



Board of Adjustment / Appeals - June 4, 2020 Agenda
Civic Center 2 Park Drive South, Great Falls, MT
Gibson Room, Civic Center
June 04, 2020
3:00 PM

UPDATES CONCERNING PROCESS OF MEETINGS

Due to the COVID-19 health concerns, the format of the Board of Adjustment meeting will be held in a virtual video-conferencing environment. In order to honor the Right of Participation and the Right to Know (Article II, Sections 8 and 9 of the Montana Constitution), the City of Great Falls and Board of Adjustment are making every effort to meet the requirements of open meeting laws:

- Board of Adjustment members and City staff will attend the meeting via a remote location, using a virtual meeting method.
- 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 comment will be taken during the meeting as indicated on the agenda with an asterisk. Public participation is welcome in the following ways:
- Attend in person. Refrain from attending in person if you are not feeling well. The City will require social distancing at the meeting, and may limit the number of persons in the Gibson Room according to applicable health guidelines.
- Provide public comments via email. Comments may be sent via email before 12:00 PM on Tuesday, May 12, 2020, to: tmicuda@greatfallsmt.net. Include the agenda item or agenda item number in the subject line, and include the name and address of the commenter. Written communication received by that time will be shared with the Planning Advisory Board/Zoning 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.
- Call-in. The public may call in during specific public comment periods at 406-761-4786. All callers will be in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be restricted to customary time limits. This is a pilot service to test the feasibility of expanded public participation by phone. We ask for your patience in the event there are technical difficulties.

OPEN MEETING

1. Call to Order 3:00 P.M.
2. Roll Call - Board Introductions

Jule Stuver - Chair

Krista Smith - Vice Chair

Joe McMillen

Aspen Northerner

Kyle Palagi

3. Recognition of Staff
4. Approval of Meeting Minutes - January 9, 2020

CONFLICT DISCLOSURE/EX PARTE COMMUNICATIONS

BOARD ACTIONS REQUIRING PUBLIC HEARING

BOARD ACTIONS NOT REQUIRING PUBLIC HEARING

5. **3004 Lower River Road - Variance to Section 17.20.7.060 of the Official Code of the City of Great Falls (OCCG) that would allow the total maximum garage area to exceed code requirements.**

COMMUNICATIONS

6. Next Meeting - Thursday, July 2, 2020

PUBLIC COMMENT

Public Comment on any matter and that is within the jurisdiction of the Board of Adjustment/Appeals. Please keep your remarks to a maximum of five (5) minutes. Speak into the microphone, and state your name and address for the record.

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.

Board of Adjustment/Appeals meetings are televised on cable channel 190 and streamed live at <https://greatfallsmt.net>. Meetings are re-aired on cable channel 190 the following Friday morning at 10 a.m.

MINUTES OF THE MEETING
OF THE
GREAT FALLS BOARD OF ADJUSTMENT/APPEALS
January 9, 2020

CALL TO ORDER

The meeting of the Great Falls Board of Adjustment/Appeals was called to order by Chair Jule Stuver at 3:00 p.m. in the Commission Chambers of the Civic Center.

ROLL CALL & ATTENDANCE

Great Falls Board of Adjustment/Appeals members present:

Mr. Jule Stuver, Chair
Ms. Krista Smith, Vice Chair
Mr. Joe McMillen
Ms. Aspen Northerner
Mr. Kyle Palagi

Great Falls Board of Adjustment/Appeals members absent:

None

Planning Staff members present:

Mr. Craig Raymond, Director Planning & Community Development
Mr. Thomas Micuda, Deputy Director Planning & Community Development
Ms. Erin Borland, Planner III
Mr. Lonnie Hill, Planner I
Ms. Jamie Nygard, Sr. Admin Assistant

Others present:

Mr. Joseph Cik, Assistant City Attorney

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

MINUTES

Chair Stuver asked if there was a motion to approve the meeting minutes as stated for July 11, 2019 and October 3, 2019. Mr. Palagi moved to approve the minutes, seconded by Ms. Northern. All in favor, the minutes were approved.

ELECTION OF 2020 CHAIR AND VICE CHAIR

MOTION: To have Mr. Stuver retain his seat as Chair for another year
MADE BY: Ms. Smith

SECOND BY: Mr. Palagi
VOTE: All in favor, the motion passed

MOTION: To have Ms. Smith retain her seat as Vice Chair for another year
MADE BY: Mr. Palagi
SECOND BY: Mr. McMillen
VOTE: All in favor, the motion passed

RECOMMENDATION TO REAPPOINT BOARD MEMBER

Board discussed making a recommendation of reappointing Krista Smith for another term.

MOTION: To reappoint Krista Smith for another term
MADE BY: Mr. Palagi
SECOND BY: Ms. Northerner
VOTE: All in favor, the motion passed

BOARD ACTIONS REQUIRING PUBLIC HEARING

Variance from Section 17.20.4.010 of the Official Code of the City of Great Falls (OCCGF) to allow reduced side yard setbacks for a project located at 213 & 215 2nd Avenue North

Lonnie Hill, Planner I, presented an overview of the project. He noted to the board that the variance is not contrary to the public interest. The proposed residential use is lower in intensity and traffic, than any other allowed land use within the district and is well below the maximum building height allowed in the C-5 district. The two story structures match the mass of the existing structure to the east and meets the intent of the Code and is in the public interest.

The findings for the basis of decision are that a literal enforcement would result in unnecessary hardship, owing to conditions unique to the property. The 10 foot wide parcel has no developable area due to required 10 foot side yard setbacks and the 25 foot wide parcels have a developable width of 5 feet due to the required 10 foot side yard setbacks. Therefore the dimensions of the lots result in unnecessary hardship for the property owner. These unique conditions justify granting a variance to reduce the side yard setbacks. The spirit of this Title would be observed and substantial justice done by granting the variance. If the variance is not granted it would not allow the applicant to feasibly develop his properties. Other than the slightly reduced setbacks, the development of the property is consistent with the C-5 district in terms of building height, general massing, traffic impacts, and land use.

Mr. Hill stated that City staff has concluded that the proposed side yard setback variance is appropriate and staff recommends approval with the conditions that the applicant shall submit the required building permit application to the City of Great Falls for review and approval. The applicant shall also comply with all applicable building and fire codes pursuant to the project and the applicant shall provide a revised amended plat of the subject properties, showing the proposed aggregation and boundary line adjustments referenced in the agenda report.

PETITIONER'S PRESENTATION

Andreas Geranios, 210 4th Ave N, is the applicant and was present for any questions.

PROPONENTS OPPORTUNITY TO SPEAK

Brett Doney, Great Falls Development Authority, 405 3rd St NW Suite 203, spoke in favor of the proposed project to support infill development and vitality of the community. He said that it would be great progress for innovative home ownership. He also said that he does agree with the City Staff's Findings for approval.

Lucinda Torrez, 4716 57th Ave. S.W., owns the white building right next to the proposed project and wanted to know how it will affect her property. She asked Mr. Geranios if the house that was pictured in the presentation would be what the house is going to look like and he responded that yes it will. She was concerned that the house doesn't fit in with the look of the historic ones in that neighborhood. Ms. Northern responded to her that the variance that they are looking for is for the setbacks and not the aesthetics of the house.

Joey Torrez, 4716 57th Ave S.W., was questioning the property lines between his property and the proposed project. It was explained to him by the board that it would be five feet between his property line and the proposed house. Mr. Torrez stated that he did not have any problem with the project going through.

OPPONENTS OPPORTUNITY TO SPEAK

Trevor Cavanagh, Smoked American Barbeque, 1305 Beargrass Dr., wanted to know about the lot in between his business and the proposed project. He has been looking at acquiring that lot for a couple of years now and wanted to know that if the variance for Mr. Geranios is granted, would that prevent him from doing anything with that lot if he acquires it and wants to expand his restaurant. Mr. Micuda responded that no the lot is zoned C-5 for commercial uses being permitted. Mr. Cavanagh also asked Mr. Geranios if he had intentions of trying to acquire that lot as well. Mr. Geranios responded that he is only looking at his current project right now. Mr. Cavanaugh stated that he is not opposed to this project. He wants it to be on the record that he would be opposed to it if it would prevent his business from being able to expand.

OPPORTUNITY FOR BOARD MEMBERS TO ASK QUESTIONS

There were no questions.

BOARD DISCUSSION AND ACTION

MOTION: That the Board of Adjustment, based on the Findings for the Basis of Decision approve the variance request for Title 17 Chapter 20 Article 4, Exhibit 20-4, maximum side yard setback of principal and accessory buildings, subject to the conditions of approval.

Made by: Ms. Smith
Second: Mr. Palagi

Ms. Smith stated that she thought it was a very positive thing for development downtown and thinks that it will help clean things up a bit and should be beneficial to everyone on that block.

VOTE: All in favor, the motion passed. 5-0

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

There being no further business, Chair Stuver adjourned the meeting at 3:29 p.m.



Date: June 4, 2020

**CITY OF GREAT FALLS
BOARD OF ADJUSTMENT AGENDA REPORT**

- Item:** 3004 Lower River Road - Variance to Section 17.20.7.060 of the Official Code of the City of Great Falls (OCCG) that would allow the total maximum garage area to exceed code requirements.
- Applicant:** Lewis and Kandy Zanto, Owners
- Representative:** Jake Neil, P.E., NCI Engineering
- Presented By:** Lonnie Hill, Planner I, Planning and Community Development
- Action Requested:** To deny a request to increase the total maximum garage area allowed on the property from 5,000 square feet instead of the maximum of 1,800 square feet allowed for a lot size of 1 acre and higher.
-

Public Hearing:

1. Chairman calls for Staff presentation.
2. Chairman calls for questions and answers.
3. Chairman conducts public hearing, calling three times each for proponents and opponents.
4. Chairman closes public hearing and asks the will of the Board.

Suggested Motion:

1. Board Member moves:
 - I. "I move that the Board of Adjustment, based on the Findings for the Basis of Decision (approve/deny) the variance request from OCCGF Title 17, Chapter 20, Article 7, Section 060, total maximum garage area to allow an additional 3,200 square feet."
 2. Chairman calls for a second, discussion, and calls for the vote.
-

Synopsis:

The applicants, Lewis and Kandy Zanto, own the property at 3004 Lower River Road. The property is a 1.85 acre lot that is located within the city limits. The lot abuts Riverside Townhomes to the north, which is zoned Planned Use Development (PUD), the Missouri River to the west, a 4.86 acre lot zoned Single-family suburban (R-1) to the east, and a 1 acre lot zoned Single-family suburban (R-1) to the south. Due to the large lot size and the inability to provide utilities to the lot due to floodplain regulations, the applicants want to utilize a large area of the lot to construct a large detached garage, in addition to an attached garage which will be connected to the proposed single-family residence. The applicants own

several recreational vehicles and would like to store these vehicles inside the proposed detached garage.

The subject property is located in the R-1 Single-family suburban zoning district. Properties in this zoning district vary in size, but are often larger than 1 acre due to the development standards of the zoning district. Due to the development standards of the zoning district and the garage area limitations per the Official Code of the City of Great Falls (OCCGF), the applicants have requested a variance from the total maximum garage area provision of the City Code.

Background Information:

Requested Variance: Chapter 20 – Land Use § 17.20.7.060 Garage, private.

Pursuant to the OCCGF a private detached garage is required to meet the total maximum garage area per Exhibit 20-9. This exhibit, included below, shows the allowed garage area on a property per the lot size. This is broken into four size categories, with the maximum allowed for the subject property being 1,800 square feet. This square footage allowance is cumulative of all garage spaces including all detached and attached private garages.

Exhibit 20-9. Garage area limitations

| Lot Size (Square Feet) | Total Maximum Garage Area (Square Feet) |
|----------------------------|--|
| 7,500 | 1,200 |
| 7,501 to 10,000 | 1,400 |
| 10,001 to 43,559 | 1,600 |
| 43,560 (1 acre) and higher | 1,800 |

The applicants are requesting to build a 3,500 square foot detached garage as well as a 1,500 square foot attached garage. Therefore, a variance is needed for the additional square footage.

Findings for the Basis of Decision:

The basis for decision for a variance request is listed in § 17.16.32.040 of the OCCGF Land Development Code. The decision of the Board of Adjustment shall consider the three Basis of Decision criteria. Staff provides the following Basis of Decision for consideration by the Board:

1. The variance is not contrary to the public interest.

The purpose of the total maximum garage area provision in the zoning code is to ensure that large garages are not dominating over the houses on a property. This is particularly important in street blocks where houses are of modest size. In such situations, garage areas between 1,200 and 1,800 square feet preserve the neighborhood character of the residential areas of the city. More importantly, the second reason that garage areas are limited is to help prohibit large garages from being turned into businesses in residentially zoned areas.

Staff finds that the request would be contrary to the public interest. Staff receives a number of inquiries from property owners who wish to construct garages larger than required by code. In fact, a variance from the same provision to allow for 2,400 square feet of cumulative garage area rather than the 1,600 square feet allowed by code for the property located at 2400 6th Street NW was denied by the Board of Adjustment last year. While the context of the applicants' property is different than the property at 2400 6th Street NW, the requested deviation from code is much larger in this case. Staff has concluded that the applicants' request is more of an argument against the code more generally, rather than a variance based on unique hardship. In such instances, it is more appropriate to discuss changing the ordinance rather than granting a variance that would create precedent for other requests.

2. A literal enforcement would result in unnecessary hardship, owing to conditions unique to the property.

True hardship is defined as a unique condition on the property that would prohibit the owner from complying with the 1,800 square foot code standard for cumulative garage area. . The applicant has stated that due to the location within the floodplain, the lot is unable to receive utilities to the lot, which makes it extremely difficult to subdivide the lot as originally intended. Staff also notes that this property's more remote location and lack of street frontage near neighboring homes make the larger garage easier to incorporate into the area's built environment.

Staff appreciates the fact that the applicant would like to build a large detached garage in order to provide more value to the property, but the amount that the applicant is asking for is 3,200 square feet more than the total amount allowed for the lot size. There are no other existing detached garages of this size in the immediate area. Furthermore, the property's location in the floodplain and lack of subdivision potential to create additional lots should have been understood by the applicant. Staff cannot find enough unique conditions to justify such a large deviation from the garage area regulation.

3. The spirit of this Title would be observed and substantial justice done by granting the variance.

The spirit of this Title would not be observed if the variance is granted. As noted in Finding #1 above, the applicant's request for variance is such a large deviation from code that it represents an objection to the code provision itself more than a variance based on unique conditions and true hardship. Granting such a variance would be inconsistent with past action from the Board, and create uncertainty in how to handle future requests for larger garages.

Alternative:

The Board of Adjustment could approve the variances if sufficient findings of fact are developed to support an approval. If the Board of Adjustment does vote to approve the variances, a condition of approval is that the proposed house must be constructed as proposed, and the Board would be required to develop alternative findings.

Recommendation:

Based on the findings for the basis of decision Staff recommends denial of the increase of total garage area allowed.

Attachments:

- Aerial Map
- Zoning Map
- Exhibit 20-4 Development Standards for Residential Zoning Districts
- Variance Application
- Site Map
- Architectural Renderings



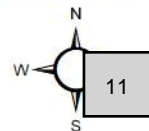
--- City Limits

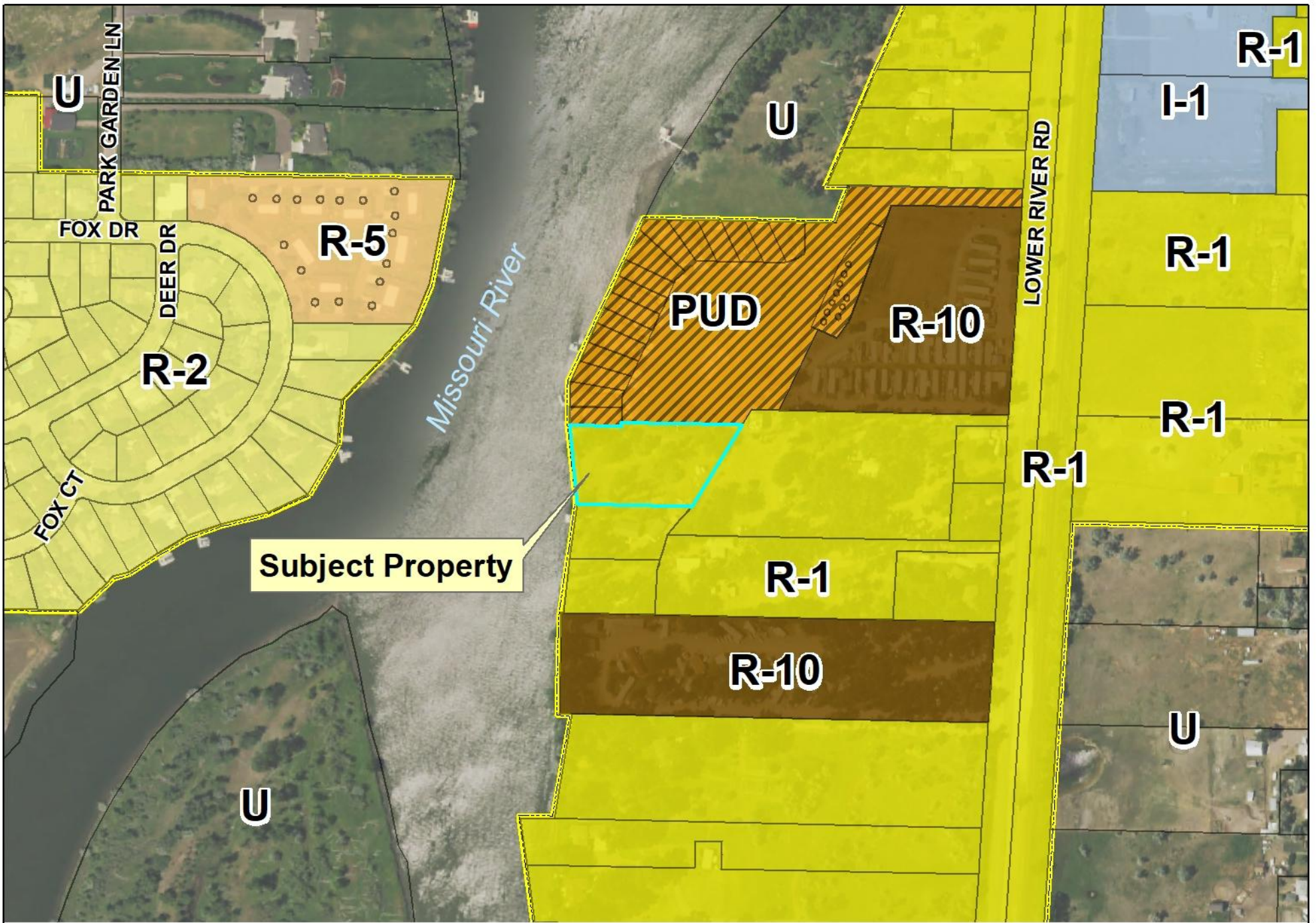
0 130 260 520 Feet



Date: 5/29/2020

City of Great Falls Planning and Community Development





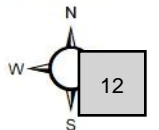
--- City Limits

0 130 260 520 Feet



Date: 5/29/2020

City of Great Falls Planning and Community Development



17.20.7.060 - Garage, private.

Private garages shall occupy no more than the area shown in Exhibit 20-9, provided other development standards can be met.

A. **Measurement.** Garage area limitation measurements are guided by the following provisions:

1. Measurements are cumulative of all garage spaces, including all detached and attached private garages.
2. Measurements include only the square footage of the ground or main floor level.
3. Upper stories or loft storage areas are excluded from the measurement of area for the purpose of compliance with Exhibit 20-9; however, ground level accessory living spaces, if included in a garage building, are included in the calculation.

Exhibit 20-9. Garage area limitations

| Lot Size (Square Feet) | Total Maximum Garage Area (Square Feet) |
|----------------------------|--|
| 7,500 | 1,200 |
| 7,501 to 10,000 | 1,400 |
| 10,001 to 43,559 | 1,600 |
| 43,560 (1 acre) and higher | 1,800 |

(Ord. No. 3087, § 1(Exh. A), 6-19-2012, eff. 7-19-2012)

CITY OF GREAT FALLS
PLANNING & COMMUNITY DEVELOPMENT DEPT.
P.O. BOX 5021, GREAT FALLS, MT, 59403-5021
406.455.8431 • WWW.GREATFALLSMT.NET

VARIANCE APPLICATION

Date:

Application Number:

\$1,250 Application Fee

Public Hearing Notice

Paid (Official Use ONLY):

CONDITION FOR VARIANCE

Montana Statutes require an *unnecessary hardship* as a condition for a variance. "Variance" means a grant of relief from the strict application of a rule or regulation that would permit development in a manner otherwise prohibited.

Lewis and Kandy Zanto

Owner / Representative Name:

3000 Lower River Road, Unit #2, Great Falls, MT 59405

Mailing Address:

(406) 788-7334

Phone:

lewis@prairiemountaininsurance.com

Email:

Requested Action: A variance from Title:

Chapter:

Article:

Title 17 - Land Development Code Chapter 20 - Land Use Article 7 - Special Standards for Accessory Use

Basis for Request:

Allowance of a 5,000 sf, including attached and detached, garage in lieu of maximum 1,800 sf. As defined under Ordinance No. 3087 (Exh. A), 6-19-2012, eff. 7-19-2012, Exhibit 20-9 Garage Area Limitations. Owner intends to comply with all set back requirements.

PROPERTY DESCRIPTION LOCATION:

MK 4B/Lot 04B in SWNE McLean Garden Tracts 23 20 N 03 E
Mark/Lot/Block: Addition: Section: Township: Range:

3004 Lower River Road, Great Falls, MT 59405

Street Address:

ZONING:

R-1

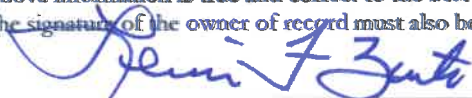
Current:

LAND USE:

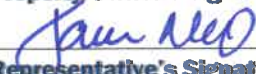
VACANT LOT

Current:

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. NOTE: If the applicant is not the owner of record, the signature of the owner of record must also be obtained.



Property Owner's Signature:



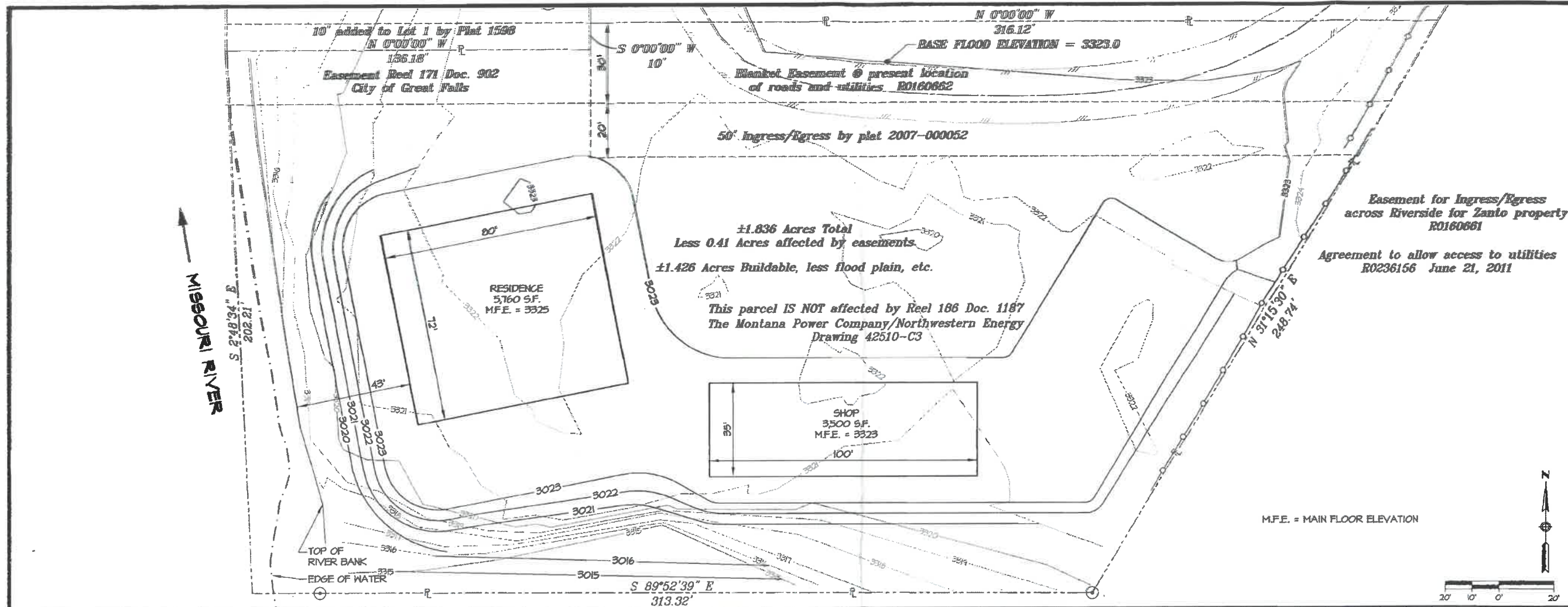
Representative's Signature:

5-11-53

Date:

5-7-2020

Date:



| Revisions | By | Date |
|-----------|----|------|
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| File No. | Job No. |
| FILE NO. | 11881-03 |
| Date | Scale |
| 5/7/20 | AS SHOWN |

Professional Seal

Engineers
Environmental Specialists
Planners
Designers
Surveyors



4509 North Star Boulevard
Great Falls, MT 59405
Phone 406-453-5478

Owner
LEWIS ZANTO

Project Title
CLOMR-F

Sheet Title
SITE PLAN & PROFILE

| | |
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| Sheet | of |
| 3 | 3 |

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File # FRES #

