



**Planning Advisory Board/Zoning Commission Agenda**  
**Civic Center, 2 Park Drive South, Great Falls, MT**  
**City Commission Chambers**  
**March 12, 2019**  
**3:00 PM**

**OPENING MEETING**

1. Call to Order 3:00 P.M.
2. Roll Call- Board Introductions  
**Peter Fontana- Chair**  
**Michael Wedekind- Vice Chair**  
**Dave Bertelsen**  
**Kelly Buschmeyer**  
**Anthony Houtz**  
**Tory Mills**  
**Charles Pankratz**  
**Samantha Shinaberger**  
**Patrick VanWorth**
3. Recognition of Staff
4. Approval of Meeting Minutes- February 12, 2019

**BOARD ACTIONS NOT REQUIRING PUBLIC HEARING**

5. Minor Subdivision – Westwood Plaza, a subdivision of Lot 2 of the Amended Plat of Block 1, Westwood No. 2 Addition located in the N1/2 of Section 2, Township 20 North, Range 3 East, P.M.M., Cascade County, MT.
6. Ordinance 3197, “An Ordinance Amending Title 1, Chapter 2, of the Official Code of the City of The City of Great Falls (OCCGF) Adding Section 050 Establishing A Public Hearing Procedure.”
7. Ordinance 3198, “An Ordinance Amending Title 17, Chapter 16, Article 6, of The Official Code of The City of Great Falls (OCCGF), Pertaining to Public Hearings.”

**COMMUNICATIONS**

8. Next Meeting Agenda- Tuesday, March 26, 2019  
-BeeHive Annexation, Establishment of Zoning, Non-Admin Plat
9. Petitions & Applications Received  
-Heisler/Calumet Non-Administrative Plat and Rezone  
-Love's Travel Stop Annexation and Zoning Request

**PUBLIC COMMENT**

**ADJOURNMENT**

**MINUTES OF THE MEETING  
OF THE  
GREAT FALLS PLANNING ADVISORY BOARD/ZONING COMMISSION  
February 12, 2019**

**CALL TO ORDER**

The regular meeting of the Great Falls Planning Advisory Board/Zoning Commission was called to order by Chair Pete Fontana at 3:00 p.m. in the Commission Chambers of the Civic Center.

**ROLL CALL & ATTENDANCE**

Planning Board Members present:

Pete Fontana, Chair  
Michael Wedekind, Vice Chair  
Kelly Buschmeyer  
Anthony Houtz  
Tory Mills  
Charles Pankratz  
Samantha Shinaberger  
Patrick VanWorth

Planning Board Members absent:

Dave Bertelsen

Planning Staff Members present:

Craig Raymond, Director P&CD  
Thomas Micuda, Deputy Director P&CD  
Brad Eatherly, Planner I

Other Staff present:

Joseph Cik, Assistant City Attorney  
Darcy Dea, Deputy City Clerk

Mr. Raymond affirmed a quorum of the Board was present.

**MINUTES**

Chair Pete Fontana asked if there were any comments or corrections to the minutes of the meeting held on January 22, 2019. Seeing none, Mr. VanWorth moved to approve the minutes. Mr. Houtz seconded, and all being in favor, the minutes were approved.

## **BOARD ACTIONS REQUIRING PUBLIC HEARING**

### **Annexation Grandview Tracts**

Brad Eatherly, Planner I, reviewed an aerial map of the subject property located on the north side 21<sup>st</sup> Avenue South. The applicants are requesting annexation for their property located in an area known as the Upper and Lower River Road Water and Sewer District, this particular parcel being located within Service District 5. The applicant is requesting annexation with the desire to use City water and sewer services with a new home being constructed. The owners are also requesting an establishment of an R-2 Single-family medium density zoning designation.

Mr. Eatherly reviewed the Findings of Fact as listed in the staff report, and said staff supports the annexation and zoning designation.

### **PETITIONER'S PRESENTATION**

There was no petitioner's presentation.

### **PUBLIC QUESTION AND ANSWER SESSION**

Mr. Fontana inquired about the phases of annexation in the Upper and Lower River Road Water and Sewer District, and why some have fully annexed in and some have not. Mr. Raymond explained that some people just don't want to annex into the City, despite the opportunity to hook into City sewer and water.

Mr. Pankratz noted the Findings of Fact reference the streets in the project area have gravel streets, and asked if other areas in the City have gravel streets. Mr. Eatherly said it is typical in that area. Mr. Raymond added as projects develop, better connectivity and paved roads are developing as well.

### **PUBLIC COMMENT**

There was no public comment.

### **BOARD DISCUSSION AND ACTION**

**MOTION:** That the Planning Advisory Board recommend the City Commission approve the annexation of the subject property as legally described in the staff report, the Draft Improvement Agreement, and the accompanying Findings of Fact/Basis of Decision, subject to the Conditions of Approval being fulfilled by the applicant.

Made by: Mr. VanWorth  
Second: Mr. Mills

**VOTE:** All in favor, the motion carried.

**MOTION:** That the Zoning Commission recommend the City Commission approve the establishment of R-2 Single-family Medium Density zoning for the subject property as legally described in the staff report, and the accompanying Findings of Fact/Basis of Decision, subject to the Conditions of Approval being fulfilled by the applicant.

Made by: Mr. Pankratz  
Second: Mr. Houtz

VOTE: All in favor, the motion carried.

### **COMMUNICATIONS**

#### Next Meeting Agenda – Tuesday, February 26, 2019

- Westwood Plaza Minor Subdivision
- Beehive Homes Annexation, Zoning Assignment, and Non-administrative Subdivision

#### Petitions & Applications Received:

- Heisler/Calumet Non-administrative Plat and Rezone

### **PUBLIC COMMENT**

There was no public comment.

### **ADJOURNMENT**

There being no further business, Chair Pete Fontana adjourned the meeting at 3:16 p.m.

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CHAIRMAN

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SECRETARY



Agenda #: \_\_\_\_\_  
Commission Meeting Date: \_\_\_\_\_

**CITY OF GREAT FALLS  
PLANNING ADVISORY BOARD / ZONING COMMISSION AGENDA REPORT**

**Item:** Minor Subdivision – Westwood Plaza, a subdivision of Lot 2 of the Amended Plat of Block 1, Westwood No. 2 Addition located in the N1/2 of Section 2, Township 20 North, Range 3 East, P.M.M., Cascade County, MT.

**Initiated By:** JPK Westwood Plaza Owner LLC.

**Presented By:** Brad Eatherly, Planner I, Planning and Community Development

**Action Requested:** Recommendation to the City Commission.

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**Suggested Motion:**

1. Board Member moves:

“I move that the Planning Advisory Board recommend the City Commission approve the minor subdivision of Lot 2 of Westwood Plaza No. 2 Addition as legally described in the Staff Report, and the accompanying Findings of Fact, subject to the Conditions of Approval being fulfilled by the applicant.”

2. Board Member calls for a second, discussion, and calls for the vote.

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**Background:** Westwood Plaza is a commercial development located off of the Northwest Bypass. Commercial businesses located on Lot 2 include Ulta Beauty, Dollar Tree, Staples, and TJ Maxx. Domino’s Pizza and Nickel Ante Casino abut the parcel on the southwest corner. A previous minor subdivision occurred creating Lot 2A just east of the subject property. Lot 2A contains a building with two businesses – Sherwin Williams and Linda Michaels Salon and Day Spa. The total size of Lot 2 comes to +/- 6.627 acres. The purpose of this application is to subdivide Lot 2 at Westwood Plaza into 2 individual parcels. All utilities, with the exception of a public water main which needs to be extended to provide service to the new lot, are located nearby, either within the Northwest Bypass right-of-way or elsewhere within the original Lot 2.

**Minor Subdivision Request:**

The applicant is requesting a minor subdivision of the subject property to create two lots. The proposed Lot 2C will become a pad site in order to facilitate the development of a new commercial building by way of Ground Lease or build to suit, and will be +/-0.885 acres.

The proposed newly created lot conforms to the C-2 General Commercial district development standards in terms of lot area and lot width. Based on conversations with the applicant, staff believes that a new building can be constructed on the lot and meet C-2 district standards for setbacks, height, and building coverage.

**Conditions on Lot 2C:** There is an existing encroachment on the westerly property boundary of the proposed Lot 2C. This encroachment is related to several back-out parking spaces associated with the adjoining business to the west. The owners are working with the neighboring property to eliminate the encroachment or provide an easement for the encroachments on the plat that both parties can agree upon. All existing encroachments on the newly created lot must be removed or reflected in shared agreements with adjoining property owners.

An existing free-standing sign for Staples is located on the proposed Lot 2C parcel. The Staples store is located on the existing parcel that has been proposed for subdivision. The proposed subdivision would change the status of this sign from “on-premise” to “off-premise.” This will require a sign easement, and the applicant should be aware that the continued presence of the sign triggers compliance with the Official Code of the City of Great Falls (OCCGF) 17.60.4.020(B)(8), which states:

“If a premise is subsequently subdivided after a freestanding sign allocation has been established for the premise, the subsequently created parcels shall share the freestanding sign allocation; shall share the same freestanding sign pole or monument; and, the owner/subdivider is responsible for allocating the freestanding signage amongst the separately created parcels at the time of each sale or lease.”

**Access:** The applicant has been in discussion with the Montana Department of Transportation regarding access to the site from the Northwest Bypass. MDT will only allow, a “right-in” turn for westbound motorists. As a result, the applicant will have to gain access to provide egress from the new lot through the adjoining properties to the west. Fortunately, shared parking and access arrangements already exist that simply need to be updated.

**Utilities:** A sewer main currently runs underneath the Northwest Bypass and should be readily available for connection to future development of Lot 2C. A City storm drain line runs along the north side of the Bypass and can be used to outlet storm water. At the time of future construction, the developer of Lot 2C will need to provide a full drainage report and demonstrate that water quality and quantity standards can be met through either surface or underground detention. Finally, there is an existing water main that is not on either Lot 2B or 2C that would need to be extended to the west to provide domestic water to the site.

The basis for a decision to approve, conditionally approve, or deny a proposed subdivision is whether it is demonstrated that development of the proposed subdivision meets the requirements of the Montana Code Annotated (MCA). Staff has developed Findings of Fact for the proposed subdivision, and Staff concludes that the subdivision meets the requirements provided by 76-3-608(3) MCA. The Findings of Fact are attached for review.

**Neighborhood Council Input:**

Per Montana Code Annotated and the Official Code of the City of Great Falls (OCCGF) 17.16.4.010 Table 16-2, minor subdivisions do not require public notification. As such, the Neighborhood Council 3 has not been notified as of yet.

**Concurrences:**

Representatives from City’s Public Works, Legal, and Fire/Rescue Departments have been involved through the review process of the Westwood Plaza subdivision. All comments have been taken into consideration for recommendation of the project.

**Fiscal Impact:** City utility services are currently being provided to the existing developments within the proposed Lot 2B. As noted above, utility services can be accessed for the proposed Lot 2C. The owners have been and will continue to be engaged with City Public Works in regards to utilities for the proposed Lot 2C.

**Staff Recommendation:**

Staff recommends approval of the minor subdivision of Lot 2 of the Westwood Plaza with conditions.

**Conditions of Approval:**

1. The applicant shall be required to create an easement document for the existing free-standing sign on the proposed Lot 2C. This easement shall also be shown on the amended plat.
2. The applicant shall provide 20 foot wide easements for all existing utilities within the proposed parcels. This includes a private storm drain line that already exists on the property.
3. A utility easement shall be added to the amended plat depicting the future extension of the City's water main from the adjoining lot to the east.
4. All encroachments shall be removed or reflected in shared agreements with adjoining property owners.

**Alternatives:**

The Planning Advisory Board could deny the minor subdivision. For this action, the Planning Advisory Board must provide alternative Findings of Fact to support a denial of the subdivision request.

**Attachments/Exhibits:**

Aerial Map  
Zoning Map  
Findings of Fact – Subdivision  
Narrative  
Draft Amended Plat  
Alta Map

## **FINDINGS OF FACT/BASIS OF DECISION – MONTANA SUBDIVISION AND PLATTING ACT**

Minor subdivision of Lot 2 of the amended plat of Block 1, Westwood No. 2 Addition, located in the N1/2 of Section 2, Township 20 North, Range 3 East, P.M.M., Cascade County, MT. (PREPARED IN RESPONSE TO 76-3-608(3) MCA)

### **PRIMARY REVIEW CRITERIA:**

**Effect on Agriculture and Agricultural Water User Facilities:** The minor subdivision is located on the Northwest Bypass which is located in city limits and surrounded by development. Thus, the proposed minor subdivision will not interfere with any agricultural irrigation system or present any interference with agricultural operations in the vicinity.

**Effect on Local Services:** Lots in the proposed subdivision are currently served or will be served from public mains at the time of development. The Owner will pay the cost of the service lines from these utility mains. Additionally, the Owner will pay to extend an existing eight (8) inch water main to provide service for development of the new lot. The owners of the two lots created by the subdivision will pay regular water and sewer charges, and monthly storm drain charges. The property proposed for this subdivision is currently receiving law enforcement and fire protection service from the City of Great Falls and the subdivision does not propose any changes to the current services.

**Effect on the Natural Environment:** The subdivision is not expected to adversely affect soils or the water quality or quantity of surface or ground waters. Although no designs have been submitted, future development on the new lot will be required to address both storm water quality and quantity control either through an underground detention system or a small above-ground system with Best Management Practices (BMPs) for water quality treatment.

**Effect on Wildlife and Wildlife Habitat:** The subdivision is surrounded by existing development with commercial to the east and west, CM Russell High School to the north, and the fairgrounds to the south. This is not in an area of significant wildlife habitat beyond occasional migrating fowl.

**Effect on Public Health and Safety:** Based on available information, the subdivision is not subject to abnormal natural hazards nor potential man-made hazards. The subdivision itself will not have a negative effect on Public Health and Safety. Although the new lot will have frontage along the Northwest Bypass, it will be restricted by the Montana Department of Transportation to only have right-in access from this street. As a result, the newly created lot will require additional easement access through adjoining property to protect public safety.

### **REQUIREMENTS OF MONTANA SUBDIVISION AND PLATTING ACT, UNIFORM STANDARDS FOR MONUMENTATION, AND LOCAL SUBDIVISION REGULATIONS**

The subdivision meets the requirements of the Montana Subdivision and Platting Act and the surveying requirements specified in the Uniform Standards for Monumentation and conforms to the design standards specified in the local subdivision regulations. The local government has



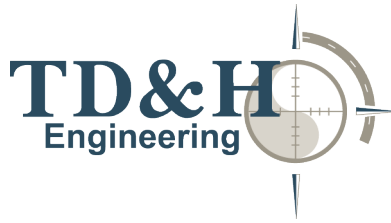
complied with the subdivision review and approval procedures set forth in the local subdivision regulations.

**EASEMENT FOR UTILITIES**

The owners shall provide necessary utility easements to accommodate water mains, sanitary sewer mains and private utilities, both existing and future, to serve both lots of the subdivision.

**LEGAL AND PHYSICAL ACCESS**

As noted previously, legal and physical access to the new lot will be from several shared access drives throughout the shopping center which has been addressed in an existing shared parking, access and maintenance agreement that will be revised with the approval of this subdivision. All existing encroachments on the newly created lot must be removed or reflected in shared agreements with adjoining property owners.



## WESTWOOD PLAZA MINOR SUBDIVISION NARRATIVE

### TD&H ENGINEERING JOB NO. 18-284

The owners of Westwood Plaza are requesting a minor subdivision of their property legally described as Lot 2 of the Amended Plat of Lot 2, Block 1, Westwood No. 2 Addition located in the N1/2 of Section 2, Township 20 North, Range 3 East, PMM, City of Great Falls, Cascade County, MT. The property consists of a total of 6.627 acres and the Owners are requested a single lot subdivision of the property. The newly created lots would consist of 5.742 (Lot 2B) acres for the northerly lot and 0.885 (Lot2C) acres for the southerly lot.

The reason(s) for the request being made is to separate the pad site from the rest of the property, which provides for the following:

- 1) To facilitate the development of a new building by way of Ground Lease or Build to Suit.
- 2) Will allow a tenant and/or lender to be able to secure their interests in the outparcel without being tied to the overall parcel that has other and/or existing commitments.

The subject property is zoned C-2 General Commercial, the two newly proposed lots meet the standards of the City of Great Falls Land Development Code per the follow table:

Standard	C-2 Requirement	Provided Lot 2B	Provided 2C
Residential Density	N/A	N/A	N/A
Min Lot Size	7,500 sq. ft.	5.742 ac	0.885 acres
Min Lot Width	50 feet	418 ft	171 ft
Lot Proportion	N/A	N/A	N/A
Max Building Height Principal Building	65 feet	Existing	Will meet code when developed, or require variance if adjustment is necessary
Max Building Height Accessory Building	24 feet; but not higher than the uppermost elevation of principal building	Existing	Will meet code when developed, or require variance if adjustment is necessary
Min Front Yard Setback	None	Existing	Will meet code when developed, or require variance if adjustment is necessary
Min Side Yard Setback	10 feet each side	Existing	Will meet code when developed, or require variance if adjustment is necessary
Min Rear Yard Setback	1/10 of lot depth, but not less than 1/10 of building height	Existing	Will meet code when developed, or require variance if adjustment

			is necessary
Maximum Lot Coverage	Corner Lot 70%; Other Lots 60%	Existing	Will meet code when developed, or require variance if adjustment is necessary

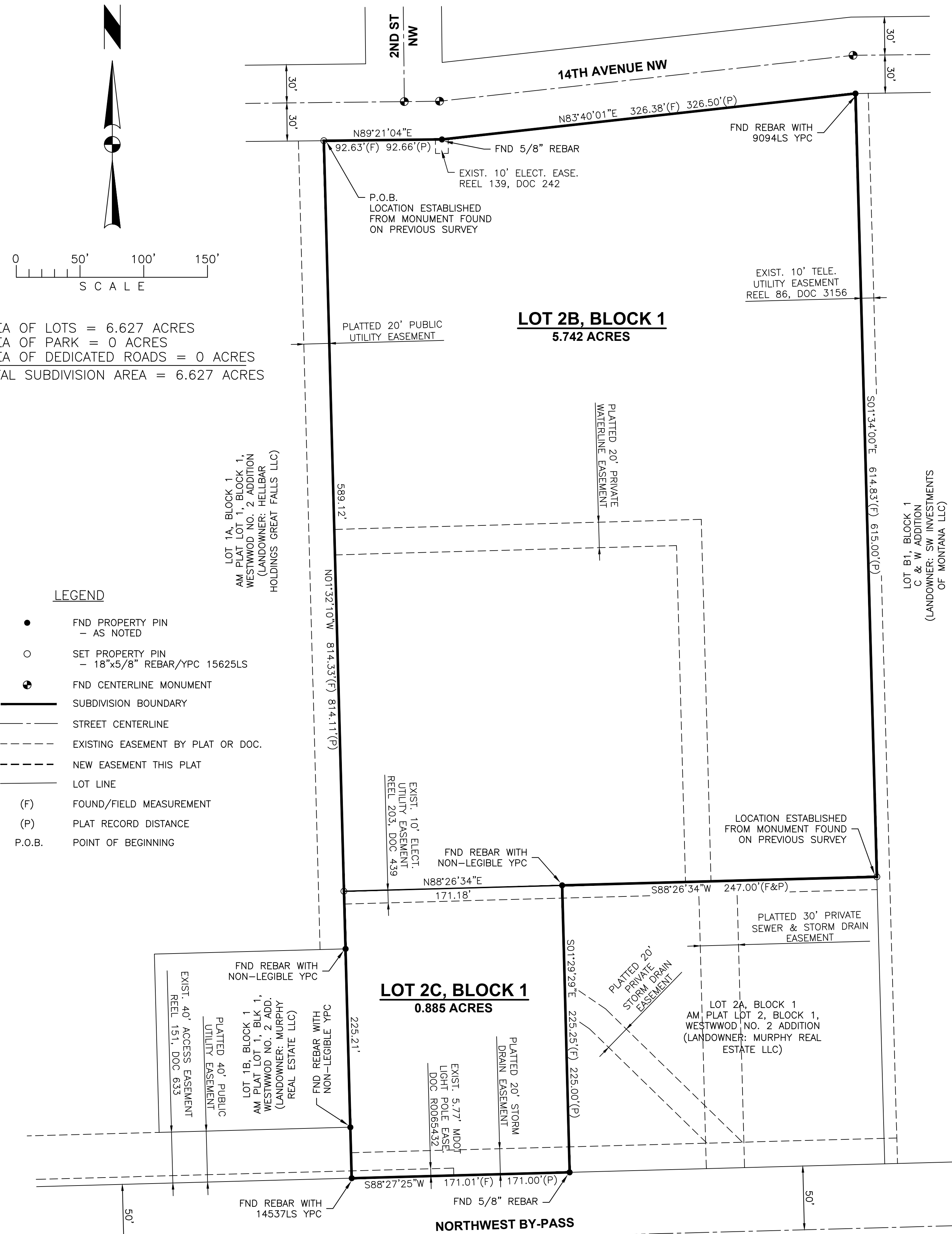
There is an existing encroachment on the westerly property boundary of the project. The owners are working with the neighboring property to eliminate the encroachment or provide an easement for the encroachments on the plat that both parties can agree upon.

The Owners have been in discussion with Public Works regarding future extension of public utilities to serve the proposed lot. Final installation of public/private utilities will occur at the time of development for the new lot, the Owner's will work with the City at that time to finalize the plans.

J:\2018\18-284 JPK Westwood Plaza Subdivision\DOCUMENTS\SUBDIVISION\05\_Westwood Subdivision NARRATIVE.DOC

# AN AMENDED PLAT OF LOT 2 OF THE AMENDED PLAT OF LOT 2, BLOCK 1, WESTWOOD NO. 2 ADDITION LOCATED IN THE N1/2 OF SECTION 2, T20N, R3E, P.M.M., CITY OF GREAT FALLS, CASCADE COUNTY, MONTANA

LANDOWNER: SSG WP LLC



AREA OF LOTS = 6.627 ACRES  
 AREA OF PARK = 0 ACRES  
 AREA OF DEDICATED ROADS = 0 ACRES  
 TOTAL SUBDIVISION AREA = 6.627 ACRES

**LEGEND**

- FND PROPERTY PIN - AS NOTED
- SET PROPERTY PIN - 18"x5/8" REBAR/YPC 15625LS
- ⊙ FND CENTERLINE MONUMENT
- SUBDIVISION BOUNDARY
- - - STREET CENTERLINE
- - - EXISTING EASEMENT BY PLAT OR DOC.
- - - NEW EASEMENT THIS PLAT
- LOT LINE
- (F) FOUND/FIELD MEASUREMENT
- (P) PLAT RECORD DISTANCE
- P.O.B. POINT OF BEGINNING

**CERTIFICATE OF OWNERSHIP**

I (we), the undersigned property owner(s), do hereby certify that I (we) have caused to be surveyed, subdivided, and platted into lots, blocks, and easements, the following described tract of land in the City of Great Falls, Cascade County, Montana, to-wit:  
 A tract of land being Lot 2 of the Amended Plat of Lot 2, Block 1, Westwood No. 2 Addition, located in the N1/2 of Section 2, Township 20 North, Range 3 East, P.M.M., City of Great Falls, Cascade County, Montana, and being more particularly described as follows:  
 Beginning at the Northwest corner of said Lot 2, being a point on the Southerly right-of-way line of 14th Avenue NW; thence North 89°21'04" East along said Southerly right-of-way line, a distance of 92.63 feet; thence North 83°40'01" East along said Southerly right-of-way line, a distance of 326.38 feet to the Northeast corner of said Lot 2; thence South 01°34'00" East along the Easterly boundary line of said Lot 2, a distance of 614.83 feet to the Southeast corner of said Lot 2; thence South 88°26'34" West along the Southerly boundary line of said Lot 2, a distance of 247.00 feet to the Southerly corner of said Lot 2; thence South 01°29'29" East along said Southerly boundary line of said Lot 2, a distance of 225.25 feet to a point on the Northerly right-of-way line of the Northwest By-Pass; thence South 88°27'25" West along said Northerly right-of-way line, a distance of 171.01 feet to the Southwest corner of said Lot 2; thence North 01°32'10" West along the Westerly boundary line of said Lot 2, a distance of 814.33 feet to the Point of Beginning and containing 6.627 acres, along with and subject to any existing easements.  
 The above described tract of land is to be known and designated as AN AMENDED PLAT OF LOT 2 OF THE AMENDED PLAT OF LOT 2, BLOCK 1, WESTWOOD NO. 2 ADDITION, City of Great Falls, Cascade County, Montana, and the lands included in all streets, avenues, and parks or public lands shown on said plat are hereby granted and donated to the use of the public forever.

**CERTIFICATE OF EXEMPTION FROM PARK DEDICATION**

I (we), the undersigned property owner(s), do hereby certify that being this subdivision is into parcels that are all nonresidential, a park dedication will not be required pursuant to 76-3-621(3)(b) MCA, stating "(3) A park dedication may not be required for: (b) subdivision into parcels that are all nonresidential".

Dated this \_\_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_\_

SSG WP LLC  
 Printed Name \_\_\_\_\_  
 Title \_\_\_\_\_  
 State of Montana )  
 : ss  
 County of Cascade)

On this \_\_\_\_\_ day of \_\_\_\_\_, before me, the undersigned, a Notary Public for the State of Montana, personally appeared, \_\_\_\_\_, known to me to be the person who executed the Certificate of Ownership. IN WITNESS WHEREOF, 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  
 Residing at \_\_\_\_\_  
 My commission expires \_\_\_\_\_

**CERTIFICATE OF PUBLIC WORKS DIRECTOR**

I, Jim Rearden, Public Works Director for the City of Great Falls, Montana, do hereby certify that I have examined the accompanying plat of the AN AMENDED PLAT OF LOT 2 OF THE AMENDED PLAT OF LOT 2, BLOCK 1, WESTWOOD NO. 2 ADDITION, and the survey it represents, find that same conforms to regulations governing the platting of lands and presently platted adjacent land, as near as circumstances will permit, do hereby approve the same.

Dated this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

JIM REARDEN, Public Works Director  
 City of Great Falls, Montana

**CERTIFICATE OF CITY COMMISSION**

I, Gregory T. Doyon, City Manager of the City of Great Falls, Montana, do hereby certify that the accompanying plat of the AN AMENDED PLAT OF LOT 2 OF THE AMENDED PLAT OF LOT 2, BLOCK 1, WESTWOOD NO. 2 ADDITION, was duly examined and approved by the City Commission of the City of Great Falls, Montana, at its regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

GREGORY T. DOYON, City Manager  
 City of Great Falls, Montana

BASIS OF BEARING:  
 EAST BOUNDARY LINE OF LOT 2 OF THE AMENDED PLAT OF LOT 2, BLOCK 1, WESTWOOD NO. 2 ADDITION, BEING S00°34'00"E  
 PURPOSE OF SURVEY:  
 TO CREATE 2 LOTS FROM LOT 2 OF THE AMENDED PLAT OF LOT 2, BLOCK 1, WESTWOOD NO. 2 ADDITION

**CERTIFICATE OF AVAILABILITY OF MUNICIPAL SERVICES**

I, Gregory T. Doyon, City Manager of the City of Great Falls, Montana, do hereby certify that the City Commission of the City of Great Falls, Montana, at its regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, found that adequate municipal facilities for the supply of water and the disposal of sewage and solid waste, are available to the above described property, namely the said facilities of the City of Great Falls, Montana, and this certificate is made pursuant to Section 76-4-125(2)(d) M.C.A., permitting the Clerk and Recorder of Cascade County, Montana, to record the accompanying plat.

GREGORY T. DOYON, City Manager  
 City of Great Falls, Montana

**CERTIFICATE OF GREAT FALLS PLANNING BOARD**

We, the undersigned, Peter Fontana, President of the Great Falls Planning Board, City of Great Falls, Montana, and Craig Raymond, Secretary of said Great Falls Planning Board, do hereby certify that the accompanying plat of AN AMENDED PLAT OF LOT 2 OF THE AMENDED PLAT OF LOT 2, BLOCK 1, WESTWOOD NO. 2 ADDITION, has been submitted to the said Great Falls Planning Board, for examination by them and was approved at its regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Peter Fontana, President  
 Great Falls Planning Board

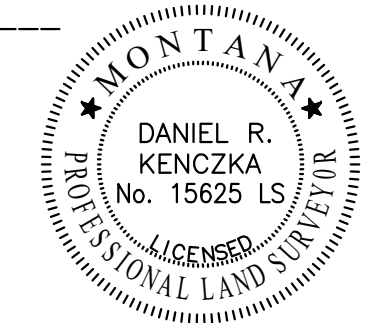
CRAIG RAYMOND, Secretary  
 Great Falls Planning Board

**CERTIFICATE OF SURVEYOR**

I, the undersigned, Daniel R. Kenczka, Professional Land Surveyor, Montana Registration No. 15625LS, do hereby certify that I supervised this Plat of the AN AMENDED PLAT OF LOT 2 OF THE AMENDED PLAT OF LOT 2, BLOCK 1, WESTWOOD NO. 2 ADDITION, and platted same as shown on the accompanying plat and as described in accordance with the provisions of the Montana Subdivision and Platting Act, Sections 76-3-101 through 76-3-614, M.C.A., and Cascade County.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_\_

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



**CERTIFICATE OF COUNTY TREASURER**

I, Jamie Bailey, County Treasurer of Cascade County, Montana, do hereby certify that I have examined the records covering the areas included in the accompanying plat of the AN AMENDED PLAT OF LOT 2 OF THE AMENDED PLAT OF LOT 2, BLOCK 1, WESTWOOD NO. 2 ADDITION, and find that the current taxes are not delinquent.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_\_

County Treasurer, Cascade County, Montana

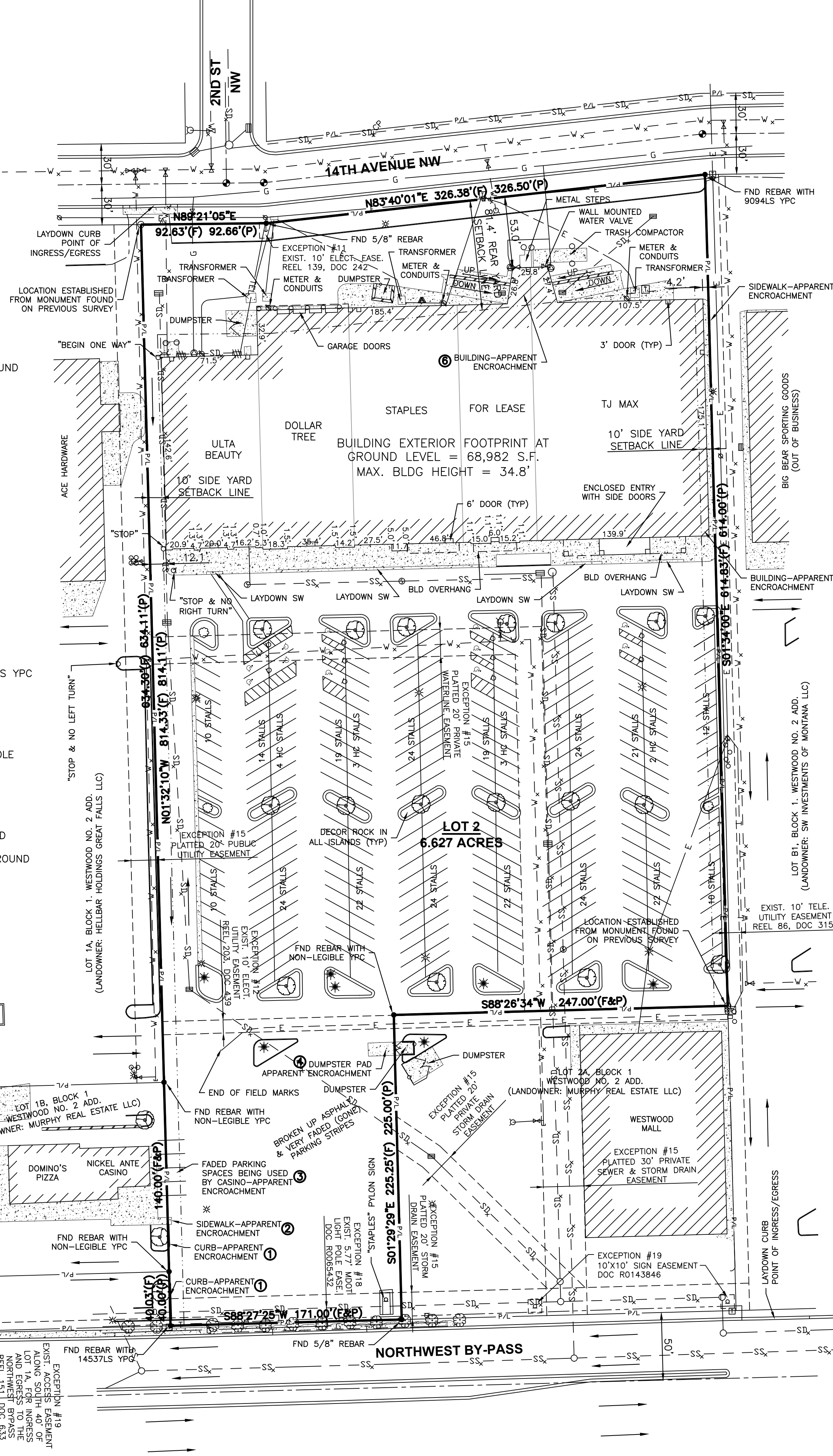
<b>TD&amp;H</b> Engineering	DRAWN BY: DRK	DATE: 8-30-18	QUALITY CHECK: X
	SURVEYED BY: RFS	JOB NO. 18-284	FIELDBOOK: X
GREAT FALLS-BOZEMAN-KALISPELL-SHELBY SPOKANE LEWISTON WATFORD CITY			MONTANA WASHINGTON IDAHO NORTH DAKOTA



**LEGEND**

**EXISTING DESCRIPTION**

- BARRIER POST
- BUILDING
- BUILDING SETBACK LINE
- CENTERLINE MONUMENT
- CLEANOUT
- CONCRETE
- CONTROL POINT
- CURB BOX
- CURB & GUTTER
- EDGE OF ASPHALT
- EDGE OF GRAVEL
- ELECTRICAL BOX
- ELECTRICAL OUTLET
- ELECTRIC - OVERHEAD
- ELECTRIC - UNDERGROUND
- FENCE - CHAIN LINK
- FIRE HYDRANT
- GAS
- GAS METER
- GAS VALVE
- GATE
- GUY WIRE
- INLET
- LIGHT POLE
- PAINT STRIPE
- POWER POLE
- PROPERTY LINE
- PROPERTY PIN FOUND - AS NOTED
- 
- RETAINING WALL
- ROOF DRAIN
- SANITARY SEWER
- SANITARY SEWER MANHOLE
- STORM DRAIN
- STORM DRAIN MANHOLE
- TELEPHONE RISER
- TELEPHONE - OVERHEAD
- TELEPHONE - UNDERGROUND
- TRAFFIC SIGN
- TREE - CONIFEROUS
- TREE - DECIDUOUS
- WALL HYDRANT
- WATERLINE
- WATER VALVE



THIS ALTA/NSPS LAND TITLE SURVEY REFERENCE'S FIRST AMERICAN TITLE INSURANCE COMPANY'S COMMITMENT FOR TITLE INSURANCE, FILE NO. 698090-GF, WITH AN EFFECTIVE DATE OF AUGUST 24, 2018, AT 7:30 A.M.

**TITLE COMMITMENT LEGAL DESCRIPTION**

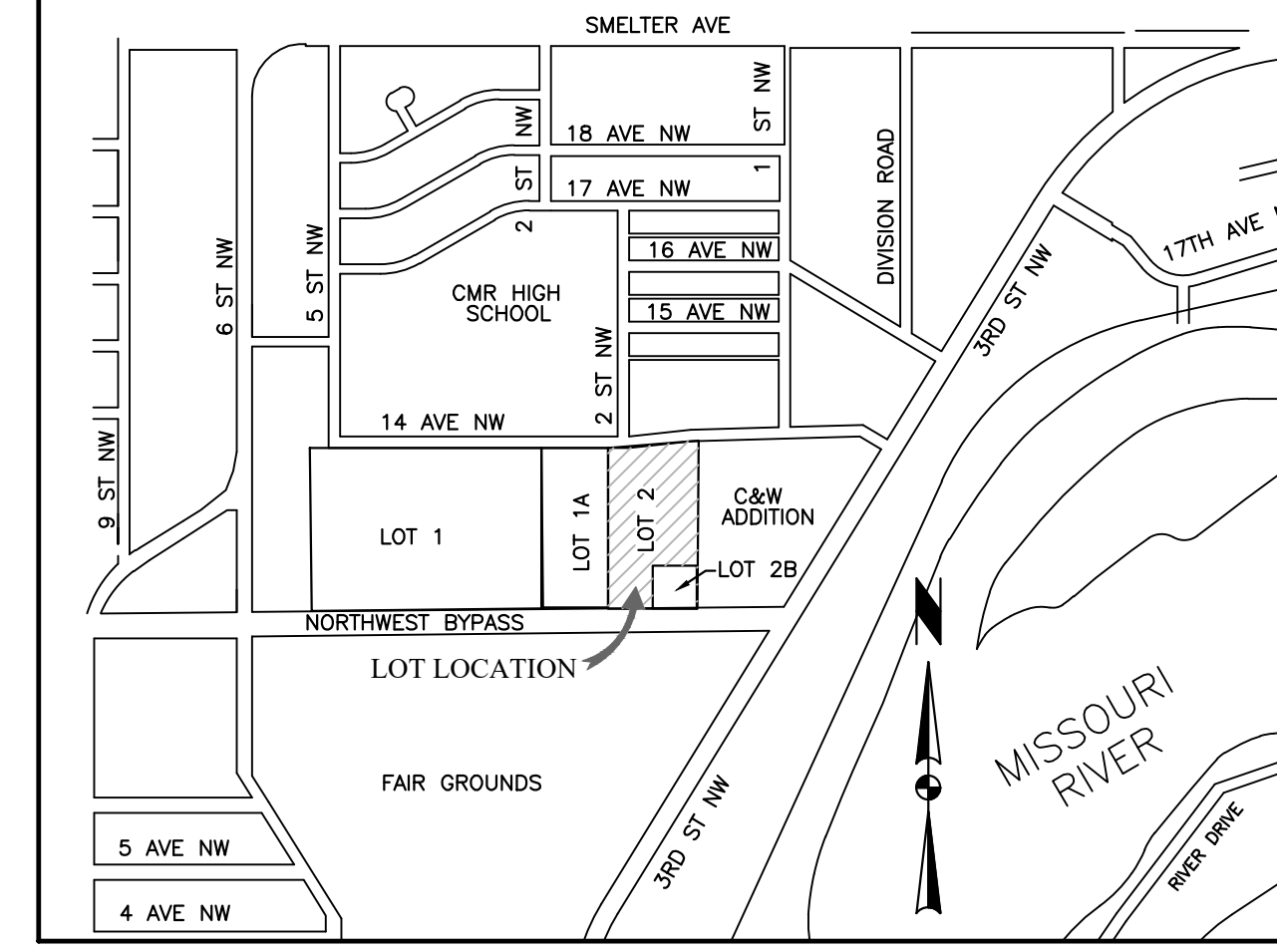
LOT 2, OF AMENDED PLAT OF LOT 2, BLOCK 1, WESTWOOD NO. 2, AN ADDITION TO GREAT FALLS, CASCADE COUNTY, MONTANA, ACCORDING TO THE OFFICIAL MAP OR PLAT THEREOF ON FILE AND OF RECORD IN THE OFFICE OF THE CLERK AND RECORDER OF SAID COUNTY.

**FLOOD ZONE DESIGNATION:**

THE SUBJECT PROPERTY FALLS ENTIRELY WITHIN ZONE X, "AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN", AS SHOWN ON THE FLOOD INSURANCE RATE MAP "CASCADE COUNTY, MONTANA, AND INCORPORATED AREAS", MAP NUMBER 30013C0340E, WITH AN EFFECTIVE DATE OF MARCH 19, 2013.

**EXISTING PARKING STALLS:**

REGULAR STALLS = 301  
HANDICAP STALLS = 12



**VICINITY MAP**

**SURVEY RELATED - SCHEDULE BII EXCEPTIONS**

EXCEPTION NUMBER	DOCUMENT	DESCRIPTION
4	-	APPARENT ENCROACHMENTS FOUND FROM THE ACCURATE AND COMPLETE SURVEY - NOTED ON PLAN.
9	BK 59 PG 612	RESERVATIONS CONTAINED IN WARRANTY DEED - DOES AFFECT THE LOT, NOT PLOTTABLE.
10	REEL 99 DOC 1556	TERMS AND CONDITIONS CONTAINED IN AGREEMENT - DOES AFFECT THE LOT, NOT PLOTTABLE.
11	REEL 139 DOC 242	MONTANA POWER COMPANY ELECTRIC AND COMMUNICATION EASEMENT - DOES AFFECT THE LOT, PLOTTED ON PLAN.
12	REEL 203 DOC 439	MONTANA POWER COMPANY ELECTRIC AND COMMUNICATION EASEMENT - DOES AFFECT THE LOT, PLOTTED ON PLAN.
13	REEL 304 DOC 223	USAGE EASEMENT AGREEMENT FOR BERL'S RESTAURANT, NOW OCCUPIED BY NICKEL ANTE CASINO AND DOMINO'S. - DID INITIALLY AFFECT THE LOT, BUT APPEARS TO BE TERMINATED ACCORDING TO THE CONDITIONS IN SECTION 7. COVENANTS, CONDITIONS, AND RESTRICTIONS - DOES AFFECT THE LOT, NOT PLOTTABLE.
14	REEL 305 DOC 1144	EASEMENTS AS SHOWN ON PLAT 786 AND PRIOR PLATS - DOES AFFECT THE LOT, PLOTTED ON PLAN.
15	PLAT 786	10' MONTANA POWER COMPANY EASEMENT SHOWN AS #7 OF ALTA SURVEY - COULD NOT FIND ON SURVEY?
16	-	APPARENT ENCROACHMENTS AS SHOWN ON THE ALTA SURVEY BY DANIEL KENCZKA, TD&H ENGINEERING.
17	-	a. MELAQUE OLD DRIVE THRU SIGN - HAS BEEN REMOVED b. MELAQUE CONCRETE RAMP-MAJORITY REMOVED, STILL SLIGHTLY ENROACHES-SEE ENCROACHMENT 2 ON PLAN c. MELAQUE CURB - STILL EXISTS - SEE ENCROACHMENT 1 ON PLAN MOOT LIGHT STANDARD EASEMENT - DOES AFFECT THE LOT, PLOTTED ON PLAN.
18	R0065432	ACCESS EASEMENT ALONG SOUTH 40' OF LOT 1A - DOES AFFECT ACCESS TO THE LOT, PLOTTED ON PLAN.
19	REEL 151 DOC 633 R0143846	SUPPLEMENTAL DECLARATION REGARDING COMMON AREAS AND GRANT OF RECIPROCAL EASEMENT - DOES AFFECT THE LOT - SIGN EASEMENTS IN ADJACENT LOT 2A PLOTTED ON PLAN.
20	REEL 311 DOC 551 R0288092	MEMORANDUM OF LEASE - DOES AFFECT THE LOT, NOT PLOTTABLE. FIRST AMENDMENT TO MEMORANDUM OF LEASE - DOES AFFECT THE LOT, NOT PLOTTABLE.
21	R0037724	ASSIGNMENT OF LEASES - DOES AFFECT THE LOT, NOT PLOTTABLE.
23	R0143846	COVENANTS, CONDITIONS, AND RESTRICTIONS - DOES AFFECT THE LOT, NOT PLOTTABLE.
24	R0143848 R0287716 R0307513	CO-OWNERSHIP AGREEMENT - DOES AFFECT THE LOT, NOT PLOTTABLE. FIRST AMENDMENT AND RESTATED CO-OWNERSHIP AGREEMENT - DOES AFFECT THE LOT, NOT PLOTTABLE. MEMORANDUM OF LEASE - DOES AFFECT THE LOT, NOT PLOTTABLE.
26	R0334204	MEMORANDUM OF LEASE - DOES AFFECT THE LOT, NOT PLOTTABLE.
27	R0339877	TRUST INDENTURE - DOES AFFECT THE LOT, NOT PLOTTABLE.
28	R0339878	ASSIGNMENT OF LESSOR'S INTEREST IN LEASES - DOES AFFECT THE LOT, NOT PLOTTABLE.
29	R0340011	TRUST INDENTURE - DOES AFFECT THE LOT, NOT PLOTTABLE.
30	R0340012	ASSIGNMENT OF LESSOR'S INTEREST IN LEASES - DOES AFFECT THE LOT, NOT PLOTTABLE.
31	R0345964	IMPROVEMENT DEFERRAL AGREEMENT FOR ULTA DEVELOPMENT PROJECT - DOES AFFECT THE LOT, NOT PLOTTABLE.
32	R0013992	NOTICE OF A RIGHT TO CLAIM A LIEN - DOES AFFECT THE LOT, NOT PLOTTABLE.

**PROPERTY ADDRESS:**

PROPERTY ADDRESS  
AS LISTED IN THE MT CADASTRAL WEB SITE  
135 NORTHWEST BYPASS  
GREAT FALLS, MT 59404

BUSINESS ADDRESSES:  
135, 205, 207, 209 NORTHWEST BYPASS  
GREAT FALLS, MT 59404

**ZONING:**

C-2, GENERAL COMMERCIAL

MIN. FRONT YARD - 0 FEET  
MIN. SIDE YARD - 10 FEET  
MIN. REAR YARD - 1/10TH OF LOT DEPTH, BUT NOT LESS THAN 1/10TH OF BUILDING HEIGHT.  
MAX. BUILDING HEIGHT OF PRINCIPAL BUILDING: 65 FEET  
MAX. BUILDING HEIGHT OF ACCESSORY BUILDING: 24 FEET, BUT NOT HIGHER THAN PRINCIPAL BUILDING  
MAX. LOT COVERAGE OF BUILDINGS: 70% CORNER LOT, 60% OTHER LOTS

**APPARENT ENCROACHMENTS**

- ① CURB (APPROX 0.5' TO 1') IN SOUTHWEST CORNER OF PROPERTY
- ② SIDEWALK (APPROX 2.1') IN SOUTHWEST CORNER OF PROPERTY
- ③ FADED PARKING SPACES ALONG EAST SIDE OF NICKEL ANTE CASINO
- ④ CONCRETE DUMPSTER PAD ALONG WEST EDGE OF LOT 2A
- ⑤ SIDEWALK (APPROX 0.8') ALONG EAST SIDE OF MAIL BUILDING
- ⑥ BUILDING EXTENDS INTO 10' SIDE YARD SETBACK LINE AND REAR YARD SETBACK (1/10TH LOT DEPTH = 81.4')

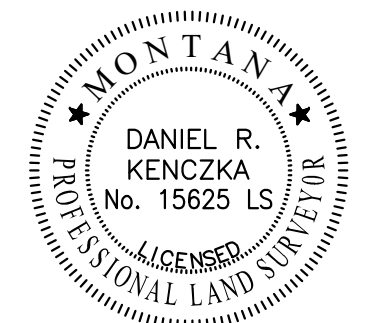
**SURVEYOR'S CERTIFICATE:**

- TO:
- BROADWAY ESTATES WESTWOOD PLAZA LLC
  - JPK WESTWOOD PLAZA OWNER LLC
  - BROADWAY ESTATES LLC
  - SSG WP, LLC, A UTAH LIMITED LIABILITY COMPANY
  - FIRST AMERICAN TITLE INSURANCE COMPANY
  - FIFTH THIRD BANK

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2016 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 6(a), 6(b), 7(a), 7(b)(1), 7(c), 8, 9, 10(a), 11, 13, 14, 16, 17, and 19 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON SEPTEMBER 8, 2018.

DATED THIS 22ND DAY OF SEPTEMBER, 2018.

SIGNED: DANIEL R. KENCZKA  
MT REG. NO. 15625LS  
TD&H ENGINEERING  
1800 RIVER DR NO.  
GREAT FALLS, MT 59401



**SURVEYOR'S NOTES**

- a. THERE ARE NO BUILDING PARTY WALLS WITH RESPECT TO ADJOINING PROPERTIES.
- b. THERE IS NO VISIBLE EVIDENCE OF RECENT EARTH MOVING, BUILDING CONSTRUCTION, OR BUILDING ADDITIONS
- c. THERE ARE NO KNOWN PROPOSED CHANGES IN STREET RIGHT OF WAY LINES AND NO VISIBLE EVIDENCE OF RECENT STREET OR SIDEWALK CONSTRUCTION

**BASIS OF BEARING**

EAST LINE OF LOT 2 AS SHOWN ON THE AMENDED PLAT OF LOT 2, BLOCK 1, WESTWOOD NO. 2 ADDITION, BEING S1°34'00\"/>

REVISIONS

BY	DATE	DESCR

THOMAS, DEAN & HOSKINS, INC.  
ENGINEERING CONSULTANTS  
MONTANA  
WASHINGTON  
IDaho

TD&H  
GREAT FALLS - BOZEMAN - KALISPELL - HELENA  
SPRINGFIELD - BUTTE  
REVISION


DRAWN BY: DRK  
DESIGNED BY: DRK  
QUALITY CHECK: DRK  
DATE: 9-22-18  
JOB NO. 18-112  
FIELDBOOK

ALTA/NSPS LAND TITLE SURVEY  
135 NORTHWEST BYPASS, GREAT FALLS, MONTANA  
LOT 2, BLOCK 1, OF THE AMENDED PLAT OF  
LOT 2, BLOCK 1, WESTWOOD NO. 2 ADDITION



# AERIAL MAP



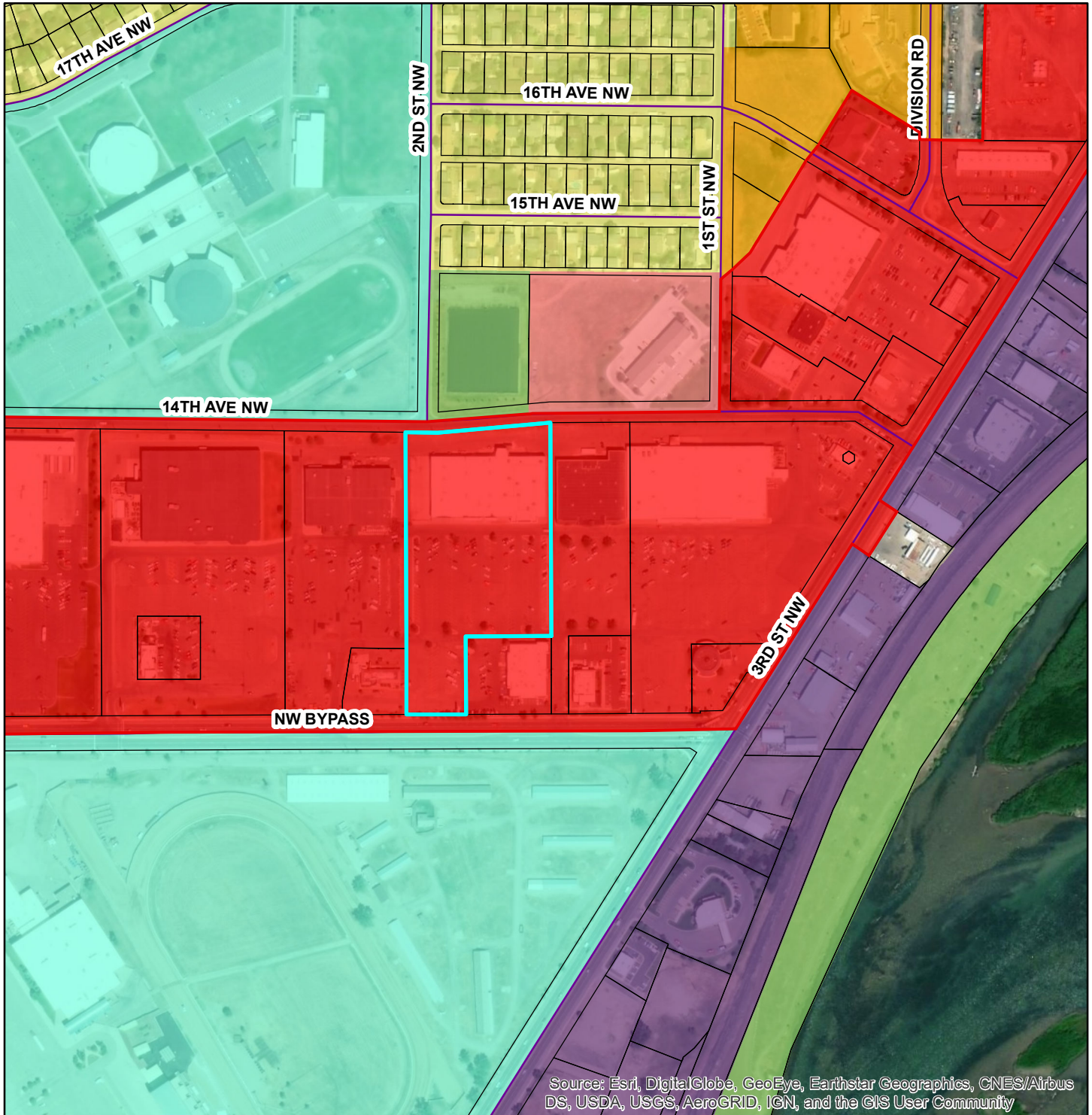
 Subject Property

 City Limits



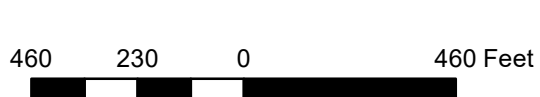


# ZONING MAP



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

- Subject Property
- R-2 Single-family Medium Density
- R-6 Multi-family High Density
- C-1 Neighborhood Commercial
- C-2 General Commercial
- M-2 Mixed-use Transitional
- PLI Public Lands and Institutional
- POS Parks and Open Space
- U Unincorporated Enclave



Title 1 - GENERAL PROVISIONS

**Chapter 2 GENERAL PROVISIONS**

**Sections:**

**1.2.050 Public Hearing Procedure.**

Unless otherwise specified in the OCCGF, or by stipulation of the parties, all public hearings held by any City Commission, Council, Board, or Committee will follow the public hearing procedure set forth in the OCCGF, Title 17.

(Ord. 3197, 2018).

DRAFT



**ORDINANCE 3197**

**AN ORDINANCE AMENDING TITLE 1, CHAPTER 2, OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF), ADDING SECTION 050 ESTABLISHING A PUBLIC HEARING PROCEDURE.**

\* \* \* \* \*

**WHEREAS**, the City Commission established Title 1 of the OCCGF pertaining to general provisions of City government; and

**WHEREAS**, the City Commission wishes to establish a universal procedure for conducting public hearings by all City Commissions, Boards, Councils and Committees; and

**WHEREAS**, establishing a universal procedure is appropriate in the general provisions of the OCCGF; and

**WHEREAS**, at its regularly scheduled March 12, 2019, meeting, the Great Falls Planning Advisory Board voted to recommend that the City Commission adopt Ordinance 3197.

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

Section 1. OCCGF Title 1, Chapter 2, Section 050, pertaining to public hearing procedures is hereby established as depicted by Exhibit “A” attached hereto and by reference incorporated herein; and

Section 2. This ordinance shall be in full force and effect thirty (30) days after public hearing and final adoption by the City Commission.

ACCEPTED by the City Commission of the City of Great Falls, Montana on first reading April 2, 2019.

ADOPTED by the City Commission of the City of Great Falls, Montana on second reading and public hearing April 16, 2019.

Bob Kelly, Mayor

ATTEST:

(CITY SEAL)

---

Lisa Kunz, City Clerk

APPROVED FOR LEGAL CONTENT:

---

Sara R. Sexe, City Attorney

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

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do certify that I did post as required by law and as prescribed and directed by the Commission, Ordinance 3197 on the Great Falls Civic Center posting board and the Great Falls City website.

---

Lisa Kunz, City Clerk

(CITY SEAL)



Agenda #: \_\_\_\_\_  
Commission Meeting Date: March 12,  
2019

**CITY OF GREAT FALLS**  
**PLANNING ADVISORY BOARD / ZONING COMMISSION AGENDA REPORT**

**Item:** Ordinance 3197, “An Ordinance Amending Title 1, Chapter 2, of the Official Code of the City of The City of Great Falls (OCCGF) Adding Section 050 Establishing A Public Hearing Procedure.”

**From:** Legal Department

**Initiated By:** Legal Department

**Presented By:** Joseph Cik, Assistant City Attorney

**Action Requested:** Recommendation to the City Commission.

---

**Suggested Motion:**

1. Board Member moves:

“I move that the Planning Advisory Board recommend the City Commission adopt Ordinance 3197.”

2. Board Member calls for a second, discussion, and calls for the vote.

---

**Background:**

Members of the City Commission and Staff have examined numerous sections of the OCCGF and have noticed various types of deficiencies throughout numerous sections of the code. The deficiencies vary from typographical errors, needed updates, and conflicts with State and Federal law. Additionally, the OCCGF conflicts in various places with itself. In an effort to cure these issues, City staff has assembled input from the different departments to continue a comprehensive revision of the Code.

The Ordinance under consideration would amend OCCGF Title 1, Chapter 2, to establish a universal public hearing procedure. Staff is requesting the the Planning Advisory Board recommend Ordinance under consideration be adopted by the City Commission. This recommendation is requested because the Planning Advisory Board regularly conducts public hearings. Additionally, the provisions governing the conduct of public hearings will require amendments to OCCGF Title 17. For further historical and factual background for Staff’s recommendation, refer to the Agenda Report for Ordinance 3198 also on this meeting’s agenda.

**Concurrences:**

City Manager’s Office  
Planning and Community Development  
City Clerk’s Office

**Fiscal Impact:**

None

**Staff Recommendation:**

Staff recommends that the Planning Advisory Board recommend that the City Commission adopt Ordinance 3197.

**Alternatives:**

The Planning Advisory Board could recommend that the City Commission not adopt Ordinance 3197, or the board could table the item to a date certain for further suggested amendments.

**Attachments/Exhibits:**

Ord. 3197

Ord. 3197 Exhibit "A"

**ORDINANCE 3198**

**AN ORDINANCE AMENDING TITLE 17, CHAPTER 16, ARTICLE 6, OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF), PERTAINING TO PUBLIC HEARINGS.**

\* \* \* \* \*

**WHEREAS**, the City Commission established Title 17 of the OCCGF outlining provisions pertaining to and known as the Land Development Code; and

**WHEREAS**, Title 17, Chapter 16, Article 6, contains the OCCGF provisions pertaining to the procedure for conducting public hearings; and

**WHEREAS**, the City Commission has the need to amend the procedure for the conducting of public hearings by all City Commissions, Boards, Councils and Committees; and

**WHEREAS**, the City Commission wishes to create consistency in procedure while still protecting citizens' rights to due process; and

**WHEREAS**, at its regularly scheduled March 12, 2019, meeting, the Great Falls Planning Advisory Board voted to recommend that the City Commission adopt Ordinance 3198.

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

Section 1. OCCGF Title 17, Chapter 16, Article 6, pertaining to public hearings is hereby amended as depicted by Exhibit "A" attached hereto and by reference incorporated herein with deleted language identified by strikeout and inserted language **bolded**; and

Section 2. This ordinance shall be in full force and effect thirty (30) days after public hearing and final adoption by the City Commission.

ACCEPTED by the City Commission of the City of Great Falls, Montana on first reading April 2, 2019.

ADOPTED by the City Commission of the City of Great Falls, Montana on second reading and public hearing April 16, 2019.

\_\_\_\_\_  
Bob Kelly, Mayor

ATTEST:

(CITY SEAL)

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

APPROVED FOR LEGAL CONTENT:

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

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

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do certify that I did post as required by law and as prescribed and directed by the Commission, Ordinance 3198 on the Great Falls Civic Center posting board and the Great Falls City website.

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

(CITY SEAL)

Title 17 LAND DEVELOPMENT CODE

**Article 6 PUBLIC HEARINGS**

**Sections:**

- 17.16.6.010 Legislative findings.
- 17.16.6.020 General requirements.
- 17.16.6.030 Procedure.
- 17.16.6.040 Additional Public Hearing in Subdivision Applications.
- 17.16.6.050 Continuances and Additional Hearings.
- 17.16.6.060 Public comment.

**17.16.6.010 Legislative findings.**

The City Commission makes the following findings:

- A. Public hearings should be conducted in an orderly, timely, and efficient manner; and
- B. Public participation is important and should be encouraged.

**17.16.6.020 General requirements.**

- A. All public hearings shall be conducted in a place that is open to the public.
- B. Notice of public hearings shall be given as provided for in Article 4 of this Chapter and/or in accordance with other applicable laws and regulations.
- C. The body conducting the hearing shall keep minutes in compliance with Mont. Code Ann. §2-3-212.
- D. All public hearings pertaining to land use and development shall be conducted pursuant to the provisions of this Article.
- E. To allow public access to the application materials, the applicant's materials:
  - 1. must be submitted to the appropriate body liaison in advance of the posting of the meeting agenda for the public, but
  - 2. if after receipt of the staff agenda report, an applicant has additional materials for electronic viewing at the meeting, those materials must be provided to the appropriate body liaison no less than 72 hours prior to the meeting.
- F. Members of the public are encouraged to submit written information prior to the public hearing.

**17.16.6.030 Procedure.**

The body conducting the public hearing shall follow the following general procedure:

Exhibit "B"

Title 17 LAND DEVELOPMENT CODE

- A. The presiding officer shall announce the purpose and subject of, and open, the public hearing;
- B. The presiding officer shall ask the staff to present a staff report on the matter at issue;
- C. The presiding officer shall allow the applicant (either directly or through a representative) to provide a presentation. The applicant's presentation at the hearing is limited to ten minutes, subject to extension at the discretion of the presiding officer with the concurrence of the body;
- D. The body conducting the public hearing may adopt optional processes to allow for public questions for the purposes of understanding and clarification. If such processes are adopted, before requesting comments from proponents or opponents, the presiding officer will call for questions from the public, which will be accepted and answered in the following manner:
  - 1. All questions from the public shall be directed to the presiding officer; and
  - 2. After all questions have been presented to the presiding officer, the officer shall close the question period and request that the staff and/or the applicant provide responses to the questions;
- E. Members of the body conducting the public hearing may then direct questions to staff and/or to the applicant for the purposes of understanding and clarification of issues regarding the application;
- F. No member of the body or public shall express, or engage in, substantive opinions or discussion during the question periods;
- G. The presiding officer shall ask for comments, not questions, from the public who are in favor of the application;
- H. The presiding officer shall ask for comments, not questions, from the public who oppose the application;
- I. The presiding officer shall ask the applicant if the applicant wishes to submit additional information and/or respond to any comment made during the question or public comment periods. The applicant's submission or response is limited to five minutes, subject to extension at the discretion of the presiding officer with the concurrence of the body;
- J. The presiding officer shall close the public hearing;
- K. The presiding officer shall call for a motion regarding the application, and after the motion is seconded, the presiding officer shall call for discussion from the members of the body;  
and
- L. After the discussion by the members of the body, the presiding officer shall call for a vote.

**17.16.6.040 Additional Public Hearing in Subdivision Applications.**

In subdivision applications, before a motion to approve, deny, amend, or otherwise regarding an application, the body shall determine, under the provisions of Mont. Code Ann. §76-3-615(2)(b), whether the public comments or documents presented during the public hearing constitute new information which has not been previously submitted for public examination and comment.

- A. If the body determines that new information at the hearing meets the terms of Mont. Code Ann. §76-3-615(2)(b), the body may:



Exhibit "B"

Title 17 LAND DEVELOPMENT CODE

1. Approve, conditionally approve, or deny the proposed subdivision without basing its decision on the new information if the governing body determines that the new information is either irrelevant or not credible; or
  2. Schedule, or direct City staff to schedule, a subsequent public hearing for consideration of only the new information that may impact the findings and conclusions that the body will rely upon in making its decision.
- B. An additional public hearing set according to this process, suspends the time requirements for final decision during the time between the original and the subsequent public hearings.

**17.16.6.050 Continuances, Additional Comment and Public Comment.**

- A. The applicant or applicant's representative may request a continuance during the proceedings and the body conducting the public hearing may grant the continuance upon a showing of good cause.
- B. A public hearing which has been formally closed may not be reopened. If after a public hearing has been closed, a seconded motion substantially deviates from the publicly noticed suggested motion, the presiding officer may offer an opportunity for additional public comment on the motion before final action;
- C. The body, upon motion and vote, may call for an additional public hearing, if the body determines that new, relevant and credible information has been presented during the public hearing which the public and/or the body has not had a reasonable opportunity to comment upon and/or to consider.
- D. A granted continuance or an additional public hearing suspends any time requirements for final decision during the time between the original and the subsequent public hearings.

**17.16.6.060 Public comment.**

- A. If limits are not previously established by the body, the presiding officer may impose time limits on members of the public who wish to speak to assure completion of the agenda in a timely manner.
- B. Members of the public may submit written statements to the body conducting the public hearing prior to the body taking final action on the item.

Title 17 LAND DEVELOPMENT CODE

**Article 6 PUBLIC HEARINGS**

**Sections:**

~~17.16.6.010 Legislative findings.~~

~~17.16.6.020 General requirements.~~

~~17.16.6.030 Procedure.~~

~~17.16.6.040 Continuances.~~

~~17.16.6.050 Public comment.~~

**17.16.6.010 Legislative findings.**

**17.16.6.020 General requirements.**

**17.16.6.030 Procedure.**

**17.16.6.040 Additional Public Hearing in Subdivision Applications.**

**17.16.6.050 Continuances and Additional Hearings.**

**17.16.6.060 Public comment.**

**17.16.6.010 Legislative findings.**

The City Commission makes the following findings:

- 1.—**A.** Public hearings should be conducted in an orderly, timely, and efficient manner; **and**
- 2.—**B.** Public ~~input~~ **participation** is important and should be encouraged.

**17.16.6.020 General requirements.**

- A.—~~Meetings to be public.~~ All public hearings shall be conducted in a place that is open to the public.
- B.—~~Notice of meetings.~~ **B.** Notice of public hearings shall be given as provided for in Article 4 of this chapter **Chapter and/or in accordance with other applicable laws and regulations.**
- C.—~~Minutes.~~ The body conducting the hearing shall keep minutes ~~of the proceedings, indicating~~ **in compliance with Mont. Code Ann. §2-3-212.**
- D. **All public hearings pertaining to land use and development shall be conducted pursuant to the provisions of this Article.**
- E. **To allow public access to the attendance of each member, and the vote of each member on each question. The applicant's materials:**
  1. **must be submitted to the appropriate body conducting the hearing shall approve the minutes, and upon approval shall become part liaison in advance of the posting of the meeting agenda for the public, but**

Exhibit "A"

Title 17 LAND DEVELOPMENT CODE

2. **if after receipt of the staff agenda report, an applicant has additional materials for electronic viewing at the meeting, those materials must be provided to the appropriate body liaison no less than 72 hours prior to the meeting.**
- F. **Members of the public record are encouraged to submit written information prior to the public hearing.**

**17.16.6.030 Procedure.**

The body conducting the public hearing shall follow the following general procedure:

- 1.—**A. The presiding officer shall announce the purpose and subject of, and open, the public hearing;**
- 2.—**B. The presiding officer shall ask the staff to present a staff report, if required, on the matter at issue;**
- 3.—**C. The presiding officer shall allow the applicant (either directly or through a representative) to provide a presentation. The applicant's presentation at the hearing is limited to ten minutes, subject to extension at the discretion of the presiding officer with the concurrence of the body;**
- D. **The body conducting the public hearing may adopt optional processes to allow for public questions for the purposes of understanding and clarification. If such processes are adopted, before requesting comments from proponents or opponents, the presiding officer will call for questions from the public, which will be accepted and answered in the following manner:**
  1. **All questions from the public shall be directed to the presiding officer; and**
  2. **After all questions have been presented to the presiding officer, the officer shall close the question period and request that the staff and/or the applicant provide responses to the questions;**
- E. **Members of the body conducting the public hearing may then direct questions to both the applicant and staff, if present. staff and/or to the applicant for the purposes of understanding and clarification of issues regarding the application;**
- 4.—**F. No member of the body or public shall express, or engage in, substantive opinions or discussion during the question periods;**
- G. **The presiding officer shall ask for statements comments, not questions, from the public who are in favor of the application;**
- 5.—**H. The presiding officer shall ask for statements comments, not questions, from the public who oppose the application;**
- 6.—**I. The presiding officer shall call for discussion of the members of the body conducting the public hearing during which time they may ask questions of the applicant and staff, if present. 7.—The presiding officer shall ask the applicant if he/she wishes to (1) respond to any comment made by an individual during the proceeding; (2) submit additional information; (3) and/or amend respond to any comment made during the question or public comment periods. The applicant's submission or response is limited to five minutes, subject to extension at the discretion of the presiding officer with the concurrence of the body;**
- J. **The presiding officer shall close the public hearing;**

Title 17 LAND DEVELOPMENT CODE

- K. **The presiding officer shall call for a motion regarding the application-**
- ~~8. Following discussion, a motion to approve or deny the application or a, and after the motion to recommend approval or denial, as appropriate, shall be made and is seconded-, the presiding officer shall call for discussion from the members of the body; and~~
- L. **After the discussion by the members of the body, the presiding officer shall call for a vote.**

**17.16.6.040 Additional Public Hearing in Subdivision Applications.**

In subdivision applications, before a motion to approve, deny, amend, or otherwise regarding an application, the body shall determine, under the provisions of Mont. Code Ann. §76-3-615(2)(b), whether the public comments or documents presented during the public hearing constitute new information which has not been previously submitted for public examination and comment.

- A. **If the body determines that new information at the hearing meets the terms of Mont. Code Ann. §76-3-615(2)(b), the body may:**
  - 1. **Approve, conditionally approve, or deny the proposed subdivision without basing its decision on the new information if the governing body determines that the new information is either irrelevant or not credible; or**
  - 2. **Schedule, or direct City staff to schedule, a subsequent public hearing for consideration of only the new information that may impact the findings and conclusions that the body will rely upon in making its decision.**
- B. **An additional public hearing set according to this process, suspends the time requirements for final decision during the time between the original and the subsequent public hearings.**

**17.16.6.050 Continuances, Additional Comment and Public Comment.**

- ~~A. **Initiation.** The applicant or applicant's representative may request a continuance during the proceedings and the body conducting the public hearing may agree to grant the continuance upon a showing of good cause. Likewise, the body conducting the public hearing may ask the applicant for a~~
- B. **A public hearing which has been formally closed may not be reopened. If after a public hearing has been closed, a seconded motion substantially deviates from the publicly noticed suggested motion, the presiding officer may offer an opportunity for additional public comment on the motion before final action;**
- C. **The body, upon motion and vote, may call for an additional public hearing, if the body determines that new, relevant and credible information has been presented during the public hearing which the public and/or the body has not had a reasonable opportunity to comment upon and/or to consider.**
- ~~D. **A granted** continuance, who is not under compulsion to grant such continuance.**B. Effect.** A continuance stops the time clock for making a decision. or an additional public hearing suspends any time requirements for final decision during the time between the original and the subsequent public hearings.~~

Exhibit "A"

Title 17 LAND DEVELOPMENT CODE

**17.16.6.05060 Public comment.**

- A. ~~Time limitations on public comment.~~ **If limits are not previously established by the body, the presiding officer may impose time limits on each individual member of the public who wishes to speak to assure completion of the agenda in a timely manner.**
- B. ~~Written comment.~~ **B. Members of the public may submit written statements to the body conducting the public hearing prior to the body taking final action on the item.**



Agenda #: \_\_\_\_\_  
Commission Meeting Date: March 12,  
2019

**CITY OF GREAT FALLS**  
**PLANNING ADVISORY BOARD / ZONING COMMISSION AGENDA REPORT**

**Item:** Ordinance 3198, “An Ordinance Amending Title 17, Chapter 16, Article 6, of The Official Code of The City of Great Falls (OCCGF), Pertaining to Public Hearings.”

**From:** Legal Department

**Initiated By:** Legal Department

**Presented By:** Joseph Cik, Assistant City Attorney

**Action Requested:** Recommendation to the City Commission.

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**Suggested Motion:**

1. Board Member moves:

“I move that the Planning Advisory Board recommend the City Commission adopt Ordinance 3198.”

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

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**Background:**

Members of the City Commission and Staff have examined numerous sections of the OCCGF and have noticed various types of deficiencies throughout numerous sections of the code. The deficiencies vary from typographical errors, needed updates, and conflicts with State and Federal law. Additionally, the OCCGF conflicts in various places with itself. In an effort to cure these issues, City staff has assembled input from the different departments to continue a comprehensive revision of the Code.

OCCGF Title 17 is the Great Falls Land Development Code. As such, it is the largest and most complex of all OCCGF Titles. The Ordinance under consideration is the second Ordinance that has been presented in City Staff’s overall code revision effort pertaining to Title 17.

The intent of the OCCGF amendments proposed by the Ordinance under consideration is to establish a City-wide universal public hearing process. Ordinance 3197, also on this meeting’s agenda would amend the OCCGF general provisions to refer all boards or commissions to the provisions amended by the Ordinance under consideration. This will provide assistance to presiding officers to conduct public hearings efficiently, educate and inform the public, and allow a uniform process for public participation in City government. This proposed process will apply to public hearings on land use issues and non-land use issues.

The first substantive amendment to the public hearing procedures outlined in OCCGF §17.2.6.020 is to require applicants to provide all written material before the agenda for the subject meeting is posted. This will provide more opportunity for Staff, and the governing body conducting the public hearing, to review the material for substance. This would also reduce the need for postponing actions on agenda items.

The next substantive change proposed by the Ordinance under consideration, would be amending OCCGF §17.16.6.030. The proposed amendments to that section would include allowing the individual boards or commissions to adopt policies for allowing public questions to the applicant and/or City Staff. This procedure is already being utilized by the Planning Advisory Board and Zoning Commission. If the Ordinance is adopted, all questions must be directed to the presiding officer then directed to appropriate staff, the applicant, or the applicant's representative.

Finally, the Ordinance under consideration would provide that the presiding officer may allow additional public comment, after the hearing is closed, if the motion presented by the member of the board substantially deviates from the publicly advertised suggested motion. This would allow the body to hear limited public comment regarding the motion without the need to either re-open the public hearing, continue the hearing, or postpone the action on the item.

Ord. 3198 Exhibit "A" is a document illustrating the provisions that will replace the current OCCGF Title 17 with added language in **bold** and deleted language in ~~strike through~~. Exhibit "B", attached to this agenda report, illustrates the proposed Code in clean format.

**Concurrences:**

City Manager's Office  
Planning and Community Development  
City Clerk's Office

**Fiscal Impact:**

None

**Staff Recommendation:**

Staff recommends that the Planning Advisory Board recommend the City Commission adopt Ordinance 3198.

**Alternatives:**

The Planning Advisory Board may recommend that the City Commission not adopt Ordinance 3198, or the board may table the item to a date certain for further suggested amendments.

**Attachments/Exhibits:**

Ord. 3198  
Ord. 3198 Exhibit "A"  
Ord. 3198 Exhibit "B"