, Article 6.
2. Mayor closes public hearing and asks the will of the Commission.

**Suggested Motion:**

1. Commissioner moves:
 

“I move that the City Commission (approve/not approve) the Recommendation for Use of Funds Allocated to the City of Great Falls by the Montana State-Local Infrastructure Partnership Act.”
2. Mayor requests a second to the motion, Commission discussion, and calls for the vote.

**Staff Recommendation:** Staff recommends that the City Commission approve the recommendation for use of funds allocated to the City of Great Falls by the Montana State-Local Infrastructure Partnership Act.

**Summary:** The Montana State Legislature enacted the State-Local Infrastructure Partnership Act of 2023 (“SLIPA”) through House Bill 355. This act authorized a \$20 million allocation to the Montana Department of Commerce (Commerce) to be distributed to local governments via formula. The City of Great Falls has been allocated \$755,461.

SLIPA funds may be used to repair or maintain existing local government infrastructure. Projects may be selected from drinking water, wastewater, streets, roads, bridges, landfills, street lights, public grounds, and public buildings. The language of the act places priority on drinking and waste water projects. However, Commerce and the League state that this preference does not reflect a mandate. A Government with existing drinking and/or wastewater projects does not have to select those projects for funding. A

selection from another category may supplant those but the City should be prepared to offer justification as to why that choice was made.

A city must commit a 25% match to the **total project cost**. This match must be comprised of local cash. Local Cash is considered “revenue generated by local government, including via its tax system.” In short, the City cannot use grant funds to satisfy the match requirement.

There is a three step process to acquire these funds:

1. The City must “solicit and accept” applications by **December 31<sup>st</sup>, 2023**. Essentially this means that the City must have a discussion with Department Heads that announces the availability of the funds, what projects are eligible, and then collect a list of proposed projects from each department. There are no formal requirements for documentation of this process. However, Commerce recommends that cities record activities to be able to demonstrate compliance.
2. The City must hold a public hearing on the applications received. Based on the applications and information received at the hearing the Commission will prepare a recommendation for funding in priority order.
3. The City must “make reasonable efforts to transmit the recommendation to Commerce by March 30, 2024”. Commerce will then evaluate for compliance with HB 355 and issue notice to the applicant within 45 days of application receipt.

A memo summarizing the Act, a request for submissions, and a requirement that projects be submitted by December 15<sup>th</sup> was distributed to City Department heads. Projects were submitted by email.

Twenty-three projects totaling nearly \$8.4 million were submitted for consideration. All of the applications were collected into one spreadsheet and reviewed for eligibility. Projects were reviewed with three factors in mind:

1. **Was the project previously selected for funding?** Several projects were previously identified for ARPA funding, but were eliminated from active projects when other costs increased. If such projects were submitted, they were identified as a priority for this funding.
2. **What other funding opportunities are available for the project?** Some City Departments and project types have limited access to federal or state grant funds. Projects or Departments that, for one reason or another, have limited access to funding were given weighted consideration.
3. **What is the proposed source of matching funds?** Finally, all Departments were asked to provide a proposed source for the required match. Match proposals that did not require General Fund utilization were given weighted consideration.

With these factors in mind, Staff is recommending the following projects for funding:

- **Great Falls Police Department Front Counter Remodel - \$85,000.00 Total Project Cost, \$23,250.00 Match Required, Proposed Match from Police Special Revenue Fund** – Remodel of the front counter area with bulletproof glass and other increased security measures. This project was one of the original Tier One projects selected for ARPA use. Development of the project was paused when other project costs increased.
- **Civic Center Elevator - \$120,000.00 Total Project Cost, \$40,000.00 Match Required, Proposed Match from General Fund** – Replace hoist, motor, electrical system, and address code compliance. This project was one of the original Tier One projects selected for ARPA use. The Elevator upgrade was paused when other project budgets increased. The transition of the

Municipal Court from the basement to the third floor significantly increases the need for this project.

- **Mansfield Theater Seat Replacement - \$650,000.00 Total Project Cost, \$162,500.00 Match Required, Proposed Match from General Fund** – Replacement of auditorium seating installed in 1938 with newer more comfortable seats that still maintain historic character. This project was identified as a potential priority use of ARPA funds in 2022. The previous Commission elected to wait until the City received notification of the result of an application for the Montana Historic Preservation Grant application (the City was awarded \$250k through that program). Ultimately, the City listed this among “Tier 2” of ARPA projects. Tier 2 was comprised of projects that would be considered priorities if ARPA funds remained.
- **Animal Shelter Canine Housing Improvements - \$96,650.00 Total Project Cost, \$24,162.50 Required Match, Proposed Match from H.U.G. (Help Us Grow Capital Campaign)** – Reseal concrete and block surfaces which will protect them from water corrosion and bacterial growth. The animal shelter has a long list of capital improvement projects that all require immediate attention. Funding opportunities for animal shelters are extremely limited. The Shelter will leverage SLIPA with donation funds in order to negate the impact to the City General Fund.
- **Animal Shelter Main Exterior Door Repairs - \$11,000.00 Total Project Cost, \$2,750.00 Match Required, Proposed Match from H.U.G. (Help Us Grow Capital Campaign)** – The Front Entry door has become corroded and will not seal properly against the elements. This project will repair the door, frame, and side light.
- **Animal Shelter Kitchen Repairs - \$7,000.00 Total Project Cost, \$1,750.00 Match Required, Proposed Match from H.U.G. (Help Us Grow Capital Campaign)** – Remove and install new cabinets and countertops.
- **Parks and Recreation Visitor Center Parking Lot - \$40,000.00 Total Project Cost, \$10,000.00 Match Required, Proposed Match from Park Special Revenue Fund – (NOTE: This project is will receive \$28,223.50 from SLIPA)** - The parking lot at the visitor center needs a mill and overlay along with parking stall painting. Costs will be offset by the Park Special Revenue funds.

**Fiscal Impact:** Passage will allow the City to submit a request to the Montana Department of Commerce to secure \$755,461.00 for infrastructural repairs and maintenance.

**Alternatives:** The City Commission could elect to not approve the Recommendation and request that a revised Recommendation be presented in a hearing at the March 19<sup>th</sup>, 2024 City Commission meeting.

**Concurrences:** This Recommendation has been compiled by the Finance Department.

**Attachments/Exhibits:**

Attachment #1 – Projects Submitted for Consideration

Department	Project Name	Description	Cost Estimate	Begin Date to End Date	Proposed Match Source
Animal Shelter	Canine Housing	Protect all block and concrete surfaces from water corrosion, prevent bacterial growth by resealing all concrete and block surfaces including metal grates in canine housing area.	\$96,650.00	24-Jan	H.U.G.
	Interior Doors	Remove and replace corroded mech and laundry room doors.	\$19,000.00	24-Jan	H.U.G.
	Main External Door	Removal and replacement of Front Entry Door and Sidelight. The door has become corroded and dilapidated due to age.	\$11,000.00	24-Jan	H.U.G.
	Lobby Area Window Repairs	Remove and replace 6 windows in the lobby area that leak and are no longer secure.	\$11,000.00	24-Jun	H.U.G.
	Internal Main Entry Doorway	Remove and replace corroded interior door.	\$11,000.00	24-Jan	H.U.G.
	Kitchen Repairs	Remove and replace deteriorating countertops and cabinets in the kitchen area.	\$7,000.00	24-Feb	H.U.G.
	Exterior Façade Maintenance	Spot repairs to old and chipping exterior paint.	\$1,700.00	24-Jun	H.U.G.
Civic Center	Convention Center HVAC	Install a modern cooling system. The Convention Center only has a swamp cooler system. Only 50% of the current inefficient system is working.	\$1,000,000.00	Summer 2025	City Budget
	Theater Seats	Replace 1780 seats but retain the original row endcaps. Theater seats were last refurbished in 1997. They are uncomfortable and too small for today's patron. Wider aisle's would also be included in the project	\$650,000.00	Summer 2025	City Budget
	Convention Center Lighting	Install new light fixtures and energy efficient ligths. It takes 38,000 watts of energy to power the current lighting system. New lights would save energy and improve the look of the facility.	\$125,000.00	Summer 2025	City Budget
	Convention Center Walls	Replace acoustic panels and repaint the Convention Center. The walls are original 1989 remodel. They have an outdated color scheme and damage from years of use.	\$100,000.00	Summer 2025	City Budget
	Civic Center Elevator	Replace and upgrade elevator mechanical systems. Useage is expected to increase with new court rooms being built upstairs.	\$120,000.00	Anytime	City Budget
GFFR	Façade Renovation	Repair/replace spalling bricks, acid wash and seal exterior brick/concrete at all 4 fire stations	\$100,000	Summer 2024 1-2 months	General fund
Information Technology	Uninterruptible Power Supply (UPS)	Our current UPS system is 17 years old with a life span of 10. A replacement is need to ensure IT operations during power failures	\$100,000	RFP 1/1/24, Start 3/1/24, NLT 6/30/24	We setup aside \$30,000 previsouly
Parks and Recreation	Anaconda Golf Course Drive	The drive to the clubhouse at Anaconda Golf Course needs a mill and overlay.	\$65,000	Spring 2024-Spring 2024	Golf Course Budget
	Visitor Center parking lot	The parking lot at the visitor center needs a mill and overlay along with parking stall painting.	\$40,000	Spring 2024-Spring 2024	Park Special Revenue



Department	Project Name	Description	Cost Estimate	Begin Date to End Date	Proposed Match Source
Police	Police Department Front Counter Remodel	The proposal is to remodel the front counter area, adding safety measures with bullet resistant glass, re-enforced walls, new interior counters and cabinets. Project will require demolition of existing area in phases with temporary walls installed during the build out.	\$85,000.00	Once materials are obtained, it is expected to have the project complete within 45 days. Project completion should be no later than December 2025.	Police Department Building Maintenance Budget
Public Works Engineering	WTP Head House Floor	Head house floor is failing which could result in failure of the water treatment plant	\$ 2,000,000.00	Summer 2024 Design - Summer 2025	Water Utility Funds
	WTP Corrosion Protection Upgrades	New EPA Lead Rule will require upgrades at the WTP to protect lead lines from corrosion	\$ 400,000.00	Summer 2024 Design - Summer 2025	Water Utility Funds
	LS# 1 Electrical Upgrades Alt#1	Upgrade original electrical service and components to modern standards	\$ 1,196,220.00	Summer 2024 - Winter 2025	Sanitary Sewer Funds
	LS# 1 Electrical Upgrades Alt #2	Upgrade original electrical service and components to modern standards	\$ 528,480.00	Summer 2024 - Winter 2026	Sanitary Sewer Funds
	LS# 1 Electrical Upgrades Alt #3	Upgrade original electrical service and components to modern standards	\$ 228,480.00	Summer 2024 - Winter 2027	Sanitary Sewer Funds
	Upgrades at Electric City Water Park LS	Improvements to the lift station to support the new kids splash pad	\$ 1,500,000.00	Winter 2023 Design - Spring 2024	Sewer Utility Funds



Commission Meeting Date: March 5, 2024

**CITY OF GREAT FALLS  
COMMISSION AGENDA REPORT**

**Item:** Amendment to the original Consulting Agreement with PowerGas Corporation executed on November 7, 2023.

**From:** Greg Doyon, City Manager

**Initiated By:** Greg Doyon, City Manager

**Presented By:** Greg Doyon, City Manager and Melissa Kinzler, Finance Director

**Action Requested:** Approve the Amendment to the Consulting Agreement

---

**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission (approve/not approve) Amendment to the original Consulting Agreement with PowerGas Corporation executed on November 7, 2023.”

2. Mayor requests a second to the motion, public comment, Commission discussion, and calls for the vote.

---

**Staff Recommendation:** The City Manager and the Finance Department recommend the City Commission approve the amendment to the PowerGas Corporation Consulting Agreement.

**Summary:** The City Commission ratified a Consulting Agreement with PowerGas Corporation on November 7, 2023. Through the original Consulting Agreement, PowerGas Corporation was contracted to provide energy consulting services to the City when required. The proposed amendment will provide consulting services along with energy management software that will deliver actionable data-driven resolutions. This information will assist in directing decisions to create and sustain energy cost and usage mitigation, should reduce associated labor costs, and provide long-term strategic energy value to the city.

Jim Morin, President of PowerGas Corporation presented to the City Commission on August 15, 2023 and February 6, 2024, City Commission Work Sessions about the automated energy management and advisory services. With the addition of the energy management software and service:

- The City would be able to have a viable way to monitor electricity and gas usage at a quick glance for all City Departments.
  - There is no current/ feasible way for the City to monitor electricity and natural gas usage for all City Departments.
  - The service would provide a better overall energy consumption data and reporting or billing errors.

- The City will have a substantial cost savings when paying its electric and gas bills. The process will become automated for the City.
- PowerGas indicated that it may be able to help the City cut costs by monitoring the City's four (4) demand meters and look for potential cost savings.
- PowerGas' service (data, monitoring, and billing) will be invaluable in the future when the City has to purchase energy in October, 2024.
- The service will also help the City meet the latest standards in sustainability reporting.

**Fiscal Impact:** The total cost would be \$191,500 for three years, which includes consulting services, software to monitor natural gas and electricity usage, and assistance with paying all electricity and natural gas invoices. The upfront costs are projected to be \$38,500 to get everything setup in the consultants system. After that the City would pay \$4,250 a month for 3 years. The monthly fee would be distributed back to the Departments on a monthly basis based on usage.

**Alternatives:** The City Commission could choose to not approve the Amendment to the Consulting Agreement and therefore leave the current Consulting Agreement in place. The City would not have the ability to monitor the current electricity and gas usage at a granular level.

**Concurrences:** The Finance Department and Manager's office recommends the City Commission approve the amendment to the Consulting Agreement.

**Attachments/Exhibits:** Amendment to the Consulting Agreement with Power Gas Corporation



## POWERGAS CORPORATION

**"TOMORROW'S ENERGY SOLUTIONS TODAY"**

### CONSULTING AGREEMENT

This amended Consulting Agreement is made this 1<sup>st</sup> day of March, 2024, and amends the original agreement executed November 1, 2023, by and between **City of Great Falls, Montana** with principal offices located at Civic Center Building #2 Park Drive South Great Falls, Montana 594010 hereinafter referred to as "Client", and **PowerGas Corporation** with principal offices located at 1921 Cherry Drive, Great Falls, Montana 59404 hereinafter referred to as "Consultant".

A. DOCUMENT:

This Consulting Agreement, and other Attachments hereto, sets forth every obligation and understanding of the parties in connection with the relationship described herein and supersedes all prior discussions, negotiations and agreements, if any, between Client and Consultant and neither party shall be bound by any condition, definition, representation or understanding not referred to in this Consulting Agreement. Amendments to this Consulting Agreement shall be in writing and signed by persons duly authorized to represent Client and Consultant.

B. INDEPENDENT CONTRACTOR:

(a) Consultant is an independent contractor with respect to all aspects of this Agreement. Consultant and its principles, officers, directors and employees are not employees, agents or servants of Client. Consultant shall have no authority and shall not represent that it has the authority to execute contractual documents or any other documents on behalf of Client or otherwise assume or incur any obligation or make any representations of any kind in the name of Client. **NOTHING IN THIS AGREEMENT SHALL CREATE OR BE CONSTRUED TO CREATE AN AGENCY, PARTNERSHIP, JOINT VENTURE OR ANY SIMILAR LEGAL RELATIONSHIP BETWEEN CLIENT AND CONSULTANT.**

(b) Consultant shall be solely responsible for payment of all state, federal, and local taxes, including income taxes, estimated taxes, social security or other taxes imposed upon the receipt of the Commission for Broker or any employees of Broker.

C. SCOPE OF WORK:

Consultant shall provide services in fulfillment of the Project which shall be detailed by the scope of work for each Project. Until further notice, Consultant shall coordinate the performance of duties as identified in Attachment A to this agreement.



## POWERGAS CORPORATION

### “TOMORROW’S ENERGY SOLUTIONS TODAY”

#### D. WORK PRODUCT:

Work Product shall include of the following:

- 1) Subject to the terms and conditions of this agreement, Consultant will provide to Client, for the exclusive use of Client and its subsidiaries and related entities, (i) the services specified in Addendum A attached hereto and incorporated herein, and (ii) such additional professional energy consulting services offered by Consultant, as Client may request from time to time in connection with the Project(s) identified in Attachment A.
- 2) Consultant has a right to complete all services for which it has been assigned pursuant to this contract. Client acknowledges that the consulting services performed pursuant to this agreement are based upon field and other conditions existing at the time of preparation of Consultant’s work product. Field and other conditions may change by the time project implementation occurs, and clarification, adjustments, modifications, discrepancies or other changes may be necessary to reflect changed field or other conditions.
- 3) In the event Client discovers or becomes aware of changed field or other conditions which may reasonably affect the outcome of the Client’s consulting work, the Client must be forthcoming in a timely manner with such information such that the Consultant may evaluate and make adjustments if necessary.
- 4) Consultant represents and warrants (i) that the Consultant’s services will be performed with the degree of skill and care that is required by current, good and sound professional procedures and practices, , and in conformance with generally accepted professional procedures and industry standards prevailing at the time services are performed, and in accordance in all material respects with the specifications set forth in this agreement and (ii) that it will comply with all federal and state laws and regulations applicable to its performance under this agreement, and maintain all licenses, permits, qualifications, and approvals, applicable to its performance of its obligations under this agreement.

#### E. PAYMENT:

Client shall pay to Consultant for the provision of the above-described in Article G: Invoices & Billing, Attachment A: Scope of Work, and Attachment B Payment Schedule.



## POWERGAS CORPORATION

"TOMORROW'S ENERGY SOLUTIONS TODAY"

### F: REIMBURSABLE EXPENSES:

Client agrees to pay for certain Consultant's reasonable expenses necessarily incurred at Client's request and supported by original receipts satisfactory to Client. Such reimbursable expenses shall, unless otherwise agreed in writing, be limited to reasonable expenses for travel in and outside of the state of Montana in accordance with the Client's travel policies in effect from time to time. Client shall include with each such payment a payment for any additional charges and reimbursable expenses for which Client has been notified and agrees to pay and has been properly invoiced in accordance with this paragraph, which invoice shall include receipts for all reimbursable expenses in excess of \$25.00. The Client will reimburse coach or "economy plus" equivalent airfare. **All expenses must be pre-approved by Client.**

### G. INVOICES & BILLING:

Consultant shall submit a monthly invoice for each month in which services are rendered, showing:

- 1) Dates and hours actually worked plus a description of the work performed only where the scope of work and fee arrangement are hourly.
- 2) The fees are due, per Article E, above.
- 3) Itemized reimbursable expenses, including original receipts, permitted by Article F, above.
- 4) The total amount payable to Consultant for the month.
- 5) All billing will be done on or before the first day of the month following services performed and **shall be due and payable by 15<sup>th</sup> of that month or 10 business days, whichever is longer.**

### H. SUBCONTRACTED WORK:

Consultant shall not be permitted to subcontract work without Client's written approval.



## POWERGAS CORPORATION

"TOMORROW'S ENERGY SOLUTIONS TODAY"

### I. INDEMNITIES:

Neither party's liability under this Agreement shall exceed the amounts actually paid hereunder by Client to Consultant. In no event shall either party be liable for indirect, incidental, or consequential damages, including loss of use, loss of profits or interruption of business resulting from the actions or inactions of governmental agencies, utilities, or energy suppliers. Each party is to maintain in good standing all government and regulatory approvals and to apply for any extensions thereof relating to matters of this Agreement; *provided* that if Client is not in good standing with respect to the foregoing, Client shall have thirty (30) days after written notice of such event to take such action as is required to be in good standing and upon taking such action, Consultant will deem Client in good standing for purposed of this Agreement. If any action at law or equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, which fees may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which it may be entitled. In the event the Client does not follow recommendations or reports prepared by Consultant pursuant to this agreement, Client acknowledges that the resulting effects are not the responsibility of Consultant.

### J. CONFIDENTIALITY:

Consultant agrees to hold the Client's Confidential Information in strict confidence and not to disclose such Confidential Information to any third parties other than those that are required to perform Consultant's work, if any, and which have been disclosed to and approved by Client.

### K. INSURANCE:

No provision is requested unless employment is extended on a more consistent basis, which shall be mutually agreed to by the contracting parties, at which time Consultant shall obtain and maintain throughout the duration of this Consulting Agreement. Cost and expense of additional insurance, other than General Liability Insurance, as Client may require from time to time, may be charged to Client.

### L. CHOICE OF LAW:

This Consulting Agreement shall be construed and governed by the laws of the State of Montana.





## POWERGAS CORPORATION

"TOMORROW'S ENERGY SOLUTIONS TODAY"

### M. NOTICES:

All written communications and notices required in connection with this Consulting Agreement shall be via email.

Client: City of Great Falls, Montana  
Civic Center Building #2 Park Drive South, Room 201  
PO Box 5021  
Great Falls, Montana 59403-5021  
Attention: Gregory T. Doyon – City Manager

Consultant: PowerGas Corporation  
1921 Cherry Drive  
Great Falls, Montana 59404  
Attn: James E. Morin

### N. TERM AND TERMINATION

1) This agreement shall commence on the Effective Date and shall terminate on the date that is no later than Forty (40) months after the Effective Date unless canceled by either party with sixty (60) days written notice.

2) Either party shall have the right to terminate this agreement in the event of the other party's material breach of an obligation, representation, or warranty set forth in this agreement; provided, however, that such termination will not become effective unless and until (a) the party not in default has given the other party written notice of such breach ("Breach Notice"), which Breach Notice shall state in reasonable detail the nature of said breach, and (b) the party allegedly in default shall have failed to remedy said default to the reasonable satisfaction of the party not in default within fifteen (15) days following delivery of such notice to the address listed in paragraph M, above.

3) In the event all or any portion of the services or work product prepared or partially prepared by Consultant is suspended, abandoned, or terminated, Client shall pay Consultant for all fees, charges, and services provided to date, up to the termination date, not to exceed any project cost limit specified by the prior written authorization of the Client. Client acknowledges if the project services are suspended and restarted, there may be additional charges to restart the project.



## POWERGAS CORPORATION

"TOMORROW'S ENERGY SOLUTIONS TODAY"

### O. MISCELLANEOUS:

- 1) Notwithstanding any other provision of the Agreement, if a dispute arises regarding Consultant's fees pursuant to this contract, and if the fee dispute cannot be settled by discussions between Client and Consultant, both Client and Consultant agree to attempt to settle the fee dispute by mediation through the American Arbitration Association or other suitable and comparable mediation service before recourse to arbitration or litigation.
- 2) This Consulting Agreement shall be binding on and inure to the benefit of the parties hereto and their respective successor and assigns, but this provision does not allow Consultant to convey or assign any of its rights or obligations hereunder without the prior written consent of Client.
- 3) The provisions and obligations of this Consulting Agreement are several and divisible, and any clause or portion deemed unenforceable by law shall not affect the enforceability of the remainder of such clause or any other provision or obligation contained herein. Any clause or portion deemed unenforceable by law shall be modified so as to effectuate the intent of the Parties hereto.
- 4) Notwithstanding the normal termination of the Consulting Agreement, if requested by Client, Consultant agrees to be available post-termination at reasonable time to provide services for fee, on the same basis agreed herein, to assist Client with any obligations or disputes arising from this Agreement including, but not limited to, resolution of any claims, demands, lawsuits, arbitrations or other disputes.

In witness whereof, this Consulting Agreement has been executed as of the day and year first written herein above.

#### CLIENT

City of Great Falls Montana

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

#### CONSULTANT

PowerGas Corporation

\_\_\_\_\_  
James E. Morin – President



## POWERGAS CORPORATION

"TOMORROW'S ENERGY SOLUTIONS TODAY"

### ATTACHMENTS

#### Attachment A – Scope of Services

**Overview:** Consultant will provide energy consulting services as may be required by Client and such other energy services as the Client may request from Consultant or Consultant's related energy partners. Consultant agrees to render the Consulting Services conscientiously and devote his best efforts and abilities thereto. Consultant further agrees to devote to the Client such portions of his business time and attention as may be necessary and appropriate to perform the Consulting Services. Scope of Work to be performed, Pricing, and Terms are outlined as follows in **Attachments A and B**.

**Background:** Client has expressed interest in continuing to evaluate their ability to contract, schedule, and manage their natural gas and electric power supplies independent of utility sales service. Client has recently concluded a new natural gas supply agreement and is in the process of renewing an electric power contract. Contract renewals involve the options for renegotiating existing contracts and/or requesting proposals for competitive bidding for new supply services. Client has and may continue to experience from time-to-time other issues such as regulatory changes and requirements to include sustainability and resiliency as well carbon accounting dealing with GHG emissions and long-term sustainability plans for energy management and supply resources.

Consultant's team has over 60 years of combined experience in directly dealing with electric power and natural gas supply and regulatory issues in Montana and is being commissioned to assist as a Consultant to the Client.

**Contract Implementation:** This contract's purpose is to assist and consult with Client to accomplish the following during the term of this agreement:

#### **SPECIAL PROJECT WORK:**

- A. Assist in an advisory capacity on any relevant energy issues which could affect the City regarding matters of natural gas or electric supply or delivery which may **involve state or federal regulation**.
- B. Provide other services and project consulting as may be requested by Client involving **energy management, sustainability, and resiliency issues**.
- C. Provide information and where appropriate advisory services on developing a **long-term energy management and sustainability plan if requested by Client**.



## POWERGAS CORPORATION

"TOMORROW'S ENERGY SOLUTIONS TODAY"

### EIS AUTOMATED ENERGY MANAGEMENT PLATFORM AND ASSOCIATED ADVISORY SERVICES:

- D. Client has elected to employ PowerGas Corporation's Energy Intelligence Suite (EIS) automated energy management platform. EIS will provide the following features and benefits to the City of Great Falls as follows:
- 1) EIS Portal creation customized for City of Great Falls with electronic load capture of electronic electric power and natural gas invoices and other commodities which could be added in the future (examples could include water, sewer, garbage). Historic data capture of natural gas and electric power invoices will look back up to 24 months from contract start date and forward for 36 months representing initial term of the agreement.
  - 2) All accounts added to platform will undergo account validation and 30-point metric audit review including both historic and prospective monthly invoice data capture.
  - 3) Weather Normalization of Data
  - 4) Automated Data/Invoice Acquisition
  - 5) Multi-Commodity Data Management
  - 6) Energy Usage and Cost Reporting
  - 7) Centralized Invoice Repository
  - 8) Benchmarking and Business Metrics
  - 9) Greenhouse Gas Tracking – Scope 1 and 2
  - 10) Exportable Energy and Cost Reports
  - 11) Unlimited log-ins and User based Security
  - 12) SOC Data Security Compliance
  - 13) Customizable Exception Reporting
  - 14) Rate Review/Optimization to coincide with utility tariff rate changes
  - 15) Annual Business Reviews
  - 16) A/P Bill Pay Preparation including GL coding
  - 17) Utility Provided Interval Read Data Capture and associated Heat Mapping
  - 18) Assist in preparing any requests for new supply proposals for electric power and natural gas and evaluating any and all proposals and provide recommendations to Client management regarding the best options and structures for these contracts and assist Client in any other matters related to these activities including contract negotiation.
  - 19) Work with accounting and finance personnel as may be required regarding any billing issues or supply imbalance calculations.
  - 20) Continue to provide relevant futures information on pricing for natural gas and electricity.



## POWERGAS CORPORATION

"TOMORROW'S ENERGY SOLUTIONS TODAY"

### Attachment B – Scope of Services – Fees

#### FEE SCHEDULE FOR SCOPE OF SERVICES:

**Items A, B, and C:** These items would not be subject to any hourly fee for limited initial high-level consulting and discussion of matters pertaining to the associated subject matter in each item section listed. If extensive research and project work were to be undertaken on behalf of the Client, Consultant would discuss with Client, in advance, the time and cost that would be required to complete the project or research and this work would be subject to client's ad-hoc hourly rate.

For ad-hoc services rendered above, Client shall pay Consultant at the reduced hourly rate (Standard hourly rate is \$275) of Two Hundred dollars (\$200) per hour plus pre-approved travel expenses, if any.

Invoices will be prepared detailing the following:

- 1) Dates and hours actually worked plus a description of the work performed and parties contacted, if applicable, **plus**
- 2) Itemized reimbursable expenses if any, including original receipts, permitted by Article F above in base agreement **which equals**
- 3) **Total amount payable** to Consultant for the billing month.

**Item D.** Implementation of EIS Platform Automated Energy Management Platform and associated Advisory Services. The EIS System and Advisory Services will be billed as follows:

- 1) Platform and Portal Creation and Onboarding of all accounts and up to 24 months of account validation: Approximately 4 months to install **One time cost of \$38,500.**
- 2) Monthly Account Maintenance and Advisory Support: **\$4250/month for 36 months.**
- 3) Contract can be extended by Client if agreed to within 30 days of contract renewal.
- 4) Meter adjustments during the term of the agreement will be processed per the schedule below. 15-minute utility supplied interval read meters will incur a \$40 per month charge or receive a \$40/month credit for deletion. Special ancillary metering or energy management equipment requested by Client will be priced on an Ad Hoc basis.

<b>Intra-Contract Meter Adjustments: Trued up annually.</b>				
<u>Monthly</u>	<u>Account</u>	<u>Meter Added Per Meter Per Month</u>	<u>Meter Removed Per Meter Per Month</u>	
	Electronic	\$ 12.00	\$ (12.00)	
	Paper	\$ 20.00	\$ (20.00)	
1x Setup	Electronic	\$ 40.00	\$ -	
1x Setup	Paper	\$ 40.00	\$ -	



Commission Meeting Date: March 5, 2024

**CITY OF GREAT FALLS  
COMMISSION AGENDA REPORT**

**Item:** Administrative Minor Subdivision Plat of Lot 1, Block 2 of the New Castle Condominiums, City of Great Falls, Cascade County, Montana

**From:** Sara Doermann, Associate Planner, Planning and Community Development

**Initiated By:** Lee Janetski and Damon Carroll

**Presented By:** Brock Cherry, Director of Planning and Community Development

**Action Requested:** City Commission approve the Amended Plat of the Minor Subdivision

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission (approve/deny) the Amended Plat of the Minor Subdivision, as legally described in the Staff report.”

2. Mayor requests a second to the motion, public comment, Commission discussion, and calls for the vote.

---

**Summary:** The Applicant is requesting to subdivide the subject property, a vacant plot of land occupying approximately one (1.0) acre, situated at the Northeast corner of 25<sup>th</sup> Ave South and Castle Pines Drive, into four (4) separate lots. The property falls under the zoning classification of PUD (Planned Unit Development), a designation that was established when the property was annexed and subdivided in 2008. The purpose of the proposed subdivision is to create four separate lots, replacing the current arrangement of condos upon a common lot. Triplex's will be constructed on each lot. An objection (see attachment – Protest) to the proposed subdivision was received on February 9, 2024, creating the need for this minor subdivision proposal to go before City Commission.

**Minor Subdivision Process:** The proposed minor subdivision meets the main eligibility requirements for administrative review through SB 170 (see attachment). As such, the recorded owners of parcels immediately adjoining the proposed amended plat were notified of the proposed action and the City staff's determination, as required by Montana Code Annotated (MCA) 76-3-609 on January 19, 2024 (see attachment – Notice of Amended Plat).

An adjacent property owner has protested the proposed minor subdivision, which requires the request to be forwarded to the City Commission for a final decision. The City Commission may either sustain the subdivision administrator's decision based on the record or overrule the decision if it was arbitrary, capricious, or unlawful.

**Staff Determination:** Staff has found the proposed amended plat meets the requirements of MCA 76-3-604(1) and the following criteria listed in 76-3-609(6);

- a) Is located in an area that is subject to and complies with zoning regulations adopted pursuant to Title 76, chapter 2, part 2 or 3, that at a minimum, address development intensity through densities, bulk and dimensional requirements, and use standards;
- b) Has a will-serve letter from a municipal water and sewer service or by a county water and/or sewer district created under 7-13-2203 that supplies both water and sewer services;
- c) Has existing legal and physical access to each lot; and
- d) Does not require a variance to any of the contents of the subdivision regulations required in 76-3-504(1)(g).

Therefor by its authority within MCA 76-3-609, Staff has administratively approved the Amended Subdivision Plat with the following conditions:

1. Upon final approval of the amended plat by the City of Great Falls staff, Cascade County Clerk and Recorder, and the City-County Health Department, the applicant shall file the subject amended plat.

Additionally, staff has notified owners of record or purchasers under contract-for-deed of parcels immediately adjoining the proposed amended plat for an opportunity to the decision to conditionally approve the administrative minor subdivision request.

**Fiscal Impact:** The cost of site improvements, including any utility services, will be paid by the property owner or future development. Existing public utilities can accommodate the increased capacity. Public safety services are currently being provided to the property and will not be affected.

**Alternatives:** The City Commission could deny the minor subdivision request.

**Attachments/Exhibits:**

- SB 170
- Notice of Amended Plat
- Protest
- Draft Amended Plat

## SENATE BILL NO. 170

INTRODUCED BY F. MANDEVILLE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN ALTERNATIVE ADMINISTRATIVE PROCESS FOR CERTAIN MINOR SUBDIVISIONS; PROVIDING CRITERIA AND EXEMPTIONS FOR CERTAIN MINOR SUBDIVISIONS; GRANTING A SUBDIVISION ADMINISTRATOR DECISION-MAKING AUTHORITY; PROVIDING A PROCESS FOR REDRESS; PROVIDING A DEFINITION; AND AMENDING SECTION 76-3-609, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 76-3-609, MCA, is amended to read:

**"76-3-609. Review procedure for minor subdivisions -- determination of sufficiency of application -- governing body to adopt regulations.** (1) Except as provided in subsections (6) through (8), ~~Minor~~ minor subdivisions must be reviewed as provided in this section and subject to the applicable local regulations adopted pursuant to 76-3-504.

(2) If the tract of record proposed to be subdivided has not been subdivided or created by a subdivision under this chapter or has not resulted from a tract of record that has had more than five parcels created from that tract of record under 76-3-201 or 76-3-207 since July 1, 1973, then the proposed subdivision is a first minor subdivision from a tract of record and, when legal and physical access to all lots is provided, must be reviewed as follows:

(a) Except as provided in subsection (2)(b), the governing body shall approve, conditionally approve, or deny the first minor subdivision from a tract of record within 35 working days of a determination by the reviewing agent or agency that the application contains required elements and sufficient information for review. The determination and notification to the subdivider must be made in the same manner as is provided in 76-3-604(1) through (3).

(b) The subdivider and the reviewing agent or agency may agree to an extension or suspension of the review period, not to exceed 1 year.



1 (c) Except as provided in subsection (2)(d)(ii), an application must include a summary of the  
2 probable impacts of the proposed subdivision based on the criteria described in 76-3-608(3).

3 (d) The following requirements do not apply to the first minor subdivision from a tract of record as  
4 provided in subsection (2):

5 (i) the requirement to prepare an environmental assessment; and

6 (ii) the requirement to review the subdivision for the criteria contained in 76-3-608(3)(a) if the minor  
7 subdivision is proposed in the portion of a jurisdictional area that has adopted zoning regulations that address  
8 the criteria in 76-3-608(3)(a).

9 (e) The governing body or its authorized agent or agency may not hold a public hearing or a  
10 subsequent public hearing under 76-3-615 for a first minor subdivision from a tract of record as described in  
11 subsection (2).

12 (f) The governing body may adopt regulations that establish requirements for the expedited review  
13 of the first minor subdivision from a tract of record. The following apply to a proposed subdivision reviewed  
14 under the regulations:

15 (i) except as provided in subsection (2)(d), the provisions of 76-3-608(3); and

16 (ii) the provisions of Title 76, chapter 4, part 1, whenever approval is required by those provisions.

17 (3) Except as provided in 76-3-616 and subsection (4) of this section, any minor subdivision that is  
18 not a first minor subdivision from a tract of record, as provided in subsection (2), is a subsequent minor  
19 subdivision and must be reviewed as provided in 76-3-601 through 76-3-605, 76-3-608, 76-3-610 through 76-3-  
20 614, and 76-3-620.

21 (4) The governing body may adopt subdivision regulations that establish requirements for review of  
22 subsequent minor subdivisions that meet or exceed the requirements that apply to the first minor subdivision,  
23 as provided in subsection (2) and this chapter.

24 (5) (a) Review and approval, conditional approval, or denial of a subdivision under this chapter  
25 may occur only under those regulations in effect at the time that a subdivision application is determined to  
26 contain sufficient information for review as provided in subsection (2).

27 (b) If regulations change during the period that the application is reviewed for required elements  
28 and sufficient information, the determination of whether the application contains the required elements and

sufficient information must be based on the new regulations.

(6) First and subsequent minor subdivisions must be reviewed using the administrative process provided for in subsection (7) if the proposed subdivision:

(a) is located in an area that is subject to and complies with zoning regulations adopted pursuant to Title 76, chapter 2, part 2 or 3;

(b) is served by a municipal water and sewer service or by a county water and/or sewer district created under 7-13-2203 that supplies both water and sewer services;

(c) has existing legal and physical access to each lot; and

(d) does not require a variance to any of the contents of the subdivision regulations required in 76-3-504(1)(g).

(7) An administrative minor subdivision meeting the requirements of subsection (6) is exempt from:

(a) submitting the summary of probable impacts based on criteria described in 76-3-608(3) and the environmental assessment required in 76-3-603;

(b) the review criteria described in 76-3-608(3)(a);

(c) the requirements of 76-3-622, except that the administrative minor subdivision must meet the requirements of 76-3-622(1)(a)(ii), 76-3-622(1)(b)(i), and 76-3-622(1)(b)(ii); and

(d) the requirements of subsections (2) through (5) of this section.

(8) (a) For administrative minor subdivisions, the subdivision administrator appointed by the governing body shall:

(i) assume all decision-making authority of the governing body provided in 76-3-608; and

(ii) approve, conditionally approve, or deny an administrative minor subdivision and issue a written statement pursuant to 76-3-620 within 20 working days of a determination by the reviewing agent or agency that the application contains required elements and sufficient information for review as provided in 76-3-604(1) through (3).

(b) If a party identified in 76-3-625(3) objects to a subdivision administrator's decision to approve, conditionally approve, or deny an administrative minor subdivision, the party may request in writing that the subdivision administrator forward the application on to the governing body. The governing body shall assume the decision-making authority provided in 76-3-608 in relation to the administrative minor subdivision in

1 question and has 15 working days from the receipt of the request to make a decision to approve, conditionally  
2 approve, or deny the administrative minor subdivision.

3 (9) As used in this section, "administrative minor subdivision" means a subdivision meeting the  
4 requirements of subsection (6). All the requirements of Title 76, chapter 3, except those exempt in subsections  
5 (7) and (8), apply to an administrative minor subdivision."

6 - END -

## NOTICE OF AMENDED PLAT

NOTICE IS HEREBY given that the City of Great Falls Planning Division has received a request from Lee Janetski and Damon Carroll requesting the following:

1. Administrative approval of the Minor Subdivision Plat of Lot 1, Block 2, New Castle Condominiums, City of Great Falls, Cascade County, Montana

The purpose of this minor subdivision is to create four separate lots replacing the current arrangement of condos upon a common lot. Triplex's will be constructed on each lot.

As the owner of record or a purchaser under contract-for-deed of a parcel immediately adjoining the proposed amended plat, you are being notified of this proposed action and the City staff's determination, as required by Montana Code Annotated (MCA) 76-3-609.

If you object to the decision to approve the administrative minor subdivision, you may request in writing that the subdivision administrator forward the application on to the City Commission. The City Commission shall then either sustain the subdivision administrator's decision based on the record as a whole or overrule the decision if it was arbitrary, capricious, or unlawful. The City Commission has 15 working days from the receipt of the request to review a decision to approve, conditionally approve, or deny the administrative minor subdivision and make a final determination.

To ensure a timely process for the applicant, the City requires that any objections be forwarded in writing to the City of Great Falls Planning Division within fifteen (15) working days of receipt of this letter. Written objections may be provided in person, by mail, or by electronic mail to the contact below:

**By mail, to:** Great Falls Planning and Community Development  
P.O. Box 5021  
Great Falls, MT 59403

**In person, to:** Room 112, Civic Center  
#2 Park Dr S  
Great Falls, MT 59401

**By e-mail, to:** [sdoermann@greatfallsmt.net](mailto:sdoermann@greatfallsmt.net)

If you have any questions, please call 406-455-8415

**Provided Attachments:**

- Administrative Minor Subdivision Review Determination
- Draft Amended Plat

P. O. Box 5021, 59403-5021



Planning and Community  
Development Department

January 19, 2024

**Request:** Administrative approval of the Minor Subdivision Plat of Lot 1, Block 2 of the New Castle Condominiums, City of Great Falls, Cascade County, Montana

### **ADMINISTRATIVE MINOR SUBDIVISION REVIEW DETERMINATION**

**Background:**

The purpose of this minor subdivision is to create four separate lots replacing the current arrangement of condos upon a common lot. Triplex's will be constructed on each lot.

**Staff Determination:**

Staff has found the proposed amended plat meets the requirements of MCA 76-3-604(1) and the following criteria listed in 76-3-609(6);

- (a) is located in an area that is subject to and complies with zoning regulations adopted pursuant to Title 76, chapter 2, part 2 or 3, that, at a minimum, address development intensity through densities, bulk and dimensional requirements, and use standards;
- (b) has a will-serve letter from a municipal water and sewer service or by a county water and/or sewer district created under 7-13-2203 that supplies both water and sewer services;
- (c) has existing legal and physical access to each lot; and
- (d) does not require a variance to any of the contents of the subdivision regulations required in 76-3-504(1)(g).

Therefore by its authority within MCA 76-3-609, Staff has administratively approved the Amended Subdivision Plat with the following conditions:

1. Upon final approval of the amended plat by the City of Great Falls staff, Cascade County Clerk and Recorder, and the City-County Health Department, the applicant shall file the subject amended plat.

Additionally, staff has notified owners of record or purchasers under contract-for-deed of parcels immediately adjoining the proposed amended plat for an opportunity to object to the decision to conditionally approve the administrative minor subdivision request.

**Attachments/Exhibits:**

- Draft Amended Plat
- Notice of Amended Plat

## Sara Doermann

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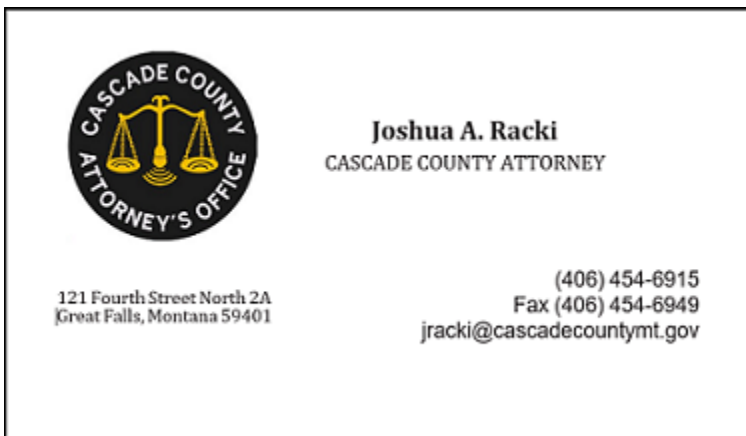
**From:** Racki, Joshua <jracki@cascadecountymt.gov>  
**Sent:** Friday, February 9, 2024 1:49 PM  
**To:** Sara Doermann  
**Subject:** RE: Public Notice: New Castle Condominiums Subdivision

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Sara,

At this time, I would like to file an objection to the proposed Minor Subdivision Plat of Lot 1, Block 2, New Castle Pines Condominiums. Please let me know when the City Commission with review the matter. Thanks

JAR




---

**From:** Sara Doermann <sdoermann@greatfallsmt.net>  
**Sent:** Thursday, February 8, 2024 3:35 PM  
**To:** Racki, Joshua <jracki@cascadecountymt.gov>  
**Subject:** FW: Public Notice: New Castle Condominiums Subdivision

Good Morning,

Please see the attached pdf of the public notices sent out on January 19, 2024. If you have any questions, please reach out.

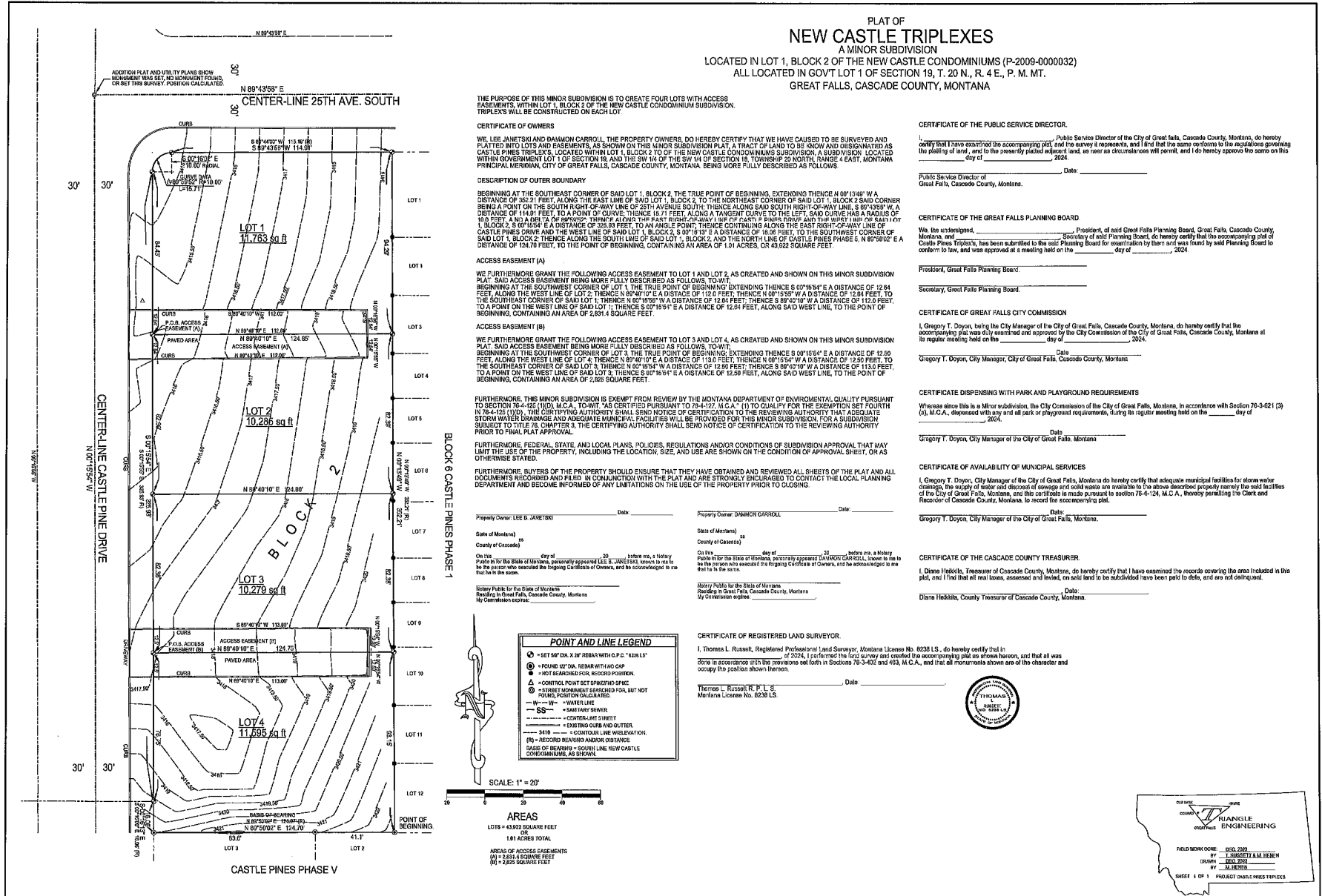
Thanks,  
 Sara



**Sara Doermann**  
**Associate City Planner**  
*Planning & Community Development Department*  
*City of Great Falls*  
**T 406-455-8415**  
**E [sdoermann@greatfallsmt.net](mailto:sdoermann@greatfallsmt.net)**

City of Great Falls e-mails may be subject to Montana's Right To Know law (Article II Sec 9, Montana Constitution) and may be a Public Record (2-6-1002, M.C.A.) and available for public inspection. Messages and attachments sent to or from this e-mail account may be considered public or private records depending on the message content. Unless otherwise exempted from the public records law, senders and receivers of County email should presume that the emails are subject to release upon request. This message is intended for the use of the individual or entity named above. If you are not the intended recipient of this transmission, please notify the sender immediately, do not forward the message to anyone, and delete all copies.

Messages and attachments sent to or from this e-mail account may be considered public or private records depending on the message content. Unless otherwise exempted from the public records law, senders and receivers of County email should presume that the emails are subject to release upon request. This message is intended for the use of the individual or entity named above. If you are not the intended recipient of this transmission, please notify the sender immediately, do not forward the message to anyone, and delete all copies.







Commission Meeting Date: March 5, 2024

**CITY OF GREAT FALLS  
COMMISSION AGENDA REPORT**

**Item:** Ordinance 3264 – An ordinance by the City Commission of the City of Great Falls to rezone the property addressed as 805 2<sup>nd</sup> Street SW and legally described as Lot 1-A of the Amended Plat of Lot 1, Garden Home Tracts and Mark 23A of COS 4153, Located in the Southeast ¼ of Section 11, T20N, R3E, P.M.M., Cascade County, Montana, from R-1 Single-family Suburban to M-2 Mixed-use Transitional.

**From:** Lonnie Hill, Senior City Planner, Planning and Community Development

**Initiated By:** Craig and Robert Stainsby, Owner

**Presented By:** Brock Cherry, Director, Planning and Community Development

**Action Requested:** City Commission accept Ordinance 3264 on first reading and set a public hearing for April 2, 2024.

**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission (accept/not accept) Ordinance 3264 on first reading and set a public hearing for April 2, 2024.”

2. Mayor requests a second to the motion, public comment, Commission discussion, and calls for the vote.

*\*Please note formal protest section on requirements for favorable vote of two-thirds (2/3) of the present and voting members of the City Commission*

**Staff Recommendation:**

The Zoning Commission recommended that the City Commission approve the applicant’s request for a Zoning Map Amendment at the conclusion of a public hearing held on February 13, 2024. In addition, staff recommends approval with the following conditions:

**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. **Land Use & Zoning.** The proposed plans shall conform to the M-2 Mixed-use Transitional zoning district development standards contained within the Official Code of the City of Great Falls.

3. **Engineering Review.** The final engineering drawings and specifications for improvements to the subject property shall be submitted to the City Public Works Department for review and approval.
4. **Agreement with the Park and Recreation Department.** Prior the time of building permit must enter into an agreement with the City regarding the installation and maintenance of proposed improvements to the City's property adjoining the owner's site that will be used for access.

### **Background:**

The subject property, located at 805 2<sup>nd</sup> Street SW, is approximately 4.46 acres and is currently vacant. The property was most recently a mobile home court. City records show the property has had up to fourteen (14) mobile units, but most recently, it had ten (10) units on record with utility records. This larger acreage, multi-unit property has historically served as a transition between the industrial uses to the north and predominately single-family uses to the south. The subject property is currently within the R-1 Single-family Suburban zoning district. The applicant requests a zoning map amendment to rezone the subject property to M-2 Mixed-use Transitional to allow for the development of a mixed residential project. The request does not include the single-family residence located at the southeast corner of Bay Drive and 2<sup>nd</sup> Street SW, addressed 803 2<sup>nd</sup> Street SW.

The applicant's rezoning request is to facilitate the sale of the property to developers who wish to construct a mixed residential development proposal that includes multiple phases and would result in the construction of 92 units in total. The development proposal includes one three-story 36-unit building in the first phase along the western side of the subject property, one three-story 42-unit building in the second phase in the center of the subject property, and seven 2-unit townhome buildings (14 units) in subsequent phases on the eastern portion of the site, near the Missouri River.

The developer proposes two accesses onto Bay Drive near the location of an existing access for the mobile home court. These accesses will cross a strip of parkland property that is located between the subject property and the right-of-way of Bay Drive. The applicant has approached the City, and specifically the Park and Recreation Department, about the use of that parkland for access to the site. City staff is generally agreeable to continue that use. Prior to the issuance of the Phase I Building Permit, the property owner must enter into an agreement with the City regarding the installation and maintenance of proposed improvements to the City's property adjoining the owner's site that will be used for access. An exhibit of this strip of parkland is included as *Attachment G - Parkland Access Exhibit*.

The developers expressed a willingness to work with the City to create a Voluntary Development Agreement outlining their commitments that go beyond what the M-2 zoning district would otherwise require. These voluntary commitments are outlined within *Appendix J* of the application packet and within the attachment entitled *Draft Voluntary Development Agreement*. Although it is not typical of the City to enter into development agreements with rezoning requests, staff recommends that the Zoning Commission review and consider all of the applicants' voluntary commitments within this draft agreement to become memorialized and recorded. This voluntary development agreement will be finalized and signed by the applicant before City Commission action.

The applicant proposes a boundary line adjustment in addition to the rezone request. A draft certificate of survey (COS) is provided within the application packet to reconfigure the subject property to create Lot A, which is approximately 1.27 acres and will contain the first phase, and Lot B, which is approximately 3.19 acres and will contain the future phases. The proposed boundary line adjustment is

reviewed administratively by City planning staff but is provided as part of this request as a reference. The entire 4.46-acre subject property is included in the rezone request.

The subject property is currently within the R-1 Single-family Suburban zoning district. The property was most recently a mobile home court, a nonconforming use within the R-1 zoning district. The properties to the south and west and the single-family residential property directly northwest of the subject property are also within the R-1 zoning district. The property north of the subject property, across Bay Drive, is within the M-2 Mixed-use Transitional zoning district and is currently vacant. Garden Home Park, which is directly north of the subject property, is within the POS Parks and Open Space zoning district. *Attachment F - Zoning Map* shows the specific locations of surrounding zoning districts.

On the 13th of February, the Planning Board, acting as the Zoning Commission, conducted a public hearing concerning the request. During the course of the proceedings a Commissioner provided information and raised concerns regarding the potential involvement of the City in an illegal "spot zone" of the subject property, if the request was granted. The City staff, in response to the Board's concerns, assured the Board that a review of the materials would be undertaken to ensure that the City of Great Falls would not be engaging in illegal "spot zoning" if the request was approved. Subsequently, staff performed a detailed analysis that is provided as *Attachment C – Spot Zoning 2024 Memo* and has determined there is no reason to believe that the proposed re-zone should be considered "spot zoning."

#### **Floodplain Analysis:**

The second and third phases of the proposed project are located within the Special Flood Hazard Area (SFHA), or 100-year floodplain. The applicant will be required to meet the requirements of the Federal Emergency Management Agency (FEMA) and City of Great Falls Floodplain Hazard Management Regulations. This will include a request to place fill within the SFHA to develop the 42-unit apartment building and 2-unit townhomes. The proposed first phase including the 36-unit apartment building is located outside the 100-year floodplain.

#### **2013 Growth Policy Update Analysis:**

Staff has reviewed the City's 2013 Growth Policy Update and has concluded that the Growth Policy supports the proposed zoning map amendment to facilitate the development of apartments and townhomes. Specifically, on page 134, the Growth Policy lists multiple social policies regarding housing, such as encouraging a variety of housing types and densities so that residents can choose by price or rent, location, and place of work. Further, the Environmental section on page 144 and the Physical section on page 162 of the Growth Policy prioritize infill development. The subject property is surrounded by existing infrastructure, and the Public Works Department already maintains Bay Drive and 2nd Street SW. The supporting findings are listed in *Attachment B: Findings of Fact – Zoning Map Amendment*.

#### **Missouri River Urban Corridor Plan Analysis:**

In addition to the City's 2013 Growth Policy Update, the subject property is located within the "Primary Impact Area" of The Missouri River Urban Corridor Plan shown on page 15. According to the plan, a primary impact area includes lands with strong relationships to the river that are most central to the Corridor Plan. On page 48, the plan identifies appropriate riverfront uses that reinforce the vision for the Missouri River corridor. The listed uses include 2-4 story rental apartments and town houses.

Further, a goal of the plan listed on page 36 is to remove barriers to success. One regulatory barrier that was identified is the lack of mixed-use/multi-use zoning districts or options in local regulations

appropriate for riverfront redevelopment. In response to the Plan, the City adopted Mixed-use Transitional zoning along Bay Drive in 2005. Because this zoning map amendment request meets multiple goals of the Growth Policy and Missouri River Urban Corridor Plan and is proposed to replace a past multi-unit development, staff supports the request to rezone the property to M-2.

### **Transportation Analysis:**

City Code requires a formal Traffic Impact Analysis when the estimated peak-hour trips generated by the proposed development exceeds 300 peak-hour trips and gives the City the option to require one if the estimated peak-hour trips exceed 200 peak-hour trips. Although the proposed development is estimated to generate only 43 peak-hour trips, staff has performed an analysis based on anticipated public interest in the proposed use. The full analysis can be found within *Attachment D - Traffic Analysis* and is summarized in the following section.

Generally, a traffic analysis looks at existing traffic circulation and patterns, projected traffic circulation and patterns, effects of changes in traffic to the transportation network, and recommendations related to potential impacts attributable to the development.

### Existing Conditions and Projected Growth

Traffic volumes are generally low on the roads surrounding the development. Table 1 shows daily and peak-hour volumes, as well as projected growth. Growth projections are based upon studies performed for similar land uses, as summarized in the *ITE Trip Generation Manual, 11<sup>th</sup> Edition*.

Generally, traffic is in the expected range for the characteristics and function of the different affected road segments. Huffman Avenue and Bay Drive are wider roads built to urban road standards and direct local traffic to higher-capacity roads. 10<sup>th</sup> Avenue SW and 2<sup>nd</sup> Street SW provide access to and from low-volume, mostly residential properties and are referred to as “local” roadways. Local roads around Great Falls generally carry between 200-1,200 trips, depending upon the characteristics of the neighborhood they serve. As expected, Huffman Avenue and Bay Drive carry more traffic than 10<sup>th</sup> Avenue SW and 2<sup>nd</sup> Street SW.

**TABLE 1**

STREET SEGMENT	DAILY VOLUME (DATE)	PROJECTED DAILY GROWTH	PROJECTED DAILY VOLUME	2023 PEAK HOUR VOLUME	PROJECTED PEAK HOUR GROWTH	PROJECTED PEAK HOUR VOLUME
Bay Drive (north of the development)	677 (2022)	185	862	n/a	12	n/a
Huffman Ave. (west of 2 <sup>nd</sup> St. SW)	810 (2022)	211	1,088	n/a	14	n/a
10 <sup>th</sup> Ave SW (btwn 4 <sup>th</sup> & 6 <sup>th</sup> Sts SW)	399 (2023)	132	531	52	9	61
2 <sup>nd</sup> St SW (south of Huffman Ave)	333 (2023)	132	465	39	9	48

### Speeds

Although not typically reviewed, travel speeds have been provided in the analysis for informational purposes. An average travel speed higher than 25 MPH on a local roadway could be a concern. However, as the attached analysis shows, 85% of the drivers traveled less than 26 MPH on 10th Avenue SW and 23 MPH on 2nd Street SW, with the average speed much lower. Additional traffic volumes are not expected to result in an increase in speeds.

#### Conflict with Bicyclists

A 2014 study concluded that the characteristics of 10th Avenue SW/2nd Street SW were appropriate for shared bicycle usage. The relatively small increase in vehicular traffic anticipated from the development would not be expected to impact bicycle safety negatively. Additionally, the shared-use path proposed by the development should enhance bicycle safety in the area.

#### Conclusions/Recommendations

An increase in peak-hour trips of between 9-14 trips per hour (less than one trip every 4 minutes during rush hour) should have little noticeable impact on area traffic, as the roads have sufficient capacity to allow for the increase and remain uncongested. Huffman Avenue and Bay Drive are wide enough to accommodate parking and 2-way travel, and 2<sup>nd</sup> Street SW and 10<sup>th</sup> Avenue SW have typical travel lane widths to safely carry traffic, with wider boulevards that are usually free of parked vehicles, further contributing to the safe use of the roads.

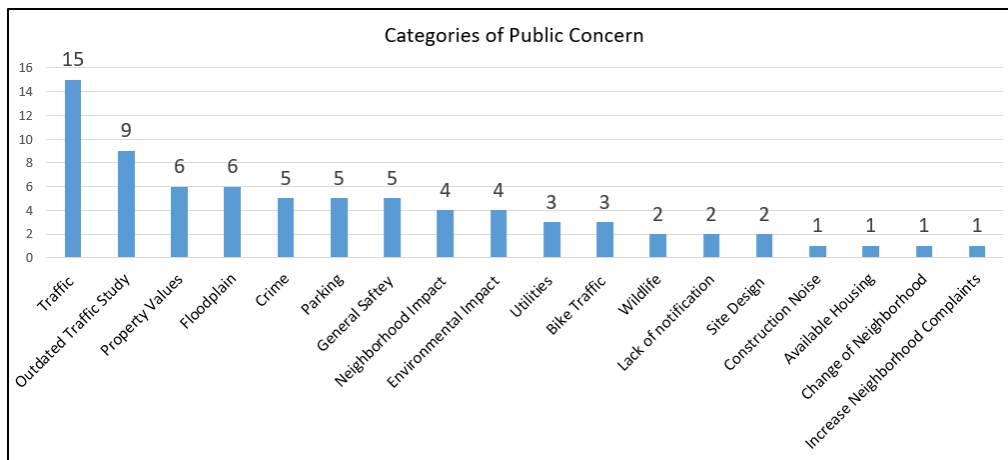
To enhance bicycle and pedestrian safety, a 10-foot shared path is recommended between the proposed development and the end of River's Edge Trail in Garden Home Park. Due to the lack of pedestrian facilities on neighboring streets, no sidewalks are recommended on 2<sup>nd</sup> Street SW until full street improvements are implemented.

#### **Neighborhood Council:**

The subject property is located in Neighborhood Council #2. The applicant's representative presented at the Council's regularly scheduled November 8<sup>th</sup> meeting. In response to the citizens in attendance commenting that not enough of the neighborhood was aware of the proposal or meeting, the Council voted to discuss the item at a second special meeting on December 6<sup>th</sup>. A number of residents attended the December 6<sup>th</sup> meeting and expressed various concerns, including traffic and safety. The Council did not take action on December 6<sup>th</sup> but scheduled the item for discussion at its February 13<sup>th</sup> meeting, at which the Council voted to not recommend approval of the rezone request.

#### **Public Comment:**

Public comment received before the publishing of this report is provided as *Attachment K: Public Comment*. Staff has compiled the concerns raised in the public comment and summarized the information into the categories listed in the chart below:



### Fiscal Impact:

Approval of this request is expected to result in the construction of a 36-plex apartment building, a 42-plex apartment building, and 14 townhome units on the vacant parcel, which would greatly increase the property's value. This, in turn, would result in increased revenue to the City and other entities whose revenue is based upon property valuation. The applicant will bear the cost of utility connections, all site improvements, and the off-site trail connection. This infill project utilizes existing utility infrastructure and is located within an area already served by City Fire and Police.

### Formal Protest:

Residents within 150 feet of the subject property have filed a formal protest of the request. This documentation is provided as *Attachment L – Public Comment – Formal Protest*. Per OCCGF 17.16.40.040 the request may not become effective except upon a favorable vote of two-thirds (2/3) of the present and voting members of the City Commission. The City Code procedure for zoning map amendments states the following:

#### ***17.16.40.040 - Vote if protested.***

*An amendment relating to the zoning provisions of this Title may not become effective except upon a favorable vote of two-thirds (2/3) of the present and voting members of the City Commission if a protest against the amendment is signed by the owners of twenty-five (25) percent or more of:*

- 1. The area of the lots included in any proposed change; or*
- 2. Those lots one hundred fifty (150) feet from a lot included in a proposed change. (See 76-2-305(2), MCA)*

### Alternatives:

The Zoning Commission could recommend denial of the zoning map amendment to the City Commission. For this action, the City Commission must provide separate Findings of Fact for the zoning map amendment request.

### Concurrences:

Representatives from the City's Public Works Department and Fire Department have been involved in the review process for this application. Review of the building permits for the proposed apartment buildings and townhomes will require review from other City departments at the time of building permit

submittal. This review will include coordination with the other City Departments, including the Public Works Department, to develop the subject property. No code compliance issues have been identified in the interdepartmental review process.

**Attachments/Exhibits:**

- Attachment A – Ordinance 3264
- Attachment B - Findings of Fact – Zoning Map Amendment
- Attachment C - Spot Zoning 2024 Memo
- Attachment D - Traffic Analysis
- Attachment E - Aerial Map
- Attachment F - Zoning Map
- Attachment G - Parkland Access Exhibit
- Attachment H - Allowable Uses and Lot Area and Dimensional Standards of R-1 and M-2
- Attachment I - Application Packet
- Attachment J - Draft Voluntary Development Agreement
- Attachment K - Public Comment
- Attachment L - Public Comment – Formal Protest

# **ORDINANCE 3264**

**AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA TO REZONE THE PROPERTIES LEGALLY DESCRIBED AS: LOT 1-A OF THE AMENDED PLAT OF LOT 1, GARDEN HOME TRACTS AND MARK 23A OF COS 4153, LOCATED IN THE SOUTHEAST ¼ OF SECTION 11, T20N, R3E, PMM, CASCADE COUNTY, MONTANA, FROM R-1 SINGLE-FAMILY SUBURBAN TO M-2 MIXED USE TRANSITIONAL**

\* \* \* \* \*

**WHEREAS**, the subject properties, located at 805 2nd Street SW and legally described above, are presently zoned R-1 Single-family Suburban; and

**WHEREAS**, the property owners, Craig and Robert Stainsby, have petitioned the City of Great Falls to rezone said properties to the M-2 Mixed-use Transitional zoning district; and

**WHEREAS**, the Great Falls Zoning Commission conducted a public hearing on February 13, 2024, to consider said rezoning from R-1 Single-family Suburban to M-2 Mixed-use Transitional zoning district and, at the conclusion of said hearing, passed a motion recommending the City Commission rezone the property legally described as Lot 1-A of the Amended Plat of Lot 1, Garden Home Tracts and Mark 23A of COS 4153, Located in the Southeast ¼ of Section 11, T20N, R3E, P.M.M., Cascade County, Montana; and

**WHEREAS**, notice of assigning said zoning classification to the subject properties was published in the *Great Falls Tribune* advising that a public hearing on this zoning designation would be held on the 2nd day of April, 2024, before final passage of said Ordinance herein; and

**WHEREAS**, following said public hearing, it was found and decided that the zoning map amendment on said properties meets the Basis of Decision requirements in the Official Code of the City of Great Falls (OCCGF), Section 17.16.40.030, and that the said rezoning designation be made.

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

Section 1. It is determined that the herein requested rezoning meets the criteria and guidelines cited in Mont. Code Ann §76-2-304, and Section 17.16.40.030 of the OCCGF.



ATTACHMENT A

Section 2. That the property legally described as: Lot 1-A of the Amended Plat of Lot 1, Garden Home Tracts and Mark 23A of COS 4153, Located in the Southeast ¼ of Section 11, T20N, R3E, P.M.M., Cascade County, Montana, be rezoned to M-2 Mixed-use Transitional as shown in Exhibit A.

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

ACCEPTED by the City Commission of the City of Great Falls, Montana on first reading March 5, 2024.

ADOPTED by the City Commission of the City of Great Falls, Montana on second reading April 2, 2024.

\_\_\_\_\_  
Cory Reeves, Mayor

ATTEST:

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

(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

\_\_\_\_\_  
David Dennis, City Attorney

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

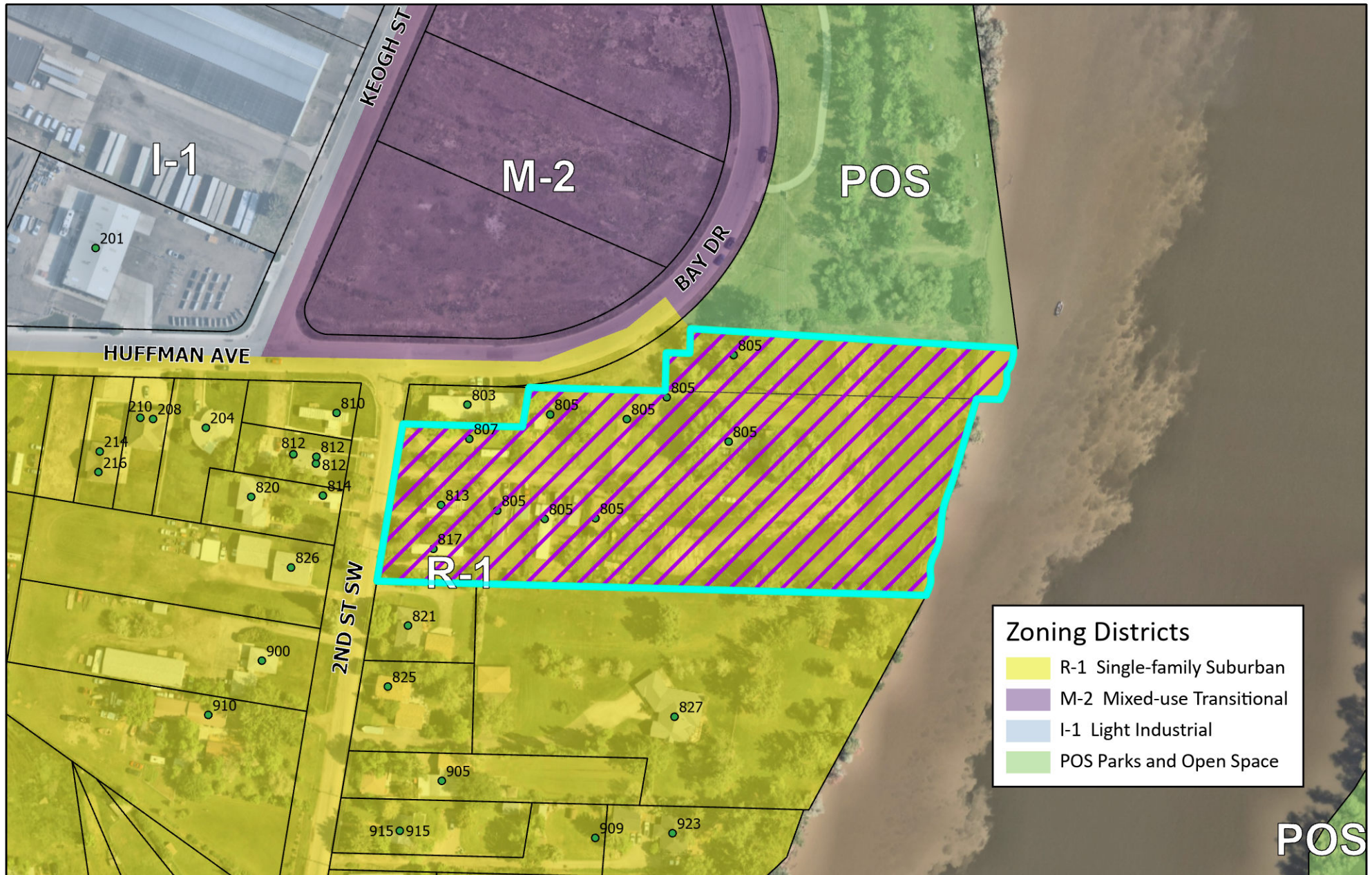
I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do certify that I did post as required by law and as prescribed and directed by the Commission, Ordinance 3264 on the Great Falls Civic Center posting board and the Great Falls City website.

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

(CITY SEAL)

# Ordinance 3264 - Exhibit A

Agenda #20.



Parcels



Ordinance 3264 - Proposed M-2 Zoning

0 100 200 Feet



## ATTACHMENT B

## FINDINGS OF FACT – ZONING MAP AMENDMENT

Lot 1-A of the Amended Plat of Lot 1, Garden Home Tracts and Mark 23A of COS 4153, Located in the Southeast ¼ of Section 11, T20N, R3E, P.M.M., Cascade County, Montana

**PRIMARY REVIEW CRITERIA:**

The basis for decision on zoning map amendments is listed in Official Code of the City of Great Falls (OCCGF) §17.16.40.030 of the Land Development Code. The recommendation of the Zoning Commission and the decision of 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 zoning map amendment is consistent with the overall intent and purpose of the City of Great Falls 2013 Growth Policy Update. The proposal to amend the zoning of the proposed property from R-1, Single-family Suburban to M-2, Mixed-use Transitional will allow the applicant to construct a proposed multi-family development including a 36-plex, a 42-plex, and seven 2-unit townhomes. The land use of a Multi-family residence is not permitted within the R-1 zoning district, whereas it is permitted by right within the M-2 zoning district. Staff finds the City's Growth Policy supports the proposed zoning map amendment to facilitate higher density development upon an infill parcel, particularly to provide needed housing. The zoning map amendment request is consistent with several of the Plan's policies including:

Social – Housing (page 134)

- Soc1.4.2 Expand the supply of residential opportunities including single family homes, apartments, manufactured homes, and assisted living facilities.
- 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.

Environmental – Urban Form (page 144)

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

Physical - Land Use (page 162)

- 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.

The proposed zoning map amendment will enable these policies to be addressed and further the implementation of the Growth Policy.

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

Great Falls is separated into nine Neighborhood Councils. There are no adopted Neighborhood Plans for any of the Councils within the City. The subject property is located in Neighborhood



**ATTACHMENT B**

Council #2. The applicant's representative presented at the Council's regularly scheduled November 8th meeting. In response to comments from members that not enough of the neighborhood was aware of the proposal or meeting, the Council voted to discuss the item at a second special meeting on December 6th. The Council did not take action on December 6th, but has scheduled this item on its agenda for discussion at its February 13th meeting. Because there is no adopted neighborhood plan adopted for the general area, the amendment is not inconsistent with Criterion #2.

**3. The amendment is consistent with other planning documents adopted by the City Commission, including a river corridor plan, transportation plan, and sub-area plans.**

The subject property is located within the "Primary Impact Area" of The Missouri River Urban Corridor Plan shown on page 15 of the plan. A primary impact area includes lands with strong relationships to the river that are most central to the Corridor Plan. On page 48, the plan identifies appropriate riverfront uses that reinforce the vision for the Missouri River corridor. The listed uses within the plan include 2-4 story rental apartments and town houses. Further, a goal of the plan on page 36 is to remove barriers to success. One regulatory barrier that is identified is the lack of mixed-use/multi-use zoning districts or options in local regulations appropriate for riverfront redevelopment. This zoning map amendment request and the proposed development meet multiple goals of the Missouri River Urban Corridor Plan. As a result, staff finds consistency between the applicants' request and the Missouri River Urban Corridor Plan.

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

If the applicants construct the project as conceptually proposed, the requested zoning map amendment will not be in conflict with any portion of the existing City Code and will be internally consistent. The developers expressed a willingness to work with the City to create a Voluntary Development Agreement outlining their commitments that go beyond what the M-2 zoning district would otherwise require. These voluntary commitments are outlined within "Appendix F" of the application and within the attachment entitled, "Voluntary Development Agreement".

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

There are no existing public health, safety, or welfare issues that have been identified for this property. The proposed development will require water and sanitary sewer services to be extended from the utility mains that surround the property. In addition, the proposal will trigger the City's stormwater quantity and stormwater quality requirements. These items, and public safety, will be addressed during building permit review to ensure City requirements are met and safe access is provided within the property and to the surrounding streets. Residents to the south have expressed concern that if the zoning map amendment is adopted, that traffic safety impacts will be excessive. Staff analysis indicates that because potential residential trips will be dispersed in three different directions, and that additional traffic generated by the project can be reasonably accommodated by the existing nearby street system.

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

The City has the financial and staffing capability to enforce the amendment if it is approved. The zoning map amendment will only affect the subject property, and the project will be developed in a manner consistent with Title 17 of the OCCGF.



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February 21<sup>st</sup>, 2024

Attn: City Manager Doyon, Mayor Reeves, and Honorable City Commissioners:

***Re: Zoning & Legal Analysis regarding "Spot Zoning" in relation to a request for a Zoning Map Amendment to rezone property located at 805 2nd Street SW from R-1 Single-family Suburban to M-2 Mixed-use Transitional.***

"Spot Zoning generally comprises the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area, for the benefit of the owner of such property and to the detriment of other owners." *Hartshorne v. City of Whitefish*, 2021 MT 116, ¶ 16, 404 Mont 150, 486 P.3d 693, citing *State ex rel. Gutkoski v. Langhor* (1972), 160 Mont 351, 353, 502 P.2d 114, 1145.

#### **Question & Context Summary**

On the 13th of February, the Planning Board, acting as the Zoning Commission, conducted a public hearing concerning the request to for a Zoning Map Amendment to change the zoning for the property addressed as 805 2nd Street SW and legally described as Lot 1-A of the Amended Plat of Lot 1, Garden Home Tracts and Mark 23A of COS 4153, Located in the Southeast ¼ of Section 11, T20N, R3E, P.M.M., Cascade County, Montana, from R-1 Single-family Suburban to M-2 Mixed-use Transitional.

During the proceedings, Commissioner Julie Essex provided information (see attachment) and raised concerns regarding the potential involvement of the City in an illegal "spot zone" of the subject property if the request was granted. In response to the Board's concerns, City Staff assured the Board that the materials would be reviewed to ensure that the City of Great Falls would not engage in illegal "spot zoning" if the request were approved. Subsequently, the staff performed a detailed analysis that is presented below:

#### **Zoning & Legal Discussion**

"There is no single, comprehensive definition of spot zoning applicable to all fact situations." *Little v. Board of County Comm'rs* (1981), 193 Mont. 334, 346, 631 P.2d 1282, 1289. "[A]ny definition of spot zoning must be flexible enough to cover the constantly changing circumstances under which the test may be applied." *Id.*



The information provided by Commissioner Essex contains a reference to the 1981 Montana Supreme Court opinion in *Little, supra*, which established that Spot Zoning is invalid under certain circumstances. Specifically, the case determined that Spot Zoning is not permitted if all three of the following factors exist: (1) the proposed use is significantly different from the prevailing use in the area; (2) the area in which the requested use is to apply is relatively small from the perspective of the number of separate landowners benefited from the proposed change, and (3) the change is special legislation designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public. *Little*, 193 Mont. at 346, 631 P.2d at 1289.

However, in the most recent case that cites *Little*, the 2021 *Whitefish* case, *supra*, the Montana Supreme Court found that if a matter of adopted policy, such as an area plan, neighborhood plan, or adopted Growth Policy, substantially complies with a land-use request, the approval of a rezone should not be classified as spot zoning. *Whitefish*, ¶ 17. Moreover, since the establishment of the Little Framework in 1981, the District Court in *Whitefish* noted that there are no opinions of the Montana Supreme Court where a zoning decision that complied with a neighborhood plan/comprehensive plan/master plan was found to be spot zoning. *Id.*

### **Application to the Rezone Request**

At the outset, it is worth noting that from a general planning perspective, the current request to rezone is not perceived as a “spot zone.” The subject property is adjacent to an area already zoned M-2, the requested zoning district. Therefore, the request is viewed as extending an existing zoning district boundary to the south for planning purposes. Further, the most recent land use of a mobile home court is nonconforming to its current zoning district of R-1.

The application of the current rezoning request to the recent Montana case law analyzing spot zoning led staff to determine, as stated in the Agenda Report, that the request complies with the City's planning policy documents, notably the 2013 Great Falls Growth Policy and the Missouri River Urban Corridor Plan, and as a result is not spot zoning.

The City's 2013 Growth Policy Update was reviewed by the staff, and it was concluded that the proposed zoning map amendment to facilitate the development of apartments and townhomes is supported by the Growth Policy. The Growth Policy stipulates social policies pertaining to housing, which encourage the provision of various housing types and densities so that residents can choose according to price or rent, location, and place of work. Additionally, the Environmental section on page 144 and the Physical section on page 162 of the Growth Policy prioritize infill development. The subject property is surrounded by infrastructure and the Public Works Department already maintains Bay Drive and 2nd Street SW.



Furthermore, the subject property is located within the "Primary Impact Area" of The Missouri River Urban Corridor Plan, as indicated on page 15. The plan defines primary impact areas as lands with strong relationships to the river that are central to the Corridor Plan. On page 48, the plan identifies appropriate riverfront uses that reinforce the vision for the Missouri River corridor, including 2-4-story rental apartments, townhouses, other urban residential uses, and other retail and commercial uses.

#### **Conclusion & Staff Determination**

After reviewing the Little Framework under the set of facts in the *Whitefish* case, where a request was not in the nature of special legislation because it complied with an adopted neighborhood plan (*Whitefish*, ¶17), it is clear the *Whitefish* decision is applicable to the current request. Like the neighborhood plan in *Whitefish*, the City of Great Falls has adopted planning policy documents that explicitly state that the subject property should allow for the greatest flexibility of uses, including "Rental apartments 2-4 story", "Row Houses & Town Houses", in addition to other listed retail and commercial uses within the Missouri River Urban Corridor Plan. **As a result, Staff has no reason to believe that the proposed re-zone should be considered "spot zoning."**

Sincerely,

#### **Brock Z. Cherry**

Planning & Community Development Director  
City of Great Falls

Attached: Spot Zoning Information from Zoning Commissioner Essex



No. 80-244  
Supreme Court of Montana

## Little v. Board of County Commissioners

193 Mont. 334 (Mont. 1981) · 631 P.2d 1282  
Decided Jul 21, 1981

No. 80-244.

Submitted January 14, 1981.

335 Decided July 21, 1981. \*335

### Appeal from the District Court of Flathead County. Eleventh Judicial District. Hon. Robert

336 C. Holter, Judge presiding. \*336

Ted Lympus, County Atty., Jonathan B. Smith, Deputy County Atty., argued, Murphy, Robinson, Heckathorn Phillips, Daniel D. Johns, argued, Kalispell, Eileen Shore, Public Service Comm'n, Helena, for defendants and appellants.

Norbert Donahue, City Atty., argued, Keller Gilmer, Robert S. Keller, argued, Murray, Kaufman, Vidal Gordon, Kalispell, for plaintiff and respondent.

MR. JUSTICE SHEA delivered the opinion of the Court.

Flathead County Commissioners, the defendants, appeal from a Flathead County District Court order enjoining them from proceeding further with their resolution of intent to zone Cameron Tract (a 59-acre tract) for commercial use so that a shopping center could be built on the land. The developers, Developers Diversified, Ltd., defendants by their own intervention, appeal from that part of the District Court order which stopped the defendant City of Kalispell from issuing a building permit which would allow the construction to begin. Plaintiffs are landowners adjacent to the Cameron Tract who oppose the plans to construct the shopping center. They

started this litigation by asking the trial court to enjoin the County from rezoning the land from residential to commercial and to enjoin the City of Kalispell from issuing a building permit to the Developers.

In granting the injunction, the trial court ruled that the county commissioners had violated the law in several ways. First, it held that the commissioners adopted an illegal resolution (Resolution 291) by which they could zone land only if 50 percent of the landowners in an area petitioned to have their land given a certain zoning classification. The court held that this resolution was "the most flagrant invitation to spot zoning that one could  
337 come \*337 across." As applied to this case, the court held that illegal spot zoning would result if the commissioners zoned the land as commercial, because that would fly in the face of the master plan's recommendation that the Cameron Tract be zoned as medium-density residential. Second, the court ruled that the comprehensive plan (the master plan) must be followed, and that commercial use of the Cameron Tract could be effectuated only by amending the master plan with the approval of both the City of Kalispell and Flathead County. Third, the court ruled that the City of Kalispell could not issue a building permit to the Developers because the *zoning* would not be in compliance with the law. The court did not give any reasons for prohibiting the issuance of the building permit, but we assume that the decision was based on the conclusion that a building permit for a commercial use could not be issued where the master plan recommended a residential use.

The County raises three issues but fails to address the rulings of the trial court. First, without discussing the legality of the action taken by the county commissioners, the County argues that the commissioners were engaged in the legislative process and that until a final decision had been reached (either granting or denying the zoning request) the trial court had no right to intervene by granting injunctive relief to the plaintiffs. The County argues that the plaintiffs were not irreparably harmed by the commissioners' threatened action and therefore there was no reason to invoke the exception that a court may intervene with the legislative process where irreparable harm will result. Second, the County argues that the trial court erred in ruling that the County should have followed the comprehensive plan (master plan). (The County does not suggest, however, what status this plan should have, other than arguing that the plan is merely a guide in zoning decisions.) Third, the County argues that in holding that the county commissioners did not adhere to and give proper consideration to the comprehensive plan (master plan), the trial court improperly substituted its judgment for that of the county commissioners.

The Developers, though technically not appealing the ruling enjoining the county commissioners  
338 from proceeding with their \*338 zoning request, do argue that the trial court had no right to enjoin the commissioners from that activity. The Developers, however, primarily attack the ruling which enjoined the City of Kalispell from issuing a building permit to the Developers.

On the building permit issue, the Developers first challenge the right of the plaintiffs to contest the issuance of the building permit. They contend the plaintiffs did not show they would be irreparably harmed by the issuance of the permit, and therefore the question should be solely a matter between the Developers and the City. Second, the Developers argue that even if the plaintiffs have the right to challenge the issuance of the permit, the issuance of the permit could not be refused on

the ground that the proposed use would not be in accordance with the comprehensive plan (master plan). This second argument assumes that unzoned land can be used for any purpose not specifically prohibited.

The City's position on appeal is contrary to its position at trial. Plaintiffs named the City as a defendant because the City has jurisdiction over the issuance of building permits. Although the City did not challenge the plaintiffs' standing to contest the issuance of the permit, the City nonetheless argued that it had a duty to continue processing the building permit application because Cameron Tract was unzoned and therefore not in violation of any zoning laws. Before the trial court decided the case, however, the City switched positions and claimed that it could refuse to process the building permit application once it determined that the use proposed by the Developers violated the use specified in the comprehensive plan (master plan), even though the land was unzoned. The City takes that same position before this Court.

For reasons which we will explain later, we affirm the trial court's decision. We will first set out the factual background of this lawsuit together with the intermeshing legal background of planning and zoning.

### *BACKGROUND OF THE LAWSUIT*

The land involved, Cameron Tract, is on the north end of the City of Kalispell and is surrounded on  
339 three sides by the boundaries \*339 of the City. The City has never annexed the tract, and, as we shall later explain, the City cannot legally do so, nor has this land ever been zoned. In 1974, the City of Kalispell adopted a master plan for this area, which recommends that this tract be zoned medium-density residential. In 1978, a joint City of Kalispell-Flathead County Master Plan was adopted for this same area, and it also recommends that the land be zoned medium-density residential. In fact, the 1978 master plan simply adopts the 1974 master plan.

The City has proceeded to zone most of the City of Kalispell pursuant to its own 1974 master plan. The land surrounding Cameron Tract has been zoned residential.

In December 1975, Flathead County adopted a detailed set of zoning regulations that applied to that part of the County in the Kalispell-City County Planning Board jurisdictional area. That action by the County prevents the City of Kalispell from promulgating and enforcing its own zoning ordinances anywhere outside the city limits. (See, section 76-2-310(1), MCA.) If the County had not done this, the City would have had certain limited rights to promulgate and enforce its own zoning ordinances outside its actual city boundaries (section 76-2-311, MCA). The important point here is that the City has applied its zoning ordinances to all city property, but Flathead County has not applied its zoning ordinances to all county property.

In 1978, Flathead County adopted a comprehensive development plan for the entire county, and this included the 1974 master plan adopted by the City to cover the area which it had a right to plan. (The parties have not stated whether this 1978 comprehensive development plan is a "master plan" or some other planning device.) In any event, in adopting this comprehensive plan in 1978 by Resolution 291, the commissioners also adopted in the same resolution an official policy of zoning property only upon specific petition of the owners who wanted a particular zoning classification. This policy has had a dual effect. First, the majority of the County property in the area remains unzoned. Second, even where it is zoned within the Kalispell-City County Planning Board  
340 jurisdictional \*340 area, the zoning is very haphazard and extremely selective. The trial court best characterized the inevitable result of such a policy by stating that Resolution 291 "is the most flagrant invitation to spot zoning that one could come across . . ."

For these reasons, Cameron Tract, although within the Kalispell-City County Planning Board jurisdictional area, and designated as residential by the 1974 master plan, has not been zoned and therefore remains in a twilight zone. The Developers stepped into this twilight zone with their plans for a regional enclosed shopping center. Recognizing the policy of the county commissioners inherent in Resolution 291, the Developers acquired a sufficient interest in Cameron Tract, and petitioned the county commissioners to zone the land as commercial.

Because Cameron Tract is unzoned, the Developers assumed that there were no use restrictions preventing the construction of a shopping center on the land. But they were faced with the obstacle of getting water and sewage services for the shopping center. That problem indirectly raised the problem of zoning. Although Cameron Tract is within the County, the county commissioners adopted a policy requiring that city water and sewage services be used if they are "reasonably available." So, the Developers first had to determine if these services were "reasonably available."

City water and sewer lines ran under Cameron Tract. The Developers asked the City for hook-ups to its water and sewer lines, but City ordinances and state statutes stood in the way. The ordinances make City services available only after annexation of the property into the City. The ordinances also state that any annexation and zoning classification within the City must be consistent with the City-County Comprehensive Plan (the master plan). This plan recommended that Cameron Tract be classified as medium-density residential. This meant that before a shopping center could be built on Cameron Tract, the master plan would first have to be amended.

The Developers asked for an amendment to accommodate the shopping center, but on October  
341 1, 1979, the City-County \*341 Planning Board, voted five to three to keep the plan as it was. As a

result, the Developers could not get water and sewer services from the City. This meant that the Developers could apply to the County to provide the water and sewage services. The county commissioners cooperated and granted the Developers an on-site water and sewage disposal permit.

The Developers have always proceeded on the assumption that they could build the shopping center — or anything else — on Cameron Tract because it was unzoned. Nonetheless, they petitioned the county commissioners to either amend the master plan to permit a commercial classification or to zone Cameron Tract as commercial. The Developers also submitted their building plans and applied to the City for a building permit for the proposed shopping center. By statute, the City is given certain extraterritorial jurisdiction to process building permits and enforce the building code regulations. See, section 50-60-106, MCA.

The mandatory procedure for the creation of zoning districts or promulgation of applicable zoning regulations, is set out in section 76-2-205, MCA, and it includes public notice and a hearing. Notice was given and a hearing was held. City of Kalispell officials appeared and recommended against the zoning application because the master plan for the area designated the land as residential rather than commercial.

On December 7, 1979, three days after the public hearing, the county commissioners adopted a resolution of intent to zone Cameron Tract as commercial. In doing so, however, they failed to take a mandatory step. Before a zoning district can be created, section 76-2-204, MCA, requires that "the board of county commissioners shall require the county planning board and the city-county planning board to recommend the boundaries and appropriate regulations for the various zoning districts." In addition, the statute requires the county and the city-county planning board to make written reports of their recommendations to

the board of county commissioners, but also provides that such recommendations are "advisory only." \*342

The commissioners neither demanded, requested, nor received written recommendations from the city-county planning board before they adopted the resolution of intent. Without these recommendations, the county commissioners had no right to proceed with its resolution of intent to zone Cameron Tract as commercial. The applicable statutes clearly mandate that the planning board's recommendations be considered before the commissioners can proceed with a resolution of intent. Section 76-2-205(3) states:

"After the public hearing, the board of county commissioners *shall review* the proposals of the planning board and shall make such revisions or amendments as it may deem proper." (Emphasis added.)

This step in subsection (3) must be taken before the commissioners can proceed to subsection (4) which gives the commissioners the power to adopt the resolution of intent.

Although the plaintiff did not rely at trial on the County's failure to involve the planning board, it is nonetheless clear on the face of the record that the Commissioners' action was invalid.

Once a resolution of intent to zone is passed, sections 76-2-205(5) and (6), MCA, also prescribe mandatory steps to be taken before a zoning district can be created or regulations promulgated. Subsection (5) provides for the method of giving public notice and sets out the contents of such notice. The commissioners complied with this subsection. There is also a 30-day period in which the proposed action can be protested, and, at the end of that period, the commissioners can either create the zoning district and promulgate applicable regulations, or they can decide against the resolution.

However, only those within the proposed zoning area can contest the proposed action. Section 76-2-205(6), MCA. If 40 percent of the landowners within the affected area protest, the resolution cannot be adopted and the commissioners cannot again take action on another zoning resolution for that area for at least one year. Because the Developers owned the entire tract on which the commercial zoning was requested, no one could protest. The plaintiffs, all of whom own land  
 343 adjacent to Cameron Tract, had no statutory \*343 basis to contest the commissioners' proposed action to zone Cameron Tract as commercial.

The plaintiffs were also faced with another immediate official decision affecting Cameron Tract. While the county commissioners were processing the Developers' zoning request, the Developers had also applied to the City of Kalispell for a building permit, and the issuance of this permit was imminent, although not legal, as we shall later explain.

The building code requires that the appropriate officials determine if the building site (Cameron Tract here) is in compliance with " *applicable laws . . .* " and " *other pertinent laws and ordinances . . .* " (Kalispell City Ordinance, Uniform Building Code, § 303(a).) Because Cameron Tract was unzoned, city officials had assumed there were no use restrictions, thus they were in the later stages of processing the building permit application and checking for technical compliance with the building codes.

In anticipation of receiving the building permit, the Developers moved heavy machinery onto Cameron Tract to grade the land in preparation for the start of construction. There is some evidence that the Developers had also started groundbreaking.

This was the situation when the plaintiffs filed a lawsuit asking the District Court to enjoin the commissioners from zoning Cameron Tract as commercial, and asking the court to enjoin the City of Kalispell from issuing the building permit.

Additional plaintiffs later joined the lawsuit and asked for the same relief against the County and the City.

The plaintiffs obtained first a temporary restraining order, later a temporary injunction, and, after a hearing on the merits, a final order and injunction stopping the county commissioners from zoning Cameron Tract as commercial, and stopping the City of Kalispell from issuing the building permit to the developers.

*THE QUESTION OF WHETHER  
 THE TRIAL COURT PROPERLY  
 INTERFERED WITH A  
 CONTINUING LEGISLATIVE  
 344 PROCESS* \*344

In preventing the county commissioners from adopting their resolution of intent, the County claims that the trial court violated the long-standing rule that a court will wait for the completion of the legislative process before acting to enjoin enforcement of the legislation. Although the County recognizes an exception to this rule — that a court may enjoin enforcement of the proposed legislation where the threatened harm will be irreparable and where there is no adequate remedy — the County argues that this exception does not apply here. We have no quarrel with this abstract statement of the law, but it has no application here. The plaintiffs were challenging not only the result that the commissioners intended — they were also contesting the procedures used in reaching that result.

The County fails to acknowledge the Catch-22 bind in which the plaintiffs had been placed. The plaintiffs were faced not only with the obvious attempt by the county commissioners to zone Cameron Tract as commercial. They were also faced with an imminent decision by the City to issue a building permit to the Developers. If the plaintiffs had waited any longer, they would have taken the chance that the building permit would be issued, and that construction would begin. The

Developers would then undoubtedly have argued that it would be inequitable to deny them the right to build a shopping center after they had already in the beginning stages of construction, spent so much money. These were the realities when the plaintiffs filed their lawsuits.

This situation was a sufficient basis for the trial court to grant a restraining order preserving the status quo.

The County dignifies form over substance by arguing that the county commissioners were engaged in the legislative process when acting on the Developers' request to zone Cameron Tract as commercial. The commissioners were not involved in adopting a general policy of zoning for the area. Rather, they were involved in selecting a specific tract of land for a special zoning consideration for a particular owner. This activity is more of a quasi-judicial decision-making  
 345 process than a legislative-zoning process. The \*345 commissioners have no power to engage in such a process. See *South of Sunnyside, Etc. v. Bd. of Commissioners, Etc.* (1977), 280 Or. 3, 569 P.2d 1063. The quasi-judicial power under the zoning laws applicable to counties is reserved to the County Board of Adjustment (sections 76-2-221 through 76-2-228, MCA). However, even the Board of Adjustment could not have granted the relief required here. The Board of Adjustment can act only in relation to zoning regulations already in effect for an area, but here the area had not yet been zoned.

The failure of the county commissioners to implement the comprehensive plan (master plan) by creating zoning districts and promulgating applicable zoning regulations, brings us to the issue of spot zoning. Neither the County nor the Developers have discussed this issue in their briefs, even though the trial court specifically held that the policy inherent in Resolution 291 leads to the worst kind of spot zoning.

### *THE SPOT ZONING ISSUE*

By any definition, this case involves spot zoning of the worst kind. The commissioners were about to zone as commercial a 59-acre tract of land solely to accommodate the Developers, who wanted to build a regional shopping center. The land is surrounded on three sides by City of Kalispell boundaries, and this entire area is, by the trial court's findings, 99 percent residential. Further, the comprehensive plan in effect for this area recommends that the land involved be used for residential purposes. Zoning as was about to take place here is the very opposite of planned zoning.

In a memorandum accompanying its findings and conclusions, the trial court aptly characterized the effect of the county commissioners' policy:

"This case arose because of the policy of the County Commissioners of Flathead County not zoning a tract of land until the owners of that tract petitioned the Commissioners to do so. (Resolution 291) . . . The type of zoning here has been condemned as piece-meal zoning and should be struck down . . . the action of the County Commissioners (or should we say inaction) is the  
 346 most \*346 flagrant invitation to spot zoning that one could come across. Without regard to any effort put into the comprehensive plan, the commissioners simply refused to consider any zoning except upon application."

Due to the failure of the County and the Developers to address this issue, we can only assume that they concede this to constitute spot zoning, but that somehow it should be overlooked.

There is no single, comprehensive definition of spot zoning applicable to all fact situations. Generally, however, three factors enter into determining whether spot zoning exists in any given instance. First, in spot zoning, the requested use is significantly different from the prevailing use in the area. Second, the area in which the requested use is to apply is rather small. This test, however, is concerned more with the number of separate landowners benefited by the requested

change than it is with the actual size of the area benefited. Third, the requested change is more in the nature of special legislation. In other words, it is designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public. See, Williams, 1 *American Land Planning Law*, at 563; Hagman, *Urban Planning and Land Development Control Law* (1971), at 169; Rhyne, *The Law of Local Government Operations* (1980), at 760-761.

In explaining the third test, Hagman gives this qualification:

"The list is not meant to suggest that the three tests are mutually exclusive. If spot zoning is invalid, usually all three elements are present or, said another way, the three statements may merely be nuances of one another." Hagman at 169.

This qualification must be heeded because any definition of spot zoning must be flexible enough to cover the constantly changing circumstances under which the test may be applied.

For example, in *Rodgers v. Village of Tarrytown* (1951), 302 N.Y. 115, 96 N.E.2d 731, the New York Court of Appeals, in holding that the practices involved constituted spot zoning, stated that spot zoning is the process of *singling out* "a small parcel of land" for a use classification totally different from that of the surrounding area, for the benefit of the owner of such property and to the detriment of other owners. But in *Thomas v. Town of Bedford* (1961), 15 A.D.2d 573, 222 N.Y.S.2d 1021, Aff'd. (1962), 11 N.Y.2d 428, 230 N.Y.S.2d 684, 184 N.E.2d 285, the argument was that the practices involved did not constitute spot zoning because the tract of land involved was not small — it was 123 acres. The court then held that the reference in *Rodgers* to "a small parcel of land" was inappropriate. Rather, it is really a question of preferential treatment for one or two persons as against the general public, regardless of the size of the tract involved.

Undoubtedly, the county commissioners were engaged in spot zoning here. First, the requested use of Cameron Tract for the commercial development of a regional shopping center is significantly different from the prevailing residential use in the surrounding area. The land is surrounded on three sides by the City boundaries, and this entire area is, by the trial court's findings, almost 99 percent residential. Further, the master plan in effect for this area recommends that the land be used for residential purposes. Zoning such as was about to take place here is the very opposite of planned zoning.

Under the third test for spot zoning, Hagman, *supra*, states that the inquiry should involve whether the requested use "is in accord with a comprehensive plan." (Emphasis added.) Although the cases cannot be harmonized completely because of the differences in statutes, zoning has been held invalid as spot zoning when it is not in accordance with a comprehensive plan. See, for example, *Hines v. Pinchback-Halloran Volkswagen, Inc.* (Ky. 1974), 513 S.W.2d 492; *Fasano v. Bd. of County Commrs.* (1973), 264 Or. 574, 507 P.2d 23; *Jablon v. Town Planning Zoning Comm'n.* (1969), 157 Conn. 434, 254 A.2d 914. We cannot ignore this test when our zoning statutes place great weight on the comprehensive plan as a guide in zoning. For example, section 76-2-203, *supra*, specifically states that zoning shall be conducted "in accordance with a comprehensive development plan." Applied here, a commercial regional shopping center can hardly be said to fit into a medium-density residential area recommended by the master plan.

The second test concerns the size of the area for the requested use. Although most often the size of the area is rather small, that is not always the case, as demonstrated by *Rodgers v. Village of Tarrytown*, *supra*. An important inquiry under this test is how many separate landowners will benefit from the zone classification. See, *Spot Zoning and the Comprehensive Plan* (Spring 1959), 10 Syracuse L.Rev. 303, at 306. Also, as we have

already noted, size may not be the vital factor if the real issue is a question of preferential treatment for one or a few persons as against the general public. *Thomas v. Town of Bedford*, supra. Here, the area is not small (59 acres), but it does involve the owners of Cameron Tract receiving preferential treatment so that they can build a shopping center in an area designated for residential use in the master plan.

The objective of the requested zone classification was clearly to give a special advantage to the Developers. By promulgating Resolution 291, the county commissioners announced to the general public that they were in the business of granting special zoning classifications to owners if at least 50 percent of them in an area asked for a particular classification. The Developers, who owned all of Cameron Tract, seized on this resolution, but it was to the detriment of the plaintiffs who did not want a regional shopping area in the midst of their residential area.

Based on these factors, we hold that the county commissioners were engaged in a pernicious system of spot zoning devoid of any redeeming qualities.

### *THE ROLE OF THE COMPREHENSIVE PLAN (MASTER PLAN) IN THE CREATION OF ZONING DISTRICTS*

The question inevitably arises as to how closely the comprehensive plan must be followed. The trial court ruled that the county commissioners failed to follow the comprehensive plan (master plan) and that the zoning of Cameron Tract could not take place without first amending this plan. There remains the question of how closely the plan must be followed when creating zoning districts and promulgating zoning regulations.

349 \*349

The County argues that the comprehensive plan (master plan) is advisory only, and that the governing body having the authority to zone under

the plan, is free to give it whatever weight it wants. In support of its argument, the County has marshalled the statutes which set out the role of the planning boards both before and after adoption of the comprehensive plan (master plan). Because the planning boards serve in an advisory capacity to the local governing bodies, the County assumes that the comprehensive plan (master plan) has that same advisory status. This logic is not supported by the statutes.

The City, on the other hand, argues that although the comprehensive plan need not be regligiously followed in every detail, substantial compliance is required. The City suggests that to zone Cameron Tract for commercial use would first require an amendment to the comprehensive plan, approved by the governing bodies of the City and County. It appears that the plaintiffs argue that there must be at least substantial compliance with the comprehensive plan (master plan) also.

The statutory scheme contemplates that once a "master plan" is adopted by a governing body, any later references in the statutes to the terms "comprehensive plan" or "comprehensive development plan" are synonymous to the term "master plan." In Title 76, Ch. 1 (Planning Boards), a definitional statute, section 76-1-103(4), MCA, explains the terms:

"'Master plan' means a comprehensive development plan or any of its parts such as a plan of land use and zoning, of thoroughfares, of sanitation, of recreation, and of other related matters."

Applied here, the "master plan" adopted by the county commissioners, is within the meaning of section 76-1-103(4), a "comprehensive development plan."

The question then becomes one of how closely the governing body must follow the "comprehensive development plan" (master plan) when creating zoning districts and when promulgating zoning



regulations. Section 76-1-605, MCA, particularly  
350 deals \*350 with how an adopted master plan shall  
be used in making zoning decisions:

" *After adoption of the master plan*, the city council, the board of county commissioners, or other governing body within the territorial jurisdiction of the board *shall be guided by and give consideration* to the general policy and pattern of development set out in the master plan in the . . . (4) *adoption of zoning ordinances or resolutions.*" (Emphasis added.)

This statute unequivocally tells local governing bodies that once a master plan is adopted, it must be used for their guidance in zoning. Further the zoning statutes covering county zoning, Title 76, Ch. 2, sections 76-2-101 through 76-2-112, MCA, undeniably lead to the conclusion that the master plan is of paramount importance. In fact, the unmistakable message of these statutes is that if no comprehensive plan (master plan) has been adopted (section 76-2-201, MCA), and if no jurisdictional area has been created after the adoption of the master plan (section 76-2-202, MCA), the counties are without authority to zone except on an interim basis.

The objective under these statutes is that there be the final adoption of a master plan, and then that the master plan be followed once it has been adopted. The planning and organization statutes (sections 76-1-101 through 76-2-112, MCA) set out a step-by-step basis by which a master plan is to be derived. The term "comprehensive development plan" contained in section 76-2-201, refers back to these organization and planning statutes. As we have already mentioned, without a master plan in effect and without a jurisdictional area carved out after the adoption of the master plan, the counties have no authority to institute permanent zoning classifications. Rather, their only authority to zone is on a temporary interim emergency basis as set out in section 76-2-206, MCA.

Even the temporary emergency zoning statute seems designed to encourage the adoption of a master plan, for it sets out only two conditions under which emergency zoning can be adopted, and further states that temporary emergency zoning can be adopted for no more than a two-  
351 year period. Section 76-2-206(1) states that \*351 temporary emergency zoning may be used only when the governing body has not yet completed the planning stages of a comprehensive plan (Title 76, Ch. 1) or when the governing body has not yet implemented the zoning regulations after a zoning district has been established. Subsection (2) of this statute strictly limits to two years the time within which the temporary emergency zoning may remain in effect.

Without regard to how closely the comprehensive plan (master plan) must be followed, these statutes leave no doubt that great reliance is placed on the comprehensive plan (master plan) as a guide in zoning.

Because a master plan was in existence and the county commissioners had carved out a jurisdictional area, the county commissioners had the authority to permanently zone the area which includes Cameron Tract. Section 76-2-202, MCA, states in part that "the board of county commissioners may by resolution establish zoning districts and zoning regulations for all or part of the jurisdictional area." But the commissioners did nothing after this point. Rather, they had adopted the policy (Resolution 291) of not zoning at all unless the property owners in the area involved asked for a particular zoning classification. That policy surfaced in this case when the commissioners were about to accommodate the wishes of the Developers by zoning Cameron Tract (59 acres) for commercial use, although the master plan recommended that the area be zoned for medium-density residential use.

The county zoning statutes (sections 76-2-201 through 76-2-228, MCA) rely heavily on the master plan and on the role of the planning board

in providing maximum input to the county commissioners on the question of planning and zoning. Before the county commissioners can create a zoning district or promulgate zoning regulations for the district, sections 76-2-204, MCA, requires the county commissioners to direct the planning board to "recommend boundaries and appropriate regulations for the various zoning districts." This statute further requires the planning board to make "written reports of their  
 352 recommendations to the board of county \*352 commissioners. . . . Even though the statute also provides that the planning board's recommendations "shall be advisory only," this is because the final zoning authority is given to the county commissioners rather than to the planning boards. The intent of these statutes is to require maximum input from the planning boards to the county commissioners before the commissioners reach a zoning decision. This is simply a recognition that the planning board is in continuing and closer touch with the comprehensive plan (master plan) than are the county commissioners.

The master plan would have little meaning unless the planning board had a significant and continuing role in the processes which finally lead to a decision by the county commissioners. The significance of the planning board's role can be better understood in light of the statutory criteria that must be followed in all zoning decisions. Section 76-2-203, MCA, sets out the general objectives of county zoning, and the criteria that must be considered. Virtually the same language is contained in the city zoning statute, section 76-2-304, MCA, which we interpreted in *Lowe v. City of Missoula* (1974), 165 Mont. 38, 525 P.2d 551.

The first phrase of section 76-2-203 sets the tone for all that comes after it. It states that " *the zoning regulations shall be made in accordance with a comprehensive development plan . . .*" (Emphasis added.) We assume here that the term "zoning

regulations" is also meant to cover the term "zoning districts." We cannot ignore the mandatory language ("shall") of this statute.

We again emphasize that the continuing role of the planning board in the zoning process is set out in the statute (section 76-2-205, MCA) providing that mandatory steps be taken in the creation of zoning districts and in the promulgation of zoning regulations. After public notice has been given and public hearing held pursuant to subsections (1) and (2), subsection (3) requires that "after the public hearing, the board of county commissioners shall review the proposals of the planning board and shall make such revisions or amendments as it  
 353 may deem proper." The commissioners \*353 must do this *before* they can take the next step provided in subsection (4), that of adopting a resolution of intent to create a zoning district or to promulgate zoning regulations. This statutory scheme requires the county commissioners to obtain maximum input from the planning board, even though the final decision is left to the governing body — the county commissioners.

The vital role given the planning boards by these statutes cannot be undercut by giving the governing body the freedom to ignore the product of these boards — the master plan. We hold that the governmental unit, when zoning, must substantially adhere to the master plan.

### *ADHERENCE TO THE MASTER PLAN WHEN ZONING*

To require strict compliance with the master plan would result in a master plan so unworkable that it would have to be constantly changed to comply with the realities. The master plan is, after all, a plan. On the other hand, to require no compliance at all would defeat the whole idea of planning. Why have a plan if the local governmental unit is free to ignore it at any time? The statutes are clear enough to send the message that in reaching zoning decisions, the local governmental unit should at least substantially comply with the comprehensive plan (or master plan). This

standard is flexible enough so that the master plan would not have to be undergoing constant change. Yet, this standard is sufficiently definite so that those charged with adhering to it will know when there is an acceptable deviation, and when there is an unacceptable deviation from the master plan.

As we have explained, the statutes require a reading that the legislature intended the master plan to have substance. If a master plan must be in existence before the county commissioners can permanently zone, and if the right to adopt emergency interim zoning is limited to two years, it makes little sense to then permit the local governing body to ignore the master plan once it has been created. If the master plan is important enough to be a condition precedent to permanent zoning, it is also important enough to be followed once it is in existence. For these reasons, we hold that only substantial compliance is mandated by

354 the statutes. \*354

We are aware that changes in the master plan may well be dictated by changed circumstances occurring after the adoption of the plan. If this is so, the correct procedure is to amend the master plan rather than to erode the master plan by simply refusing to adhere to its guidelines. If the local governing bodies cannot cooperate to this end, the only alternative is to ask the legislature to change the statutes governing planning and zoning.

### *THE DEVELOPERS' APPEAL — THE BUILDING PERMIT*

As mentioned, the Developers, although disagreeing with the trial court's decision enjoining the county commissioners from zoning Cameron Tract for commercial use, concentrate on the argument that the court had no right to enjoin the City of Kalispell from issuing the building permit. They argue that the plaintiffs had no standing to challenge the issuance of the building permit, and further, assuming that the plaintiffs had such standing, they argue that the laws governing issuance of building permits do not stand in the way of obtaining a permit to build on

land that has not been zoned. In effect, the Developers contend they have a right to a building permit, and therefore to build, regardless of any decision enjoining the county commissioners from zoning the land as commercial.

As set out in detail before, the situation facing the trial court was that if an injunction was not issued against the City of Kalispell enjoining it from issuing the building permit pending resolution of the lawsuit, construction might have started despite the filing of the lawsuit. So, even if the trial court later ruled that the county commissioners had no right to zone Cameron Tract as commercial, the Developers would nonetheless ask the trial court to dismiss the plaintiffs' lawsuit because the Developers had already spent large sums of money in the preliminary stages of construction. We have no doubt, therefore, that the trial court was correct in enjoining the issuance of the building permit until all the legal questions were resolved. Stopping the City of Kalispell from issuing the building permit until all legal issues were decided was the only

355 way of preserving the status quo. \*355

Based on these factors, the Developers are in no position to avail themselves of a technical argument that the plaintiffs did not prove special damage to them if the building permit were to issue and construction to begin. Further, plaintiffs presented evidence that demonstrates they would be more adversely affected by the regional shopping center than would the general public. Although there were other factors involved, we are convinced that the increased traffic alone was sufficient to show that plaintiffs, as adjacent owners, would be injured in a manner that the general public would not.

According to the Developers' own studies, the shopping mall would attract 13,000 cars per day. These studies also showed, and the trial court found, that the side streets near the shopping center, which presently bear 3,000 cars per day, would have to bear 13,000 cars per day if the

shopping center were built. The studies were completed by the State Department of Highways and Stahly Engineering, at the specific request of the Developers. The Developers now attack these studies, saying that they are mere speculation. The studies were probative on the question of whether the Developers would proceed with building a shopping center and they should be equally probative and available to the plaintiffs to show that their neighborhoods would be adversely affected by the increased traffic flow.

We hold, therefore, that the plaintiffs had standing to challenge the issuance of the building permit. Not only was the damage to them different from that of the general public — an increase of 10,000 cars per day over their neighborhood streets — but enjoining the City from issuing the building permit was also necessary for the trial court to assume its equitable power of granting complete relief. It would not have been fair to the plaintiffs had the trial court ruled that the County could not zone Cameron Tract for commercial use, and to hold that the Developers had the right to start construction upon obtaining the building permit

356 from the City. \*356

### *RELATIONSHIP OF MASTER PLAN TO DUTY OF CITY IN PROCESSING BUILDING PERMIT APPLICATION*

The Developers further argue that even assuming the plaintiffs had standing to challenge the issuance of the building permit, the City of Kalispell was nonetheless required to issue the building permit once it found the building plans to be in order. This argument is based on a distinction the Developers believe exists between zoning laws and the master plan. The Developers concede that the City could refuse to process a building permit if the proposed use was in violation of a zoning law, but the Developers argue that the City had no right to refuse to process a building permit solely because the proposed use would not be in compliance with the

master plan. The Developers argue that because the land was unzoned, therefore permitting any use not specifically prohibited, the City had the duty to issue the building permit.

We first note that this argument cannot prevail because we have already held that the District Court had the right to grant complete relief by preserving the status quo until all issues were decided. Accordingly, the court had the right to order the City to stop processing the building permit application. But beyond this we also hold that the trial court was correct by holding in essence that the city officials could refuse to process a building permit application where the proposed use is not in compliance with the master plan for the area involved.

We have already noted in this opinion that the statutory scheme for planning and zoning sets up a continuing process until finally all property within the County has been zoned. We have ruled that the zoning must be in substantial compliance with the master plan. The problem existing here on the building permit question is that the City was confronted with a twilight zone created by the county commissioners' refusal to zone unless the property owners involved make a special request (Resolution 291). It was this failure to zone which placed the city officials in a dilemma when the

357 Developers applied for a building permit. \*357

City officials knew they could refuse to process a building permit application if the proposed use was in violation of zoning law, but they did not know what to do where the proposed use was only in violation of the recommendations of the master plan. They proceeded, erroneously, we now hold, on the basis that if the land was unzoned they had a duty to process the building permit application.

In summary, we hold that the county commissioners used illegal zoning procedures and that injunctive relief was proper; that the county commissioners, had they zoned Cameron Tract as commercial, in addition to statutory violations, would have committed a most flagrant act of

illegal spot zoning; that when zoning decisions are made (either creating zoning districts or promulgating applicable zoning regulations for the districts) they must be made in substantial compliance with the comprehensive plan (master plan); that the plaintiffs had standing to challenge the issuance of the building permit; that in any event, the trial court had the right to stop the issuance of the building permit in order to preserve the status quo; and finally, that city officials have the right to refuse processing of a building permit application because the proposed use is in violation of the use recommended in the comprehensive plan (master plan).

The judgment granting injunctive relief is affirmed.

MR. CHIEF JUSTICE HASWELL and  
JUSTICES DALY, HARRISON and SHEEHY

358 concur. \*358

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05/11/2021

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: DA 20-0328

DA 20-0328

## IN THE SUPREME COURT OF THE STATE OF MONTANA

2021 MT 116

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JAMES HARTSHORNE and ANGELO QUEIROLO,

Plaintiffs, Appellees, and Cross-Appellants,

v.

CITY OF WHITEFISH, WHITEFISH CITY COUNCIL,

Defendants,

and

IO2.5, a series member of IO-3, LLC,  
a Montana Limited Liability Company,Defendant and Appellant.

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APPEAL FROM: District Court of the Eleventh Judicial District,  
In and For the County of Flathead, Cause No. DV-18-987(C)  
Honorable Heidi J. Ulbricht, Presiding Judge

## COUNSEL OF RECORD:

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For Appellees James Hartshorne and Angelo Queirolo:

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For Appellees City of Whitefish and Whitefish City Council:

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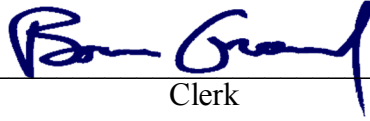
Angela K. Jacobs, Whitefish City Attorney, Whitefish Montana

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Submitted on Briefs: February 24, 2021

Decided: May 11, 2021

Filed:

  
Clerk

Justice Beth Baker delivered the Opinion of the Court.

¶1 IO2.5, a series member of IO-3, LLC (“IO2.5”), appeals an Eleventh Judicial District Court Order granting summary judgment to James Hartshorne and Angelo Queirolo (collectively, “Hartshorne”) on their claim that Whitefish City Ordinance 18-23 violates the uniformity requirement found in § 76-2-302(2), MCA, and striking certain conditional commercial uses allowed by the ordinance. Hartshorne cross-appeals the District Court’s order denying summary judgment on its claim of spot zoning. We affirm the District Court’s ruling that the City did not engage in illegal spot zoning and reverse its conclusion that Ordinance 18-23 violates the statutory uniformity requirement.

### **FACTUAL AND PROCEDURAL BACKGROUND**

¶2 This case concerns an undeveloped 2.5-acre parcel in The Lakes neighborhood in Whitefish, Montana, known as Area 2(c) or Lot 3 of the Plat of Riverside Senior Living Center. The surrounding neighborhood is primarily residential. IO2.5’s predecessor, Barnes Whitefish, LLC, purchased Area 2(c) on March 27, 2014. IO2.5, a developer, alleges that “[t]he existence of the commercial [Planned Unit Development] component in the neighborhood plan was important to the purchaser because it assured flexibility in determining the best use of the property . . . [which] could not be changed without the growth policy and neighborhood plan first being amended . . . .” Hartshorne resides near Area 2(c).



¶3 The City of Whitefish adopted the Riverside at Whitefish Neighborhood Plan in 1993 as an amendment to the Whitefish City-County Master Plan. In 1999 it amended the Neighborhood Plan. The purpose of this amendment was to adjust the development focus of the area from a commercial component that would “attract an outside clientele” to a more community-based development that “still proposes commercial use but as a neighborhood center.” The 1999 Neighborhood Plan “embodies the public policy for the area it addresses.” It provides that “[a]ny land use ordinances or regulations, such as zoning or subdivision review, shall be based on this plan[.]”

¶4 The Neighborhood Plan covers approximately 230 acres, divided into five separate areas. Area 2, titled “Riverside Public Park Area, Neighborhood Center, and Future Development Site,” is divided further into “three distinct segments.” The Plan designated Area 2(a) as a ten-acre development site for assisted living and retirement housing; Area 2(b) as a twenty-acre public park; and Area 2(c) as follows:

A 2.5 acre neighborhood center to meet the demand for basic services created by the walking community and youth athletic facility. The site will be developed under the auspices of a mixed PUD<sup>1</sup> whereby 10% of the gross

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<sup>1</sup> A “Planned Unit Development” (“PUD”) is

[a] tract of land developed or proposed to be developed as an integrated unit. A PUD may be a planned residential development, a mix of residential uses and commercial uses, or it may consist of strictly commercial or industrial uses. This option is limited to the allowable density of the underlying use district and the predominant uses within the PUD must be that of the underlying zone.

Section 11-9-2, Whitefish City Code. Under § 11-2S-2(B), Whitefish City Code:

The Mixed-Use PUD is primarily intended to provide for the mixing of compatible non-residential uses allowed in the underlying zone with residential units of various types in urban areas. Residential product types include single-family, two-family, and multi-family in any ownership configuration. Residential types also include

area of the site can be developed in commercial uses intended to be complimentary to the proposed development of the neighborhood.

¶5 The City adopted Ordinance 99-9 in 2000, which zoned all of Area 2 as WR-4 (High Density Multi-Family Residential)<sup>2</sup> with a PUD overlay. The ordinance required “that any future development must be submitted and reviewed as a PUD complete with

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units integrated into primarily non-residential structures, including above office and retail space. Where the zoning is both residential and non-residential, the amount of land dedicated to any non-residential component shall generally be consistent with and give due consideration to the location and extent of the non-residential zoning.

1. A mixed-use PUD may be established in any Non-Residential Zoning District with the exception of the WB-4, the WI, and the WI-T, as well as where the overall development also includes both non-residential and residential zoning.

2. Permitted uses:

- Accessory buildings and uses.
- Any uses permitted or conditionally permitted in the underlying zoning district, provided that any conditional use is specifically considered with the PUD and all conditional use criteria required under this Code for that use are met or conditioned with the PUD approval. If a proposed conditional use is not noted with the PUD application, then such uses must follow the standard CUP review process found in section 11-7-8 of this title. Other uses may also be considered for which justification can be derived on the basis that the use will be compatibly incorporated into the design and use of the planned development. Such uses should be integrated with and complementary to included and adjacent residential uses.
- Private and/or semiprivate recreation and service facilities intended for the residents of the district.
- Residential:
  - Single-family dwellings.
  - Two-family dwellings.
  - Multi-family dwellings.
  - A combination of any of the above arranged in attached, detached, townhouse, apartment, or condominium configurations

<sup>2</sup> WR-4 zoning regulations identify the following permitted uses: home occupations, homeowner’s parks, public utility buildings and facilities when necessary for serving the surrounding territory, publicly owned or operated buildings, uses or recreational facilities including parks and playgrounds, and residential. WR-4 zoning conditionally allows the following uses: bed and breakfast establishments, boarding houses, catering services, churches or places of worship, daycare, hostels, nursing or retirement homes, private recreational facilities, certain residential uses, schools, and type I and type II community residential facilities. Sections 11-2I-2, -3, Whitefish City Code.

public and City review,” and it established that “[d]evelopment of Area 2 would further be subject to the terms of the Riverside at Whitefish Neighborhood Plan Amendment.” This classification along with the Neighborhood Plan’s specifications allowed Area 2(c) to be developed for both commercial and residential purposes.

¶6 The City later passed Ordinance 99-17, ordering the zoning map amended for Area 2(a) to allow it to retain a WR-4 zoning classification but with a residential PUD designation added. Area 2(b) was dedicated as a park in 2003, subjecting it to additional use regulations due to parks being covered by a separate title of the Whitefish City Code.

¶7 In 2018, the City proposed new PUD regulations that would preclude commercial development in residential areas. Specifically, the PUD regulations disallow Mixed-Use PUDs, Commercial PUDs, or Light Industrial or Industrial PUDs in primarily residential areas. The City and IO2.5 maintain that Area 2(c) was the only property within the City for which the new PUD regulations would prohibit development as called for in its Neighborhood Plan. Given this discrepancy for Area 2(c), IO2.5’s representative attended the March 2018 hearing on these PUD regulations. Following discussion there with the Zoning Administrator, the Zoning Administrator proposed via e-mail a solution to IO2.5’s representative:

I think the best solution for your client, short of applying before the new regulations go into effect, would be to apply for a PUD amendment asking to change that condition that requires a new PUD to something different like a CUP.<sup>3</sup> I think the commercial use of that property would be vested with the prior approval.

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<sup>3</sup> A “Conditional Use Permit” (“CUP”) is “[a]n authorization to conduct a use or activity” as required under the Whitefish City Code; conditional uses requiring a CUP “require a special degree

The City passed Ordinance 18-09, containing the new PUD regulations, in April 2018.

¶8 As recommended by the Zoning Administrator, IO2.5 then filed a request with the City to amend Ordinance 99-9 to allow use of a CUP instead of a PUD to develop Area 2(c) and to further define the permitted uses. IO2.5 proposed the following amendment:

The remaining phases shall be reviewed under the provisions of Section 11-7-8: Conditional Use Permits. Uses permitted on Lot 2C (Lot 3 of the Plat of Riverside Senior Living Center) are as follows:

Any uses that are permitted or conditionally permitted in the underlying WR-4 district;

The following uses which are permitted or conditionally permitted in the City's WB-1 Limited Business District:

- Clubs
- Private and commercial recreational facilities
- Professional office
- Restaurant, excluding drive-ins, including on-premises beer/wine sales
- Retail sales and service (less than 4,000 square feet enclosed gross floor area per lot of record; no outside storage or display);

Any other uses for which justification can be derived on the basis that the use will be compatibly and harmoniously incorporated into the unitary design of the planned development.

A change of use within the Neighborhood Center to a use not specifically listed herein shall require an administrative Conditional Use Permit prior to occupancy.

¶9 In July 2018, City staff drafted a report ("Staff Report") regarding the application, describing the purpose of IO2.5's request as:

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of control to make such uses consistent with and compatible to other existing or permissible uses in the same area." Section 11-9-2, Whitefish City Code.

provid[ing] the property owner a clear path for development to maintain the property's vested rights for neighborhood commercial [use] while preserving the public process when development of the property does occur. The previously approved [PUD] approved a portion of the property to develop as neighborhood commercial but set a condition that a new PUD would be required prior to the development.

The Staff Report stated that the new PUD regulations “only offered uncertainty for the developer,” and that “[u]sing the [CUP] continues to require a public process and a predictable development path for the property owner and the public.” It found that IO2.5's proposed amendment conformed to the Neighborhood Plan, which “established the character of the neighborhood”; it further found that changing the discretionary review process to a CUP would “not change the overall goals for this neighborhood,” nor would the amendment “in and of itself . . . change the character of the neighborhood. Retaining the ability for public review during development . . . will ensure neighborhood character through implementation of the Neighborhood Plan[.]” The Staff Report also indicated that it “directed the applicant to look at the City's WB-1 zoning district, as this is the City's neighborhood commercial district,” “[b]ecause the language in the Neighborhood Plan was not specific.” It recommended a standard CUP instead of an administrative CUP for any proposed development.<sup>4</sup>

¶10 The City Council notified the public and held two meetings on the issue on July 19 and August 6, 2018. The public, including Hartshorne and their counsel, submitted both

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<sup>4</sup> An administrative CUP involves a reduced public process, requiring notification only to property owners within 300 feet of the subject parcel, notice in a newspaper at least fifteen days prior to the permit's issuance, and the City's mitigation of public concerns through conditions of approval. If the City cannot mitigate such concerns through standard conditions of approval, it must hold a public hearing according to the standard CUP process. Section 11-7-8(M), Whitefish City Code.

written and oral comment, largely voicing lack of support for such an amendment; Hartshorne's summary judgment brief summarized the public's concerns as being "against specific commercial uses, such as clubs, bars, and/or restaurants contemplated for [Area 2(c)], as well as concerns about safety, traffic, wildlife and open space, and the conditional uses generally changing the quiet community feel of the development."

¶11 Following consideration of the application, the Staff Report, and the public's testimony, on August 6, 2018, the City Council approved IO2.5's request on the first reading of Ordinance 18-23. It then approved Ordinance 18-23 on August 20, 2018, directing the amendment of the official zoning map and permitting development of Area 2(c) through a CUP instead of a PUD. In addition to the uses permitted in the overlying WR-4 regulations, the ordinance included IO2.5's proposed permitted uses that would be subject to the CUP process: clubs; private and commercial recreational facilities; professional offices; restaurants, excluding drive-ins, including on-premises beer/wine sales; and retail sales and service (less than 4,000 square feet enclosed gross floor area per lot of record and no outside storage or display). It further permitted "[a]ny other uses for which justification can be derived on the basis that the use will be compatibly and harmoniously incorporated into the unitary design of the planned development." Finally, Ordinance 18-23 noted that it adopted as findings of fact the Staff Report and the Whitefish Planning and Building Department's letter of transmittal.

¶12 Hartshorne filed their complaint against the City of Whitefish and the Whitefish City Council (collectively, "the City") on September 18, 2018, seeking a declaratory judgment invalidating Ordinance 18-23 based on the adverse effect any

commercial development of Area 2(c) would have on the use and enjoyment of their properties and property values. The second amended complaint alleged eight counts, of which only two are at issue on appeal: spot zoning and violation of § 76-2-302(2), MCA. The District Court joined IO2.5 as a defendant, and IO2.5 filed a cross-claim against the City. The parties filed cross-motions for summary judgment, and on March 10, 2020, the District Court issued its Order. The court granted the City’s motion on all counts, except the claim that the ordinance violated the uniformity requirement found in § 76-2-302(2), MCA, on which it agreed with Hartshorne. The court declined to void the ordinance, however, and instead struck the defined conditional uses not otherwise existing under the WR-4 permitted uses, including clubs, restaurants, retail sales, and retail services. The court ruled IO2.5’s motion moot, and it denied IO2.5’s subsequent motion to alter or amend the judgment. IO2.5 appealed the District Court’s ruling on the uniformity requirement found in § 76-2-302(2), MCA, and Hartshorne cross-appealed the District Court’s ruling on the spot-zoning claim.<sup>5</sup>

### STANDARDS OF REVIEW

¶13 We review a district court’s summary judgment ruling de novo, applying M. R. Civ. P. 56. *Wagner v. Woodward*, 2012 MT 19, ¶ 16, 363 Mont. 403, 270 P.3d 21

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<sup>5</sup> The City filed a response brief as Appellee, which included argument supporting IO2.5’s position on the uniformity requirement. Hartshorne filed a motion to strike the City’s brief and dismiss its appeal on the uniformity issue for failure to file a Notice of Appeal. We denied Hartshorne’s motion on January 26, 2021, concluding that it would be “inefficient to probe the merits . . . without having had the opportunity to review the briefs and record[.]” We have considered the City’s briefing on the uniformity requirement only to the extent its legal authority and analysis provide clarity to IO2.5’s argument and the applicable law. *See Montanans v. State*, 2006 MT 277, ¶ 18, 334 Mont. 237, 146 P.3d 759 (citing M. R. App. P. 4(b)).

(citation omitted). Summary judgment is appropriate when no genuine issues of material fact exist and the moving party is entitled to judgment as a matter of law. M. R. Civ. P. 56(c)(3); *Wagner*, ¶ 16 (citation omitted).

¶14 We review de novo a district court’s interpretation and application of a statute, including a county or city ordinance, to determine whether it is correct. *Wright v. Mahoney*, 2003 MT 141, ¶ 5, 316 Mont. 173, 71 P.3d 1195 (citations omitted); *DeVoe v. City of Missoula*, 2012 MT 72, ¶ 11, 364 Mont. 375, 274 P.3d 752 (citation omitted). For zoning decisions, we generally give deference to the decision of the local zoning board, limiting review to “whether the information upon which the decision maker based its decision was so lacking in fact and foundation as to be clearly unreasonable, thus constituting an abuse of discretion.” *DeVoe*, ¶ 10 (citation omitted); *Citizens for a Better Flathead v. Bd. of Cty. Comm’rs of Flathead Cty.*, 2016 MT 325, ¶ 42, 385 Mont. 505, 386 P.3d 567; *see also Lake Cty. First v. Polson City Council*, 2009 MT 322, ¶ 37, 352 Mont. 489, 218 P.3d 816 (“Zoning is a legislative enactment and thus is presumed to be valid and reasonable.”).

## DISCUSSION

¶15 1. *Whether the District Court erred in ruling that Ordinance 18-23 did not constitute spot zoning.*

¶16 Spot zoning generally comprises “the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area, for the benefit of the owner of such property and to the detriment of other owners.” *State ex rel. Gutkoski v. Langhor*, 160 Mont. 351, 353, 502 P.2d 1144, 1145 (1972) (quoting *Thomas v. Town of Bedford*, 184 N.E.2d 285, 288 (1962)) (internal quotation marks omitted). Montana courts



use a three-part framework to determine whether impermissible spot zoning has occurred: (1) whether “the requested use is significantly different from the prevailing use in the area”; (2) whether “the area in which the requested use is to apply is rather small”; and (3) whether “the requested change is more in the nature of special legislation.” *Little v. Bd. of Cty. Comm’rs of Flathead Cty.*, 193 Mont. 334, 346, 631 P.2d 1282, 1289 (1981). The second and third elements of the *Little* test are analyzed together. *Boland v. City of Great Falls*, 275 Mont. 128, 134, 910 P.2d 890, 894 (1996). All three elements typically exist when spot zoning is present, though a court need not necessarily find all three elements for spot zoning to occur. *Little*, 193 Mont. at 346, 631 P.2d at 1289.

¶17 The District Court found the first element of the *Little* framework satisfied, noting that “there are no clubs, private and commercial recreational facilities, public restaurants including on-premises beer/wine sales, or retail sales and service in the Property’s neighborhood, leading to the conclusion that the scope of use that Ordinance 18-23 permits is significantly different from the prevailing use in the area.” It concluded, however, that while the area is small and the ordinance clearly benefits IO2.5, the second and third elements were not met because “as a matter of adopted policy under the Neighborhood Plan,” the commercial component “is deemed to be in the community interest.” Noting that § 11-2-3(B)(4), Whitefish City Code (“WCC”), designates that neighborhood plans serve as a guide for land use regulations, it stated the Neighborhood Plan “clearly provides that the Property was to be a Neighborhood Center with some commercial development to meet the demand for basic services created by the walking community and youth athletic facility.” The District Court thus concluded

Ordinance 18-23 “substantially complied with the growth policy and accordingly was not in the nature of special legislation.” Further, it noted that it had found no opinions of this Court “since the establishment of the *Little* framework where a zoning decision that complied with a neighborhood plan/comprehensive plan/master plan was found to be spot zoning.”

¶18 Hartshorne argues that the District Court erroneously applied the *Little* framework, which they contend courts must apply flexibly. They argue that Ordinance 18-23 constitutes impermissible spot zoning because it allows for commercial use in an area where the prevailing use is residential, Area 2(c) is small, and the ordinance benefits a single landowner at the expense of the surrounding landowners and the general public. Hartshorne contends the public comment on Ordinance 18-23 demonstrates that it was adopted at the expense of the public. They also contend that the ordinance does not substantially comply with the Neighborhood Plan because it allows for incompatible uses through a CUP rather than a PUD and because it permits IO2.5 to develop Area 2(c) with one hundred percent commercial use rather than the ten percent set forth in the Neighborhood Plan.

¶19 Growth policies, including neighborhood plans, must be a guiding policy for development in municipal zoning. *See* §§ 76-1-605(1)(c), 76-2-304(1)(a), MCA; § 11-2-3(B)(4), WCC (a neighborhood plan “shall serve as a specific guide to future land use regulations for the area” and “may limit or otherwise establish more restrictive land use regulations than set forth by the zoning classification of this title, in which case the more restrictive provisions of the plan shall control”); *see also Heffernan v. Missoula City*

*Council*, 2011 MT 91, ¶ 79, 360 Mont. 207, 255 P.3d 80 (“a governing body must substantially comply with its growth policy in making zoning decisions”). Compliance with such growth plans “is especially relevant to the third factor of the [*Little*] analysis.” *Helena Sand & Gravel, Inc. v. Lewis & Clark Cty. Planning & Zoning Comm’n*, 2012 MT 272, ¶ 31, 367 Mont. 130, 290 P.3d 691 (citation omitted). “The zoning is not ‘in the nature of special legislation’ if it substantially complies with the growth policy.” *Helena Sand & Gravel*, ¶ 31.

¶20 The District Court properly applied the three-part *Little* framework and did not err in rejecting Hartshorne’s claim of spot zoning. True, as commercial uses, the conditional uses differ from the prevailing residential use in the area. But the Neighborhood Plan—adopted well before Ordinance 18-23—specifically contemplated “commercial uses intended to be complimentary to the proposed development of the neighborhood.” *Compare, e.g., Little*, 193 Mont. at 347, 631 P.2d at 1290 (where a parcel was rezoned to allow for a regional mall in an area that the growth policy recommended as a medium-density residential area where the prevailing use of the area was ninety-nine percent residential). Ordinance 18-23’s permitted commercial uses thus were compatible with the Neighborhood Plan, weighing heavily against satisfaction of the second and third elements. Although the ordinance changed the discretionary review process from a PUD to a CUP, these planning tools are similar: both require public input and hearings in front of the Planning Board and City Council; and both require review of all proposed developments for neighborhood compatibility, adequate public infrastructure, mitigation of adverse impacts, and compliance with the growth policy. *See* §§ 11-7-8(J),

11-2S-8, WCC. We similarly find unpersuasive Hartshorne’s argument that the ordinance does not substantially comply with the Neighborhood Plan because it permits IO2.5 to develop Area 2(c) with one hundred percent rather than ten percent commercial use. All proposed developments still must go through the CUP process, during which the City must review the proposal for compliance with the Neighborhood Plan; that plan allows only ten percent of the site to be developed for commercial use. Thus, to the extent compliance with the growth policies is relevant to the issue of spot zoning, we agree with the District Court that Ordinance 18-23 “substantially complied” with the goals, objectives, and recommendations of the Neighborhood Plan. *See Heffernan*, ¶¶ 78-79.

¶21 Considering the ordinance’s compliance with the Neighborhood Plan, the District Court properly concluded the second and third *Little* elements were not met. Although Area 2(c) is a geographically small area, it is the same size as it was when the Neighborhood Plan designated it for mixed-use, before IO2.5 purchased it. Similarly, although IO2.5 owns the entirety of Area 2(c), “zone changes for property owned by one person are not always spot zoning pursuant to the *Little* test.” *Helena Sand & Gravel*, ¶ 31 (quoting *Greater Yellowstone Coal., Inc. v. Bd. of Cty. Comm’rs of Gallatin Cty.*, 2001 MT 99, ¶ 27, 305 Mont. 232, 25 P.3d 168). The fact that Ordinance 18-23 benefits IO2.5 is not sufficient to show the ordinance was enacted for the purpose of benefitting IO2.5 or at the expense of the general public. *See, e.g., N. 93 Neighbors, Inc. v. Bd. of Cty. Comm’rs of Flathead Cty.*, 2006 MT 132, ¶ 70, 332 Mont. 327, 137 P.3d 557 (concluding that the zoning amendment’s requested use complied with the growth policy and thus the landowner’s sole ownership of the parcel did not indicate the zoning amendment was

adopted at the expense of the surrounding landowners or the general public). Though the record shows the public comments on the ordinance were largely opposed, this does not necessarily mean the ordinance would be at the expense of the public, particularly when the Neighborhood Plan allowed for commercial uses in the area from its inception. What the ordinance changed was the manner by which the City would review any such proposals. The record demonstrates the Planning Board and City Council considered the comments but found that “it will be in the best interests of the City of Whitefish, and its inhabitants, to . . . allow the applicants to utilize a [CUP] rather than a PUD to develop [Area 2(c)] . . . and to define uses[.]”

¶22 We thus affirm the District Court’s ruling with respect to the spot zoning claim.

¶23 2. *Whether the District Court erred in ruling that Ordinance 18-23 violates the uniformity requirement of § 76-2-302(2), MCA.*

¶24 “For the purpose of promoting health, safety, morals, or the general welfare of the community,” a “local city or town council or other legislative body may divide the municipality into districts . . . . Within the districts, it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land.” Sections 76-2-301, 76-2-302(1), MCA. The “uniformity requirement” contained in § 76-2-302(2), MCA, provides: “All regulations must be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.” This model statutory provision ensures that all property owners are treated equally and that there is no improper discrimination or favoritism within one

district. *See, e.g., Jachimek v. Superior Court*, 819 P.2d 487, 489 (Ariz. 1991) (citing *Bartsch v. Planning & Zoning Comm’n of Trumbull*, 506 A.2d 1093, 1095 (Conn. 1986)).

¶25 The uniformity requirement arises from traditional “Euclidian” zoning principles, which separate incompatible land uses by dividing an area geographically into districts and specifying uses for each district. *See Citizens for a Better Flathead*, ¶ 35. But as a response to the more traditional and rigid “Euclidian zoning”, “float zoning” has emerged in Montana and other states to provide flexibility to zoning authorities. *Citizens for a Better Flathead*, ¶¶ 32, 35. “Unlike traditional zoning by mapped districts, a floating zone establishes a use classification in the zoning ordinance when adopted by a legislative body but the classification is not delineated on the zoning map until after a rezoning process[.]” *Citizens for a Better Flathead*, ¶ 33 (citations omitted). Zoning bodies implement floating zones through two steps: (1) they first pass zoning ordinances with specific zoning classifications for specific purposes, which are said to “float above the jurisdiction”; (2) they then apply the floating zone to a particular property through a map amendment, creating a geographic district. *Citizens for a Better Flathead*, ¶ 34.

¶26 The City has implemented “float zoning” instead of traditional “Euclidian” zoning. The Whitefish City Code first identifies various “use districts,” such as the WR-4 use district, each having a corresponding set of regulations. Section 11-2-1, WCC. These “use districts” are the “zoning classifications” that “float above” the zoning map. “The locations and boundaries of the use districts are [then] established as they are shown on . . . the official zoning map of the city of Whitefish[.]” Section 11-2-2, WCC. The amendment of the zoning map constitutes the second step of the process.

¶27 Hartshorne argued in its complaint and summary judgment motion that Ordinance 18-23 violated the uniformity requirement by treating “the Developer’s WR-4 zoned property differently than other WR-4 zoned property anywhere else in the City, and further treats the Developer’s residential PUD zoned property differently than other Residential PUD zoned property anywhere else in the City.” The District Court agreed, concluding without elaboration that Ordinance 18-23 violates the uniformity requirement “to the extent that the Ordinance permits conditional uses (*e.g.*, clubs, restaurants, retail sales and service) which are not permitted by WR-4 zoning.” Citing *Oberson v. USDA*, 2007 MT 293, ¶ 26, 339 Mont. 519, 171 P.3d 715, the court concluded, however, that “[t]he offending uses are not necessary to the integrity of Ordinance 18-23 and do not appear to have been the sole inducement to its enactment”; it thus struck only the “uses that do not comport with a WR-4 zone” and allowed the remainder of the ordinance to stand.

¶28 IO2.5 contends that Ordinance 18-23 does not violate § 76-2-302(2), MCA’s, uniformity requirement because Area 2(c) is its own zoning district and cannot be compared to other districts. It maintains that the “use districts” the WCC identifies are zoning classifications rather than districts, the equivalent of the “floating zones” discussed in *Citizens for a Better Flathead*. It argues that the “districts” described under § 76-2-302(2), MCA, are the geographical districts identified on the City’s zoning map, rather than the “use district” zoning classifications. IO2.5 concludes that it is only within one geographical district that uniformity is required, not within all zoning districts with the same zoning classification. Based on this reasoning, IO2.5 argues that Ordinance 18-23

does not violate the uniformity requirement because Ordinance 18-23 made Area 2(c) its own zoning district on the map.

¶29 We interpret statutes and ordinances based upon their plain language. *State v. Kelm*, 2013 MT 115, ¶ 22, 370 Mont. 61, 300 P.3d 687; *see* § 1-2-101, MCA (“the office of the judge is simply to ascertain and declare what is in terms or in substance contained therein, not to insert what has been omitted or to omit what has been inserted”). Terms and words are intended to be understood in their ordinary sense, and this Court assumes a legislative body used particular words for a particular reason. *State v. Alpine Aviation, Inc.*, 2016 MT 283, ¶ 11, 385 Mont. 282, 384 P.3d 1035; *Great N. Utils. Co. v. Public Serv. Comm’n*, 88 Mont. 180, 206, 293 P. 294, 299 (1930).

¶30 We agree with IO2.5 that the plain language of § 76-2-302(2), MCA, requires uniformity within the individual geographic districts identified on the City’s zoning map. Though Title 76, chapter 2, part 3, MCA, does not define the term “district,” it discusses the concept of a “district” as an “area” with “boundaries” and a “shape.” *See* §§ 76-2-302(1), 76-2-303, MCA. Similarly, it differentiates between “districts” and the “regulations” that may be applied to those districts. *See, e.g.*, § 76-2-304, MCA. Construing the language of § 76-2-302, MCA, in the context of the statute and the statutory scheme as a whole, *see* §§ 1-2-101, -106, MCA, we conclude that the “use districts” in the WCC establish the applicable regulations or zoning classifications rather than the “districts” on the City’s zoning map to which they are applied. The District Court thus erred by relying on the WR-4 use district classification, rather than a distinct geographic zoning area on the City’s zoning map, to apply § 76-2-302(2), MCA, to Ordinance 18-23.



¶31 Because Ordinance 18-23 rezoned Area 2(c) with a different review process, different permitted uses, and its own map amendment, Area 2(c) now constitutes its own zoning district. As the regulations within Area 2(c) are applied uniformly, the District Court erred in its conclusion that Ordinance 18-23 violates § 76-2-302(2), MCA.<sup>6</sup>

¶32 We thus reverse the District Court’s ruling striking the specified permitted uses not identified in the WR-4 classification.

### CONCLUSION

¶33 The City of Whitefish acted within its discretion in enacting Ordinance 18-23. The District Court correctly concluded that Ordinance 18-23 substantially complied with the Neighborhood Plan and that the second and third *Little* elements were not satisfied. We accordingly affirm the District Court’s ruling with respect to Hartshorne’s spot zoning claim. The City did not violate § 76-2-302(2), MCA, when it rezoned Area 2(c) to maintain IO2.5’s opportunity to seek commercial development through a Conditional Use Permit after the Planned Unit Development process became unavailable. We accordingly reverse the District Court’s ruling striking the portion of Ordinance 18-23 that specified additional conditional uses.

/S/ BETH BAKER

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<sup>6</sup> To the extent Hartshorne and the District Court’s ruling take issue with Ordinance 18-23’s additional conditional uses that are not identified under the WR-4 regulations, this concern does not implicate § 76-2-302(2), MCA’s, uniformity requirement. As discussed, the geographic districts identified on the City’s zoning map are the “districts” within which § 76-2-302(2), MCA, requires uniformity. Through Ordinance 18-23’s zoning map amendment, Area 2(c) constitutes its own district and the additional conditional uses applied within it are uniform. Whether those conditional uses comply with the WR-4 regulations or will be approved once IO2.5 submits a CUP application are separate questions, outside the purview of § 76-2-302(2), MCA.

We Concur:

/S/ JAMES JEREMIAH SHEA

/S/ INGRID GUSTAFSON

/S/ DIRK M. SANDEFUR

/S/ LAURIE McKINNON

## Traffic Analysis

### Bay View Apartments & SF Attached Units Rezone

**Project Description/Location:** A 92-unit multi-family development has been proposed at the bend of Bay Drive and Huffman Avenue, including frontage along 2<sup>nd</sup> Street SW. The project location is adjacent to Garden Home Park and across Huffman Avenue from vacant land owned by Burlington Northern-Santa Fe Railroad. Residential properties abut the site on the south, as well as a single residential parcel at the southeast corner of 2<sup>nd</sup> Street SW and Huffman Avenue.

The site of a former 14-unit mobile home park, the developer is proposing a boundary line adjustment, re-zone and future flood plain modifications to accommodate the proposed development. The development proposal includes one three-story 36-unit building in the first phase along the western side of the subject property; one three-story 42-unit building in the second phase in the center of the subject property; and, a future seven duplex condominium buildings (14 units) in subsequent phases on the eastern portion of the site, near the Missouri River (dependent upon permitted floodplain modifications). To accommodate the proposed uses, the developer has requested a zone change from R-1 to M-2.

**Existing Transportation Facilities:** The property abuts Huffman Avenue/Bay Drive on the north and 2<sup>nd</sup> Street SW on the west. Huffman Avenue/Bay Drive is a standard-width Local roadway with curb and gutter with a stormwater inlet, but no sidewalks. 2<sup>nd</sup> Street SW is a sub-standard Local street, approximately 22 feet wide and not centered in the right-of-way, with no curb, gutter, sidewalk or stormwater conveyance. 2<sup>nd</sup> Street SW is stop-controlled with a stop sign at the intersection with Huffman Avenue (northbound).

Private utilities, both overhead and underground, occupy the east side of the right-of-way of 2<sup>nd</sup> Street SW. The west side of the right-of-way is used for property owner parking.

Current access to the mobile home park is through one unpaved approach connecting to 2<sup>nd</sup> Street SW and one connecting to Huffman Avenue. Additionally, three of the units have driveways directly off of 2<sup>nd</sup> Street SW.

10<sup>th</sup> Avenue SW, 2<sup>nd</sup> Street SW and a portion of Huffman Avenue/Bay Drive adjoining the subject property are designated as on-street bike routes, serving as a connection for bicyclists between the shared use sidewalk on 6<sup>th</sup> Street SW and the end of River's Edge Trail in Garden Home Park along Bay Drive.

Huffman Avenue/Bay Drive is classified as a Local roadway that serves industrial land uses as well as access to River's Edge Trail and Garden Home Park. Due to its through connection and the land uses it serves, the roadway has a higher volume of traffic than a residential Local street.

2<sup>nd</sup> Street SW is a lower volume Local street with a rural paved road section. It serves mainly residential uses, with some through-traffic to Bay Drive/Huffman Avenue, as well as the above-noted bicycle use. It is an extension of 10<sup>th</sup> Avenue SW, a Local residential street that connects to 6<sup>th</sup> Street SW. Travel lane widths are around 11 feet, each direction.

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**Driveway Access:** The developer has proposed one driveway onto 2<sup>nd</sup> Street SW and two onto Huffman Avenue/Bay Drive.

**Travel Speeds:** A speed study was performed in 2018 on Huffman Avenue, 2<sup>nd</sup> St SW and 10<sup>th</sup> Ave SW, and in 2023 on 10<sup>th</sup> Avenue SW. Table 1 summarizes the speeds travelled by 85% of the traffic.

**TABLE 1**

STREET SEGMENT	Average travel speed of 85% of all vehicles
10 <sup>th</sup> Ave. SW between 4 <sup>th</sup> & 6 <sup>th</sup> Sts. SW	29.58 MPH (2018) 26 MPH (2023) 19 MPH Average Speed (2023)
2 <sup>nd</sup> St. SW (south of Huffman Ave.)	23 MPH (2023) 15 MPH Average Speed (2023)
Huffman Ave. between Crescent Circle & 3 <sup>rd</sup> St. SW	31.50 MPH (2018)

**Existing Traffic Volumes:** There are two recently counted traffic volume count locations in the area, with 2022 data:

- 1) Huffman Avenue, at the railroad crossing just east of Crescent Circle; and,
- 2) Bay Drive, at the railroad crossing just east of the railroad shops (at the west end of the Missouri River railroad bridge).

Additionally, due to neighborhood interest in traffic, traffic counters were placed on 10<sup>th</sup> Ave. SW and 2<sup>nd</sup> St. SW to gather current traffic counts.

The traffic for each location is shown on **Table 2**, along with the expected growth from the development.

**Trip Generation:** Average trips can be estimated by using trip-generation rates obtained from actual studies. The rates vary, based upon time of day and type of land use. For the proposed development, there are two different proposed land-uses: Multifamily Housing (Low-Rise) and Single Family Attached Housing. To accurately characterize the traffic impact of the proposed development, it is important to also subtract the trips that were generated by the current or most recent use (Mobile Home Park).

To estimate trips, the *ITE Trip Generation Manual, 11<sup>th</sup> Ed.*, provides average weekday trip calculations as follows:

- 1) 78 units of Multifamily Housing (Low Rise) would be expected to generate an average of 6.74 trips per dwelling unit on a weekday, for a total estimated average of **526 trips** per weekday.
- 2) 14 units of Single-Family Attached Housing would be expected to generate an average of 7.20 trips per dwelling unit on a weekday, for a total estimated average of **101 trips** per weekday.

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- 3) 14 Mobile Home Park units would be expected to generate an average of 7.12 trips per dwelling unit on a weekday, for a total estimated average of **100 trips** per weekday. To assess the impact of the development, these trips are subtracted.

The total estimated increase in daily trips generated by the development is **527 average daily weekday trips**.

Traffic from the proposed development during “peak hour” – that is, the evening “rush hour” where traffic on the adjoining street is highest – is also an impact worth estimating. From the same source, the following “peak hour” traffic can be calculated as follows:

- 1) 78 units of Multifamily Housing (Low Rise) would be expected to generate an average of .51 trips per dwelling unit during the evening peak hour, for a total estimated average of **40 trips** per hour.
- 2) 14 units of Single-Family Attached Housing would be expected to generate an average of .18 trips per dwelling unit during the evening peak hour, for a total estimated average of **3 trips** per hour.
- 3) 14 Mobile Home Park units would be expected to generate an average of .58 trips per dwelling unit during the evening peak hour, for a total estimated average of **9 trips** per hour. To assess impact of the development, these trips are subtracted.

The total estimated increase in PM peak hour trips generated by the development is **34 average daily PM peak hour trips**.

**Trip Distribution:** Based upon the proposed location of the development’s buildings and driveways, the trips generated by the proposed development are estimated to be distributed as follows: 25% via 2<sup>nd</sup> Street SW/10<sup>th</sup> Avenue SW (south of the development); 40% via Huffman Avenue (west of the development); and, 35% via Bay Drive (north of the development.)

**Summary of Existing and Estimated Future Traffic:** Table 2 summarizes existing and projected vehicular traffic on streets adjoining the proposed development.

**TABLE 2**

STREET SEGMENT	DAILY VOLUME (DATE)	PROJECTED DAILY GROWTH	PROJECTED DAILY VOLUME	2023 PEAK HOUR VOLUME	PROJECTED PEAK HOUR GROWTH	PROJECTED PEAK HOUR VOLUME
Bay Drive (north of the development)	627 (2022)	185	812	n/a	12	n/a
Huffman Ave. (west of 2 <sup>nd</sup> St. SW)	810 (2022)	211	1,021	n/a	14	n/a
10 <sup>th</sup> Ave SW (btwn 4 <sup>th</sup> & 6 <sup>th</sup> Sts SW)	399 (2023)	132	531	52	9	61

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2 <sup>nd</sup> St SW (south of Huffman Ave)	333 (2023)	132	465	39	9	48
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*Note: all numbers are vehicle trips per day or vehicle trips per hour*

**Pedestrian and Bicycle Facilities:** The developer would be required to construct sidewalk adjacent to Huffman Avenue. Because of the rural nature of 2<sup>nd</sup> Street/10<sup>th</sup> Avenue SW, a sidewalk is not recommended. Due to the nearness of River's Edge Trail, the developer will be asked to connect the sidewalk to River's Edge Trail in Garden Home Park.

No specific bicycle improvements are required, but the developer is encouraged to consider placement of bike racks or secure bicycle storage on-site.

10<sup>th</sup> Avenue SW, 2<sup>nd</sup> Street SW and Huffman Avenue are designated as a bike route to connect bicyclists between 6<sup>th</sup> Street SW and the start of River's Edge Trail in Garden Home Park. In 2014, following citizen inquiries regarding the designation, a study was performed by City staff to determine if Huffman Avenue/Crescent Circle would be a more appropriate route for bicyclists. After gathering data and analyzing route characteristics, it was determined that the preferred on-street bicycle connection was via 10<sup>th</sup> Avenue SW/2<sup>nd</sup> Street SW, and recommended no modification to the route.

During a 2-day period in December 2023 (in good weather), 18 bicycles and 27 pedestrians were counted on 10<sup>th</sup> Ave. SW at the counter site between 4<sup>th</sup> St. SW and 6<sup>th</sup> St. SW. The number of bike/ped trips would be expected to increase somewhat due to the development, though there is no method for quantifying the increase. However, because there is no on-street parking along the route and generally low speeds and low traffic, the relatively small increase in traffic is anticipated to have little impact upon the continued safety and appropriateness of use of the route for bicyclists.

**Recommendations/Conclusions:** The projected roadway volumes are within the normal range for a residential Local roadway (2<sup>nd</sup> Street SW/10<sup>th</sup> Ave SW) and a non-residential Local roadway (Huffman Avenue/Bay Drive) and, therefore, the existing street network has sufficient capacity to accommodate the projected growth.

Construction of either a 10-foot shared-use path or a standard 5-foot sidewalk connecting to the trailhead in Garden Home Park will provide safe pedestrian and bicycle connection to the recreational amenity. Staff recommends a 10-foot shared-use path connection to safely accommodate both pedestrians and bicyclists, both of whom are expected to use the nearby trail for recreational and safe commuter travel. Without a wider connection, bicyclists from the development would need to use the roadway to connect to River's Edge Trail.

Because of utility conflicts and concerns about stormwater conveyance, the City should consider deferring the construction of a sidewalk along the property's 2<sup>nd</sup> Street SW frontage until the street itself is brought to full City standards.

Provision of bicycle storage facilities at each of the multi-family buildings is recommended and encouraged.

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To enhance safety, stop signs should be placed by the developer at all driveways.

Finally, posted speeds are appropriate for the area roadways. The 85<sup>th</sup> percentile of travel speeds are slightly higher or slightly lower than posted speed limits, and the average speeds are less than the posted limits.



# Aerial Map



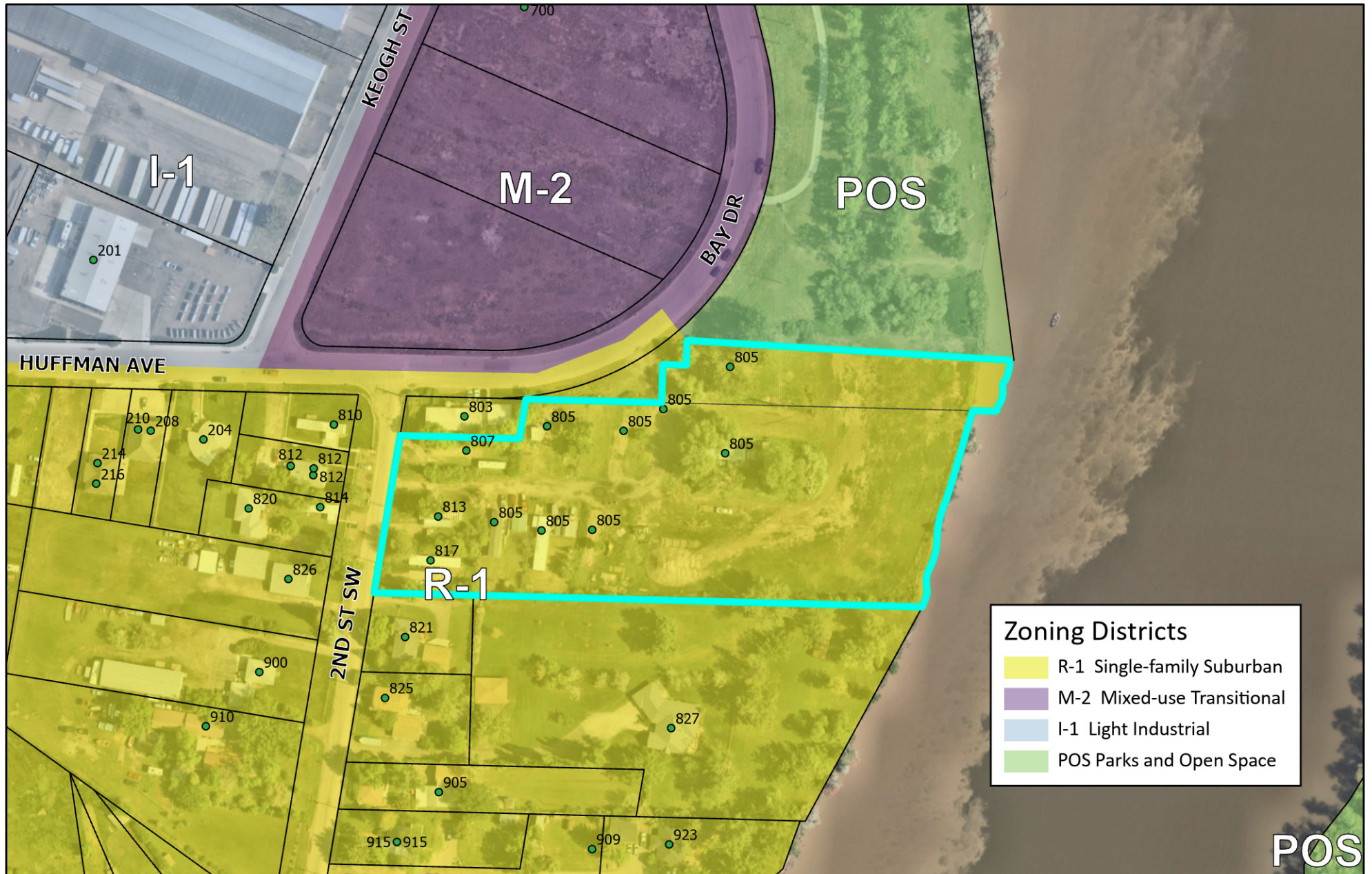
- Parcels
- Subject Property

0 200 400 Feet





# Zoning Map



**Zoning Districts**

- R-1 Single-family Suburban
- M-2 Mixed-use Transitional
- I-1 Light Industrial
- POS Parks and Open Space

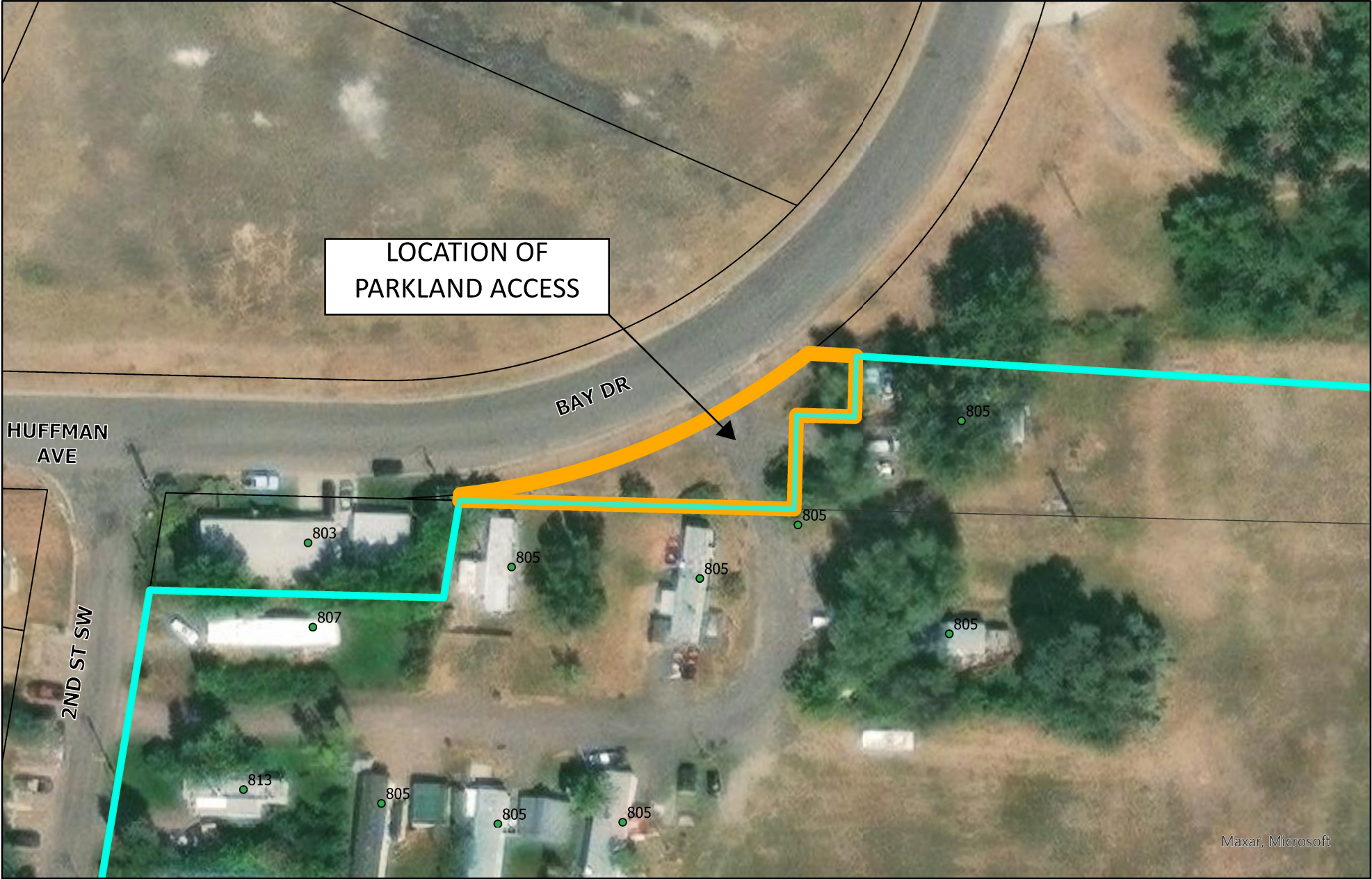


 Parcels  
 Subject Property

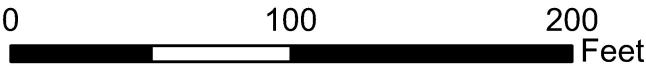




# Parkland Access Exhibit



- Parcels
- Subject Property
- Parkland Access



Title 17 - LAND DEVELOPMENT CODE  
Chapter 20 - LAND USE  
Article 3 ALLOWABLE USES

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### ***Article 3 ALLOWABLE USES***

#### **Sections:**

#### **17.20.3.010 Allowable uses within zoning districts.**

For the purposes of this Title, land uses are categorized as principal, accessory, and temporary. The land uses that are allowable in one (1) or more districts are defined in Chapter 8 of this Title. Exhibit 20-1 through 20-3 lists the uses as allowed in one (1) or more base zoning districts. The coding system, as described below, is used to identify the appropriateness of the land uses in each of the various base districts and the type of review if allowed.

"P" indicates that the use is permitted in the district by right, provided that all other provisions of this Title are met. These uses do not undergo public review, but are reviewed at the administrative level to ensure compliance.

"-" indicates that the use is not permitted in the district.

"C" indicates that the use is permitted in the district as a conditional use.

#### **17.20.3.020 Similarity of uses.**

Because the list of uses cannot include every conceivable type of activity, those uses that are listed shall be interpreted to include other uses that are of a similar nature and have similar impacts to the listed use.

#### **17.20.3.030 Uses not listed.**

Those uses not listed, and which cannot be interpreted to be similar to any listed use, as provided for above, shall be prohibited.

#### **17.20.3.040 Project classified in more than one (1) land use category.**

In the event that the proposed project includes more than one (1) land use category, the following rules shall apply:

1. **Prohibited and allowable uses in project.** If a proposed project includes both an allowable use(s) and a prohibited use(s), the prohibited portion of the project may not occur in the district.
2. **More than one (1) review type or development standard in project.** If a proposed project includes more than one (1) use, with different levels of approval, the strictest of the approval procedures shall apply to the whole project.

#### **17.20.3.050 Relationship of a principal use to an accessory use.**

Before an accessory use may be established, the premises shall host a principal use.

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**17.20.3.060 Certain land uses shown as permitted may be a conditional use.**

A permitted land use (as shown in Exhibit 20-1, 20-2, 20-3) that emits air contaminants or potentially offensive odors outside of the building, or that handles radioactive materials, hazardous substances, hazardous waste, or regulated substances shall be considered a conditional use in every circumstance.

**Exhibit 20-1. Principal Uses by District**

Use	R-1	M-2	Special Standards
Agriculture, horticulture, nursery	P	-	17.20.6.005
Marijuana cultivation	-	-	
Mobile home/park	-	-	17.20.6.010
Residence, single-family detached	P	P	
Residence, zero lot line	-	P	17.20.6.020
Residence, two-family	-	P	
Residence, multi-family	-	P	17.20.6.040
Residence, townhouse	-	P	17.20.6.050
Residence, manufactured/factory-built	P	P	17.20.6.060
Retirement home	-	P	
Community residential facility, type I	P	P	
Community residential facility, type II	C	C	
Day care center	C	P	
Emergency shelter	-	C	
Family day care home	P	P	
Group day care home	P	P	
Nursing home	-	P	
Campground	-	-	17.20.6.070
Hotel/motel	-	P	

Micro-brewery	-	C	17.20.6.080
Restaurant	-	P	17.20.6.080
Tavern	-	C	17.20.6.080
Agriculture sales	-	-	
Auction sales	-	-	
Construction materials sales	-	-	
Convenience sales	C	-	
General sales	-	P	
Manufactured housing sales	-	-	
Marijuana dispensary	-	-	
Off-site liquor sales	-	C	
Secondhand sales	-	-	
Shopping center	-	-	
Administrative services	-	P	
Commercial kennel	-	-	17.20.6.090
Financial services	-	P	
Funeral home	-	P	
General services	-	P	
Professional services	-	P	
Sexually-oriented business	-	-	17.20.6.100
Veterinary clinic, large animal	-	-	
Veterinary clinic, small animal	-	P	17.20.6.110
Large equipment rental	-	-	

Small equipment rental	-	-	
General repair	-	-	
Vehicle fuel sales	-	-	
Vehicle repair	-	-	17.20.6.120
Vehicle sales and rental	-	-	
Vehicle services	-	P	
Agricultural commodity storage facility	-	-	
Climate controlled indoor storage	-	P	
Fuel tank farm	-	-	
Marijuana transporter	-	-	
Mini-storage facility	-	C	17.20.6.130
Freight terminal	-	-	
Warehouse	-	C	
Casino	-	-	
Indoor entertainment	-	C	
Indoor sports and recreation	-	C	
Golf course/driving range	C	-	
Miniature golf	-	C	
Outdoor entertainment	-	-	
Park	P	P	
Recreational trail	P	P	
Administrative governmental center	-	P	

Animal shelter	-	C	17.20.6.160
Cemetery	C	-	17.20.6.170
Civic use facility	C	P	
Community center	C	P	
Community cultural facility	C	P	
Community garden	P	P	17.20.6.175
Public safety facility	C	P	
Worship facility	C	P	17.20.6.180
Health care clinic	-	P	
Health care facility	-	C	
Health care sales and services	-	P	
Commercial education facility	-	P	
Educational facility (K—12)	C	C	17.20.6.200
Educational facility (higher education)	-	C	
Instructional facility	-	P	
Composting facility	-	-	17.20.6.210
Recycling center	-	-	17.20.6.220
Solid waste transfer station	-	-	17.20.6.230
Amateur radio station	P	-	17.20.6.240
Telecommunication facility			17.20.6.250
Concealed facility	C	P	
Unconcealed facility	-	C	
Co-located facility	-	C	
Utility installation	C	C	



Airport	-	-	
Bus transit terminal	-	C	
Heli-pad	-	C	17.20.6.260
Parking lot, principal use	-	P	
Parking structure	-	P	
Railroad yard	-	-	
Taxi cab dispatch terminal	-	P	
Contractor yard, type I	C	P	17.20.6.270
Contractor yard, type II	-	C	17.20.6.280
Artisan shop	-	P	
Industrial, heavy	-	-	
Industrial, light	-	-	
Industrial park	-	-	
Junkyard	-	-	17.20.6.290
Light manufacturing and assembly	-	P	17.20.6.300
Marijuana manufacturing	-	-	
Marijuana testing laboratory	-	-	
Motor vehicle graveyard	-	-	17.20.6.310
Motor vehicle wrecking facility	-	-	17.20.6.320

- The use is not permitted in the district

C The use is allowed through the conditional use process

P The use is permitted in the district by right, consistent with the development standards contained in Article 6 of this chapter, as appropriate  
( Ord. 3259 , 2023; Ord. 3251 , 2022; Ord. 3249 , 2022; Ord. 3221 , 2020; Ord. 3166, 2017; Ord. 3087, 2012; Ord. 3068, 2011; Ord. 3056, 2010)

**Exhibit 20-2. Accessory uses by district**

Use	R-1	M-2	Special Standards
Accessory living space	P	P	17.20.7.010
Agriculture, livestock	P	-	17.20.7.080
ATM, exterior	-	P	17.20.7.020
Bed and breakfast	C	P	17.20.7.030
Fences	P	P	17.20.7.040
Gaming, accessory	-	P	17.20.7.050
Garage, private	P	P	17.20.7.060
Home occupation	P	P	17.20.7.070
Private stable/barn	P	-	17.20.7.080
Residence, accessory	-	P	17.20.7.085
Roadside farmer's market	P	-	17.20.7.090
Storage containers	-	-	17.20.7.100
Wind-powered electricity systems	P	P	17.20.7.110

- The use is not permitted in the district

C The use is allowed in the district through the conditional use process

P The use is permitted in the district by right, consistent with the development standards contained in Article 7 of this chapter, as appropriate

( Ord. 3251 , 2022; Ord. 3249 , 2022; Ord. 3087, 2012; Ord. 3056, 2010; Ord. 3034, 2009)

**Exhibit 20-3. Temporary uses by district (see 17.20.8.010 for Special Standards)**

Use	R-1	M-2	Special Standards
Garage sales	P	P	17.20.8.015
Itinerant outdoor sales	-	P	17.20.8.020
On-site construction office	P	P	17.20.8.030
On-site real estate sales office	P	P	17.20.8.040
Outdoor entertainment, temporary	-	-	
Sidewalk café	-	P	17.20.8.050
Sidewalk food vendor	-	P	17.20.8.060

- The use is not permitted in the district

C The use is allowed in the district through the conditional use process

P The use is permitted in the district by right, consistent with the development standards contained in Article 8 of this chapter, as appropriate

( Ord. 3251 , 2022; Ord. 3249 , 2022; Ord. 3221 , 2020; Ord. 3056, 2010)

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**17.20.3.070 Prohibited land uses.**

No use of land shall be permitted by right or conditionally permitted within the City of Great Falls that is in violation of federal, state or local law, except for land uses relating to activities licensed by the Montana Department of Revenue under the Montana Marijuana Regulation and Taxation Act and identified as allowed in 17.20.3.010 and its accompanying exhibits.

( Ord. 3249 , 2022; Ord. 3054, 2010)

Title 17 - LAND DEVELOPMENT CODE  
Chapter 20 - LAND USE  
Article 4 LOT AREA AND DIMENSIONAL STANDARDS

---

***Article 4 LOT AREA AND DIMENSIONAL STANDARDS***

**Sections:**

**17.20.4.010 Generally.**

Lots and buildings shall conform to the dimensional standards specified in Exhibit 20-4.

---

**17.20.4.020 Exceptions.**

The following are exemptions to the standards:

1. The requirements for the rear yard on through lots do not apply when the area of such required rear yard is provided elsewhere on the lot.
2. Every part of a required yard shall be open from its lowest points to the sky unobstructed, except for the projections of sills, belt courses, cornices, and ornamental features not to exceed four (4) inches.
3. Open or lattice enclosed fire escapes, fireproof outside stairways, and solid floored balconies opening upon fire towers, projecting into a yard not more than five (5) feet or into a court not more than three and one-half (3½) feet and the ordinary projections of chimneys and flues shall be permitted where the same are so placed as not to obstruct the light and ventilation.
4. An unenclosed front porch on a single family residence may extend into the front yard setback up to nine (9) feet, provided the porch does not occupy more than sixty (60) percent of the width of the main part of the house.
5. Steps and eaves are allowed to encroach into the front and side yard setbacks.

**Exhibit 20-4. Development standards for residential zoning districts**

(See footnotes below for additional standards)

Standard	R-1	R-2	R-3	R-5	R-6	R-9	R-10
Residential density	-	-	-	1,875 sq. feet of lot area per dwelling unit	500 sq. feet of lot area per dwelling unit	1,200 sq. feet of lot area per dwelling unit	10 dwelling units per acre
Minimum lot size for newly created lots	15,000 sq. feet	11,000 sq. feet	7,500 sq. feet	7,500 sq. feet	7,500 sq. feet	7,500 sq. feet	n/a
Minimum lot width for newly created lots	90 feet	80 feet	60 feet	50 feet	50 feet	50 feet	n/a
Lot proportion for newly created lots (maximum depth to width)	3:1	3:1	2.5:1	2.5:1	2.5:1	2.5:1	n/a
Maximum building height of principal building	35 feet	35 feet	35 feet	45 feet	65 feet	35 feet, single-family 50 feet, multi-family	12 feet to exterior wall
Minimum front yard setback [2]	30 feet	20 feet	20 feet	10 feet	15 feet	10 feet	n/a
Minimum side yard setback [3]	Principal building: 15 feet each side	Principal building: 8 feet each side	Principal building: 6 feet each side	4 feet; 8 feet if adjoining a R-1, R-2, R-3 district	5 feet; 10 feet if adjoining a R-1, R-2, R-3 district	Principal building: 6 feet each side	n/a
Minimum rear yard setback	20 feet for lots less than 150 feet in depth; 25 feet for lots 150	15 feet for lots less than 150 feet in depth; 20 feet for lots 150	10 feet for lots less than 150 feet in depth; 15 feet for lots 150	10 feet for lots less than 150 feet in depth; 15 feet for lots 150	15 feet	10 feet for lots less than 150 feet in depth; 15 feet for lots 150	n/a

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	feet in depth and over	feet in depth and over	feet in depth and over	feet in depth and over		feet in depth and over	
Maximum lot coverage of principal and accessory structures	Corner lot: 40% Other types: 30%	Corner lot: 45% Other types: 35%	Corner lot: 55% Other types: 50%	Corner lot: 60% Other types: 50%	Corner lot: 70% Other types: 60%	Corner lot: 70% Other types: 60%	none
Detached Garages and other Accessory Structures							
Maximum building height	24 feet	24 feet	24 feet	24 feet	24 feet	24 feet	16 feet
Minimum front yard setback [5]	30 feet, but may not be closer to the front lot line than the principal structure	20 feet, but may not be closer to the front lot line than the principal structure	20 feet, but may not be closer to the front lot line than the principal structure	10 feet, but may not be closer to the front lot line than the principal structure	15 feet, but may not be closer to the front lot line than the principal structure	10 feet, but may not be closer to the front lot line than the principal structure	n/a
Minimum side yard setback	5 feet	5 feet	5 feet	4 feet; 8 feet if adjoining an R-1, R-2, R-3 district	5 feet; 10 feet if adjoining an R-1, R-2, R-3 district	5 feet	n/a
Minimum rear yard setback	5 feet	5 feet	5 feet	5 feet	5 feet	5 feet	5 feet

[1] Attached private garages are considered a part of the principal building for application of height and setback development standards, but must conform to all standards found in 17.20.7.060. ( Ord. 3232 , 2021)

[2] See Section 17.20.6.020 for side yard requirements for zero lot line projects and Section 17.20.7.010 for accessory buildings with accessory living spaces. ( Ord. 3232 , 2021; Ord. 2950, 2007)

[3] An existing structure that does not meet the setback requirements stated above can be rebuilt on its original foundation or the original foundation location. ( Ord. 3232 , 2021)

[4] For townhomes, see Section 17.20.6.050 for additional and superseding requirements. ( Ord. 3232 , 2021)

[5] If a principal structure is located greater than 50 feet from the front lot line, the accessory structure may be located closer to the front lot line, provided that the accessory structure meets the minimum front yard setback. ( Ord. 3232 , 2021)



Exhibit 20-4 (continued). Development standards for other zoning districts

	M-1	M-2	C-1	C-2	C-3	C-4	C-5	PLI	GFIA	I-1	I-2
Residential density	500 sq. feet of lot area per dwelling unit	500 sq. feet of lot area per dwelling unit	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Minimum lot size for newly created lots	7,500 sq. feet	7,500 sq. feet	7,500 sq. feet	7,500 sq. feet	7,500 sq. feet	7,500 sq. feet	7,500 sq. feet	7,500 sq. feet	7,500 sq. feet	7,500 sq. feet	7,500 sq. feet
Minimum lot width for newly created lots	50 feet	50 feet	50 feet	50 feet	50 feet	50 feet	50 feet	50 feet	50 feet	50 feet	50 feet
Lot proportion for newly created lots (maximum depth to width)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	3:1	3:1
Maximum building height of principal building	65 feet except as follows: 35 feet within 200 feet of an R-1, R-2, R-3 district; 45 feet	65 feet except as follows: 35 feet within 200 feet of an R-1, R-2, R-3 district; 45 feet	35 feet	65 feet	50 feet	100 feet by right; 101 feet to 160 feet as conditional use	55 feet	100 feet by right; 101 feet to 160 feet as conditional use, except as follows; in	65 feet	45 feet	none

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	when within 200 feet to 350 feet of an R-1, R-2, R-3 district; and 65 feet when more than 350 feet from an R-1, R-2, R-3 district	when within 200 feet to 350 feet of an R-1, R-2, R-3 district; and 65 feet when more than 350 feet from an R-1, R-2, R-3 district						the proposed medical district master plan area, 160 feet by right			
Maximum building height of accessory building	24 feet, but may not be higher than the uppermost elevation of the principal building	24 feet, but may not be higher than the uppermost elevation of the principal building	24 feet, but may not be higher than the uppermost elevation of the principal building	24 feet, but may not be higher than the uppermost elevation of the principal building	24 feet, but may not be higher than the uppermost elevation of the principal building	n/a	24 feet, but may not be higher than the uppermost elevation of the principal building	24 feet, but may not be higher than the uppermost elevation of the principal building	24 feet, but may not be higher than the uppermost elevation of the principal building	35 feet	none
Minimum front yard setback of principal and accessory buildings	none	Existing Industrial: 20 feet	15 feet	none	25 feet	none	15 feet	25 feet	25 feet	20 feet	10 feet
Minimum side yard setback of principal	Commercial: none Residential: none	Commercial: none Residential: 5 feet each	10 feet each side	10 feet each side	15 feet each side	none	10 feet each side	10 feet each side	none	10 feet each side	10 feet each side, 15 feet

and accessory buildings	5 feet each side	side Existing Industrial: 15 feet each side									when side yard abuts a non-industrial zoning district
Minimum rear yard setback of principal and accessory buildings	10 feet	10 feet	15 feet	1/10 of lot depth but not less than 1/10 of building height	1/10 of lot depth but not less than 1/10 of building height	none	1/10 of lot depth but not less than 1/10 of building height	1/10 of lot depth but not less than 1/10 of building height	none	5 feet	5 feet
Maximum lot coverage of principal and accessory buildings	Corner lot: 70% Other lots: 65%	Corner lot: 70% Other lots: 65%	Corner lot: 50% Other lots: 40%	Corner lot: 70% Other lots: 60%	Corner lot: 70% Other lots: 60%	100%	Corner lot: 70% Other lots: 60%	Corner lot: 70% Other lots: 60%	none	Corner lot: 85% Other lots: 70%	Corner lot: 85% Other lots: 70%

( Ord. 3232 , 2021; Ord. No. 3087, § 1(Exh. A), 6-19-2012, eff. 7-19-2012)

# BAY VIEW APARTMENTS

*A Mixed-Use Development in Great Falls, Montana*

## Land Use Application Submittal

<i>Revision</i>	<i>Date</i>
Zoning Map Amendment Submittal	08/09/2022
Zoning Map Amendment Resubmittal	09/21/2023
Zoning Map Amendment Resubmittal	11/08/2023

Prepared for:

***Craig and Robert Stainsby***  
715 4<sup>th</sup> Ave N  
Great Falls, MT 59401

405 Third Street NW, Suite 206  
Great Falls, MT 59404  
(406) 761-1955

**WOITH ENGINEERING, INC.**  
**ENGINEERS & SURVEYORS**

3860 O'Leary Street, Suite A  
Missoula, MT 59808  
(406) 203-0869

LAND USE APPLICATION SUBMITTAL  
Bay View Apartments  
November 8, 2023



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The following headings follow the “Land Use Application Checklist” that was determined to be required for submittal from the City of Great Falls Planning and Community Development Department. The checklist was supplied to Woith Engineering on May 31<sup>st</sup>, 2023. See Appendix A for the signed Land Use Checklist.

## 1. ZONING MAP AMENDMENT (TABLE 3)

### 1.A. AERIAL EXHIBIT

See the Site Plan in Appendix B.

### 1.B. NARRATIVE OF THE REZONE

The proposed development will be comprised of a portion of the current Lot 1A of the Garden Home Tracts Subdivision. After a boundary line relocation, there will remain a total of two lots, with Lot 1A being 1.27-acres and Lot 2A being 3.19-acres. The intention for the rezone on Lot 1A is to place a 36-unit multi-family apartment building and accompanying site and utility improvements. The intention of the rezone on Lot 2A is for a similar 42-unit multi-family apartment building, along with townhouse residences. The current zoning of the Garden Home Tracts Subdivision is Single-family Suburban Residential (R-1). This proposal would include rezoning Lot 1A and 2A to Mixed-use Transitional (M-2). Surrounding and nearby zoning includes R-1, M-2, and Parks and Open Space (POS). The following sections outline the preliminary details of this proposed development.

This proposed phase of development will be the first of a multi-phase expansion to the east. This expansion to the east, Lot 2A, will cross into the “Special Flood Hazard Areas (SFHA’s) Subject to Inundation by the 1% Annual Chance Flood” Zone AE – Base Flood Elevations Determined. The owner and design team are currently working on filling a Conditional Letter of Map Revision (CLOMR) with FEMA in order to fill within the floodplain for the future phases. This first phase work on Lot 1A does not cross into Zone AE. This zoning map amendment applies to the 1.27-acre Lot 1A and the 3.19-acre Lot 2B.

### 1.C. SITE PLAN

See the Site Plan in Appendix B.

### 1.D. CONCEPTUAL PLANS FOR PUBLIC INFRASTRUCTURE

See the Site Plan in Appendix B.

LAND USE APPLICATION SUBMITTAL  
 Bay View Apartments  
 November 8, 2023



## 1.E. PRELIMINARY SOILS/GEOTECHNICAL INFORMATION

See Appendix C.

## 1.F. ESTIMATED WATER AND WASTEWATER DEMAND/DISCHARGE

### Water Usage:

The average daily demand, including domestic demands and irrigation demands, was calculated based on the following assumptions:

*Domestic: 100 gallons per day (as per DEQ 4)*

*Irrigation: two inches per week during the summer months (June-August). Assuming all of landscaped area is irrigated.*

The average daily domestic demand is calculated as follows:

Projected Max Number of Tenants: (assuming 2 tenants per unit)

Projected Max Number of Tenants:  $(36 \times 2) + (42 \times 2) + (14 \times 2) = 184$  Tenants

$D_{DOM} = 184 \text{ residences} \times 100 \text{ gpd (gallons per day)} = \mathbf{18,400 \text{ gpd}}$

The average daily irrigation demand during the summer months is calculated as follows (assuming all areas outside of the building and parking lot area are irrigated):

$$D_{IRR} = \left(\frac{2''}{\text{week}}\right) \left(\frac{1'}{12''}\right) \left(\frac{7.48 \text{ gal}}{\text{ft}^3}\right) \left(\frac{\text{week}}{7 \text{ days}}\right) (72,000 \text{ ft}^2 \text{ landscaping}) = \mathbf{12,823 \text{ gpd}}$$

Thus, the total average daily demand during the summer months, when water usage will be at its most severe, is **31,223 gpd**.

### Wastewater Discharge:

The peak sanitary sewer design flow for the development was estimated using the wastewater flow rates outlined in Section 3.1 of Montana Department of Environmental Quality Circular 4. An average of 2 persons per living unit was used to calculate the total design flow for the proposed multi-family units. The proposed development will include 92-units. The average daily usage per person for the apartment will be 100 gallons per day (DEQ-4).

The peak design flow, including domestic and commercial demands was calculated based on the following assumptions:

Domestic: 100 gallons per day, per resident (as per DEQ 4)

The average daily domestic demand is calculated as follows:

Projected Max Number of Tenants:  $(92 \times 2) = 184$  Tenants (0.184 in thousands)

$$\text{Peaking Factor} = \frac{18 + \sqrt{P}}{4 + \sqrt{P}} = \frac{18 + \sqrt{0.184}}{4 + \sqrt{0.184}} = 4.16$$

$$D_{\text{DOM}} = 184 \text{ residents} * 100 \text{ gpd} * 4.16 = \mathbf{76,544 \text{ gpd}}$$

Therefore, the peak design flow rate for this phase of development is calculated as follows:

$$Q_{\text{max}} = 76,544 \text{ gpd} * \left( \frac{0.13 \text{ cf}}{\text{gal}} \right) * \left( \frac{\text{day}}{86,400 \text{ sec.}} \right) = \mathbf{0.115 \text{ cfs}}$$

#### 1.G. PRELIMINARY DRAINAGE PLAN

See the Site Plan in Appendix B.

#### 1.H. SPECIAL FUNDING PROPOSAL

There are no special funding proposals for the public infrastructure on this proposed development.

#### 1.I. PRELIMINARY EASEMENTS

Utility easements will be shown for needed routes with power and telecommunication companies. Coordination with said entities is currently occurring. These easements will be shown on the final COS.



LAND USE APPLICATION SUBMITTAL  
Bay View Apartments  
November 8, 2023



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# APPENDIX A

## Land Use Application and Checklist

CITY OF GREAT FALLS  
PLANNING & COMMUNITY DEVELOPMENT DEPT.  
P.O. BOX 5021, GREAT FALLS, MT, 59403 5021  
406.455.8430 • WWW.GREATFALLSMT.NET

## LAND USE APPLICATION

### Bay View Apartments

**Name of Project (If applicable):**

805 2nd St SW, Great Falls, MT 59404

**Project Address:**

Craig and Robert Stainsby

**Applicant/Owner Name:**

715 4th Ave N, Great Falls, MT 59401

**Mailing Address:**

406-868-3467

rstains@hotmail.com

**Phone:**

**Email:**

Woith Engineering

**Representative Name:**

406-205-1761

robert@woitheng.com/spencer@woitheng.com

**Phone:**

**Email:**

- ☐ Annexation by Petition: \$500
- ☐ Preliminary Plat, Major: \$1,500 + \$50/lot
- ☐ Final Plat, Major: \$1,500 + \$25/lot
- ☐ Minor Subdivision: \$1,250
- ☒ Zoning Map Amendment: \$2,000
- ☐ Conditional Use Permit: \$1,500
- ☐ Planned Unit Development: \$2,000
- ☐ Amended Plat, Non-administrative: \$1,000

### LEGAL DESCRIPTION:

Lot A of Lot 1A of the Amended Plat of Lot 1 Garden Home Tracts and Certificate of Survey 4153

**Lot/Block/Subdivision:**

11/20N/R3E

**Section/Township/Range:**

### ZONING (ZONING MAP AMENDMENT ONLY):

R-1

M-2

**Current:**

**Proposed:**

### LAND USE (CONDITIONAL USE ONLY):

Mobile Home Park

Multi-Family

**Current:**

**Proposed:**

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.

**Applicant/Owner's Signature:**

**Date:**

08/08/2023

**Representative's Signature:**

**Date:**

## Land Use Application Checklist

All applicants are required to complete and submit the Land Use Application, associated fee, checklist, and required material per the checklist for the proposed development. This fee is non-refundable whether the request is approved or not. No processing will be performed until this fee has been paid. The applicant will also be responsible for the costs associated with publishing the legal ad. Per the Official Code of the City of Great Falls (OCCGF) Title 17 - Land Development Code, applicants requesting any of the following developments noted in the chart below are required to have a pre-submittal meeting with City Staff. Further, when directed by the City, the applicant will be required to present the proposed development to the Neighborhood Council.

### APPLICANT SHALL SUBMIT ALL INFORMATION THAT IS MARKED REQUIRED BY STAFF FOR A COMPLETE SUBMITTAL

Completeness Checklist		Req.	App.	Staff
<b>Annexation by Petition</b>	Annexation requires an aerial exhibit or an amended plat/certificate of survey of the property to be annexed. Applicant is also required to submit a narrative of the proposed use of the property to be annexed and the requested zoning to be established.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Preliminary Plat, Major Subdivision</b>	All major subdivisions require the approval of a preliminary plat. Submittal for the preliminary plat process also requires a narrative of the project as well as submittal of all information outlined in Table 1.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Final Plat, Major Subdivision</b>	A final plat is required for each phase of a major subdivision. Submittal for final plat also requires submittal of all information outlined in Table 2. This information shall be submitted before the project will be put on an agenda for the Planning Advisory Board. Before a final plat can be recorded, all information noted in Table 2 must be approved.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Minor Subdivision</b>	All minor subdivisions require a narrative of the project and a site plan showing compliance with the Development Standards as stated in the OCCGF as well as submittal information to show compliance with stormwater regulations (See Table 3), and a minor subdivision plat (See Table 2).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Zoning Map Amendment</b>	Zoning map amendments require an exhibit of all properties to be proposed for the rezone, a narrative explaining the reasons for the rezone request, as well as submittal information to show compliance with stormwater regulations (See Table 3).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Conditional Use Permit</b>	A conditional use permit requires a narrative explaining the project and the reason for the request of a conditional use permit along with a site plan of the project (See Table 3).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Planned Unit Development</b>	A planned unit development request requires the submittal of a narrative explaining the project and reason for the request of a planned unit development. The submittal also requires the applicant to provide requested development standards that differ from those put forth in the OCCGF, a site plan showing the requested standards, as well as submittal information to show compliance with stormwater regulations (See Table 3).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Amended Plat, Non-Administrative</b>	Any amended plat altering six or more lots is required per State Statute to be reviewed by the governing body. This submittal requires a narrative of the project and an amended plat (See Table 2 for requirements).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

LAND USE APPLICATION SUBMITTAL  
Bay View Apartments  
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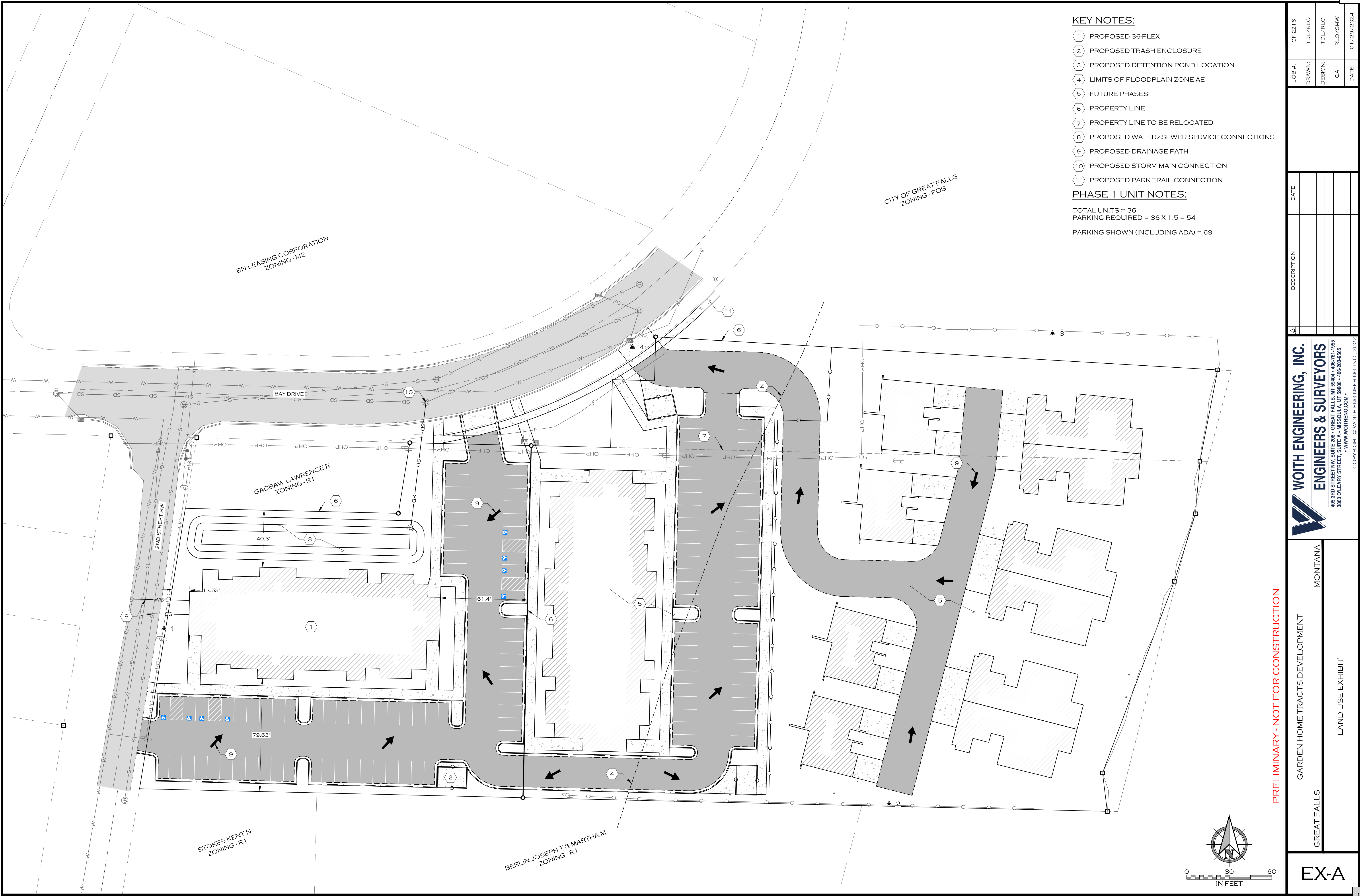


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# APPENDIX B

## Site Plan and Site Renderings



















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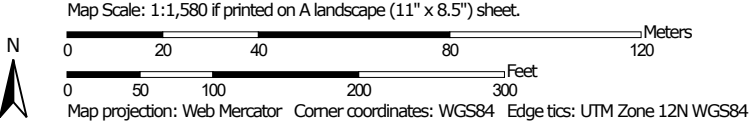


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# APPENDIX C


## Preliminary Geotechnical Report

Soil Map—Cascade County Area, Montana




## MAP LEGEND

### Area of Interest (AOI)

 Area of Interest (AOI)

### Soils

 Soil Map Unit Polygons

 Soil Map Unit Lines

 Soil Map Unit Points

### Special Point Features



Blowout



Borrow Pit



Clay Spot



Closed Depression



Gravel Pit



Gravelly Spot



Landfill



Lava Flow



Marsh or swamp



Mine or Quarry



Miscellaneous Water



Perennial Water



Rock Outcrop



Saline Spot



Sandy Spot



Severely Eroded Spot



Sinkhole



Slide or Slip



Sodic Spot



Spoil Area



Stony Spot



Very Stony Spot



Wet Spot



Other



Special Line Features

### Water Features



Streams and Canals

### Transportation



Rails



Interstate Highways



US Routes



Major Roads



Local Roads

### Background



Aerial Photography

## MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:24,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service

Web Soil Survey URL:

Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Cascade County Area, Montana

Survey Area Data: Version 18, Aug 26, 2022

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Jul 6, 2021—Sep 30, 2021

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

## Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
96	Havre loam	10.2	89.7%
237	Water	1.2	10.3%
<b>Totals for Area of Interest</b>		<b>11.4</b>	<b>100.0%</b>

## Cascade County Area, Montana

### 96—Havre loam

#### Map Unit Setting

*National map unit symbol:* cgvs

*Elevation:* 2,800 to 3,700 feet

*Mean annual precipitation:* 11 to 19 inches

*Mean annual air temperature:* 37 to 45 degrees F

*Frost-free period:* 105 to 135 days

*Farmland classification:* Prime farmland if irrigated

#### Map Unit Composition

*Havre and similar soils:* 90 percent

*Minor components:* 10 percent

*Estimates are based on observations, descriptions, and transects of the mapunit.*

#### Description of Havre

##### Setting

*Landform:* Flood plains

*Down-slope shape:* Linear

*Across-slope shape:* Linear

##### Typical profile

*A - 0 to 8 inches:* loam

*C - 8 to 60 inches:* stratified fine sandy loam to clay loam

##### Properties and qualities

*Slope:* 0 to 2 percent

*Depth to restrictive feature:* More than 80 inches

*Drainage class:* Well drained

*Capacity of the most limiting layer to transmit water*

*(Ksat):* Moderately high to high (0.57 to 1.98 in/hr)

*Depth to water table:* More than 80 inches

*Frequency of flooding:* NoneRare

*Frequency of ponding:* None

*Calcium carbonate, maximum content:* 5 percent

*Maximum salinity:* Nonsaline to very slightly saline (0.0 to 3.0 mmhos/cm)

*Available water supply, 0 to 60 inches:* High (about 9.7 inches)

##### Interpretive groups

*Land capability classification (irrigated):* 2e

*Land capability classification (nonirrigated):* 3e

*Hydrologic Soil Group:* B

*Ecological site:* R046XP801MT - Bottomland Group,

R052XN161MT - Silty (Si) 10-14" p.z.

*Hydric soil rating:* No

**Minor Components****Korent***Percent of map unit:* 4 percent*Landform:* Flood plains*Down-slope shape:* Linear*Across-slope shape:* Linear*Ecological site:* R052XN161MT - Silty (Si) 10-14" p.z.*Hydric soil rating:* No**Ryell***Percent of map unit:* 3 percent*Landform:* Flood plains*Down-slope shape:* Linear*Across-slope shape:* Linear*Ecological site:* R052XN161MT - Silty (Si) 10-14" p.z.*Hydric soil rating:* No**Rivra***Percent of map unit:* 3 percent*Landform:* Flood plains*Down-slope shape:* Linear*Across-slope shape:* Linear*Ecological site:* R046XC507MT - Shallow to Gravel (SwGr) RRU  
46-C 13-19 PZ*Hydric soil rating:* No**Data Source Information**

Soil Survey Area: Cascade County Area, Montana

Survey Area Data: Version 18, Aug 26, 2022

LAND USE APPLICATION SUBMITTAL  
Bay View Apartments  
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# APPENDIX D

## **COS for Boundary Line Relocation**

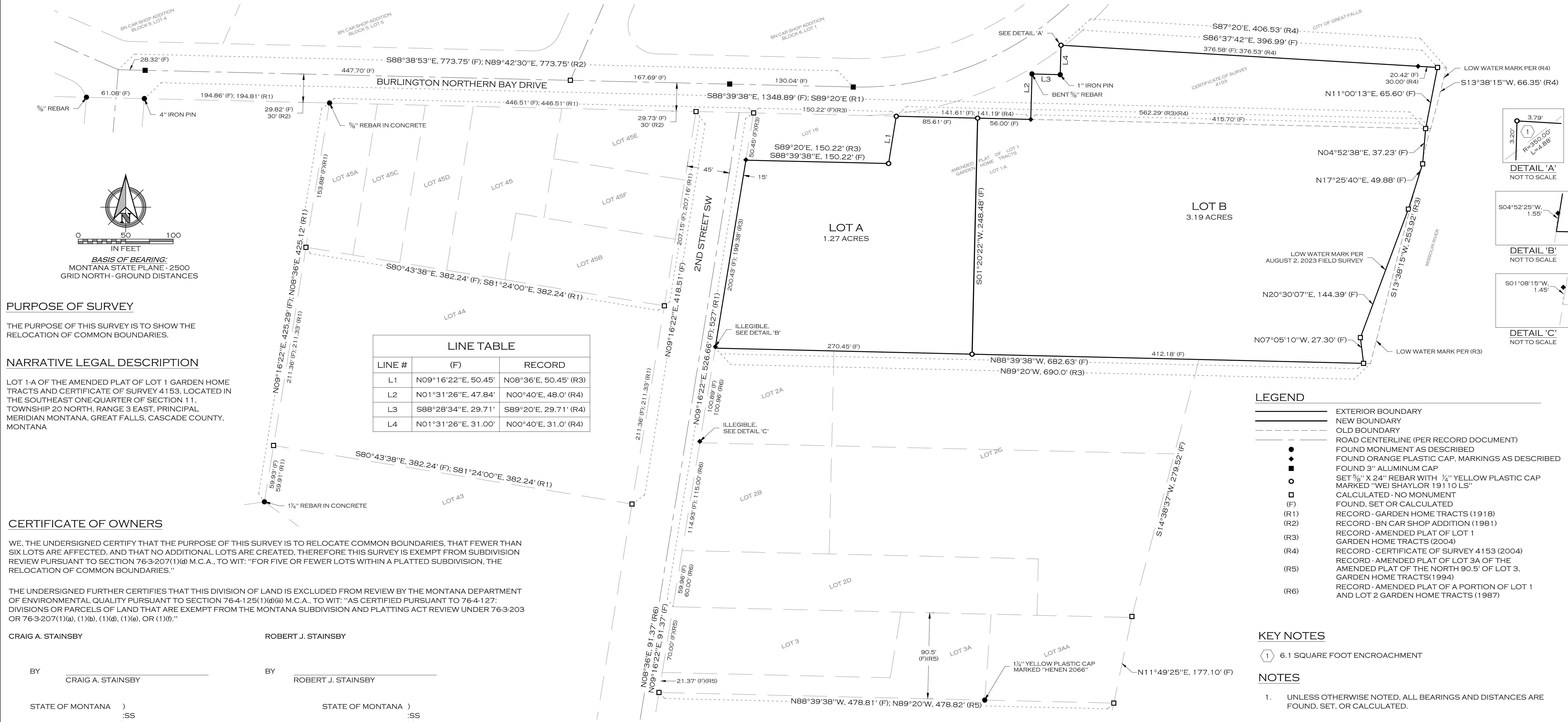


# CERTIFICATE OF SURVEY

LOCATED IN THE SOUTHEAST ONE-QUARTER OF SECTION 11, TOWNSHIP 20 NORTH, RANGE 3 EAST, P.M.M., CASCADE COUNTY, MONTANA

OWNER(S) OF RECORD  
CRAIG A. STAINSBY &  
ROBERT J. STAINSBY

SURVEY COMMISSIONED BY  
CRAIG A. STAINSBY &  
ROBERT J. STAINSBY



## PURPOSE OF SURVEY

THE PURPOSE OF THIS SURVEY IS TO SHOW THE RELOCATION OF COMMON BOUNDARIES.

## NARRATIVE LEGAL DESCRIPTION

LOT 1-A OF THE AMENDED PLAT OF LOT 1 GARDEN HOME TRACTS AND CERTIFICATE OF SURVEY 4153, LOCATED IN THE SOUTHEAST ONE-QUARTER OF SECTION 11, TOWNSHIP 20 NORTH, RANGE 3 EAST, PRINCIPAL MERIDIAN MONTANA, GREAT FALLS, CASCADE COUNTY, MONTANA

## CERTIFICATE OF OWNERS

WE, THE UNDERSIGNED CERTIFY THAT THE PURPOSE OF THIS SURVEY IS TO RELOCATE COMMON BOUNDARIES, THAT FEWER THAN SIX LOTS ARE AFFECTED, AND THAT NO ADDITIONAL LOTS ARE CREATED, THEREFORE THIS SURVEY IS EXEMPT FROM SUBDIVISION REVIEW PURSUANT TO SECTION 76-3-207(1)(d) M.C.A., TO WIT: "FOR FIVE OR FEWER LOTS WITHIN A PLATTED SUBDIVISION, THE RELOCATION OF COMMON BOUNDARIES."

THE UNDERSIGNED FURTHER CERTIFIES THAT THIS DIVISION OF LAND IS EXCLUDED FROM REVIEW BY THE MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY PURSUANT TO SECTION 76-4-125(1)(d)(iii) M.C.A., TO WIT: "AS CERTIFIED PURSUANT TO 76-4-127: DIVISIONS OR PARCELS OF LAND THAT ARE EXEMPT FROM THE MONTANA SUBDIVISION AND PLATTING ACT REVIEW UNDER 76-3-203 OR 76-3-207(1)(a), (1)(b), (1)(d), (1)(e), OR (1)(f)."

CRAIG A. STAINSBY

ROBERT J. STAINSBY

BY CRAIG A. STAINSBY

BY ROBERT J. STAINSBY

STATE OF MONTANA )  
:SS  
COUNTY OF CASCADE )

STATE OF MONTANA )  
:SS  
COUNTY OF CASCADE )

THIS INSTRUMENT WAS ACKNOWLEDGED  
BEFORE ME ON  
BY CRAIG A. STAINSBY.

THIS INSTRUMENT WAS ACKNOWLEDGED  
BEFORE ME ON  
BY ROBERT J. STAINSBY.

NOTARY PUBLIC, STATE OF MONTANA

NOTARY PUBLIC, STATE OF MONTANA

## CERTIFICATE OF SURVEYOR

I, MICHAEL SHAYLOR, PROFESSIONAL LAND SURVEYOR, MONTANA REG. NO. 19110 LS, DO HEREBY CERTIFY THOSE ITEMS SHOWN ON THIS CERTIFICATE OF SURVEY PERTAINING TO THE PRACTICE OF LAND SURVEYING AS DEFINED IN TITLE 37, CHAPTER 67, MONTANA CODE ANNOTATED, REPRESENT A SURVEY MADE UNDER MY DIRECT SUPERVISION, AND FURTHER CERTIFY THIS SURVEY WAS COMPLETED ON THE DATE SHOWN HEREON IN ACCORDANCE WITH THE PROVISIONS OF TITLE 76, CHAPTER 3, MONTANA CODE ANNOTATED.

MICHAEL D. SHAYLOR, PLS  
MONTANA REGISTRATION NO. 19110LS

DATE

## CERTIFICATE OF COUNTY TREASURER

I, DIANE HEIKKILA, COUNTY TREASURER OF CASCADE COUNTY, MONTANA, DO HEREBY CERTIFY PURSUANT TO 76-3-207(3), M.C.A. THAT ALL REAL PROPERTY TAXES ASSESSED AND LEVIED ON THE LAND DESCRIBED HEREIN HAVE BEEN PAID.

BY DIANE HEIKKILA, TREASURER DATE \_\_\_\_\_  
CASCADE COUNTY

## CERTIFICATE OF PUBLIC WORKS DIRECTOR

I, \_\_\_\_\_, PUBLIC WORKS DIRECTOR FOR THE CITY OF GREAT FALLS, MONTANA, DO HEREBY CERTIFY THAT I HAVE EXAMINED THE ACCOMPANYING CERTIFICATE OF SURVEY AND THE SURVEY THAT IT REPRESENTS, AND I FIND THE SAME CONFORMS TO THE REGULATIONS GOVERNING THE PLATTING OF LANDS AND TO PRESENTLY PLATTED ADJACENT LAND, AS NEAR AS CIRCUMSTANCES WILL PERMIT AND I DO HEREBY APPROVE THE SAME.

BY PUBLIC WORKS DIRECTOR DATE \_\_\_\_\_  
CITY OF GREAT FALLS, MONTANA

## CERTIFICATE OF CITY COMMISSION

I, GREGORY T. DOYON, CITY MANAGER OF THE CITY OF GREAT FALLS, CASCADE COUNTY, MONTANA, DO HEREBY CERTIFY THAT THIS CERTIFICATE OF SURVEY FOR LOT 1-A OF THE AMENDED PLAT OF LOT 1 GARDEN HOME TRACTS AND CERTIFICATE OF SURVEY 4153 WAS DULY EXAMINED AND APPROVED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS AT ITS REGULAR MEETING HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 2023.

BY GREGORY T. DOYON, CITY MANAGER DATE \_\_\_\_\_  
CITY OF GREAT FALLS, MONTANA

## CERTIFICATE OF GREAT FALLS PLANNING BOARD

WE, THE UNDERSIGNED, \_\_\_\_\_, PRESIDENT OF THE SAID GREAT FALLS PLANNING BOARD, GREAT FALLS, CASCADE COUNTY, MONTANA, AND \_\_\_\_\_, SECRETARY OF SAID GREAT FALLS PLANNING BOARD, DO HEREBY CERTIFY THAT THE ACCOMPANYING CERTIFICATE OF SURVEY FOR LOT 1-A OF THE AMENDED PLAT OF LOT 1 GARDEN HOME TRACTS AND CERTIFICATE OF SURVEY 4153, CITY OF GREAT FALLS, CASCADE COUNTY, MONTANA, HAS BEEN SUBMITTED TO THE SAID GREAT FALLS PLANNING BOARD FOR EXAMINATION BY THEM AND WAS FOUND BY THEM TO CONFORM TO LAW AND WAS APPROVED AT A MEETING HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023.

BY DAVE BERTELSEN DATE \_\_\_\_\_  
CHAIR, GREAT FALLS PLANNING BOARD

BY SECRETARY, GREAT FALLS PLANNING BOARD DATE \_\_\_\_\_

LAND USE APPLICATION SUBMITTAL  
Bay View Apartments  
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# APPENDIX E

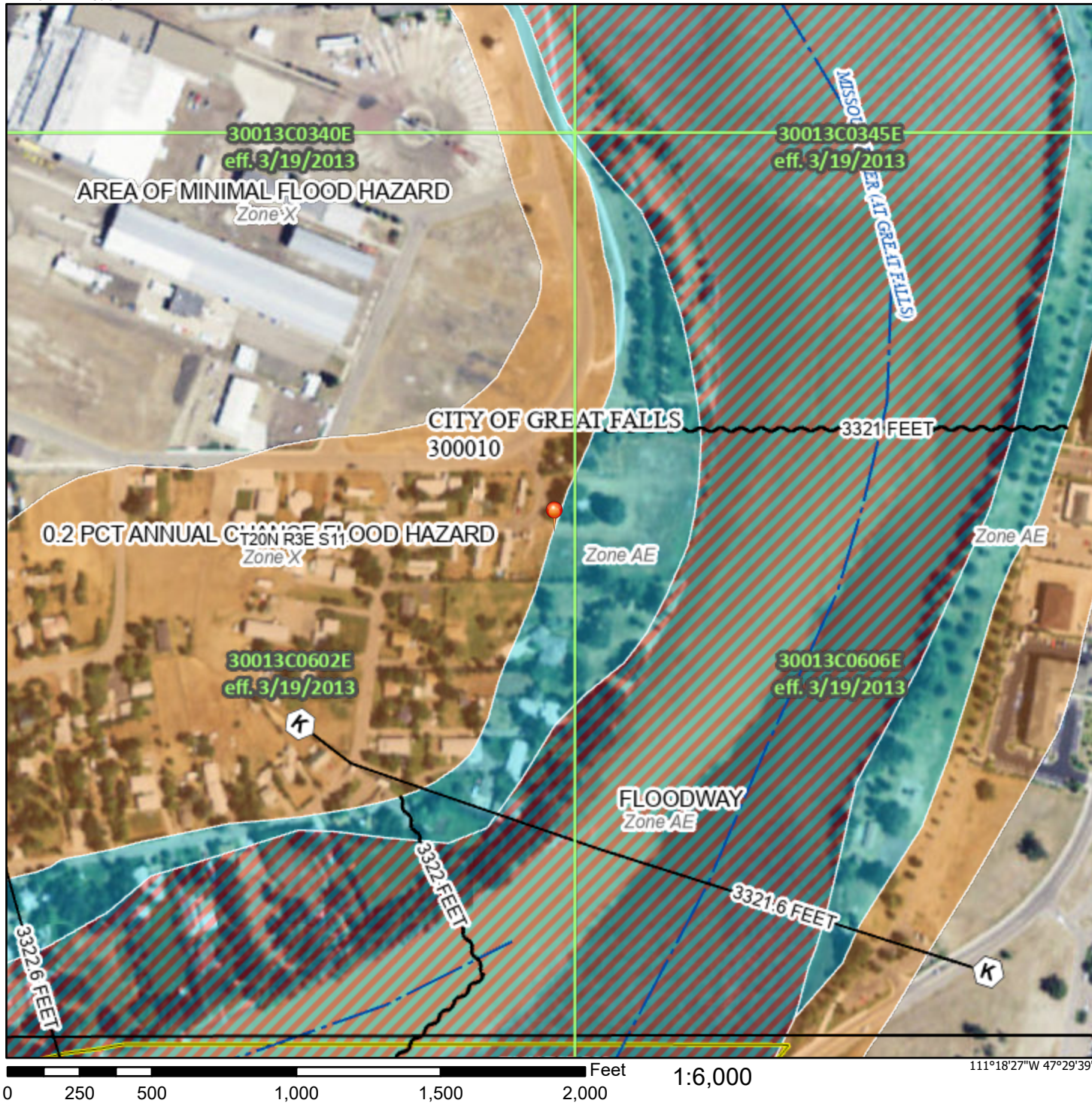
## FEMA Firmette Map



# National Flood Hazard Layer FIRMette



111°19'4"W 47°30'3"N



## Legend

Agenda #20.

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS		Without Base Flood Elevation (BFE) Zone A, V, A99
		With BFE or Depth Zone AE, AO, AH, VE, AR
		Regulatory Floodway
OTHER AREAS OF FLOOD HAZARD		0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
		Future Conditions 1% Annual Chance Flood Hazard Zone X
		Area with Reduced Flood Risk due to Levee. See Notes. Zone X
		Area with Flood Risk due to Levee Zone D
OTHER AREAS		NO SCREEN Area of Minimal Flood Hazard Zone X
		Effective LOMRs
GENERAL STRUCTURES		Area of Undetermined Flood Hazard Zone D
		Channel, Culvert, or Storm Sewer
		Levee, Dike, or Floodwall
OTHER FEATURES		20.2 Cross Sections with 1% Annual Chance Water Surface Elevation
		17.5 Cross Sections with 1% Annual Chance Water Surface Elevation
		Coastal Transect
		Base Flood Elevation Line (BFE)
		Limit of Study
MAP PANELS		Digital Data Available
		No Digital Data Available
		Unmapped

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 6/7/2023 at 4:45 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community id, FIRM panel number, and FIRM effective date. Map is unmapped and unmodernized areas cannot be used for regulatory purposes.

210

LAND USE APPLICATION SUBMITTAL  
Bay View Apartments  
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# APPENDIX F

## Development Agreement Additions



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FEBRUARY 1, 2024

**Lonnie Hill**

City of Great Falls Planning and Community Development  
2 Park Drive South, Suite 112  
Great Falls, MT 59401

RE: Bay View Apartments – Development Agreement Additions

Dear Lonnie,

This narrative is used to better describe the additions the development team is willing to include in the development agreement for the proposed rezone on the 4.46-acre Lot 1A and 1B as discussed with the City of Great Falls Planning and Community Development team. These additions will limit the use and design of the proposed development to ensure an integral connection to the surrounding neighborhood.

**1. Land Use Restrictions**

In order to restrict the allowable uses that could occur on this lot, the development team would like to remove the following uses from the standard Mixed Use Transitional (M-2) zoning. These uses will not be considered for development:

- a. Off-site Liquor Sales
- b. Vehicle Services
- c. Warehouse
- d. Animal Shelter
- e. Educational Facility (K-12)
- f. Educational Facility (Higher Education)
- g. Instructional Facility
- h. Telecommunication Facility (Concealed, Unconcealed Co-located Facilities)
- i. Bus Transit Terminal
- j. Heli-pad
- k. Parking Lot (Principal Use)
- l. Parking Structure
- m. Railroad Yard
- n. Taxi Cab Dispatch Terminal
- o. Contractor Yard (Type I, Type II)





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FEBRUARY 1, 2024

## **2. Fencing and Screening**

Around the perimeter of the proposed apartment project the development team will install a mixture of fencing and landscaping to increase the buffer to the nearby residential neighborhood. Fencing is to be a standard solid 6 foot high construction type.

## **3. Off-site Trail Connection**

A sidewalk/trail will be extended from the entrance of the development to the current walking path located at Garden Home Park. Further coordination will occur on precise location and connection details.

## **4. Access Through Parkland**

On the northern portion of the Lot A and B there is a small strip of land owned by the City of Great Falls. This land is encumbered by the current subject parcel and has no continuation with the neighboring park land. In discussions with the City of Great Falls, an agreement will be established to allow access from Bay Drive to the proposed development. Details of said agreement are yet to be established. Maintenance of said strip of land will be the sole responsibility of the developer.

## **5. Off-site Storm Arrangement**

At this time, the development team is looking into options of using and improving the stormwater pond that currently resides at Garden Home Park. The pond would be expanded to include the capacity from the proposed development as well as be improved to current Montana Department of Environmental Quality Standards and meet any concerns from the City of Great Falls Public Works Department.

## **6. Setback Increases**

The current M-2 zoning setback requirements are outlined below. In order to create a larger buffer from the neighboring properties the development team proposes the following increases to the setback requirements.

- a. Current M-2 Zoning
  - i. Front Yard = 0 feet
  - ii. Rear Yard = 10 feet
  - iii. Side Yard = 5 feet (adjacent to residential)



FEBRUARY 1, 2024

- b. Proposed Project
  - i. Front Yard = 5 feet
  - ii. Rear Yard = 30 feet
  - iii. Side Yard = 10 feet

## 7. Unit Density

Under the M-2 zoning requirements, the 4.46-acre Lot 1A and Lot 1B would be allowed 500 square feet per dwelling unit, allowing up to 388 total units.

$$4.46 \text{ acres} \times 43,560 \text{ sqft/acre} = 194,228 \text{ sqft} \div 500 \text{ sqft/unit} = 388 \text{ units}$$

The following breakdown shows that the development team would reduce the overall unit density to 2,111 square feet per dwelling unit, allowing only a maximum of 92 total units.

$$4.46 \text{ acres} \times 43,560 \text{ sqft/acre} = 194,228 \text{ sqft} \div 2,111 \text{ sqft/unit} = 92 \text{ units}$$

These restrictions will be added to the development agreement to further limit the lot use and design standards to ensure that the proposed and future development are an integral part of the surrounding neighborhood and landscape.

Sincerely,

**Woith Engineering, Inc.**

Spencer Woith  
President



## ATTACHMENT J

Return to:  
City of Great Falls  
PO Box 5021  
Great Falls, MT 59403

## VOLUNTARY DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (“Agreement”) is executed this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by and between Craig Stainsby whose address is 715 4<sup>th</sup> Avenue North, Great Falls, MT 59401 (“Developer”), and the City of Great Falls, a municipal corporation, organized and existing under and by virtue of the laws of the State of Montana, having an address of PO Box 5021, Great Falls, MT 59403 (“City”).

### RECITALS

**WHEREAS**, Developer is the owner of certain real property located in Great Falls, Montana as legally described on Exhibit A (the “Subject Property”); and,

**WHEREAS**, Developer has applied to rezone the Subject Property to Mixed-use Transitional (M-2), a zoning district defined in Title 17 of the Official Code of the City of Great Falls; and,

**WHEREAS**, the Developer has prepared a Master Site Development Plan (the “Master Plan”) for the Subject Property attached hereto as Exhibit B, and the Master Plan is a conceptual diagram showing the general location of existing and proposed buildings, parking areas, sidewalks and trails, open space, and various amenities, all of which are subject to zoning regulations, building codes and related City regulations; and,

**WHEREAS**, the Master Plan limits the overall density of the development to less than allowed by the M-2 Mixed-use Transitional zoning district and contains such other items which, while not required by zoning regulations, are items which Developer voluntarily incorporated into the Master Plan; and,

**WHEREAS**, the Developer voluntarily desires to enter into this Agreement as a demonstration that the development will occur in accordance with the Master Plan and its terms; and,

**WHEREAS**, to accommodate the Applicant’s desire to memorialize the language here within, the City is included as a signatory to this agreement.

## ATTACHMENT J

**AGREEMENT**

**NOW, THEREFORE**, in consideration of the foregoing recitals, which are material elements of this agreement, along with the covenants and promises contained herein which the parties agree constitute sufficient consideration for the Agreement, the Developer and the City agree as follows:

- 1. Development of the Project to be in Substantial Compliance with the Master Plan.** The development shall occur on the Subject Property in substantial compliance with the Master Plan and subject to compliance with all applicable zoning regulations, building codes, and other applicable City regulations and ordinances. “Substantial compliance” shall mean carrying out the project generally in the form shown in the Master Plan but shall not preclude minor adjustments to the location of buildings, parking areas, trails, and amenities as may be reasonably necessary to carry out the project and/or meet City requirements.
- 2. Additional Limitations and Obligations.** The Developer proposes and agrees that the following additional limitations and obligations shall apply to any development on the Subject Property:
  - a. No more than 92 dwelling units on the Subject Property. A dwelling unit is defined for these purposes as a living unit capable of being rented or sold as a separate unit, and which may colloquially be described as a studio, one-bedroom, two-bedroom, etc., apartment or unit.
  - b. Building setbacks for principal and accessory buildings shall be more restrictive than required in Title 17, Chapter 20 of the Official Code of the City of Great Falls for the M-2 Mixed-use Transitional zoning district. Said setbacks shall be a minimum of 5 feet for the front yard, 10 feet for the side yards, and 30 feet for the rear yard.
  - c. Eliminate a portion of the land uses permitted under the M-2 Mixed-use Transitional zoning district contained in Title 17, Chapter 20 of the Official Code of the City of Great Falls. The following land uses that would otherwise be allowed under the M-2 zoning district shall be prohibited on the Subject Property:
    - Emergency Shelter
    - Family Day Care Home
    - Group Day Care Home
    - Off-site Liquor Sales
    - Funeral Home
    - Vehicle Services
    - Park
    - Recreational Trail
    - Animal Shelter
    - Community Center

## ATTACHMENT J

- Community Garden
  - Public Safety Facility
  - Worship Facility
  - Health Care Clinic
  - Health Care Sales and Services
  - Commercial Education Facility
  - Educational Facility (K-12)
  - Educational Facility (Higher Education)
  - Instructional Facility
  - Telecommunication Facility (Concealed, Unconcealed Co-located Facilities)
  - Utility Installation
  - Bus Transit Terminal
  - Heli-pad
  - Parking Lot (Principal Use)
  - Parking Structure
  - Taxi Cab Dispatch Terminal
  - Contractor Yard (Type I, Type II)
  - Light Manufacturing and Assembly
  - ATM, exterior
  - Wind-Powered Electricity Systems
  - Itinerant Outdoor Sales
  - Sidewalk Café
  - Sidewalk Food Vendor
- d. At a minimum, the Developer agrees to provide the following amenities/additions on and adjoining the Subject Property when the Subject Property is developed and which the Developer has proposed as part of the Developer's plans for full buildout:
- i) A mixture of fencing and landscaping along the Subject Property lines abutting existing residential properties. Fencing is to be a standard solid 6-foot high construction type; and,
  - ii) A sidewalk/trail connection from the proposed development to the existing shared-use path located at Garden Home Park, upon mutual agreement with the City.
- 3. Effect on Zoning and other Regulations.** Excepting modifications to the M-2 zoning district standards and permitted uses as provided herein, nothing in this Agreement is intended to override, replace, or supplant applicable local, state, or federal laws or regulations. Developers shall comply with all applicable zoning regulations, subdivision regulations, construction standards and specifications, and state and local laws that govern the development of the Subject Property.
- 4. Effective Date.** This Agreement will be in force and effect on the date hereinabove shown.
- 5. Amendment.** No part of this Agreement may be amended or deleted without prior written consent of the Great Falls City Commission and Developer or their successors and assigns.

## ATTACHMENT J

6. **Enforcement.** Either party may enforce this Agreement by any means permitted by law. In the event a suit is brought for the enforcement of this Agreement or as a result of an alleged default, each party shall bear their own attorney fees and costs. Nothing herein shall be construed as obligating the Developer to construct the project; rather, the purpose of this Agreement is to set out various requirements and limitations upon the development of the Subject Property if and when any development occurs.
7. **Governing Law.** The law governing the interpretation or enforcement of the terms and conditions of the Agreement shall be the laws of the State of Montana.
8. **Severability.** If a part of this Agreement is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this Agreement is invalid in one or more of its applications, it remains in effect in all valid applications that are severable from the invalid applications.
9. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement and supersedes all prior agreements and understandings, both oral and written, between the Parties with respect to the subject matter of this Agreement.
10. **Drafting of Agreement.** Both Parties have participated in drafting this Agreement and have been represented by their own counsel.
11. **Counterparts.** This Agreement may be executed and delivered in counterparts, each of which shall be deemed to be a duplicate original hereof, but all of which shall constitute one and the same document. Signatures transmitted electronically shall be treated and accepted as original signatures. The parties agree to communicate regarding this Agreement electronically as allowed by the Montana Uniform Electronic Transactions Act, Mont. Code Ann. § 30-18-101, et seq. After this Agreement is executed, any written document made under this Agreement may be created in original or an electronic record; any signature may be in original or by electronic signature.
12. **Binding Effect.** The benefits and burdens of this Agreement touch and concern the use and enjoyment of the Subject Property. The obligations and benefits stated herein shall bind and inure to the benefit of all successors and assigns to any portion of the Subject Property and shall run with the land.
13. **Indemnification.** To the fullest extent permitted by law, Developer shall indemnify and save harmless City, its officers, managers, agents and employees, against and from any and all actions, lawsuits, claims, demands, damages, judgments, losses, fines, penalties, fees and expenses or liability of any character whatsoever, brought or asserted for injuries to or death of any person or persons, damages to the property, or violation of any federal, state or local statute, rule, regulation or ordinance (including, but not limited to, environmental, safety or health statute, rule regulation or ordinance) arising out of, resulting from, or occurring in connection with the Developer's exercise of the provisions contained herein, except for any actions, lawsuits, claims, demands, damages, judgments, losses, fines, penalties, fees and

## ATTACHMENT J

expenses or liability of any character whatsoever, attributable in whole or in part to the City's own conduct.

**14. Agreement Contingent Upon Zoning Action by City Commission.** The Parties to this Agreement acknowledge that this Agreement is being entered into in conjunction with a request by the Developer to the Great Falls City Commission for a rezoning of the Subject Property to an M-2 zoning district. This Agreement is expressly contingent upon the City Commission approving the requested rezoning request made by Developer. In the event the City Commission does not approve the rezoning request, the Agreement shall be null and void and have no further effect.

**IN WITNESS WHEREOF**, the Parties have hereunto set their hands and seals on the day and year in this certificate written below.

~ Signatures on Next Page ~

ATTACHMENT J

CRAIG STAINSBY:

\_\_\_\_\_  
By: Craig Stainsby

STATE OF MONTANA )  
County of \_\_\_\_\_ : ss.  
City of Great Falls )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public in and for the State of Montana, personally appeared **Craig Stainsby**, known to me to be the person whose name are subscribed to the within instrument and acknowledged to me that he/she/they executed the same.

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

(NOTARIAL SEAL)

\_\_\_\_\_  
Notary Public for the State of Montana  
Printed Name: \_\_\_\_\_  
Residing at \_\_\_\_\_, Montana  
My Commission Expires: \_\_\_\_\_

CITY OF GREAT FALLS:

APPROVED:

\_\_\_\_\_  
By: Gregory T. Doyon, City Manager      Date

ATTEST:

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

Approved as to form:

\_\_\_\_\_  
David Dennis, City Attorney      Date

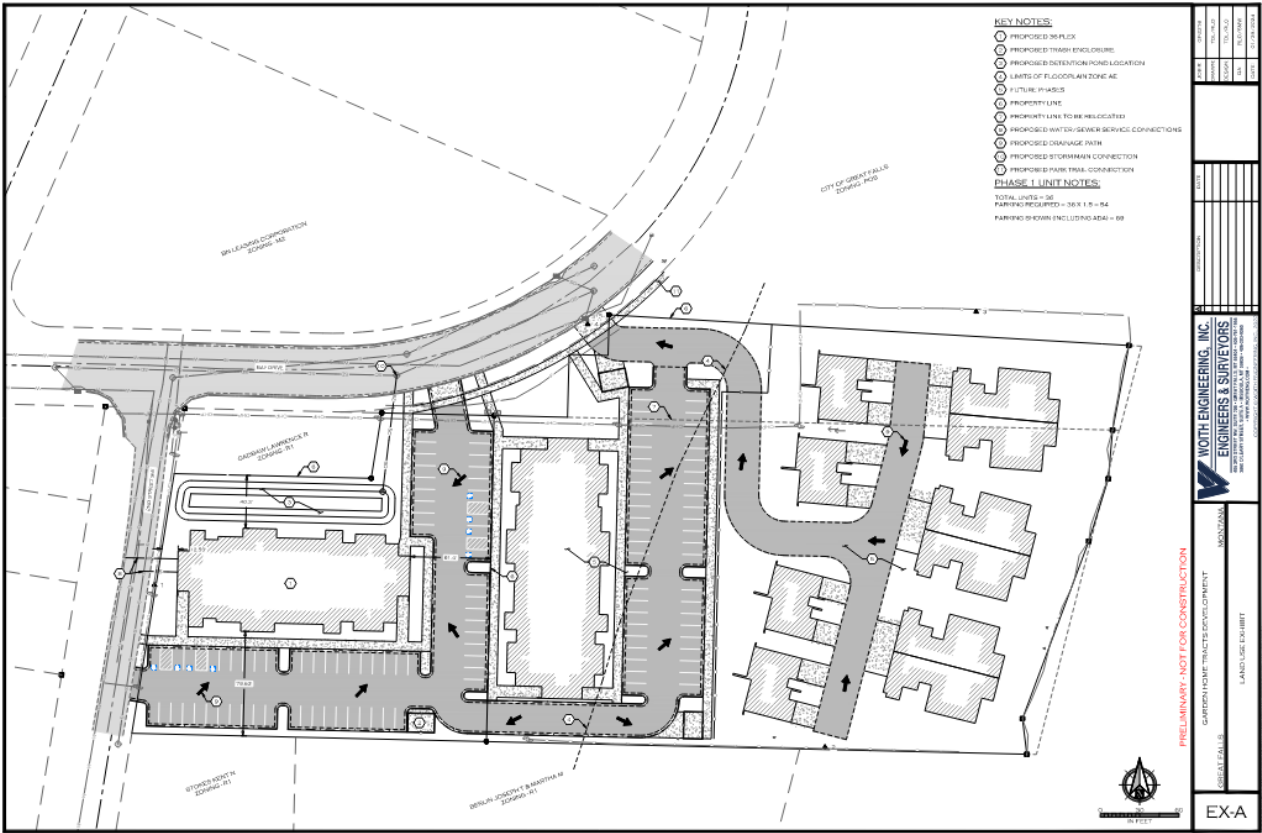
## EXHIBIT A

### Draft of Certificate of Survey

[illegible]



EXHIBIT B  
Master Site Development Plan



10<sup>th</sup> Ave SW has gone from a quiet residential street to a street that is hard to live on as we are now part of the River's Edge Trail and a bike route. There is a sign that says 'share the road!' We now share the road with bikes, electric bikes (that don't require license plates and are going way too fast) families frequently with toddlers on bicycles, strollers and dogs. Some dogs on leashes and some are not. Some dogs urinate and defecate in our yards. We have runners, high school cross country runners as it is the River's Edge trail and they are more often than not wearing dark colored clothing. They are hard to see amongst our tree lined street. There is a very sharp corner that is already hard to navigate around. We have no sidewalks, chipped edges of asphalt. This street, if this plan is implemented, will now become the main thoroughfare to 10<sup>th</sup> Ave South. There is no stop light to get onto 6<sup>th</sup> St SW which is already an issue that will need to be addressed. Changing our RI status to an M2? This section of the River's Edge Trail will now become more dangerous than ever. We suggested to move the River's Edge Trail north two blocks to a wider street to no avail. We were told there were too many railroad tracks. The railroad crossing by the round house can be blocked for 1/2 hour plus at times which means traffic has to turn around and find an alternate route. To afford these apartments two plus families will probably share. Now we are talking double to triple



the amount of cars to park and double to triple the amount of traffic. There is a park located close to this property which has no off street parking. Parking is on the street or on the railroad's property. What will be happening to the banks of the Missouri River with this many people living on the water's edge? This plan simply should not come to fruition. This zone change should not happen as we don't know what other plans they may want to implement.

Jane Brinkman, 310 10th Ave SW

**Kayla Kryzsko**

---

**From:** Jamie Nygard  
**Sent:** Tuesday, December 5, 2023 6:52 AM  
**To:** Thomas Micuda; Brock Cherry; Lonnie Hill; Sara Doermann; Kayla Kryzsko  
**Subject:** FW: Bayview Apartments

FYI.

**From:** Jane Brinkman <gijane107@gmail.com>  
**Sent:** Tuesday, December 5, 2023 6:50 AM  
**To:** Jamie Nygard <jnygard@greatfallsmt.net>  
**Subject:** Bayview Apartments

10th Ave SW simply does not have the infrastructure to support this project. Changing the zoning to a M2 will now give them the ability to construct something else if this project falls through. If this is to remain part of the River's Edge Trail and a bike path then there is absolutely no more room for additional traffic. Property owners have the additional responsibility of eradicating other peoples' trash. This project does not make sense and needs to be stopped.



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**Kayla Kryzsko**

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**From:** Jamie Nygard  
**Sent:** Friday, December 8, 2023 8:45 AM  
**To:** Brock Cherry; Thomas Micuda; Lonnie Hill; Sara Doermann; Kayla Kryzsko  
**Subject:** Fw: Bayview Apartments rezoning

FYI.

---

**From:** Jane Brinkman <gijane107@gmail.com>  
**Sent:** Friday, December 8, 2023 5:50:36 AM  
**To:** Jamie Nygard  
**Subject:** Bayview Apartments rezoning

I am asking for a continuation for this project, please. After reviewing the paperwork received after the neighborhood council meeting, this project needs to be put on hold. The studies from 2013 are not sufficient information. There are no rentals in town with just two people living in them. Property owners along 10th Ave SW have numerous issues with trash, sharing the road, no sidewalks, broken asphalt, graveled edges, and speeding just to name a few concerns. People do not ride bikes more than they drive cars. 10th Ave SW cannot support this kind of increased traffic. If this is to remain part of The River's Edge Trail and a bike route then this project needs to be stopped before someone gets hurt. Keep it an R1 for everyones' safety. Thank you

## Lonnie Hill

---

**From:** Jamie Nygard  
**Sent:** Thursday, February 8, 2024 8:10 AM  
**To:** Lonnie Hill  
**Subject:** FW: Bayview Apartments.. zone change 805 2nd St SW

Hi Lonnie,  
 Here is another one to add if we can.  
 Thank you,



**Jamie Nygard, CPT**  
**Senior Administrative Assistant**  
*Planning & Community Development Department*  
*Permit Division, City of Great Falls*  
**T 406-455-8438**  
**E [jnygard@greatfallsmt.net](mailto:jnygard@greatfallsmt.net)**

**From:** Jane Brinkman <[gijane107@gmail.com](mailto:gijane107@gmail.com)>  
**Sent:** Thursday, February 8, 2024 8:09 AM  
**To:** Jamie Nygard <[jnygard@greatfallsmt.net](mailto:jnygard@greatfallsmt.net)>  
**Subject:** Bayview Apartments.. zone change 805 2nd St SW

I am reiterating, once again, please do not allow this zone change! 10th Ave SW simply cannot handle this increased traffic. We have one street between our Avenue and 9th Ave SW on our whole Avenue all the way out to 6th St SW and we have a river on the south side. We have no alleys between the north side of our Avenue and 9th Avenue SW. There was a meeting a few weeks ago that talked about the Baatz Block Apartments, the Elmore Roberts Apartments and the Ulmer Square Apartments in the works. Also, the Malmstrom Project will be having empty buildings in a few years. Another major concern is what other idea that they may come up with and try to incorporate in our residential neighborhood if this zone change is approved? Our Avenue has way too many safety issues and no infrastructure support. Please do not support this zone change.



Virus-free. [www.avast.com](http://www.avast.com)

## Kayla Kryzsko

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**From:** Jamie Nygard  
**Sent:** Tuesday, December 5, 2023 6:13 AM  
**To:** Thomas Micuda; Brock Cherry; Lonnie Hill; Kayla Kryzsko; Sara Doermann  
**Subject:** FW: Zoning revising for 805 2nd st sw

FYI

-----Original Message-----

**From:** Kirby Berlin <kirbyberlin@yahoo.com>  
**Sent:** Monday, December 4, 2023 6:24 PM  
**To:** Jamie Nygard <jnygard@greatfallsmt.net>  
**Subject:** Zoning revising for 805 2nd st sw

I am the property owner of 825 2nd st sw near the subject property requesting rezoning.

I am 100% against this rezoning request.

As a former apartment building owner, I am fully aware of all of the negative issues which come with an apartment building in an established community.

Increased traffic, increased crime, increased neighborhood complaints, decrease in neighboring property values, (would you want to own property or live next to an apartment building)?

Again, I can not think of one positive of rezoning a property to high density in a established neighborhood.

I 100% oppose this rezoning as an established and long time owner of my property near the subject property.

Sincerely,  
 Kirby Berlin  
 406/217-3514

Sent from my iPhone



## Kayla Kryzsko

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**From:** Jamie Nygard  
**Sent:** Thursday, December 7, 2023 12:25 PM  
**To:** Thomas Micuda; Brock Cherry; Lonnie Hill; Sara Doermann; Kayla Kryzsko  
**Subject:** FW: 805 2nd st sw proposed zoning change

FYI.

-----Original Message-----

From: Kirby Berlin <kirbyberlin@yahoo.com>  
 Sent: Thursday, December 7, 2023 11:24 AM  
 To: Jamie Nygard <jnygard@greatfallsmt.net>  
 Subject: 805 2nd st sw proposed zoning change

Hello,  
 First and foremost, I am 100% against this proposal as there is not one benefit to this neighborhood and it's people regarding this proposal.

During the meeting at west side elementary school, we have been advised as concerned property owners and residents we must have arguments and concerns based upon facts for the commission to hear on Dec. 12 at 3 pm. In order to have the appropriate arguments and facts, We need ample time in order to both gather and prepare these. We just learned of the 78 page document which encompasses the proposal in order for this property to be rezoned. What is necessary to delay this hearing regarding this in order for us to be both properly informed and thoroughness completed?

I have placed a call into both Brock cherry and Nick hill regarding this matter and have yet to hear back.

Thank you,  
 Kirby Berlin  
 Owner  
 825 2nd st sw  
 Great falls, MT  
 406-217-3514

Sent from my iPhone

## Kayla Kryzsko

---

**From:** Jamie Nygard  
**Sent:** Thursday, December 7, 2023 2:46 PM  
**To:** Brock Cherry; Thomas Micuda; Lonnie Hill; Kayla Kryzsko; Sara Doermann  
**Subject:** Fw: 805 2nd st sw zoning

FYI

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**From:** Kirby Berlin <kirbyberlin@yahoo.com>  
**Sent:** Thursday, December 7, 2023 2:40:59 PM  
**To:** Jamie Nygard  
**Subject:** 805 2nd st sw zoning

Hello,  
 I would like to ask for a continuance regarding the proposed zoning change for 805 2nd st sw in order for a greater amount of information to be determined and studied regarding the concerns of the neighborhood.

Updated traffic and proposed traffic count rather than utilizing a model for representation from 2013 to make determination.

Crime elevation in relation to a police force which is strained already and is streamlining their law enforcement capabilities due the failed levy.

Economic impact study of the neighborhood homes and values. Depreciation of homes equals lower tax dollars to the city and threatens overall economic security for home and property owners within the neighborhood.

Deterred ambiance of entering a neighborhood by having an apartment when entering the neighborhood.

Full development disclosure and complete intentions over time on behalf of the development as m2. The proposal is way too vague and what will be the price point on the rents and if there will be any subsidized housing or section 8 initially or in the future.

The proposal is also only basing their numbers on two people per unit. Where in great falls are there only two people in a unit throughout an entire complex? Real life numbers not conservative numbers to make traffic and effects on the neighborhood to be less.

These are only a few of the concerns which need plenty of time for complete and adequate evaluation.

Thank you,  
 Kirby Berlin  
 Owner  
 825 2nd st sw  
 406-216-3514

Sent from my iPhone

## Kayla Kryzsko

---

**From:** Jamie Nygard  
**Sent:** Monday, December 11, 2023 6:28 AM  
**To:** Thomas Micuda; Brock Cherry; Lonnie Hill; Sara Doermann; Kayla Kryzsko  
**Subject:** FW: Against rezoning 805 2nd st sw  
**Attachments:** CamScanner 12-09-2023 07.02\_1.pdf

Fyi.

---

**From:** Kirby Berlin <kirbyberlin@yahoo.com>  
**Sent:** Saturday, December 9, 2023 7:09 AM  
**To:** Jamie Nygard <jnygard@greatfallsmt.net>  
**Subject:** Against rezoning 805 2nd st sw

Try this powerful scanner app  
[Sign up as a new user to get 1 GB of cloud. \(Download now\)](#)

Hello,  
 On Dec 6, 2023 at the meeting regarding the rezoning of 805 2nd sw, one of the city planners who spoke said there a waiting list for apartments and there is a shortage of four hundred available apartments.  
 As you can see from the image attached, utilizing only one source, and no other advertisements or options, on December 9, 2023 [Iapartments.com](#) had over 341 available apartments in Great Falls, Montana. These listings provided by apartments.com also have multiple apartments available for many of the listings which actually increases the overall rental availability.

Sincerely,  
 Kirby Berlin  
 Owner  
 825 2nd st sw  
 Great falls 406/217-3514

Sent from my iPhone



Great Falls, MT

Beds

Baths

Price

Home T

## Great Falls MT Apartments

341 Rentals



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minutes. [Find out how](#)



Virtual Tour

\$965 - 1,290

Studio - 2 Beds

Talus Apartment Homes

2100 26th St S, Great Falls, MT 59405

Email

## Kayla Kryzsko

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**From:** Jamie Nygard  
**Sent:** Thursday, December 14, 2023 8:23 AM  
**To:** Thomas Micuda; Lonnie Hill; Sara Doermann; Kayla Kryzsko  
**Subject:** FW: Bike route regarding against rezoning of 805 2nd st sw

FYI.

---

**From:** Kirby Berlin <kirbyberlin@yahoo.com>  
**Sent:** Thursday, December 14, 2023 8:05 AM  
**To:** Jamie Nygard <jnygard@greatfallsmt.net>; Brock Cherry <bcherry@greatfallsmt.net>; Dad's Cell Phone <whfield@yahoo.com>; steve@williamsonfence.com; Corrybrooke@gmail.com; Dave Broquist <dbro@gpdpc.com>; gijane107@gmail.com  
**Subject:** Bike route regarding against rezoning of 805 2nd st sw

Hello,

In addition to our concerns with the placement of the traffic counters on 2nd st sw and tenth Ave sw, these streets are also a designated city bike route which connects the rivers city trail together.

Is there a bicycle count being done as well? The massive numbers of bikers especially during the spring, summer and fall months who utilize this route have to be accounted for.

An increase of traffic will create serious safety concerns as many of the bikers ride side by side in groups. With limited street space and a sharp corner on 2nd st sw, this is a serious safety concern which must be evaluated.





Thank you,  
Kirby Berlin  
Owner  
825 2nd st sw



## Kayla Kryzsko

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**From:** Jamie Nygard  
**Sent:** Thursday, December 14, 2023 10:07 AM  
**To:** Thomas Micuda; Lonnie Hill; Sara Doermann; Kayla Kryzsko; Andrew Finch  
**Subject:** FW: Other concerns and protest against 805 2nd st sw rezoning

FYI.

-----Original Message-----

From: Kirby Berlin <kirbyberlin@yahoo.com>  
 Sent: Thursday, December 14, 2023 10:06 AM  
 To: Jamie Nygard <jnygard@greatfallsmtnet.net>; Brock Cherry <bcherry@greatfallsmtnet.net>; Dave Broquist <dbro@gpdpc.com>; steve@williamsonfence.com; gijane107@gmail.com; Corrybrooke@gmail.com; Dad's Cell Phone <whfield@yahoo.com>  
 Subject: Other concerns and protest against 805 2nd st sw rezoning

Hello,

One of the neighbors also mentioned the frequent use by the local schools as a running route for the cross country and track teams. As this street is a designated bike route as well a connecting street for the continuation of the rivers edge trail, this is another safety concern for the school age children and other adults who frequently use this street as part of training and recreational use.

Thank you,

Kirby Berlin

Owner

825 2nd st sw

Sent from my iPhone

**Kayla Kryzsko**

---

**From:** Jamie Nygard  
**Sent:** Friday, December 8, 2023 11:27 AM  
**To:** Brock Cherry; Thomas Micuda; Lonnie Hill; Sara Doermann; Kayla Kryzsko  
**Subject:** Fw: Re Zone 805 2nd Street South West

FYI.

---

**From:** JT Berlin <whtfield@yahoo.com>  
**Sent:** Friday, December 8, 2023 11:14:49 AM  
**To:** Jamie Nygard  
**Subject:** Re Zone 805 2nd Street South West

**Great Falls Planning Board: Re the above referenced rezoning request, I am hereby requesting a continuance of the schedule for rezoning the property located at 805 2nd Street SW. A six month continuance should be adequate.**

**We as adjacent property owners have not had an opportunity to verify nor challenge the findings of the 78 page report discovered as available at the December 6 meeting at the West Elementary School.**

**Your prompt acknowledgment is appreciated.**

**JT Berlin  
 827 2nd Street SW  
 Great Falls, Montana 59404  
 406/590-7980**

**Re: Zoning map amendment for 805 2nd St SW**

From: JT Berlin (whthfield@yahoo.com)

To: jnygard@greatfallsmnt.net

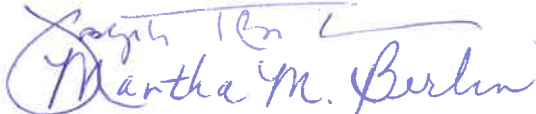
Date: Monday, December 4, 2023 at 03:42 PM MST

We live ADJACENT to the property subject to the rezoning request (827 2nd St SW) and adamantly are against the approval of the zoning change requested by Mr. Craig Stainsby and Mr. Robert Stainsby.

The proposed increase in population density for this tract will adversely affect the community in general. Vehicle traffic and it's effect on bike trail, storm water disposal, elevation of fill and consequences of drainage to adjacent property are concerns. Above all, decline in property values.

Again, we are against rezoning for a high density project.

Sincerely,  
Joseph and Martha Berlin



JT Berlin  
TMC Farms  
PO Box 2646  
Great Falls, Montana 59403  
406/590-7980

## Kayla Kryzsko

---

**From:** Jamie Nygard  
**Sent:** Friday, December 8, 2023 11:27 AM  
**To:** Thomas Micuda; Brock Cherry; Lonnie Hill; Sara Doermann; Kayla Kryzsko  
**Subject:** Fw: Rezoning of 805 2nd St. SW.

FYI.

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**From:** Neal Stokes <curlyskidman@gmail.com>  
**Sent:** Friday, December 8, 2023 11:06:57 AM  
**To:** Jamie Nygard  
**Subject:** Rezoning of 805 2nd St. SW.

Sent from. I Kent N Stokes  
 Owner of, 821 2nd St. SW., Great Falls, MT  
 Do strongly protest, the rezoning of 805 2nd St. SW., Great Falls, MT  
 Kent N Stokes  
 PO Box 47  
 Davenport Ca 95017

**I Kent N Stokes**

**Owner of, 821 2nd St.  
SW., Great Falls, MT**

**Do strongly protest, the  
rezoning of 805 2nd St.  
SW., Great Falls, MT**

**Kent N Stones**

**PO Box 47**

**Davenport Ca**

**95017**

**Kayla Kryzsko**

**From:** Jamie Nygard  
**Sent:** Monday, December 11, 2023 6:24 AM  
**To:** Thomas Micuda; Brock Cherry; Lonnie Hill; Sara Doermann; Kayla Kryzsko  
**Subject:** FW: Rezoning-Planning Advisory Board/Zoning Commission 12/12/23 meeting Agenda Item #5

FYI.

---

**From:** Dave Broquist <dbro@gpdpc.com>  
**Sent:** Sunday, December 10, 2023 10:26 PM  
**To:** Jamie Nygard <jnygard@greatfallsmt.net>  
**Subject:** Rezoning-Planning Advisory Board/Zoning Commission 12/12/23 meeting Agenda Item #5

I am writing to voice my absolute opposition to this rezoning effort. I am a 30 year + resident of this neighborhood and have lived at 711 10<sup>th</sup> Ave SW for over 29 years. I have purchased other property on which to build a home but have chosen to remain where I live due to the attributes that make this neighborhood special and more or less removed from the typical Great Falls residential arrangement. This is a special 'island' neighborhood that has quietly existed through generations and many residents are retired and enjoy the lack of traffic and the rural feel that this neighborhood affords. Lots are mostly large. There is no requirement for sidewalks or curb cuts, no restrictions on owning or raising most farm animals, and none of the routine 'neighborhood' restrictions. This rezoning effort threatens to change every one of those characteristics for the benefit of one Owner entity and those of the City, Development Authority and Zoning Commission who will get a feather in their cap for 'enforcing' the City's ill-advised river corridor development plan which hopes to populate the near-river property to the detriment of all. There are a number of reasons I object to this rezoning, but these are the primary inclusions in the recently published documents that I believe are flawed from an engineering prospective, and are based on inaccurate information, or entirely dubious information presented for the benefit of the Development Authority of the City:

- 1) The traffic data is undeniably faulted and is based on archaic information. It presumes this is a 'normal' neighborhood in terms of traffic. It is not. It is a very narrow road with no right-of-way in the vicinity of the proposed rezoning. It is very, very narrow – perhaps not up to standards at the curve joining 10<sup>th</sup> Ave SW to 2<sup>nd</sup> St NW very near the project site. It is often an issue, even without the added traffic. It ignores the fact that this road (2 St NW and 10<sup>th</sup> Ave SW) are officially parts of the River's Edge Trail and are a designated bicycle route. Increased traffic, in any amount, will be a safety risk. I believe, due to the nature of the residents in this quiet neighborhood, that the 'typical' formulas used for traffic predictions do not apply – why would they? There is a significant percentage of 'older' residents – many lifetime residents – who do not go to work everyday, as they are retired. This skews the 'normal' computational inputs significantly, without a doubt, but the City has made no accommodation for that in their figures. I believe, and think anyone with common sense would agree, that this is not a typical city neighborhood in terms of traffic patterns and that the predicted increase in traffic levels cited in the City's published documents, is far from accurate. Based on direction of travel to major thoroughfares, it is certainly possible that the traffic on 10<sup>th</sup> Ave SW will increase by over 100%. For those who may not know, 10<sup>th</sup> Ave SW does not have sidewalks, is an official connecting segment of the River's Edge Trail and is a designated bicycle route. It is extremely narrow for even today's traffic patterns. And yet, the City has not required a traffic study, despite the fact that their data is over 10 years – maybe 15 years - old. This is bogus and reflects very, very poorly on the proficiency of the City's staff and Committee members. It's a sham and they all know it. They know extremely well that the data and the characteristic of the traffic in this neighborhood is being misrepresented, but, still, they refuse to accomplish a traffic study because it doesn't fit their model – all to the benefit of those who favor this reprehensible and irreversible catalyst of unfortunate change to this neighborhood.



- 2) The proposed re-zoning has been more or less secretive and flies in the face of the intent of the requirements to notify those affected. At the December 6<sup>th</sup> Neighborhood Council #2 meeting, during which it was incumbent upon the Owner team to describe the project, and which, prior to the meeting was incumbent upon the Owner team to notify anyone with property within 150 feet of the prospective rezoning of that intent, there were residents whom had not been informed. In fact, the entire neighborhood felt they had been uninformed and duped. I believe that due to the limited access means of long, straight streets, and only those, and only those which access this site, this decision for re-zoning affects the entire neighborhood and not just those residing within 150 feet of its boundaries, as the statute may suggest as being appropriate and legal. It is now, I believe, almost a foregone conclusion that the Development Authority, the City and the Commission have concealed their intent to rezone this property regardless of its impact to the neighborhood upon which they are forcing it. This fits with their professional goals and gains at the tremendous expense of the residents. How that is moral, professional, or ethical in any way, and how it will not invite litigation remains to be seen. It is my hope, that if the City passes this rezoning, that the neighborhood will organize and hire an attorney to fight this in court. It is nothing short of declaring public domain – very Putin-like. It is a death sentence for the character of this long-standing neighborhood – the City and the Development Authority know it and yet they don't seem to care.
- 3) The 'logic' cited in the "Finding of Fact – Zone Map Amendment", Item #2 is inexcusably flawed. It presumes that the fact that Neighborhood Council #2 did not have an enacted resolution to avoid such development as this, constitutes an acceptance of it is completely inane – moronic and totally refutable. A neighborhood should not have to initialize a restriction of things that are not acceptable under their current, totally legal and irrefutable right, to exist without threat of change initiated, obligated or pushed forward by the City. Again, I believe this to be grounds for legal action against the City, the Zoning Commission, and the Development Authority who wields pressure onto the City officials. This statement of 'fact' is reprehensible – very 'Putin-like' as most would see it, I believe.
- 4) Lastly, I believe there has been, as often there is, a total misrepresentation of the parking situation that will occur as a result of this proposed construction. The proposal includes the 'minimum' number of parking spaces, which is an amazingly unrealistic number of the vehicles that will need to be accommodated -especially at the river where "water toys" and additional vehicles will need to be accommodated. The width of the street along 2<sup>nd</sup> St NW hardly accommodates moving traffic, let alone bicycle traffic, which – again, by the way, is designated as a bicycle path failed to be recognized by the re-zoning paperwork or adequately addressed by the City. Parking on the streets in the vicinity of this development will, of course, be strictly forbidden, but, as all know, will become a rule. The street at this location is barely legal in width for two moving cars passing but will, as all know, be subject to tenant parking. It's a joke, ignored by all who want this re-zoning to occur but ignore the 'minor' inconveniences that constitute life-safety and traffic concerns. Additionally, the parking at the River's Edge Trail access approximately 200 feet to the northeast will be continuously crowded with the tenants' excess vehicles. Not legal, mind you, but an absolute and un-ignorable reality for which the City and Development Authority want us to not be cognizant of or to voice our opinion in opposition. Ignoring these facts would constitute a gross error on the part of the Committees or the Commission. The Development folks really won't care because that's not their problem – they gave the City what they asked for – again, I would only assume this is grounds for legal action against the City, the Zoning Commission, and the Development Authority.

It seems those who are zealous to push this re-zoning effort forward for personal or program gain have lost their focus on the needs and priorities of those who live and reside here in favor of those – whomever they may be – who have been lured here, sometimes by the promises of those who lured them here, themselves. Many of the residents who have lived in this neighborhood have spent their entire lives -or very nearly so – here, at the very place of their current residence. This project, this re-zoning, is a bad idea for many reasons, and I think everyone who is familiar with this actual neighborhood will agree. It threatens a historically quiet and isolated neighborhood way of life – our safety, our quality of life and the reason we stay – for the sake of the few who will benefit. I believe the reason this re-zoning request has reached its current state of advancement is that information has been intentionally far from forthcoming to those in the entire neighborhood that will be affected due to the intent of the Development Board and others who will win accolades for its so-called 'success'. I can't disagree more with the thought patterns and the willingness to 'lay down' to pat equations regarding 'social success' that the City Planning Board has put forth or that of the 'river corridor'

concept, at this location, needs to be so-called 'enhanced' by this development. As an aside, they (City, Development Authority, Zoning Commission) have dodged the presentation of any information regarding river access, water sports equipment storage or affect upon current river usage due to potential impact ( noise or other ) from river users – a historic activity for more than half a century. This appears to be racing forward only at the bequest of the Development Authority, intent to show success in fulfilling their own goals for housing infill and river corridor development. To assume anything else is naïve.

This rezoning is bad for Great Falls. It's bad for it's historical and faithful, empowering, and sustaining residents – true Great Falls people. These people, and those of this small, isolated residential neighborhood, want to remain as they have planned for their entire lives – good and decent citizens doing good things for a good community. The only 'good' that will come of this re-zoning will be to the advantage of the Development Authority and the those in the City government seeking to redeem themselves by saying they have accomplished the task given to them and for which they were (ha – e.g. to help the people) elected. Not so much for the people who live here.

Many thanks for your consideration,

David Broquist  
711 10<sup>th</sup> Ave SW  
Great Falls, MT 59404

## Kayla Kryzsko

---

**From:** Jamie Nygard  
**Sent:** Monday, December 11, 2023 6:24 AM  
**To:** Thomas Micuda; Brock Cherry; Lonnie Hill; Sara Doermann; Kayla Kryzsko  
**Subject:** FW: Protest zoning change of 805 2nd st sw on behalf of Sheryl and R. Dewey Schmidt

fyi

-----Original Message-----

**From:** Kirby Berlin <kirbyberlin@yahoo.com>  
**Sent:** Sunday, December 10, 2023 7:15 PM  
**To:** Jamie Nygard <jnygard@greatfallsmt.net>  
**Subject:** Protest zoning change of 805 2nd st sw on behalf of Sheryl and R. Dewey Schmidt

On behalf of Sheryl Schmidt and R. Dewey Schmidt of 900 2nd st sw , whom are unable to send electronic communication, the following has been transcribed from their letter to the city.

I am writing this letter in protest of the zoning change at 805 2nd st sw . We are also asking for a continuance for evaluation and the necessary studies to be performed which we feel need to be addressed.

### Environmental impact (EPA)

Across Bay drive, the empty lot owned by BNSF and zoned M-2, was formally occupied by a chemical plant. From what we believe and have been told, the lot is contaminated and potentially hazardous. If this development would occur, where would the children play? More than likely the empty lot across the street which could be potentially very dangerous. In addition, other options would be, down by the river which is dangerous or just as bad, the street.

**Ecological and Biological impact (Fish wildlife and parks)** The Fish wildlife and parks definitely need to evaluate this project. The area is habitat for bald eagles which are still protected under the MIGRATORY BIRD TREATY ACT AND THE BALD AND GOLDEN EAGLE PROTECTION ACT.

This area is also a main migration and nesting area for geese, ducks, owls and home to other wildlife which is what makes great falls, Montana what it is.

### Holding Pond

The holding pond is a big concern for the wildlife. Contamination from the vehicles in the parking from dripping oil and gas and other toxins which will then be collected in the holding pond. Wildlife such as birds, frogs and other creatures may become contaminated by landing in this pond.

### Increased area foot traffic

With all of the proposed extra people, what will be the foot traffic damage and issues which will effect the area full of habitat.

### Neighborhood

This project does nothing beneficial for the neighborhood in which it will impact. The majority of the people have lived in this area for decades. Turnover is extremely low, thus leading us to have the safest neighborhood in great falls for that very reason. This neighborhood is full of long standing, hard working or retired individuals who have been tax payers to the city, state and federal government for decades. Do not take away the peace, quiet and stable neighborhood for the sake of someone else who doesn't even live in the area. Property values will go down. Stop taking and punishing the good long standing taxpayers of the city for the benefit of others!

The development will not only effect the traffic, but many other issues that have yet to be addressed properly. Example the use of a ten year old traffic study, vagueness on true number of occupants and number of bedrooms in each unit which will ultimately effect true traffic count, water usage, waste water, property values, parking issues, biological and ecological issues and overall disruption of a stable neighborhood.

Again, we 100% oppose this rezoning from R-1 to M-2 as this only sets a precedent to homeowners that no neighborhood or household is safe with their home and neighborhood if there is an empty lot within it.

Sincerely,  
Sheryl and R.Dewey Schmidt  
900 2nd st sw

Sent from my iPad

December 10, 2023

Great Falls Planning Advisory Board/Zoning Commission

Attn: Brock Cherry  
Great Falls, MT 59401

Dear Sir and To Whomever It Concerns:

RE: Zone change from R-1 to M-2 in Neighborhood #2

I am Velma Thompson of 409 10<sup>th</sup> Ave SW which I purchased in 1988. I am appalled that the parcel at 805 2<sup>nd</sup> St SW seems to be already in the middle of transformation when the Zoning Law is still currently an R-1.

**UTILITIES:** The area of the proposal is part of the Garden Home Tracts which is a well-established, long-term area located on the north side (10<sup>th</sup> Ave SW) of the Sun River and curves around to part of the Missouri River (Bay Dr). There are wonderful, mature, old trees and the community is rural with its narrow paved streets and no sidewalks. In all probability, there has been no major upgrade to utilities in this area for over 30 years. All of the utilities have assumed that the neighborhood is only occupied by single-family homes. What will happen to the sewer and water systems if the zoning changes to M-2?

**FLOOD PLAIN:** The entire Garden Home Tracts is in a flood plain, and it has flooded in this area. While I was looking at property in 1988, I found that some houses next to the Sun River did flood in their basements. Also a few years ago, water did rise on the Missouri near Bay Drive and near the river on 10<sup>th</sup> Ave SW. Will the utilities be able to handle these complications?

**STREET:** The 10<sup>th</sup> Ave SW paved street in front of my house is only 21' wide. Various vehicles such as motor homes, 5<sup>th</sup> wheel trailers, semi-trucks, ambulances, fire trucks, school buses plus regular business trucks and trailers use the streets regularly. Sometimes, driving off of the paved section is necessary. Also there is no valid parking areas as most property lines, I believe, go all the way to the paved street section. Most families have 2 vehicles and if there is a teenager, there will be 3 vehicles per household which will greatly affect our quiet street and the ability to find parking space on very narrow streets.

**TRAIN:** The train goes by several times a day. Often, commuters will reverse their direction and then drive down 10<sup>th</sup> Ave SW and Huffman Dr; thereby, increasing the traffic.

**PUBLIC TRANSPORTATION:** The closest bus stop is on 6<sup>th</sup> St SW which will also increase traffic on 10<sup>th</sup> Ave SW.

**CRIME:** Up to this point, crime has been minimal. By increasing the population with all of these units; that will, in all probability, double our crime rate.

**TAX VALUES:** Also, the tax that you gain in the complex will probably lower the value of all of the homes in the Garden Home Tracts creating no gain, and perhaps a loss, to the city.

**THE NEIGHBORHOOD:** However, my biggest concern is that the monstrosity of the apartment buildings proposed does NOT fit with nor enhance the character of the Garden Home Tracts. Building single-family units to match the neighborhood would be a nice fit for the property and for the community.

Changing the zoning within the Garden Home Tracts would be like starting a 'cancer' in the community. It would be like a knife in a body at one end of the neighborhood. Eventually, more sections would be rezoned to M-2 and the beautiful, established neighborhood would come to an end.

A better area for such a large, sterile complex would be on the Missouri River by the railroad tract near the Great Northern Railroad building or even farther north. That would give easy access to 1<sup>st</sup> Ave N and the bridge.

I strongly oppose rezoning from R-1 to M-2 to accommodate landlords who will be ruining my neighborhood for now and for the future.

Sincerely,

Velma Thompson  
409 10<sup>th</sup> Ave SW  
Great Falls, MT 59404  
mateesha83@hotmail.com

## Kayla Kryzsko

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**From:** Jamie Nygard  
**Sent:** Monday, December 11, 2023 6:27 AM  
**To:** Thomas Micuda; Brock Cherry; Lonnie Hill; Sara Doermann; Kayla Kryzsko  
**Subject:** FW: Bayview Apartments proposal rezone

Fyi.

**From:** ron brinkman <brinksrepair@gmail.com>  
**Sent:** Sunday, December 10, 2023 8:20 AM  
**To:** Jamie Nygard <jnygard@greatfallsmt.net>  
**Subject:** Bayview Apartments proposal rezone

I am asking for a continuance on this proposed project. We have not received enough notice on said project and this rezone needs to stop. We have failed our police and fire departments by not passing funds for them. This map that they have proposed does not show near enough parking for said project. The economic impact needs to be studied. The studies from 2013 do not suffice as this River's Edge Trail and bike route on our roads is totally not up to date. What about our property values on property that is actually owned by people in this area? Renters don't pay taxes. What about representing the people actually involved around this project? The railroad used to own that property there. Across the street, which the railroad still owns, is a hazmat site. How do they plan on keeping these numerous tenants off that property? There were no more than 9 trailers on that property and I read where they said there were 14. There are homeowners that have owned and have been paying taxes on their homes for generations. Numerous ones for forty plus years! The infrastructure in this area cannot accommodate this kind of a project. They said two people per unit in their proposal. We know this won't happen. Probably two or three families! To keep this the River's Edge Trail and a bike path, I recommend not changing the zoning from a R1 to an M2.



Virus-free. [www.avast.com](https://www.avast.com)



## Kayla Kryzsko

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**From:** Jamie Nygard  
**Sent:** Tuesday, December 12, 2023 6:14 AM  
**To:** Thomas Micuda; Brock Cherry; Lonnie Hill; Kayla Kryzsko; Sara Doermann  
**Subject:** FW: Formal protest to rezoning 2nd ST SW

FYI.

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**From:** WANDA CARLSON <wandacarlson100@hotmail.com>  
**Sent:** Monday, December 11, 2023 5:21 PM  
**To:** Jamie Nygard <jnygard@greatfallsmt.net>  
**Subject:** FW: Formal protest to rezoning 2nd ST SW

Sent from Mail for Windows

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**From:** WANDA CARLSON  
**Sent:** Sunday, December 10, 2023 2:20 PM  
**To:** jnygard@greatfalls.net  
**Subject:** Formal protest to rezoning 2nd ST SW

My name is Alexander Smithson and I purchased a home at 820 2nd St SW this past March. There is a mobile in the front yard I rent to my mom, Wanda Carlson. The trailers address is 814 2nd St SW.

We are very opposed to two apartment buildings and numerous townhouses being built directly across the street.

The construction noise alone for a few years would be unbearable. Now rumor is the city will give the developers the south end of Garden Park. This would deny access to the river for people in the neighborhood. There is a small pond with frogs and salamanders that is rumored to be used for the developments runoff. This will kill everything living in there.

We hear the ground will be build way up which really increases our chances for flooding.

If dumpsters are placed along 2nd ST SW that will be my mom's view.

Please consider encouraging the builders to move their plan from our quiet residential neighborhood to a different area.

Please allow more time for ground and environmental studies and give residents more time to express their opinion.

Thank you for your time and consideration.

Sincerely,  
 Alexander Smithson  
 Wanda Carlson

Get Outlook for Android

## Kayla Kryzsko

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**From:** Jamie Nygard  
**Sent:** Monday, December 11, 2023 11:25 AM  
**To:** Thomas Micuda; Brock Cherry; Lonnie Hill; Sara Doermann; Kayla Kryzsko  
**Subject:** FW: Formal protest against the change for Bay View Apartments

Fyi.

**From:** Kathy Steffenson <ksteffenson@citymotor.com>  
**Sent:** Monday, December 11, 2023 11:17 AM  
**To:** Jamie Nygard <jnygard@greatfallsmt.net>  
**Subject:** Formal protest against the change for Bay View Apartments

By way of this email we are formally protesting the change for Bay View Apartments from R-1 to M-2. The area is way too small for 100 units and the access to the road will impact traffic and make it too congested for current residents to get in and out of the area. It would also be more dangerous for people using River's Edge Trail.

Steve and Kathy Steffenson  
 826 2nd St SW  
 Great Falls, MT 59404

**Kayla Kryzsko**

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**From:** Jamie Nygard  
**Sent:** Monday, December 11, 2023 11:30 AM  
**To:** Thomas Micuda; Brock Cherry; Lonnie Hill; Kayla Kryzsko; Sara Doermann  
**Subject:** FW: Re zoning of the property-5th 2nd street sw

Fyi.

-----Original Message-----

**From:** Susan Broquist <susanbroquist@yahoo.com>  
**Sent:** Monday, December 11, 2023 11:27 AM  
**To:** Jamie Nygard <jnygard@greatfallsmt.net>  
**Subject:** Re zoning of the property-5th 2nd street sw

I wish to make comment about the rezoning of 8052 2nd St. SW. As someone who lives in the neighborhood at 711 10th Ave. SW. my concern on this change is the increase of traffic in the area. The proposal shows traffic diverted to three different streets. What is not mentioned is the fact of the railroad traffic in these areas closes to two of those quite often leading to most traffic to use 10th Ave. Southwest. Entering 6th St., Southwest will be a problem as the traffic on 10th Ave. South already leads to long waits. I do believe a new traffic study should be done in this area during the summer months as we have the river's edge trail that enters 10 Ave SW with numerous runners, walkers and bikers on this Avenue already. The study the proposal was using is outdated. I feel if this zoning remains the same and single unit housing is built in that area. We would have no problem or issue with that.

Sincerely.

Susan Broquist  
711 10 Ave SW  
Great Falls MT 59404  
406-788-4659  
Sent from my iPad

**Kayla Kryzsko**

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**From:** Jamie Nygard  
**Sent:** Monday, December 11, 2023 12:52 PM  
**To:** Thomas Micuda; Brock Cherry; Lonnie Hill; Kayla Kryzsko; Sara Doermann  
**Subject:** FW: 2nd St SW

FYI.

**From:** Brooke Corry <corrybrooke@gmail.com>  
**Sent:** Monday, December 11, 2023 12:43 PM  
**To:** Jamie Nygard <jnygard@greatfallsmtnet.net>  
**Subject:** 2nd St SW

Hello,

I would like to ask for a continuance regarding the proposed zoning change for 805 2nd St SW in order to gather more information.

As an Army veteran and having worked for the VA for the last 6 years, I am understanding that there are policies and procedures that need to be followed. There are many concerns with this project, it is hard to know where to start. It is hard to know what rights we have and what will be blocked by the codes or policies that are in place.

Our little road is busy with runners, walkers, bikers, wildlife, etc while sharing it with motor vehicles, I can't imagine adding even more traffic to it. The increase of traffic will without a doubt increase the chance for an accident. Our road also does not get taken care of as it is. (I have emailed the photos of the drainage.) Even though people find the enjoyment of going through the puddles fast, this sprays rocks. I personally, have had my vehicle damaged, along with my trash can, along with multiple other close calls. Our road is not wide enough to absorb the increase in traffic.

My kids and I frequent the Rivers Edge Trail, we are able to go right from our home, our safe place, what does an apartment complex do to ones sense of safety? The neighbors and our community frequent and enjoy this piece of the River's Edge Trail and its raw state. We do not just enjoy it, it is our home, it is our safe place for our parents, grandparents, children, we have groups of families that have banded together to take care of one another. I have been boots on the ground with our houseless population for several years. I recognize the need for development, but it should be a development that is built with good intentions and grace. Intentions of increasing the value of our community and not commercializing a space that is unique.

It is concerning that the owners are selling it to a developer. If the zoning is changed how many more apartments will be built on that piece of property? The developer said that the drawings are just the beginning. What will this do to the value of our homes?

Thank you for your time.

Brooke Corry

Concerns that have been discussed amongst neighbors;

Low income housing

What will be the price point for these?

Average income for Great Falls – this will determine who is able to rent

Increase in crime

Overflow parking

Soil/water test

Bird habitat

Traffic

Apartment building VS Townhomes

West Elementary School will have to absorb the children

Train tracks blockage

Maximum unit restriction

December 12, 2023

To whom it may concern:

The proposed rezoning and development of apartments and townhomes in the Garden Home Tracts area must NOT happen! This will destroy our neighborhood! We are currently a very quiet, relatively crime free neighborhood and we want it to stay that way. Having almost 100 new families will increase both crime and traffic. 2<sup>nd</sup> Street SW and 10<sup>th</sup> Avenue SW are part of the River's Edge Trail, we don't have sidewalks and so people of all ages use our roads as a place to walk their dogs, ride their bikes, and run. We also have a lot of wildlife in the neighborhood such as deer, porcupines and racoons. All the extra traffic would be dangerous to the people and the animals.

In addition, this area is in the flood zone, so again, a terrible place to put 100 families. And, the Garden Home Park, directly next to the proposed build site, is a Riparian Restoration Project and an extra 100 families could affect the health of the riparian ecosystem.

There definitely is a spot to put what is being proposed, but this spot is not the right spot. We are aware that Great Falls needs additional housing, but please, not here. Please take it elsewhere where it wouldn't cause so much damage.

Thank you.

Michael S & Paige A Smith  
525 10<sup>th</sup> Ave SW  
Great Falls, MT 59404  
(406)799-7367 and (406)564-7265

**Kayla Kryzsko**

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**From:** Lonnie Hill  
**Sent:** Thursday, December 14, 2023 8:51 AM  
**To:** Kayla Kryzsko  
**Subject:** FW: Ticket ID: 291077aaf - Traffic study for development on Bay drive

Kayla – Please add the correspondance below to the public comment for the Bay View Rezone request.  
 Thanks!

**Traffic study for development on Bay drive**

**Email:** [jwblake32@gmail.com](mailto:jwblake32@gmail.com)

**Name:** Jacob Blake

**Status:** New

**Assigned To:** Ihill (Planning and Community Development)

**Ticket ID:** 291077aaf

To whom it may concern,

I am reaching out with regards to the development of apartment buildings and condominiums intended to be built near the river on 2nd St SW and Bay Drive.

It is my knowledge that no traffic study is scheduled or intended to be done before the city considers whether to rezone that parcel of land for the development.

I am strongly opposed to this decision to not consider a traffic study and the impacts of significantly increasing the flow of traffic up the street on which I reside as both my family and I live in this neighborhood. And while we are acutely aware of the detrimental affects this development and it's increased traffic will have on our living environment, it appears to me that those with the power to make such decisions (those to whom this email is addressed) have blatantly overlooked this impact and who may not even care about it's impact when it doesn't directly affect their own living environment.

I implore you to take into consideration a resident of this neighborhood and one to whom this knowledge was brought to his attention. I speak in behalf of many other neighbors who were kept in the dark with no knowledge of this intended development.

Once again, please reconsider a traffic study of this development on this neighborhood and please reconsider the zoning of the land in consideration.

Thank you.

Jacob Blake



## Kayla Kryzsko

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**From:** Lonnie Hill  
**Sent:** Monday, January 8, 2024 11:26 AM  
**To:** jwblake32@gmail.com  
**Cc:** Kayla Kryzsko  
**Subject:** RE: Ticket ID: 291077aaf - Traffic study for development on Bay drive

Jacob – Sorry for not getting back to you last week, I got a little behind on emails. Thank you for sending over the public comment. It will be included in the packet of public comment that was submitted and provided to the Zoning Commission and the City Commission. Please let me know if you have any other questions.

Regards,



**Lonnie Hill, CFM**  
**Senior City Planner, Floodplain Administrator**  
*Planning & Community Development Department*  
*Planning Division, City of Great Falls*  
**T 406-455-8435**  
**E [lhill@greatfallsmt.net](mailto:lhill@greatfallsmt.net)**

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**From:** jwblake32@gmail.com <jwblake32@gmail.com>  
**Sent:** Thursday, January 4, 2024 9:55 PM  
**To:** Lonnie Hill <lhill@greatfallsmt.net>  
**Subject:** Re: Ticket ID: 291077aaf - Traffic study for development on Bay drive

Thank you Lonnie for your help and responses. You have been very helpful

I would like to provide a comment to be read, if you don't mind:

“To whom it may concern.

With regards to the development of apartment buildings and condominiums intended to be built near the river on 2nd St SW and Bay Drive and as a resident in this neighborhood, I wish to voice my concerns about the increase in traffic this would bring to already subpar roads. Currently there are no sidewalks, no storm drains, and scarcely room to pass another vehicle on these roads, even without any cars parked on the roadside. As such, whenever it rains, large muddy puddles collect on both sides of the road which are difficult to avoid when driving. When it freezes, the puddles and standing water turn to ice making it cumbersome to drive through. In addition, any form of predication makes it unsightly and difficult to walk. Storm drains and sidewalks would immensely help this issue, as well as greatly improve the quality of the neighborhood and value of the homes to the homeowners and the city.

I would think that a neighborhood so centrally located on the west side of Great Falls would greatly benefit the city to include these improvements. Especially a neighborhood so poised for developments, increased traffic, and new city members.

Please consider my thoughts and concerns with regards to improving the roads by adding sidewalks and storm drains, and know that my voice is shared by many in this neighborhood who may yet be unaware of these changes and developments that are under consideration.

Thank you,  
 Jacob Blake “

My address is  
923 4th St SW  
Great falls MT 59404

Once again. Thanks for the help Lonnie!

Jacob Blake

On Dec 19, 2023, at 3:07 PM, Lonnie Hill <[lhill@greatfallsmt.net](mailto:lhill@greatfallsmt.net)> wrote:

to the development of apartment buildings and condominiums intended to be built near the river  
on 2nd St SW and Bay Drive

Becky Chase

212 10TH AVE SW

GREAT FALLS MT 59404

City of Great Falls

Planning and Community Development Dept.

P.O. Box 5021, Great Falls, MT, 59403 5021

Att: L. Hill

Dear Sir;

I am against rezoning 805 2nd ST SW, Great Falls, MT 59404.

(1) Traffic

a. 9th ave SW narrow road

b. 10th ave SW narrow road

(2) Crime

(3) Bike route

a. interference with cyclists on 10th ave SW

b. interference with cyclists on park garden path

(4) Park Garden Park

a. hinder wildlife at Park

Sincerely,  
Becky Chase

## Kayla Kryzsko

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**From:** Brock Cherry  
**Sent:** Monday, January 22, 2024 8:38 AM  
**To:** gs2bhill@aol.com  
**Cc:** Lonnie Hill; Sara Doermann; Kayla Kryzsko  
**Subject:** RE: [Brock Cherry] Bay View Development Proposal (Opposed)

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Ms. Hill,

Thank you for your comment; it will be added to the application packet, which will be reviewed by the Planning & Zoning Board and the City Commission.

Have a great day,



**Brock Z. Cherry, M.S.**

**Director**

*Planning & Community Development Department*

*City of Great Falls*

**T 406-455-8530, C 406-750-5365**

**E bcherry@greatfallsmt.net**

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**From:** City of Great Falls Montana <greatfalls-mt@municodeweb.com>  
**Sent:** Sunday, January 21, 2024 8:11 PM  
**To:** Brock Cherry <bcherry@greatfallsmt.net>  
**Subject:** [Brock Cherry] Bay View Development Proposal (Opposed)

Beth Hill ([gs2bhill@aol.com](mailto:gs2bhill@aol.com)) sent a message using the contact form at <https://greatfallsmt.net/>.

January 21, 2024

Great Falls City Commissioners

City of Great Falls Planning and Community Development Director – Brock Cherry

I am writing regarding the re-zoning request for the property adjacent to Garden Home Park for the Bay View multi-family complex proposal.

This is wrong on so many levels.

First – they are building in a known flood zone. The property has been flooded (or nearly so) at least four times in the past 50 years, including the flood of 1964. Trying to correct any flood zone problem just moves the issue downstream. I've seen it happen in all the cities I've ever lived in (St. Louis, Mo, Cedar Rapids, IA, Winston-Salem, NC and here in MT).

The river bank and land is very sandy. Erosion can be seen happening when boats and jet skis run up and down the river. It just so happens that the city boat launch is just across the river. The soil does not appear to be very stable.

The development plan that supported development along the river front is old (2004 – Missouri River Corridor

plan). It was wrong to begin with and it is still wrong to develop to the river edge. Doug Wicks had the right idea. Use the riverfront to build walking trails. The current trails are a feature that helps draw new residents to the area. All areas of the River's Edge Trail are heavily used. Build more and it will get used. Build structures and it benefits just a few people. Structures degrade the natural beauty along the river.

Traffic problems were addressed, but the last traffic study was 2013. 10 years ago, there was not nearly as much traffic as there is now going up and down 6th St SW and on Central Ave W. Just try turning south (left) onto 6th St SW sometime during the day. So, to be relying on 10-year-old data to estimate the effect on traffic is just going to give you a wrong answer.

Garden Home Park is used by many walkers, runners, bikers and even bird watchers. It is only 6+ acres and doesn't even have a vault toilet. It will be more heavily used. Trash is a continuing problem. People recreate in the river as well. 92 dwellings right next door will add even more wear and tear on this park. Until I moved recently I walked up to the park several times a week and daily when the osprey are nesting.

Garden Home Park is nice because it isn't "developed". It attracts a side variety of birds throughout the year. NW Energy has even erected 2 Osprey nesting platforms. They have been in use since they were placed. The nesting success hasn't been good. Unless you consider 50% of the years they fledge young successful. They are closely watched by many park users. Smaller birds also use the park – many warblers, flycatchers, sparrows, wrens, pheasants, flickers, downy woodpeckers, merlins, hawks and even eagles have stopped by. What attracts them? The cattails growing in the storm drain ditch, the volunteer ash and Russian olive trees, the cottonwood trees, the thick growth along the river bank and between the park and what used to be a small trailer park. It is a small pocket refuge for wildlife.

I could go on about why this is just wrong, including considering the objections of neighboring property owners.

The best possible use for the adjacent property is to declare it an addition to Garden Home Park.

Beth Hill  
29 Broken Spoke Lane  
Great Falls, MT 59404  
406-217-2364

January 27, 2024

To: City of Great Falls, MT (Civic Ctr.)  
 P.O. Box 5021  
 (Planning Dept.) atten: Lonnie Hill, CFM

From: Maurice B. Cameron Jr.  
 607 10<sup>th</sup> Ave SW  
 Great Falls, MT. 59404

Subject: Letter of Concern ( Bay View Apartment, App./Proposal )

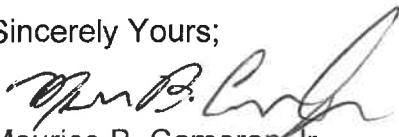
To Whom It May Concern:

Hello; my name is Maurice "aka" (Mark) Cameron). I've lived at this residence for over 25 years, and walked these streets of Great Falls as mailman for 20 of them years. I got to talk with, and personally know 1000's of these wonderful Montanans. What impressed me most from the get go, & (I'm a Jersey Boy) was their simple way of life! Excellent morals, helpful attitude, and their easy going demeanor ( they don't even beep when the light turns green here) lo! They just want to maintain their (well earned) quality of life, and live in **Peace & Safety**!

I'll keep this short for now, and keep in mind; I'm a proponent (for) more affordable housing here in Great Falls, MT. **But not, not** when it (jeopardizes) the Peace & Safety, and not to mention the quality of life & property values of **ALL** concerned. i.e. current homeowners, renters, people using the "River Edge Trail" etc. I live here on 10<sup>th</sup> Ave SW aka (River Edge Trail) and see many mothers with infants, bicyclist, hikers etc. daily. Sometimes 100's daily In the Summer & Fall. That's not counting the existing vehicle, bike Traffic we have here currently. It's a past, and still an ongoing safety issue!

That said; this (Land Use Application) doesn't have the infrastructure to support the above concerns, especially the **Safety concern**. Also what's this M2 rezoning? Sounds like there's a future agenda! That's a big jump from a R1 zone, there's many options from R1 – M2 that can be used! In closing, let us reevaluate this "Proposal, and come to some middle ground here! You are for us homeowners, and the people's safety, "right"? Or are you for the investors??

Sincerely Yours;



Maurice B. Cameron Jr.

Cc/file/governor GG's office



January 21, 2024

City of Great Falls Planning and Zoning Board

RE: Bay View Development Rezoning

I am writing on behalf of the Great Falls Development Alliance (GFDA) in support of a zoning change for the proposed Bay View Development, and to insert into the public record documents which should be considered for this and future zoning recommendation decisions. GFDA strongly supports this zoning change and believes it is appropriate for the area and conforms with city land use policies.

Increasing the supply of quality housing for City residents is critically important. Doing so through land use policies that encourage increased density and infill development is a wise strategy for the City to continue to support to be able to afford to provide essential community services.

The Great Falls Development Authority (GFDA) is a community economic development partnership and certified Community Development Financial Institution (CDFI). We are organized as a Montana non-profit 501 (c) 3 charitable corporation. GFDA is a broad public, private, nonprofit partnership that serves the Great Falls Montana MSA and the surrounding thirteen-county rural and tribal trade area of north central Montana. Our partnership includes the City of Great Falls, Cascade County, Great Falls College MSU, Little Shell Tribe of Chippewa Indians, University of Providence, Great Falls Public Schools, Great Falls International Airport Authority, Great Falls Tourism, Great Falls Area Chamber of Commerce, NeighborWorks Great Falls, Downtown Development Partnership of Great Falls, Great Falls Association of Realtors, Homebuilders Association of Great Falls, Sweetgrass Development, Great Falls Business Improvement District, Cascade County Tavern Association, McLaughlin Research Institute, and over 130 leading local businesses and institutions who invest in our work.



Increasing housing production is the highest priority for GFDA because housing costs have the largest impact on cost of living overall. The best tool we have available to keep housing costs from rising is to increase our supply of available housing units in the market. Developments like Bay View, which increase density adding homes within the existing footprint of the City of Great Falls, are essential to affordably meeting the housing supply needs of our city, are consistent with existing growth and development plans endorsed by the City of Great Falls as well as recommendations from state-level leadership, have a positive effect on neighboring property values, and lower crime.

There is a significant undersupply of housing forecasted in Great Falls and Cascade County over the next 10 years, **about 4,500 units** ([Concord Group, 2021](#)). This undersupply leads to increases in home sales and rental prices, and the dilapidation of existing housing stock. New home stock can act as a market force requiring existing stock to be rehabilitated, upgraded, and vacated by residents who have the financial capacity to afford newly build homes, leaving older stock available for workforce ([Concord Group 2021](#)). Additionally, a supply approach to affordability in the housing market can stabilize or reduce rents, decreasing the likelihood of existing residents being displaced ([Governor's Housing Task Force, 2022](#)).

The proposed Bay View development meets the call set forth in the 2004 Missouri River Urban Corridor plan as well as the 2022 Governor's Housing Task force recommendations. The Missouri River Urban Corridor plan calls for new regulations to allow appropriate riverfront development that orients new housing to the open space and river amenities the City of Great Falls already offers, specifically stating "a list of land uses that reinforce the new vision for the Missouri River Corridor" to include "Urban residential rental apartments 2-4 story owner [-occupied] condominiums, 2-4 story urban lofts, row houses, and townhouses..." ([CTA LandWorks Group, 2004](#)). The best way to encourage development is to partner with developers to support projects that can feasibly increase density and for municipalities within the state to incentivize density ([Governor's Housing Task Force, 2022](#)).

This board will certainly hear concerns about increased density lowering home values and increasing crime. These concerns are not substantiated in land use planning literature. Peer reviewed research suggests that not only does new higher-density development not adversely affect nearby home values but can increase sale prices of single-family homes within 2,000 feet ([Haughey, 2005](#); [Craw, 2017](#)). Crime rates within this type of proposed development do not significantly differ from those at lower-density development ([Haughey, 2005](#)). Locally, our police department relies on crime data to determine where to deploy patrol resources most effectively. New apartment developments in town do not attract crime nor would recent crime data support the need for Great Falls Police department officers to patrol these apartments to prevent crime (Schaffer, 2023).

Please find documentation of the above-referenced land use planning studies below. I look forward to reviewing the City Planning staff findings and testifying in person when the rezoning hearing is scheduled.

Thank you for your continued support of sound land use practices throughout the City. The Bay View development will bring substantial benefits to the neighborhood and the entire Great Falls community.

Very truly yours,



Brett Doney, AICP  
President & CEO

#### References:

Concord Group. (2021) Housing Market Demand Assessment for Great Falls, Montana. [www.theconcordgroup.com](http://www.theconcordgroup.com). Link to assessment summary:

<https://growgreatfallsmontana.org/wp-content/uploads/2023/12/Great-Falls-Housing-Demand-Summary-12-21.pdf>

CTA LandWorks Group. (2004) Missouri River Urban Corridor Plan. Great Falls, Montana 2004. Link to Corridor plan:

[https://greatfallsmt.net/sites/default/files/fileattachments/planning\\_and\\_community\\_development/page/27411/mrucp1.pdf](https://greatfallsmt.net/sites/default/files/fileattachments/planning_and_community_development/page/27411/mrucp1.pdf)

Craw, M. (2017). Effects of Multi-Family Housing on Property Values, Crime and Code Violations in Little Rock, 2000-2016.

[https://ualr.edu/publicaffairs/files/2016/06/lr\\_multifamily\\_report\\_final.pdf](https://ualr.edu/publicaffairs/files/2016/06/lr_multifamily_report_final.pdf)

Governor's Housing Task force. (2022) Recommendations and Strategies to Increase the Supply of Affordable, Attainable Workforce Housing.

[https://deq.mt.gov/files/About/Housing/HTF\\_PhaseI\\_Final\\_10142022.pdf](https://deq.mt.gov/files/About/Housing/HTF_PhaseI_Final_10142022.pdf)

Haughey, Richard M. (2005) Higher-Density Development: Myth and Fact. Washington, D.C.: ULI—the Urban Land Institute, 2005.

[https://uli.org/wp-content/uploads/ULI-Documents/HigherDensity\\_MythFact.ashx.pdf](https://uli.org/wp-content/uploads/ULI-Documents/HigherDensity_MythFact.ashx.pdf)

Schaffer, Cpt. John. (2023) Apartment Data. Email to Jake Clark. December 12, 2023. Available upon request.

February 5, 2024

Karen and Ed Venetz  
939 2<sup>nd</sup> St. SW  
Great Falls, MT 59404

City of Great Falls Planning Advisory/Zoning Commission  
2 Park Drive  
Great Falls, MT 59401

RE: Zoning Map Amendment at 805 2<sup>nd</sup> St SW from R1 to M2

Dear Commission members,

We are writing to express our concerns about the project. We are unable to attend in person to express our concerns.

It's in the news daily Great Falls is experiencing a housing shortage. This project agrees with the Missouri River Corridor Plan's strategy to encourage land use change along the Missouri River; the strategy also includes and encourages careful planning and development.

Our concerns include:

- Increased volume of traffic:
  - Thank you for conducting a traffic impact assessment. Staff determined roadway volumes for the project are within the normal range for the residential local roadway of 2<sup>nd</sup> St. SW and 10<sup>th</sup> Ave SW and a non-residential roadway of Huffman Ave and Bay Drive.
- Did the analysis include?:
  - Lack of sidewalks on the roadways
  - Both roadways are Bike Routes leading to the Rivers Edge Trail
  - Frequent speeding
  - Lack of adhering to the STOP sign at the intersection of 10<sup>th</sup> Ave SW and Bay Drive
  - Tight corner at 10<sup>th</sup> Ave SW and 2<sup>nd</sup> St SW – again no sidewalks
- Photos of the area are included in this email; if you have not personally inspected the area, I strongly recommend it.
- Would the following be considered?:
  - Frequent patrolling
  - Installation of speed bumps to deter speeding

Zone Change

- How is the community assured that the change from R1 to M2 zoning includes only apartments and townhouses? What will keep the property owner from changing the submitted plans to another project type allowed under M2 zoning?

River shoreline

- The Missouri River in Cascade County is closed to motorized watercraft from the Burlington Northern Railway Bridge No. 119.4 at Broadwater Bay in Great Falls to Black Eagle: and it is a controlled no-wake zone 200 feet from the western shore as buoyed from the Warden Bridge on 10<sup>th</sup> Ave. S to the Burlington Northern Railway Bridge from May 1 to September 30.
- This area is extremely busy and noisy during the summer months.

As per the MRCP Guiding Principles, No. 3, The Corridor Plan will promote beneficial, sustainable economic development that utilizes the river as an amenity while preserving and enhancing its ecological integrity and asset values. Specifically, water quality, natural shoreline vegetation, and wetlands will be restored, enhanced, or protected, and the river's environmental health will not be compromised by development.

Respectfully submitted,  
Karen and Ed Venetz  
[kvenetz183@gmail.com](mailto:kvenetz183@gmail.com)  
406-868-5989











From: Bill Budeski, 614-10<sup>th</sup> Ave. SW, Great Falls, MT 59404

To: Planning Advisory Board/Zoning Commission

My name is Bill Budeski, I live at 614-10<sup>th</sup> Ave SW and have been for 60 plus years. Our neighborhood is zoned "**A Suburban Single Family Dwellings**".

**I am AGAINST the rezoning request for 805-2<sup>nd</sup> St SW, for an apartment/condo complex. If this is passed, we will have no say over what other buildings could be built in this area!**

This request will impact a peaceful neighborhood in many negative ways. This will involve excessive vehicle traffic, 100 plus apartments & condos, numerous people and their friends, as well as noise. This will infringe on our neighborhood family's peace and well-being in their lives on 10<sup>th</sup> Ave. SW. It will also increase traffic, which is not needed. It will impact 6<sup>th</sup> St SW & Fox Farm/10th Ave So. which is already overwhelmed by traffic. 10<sup>th</sup> Ave SW is also the upper west end of the start of River's Edge Trail and gets a lot of use, from March thru October with family's walking, biking, jogging etc. It is a

**The center line is off 10', poor drainage with excessive water puddling from rain and snow melt.** The existing traffic is already a problem with **excessive speeding** because there is no side streets to slow it down. There are 5-6 blocks in length, East from 6<sup>th</sup> St. SW to 4<sup>th</sup> St. SW hill. **We Do Not Need Any More Traffic.** 10<sup>th</sup> is not a Thru St and doesn't Need to Be One.

People who dwell in apartments Do Not Pay Any Property Taxes! Only Home Owners Do! We are already taxed enough on our home & Properties.

**PLEASE VOTE NO ON THIS REZONING REQUEST** as it is not in the best interest our neighborhood.

Thank you,

Bill Budeski

## Lonnie Hill

---

**From:** Yonker, Charity N. <cnyonker@cascadecountymt.gov>  
**Sent:** Monday, February 12, 2024 11:42 AM  
**To:** Lonnie Hill  
**Cc:** Brock Cherry  
**Subject:** PH - Zoning map amendment to change the zoning of the property addressed as 805 2nd Street NW

Good morning, Lonnie:

Before considering this proposal, I would ask the respective Board to consider and vet whether Phase 2 and Phase 3 of this project are feasible before approving a rezone. The Applicants state that they intend on submitting a Conditional Letter of Map Revision to FEMA in the application. It states in the Staff Report that Phase 2 and Phase 3 are in the Special/Regulated Flood Hazard Area of the Missouri River currently. Based on the FEMA FIRMette, there are portions of the subject properties containing Floodway and Flood Fringe of Zone AE. A Conditional Letter of Map Revision will involve a flood study that can take more than a year to complete depending on the skill of the consultant and their availability just to support the request to FEMA. There remains the possibility that FEMA will deny the final LOMR request. If that would occur, then these properties would be rezoned and opened to a variety of uses beyond multifamily housing and there is a risk this particular proposal may not even come to fruition.

Since the LOMR will be required to effectuate this proposal, the rezone is presented while it has already been determined by FEMA and the community at large through its floodplain ordinance, that the development will be taking place in a flood hazard area where work done on this property may also impacts other landowners during a 100-year flood event and in general terms has public safety issues from the location in the flood hazard area. There is no engineering analysis provide that supports there will be no flood risk with the Application proposal or the MT-2 Form submittal to FEMA for review. The Application states they plan on bringing in fill raise the properties. No quantitative data is provided that the quantity of fill proposed and the depth involved to raise the terrain will not adversely impact nearby property owners or be able to withstand a 100-year flooding event. Clearing vegetation and running sprinkler systems, typical of these types of developments, also acts to destabilize the floodplain and decrease the floodplain's ability to absorb flood waters.

If FEMA's comments on the CLOMR are favorable, then it would be appropriate to consider the rezone application at that time when there are some reassurances that the design proposal meets at least the minimum NFIP requirements. Alternatively, the Applicant could amend the Application proposal to only include Phase 1 that is not within the SFHA to eliminate this flood hazard concern.

Another point to consider, whether the agreement between the City and the Applicant will actually be upheld under the law and by the Applicants. Completing the rezone now even with an agreement between the City and the Applicants that the current property owners/Applicant will not utilize this property for other types of purposes otherwise allowed within the M-2 District, does not prevent this agreement from being deemed unenforceable, or alienable to subsequent property owners. Rhetorically, looking into the future beyond this proposal, once the rezone is completed how can the City attempt to restrict permissible or applying for conditional permitting for land uses allowed by the zoning District in which these Lots are now located without being contrary to the law (zoning ordinance).

Alternatively, there is the option to do a zoning text amendment process to add a multi-family dwelling use as either a principle or conditional use within the R-1 District that would appropriately restrict the types of uses otherwise allowed in the M-2 District through the zoning ordinance that would better address land use compatibility between the R-1 and M-2 Districts.

To sum up, the general public safety concern when it comes to flood risks should be heavily considered. Once at least a CLOMR has been positively commented on by FEMA, this rezone proposal could then be examined and acted upon (the community will have the available data submitted to FEMA, will have done a review that it meets the City's floodplain requirements, and FEMA will provide assurances that it will meet the NFIP minimum requirements). Please also consider

a zoning text amendment to reexam the R-1 District as a whole to incorporate multi-family dwelling use (likely a conditional use) as an alternative to performing a map amendment and agreement with the landowner(s).

Please consider these written comments when evaluation this Application proposal.

**Charity N. Yonker, CFM**

*Cascade County Planning Director/Floodplain Administrator*

Cascade County Planning & GIS Department

121 4<sup>th</sup> Street North, Suite 2H/I

Great Falls, MT 59401

Phone: (406) 454-6905

Fax: (406) 454-6919

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## Lonnie Hill

---

**From:** Jamie Nygard  
**Sent:** Tuesday, February 13, 2024 9:45 AM  
**To:** Lonnie Hill  
**Cc:** Rachel Campbell; David Dennis; Andrew Finch  
**Subject:** FW: Stainsby Rezoning Request — Bay View

FYI for this afternoon's meeting.

---

**From:** Brett Doney <bdoney@growgreatfalls.org>  
**Sent:** Tuesday, February 13, 2024 8:40 AM  
**To:** Jamie Nygard <jnygard@greatfallsmt.net>  
**Cc:** Jake Clark <jake@growgreatfalls.org>; Jolene Schalper <jschalper@growgreatfalls.org>; Brock Cherry <bcherry@greatfallsmt.net>; Spencer Woith <spencer@woitheng.com>  
**Subject:** Stainsby Rezoning Request — Bay View

Unfortunately, I will not be able to attend this afternoon's hearing.

To supplement the letter that I have already submitted for the record, I would like you to go on record after review of the City Planning staff's agenda report and findings of fact that I fully concur and endorse the staff agenda report and findings of fact and urge approval by the City Zoning Commission.

I do not believe the facts warrant additional study. The staff work has been thorough and supported by City land use policy and best practice planning standards.

Brett Doney, AICP  
 President & CEO

**Great Falls Montana Development Alliance**

High Plains Financial  
 Direct Mobile 1-406-750-2119  
 Connect with me on [LinkedIn](#)!

*Untame Your Entrepreneurial Spirit in Great Falls Montana*

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[LiveinGreatFalls.com](http://LiveinGreatFalls.com)

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[Click here to get the latest regional business news delivered to your inbox with the Great Falls Top Ten!](#)

*GFDA and HPF are proud to be equal opportunity employers, lenders, and providers.*

**Lonnie Hill**

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**From:** Jamie Nygard  
**Sent:** Tuesday, February 13, 2024 9:44 AM  
**To:** Lonnie Hill  
**Cc:** Rachel Taylor; David Dennis; Brock Cherry; Andrew Finch  
**Subject:** FW: Bayview Apartments at 805 2nd St SW

FYI for this afternoon's meeting.

**From:** Jane Brinkman <gijane107@gmail.com>  
**Sent:** Tuesday, February 13, 2024 9:42 AM  
**To:** Jamie Nygard <jnygard@greatfallsmt.net>  
**Subject:** Bayview Apartments at 805 2nd St SW

Upon reading the planning/zoning board's papers about this project, I have questions about where their information was received. We do not have boulevards. We have had a motorhome parked on our street since the Tuesday before Thanksgiving. The bike study from 2014 has not been updated. The few day traffic study taken from last fall was during one of the slowest times of the year! Two cars per unit in a 92 unit complex does not equal 132! There is not enough parking on this 4.5 acre parcel to support this size of a complex! The neighboring property values will certainly not be increasing. When there is a train derailment and trains are now going through Great Falls and the crossings are blocked, our 10th Ave SW cannot support this increased traffic! This project affects more than just the neighbors within the 150 foot area. Please find a different property for this size of a project and do not permit this zone change!



Virus-free. [www.avast.com](https://www.avast.com)

February 13, 2024

To: CITY OF GREAT FALLS-CITY COMMISSION/ PLANNING BOARD

Attached is a list of ninety nine (99) property owners opposed to the rezoning proposal of 805 2<sup>nd</sup> Street SW currently before the city planning board.

These signatures comprise essentially the entire neighborhood from 2<sup>nd</sup> Street SW, 10<sup>th</sup> Ave SW, and 9<sup>th</sup> Ave SW; all opposed to a change of zoning.

Sincerely,  
Kirby Berlin  
825 2<sup>nd</sup> Street SW  
Great Falls, Mt 59404  
406-217-3514

12-8-2023






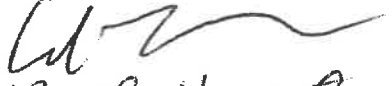

We the undersigned are protesting  
the proposed rezoning of property  
at 805 2nd St S.W. (within 150')

<u>Print</u>	<u>Signature</u>	<u>Address</u>
Martha M. Berlin	Martha M. Berlin	827 2nd St. S.W.
Joseph BERLIN	[Signature]	827 2nd St SW
Alexander Smithson	Alexander Smithson	820 2nd St. SW
Kent Stokes	(see Attached) (Also wrote letter)	821 2nd St. SW
Donald Schmidt	Donald Schmidt	900 2nd St. S.W. - Renter
Sheryl Schmidt	Sheryl Schmidt	900 2nd St SW
R. Dewey Schmidt		900 2nd St. S.W
Wanda Carlson	Wanda Carlson	814 2nd ST SW
Kirby Berlin	[Signature]	825 2nd St SW
Lawrence Gadbow	[Signature]	803 2nd ST SW
<del>Mary Steffenson</del> Kathy Steffenson	Kathy Steffenson	826 2nd St SW
Steve Steffenson	Steve Steffenson	826 2nd ST SW



12-8-2023



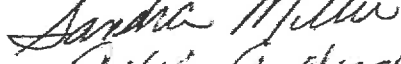



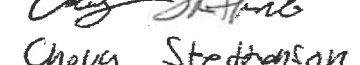

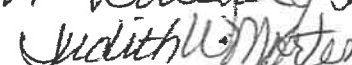
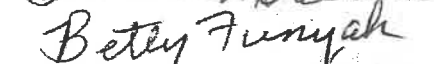

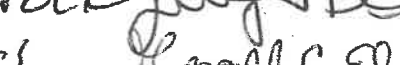
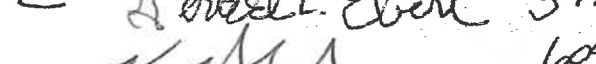
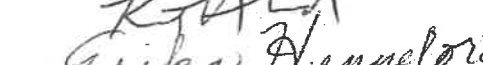



We the undersigned are protesting  
the proposed rezoning of property  
at 805 2nd St S.W.  
(Residents not within the 150ft area)

<u>Print</u>	<u>Signature</u>	<u>Address</u>
Sanna Czi Fro		605 70th Ave SW.
MAURICE Camerow Jr		607 - 10th Ave SW
Bill Budeski	Bill Budeski	614-10th Ave SW
LeAnn Budeski	LeAnn Budeski	614-10th Ave SW
<del>William Fisk</del>		
William Fisk		618 10th Ave SW
Rochelle Fisk	Rochelle Fisk	618 10th Ave SW
Christine Adamson	Christine Adamson	628 10th Ave SW
		628 10th Ave SW
Gary Adamson	Gary Adamson	628 10th Ave SW
Bertha Dykeman	Bertha M Dykeman	800 10th Ave SW
Ed Cole Turner		834 10th Ave SW
Neil Hentel	Neil Hentel	815 10th Ave SW
Dorothy Hentel	Dorothy Hentel	815 10th Ave SW
Daniel Anderson		704 10th Ave SW
<del>Shirley Bierlein</del>		
Helen Bierlein	Shirley Bierlein	813 10 Ave SW
	Helen Bierlein	813 10 Ave SW

12-8-2023

We the undersigned are protesting  
the proposed rezoning of property  
at 805 2nd St S.W.

(Residents not within the 150ft area)

<u>Print</u>	<u>Signature</u>	<u>Address</u>
Randy Steffenson		612 10th Ave SW
Norman Miller		505 10th Ave SW
SANDRA MILLER		505 10th Ave SW
Calvin Anderson		501 10th Ave SW
Shirley Anderson		501 10th Ave S.W.
Brittany Mendenhall		421 10th Ave SW
Aimee Steffenson		421 10th Ave S.W.
Casey Steffenson		421 10th Ave S.W.
Cheryl Steffenson		421 10th Ave S.W.
Dorinda J. Iverson		412 10th Ave S.W.
Judy W Mortensen		324 10th Ave S.W.
Betty Funyak		208 10th Ave S.W.
Jerry L. Bundtrock		207 10th Ave S.W.
GERALD C. Eberl		511-10 Ave SW
KURT HENNEFORD		604 10th Ave SW
Erika Henneford		604 10th Ave S.W.
Max Magnus		201 Hoffman Ave

12-8-2023

We the undersigned are protesting  
the proposed rezoning of property  
at 805 2nd St S.W.  
(Residents not within the 150ft area)

Print

Signature

Address

Sheryl Schmidt



910 2nd St. S.W

R. Dewey Schmidt

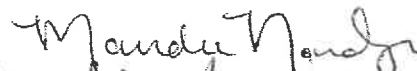
910 2nd St. S.W







Mandee Nardinger



200 10th Ave SW

John Harding



200 1/2 10th Ave SW

Ronald Brinkman



310 10th Ave SW

Jane Brinkman



310 10th Ave SW



Esther Ferda Esther Juda 230 9th Ave SW  
 JESSICA ELSTON 430 9th Ave SW  
 FENNIE FOGERTY 500 9th Ave SW 67 MT 59104  
 Lyle Fogerty 500 9th Ave SW 67, Falls

To: Those affected by the proposed REZONING of 805 2nd St SW and opposed to rezoning where the developers are proposing approximately 144 apartments and multiple condo/townhouses.

I/we as property owners of 900 2nd St SW opposed the rezoning effort for 805 2nd St SW, Great Falls, Mt, from R-1 to M-2 and any such extension of the project.

Sincerely, Sheryl Schmidt  
Owners phone # (464) 761-8289

Sheryl Schmidt

To: Those affected by the proposed REZONING of 805 2nd St SW and opposed to rezoning where the developers are proposing approximately 144 apartments and multiple condo/townhouses.

I/we as property owners of 900 2nd St SW opposed the rezoning effort for 805 2nd St SW, Great Falls, Mt, from R-1 to M-2 and any such extension of the project.

Sincerely, Ronald Dewey Schmidt  
Owners phone # \_\_\_\_\_

Ronald Dewey Schmidt

Please remit by phone picture to Kirby Berlin 406 217 3514

Or

Drop off at 827 2nd St SW, Tribune box

Or

Call Kirby Berlin at 406 217 3514 for a pickup

Thank you, and please encourage neighbors and friends to attend the meetings to voice your opposition

To: Those affected by the proposed REZONING of 805 2nd St SW and opposed to rezoning where the developers are proposing approximately 144 apartments and multiple condo/townhouses.

I/we as property owners of 820 2nd St SW opposed the rezoning effort for 805 2nd St SW, Great Falls, Mt, from R-1 to M-2 and any such extension of the project.

Sincerely, Alexander L. Smithson  
Owners phone # 406-217-1255

Alexander L. Smithson

To: Those affected by the proposed REZONING of 805 2nd St SW and opposed to rezoning where the developers are proposing approximately 144 apartments and multiple condo/townhouses.

I/we as property owners of 910 2nd St SW opposed the rezoning effort for 805 2nd St SW, Great Falls, Mt, from R-1 to M-2 and any such extension of the project.

Sincerely, Ronald Dewey Schmidt  
Owners phone # \_\_\_\_\_

Ronald Dewey Schmidt

Please remit by phone picture to Kirby Berlin 406 217 3514

Or

Drop off at 827 2nd St SW, Tribune box

Or

Call Kirby Berlin at 406 217 3514 for a pickup

Thank you, and please encourage neighbors and friends to attend the meetings to voice your opposition



To: Those affected by the proposed REZONING of 805 2nd St SW and opposed to rezoning where the developers are proposing approximately 144 apartments and multiple condo/townhouses.

I/we as property owners of 814 2nd St SW opposed the rezoning effort for 805 2nd St SW, Great Falls, Mt, from R-1 to M-2 and any such extension of the project.

Sincerely, Alexander L. Smithson  
Owners phone # 406-217-1255

Alexander L. Smithson

Please remit by phone picture to Kirby Berlin 406 217 3514

Or

Drop off at 827 2nd St SW, Tribune box

Or

Call Kirby Berlin at 406 217 3514 for a pickup

Thank you, and please encourage neighbors and friends to attend the meetings to voice your opposition

To: Those affected by the proposed REZONING of 805 2nd St SW and opposed to rezoning where the developers are proposing approximately 144 apartments and multiple condo/townhouses.

I/we as property owners of 607-10<sup>th</sup> Ave SW opposed the rezoning effort for 805 2nd St SW, Great Falls, Mt, from R-1 to M-2 and any such extension of the project.

Sincerely,   
Owners phone # 406-868-1170

MAURICE B. CAMERON JR

To: Those affected by the proposed REZONING of 805 2nd St SW and opposed to rezoning where the developers are proposing approximately 144 apartments and multiple condo/townhouses.

I/we as property owners of 905 2nd St SW opposed the rezoning effort for 805 2nd St SW, Great Falls, Mt, from R-1 to M-2 and any such extension of the project.

Sincerely,   
Owners phone # 406-799-4712



Please remit by phone picture to Kirby Berlin 406 217 3514

Or

Drop off at 827 2nd St SW, Tribune box

Or

Call Kirby Berlin at 406 217 3514 for a pickup

Thank you, and please encourage neighbors and friends to attend the meetings to voice your opposition

To: Those affected by the proposed REZONING of 805 2nd St SW and opposed to rezoning where the developers are proposing approximately 144 apartments and multiple condo/townhouses.

I/we as property owners of 805 2nd St. SW opposed the rezoning effort for 805 2nd St SW, Great Falls, Mt, from R-1 to M-2 and any such extension of the project;

Sincerely, Kent N. Stokes  
Owners phone # \_\_\_\_\_

~ see Attached

**I Kent N Stokes**  
**Owner of, 821 2nd St.**  
**SW, Great Falls, MT**  
**Do strongly protest, the**  
**rezoning of 805 2nd St.**  
**SW, Great Falls, MT**  
**Kent N Stokes**  
**PO Box 47**  
**Davenport Ca**  
**95017**

To: Those affected by the proposed REZONING of 805 2nd St SW and opposed to rezoning where the developers are proposing approximately 144 apartments and multiple condo/townhouses.

I/we as property owners of 604 10th Ave SW opposed the rezoning effort for 805 2nd St SW, Great Falls, Mt, from R-1 to M-2 and any such extension of the project.

Sincerely, Kurt Henneford  
Owners phone # 406-217-3815

Erika Henneford 406-750-1645

To: Those affected by the proposed REZONING of 805 2nd St SW and opposed to rezoning where the developers are proposing approximately 144 apartments and multiple condo/townhouses. 915 2nd St. S.W.

I/we as property owners of Dorothy McCartney opposed the rezoning effort for 805 2nd St SW, Great Falls, Mt, from R-1 to M-2 and any such extension of the project.

Sincerely, Dorothy McCartney  
Owners phone # 406 452-0512

Please remit by phone picture to Kirby Berlin 406 217 3514

Or

Drop off at 827 2nd St SW, Tribune box

Or

Call Kirby Berlin at 406 217 3514 for a pickup

Thank you, and please encourage neighbors and friends to attend the meetings to voice your opposition

To: Those affected by the proposed REZONING of 805 2nd St SW and opposed to rezoning where the developers are proposing approximately 144 apartments and multiple condo/townhouses.

I/we as property owners of 935 2nd St SW opposed the rezoning effort for 805 2nd St SW, Great Falls, Mt, from R-1 to M-2 and any such extension of the project.

Sincerely, Maria Beth Murphy  
Owners phone # 406-781-5642

To: Those affected by the proposed REZONING of 805 2nd St SW and opposed to rezoning where the developers are proposing approximately 144 apartments and multiple condo/townhouses.

I/we as property owners of 805 2nd St SW opposed the rezoning effort for 805 2nd St SW, Great Falls, Mt, from R-1 to M-2 and any such extension of the project.

Sincerely, Lawrence Cambridge  
Owners phone # 406-267-5189

Please remit by phone picture to Kirby Berlin 406 217 3514

Or

Drop off at 827 2nd St SW, Tribune box

Or

Call Kirby Berlin at 406 217 3514 for a pickup

Thank you, and please encourage neighbors and friends to attend the meetings to voice your opposition

## Lonnie Hill

---

**From:** Brock Cherry  
**Sent:** Friday, February 16, 2024 9:06 AM  
**To:** Lonnie Hill  
**Subject:** Fwd: [All City Commissioners] Zoning change request at 805 2nd St SW

Please add his to the City Commission report.

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**From:** Lisa C. Kunz <lkunz@greatfallsmt.net>  
**Sent:** Friday, February 16, 2024 8:49:42 AM  
**To:** Greg Doyon <gdoyon@greatfallsmt.net>; Charles Anderson <canderson@greatfallsmt.net>; Krista Artis <kartis@greatfallsmt.net>; Brock Cherry <bcherry@greatfallsmt.net>  
**Subject:** FW: [All City Commissioners] Zoning change request at 805 2nd St SW

FYI

Please include in upcoming agenda packet for this item.

Lisa

---

**From:** City of Great Falls Montana <greatfalls-mt@municodeweb.com>  
**Sent:** Friday, February 16, 2024 8:36 AM  
**To:** City Commissioners <CityCommissioners@greatfallsmt.net>  
**Subject:** [All City Commissioners] Zoning change request at 805 2nd St SW

Karen S Venetz ([kvenetz183@gmail.com](mailto:kvenetz183@gmail.com)) sent a message using the contact form at <https://greatfallsmt.net/>.

Dear honorable Mayor and City Commissioners.

My husband and I sent a letter to the Zoning Commission meeting for the Tuesday, February 13th meeting. The same letter was also shared with Neighborhood Council #2. I don't see an opportunity to attach the letter to this email. After listening to the meeting via Zoom, I shared additional comments with the Neighborhood Council, who suggested I also share with the City Commissioners.

Good morning, Frank.

My husband and I watched the Zoning meeting yesterday.

In addition to our original letter, I would like to touch on:

I feel like the city was not taking the "traffic" subject as seriously as those concerned. I understand that they did not have to do a traffic study. It was kind that they did provide us with one. But, really, a one-day traffic study in December? This subject should be an issue moving forward. 10th Ave SW is already unsafe as it is, and with increased traffic, it will continue only to get worse. On-street parking at the trailhead on Bay Drive during the hot summer months makes the slight curve dangerous. If additional parking is allowed, it will make that area a nightmare. A reduced speed limit would help, but I doubt it would be followed or enforced. I'm not sure if the NC could request before moving forward with the re-zoning that speedbumps be placed in the most dangerous areas before moving forward as an option. It was also suggested that the citizens on 10th Ave SW have never requested sidewalks. I was unaware we could, and I suspect most of the neighborhood thinks the same.

Will Neighborhood Council #2 be able to review the Voluntary Development Agreement to ensure that the owners will truly serve the neighborhood, no matter who they may be in the future?

Thank you for serving on the Council.

Respectfully submitted,

Thank you to the Mayor and City Commissioners for serving.

Karen S Venetz and Edward Venetz

939 2nd St. SW

Great Falls, MT 59404



**Kayla Kryzsko**

---

**From:** Jamie Nygard  
**Sent:** Monday, December 11, 2023 6:25 AM  
**To:** Thomas Micuda; Brock Cherry; Lonnie Hill; Sara Doermann; Kayla Kryzsko  
**Subject:** FW: 805 2nd st sw protest signatures for those within 150ft and those of the neighborhood  
**Attachments:** CamScanner 12-10-2023 15.59.pdf

Fyi.

---

**From:** Kirby Berlin <kirbyberlin@yahoo.com>  
**Sent:** Sunday, December 10, 2023 4:03 PM  
**To:** Jamie Nygard <jnygard@greatfallsmt.net>  
**Subject:** 805 2nd st sw protest signatures for those within 150ft and those of the neighborhood

Try this powerful scanner app  
[Sign up as a new user to get 1 GB of cloud. \(Download now\)](#)

Hello,  
Attached are the two protest lists which include both a list of those protesting the rezoning of 805 2nd st sw within 150 feet of the subject property as well as another list of those in the neighborhood which protest this rezoning as well.

Thank you,  
Kirby Berlin  
Owner  
825 2nd st sw  
406-217-3514

Sent from my iPhone

12-8-2023

We the undersigned are protesting  
the proposed rezoning of property  
at 805 2nd St S.W.

(Residents not within the 150ft area)

Print

Signature

Address

Sheryl Schmidt

Sheryl Schmidt

910 2nd St S.W.

R. Dewey Schmidt

910 2nd St S.W.

~~[Redacted]~~

~~[Redacted]~~

~~[Redacted]~~

Mandee Nardinger

Mandee Nardinger

200 10th Ave SW

John Harding

John Harding

200 1/2 10th Ave SW

Ronald Brinkman

Ronald Brinkman

310 10th Ave SW

Jane Brinkman

Jane Brinkman

310 10th Ave SW

Kirby  
Berlin

Kirby Berlin

825

2nd St

SW

12-8-2023

We the undersigned are protesting  
the proposed reasoning of property  
at 805 2nd St S.W.

PrintSignatureAddress

<u>Print</u>	<u>Signature</u>	<u>Address</u>
Martha M. Berlin	Martha M. Berlin	827 2 <sup>nd</sup> St. S.W.
Joseph Berlin	[Signature]	827 2 <sup>nd</sup> St S.W.
Alexander Smithson	Alexander Smithson	820 2nd St. SW
Kent Stokes	(see Attached) (Also wrote letter)	821 2nd St. SW
Donald Schmidt	Donald Schmidt	900 2 <sup>nd</sup> St. S.W. - Renter
Sheryl Schmidt	Sylsmit	900 2 <sup>nd</sup> ST S.W
R. Dewey Schmidt	Wanda Carlson	900 2nd ST. S.W
Wanda Carlson	[Signature]	814 2nd ST SW
Kirby Berlin	[Signature]	825 2 <sup>nd</sup> St SW
Lawrence Gadbow	[Signature]	803 2 <sup>nd</sup> ST SW
<del>Mary Steffenson</del> Kathy Steffenson	Kathy [Signature]	826 2nd St SW
Steve Steffenson	Steve Steffenson	826 2nd ST SW.

## Kayla Kryzsko

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**From:** Jamie Nygard  
**Sent:** Monday, December 11, 2023 6:26 AM  
**To:** Brock Cherry; Thomas Micuda; Lonnie Hill; Kayla Kryzsko; Sara Doermann  
**Subject:** FW: Protest letter in regaurd to 805 rezoning 2nd st sw  
**Attachments:** 20231210\_143357.jpg

Fyi.

---

**From:** Steve Steffenson <steve@williamsonfence.com>  
**Sent:** Sunday, December 10, 2023 2:41 PM  
**To:** Jamie Nygard <jnygard@greatfallsmt.net>  
**Subject:** Protest letter in regaurd to 805 rezoning 2nd st sw

Sent from my Verizon, Samsung Galaxy smartphone  
 Get [Outlook for Android](#)

12-8-2023

We the undersigned are protesting  
the proposed rezoning of property  
at 805 2nd St S.W.

<u>Print</u>	<u>Signature</u>	<u>Address</u>
Martha M. Berlin	<i>Martha M. Berlin</i>	827 2nd St S.W.
Joseph Berlin	<i>Joe Berlin</i>	827 2nd St S.W.
Alexander Smithson	<i>Alexander Smithson</i>	820 2nd St. S.W.
Kent Stokes	(see Attached) (Also wrote letters)	821 2nd St S.W.
Donald Schmidt	<i>Donald Schmidt</i>	900 2nd St. S.W. - Renter
Sheryl Schmidt	<i>Sheryl Schmidt</i>	900 2nd St S.W.
R. Dewey Schmidt		900 2nd St S.W.
Wanda Carlson	<i>Wanda Carlson</i>	814 2nd ST SW
Kirby Berlin	<i>Kirby Berlin</i>	825 2nd st SW
Lawrence Gadbow	<i>Lawrence Gadbow</i>	803 2nd ST SW
<del>Mary Steffenson</del> Kathy Steffenson	<i>Kathy Steffenson</i>	826 2nd St S.W.
Steve Steffenson	<i>Steve Steffenson</i>	826 2nd ST SW.

## Kayla Kryzsko

---

**From:** Jamie Nygard  
**Sent:** Monday, December 11, 2023 6:26 AM  
**To:** Thomas Micuda; Brock Cherry; Sara Doermann; Lonnie Hill; Kayla Kryzsko  
**Subject:** FW: Protest zoning of 805 2nd st s.w.

Fyi.

---

**From:** Sheryl Schmidt <sbschmidt63@gmail.com>  
**Sent:** Sunday, December 10, 2023 2:39 PM  
**To:** Jamie Nygard <jnygard@greatfallsmt.net>  
**Subject:** Protest zoning of 805 2nd st s.w.



12-8-2023

We the undersigned are protesting  
the proposed rezoning of property  
at 805 2nd St S.W.

<u>Print</u>	<u>Signature</u>	<u>Address</u>
Martha M. Berlin	Martha M. Berlin	827 2nd St S.W.
Joseph Berlin	[Signature]	827 2nd St SW.
Alexander Smithson	Alexander Smithson	820 2nd St. SW
Kent Stokes	(see Attached) (Also wrote letter)	821 2nd St. SW
Donald Schmidt	Donald Schmidt	900 2nd St. SW - Renter
Sheryl Schmidt	[Signature]	900 2nd St SW
R. Dewey Schmidt	[Signature]	900 2nd St. SW
Wanda Carlson	Wanda Carlson	814 2nd ST SW
Kirby Berlin	[Signature]	825 2nd St SW
Lawrence Gadbow	[Signature]	803 2nd ST SW
<del>Mary Steffenson</del> Kathy Steffenson	Kathy [Signature]	826 2nd St SW
Steve Steffenson	Steve Steffenson	826 2nd ST SW.