



**Planning Advisory Board/Zoning Commission Agenda
2 Park Drive South, Great Falls, MT
Gibson Room via Zoom, Civic Center
July 28, 2020
3:00 PM**

UPDATES CONCERNING PROCESS OF MEETINGS

Due to the COVID-19 health concerns, the format of the Planning Advisory Board/Zoning Commission 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 Planning Advisory Board/Zoning Commission are making every effort to meet the requirements of open meeting laws:

- Planning Advisory Board/Zoning Commission 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, July 28, to: jnygard@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

OPENING MEETING

1. Call to Order - 3:00 PM
2. **Roll Call-Board Introductions**
 - Peter Fontana - Chair
 - Charles Pankratz - Vice Chair
 - Dave Bertelsen
 - Kelly Buschmeyer
 - Tory Mills
 - Samantha Shinaberger
 - Laura Vukasin

3. Recognition of Staff
4. Approval of Meeting Minutes - May 12, 2020

BOARD ACTIONS REQUIRING PUBLIC HEARING

5. Public Hearing - Ordinance 3221: An Ordinance amending Title 17 of the Official Code of the City of Great Falls (OCCGF): Chapter 20 Land Use, Exhibit 20-1 principal uses by district and section 17.20.6.080 regarding the distance requirements for liquor licenses in association to worship facilities governed by Montana Statute.
6. Conditional Use Permit for a “Worship facility” land use upon the property addressed as 427 Central Avenue and legally described as Lots 8 and 9, Block 315, Great Falls Original Addition, Section 12, Township 20N, Range 3E, PMM, Cascade County, MT.

BOARD ACTIONS NOT REQUIRING PUBLIC HEARING

COMMUNICATIONS

7. Next Meeting Agenda - Tuesday, August 11, 2020
 1. West Bank TIF Request for Wayfinding
 2. Weaver Addition Minor Subdivision

PUBLIC COMMENT

Public Comment on any matter and that is within the jurisdiction of the Planning Advisory Board/Zoning Commission. 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.

Planning Advisory Board/Zoning Commission meetings are televised on cable channel 190 and streamed live at <https://greatfallsmt.net>. Meetings are re-aired on cable channel 190 the following Thursday at 7 p.m.

**MINUTES OF THE MEETING
OF THE
GREAT FALLS PLANNING ADVISORY BOARD/ZONING COMMISSION
MAY 12, 2020**

CALL TO ORDER

The regular meeting of the Great Falls Planning Advisory Board/Zoning Commission was called to order by Chair Peter Fontana at 3:06 p.m.

ROLL CALL & ATTENDANCE

Due to the COVID-19 health concerns, the format of the Planning Advisory Board/Zoning Commission meeting is being conducted 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), public participation is welcomed and encouraged as follows:

- 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 5:00 PM on Tuesday, April 21, 2020, to: jnygard@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. We ask for your patience in the event there are technical difficulties.

Planning Board Members present electronically via Zoom:

Peter Fontana, Chair
Charles Pankratz, Vice Chair
Dave Bertelsen
Kelly Buschmeyer
Tory Mills
Samantha Shinaberger
Laura Vukasin - Had technical difficulties - joined in at 3:47 pm

Planning Board Members absent:

None

Planning Staff Members present:

Craig Raymond, Director, Planning and Community Development
Thomas Micuda, Deputy Director, Planning and Community Development

Erin Borland, Planner III
Brad Eatherly, Planner II
Alaina Mattimiro, Planner I
Jamie Nygard, Sr. Admin Assistant

Other Staff present:

Joseph Cik, Assistant City Attorney
Lisa Kunz, City Clerk
Garn Wanner, Information Technology

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

MINUTES

Chair Peter Fontana asked if there were any comments or corrections to the minutes of the meeting held on March 10, 2020. Seeing none, Ms. Shinaberger moved to approve the minutes. Mr. Bertelsen seconded, and all being in favor, the minutes were approved.

BOARD ACTIONS REQUIRING PUBLIC HEARING

Conditional Use Permit for a “two-family residence” land use upon the property addressed as 4921 9th Avenue South and legally described as Lot 9, Block 7, Sunrise Terrace 2nd Addition, Sec. 9, T20N, R3E, P.M.M., Cascade County, Montana.

Alaina Mattimiro, Planner I, presented to the board an application from Ms. McEwan requesting a Conditional Use Permit to allow for the legalization of a “two-family residence” land use upon the property addressed at 4921 9th Avenue South. Based on research conducted by City staff, in both City and County records, the second unit has no history of installation or use. The current owner acquired the house with the unit already existing. The house contains two levels, both with full kitchens and baths. The previous owner remodeled the second unit before 2005. The applicant wishes to legalize the existing second unit within the residence through a Conditional Use Permit, to rent the house out as a duplex. Because of the mix of density and use found in the area, legalizing the second unit through the requested Conditional Use Permit would create a smooth transition between the intensities of zoning districts. Ms. Mattimiro stated that the City’s Growth Policy does have a goal that action should be taken to legalize and create conformance with any piece of property that arises, if it is possible. Ms. Mattimiro also stated that the current use of this property has existed for over fifteen years, so it has already been integrated into the neighborhood.

PETITIONER’S PRESENTATION

Petitioner present but did not speak.

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PUBLIC QUESTION AND ANSWER SESSION

There were no questions from the public

BOARD QUESTIONS

Chair Fontana asked staff if the City requires legal egress requirements in order for the unit to be conforming. Ms. Mattimiro responded that egress is a requirement and the Building Department and the Fire Department have already looked at the application and given their approval.

PUBLIC COMMENT - PROPONENTS

None present

OPPONENTS

None present

MOTION: That the Zoning Commission recommend the City Commission approve the Conditional Use Permit subject to the applicant fulfilling the listed Conditions of Approval.

Made by: Mr. Bertelsen
Second: Mr. Mills
VOTE: All in favor, the motion carried

Rezone of Tracts 1 and 2 of Certificate of Survey 3607 located in Sections 25 and 11, T20N, R3E, P.M.M., Cascade County Montana.

Brad Eatherly, Planner II, presented to the board that the applicant, Big Sky Select Properties LLC, is proposing to expand the Milwaukee Station Depot by lightly attaching an atrium to connect to a new 83 unit apartment building and 10,000 s.f. of commercial space. He stated that rezoning from the property's M-2 zoning district to a C-4 zoning district will allow for a taller building, fewer parking spaces, and less landscaping. It will also allow for commercial uses such as taverns, and indoor sports and recreation without the need for a public hearing for Conditional Use Permits. The property will also require off-site easements for access and utilities. There is a small parcel, north of the Milwaukee Station Depot that has been sitting vacant for some time. This is where the proposed 83 unit apartment building will be built. It will cross the lot lines, so there will be an aggregation. Where the two properties meet, is where the proposed commercial space will be connecting to the Milwaukee Station Depot.

Mr. Eatherly presented a zoning district land use comparison table. Residence, multi-family is allowed in both M-2 and C-4 zones. Also, taverns, and indoor sports and recreation are allowed in the C-4 district but need a Conditional Use Permit in an M-2 zone.

There is only one access to the property currently, and with 83 new units being added, MDT has decided that another access to the north off River Drive will be necessary. The applicant is going to work with the Parks Department and the legal team at the City to provide an easement through the north portion of Sight and Sound Park. This means the existing entrance will more than likely turn into an entrance only. Mr. Eatherly also showed on the site layout where the applicant is asking for a parking and access easement on another City property to the north, for parking for tenants and possibly River's Edge Trail access. The land is currently empty. Mr. Eatherly did state that there may be about 4 or 5 mature trees that will need to be removed if access is granted through Sight and Sound Park, but the applicant has agreed to replant trees at a higher than 1 to 1 ratio. There are several trees on the lot that will not need to be removed.

Mr. Eatherly did present renderings of the building and how the apartment building and commercial space will connect to the Milwaukee Station Depot. He stated that the top floor of the commercial space is proposed to be a food court and a wine bar, and below it will be a CrossFit gym.

Mr. Eatherly stated that one of the key considerations is transportation. MDT deemed the current access as inadequate. The second access is integral to the project. He stated that the applicant has been working with MDT and the City to get these easement in place. The access easement will also work as a Utilities easement. Water and Sewer will be underneath the access. The storm drain will go through Sight and Sound Park. The applicant is also getting an easement for use of the City's park for drainage purposes. These easements will need to be secured before going to the City Commission.

The amendment is consistent with and furthers the intent of the City's Growth Policy. The expansion of the C-4 zoning district is strongly supported by the social portions of the Growth Policy including working with the private sector and non-profits to increase housing opportunities in the City. It supports mixed-use and commercial development that will enhance the Missouri River consistent with the vision identified in the Missouri River Urban Corridor Plan. Lastly, it falls in line with encouraging and incentivizing the redevelopment or adaptive reuse of vacant or underutilized properties so as to maximize the City's existing infrastructure. Mr. Eatherly also pointed out that the amendment is consistent with other planning documents adopted by the City Commission including the Missouri River Corridor Plan, Long Range Transportation Plan and Sub-Area Plans. He stated that the zoning map amendment request is consistent with the Missouri River Urban Corridor Plan including private sector housing development, private sector commercial and lodging development and planning to connect downtown to the river. Mr. Eatherly stated that staff does recommend approval of the requested zoning map amendment with the conditions that the applicant is in compliance with the MDT requirements and securing easements from the City Park and Recreation Department.

PETITIONER'S PRESENTATION

Brion Lindseth, Big Sky Select, 202 2nd Ave S, stated that Big Sky Select is a group of local businessmen who have come together with the goal of reinvesting in downtown Great Falls. He thanked everyone for working with them and using the virtual environment to move this project forward and addressing the request in a timely manner, given all of the difficulties that everyone is facing right now. He stated that this project is dependent on Opportunity Zoned financing, which encumbers them with certain design, financing, and timelines that need to be complied with. Mr. Lindseth also thanked the City Planning, Park and Rec, Department of Transportation, and

Historical Preservation Advisory Commission. He stated that one of the goals of Big Sky Select is to bring premier housing to the downtown area. He noted that in the recent Downtown Block Visioning Study, one of the priorities identified was additional downtown residential. One of their first projects was the Northern Lofts over the top of the Mighty Mo, 400 Block of Central, He also noted that in the Missouri River Urban Corridor Plan, one of the goals identified in the plan is to facilitate projects that tend to connect the river, West Bank, and the downtown area, which they hope to do with this project. The study also recommended uses for areas within the Missouri River Corridor and some of those uses were multi-family residential, restaurants, mixed use residential with commercial and residential components. They have received both guidance and support from the Vision Study as well as the Missouri River Urban Corridor Plan. They hope to continue that trend and would like to use the Northern Loft Apartments and well as this apartment project to build some momentum for additional projects that they would like to do in the downtown Great Falls area. He stated that one of their focuses has been to try to pull together and utilize local team members. The project team so far includes, LoenBro Heating, LPW Architects, Woith Engineering, Rocky Mountain Hardscapes, and Guy Tabacco Construction.

Tim Peterson, LPW Architects, 3405 Fern Drive, showed a slide from the downtown visioning project that displayed all of the items that were given as ideas. A hundred people showed up to the visioning meeting. Housing was at the top of the list of being the most important, and different options and ranges of housing downtown were recommended. Premier housing is what Big Sky Select is after. There are a lot of professionals that work downtown and the input from the community was for premier housing. In their research they found out that roughly 8,000 people live within a one mile radius of this project. The goals of the downtown visioning were to try to find unique uses that would activate street life and support an 18 hour dynamic day.

Mr. Peterson stated that he is the owner of a couple small startup restaurants downtown and would really like to see more people living downtown. He did show a slide of a quick overview of the floor plan. He did also reiterate that it would just be a light touch to the Milwaukee Station Depot. The bottom floor is a combination of one bedroom and two bedroom, apartments. The top floor is where the eatery, wine bar, and common space would be, that would all look out over the river. There will also be a rooftop patio on the fifth floor. He stated that they are doing their best to complement the Milwaukee Station Depot. They are going to do improvements to the stairs of the existing building. There will be an interior entrance to Chicago Title which would lead down to an elevator. They are going to try and match the brick as closely as they can. Mr. Peterson showed some slides of what the exterior will look like. All of the apartments will have balconies. He also showed a slide of what other projects are going on in the area. Mr. Peterson stated that they are very excited about the project, and that most successful cities that have successful downtowns have nice housing and have people there 24 hours a day. He stated that he thinks it will be a great addition to Great Falls.

PUBLIC QUESTION AND ANSWER SESSION

There were no questions from the public.

BOARD QUESTIONS

Mr. Bertelsen asked the developer where the height of the development that is 77' tall is being measured from. Mr. Peterson did answer that that is from the base of the new building at the main level to the elevator tower. The roof parapet is 67' from where ground touches the main level.

Mr. Bertelsen also asked what the current height is of the Milwaukee Station Depot roofline. Mr. Peterson responded that it is 135' to the top of the tower and did not know the main building's height. Mr. Bertelsen asked if the proposed building is higher than the existing building's ridgeline, and Mr. Peterson said that he did not think so, but would have to check on it.

Mr. Mills asked who would maintain the access easement onto city property and is it a normal thing for commercial developments to ask for easements to city parks. Mr. Lindseth did state that they are currently working with the City and have spoken to each department and the city's attorneys regarding the specifics of the easements. The easements will be finalized shortly. He said that they anticipate that they will be agreed upon without difficulty. He also stated that they anticipate that they will be responsible for the improvements that they place in the areas. Mr. Eatherly did respond that it is not uncommon, especially for utilities easements to come through city property. The staff did consult with the Legal Department throughout the process and it was deemed appropriate that such an easement be required.

Mr. Fontana asked if Mr. Lindseth could explain for the public and the board members, what the Opportunity Zone Financing is. Mr. Lindseth explained that it is something that has come out in the last few years. The purpose is primarily to attract financing for projects in somewhat disadvantaged areas that otherwise wouldn't be feasible and able to be facilitated. He stated that a good example of that is the renovated 18 apartments over the Mighty Mo, called the Northern Lofts. That project is in a 100 year old building downtown. The space that is being utilized for that project had sat vacant for over 60 or 70 years, not because there wasn't any interest in doing a project there, but because it is difficult to make those kind of projects financially feasible. He stated that the Opportunity Zone Financing is a tool that enables them to facilitate some projects that otherwise may not be feasible. Mr. Fontana did ask if Great Falls was specifically selected to be in the program and Mr. Lindseth replied that this is correct. He stated that there were between 7,000 and 8,000 zones throughout the country that were identified as meeting certain income criteria, nominated by Governors, and selected by the Internal Revenue Service as zones where these projects can be implemented. This area in Great Falls is one of the qualified zones.

Mr. Bertelsen asked about the parking lot to the north of the property. Is it required by City code or if it is just tentative for when the entire building is built? Mr. Linseth responded that they have been working with LPW to maximize parking in and around the site even though the zone change would not require this much parking. They do intend to maximize the space to provide as much parking as possible including the covered parking on the ground level of the structure. The parking that does run over onto the north part of the lot will be a necessary part of the parking plan.

PUBLIC COMMENT - PROPONENTS

George Willett, Top of Kings Hill in Neihart, stated that he has been looking in downtown Great Falls for a place to live for a long time as he has always been a downtown guy. He stated that he shops Great Falls, and does business here. He thinks that a project like this is a great idea. He

said that he does not know a lot of the details about the project but read about the project in the newspaper. He stated it will be a great addition to Great Falls. He is looking for a place where you can come and relax and get to downtown on foot or a bicycle. He stated that parking is always an issue downtown and that he loves the River's Edge Trail, so feels that a project like this, should be a high priority.

Brett Doney, Great Falls Development Authority, 405 3rd St N.W. Suite 203, stated that the Great Falls Development Authority strongly supports the project. He stated that it accomplishes so many of the things that they have been striving for, for downtown, the urbanized river corridor and for the City as a whole. He stated that high quality development in the downtown master plan area that will drive further development is what they want to see downtown. Also connecting the downtown to the river corridor and enhancing the enjoyment of the river corridor will draw people in both directions from the river corridor connecting it to the downtown and vice versa. Lastly, there is a tremendous need for high quality housing at all price points and this project will be a big step forward towards that. It will also be wonderful to have more market rate housing in the downtown which supports the downtown restaurants and entertainment. Another plus is that it is local developers and contractors doing the work. They are aware that there are some issues with the site, but it is also a very exciting site, so it is worth working through the issues. Another benefit is that it has been quite some time since the historical building has been renovated so this will give a lighter touch to the building. It needs to be renovated in order to see more public use out of it.

OPPONENTS

Mr. Raymond read an email that he received from Ward Taleff. Mr. Taleff apologized for the lateness of the submission, and may call in if the Board is unable to consider it. He represents Farmers Union Mutual Insurance Co. and is also a tenant in its building. In connection with the proposed building and zoning, he understands, having not been able to confirm, that his client acquired from the city a number of years ago, the former railroad easement between the railroad tracks and the Farmers Union Building. If so and recognizing the Park and Rec Department hasn't weighed in on this, there may be no easement that the department can give the developer. Regardless, having a parking lot and moving vehicles literally outside the windows of the ground floor occupants of this building [Farmer's Union] makes no sense from a safety or planning standpoint. The lack of adequate parking is a concern and appears to be poorly thought out.

BOARD DISCUSSION AND ACTION

MOTION: That the Planning Advisory Board recommend the City Commission approve the rezoning request from M-2 Mixed use transitional to C-4 Central business core 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 applicants.

Made by: Ms. Vukasin

Second: Ms. Buschmeyer

VOTE: This was a roll call vote. All in favor, the motion carried

Chair Fontana stated that he thinks that it is a really good use of a piece of property that would otherwise be underutilized. He applauds the City for working with a private developer to get the access easements. He also stated that he is not concerned about the reduced landscaping requirements because it is surrounded by public use land with two park systems.

Mr. Bertelsen added that he applauds the developers for taking a bold step for downtown Great Falls and thinks that once the project is completed it will be a great jewel for downtown.

Mr. Pankratz asked about the Farmer's Union Insurance concern, and wanted to know if the developer had any alternative thoughts that might provide more benefit to the Farmer's Union Building, such as moving the road a little further away. Assistant City Attorney Cik responded that this is City Attorney Sexes' case, so he did not know the correct answer. Mr. Raymond did clarify that the email from Mr. Taleff stated that in connection with the re-zoning he understands but has not been able to confirm, that his client acquired from the city a number a years ago, a former railroad easement between the tracks and the Farmer's Union Building. So, in Mr. Raymond's estimation, what the concern might be is the additional area that is proposed by the developer for parking, not necessarily the access through Sight and Sound Park.

Chair Fontana did ask if there is still going to be a buffer of trees between the Farmer's Union Building and the access easement. Mr. Eatherly did respond that there will still be some mature trees there. He stated that the access easement will not be right up against the property line, so there will be a buffer there as well.

BOARD ACTIONS NOT REQUIRING PUBLIC HEARING

Ordinance 3215, "An Ordinance Repealing Title 17, Chapter 12, Article 3, of the Official Code of the City of Great Falls (OCCGF), Pertaining to the Great Falls Design Review Board.

Assistant City Attorney Cik, stated that the City Commission met on March 2, 2020 and Adopted Resolution 10336 that dissolve the Design Review Board. Previously to that it had been suspended for a period of a year as far as requirements, reviewing, and holding meetings. That suspension was designed to try to get City staff to redevelop the procedure to make it more efficient and easier on developers. Since the City Commission saw it fit to dissolve the Design Review Board, this Ordinance under consideration would repeal that Article of the Code that actually pertains to the Design Review Board and its establishment. This will be a process by which staff goes through several different sections of the code in order to repeal the provisions related to the Design Review Board. This one is very simple. The Exhibit that was shown just strikes out all of the language and replaces it with repeal, but because it is a change to Title 17, it has to be brought to the Planning Advisory Board for recommendation. Staff recommends that the Planning Advisory Board recommend that the City Commission adopt Ordinance 3215.

BOARD DISCUSSION AND ACTION

MOTION: That the Planning Advisory Board recommend that the City Commission adopt Ordinance 3215.

Made by: Mr. Pankratz

Second: Ms. Vukasin

VOTE: This was a roll call vote. All in favor, the motion passed.

COMMUNICATIONS

Mr. Raymond did let the board know that there are several projects that will be coming up that are working through the process.

PUBLIC COMMENT

ADJOURNMENT

There being no further business, Chair Fontana adjourned the meeting at 4:19 p.m.

CHAIRMAN

SECRETARY



Agenda #: 5
Meeting Date: July, 28, 2020

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

Item: Public Hearing - Ordinance 3221: An Ordinance amending Title 17 of the Official Code of the City of Great Falls (OCCGF): Chapter 20 Land Use, Exhibit 20-1 principal uses by district and section 17.20.6.080 regarding the distance requirements for liquor licenses in association to worship facilities governed by Montana Statute.

Initiated By: Planning & Community Development/Legal Departments

Presented By: Erin Borland, Planner III, Planning and Community Development

Action Requested: Recommendation to the City Commission.

Public Hearing:

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

Suggested Motion:

1. Board Member moves:

“I move that the Planning Advisory Board recommend the City Commission (adopt/deny) Ordinance 3211.”

2. Chairman calls for a second, board discussion, and calls for the vote.

Background: Title 17 to the Official Code of the City of Great Falls (OCCGF) is the City’s comprehensive, inclusive compilation of code provisions relating to development. This land development code has been modified a number of times due to changes in state and federal law and to reflect changing conditions and community priorities.

After a worship facility submitted a Conditional Use Permit to be allowed in the C-4 Central Business Core zoning district, members of the downtown community voiced concern. These concerns included that if the Conditional Use Permit were approved, the limitations in the Mont. Code Ann. §16-3-306 would adversely affect the future establishment of a business with a new liquor license in the vicinity of the church.

Staff conducted research into the provisions established in the statute, as well as how other communities in Montana have addressed this issue. Based on this information, Staff will bring Ordinance 3221 for

City Commission consideration to supplant Mont. Code Ann. §16-3-306, after the Planning Advisory Board/Zoning Commission provides its recommendation.

Ordinance 3221: As Staff receives comments and suggestions from the development community, provisions in the City’s land development code require updates to be more relevant for current development patterns. Within the past few years, the City has received requests for worship facilities to be located in commercial zoning districts instead of residential districts. As a result, a zoning text amendment was approved by the City Commission to allow worship facilities to be permitted in the C-2 General Commercial zoning district. Until the recent request from a worship facility to be allowed in the C-4 Central Business Core zoning district under a Conditional Use Permit, the state distance requirements of the issuance of a liquor license had not been raised as an issue.

Pursuant to Mont. Code Ann. §16-3-306, provides:

- (1) Except as provided in subsections (2) through (4), a retail license may not be issued pursuant to this code to any business or enterprise whose premises are within 600 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship or as a school other than a commercially operated or postsecondary school. This distance must be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises. This section is a limitation upon the department's licensing authority.
- (2) However, the department may renew a license for any establishment located in violation of this section if the licensee does not relocate an entrance any closer than the existing entrances and if the establishment:
 - (a) was located on the site before the place of worship or school opened; or
 - (b) was located in a bona fide hotel, restaurant, or fraternal organization building at the site since January 1, 1937.
- (3) Subsection (1) does not apply to licenses for the sale of beer, table wine, or both in the original package for off-premises consumption.
- (4) Subsection (1) does not apply within the applicable jurisdiction of a local government that has supplanted the provisions of subsection (1) as provided in 16-3-309.

The crux of the concern from the downtown area community was not the mere presence of the church. Rather, it was the potential future effect on new downtown businesses within the 600 foot proximity to the church facility if the Conditional Use Permit were approved. This concern has merit. Without a change to the OCCGF, the statutory prohibition Mont. Code Ann. §16-3-306 would prevent the issuance of any new liquor licenses within 600 feet of the worship.

However, Mont. Code Ann. §16-3-309(4) permits an incorporated city to enact an ordinance that would supplant or supersede the provision. This provision would allow the City to remove or revise the distance requirement Mont. Code Ann. §16-3-306(1).

If approved, Ordinance 3221 would eliminate the distance requirement regarding all liquor license types in regard to worship facilities, but only in certain zoning districts. This is accomplished by amending Exhibit 20-1 principal uses by district, amending the special standards for taverns and incorporating the revised special standards to also apply to restaurants and micro-breweries. The full code amendment is included as Exhibit “A” of Ordinance 3221.

Staff believes that these amendments should alleviate any reasonable concern of the two uses coexisting in proximity to each other and will help the continued revitalization and development of the downtown by filling a vacancy.

Concurrences:

Legal Department

Staff Recommendation: Staff recommends that the Planning Advisory Board recommend that the City Commission adopt Ordinances 3221.

Alternatives: The Planning Advisory Board may choose not to recommend that the City Commission adopt Ordinance 3221. The Planning Advisory Board may also table action on the item to a date certain to provide additional suggested revisions.

Attachments/Exhibits:

- Ordinance 3221
- Ordinance 3221 Exhibit A

ORDINANCE 3221

AN ORDINANCE AMENDING TITLE 17 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF): CHAPTER 20 LAND USE, EXHIBIT 20-1 PRINCIPAL USES BY DISTRICT AND SECTION 17.20.6.080 REGARDING THE DISTANCE REQUIREMENTS FOR LIQUOR LICENSES IN ASSOCIATION TO WORSHIP FACILITIES GOVERNED BY MONTANA STATUTE.

* * * * *

WHEREAS, Mont. Code Ann. § 16-3-306 prohibits a liquor license to be issued to any establishment whose premises are within six-hundred (600) feet of a church, synagogue, or other place of worship; and

WHEREAS, Mont. Code Ann. § 16-3-309 gives an incorporated city the authority to supplant Mont. Code Ann. § 16-3-306 by establishing an ordinance defining certain areas in its incorporated limits where alcoholic beverages may or may not be sold; and

WHEREAS, members of the Great Falls community have expressed concern of worship facilities locating in the Commercial zoning districts which would prohibit the issuance of new liquor licenses: and

WHEREAS, the City Commission has recognized the ability to supplant state statute to alleviate the concern of the community and allow these uses to coexist; and

WHEREAS, the City Commission now wishes to take such action to allow these uses to coexist; and

WHEREAS, at its regularly scheduled July 28, 2020, meeting, the Great Falls Planning Advisory Board voted to recommend that the City Commission adopt Ordinance 3221.

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

Section 1. The City Commission supplants the provisions of Mont. Code Ann. § 16-3-306(1) in OCCGF Title 17, Chapter 20, specifically OCCGF Sections 17.20.3.060 at Exhibit 20-1 and 17.20.6.080, removing the distance requirements

relating to the issuance of a liquor license in proximity to a church, synagogue, or other place of worship, as depicted in Exhibit “A”. The statutory requirements that are not addressed herein remain in effect and are not supplanted.

Section 2. This Ordinance shall be in full force and effect thirty (30) days after second reading and final adoption by the City Commission.

ACCEPTED by the City Commission of the City of Great Falls, Montana on first reading August 18, 2020.

ADOPTED by the City Commission of the City of Great Falls, Montana on second reading and public hearing September 15, 2020.

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 3221 on the Great Falls Civic Center posting board and the Great Falls City website.

Lisa Kunz, City Clerk

(CITY SEAL)

Exhibit "A"

Title 17 - LAND DEVELOPMENT CODE

Chapter 20 LAND USE

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	R-2	R-3	R-5	R-6	R-9	R-10	C-1	C-2	C-3	C-4	C-5	M-1	M-2	PLI	POS	GFIA	I-1	I-2	Special Standards
Agricultural Uses																				
Agriculture, horticulture, nursery	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	17.20.6.005
Residential Uses																				
Mobile home/park	-	-	-	-	-	-	P	-	-	-	-	-	-	-	-	-	-	-	-	17.20.6.010
Residence, single-family detached	P	P	P	P	P	P	-	P	-	-	-	P	P	P	-	-	-	-	-	
Residence, zero lot line	-	-	P	P	P	P	-	-	-	-	-	P	P	P	-	-	-	-	-	17.20.6.020
Residence, two-family	-	C	C	P	P	C	-	P	-	-	-	P	P	P	-	-	-	-	-	
Residence, multi-family	-	-	-	P	P	C	-	P	-	-	-	P	P	P	-	-	-	-	-	17.20.6.040
Residence, townhouse	-	C	C	P	P	C	-	-	-	-	-	P	P	P	-	-	-	-	-	17.20.6.050
Residence, manufactured/factory-built	P	P	P	P	P	P	-	P	-	-	-	P	P	P	-	-	-	-	-	17.20.6.060
Retirement home	-	C	C	P	P	C	-	P	-	-	-	P	P	P	-	-	-	-	-	
Special Care Facilities																				
Community residential facility, type I	P	P	P	P	P	P	-	-	-	-	-	P	P	P	-	-	-	-	-	

Exhibit "A"

Title 17 - LAND DEVELOPMENT CODE

Chapter 20 LAND USE

Community residential facility, type II	C	C	C	P	P	P	-	-	-	-	-	-	C	C	-	-	-	-	-	-	-	-
Day care center	C	C	C	C	C	C	-	P	P	-	P	P	P	P	P	-	-	-	-	-	-	-
Emergency shelter	-	-	-	-	-	-	-	C	C	C	C	C	C	C	C	-	-	-	-	-	-	-
Family day care home	P	P	P	P	P	P	-	P	-	-	C	P	P	P	-	-	-	-	-	-	-	-
Group day care home	P	P	P	P	P	P	-	P	-	-	C	P	P	P	-	-	-	-	-	-	-	-
Nursing home	-	-	C	C	C	C	-	P	C	-	P	P	P	P	P	-	-	-	-	-	-	-
Overnight Accommodations																						
Campground	-	-	-	-	-	-	-	-	C	P	-	-	-	-	-	-	P	-	-	-	-	17.20.6.070
Hotel/motel	-	-	-	-	-	-	-	P	P	P	P	C	P	P	-	-	P	-	-	-	-	
Food and Beverage Sales																						
Micro-brewery	-	-	-	-	-	-	-	-	P	-	P	C	C	C	-	-	P	P	-	-	-	17.20.6.080
Restaurant	-	-	-	-	-	-	-	P	P	P	P	P	P	P	-	-	P	P	P	-	-	17.20.6.080
Tavern	-	-	-	-	-	-	-	P	P	P	P	C	C	C	-	-	P	P	P	-	-	17.20.6.080
General Sales																						
Agriculture sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	-	-	
Auction sales	-	-	-	-	-	-	-	-	C	-	-	-	-	-	-	-	P	P	P	-	-	
Construction materials sales	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-	P	P	P	-	-	
Convenience sales	C	-	-	-	-	-	-	P	P	P	P	C	-	-	-	-	P	P	P	-	-	
General sales	-	-	-	-	-	-	-	P	P	P	P	P	P	P	-	-	P	P	P	-	-	
Manufactured housing sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	-	-	

Exhibit "A"

Title 17 - LAND DEVELOPMENT CODE

Chapter 20 LAND USE

Off-site liquor sales	-	-	-	-	-	-	-	P	P	P	P	C	C	C	-	-	P	P	P	
Secondhand sales	-	-	-	-	-	-	-	P	P	-	P	P	-	-	-	-	P	P	P	
Shopping center	-	-	-	-	-	-	-	C	P	-	-	-	-	-	-	-	P	P	P	
General Services																				
Administrative services	-	-	-	-	-	-	-	P	P	P	P	P	P	P	C	-	P	-	-	
Commercial kennel	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-	P	P	-	17.20.6.090
Financial services	-	-	-	-	-	-	-	P	P	-	P	P	P	P	-	-	P	-	-	
Funeral home	-	-	-	-	-	-	-	P	P	-	P	C	P	P	-	-	-	-	-	
General services	-	-	-	-	-	-	-	P	P	P	P	P	P	P	-	-	P	P	P	
Professional services	-	-	-	-	C	C	-	P	P	-	P	P	P	P	-	-	P	-	-	
Sexually-oriented business	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	17.20.6.100
Veterinary clinic, large animal	-	-	-	-	-	-	-	-	C	-	-	-	-	-	-	-	P	P	P	
Veterinary clinic, small animal	-	-	-	-	-	-	-	C	P	-	-	-	P	P	-	-	P	P	P	17.20.6.110
Rental and General Repair																				
Large equipment rental	-	-	-	-	-	-	-	-	C	C	-	-	-	-	-	-	P	P	P	
Small equipment rental	-	-	-	-	-	-	-	-	P	-	P	-	-	-	-	-	P	P	P	
General repair	-	-	-	-	-	-	-	P	P	-	P	P	-	-	-	-	P	P	P	
Vehicle Trade and Service																				
Vehicle fuel sales	-	-	-	-	-	-	-	C	P	P	P	P	-	-	-	-	P	P	-	
Vehicle repair	-	-	-	-	-	-	-	-	P	P	C	P	-	-	-	-	P	P	-	17.20.6.120
Vehicle sales and rental	-	-	-	-	-	-	-	-	P	P	P	P	-	-	-	-	P	P	-	

Exhibit "A"

Title 17 - LAND DEVELOPMENT CODE

Chapter 20 LAND USE

Vehicle services	-	-	-	-	-	-	-	C	P	P	P	P	C	P	-	-	P	P	-	
General Storage																				
Agricultural commodity storage facility	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	
Climate controlled indoor storage	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	-	P	P	P	
Fuel tank farm	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	P	
Mini-storage facility	-	-	-	-	-	-	-	-	-	C	-	-	-	C	-	-	P	P	P	17.20.6.130
Freight terminal	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-	-	P	P	P	
Warehouse	-	-	-	-	-	-	-	-	-	C	-	-	-	C	-	-	P	P	P	
Indoor Recreation/Sports/Entertainment																				
Casino, type I	-	-	-	-	-	-	-	-	P	-	P	-	-	-	-	-	P	P	P	17.20.6.140
Casino, type II	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	P	P	17.20.6.150
Indoor entertainment	-	-	-	-	-	-	-	-	P	-	P	C	C	C	C	-	P	-	-	
Indoor sports and recreation	-	-	-	-	-	-	-	-	P	-	P	C	C	C	C	C	P	P	-	
Outdoor Recreation/Sports/Entertainment																				
Golf course/driving range	C	C	C	C	C	-	-	-	-	-	-	-	-	-	-	P	P	-	-	
Miniature golf	-	-	-	-	-	-	-	-	P	C	-	-	-	C	-	-	P	C	-	
Outdoor entertainment	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	C	P	C	-	
Park	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Recreational trail	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Community Services/Uses																				

Exhibit "A"

Title 17 - LAND DEVELOPMENT CODE

Chapter 20 LAND USE

Administrative governmental center	-	-	-	-	-	-	-	P	P	P	P	P	P	P	C	P	-	-		
Animal shelter	-	-	-	-	-	-	-	-	C	C	-	-	C	C	C	-	P	P	-	17.20.6.160
Cemetery	C	C	C	C	C	C	C	-	-	-	-	-	-	P	P	P	-	-	17.20.6.170	
Civic use facility	C	C	C	C	C	C	C	-	P	-	P	P	P	P	C	-	-	-		
Community center	C	C	C	C	C	C	C	C	P	-	P	P	P	P	C	-	-	-		
Community cultural facility	C	C	C	C	C	C	C	P	P	-	P	P	P	P	C	-	-	-		
Community garden	P	P	P	P	P	P	P	C	C	C	C	P	P	P	P	P	C	C	17.20.6.175	
Public safety facility	C	C	C	C	C	C	C	C	P	C	P	P	P	P	-	P	P	-		
Worship facility	C	C	C	C	C	C	C	P	P	-	C	P	P	P	-	-	P	-	-	17.20.6.180
Health Care																				
Health care clinic	-	-	-	-	-	-	-	P	P	-	P	P	P	P	P	-	-	-	-	
Health care facility	-	-	-	-	-	-	-	-	P	-	P	P	C	C	P	-	-	-	-	
Health care sales and services	-	-	-	-	-	-	-	P	P	-	P	P	P	P	P	-	-	-	-	
Education																				
Commercial education facility	-	-	-	-	-	-	-	P	P	-	P	P	P	P	-	-	P	P	-	
Educational facility (K—12)	C	C	C	C	C	C	C	C	-	-	-	C	C	C	P	-	-	-	-	17.20.6.200
Educational facility (higher education)	-	-	-	-	-	-	-	C	C	-	-	C	C	C	P	-	P	-	-	
Instructional facility	-	-	-	-	-	-	-	P	P	-	P	P	P	P	-	-	P	P	-	
Solid Waste, Recycling and Composting																				
Composting facility	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	C	P	17.20.6.210

Exhibit "A"

Title 17 - LAND DEVELOPMENT CODE

Chapter 20 LAND USE

Recycling center	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	C	P	17.20.6.220	
Solid waste transfer station	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	C	P	17.20.6.230	
Telecommunications																				
Amateur radio station	P	P	P	P	P	P	P	-	-	-	-	-	-	-	-	-	-	-	17.20.6.240	
Telecommunication facility																			17.20.6.250	
Concealed facility	C	C	C	C	C	C	C	P	P	P	P	C	P	P	P	C	P	P	P	
Unconcealed facility	-	-	-	-	-	-	-	C	C	C	C	C	C	C	C	C	P	P	P	
Co-located facility	-	-	-	-	-	-	-	P	P	P	P	C	C	C	C	C	P	P	P	
Utilities																				
Utility installation	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	C	P		
Transportation																				
Airport	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-		
Bus transit terminal	-	-	-	-	-	-	-	-	P	P	P	-	C	C	C	-	P	P	-	
Heli-pad	-	-	-	-	-	-	-	-	C	C	C	C	C	C	C	C	P	P	P	17.20.6.260
Parking lot, principal use	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	P	P	P	
Parking structure	-	-	-	-	-	-	-	-	P	-	P	P	P	P	P	-	P	P	P	
Railroad yard	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P		
Taxi cab dispatch terminal	-	-	-	-	-	-	-	-	P	P	P	-	P	P	-	-	P	P	-	
Contractor Yards																				
Contractor yard, type I	C	-	-	-	-	-	-	-	C	-	-	-	P	P	-	-	P	P	-	17.20.6.270
Contractor yard, type II	-	-	-	-	-	-	-	-	-	-	-	-	C	C	-	-	P	P	P	17.20.6.280

Exhibit "A"

Title 17 - LAND DEVELOPMENT CODE

Chapter 20 LAND USE

Industrial/Manufacturing																			
Artisan shop	-	-	-	-	-	-	-	P	P	P	P	P	P	P	-	-	P	P	-
Industrial, heavy	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	P
Industrial, light	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P
Industrial park	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P
Junkyard	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	C	P
Light manufacturing and assembly	-	-	-	-	-	-	-	-	P	P	P	P	P	P	-	-	P	P	P
Motor vehicle graveyard	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P
Motor vehicle wrecking facility	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P

- 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

17.20.6.080 Micro-brewery, Restaurant, and Tavern.

A. As authorized by Mont. Code Ann. §16-3-306(4) and §16-3-309(1), with respect to any type or class of liquor license, the City supplants the provisions of Mont. Code Ann. §16-3-306(1), and eliminates the requirement of a 600 foot distance between a licensed establishment and a church, synagogue, or other place of worship (identified above in Exhibit 20-1 as Worship Facility). The elimination of this distance requirement is only applicable if the licensed establishment or Worship Facility is or will be located within a zoning district where both uses are permitted or conditionally permitted. The statutory requirements remaining are not supplanted. ~~Taverns shall comply with the locational standards as may be adopted by the State.~~

B. Taverns located in C-1 Districts may not have indoor or outdoor entertainment.



Agenda #: #6
Meeting Date: July 28, 2020

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

Item: Conditional Use Permit for a “Worship facility” land use upon the property addressed as 427 Central Avenue and legally described as Lots 8 and 9, Block 315, Great Falls Original Addition, Section 12, Township 20N, Range 3E, PMM, Cascade County, MT.

Initiated By: David Saenz, Calvary Chapel of Cascade County

Presented By: Brad Eatherly, Planner II, Planning and Community Development

Action Requested: Recommendation to the City Commission

Public Hearing:

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

Suggested Motion:

1. Board Member moves:

“I move that the Planning Advisory Board recommend the City Commission (approve/approve with conditions/deny) the Conditional Use Permit as legally described in the Staff Report, and the accompanying Findings of Fact, subject to the Conditions of Approval being fulfilled by the applicants.”

2. Chairman calls for a second, board discussion, and calls for the vote.

Background: The applicant, David Saenz, lead pastor of Calvary Church of Cascade County, has submitted an application to request a Conditional Use Permit to allow for a “Worship facility” land use upon the property addressed as 427 Central Avenue and legally described as Lots 8 and 9, Block 315, Great Falls Original Addition, Section 12, T20N, R3E, PMM, Cascade County, MT. The subject property is zoned C-4 Central business core, wherein a “Worship facility” land use is permitted upon receiving approval of a Conditional Use Permit and fulfillment of any required conditions.

The subject property is located within the Pennington Place Building which has several other suites as well. The applicant is proposing using the main floor and a portion of the basement as a meeting space and office use for Calvary Chapel of Cascade County. Currently, the church occupies a space on Fox Farm Road and would like to move closer to the heart of the city. The church intends to use the building for church services on Sunday mornings, eventually expanding to Sunday nights and Wednesday nights. Smaller groups such as Men’s and Women’s Bible Studies and Youth Group meetings will also

occasionally take place on site. During normal downtown business hours, the space will have a few staff members occupying the building and might also occasionally hold larger meetings.

Mont. Code Ann. §16-3-306 states in part that a liquor, beer, and wine “retail license may not be issued pursuant to this code to any business or enterprise whose premises are within 600 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship. ... This distance must be measured in a straight line from the center of the nearest entrance of the place of worship... to the nearest entrance of the licensee’s premises.” This statute does not prohibit the issuance of a Conditional Use Permit to Calvary Chapel. However, the City has received concerns about the future growth of downtown should the CUP be granted, staff believes that the CUP should be granted. Staff is concurrently working on a code change that will remove the distance requirements for all types of liquor licenses and worship facilities. This is allowed by Mont. Code Ann. §16-3-309(1) which states that, “An incorporated city may enact an ordinance defining certain areas in its incorporated limits where alcoholic beverages may or may not be sold.”

The basis for a decision for a Conditional Use Permit is listed in OCCGF §17.16.36.040. The Zoning Commission’s recommendation and the City Commission’s decision to approve, conditionally approve, or deny an application shall be based on whether the application, staff report, public hearing, and additional information demonstrates that the criteria which are attached as Findings of Fact - Conditional Use have been met.

Impacts:

There is the potential for a significant impact if the Conditional Use Permit is granted and Ordinance 3221 regarding the code change is not approved by the City Commission. If that were to be the outcome, existing properties within 600 lineal feet, in all directions, of the entrance to Calvary Church along Central Avenue and 5th Street South and 5th Street North, would be able to continue to utilize their liquor licenses. However, in the future, anyone wanting a new liquor license, wanting to transfer a liquor license, or modify an entrance where an existing liquor license has been obtained, will not be able to acquire one.

If the City Commission chooses to adopt Ordinance 3221, the Conditional Use Permit granting a land use of “Worship facility” will not adversely impact the area. The property in question has remained vacant for the last several years and having Calvary Church occupy the space will bring several people to the downtown area at a time when downtown is usually sparsely populated. Regardless of the City Commission’s decision on Ordinance 3221, if the conditional use is approved, existing casinos within a 600 foot radius would be able to remain in place. However, any new casinos would not be allowed within a 600 foot radius of the front door of the conditional use.

Transportation:

Based upon the gross floor area of 4,837 sf, the average number of trips on a Sunday would be estimated at 177 daily trips (source: ITE Trip Generation Manual, 9th Ed.). Maximum anticipated peak hour trips would also be on a Sunday, and is estimated to be an average of 58 trips.

5th Street carries an average of 2,369 vehicles per weekday (2018 count). As a three-lane one-way facility, there is ample capacity to carry the additional traffic that could be generated from the proposed use. The other roadway adjoining the proposed use, Central Avenue, carries an average of 3,215 vehicles per weekday (2018 count). There may be some congestion at peak hour; however, because the highest number of trips would be on a Sunday, traffic on the adjoining roadways would be very low due to many traffic generators (businesses and employment centers) being closed. Therefore, any congestion

would be due to multiple vehicles arriving at the proposed use at about the same time, and would be expected to be brief.

Improvements:

No improvements are recommended. The space that Calvary Church would occupy is within a building that currently exists.

Proximity to Other Uses:

The Subject Property is located within an existing building that currently leases to several other commercial uses. Directly to the west of the building is a building with commercial use on the ground floor and multi-family residential use on the upper floors.

Neighborhood Council Input:

The subject property is located in Neighborhood Council #7. The applicant presented to the Council on July 13, 2020. The Council formally took no action, deciding to know the outcome of the City Commission’s decision regarding Ordinance 3221 before providing any recommendation. However, both Ordinance 3221 and the applicant are scheduled to be on the same City Commission agenda. Staff has received 18 letters and e-mails from the public voicing their support for the church to be located on the subject property. While staff has fielded questions about the project from various entities such as the Downtown Development Partnership and Great Falls Development Authority looking for answers regarding M.C.A. 16-3-306, no formal letters or e-mails in opposition have been received.

Concurrences:

Representatives from the City’s Public Works, Fire/Rescue, and Building Departments have reviewed the proposal and have no objections to the issuance of the Conditional Use Permit.

Fiscal Impact:

Approval of the CUP would have no adverse financial impact upon the City of Great Falls.

Staff Recommendation:

Staff recommends approval of the Conditional Use Permit, subject to the following conditions:

Conditions of Approval:

1. **Subsequent Modifications and Additions:** If, after establishment of the conditional use, the owner proposes to expand or modify the use, buildings, and/or structures, the Director of the Planning and Community Development Department shall determine in writing if such proposed change would alter the finding for one or more review criteria found in OCCGF 17.16.36.040. If such proposed change would alter a finding, the proposal shall be submitted for review as a new conditional use application. If such proposed change would not alter a finding, the owner shall obtain all other permits as may be required.
2. **Expiration:** The Conditional Use Permit shall expire one year after the date of issuance, if a Certificate of Occupancy has not been issued. The Administrator may extend the expiration date by up to one year if substantial work is ongoing. The Administrator may issue a Temporary Certificate of Occupancy that is valid for no more than one year if the only condition(s) remaining to be fulfilled involve landscaping that cannot be successfully established until the weather permits.

3. **Abandonment:** If the permitted conditional use ceases to operate for more than six months, the Conditional Use Permit shall expire.
4. **General Code Compliance:** The proposed project shall be developed consistent with the conditions of approval adopted by the City Commission, and all codes and ordinances of the City of Great Falls, the State of Montana, and all other applicable regulatory agencies.
5. **Fire Code:** The proposed project shall comply with all Fire Code requirements
6. **Acceptance of Conditions:** No zoning or building permits shall be issued until the property owner acknowledges in writing that it has received, understands, and agrees to comply with the conditions of approval.

Alternatives:

The Zoning Commission could recommend denial of the Conditional Use Permit, providing an alternative Basis of Decision to support the action.

Attachments/Exhibits:

Basis of Decision
Aerial Map
Zoning Map
Site Photos
Applicant Narrative
Letters of Support

CONDITIONAL USE BASIS OF DECISION

The applicant is requesting the approval of a Conditional Use Permit (CUP) for a Worship Facility in the C-4 district. Based upon review, the City makes the following Findings of Fact:

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

The proposed worship facility provides an opportunity to allow for redevelopment of a portion of a building that has remained vacant for several years. It also encourages a diversity of land uses within the downtown area. More specifically, it is consistent with the following policies in the City's Growth Policy:

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

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.

2. The establishment, maintenance or operation of the zoning and conditional use will not be detrimental to, or endanger the health, safety, morals, comfort or general welfare.

The CUP will have no detrimental impact upon the health, safety, morals, comfort or general welfare. The worship facility should encourage and support the health, safety, morals, comfort or general welfare of the surrounding area. The applicant has been involved in several service projects to help clean the downtown area for several years.

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

The conditional use could be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted. If the City Commission does not adopt Ordinance 3221 allowing liquor licenses to be allowed next to worship facilities, existing liquor licenses within 600 lineal feet, in any direction of the entrance to Calvary Church along Central Avenue and 5th Street South and 5th Street North, would be able to continue to utilize their liquor licenses. However, anyone wanting a new liquor license, wanting to transfer a liquor license, or modify an entrance where an existing liquor license has been obtained, will not be able to acquire one. If the City commission chooses to adopt Ordinance 3221, the conditional use would not be injurious to the immediate vicinity for the purposes already permitted. Regardless of the City Commission's decision on Ordinance 3221, if the conditional use is approved, existing casinos within a 600 foot radius would be able to remain in place. However, any new casinos would not be allowed within a 600 radius of the front door of the conditional use.

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

The conditional use again could be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted. If the City Commission does not adopt Ordinance 3221 allowing liquor licenses to be allowed next to worship facilities, the existing liquor licenses within 600 lineal feet, in any direction of the entrance to Calvary Church along Central Avenue and 5th Street South and 5th Street North, would be able to continue to utilize their liquor licenses. However, anyone wanting a new liquor license, wanting to transfer a liquor license, or modify an entrance where an existing liquor license has been obtained, will not be able to acquire one. If the City commission chooses to adopt Ordinance 3221, the conditional use would not be injurious to the immediate vicinity for the purposes already permitted. Regardless of the City Commission's decision on Ordinance 3221, if the conditional use is approved, existing casinos within a 600 foot radius would be able to remain in place. However, any new casinos would not be allowed within a 600 foot radius of the front door of the conditional use.

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

Adequate services and infrastructure are available to serve the worship facility. Full sidewalks, water, sewer, and paved roads already exist adjacent to the subject parcel.

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

The conditional use would be used mainly on Sundays and Wednesday nights, times that have typically low-traffic volumes. The congregants of the church are also encouraged to utilize the downtown parking garages in order to alleviate on-street parking concerns.

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

The lot is of sufficient size to comply with all applicable regulations in the City's Land Development Code and, more specifically, the C-4 Zoning District.

EXHIBIT A

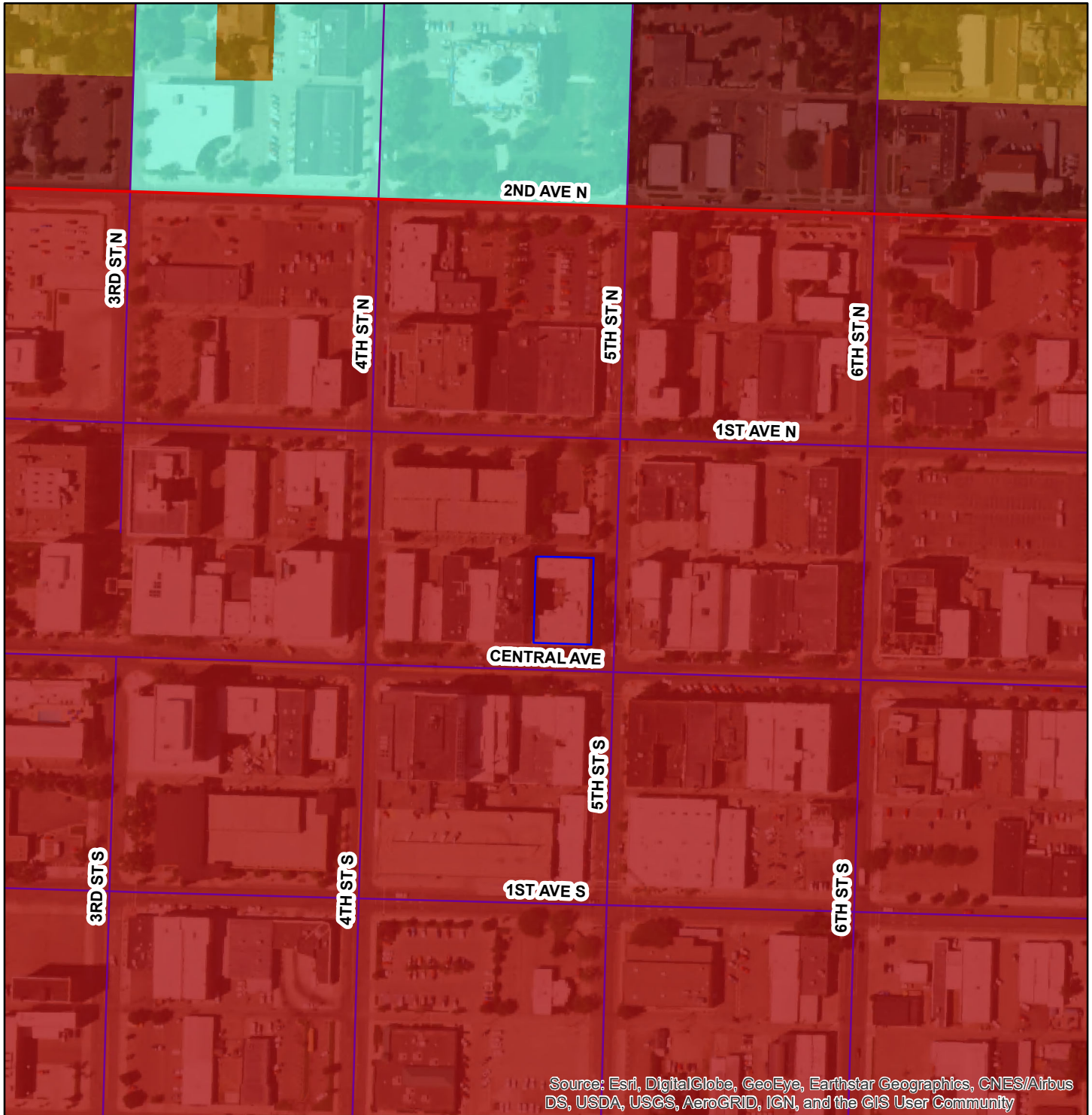







 Parcel selection

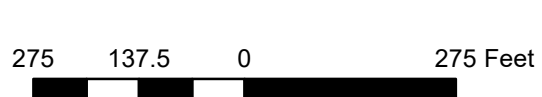
 City Limits



ZONING MAP



-  Parcels selection
-  R-9 Mixed Residential
-  C-4 Central Business Core
-  C-5 Central Business Periphery
-  PLI Public Lands and Institutional



**Calvary Chapel of Cascade County
Conditional Use Permit Narrative**

May 4, 2020

Introduction

Calvary Chapel of Cascade County (CCCC)¹ is a small non-denominational church currently located within the City of Great Falls. We presently share a building in the Fox Farm area owned by another existing church. The purpose of this request for a Conditional Use Permit (CUP) is to have CCCC relocate and occupy an empty space located at 427 Central Ave². The previous tenant, known as Cascade Opticians, utilized the location as a retail business and has since vacated the space, approximately 3 years ago.

The current adjacent occupants within the building include the businesses of insurance, financial, counseling, and chiropractor. The existing occupancy of the building totals 24 persons. If approved, CCCC plans to modestly renovate and improve the space located on the ground level, which contains approximately 2,700 square feet, and the basement level containing approximately 2,400 square feet.³ The planned renovation will accommodate a worship facility for the parishioners. Total planned occupants, if permissible by code, will not exceed 150 on the ground level, and no more than 50 on the basement level, which currently has sprinklers.

CCCC intends to conduct church services on Sunday mornings, eventually expanding to include a Sunday evening and Wednesday evening service. During the remaining time of the week, the majority of the proposed space will essentially be unoccupied. Small groups will gather at various times for study including Men's and Women's Bible Studies, Youth Groups, etc. (usually scheduled in the evenings).⁴ For events during normal business hours, attendees will be encouraged to utilize the Public Parking structure rather than take up too much at the available metered street parking.

¹ Church website can be located at <http://calvarycasco.org> or Facebook page <https://www.facebook.com/cccasco> our youtube channel can be located at <https://www.youtube.com/channel/UCvd87YJanCHVMjpVdXp9GDw>

² Per the Montana Cadastral, the existing Pennington building equals a total of 31,800sf (10,600sf per floor including Basement, 1st Floor and 2nd Floor)

³ Proposed occupancy use of 5,100sf or 16% of total building gross footage.

⁴ Occasional occurrences may result in special events including guest speakers, worship music, or Vacation Bible School (VBS) for children.

**Calvary Chapel of Cascade County
Conditional Use Permit Narrative**

May 4, 2020

Goals & Objectives

Our church filed by-laws in 2017 with the State of Montana (which are on record) indicating that the purpose of Calvary Chapel Cascade County (CCCC) is threefold: 1) To worship God the Father, Son, and Holy Spirit; 2) To build up the Church of Jesus Christ through the teaching of the Word and ministry of the Spirit; 3) To evangelize by presenting the Gospel message that leads men and women to repent and confess Jesus Christ as Lord. CCCC believes that the above-mentioned purpose is consistent, and in no way contrary, to the latest adopted City of Great Falls Growth Policy, Downtown Master Plan, or the Downtown Access, Circulation and Streetscape Plan.⁵ In fact, CCCC believes our presence in the local downtown community will contribute to enhancing the area’s vitality and character.

CCCC intends to meet with Neighborhood Council (NC) #7 and will make them aware of our plans concerning the proposed opportunity (NC #7 is presently not meeting due to the COVID-19). It is our perspective that being approved to occupy that location would be consistent with said Neighborhood Council guidelines. Furthermore, we have requested to the specific organizations of the Downtown Development Partnership and the Downtown Safety Alliance to be placed on their next agenda to provide an informational briefing to these groups. At the time of this request, CCCC is unaware that any of our plans are inconsistent with these specific groups.

Should this request be approved, CCCC plans to have in place a negotiated lease with the building owner, Mr. Lantz Balthazar. The maintenance of the subject space will be covered jointly between CCCC and the owner. CCCC will be responsible for the daily operation of the subject space.

⁵ <https://greatfallsmt.net/planning/comprehensive-planning>

**Calvary Chapel of Cascade County
Conditional Use Permit Narrative**

May 4, 2020

It is our goal at CCCC to be an asset to the downtown area, and in time, to function as a focal point for the local residents and business community. CCCC does not believe the proposed approval of this request will in any way be a detriment to the public health, safety, morals, comfort or general welfare of the community. We believe we can share in the positive elements that the community has to offer, as well as giving back to the community. To that end, we are willing to comply with applicable regulations.

In addition to being an added resource to the local neighborhood, we desire to be a partner in the Business Improvement District and take pride in contributing to the development of the subject property. We believe the improvements made by CCCC will not serve to negatively impact the overall appearance of the local community, but will improve what already exists.

CCCC plans to modestly upgrade the space with code applicable requirements that would meet the needs of the congregation. In addition, support infrastructure such as street utilities, parking, and roads already exist. Therefore, no improvements to the City's infrastructure that supports this building would be necessary as a part of this request. Furthermore, the location of this request is surrounded with public parking and adequate arterial roads that already exist. This request, if approved, would not negatively impact ingress or egress to such roads.

Conclusion

Calvary Chapel Cascade County is a well-balanced church that already exists in the City of Great Falls. As such, we've had the opportunity to already positively contribute to places or activities such as, alley cleaning in the downtown area, the local Farmer's Market, the Rescue Mission, public and private schools, Prayer on the Hill, etc. We continue to have a good reputation and will strive to be a good neighbor in our new proposed location. We believe that approving this request, would enhance the already existing downtown community, and offer opportunities to its residents and the general public not currently available.

Brad Eatherly

From: Jamie Nygard
Sent: Thursday, May 7, 2020 8:11 AM
To: Brad Eatherly
Subject: FW: Calvary Chapel of Cascade County

From: Kristen Calderon <kris_8721@yahoo.com>
Sent: Thursday, May 7, 2020 12:46 AM
To: Jamie Nygard <jnygard@greatfallsmt.net>
Subject: Calvary Chapel of Cascade County

City of Great Falls
Planning & Community Development
[#2 Park Drive South, Room 112](#)
[Great Falls, Montana 59403](#)

Attn: To Whom It May Concern

It is my understanding that Calvary Chapel of Cascade County has applied for a conditional use permit to occupy the building of [427 Central Avenue](#) (5th and Central). I believe that their presence will be an asset to the community, and I hereby give my support in favor of their request.

Sincerely,
Kristen Calderon

Brad Eatherly

From: Jamie Nygard
Sent: Thursday, May 7, 2020 8:11 AM
To: Brad Eatherly
Subject: FW: Calvary Chapel of Cascade County

Hi Brad,
I have several of these that I am going to forward to you.
Thanks,
Jamie

From: Daniel Calderon <daniel94063@gmail.com>
Sent: Thursday, May 7, 2020 8:08 AM
To: Jamie Nygard <jnygard@greatfallsmt.net>
Subject: Calvary Chapel of Cascade County

Attn: To Whom It May Concern

It is my understanding that Calvary Chapel of Cascade County has applied for a conditional use permit to occupy the building of [427 Central Avenue](#) (5th and Central). I believe that their presence will be an asset to the community, and I hereby give my support in favor of their request.

Daniel Calderon

Brad Eatherly

From: Jamie Nygard
Sent: Thursday, May 7, 2020 8:11 AM
To: Brad Eatherly
Subject: FW: Approval for Calvary Chapel

From: Pastor Lee Barrows <lee@newcity.church>
Sent: Wednesday, May 6, 2020 10:03 PM
To: Jamie Nygard <jnygard@greatfallsmt.net>
Subject: Approval for Calvary Chapel

City of Great Falls
Planning & Community Development
#2 Park Drive South, Room 112
Great Falls, Montana 59403

Subject: Calvary Chapel of Cascade County

Attn: To Whom It May Concern

I am excited that Calvary Chapel of Cascade County has applied for a conditional use permit to occupy the building of 427 Central Avenue (5th and Central). I highly recommend this church ministry to you. I believe that their presence will be an asset to the community, and I hereby give my support in favor of their request.

Sincerely,

Pastor Lee Barrows
New City Church

Brad Eatherly

From: Jamie Nygard
Sent: Thursday, May 7, 2020 8:11 AM
To: Brad Eatherly
Subject: FW: LoveINC - Supporting Calvary Chapel

From: LoveINC RMF <loveinc.rmf@gmail.com>
Sent: Wednesday, May 6, 2020 5:12 PM
To: Jamie Nygard <jnygard@greatfallsmt.net>; Love INC CLEARING HOUSE <loveinc.rmfch@gmail.com>
Subject: LoveINC - Supporting Calvary Chapel

City of Great Falls
Planning & Community Development
#2 Park Drive South, Room 112
Great Falls, Montana 59403

Subject: Calvary Chapel of Cascade County

Attn: To Whom It May Concern

It is my understanding that Calvary Chapel of Cascade County has applied for a conditional use permit to occupy the building of 427 Central Avenue (5th and Central). I believe that their presence will be an asset to the community, and I hereby give my support in favor of their request.

--

Working for His Kingdom,
Sandra Fermo
Executive Director



Brad Eatherly

From: Jamie Nygard
Sent: Thursday, May 7, 2020 8:11 AM
To: Brad Eatherly
Subject: FW: Calvary Chapel of Cascade County Permit Request
Attachments: image002.png

From: David Culpepper <dculpepper@foothillschristian.org>
Sent: Wednesday, May 6, 2020 2:07 PM
To: Jamie Nygard <jnygard@greatfallsmt.net>
Subject: Calvary Chapel of Cascade County Permit Request

City of Great Falls
Planning & Community Development
#2 Park Drive South, Room 112
Great Falls, Montana 59403

Subject: Calvary Chapel of Cascade County

Attn: To Whom It May Concern

It is my understanding that Calvary Chapel of Cascade County has applied for a conditional use permit to occupy the building of 427 Central Avenue (5th and Central). I believe that their presence will be an asset to the community, and I hereby give my support in favor of their request.

Working for the Master Teacher,



David Culpepper
Head of School

UNcommon Education for Life



Foothills Community Christian School
2210 5th Avenue North
Great Falls, Montana 59401
406-452-5276 ext. 200
www.foothillschristian.org



Brad Eatherly

From: Jamie Nygard
Sent: Thursday, May 7, 2020 8:11 AM
To: Brad Eatherly
Subject: FW: Calvary Chapel of Cascade County

From: saenzdavid09 . <saenzdavid09@gmail.com>
Sent: Wednesday, May 6, 2020 2:06 PM
To: Jamie Nygard <jnygard@greatfallsmt.net>
Subject: Calvary Chapel of Cascade County

City of Great Falls
Planning & Community Development
#2 Park Drive South, Room 112
Great Falls, Montana 59403

Subject: Calvary Chapel of Cascade County

Attn: To Whom It May Concern

It is my understanding that Calvary Chapel of Cascade County has applied for a conditional use permit to occupy the building of 427 Central Avenue (5th and Central). I believe that their presence will be an asset to the community, and I hereby give my support in favor of their request.

Sincerely,

David Saenz

Brad Eatherly

From: Jamie Nygard
Sent: Thursday, May 7, 2020 8:35 AM
To: Brad Eatherly
Subject: FW: Calvary Chapel of Cascade County

From: Dave Strand <dajustrand@gmail.com>
Sent: Thursday, May 7, 2020 8:34 AM
To: Jamie Nygard <jnygard@greatfallsmt.net>
Subject: Calvary Chapel of Cascade County

City of Great Falls
Planning & Community Development
#2 Park Drive South, Room 112
Great Falls, Montana 59403

Subject: Calvary Chapel of Cascade County

Attn: To Whom It May Concern

It is my understanding that Calvary Chapel of Cascade County has applied for a conditional use permit to occupy the building of 427 Central Avenue (5th and Central). I believe that their presence will be an asset to the community, and I hereby give my support in favor of their request.

David Strand

Brad Eatherly

From: Jamie Nygard
Sent: Thursday, May 7, 2020 8:52 AM
To: Brad Eatherly
Subject: FW: Application request

From: Dwayne whitaker <whitakerdwayneKelly@gmail.com>
Sent: Thursday, May 7, 2020 8:47 AM
To: Jamie Nygard <jnygard@greatfallsmt.net>
Subject: Application request

Attn: To Whom It May Concern

It is my understanding that Calvary Chapel of Cascade County has applied for a conditional use permit to occupy the building of 427 Central Avenue (5th and Central). I believe that their presence will be an asset to the community, and I hereby give my support in favor of their request.

Dwayne Whitaker
940 21st ave south
Great Falls 59405

Brad Eatherly

From: Jamie Nygard
Sent: Thursday, May 7, 2020 10:01 AM
To: Brad Eatherly
Subject: FW: Calvary Chapel of Cascade County permit

From: office@nwff.org <office@nwff.org>
Sent: Thursday, May 7, 2020 9:59 AM
To: Jamie Nygard <jnygard@greatfallsmt.net>
Subject: Calvary Chapel of Cascade County permit

Attn: To Whom It May Concern

It is my understanding that Calvary Chapel of Cascade County has applied for a conditional use permit to occupy the building of 427 Central Avenue (5th and Central). I believe that their presence will be an asset to the community, and I hereby give my support in favor of their request.

Northwest Family Fellowship
Pastor Bob McLeod

Brad Eatherly

From: Jamie Nygard
Sent: Friday, May 8, 2020 8:02 AM
To: Brad Eatherly
Subject: FW: Calvary Chapel of Cascade County

-----Original Message-----

From: JT Coughlan <pasjt@aol.com>
Sent: Thursday, May 7, 2020 6:14 PM
To: Jamie Nygard <jnygard@greatfallsmt.net>
Subject: Calvary Chapel of Cascade County

Attn: To whom it may concern

I understand that Calvary Chapel of Cascade County has applied for a conditional use permit to occupy the building at 427 Central Ave. I believe that their presence will be a tremendous asset to the downtown area and the community. I hereby give my full support in favor of their request.

Pastor JT Coughlan
Senior pastor
Set Free Miniseries
216 9th st no
Great Falls, Mt 59406
406-453-4479

Brad Eatherly

From: Jamie Nygard
Sent: Wednesday, May 13, 2020 8:04 AM
To: Brad Eatherly
Subject: FW: Calvary Chapel Cascade County

-----Original Message-----

From: Robert Lewis <washed166@yahoo.com>
Sent: Tuesday, May 12, 2020 10:26 PM
To: Jamie Nygard <jnygard@greatfallsmt.net>
Subject: Calvary Chapel Cascade County

Attn: To Whom It May Concern

It is my understanding that Calvary Chapel of Cascade County has applied for a conditional use permit to occupy the building of 427 Central Avenue (5th and Central). I believe that their presence will be an asset to the community, and I hereby give my support in favor of their request.

Sincerely,
Pastor Rob Lewis

Brad Eatherly

From: Jamie Nygard
Sent: Tuesday, June 2, 2020 3:59 PM
To: Brad Eatherly
Subject: FW: Subject: Calvary Chapel of Cascade County

From: Matt Antonich <rbhsmatt3@yahoo.com>
Sent: Tuesday, June 2, 2020 3:42 PM
To: Jamie Nygard <jnygard@greatfallsmt.net>
Subject: Subject: Calvary Chapel of Cascade County

Attn: To Whom It May Concern

It is my understanding that Calvary Chapel of Cascade County has applied for a conditional use permit to occupy the building of 427 Central Avenue (5th and Central). I believe that their presence will be an asset to the community, and I hereby give my support in favor of their request. ;;Matt Antonich, Belt, Mt.

Brad Eatherly

From: Jamie Nygard
Sent: Tuesday, June 2, 2020 3:59 PM
To: Brad Eatherly
Subject: FW: Subject: Calvary Chapel of Cascade County

From: Matt Antonich <rbhsmatt3@yahoo.com>
Sent: Tuesday, June 2, 2020 3:47 PM
To: Jamie Nygard <jnygard@greatfallsmt.net>
Subject: Subject: Calvary Chapel of Cascade County

Attn: To Whom It May Concern

It is my understanding that Calvary Chapel of Cascade County has applied for a conditional use permit to occupy the building of 427 Central Avenue (5th and Central). I believe that their presence will be an asset to the community, and I hereby give my support in favor of their request.
Bonnie Antonich

Brad Eatherly

From: Jamie Nygard
Sent: Friday, June 19, 2020 1:27 PM
To: Brad Eatherly; Thomas Micuda
Subject: FW: Calvary Chapel of Cascade County

From: James Russell <jamesfrusse11@msn.com>
Sent: Friday, June 19, 2020 12:13 PM
To: Jamie Nygard <jnygard@greatfallsmt.net>
Subject: Calvary Chapel of Cascade County

City of Great Falls
Planning & Community Development
#2 Park Drive South, Room 112
Great Falls, Montana 59403

Attn: To Whom It May Concern

It is my understanding that Calvary Chapel of Cascade County has applied for a conditional use permit to occupy the building of 427 Central Avenue (5th and Central). I believe that their presence will be an asset to the community and I hereby give my support in favor of their request.

Sincerely

James Russell

Brad Eatherly

From: Jamie Nygard
Sent: Tuesday, July 7, 2020 8:17 AM
To: Brad Eatherly
Subject: FW: Subject: Calvary Chapel of Cascade County

From: Nate Swanson <nate@newcity.church>
Sent: Thursday, July 2, 2020 12:12 AM
To: Jamie Nygard <jnygard@greatfallsmt.net>
Subject: Subject: Calvary Chapel of Cascade County

Attn: To Whom It May Concern

It is my understanding that Calvary Chapel of Cascade County has applied for a conditional use permit to occupy the building of [427 Central Avenue](#) (5th and Central). I believe that their presence will be an asset to the community, and I hereby give my support in favor of their request.

Nate Swanson
Office: 406-727-4849
www.iamNEW.city



Love INC RMF
PO Box 1943
Great Falls MT 59403

May 6, 2020

City of Great Falls
Planning & Community Development
#2 Park Drive South, Room 112
Great Falls, Montana 59403

Subject: Calvary Chapel of Cascade County

Attn: To Whom It May Concern

It is my understanding that Calvary Chapel of Cascade County has applied for a conditional use permit to occupy the building of 427 Central Avenue (5th and Central). I believe that their presence will be an asset to the community, and I hereby give my support in favor of their request.

Sandee Hungate
Love INC Rocky Mountain Front
Church & Community Connection Coordinator
406-629-9092

May 7, 2020

City of Great Falls
Planning and Community Development
#2 Park Drive South, Room 112
Great Falls, Montana 59405

I have worked with David Saenz for several years in the Downtown Safety Alliance. He is a strong supporter and leader for of the Downtown district. He and his congregation have cleaned alleys in the district all season long, not just to support MApril, for several years.

David and the Calvary Chapel of Cascade County have applied for a conditional use permit to occupy 427 Central Avenue, the former home of Cascade Opticians. This would be a wonderful addition to the Downtown family.

I believe that the presence of Calvary Chapel of Cascade County would be an asset to the community and I support its request.

Thank you for your time and attention.



Sandra Rice
909 3rd Avenue North #4
Great Falls, Montana 59401

WILLIAM O. BRONSON, PLLC

ATTORNEY AT LAW
Silver State Building,
No. 18 – 6TH Street North, Suite 35
P.O. Box 3485
Great Falls, Montana 59403

PHONE: (406) 315-1181
E-MAIL: bill.bronson@bresnan.net

May 28, 2020

City of Great Falls
Planning & Community Development
#2 Park Drive South, Room 112
Great Falls, Montana 59403
Via e-mail: Jnygard@greatfallsmt.net

**Subject: Calvary Chapel of Cascade County
Application for Conditional Use Permit**

To Whom It May Concern:

I have been asked by representatives of Calvary Chapel of Cascade County if I would write a letter of support for its application for a conditional use permit, for the purpose of occupying the building located at 427 Central Avenue (corner of 5th Street North and Central Avenue). This letter is written in my personal capacity. Please consider the following items and information as your department reviews the application.

Background: The Property and The Downtown

My office is located in the downtown, about a block from the building Calvary Chapel hopes to occupy. I walk or drive by this building almost daily. I have been inside it several times the past few years. I also have some knowledge of the building's history.

Several years ago, the facilities abutting Central and 5th Street North underwent substantial renovation. Unfortunately, it appears to me that a prior owner/developer did not avail itself of an opportunity to do some critical foundation work. There appear to be some foundation issues with much of the built environment on that corner. In my experience, these issues tend to make a building less desirable for future occupancy, even though it is certainly useable. I have been in the building when it was occupied by two prior tenants, and their operations do not appear to have been affected negatively. Nevertheless, it is not an ideal situation, and the concern would be that many prospective users would pass up the

*Licensed to Practice in All Montana State Courts, the United States District Court
for the District of Montana, the Court of Appeals for the Ninth Circuit,
and the United States Supreme Court*

opportunity to lease or purchase the space, in favor of more desirable premises.

A building unoccupied in the downtown for an indefinite period of time is not good for the downtown. Lack of occupancy creates a perception of decay and isolation, and is an invitation to other problems. The downtown has been undergoing significant revitalization in recent years. Increasing occupancy by long-term tenants and owners helps facilitate that process. The corridor in which this building is located has been slow to redevelop fully. Thus, a proposed longer-term use would be beneficial not only to the owner/occupier, but to the area as whole.

Appropriateness of the Requested Permit

Based on the information available to me, the requested permit appears to satisfy the bases for a decision as set forth in OCOCGF 17.16.36.040, as follows:

- (1) *The conditional use is consistent with the City's growth policy.¹*

The Great Falls downtown is in a state of constant change. The mix of uses is not going to mirror the downtown environment of the past. For the foreseeable future, the mix will undoubtedly consist of small retail, professional, and residential, with perhaps one or two mid-sized service operations. However, the latter should not be seen as anchors that help sustain the downtown. Downtowns will survive and prosper largely because of local residents and entrepreneurs who live and work in this community.

The role that churches play in this mix has never been fully explored. The churches that will survive and prosper will be those that have as part of their mission and outreach to the community, including those less fortunate. Great Falls is no exception to the norm that many of those left in unfortunate circumstances are part of downtown life. Churches are well suited to serve those in need.

Calvary Chapel has already accomplished some things that we would expect of a good downtown neighbor, with past volunteer clean-up activities. I would expect those might continue and possibly expand with a more sustained downtown presence. This is above and beyond giving them a “home.”

¹ Subsection 1 of this ordinance also requires consideration of “*applicable neighborhood plans, if any.*” I am not aware of any such plans for this area of the City, so an assessment of compliance here is unnecessary.

As you consider this application, consider the foregoing, including the background I have provided, in light of the following criteria in City policy documents:

Growth Policy:

Soc 1.7 – bolster the capacity of non-profits in the City (*churches are within this category*);

Phy4.1 – encouragement of a balanced mix of land uses throughout the City:

+ Phy4.1.2 – expand neighborhood commercial uses, mixed-use development and local food choices where appropriate;

+ Phy4.1.3 – create a balanced land use pattern that provides for a diversity of uses that will accommodate existing and future development in the City.

+ Phy4.1.4 – foster the development of safe, walkable, neighborhoods with a mix of uses and diversity of housing types (the downtown is a “neighborhood,” of sorts;

+ 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. [EMPHASIS ADDED]

Downtown Master Plan:

The Downtown Master Plan (2011) envisions “livability” as a primary goal, defined as “*the enrichment of the physical, social, and personal well being of Downtown residents, employees, and visitors. A livable Downtown is welcoming to people of all ages and incomes and provides a friendly and safe environment that encourages social interaction.*” In that regard, please refer to:

Goal 2: Flourishing Downtown –

Objective 2: Improve the public realm to provide a safe, attractive and welcoming environment. Strategies:

a. Encourage a partnership between Downtown organizations and stakeholders and the City Police Department to ensure a clean and safe environment.

b. Establish a volunteer based Downtown clean-up day and/or program.

c. Increase street level vitality by encouraging the active use of ground floor space in the Downtown core.

[EMPHASIS ADDED]

In summary, the proposed use is consistent with several elements and objectives of the Growth Policy and the Downtown Master Plan.

(2) *The establishment, maintenance, or operation of the conditional use will not be detrimental to, or endanger the public health, safety, morals, comfort or general welfare.*

The proposed use as a church should not raise any issues with public health, safety, morals, comfort or general welfare.

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

I am not aware of any evidence at this time that the proposed use would raise issues as to existing developments, or property values. In that regard, however, I will offer some comments later, as to the need to balance several critical concerns.

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

As with (3), there is no indication that other developments or improvements will be impeded.

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

It is my understanding that current utilities in the area, roads, stormwater and related facilities are all adequate for a relative low-physical impact like the proposed church.

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

The proposed use has appropriate ingress and egress with respect to traffic congestion. I would expect uses to be more intense on Sunday mornings, which are normally less intense periods of use in the general area. There is more than sufficient parking in the area to accommodate their needs, and avoid interference with other users.

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

I assume the proposed use can meet this catch-all provision

Consideration of Religious Land Use and Institutionalized Persons Act [RLUIPA]

In my prior experience as a planning board member and a city commissioner, as well as my own law practice, I was often guided by the considerations imposed by the federal *Religious Land Use and Institutionalized Persons Act* [RLUIPA], 42 U.S.C. § 2000cc, et.seq., when it came to applications by churches and religious organizations. Consideration of RLUIPA appears to be appropriate here as well.

By its terms, RLUIPA prohibits zoning laws and regulations that substantially burden the religious exercise of churches or other religious assemblies or institutions *absent the least restrictive means of furthering a compelling governmental interest*. This prohibition applies in any situation where: (i) the state or local government entity imposing the substantial burden receives federal funding; (ii) the substantial burden affects, or removal of the substantial burden would affect, interstate commerce; or (iii) the substantial burden arises from the state or local government's formal or informal procedures for making individualized assessments of a property's uses. In addition, RLUIPA prohibits zoning laws (and this any specific zoning decisions) that:

(1) treat churches or other religious assemblies or institutions on less than equal terms with nonreligious assemblies or institutions;

(2) discriminate against any assemblies or institutions on the basis of religion or religious denomination;

(3) totally exclude religious assemblies from a jurisdiction; or

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(4) unreasonably limit religious assemblies, institutions, or structures within a jurisdiction.

The United States Justice Department has acknowledged the importance of RLUIPA in land-use decision making. See, e.g., V. Gupta, *The Religious Land Use and Institutionalized Persons Act* (Letter Memorandum to State, County and Municipal Officials, U.S. Dept. of Justice, Civil Rights Division, December 15, 2016), issued during the Obama Administration; and Office of the Attorney General, *Memorandum for All Executive Departments and Agencies – Federal Law Protection for Religious Liberty* (October 6, 2017), at pp. 7a-8a), issued by the Trump Administration.

My reference to federal law and interpretive documents here is two-fold:

-first, to provide you with additional, critical resources that should be consulted as to the appropriateness of the applicant’s request; and

-second, in the event that opposition to the application arises on account of challenges to a religious organization seeking to own and/or possess property, that appropriate assurances are made to the applicant that land-use recommendations and decisions not are made on that basis, and that the decision-making bodies (i.e., the Planning Advisory Board and Zoning Commission, and the City Commission) are appropriately advised on the importance of Calvary Chapel’s application being adjudicated on appropriate legal grounds.²

I have not considered how this analysis plays out as regards state laws concerning the location of churches in relation to establishments that serve alcohol. Sometimes, state liquor control laws are cited as a basis for disallowing religiously-based uses in relation to bars and similar establishments. The time is coming—if not now, then at some point very soon—where the viability of those old laws in relation to RLUIPA will have to be addressed, and some balance struck. Perhaps the state can provide you some guidance in that regard.

² I note here that the downtown area already has at least one church (River of Hope) as well as a religiously-based human services facility (Rescue Mission) within its environs. In addition, the Greater Faith congregation used a small facility on the 500 block of 6th Street North, fairly close to the bowling alley, without objection, before obtaining permanent quarters on the West Side.

May 28, 2020

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Thank you for your consideration of this application.

Sincerely,

By: Bill Bronson

cc:

Calvary Chapel of Cascade County

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