



**Planning Advisory Board/Zoning Commission
March 26, 2024 Agenda
2 Park Drive South, Great Falls, MT
Commission Chambers, Civic Center
3:00 PM**

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:

- The agenda packet material is available on the City's website: <https://greatfallsmt.net/meetings>. The Public may view and listen to the meeting on government access channel City-190, cable channel 190; or online at <https://greatfallsmt.net/livestream>.
- Public participation is welcome in the following ways:
- Attend in person. Please refrain from attending in person if you are not feeling well.
- Provide public comments via email. Comments may be sent via email before 12:00 PM on Tuesday, March 26, 2024 to: jnygard@greatfallsmt.net. Include the agenda item or agenda item number in the subject line, and include the name of the commenter and either an address or whether the commenter is a city resident. Written communication received by that time will be shared with the 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.

OPENING MEETING

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

Dave Bertelsen - Chair

Tory Mills - Vice Chair

Julie Essex

Lindsey Gray

Pat Green

Samantha Kaupish

Jake Schneiderhan

3. Staff Recognition
4. Approval of Meeting Minutes - February 13, 2024

BOARD ACTIONS REQUIRING PUBLIC HEARING

5. Public Hearing – Conditional Use Permit (CUP) to allow handling of a hazardous substance, hydrogen sulfide (H₂S), which is listed as an ingredient of asphalt, for the property addressed as 6501 18th Ave N and legally described as Lot 6A of AgriTech Park.

BOARD ACTIONS NOT REQUIRING PUBLIC HEARING

COMMUNICATIONS

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
GREAT FALLS PLANNING ADVISORY BOARD/ZONING COMMISSION
February 13, 2024**

CALL TO ORDER

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

ROLL CALL & ATTENDANCE

UPDATES CONCERNING PROCESS OF MEETINGS

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:

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Planning Board/Zoning Commission Members present:

Tory Mills, Vice Chair
Julie Essex
Lindsey Gray
Pat Green
Samantha Kaupish
Jake Schneiderhan

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Planning Board/Zoning Commission Members absent:

Dave Bertelsen, Chair

Planning Staff Members present:

Rachel Campbell, Permit Technician

Brock Cherry, Director Planning and Community Development

Andrew Finch, Sr. Transportation Planner

Lonnie Hill, Sr. City Planner

Jamie Nygard, Sr. Administrative Assistant

Other Staff present:

Rachel Taylor, Deputy City Attorney

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

MINUTES

Vice Chair Mills asked if there were any comments or corrections to the minutes of the meeting held on January 9, 2024. Seeing none, the minutes were approved.

COMMISSION ACTIONS REQUIRING A PUBLIC HEARING

Public Hearing – Zoning map amendment to change the zoning for the property addressed as 805 2nd Street SW and legally described as Lot 1-A of the Amended Plat of Lot 1, Garden Home Tracts and Mark 23A of COS 4153, Located in the Southeast ¼ of Section 11, T20N, R3E, P.M.M., Cascade County, Montana, from R-1 Single –family Suburban to M-2 Mixed use Transitional.

Mr. Hill, Sr. City Planner, presented to the Commission. He stated that the applicant, Craig and Robert Stainsby, are requesting to rezone the 4.46 acres at 805 2nd St SW from an R-1 to M-2 to develop a 36 unit apartment building in Phase 1 and a 42 unit apartment building and 14 townhome units in Phase 2, for a total of 92 multi-family units. The development proposal will have 2 accesses off of Bay Drive and 1 access off of 2nd St. SW. Phase 1 will have 69 parking

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spaces and phase 2 will have 50 parking spaces for a total of 119 parking spaces, which is 2 more spaces than is required by code.

Mr. Hill presented an Aerial Map, Zoning Map, Site Photos, Preliminary Site Plan, Civil Site Plan, and Floodplain Analysis

Mr. Hill stated that the developer is proposing to use the existing access through parkland onto Bay Drive and will enter into an agreement with the City of Great Falls to build and maintain the access, before a building permit will be issued.

Mr. Hill presented the Voluntary Development Agreement that the developers expressed willingness to include voluntary commitments beyond the M-2 zoning district. Mr. Hill stated that the list was provided in the Agenda Packet.

Mr. Hill stated that Staff did a Floodplain Analysis and stated that the property is partially in the 100 year floodplain, so Phase 1 will be entirely out of the Floodplain, and any work done on Phase 2, in the floodplain area, will require a 310 permit and CLOMR-F from FEMA to place fill within the 100 year floodplain. Any proposed work upon the bank or within the floodway may require review by the Cascade Conservation District, Montana Fish Wildlife and Parks, and Army Corps Engineers.

Mr. Hill stated that Staff found that the City's Growth Policy supports the proposed zoning map amendment to facilitate higher density development upon an infill parcel, particularly to provide needed housing. The zoning map amendment request is consistent with several of the Plan's policies including:

- Social – Housing (page 134)
 - Soc1.4.2: Expand the supply of residential opportunities including single family homes, apartments, manufactured homes, and assisted living facilities.
 - Soc1.4.6: Encourage a variety of housing types and densities so that residents can choose by price or rent, location, and place of work.
- Environmental – Urban Form (page 144)
 - Env2.3.1: In order to maximize existing infrastructure, identify underutilized parcels and areas with infill potential as candidates for redevelopment in the City.
- Physical – Land Use (page 162)
 - Phy4.1.4: Foster the development of safe, walkable, neighborhoods with a mix of uses and diversity of housing types.
 - Phy4.1.5: Encourage and incentivize the redevelopment or adaptive reuse of vacant or underutilized properties so as to maximize the City's existing infrastructure.

Mr. Hill stated that the proposed zoning map amendment will enable the policies to be addressed and further the implementation of the Growth Policy.

Mr. Hill presented the Missouri River Urban Corridor Plan Analysis and stated that the subject property is located within the "Primary Impact Area" of the plan. The primary impact area includes "lands with strong relationships to the river that are most central to the Corridor Plan."

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He stated that the plan identifies appropriate river front uses and specifically lists 2-4 story rental apartments and town houses. The plan also lists lack of mixed-use zoning as a barrier to success for riverfront development. Mr. Hill stated that the rezone request met multiple goals of the Growth Policy and the Missouri River Urban Corridor Plan.

Andrew Finch, Sr. Transportation Planner, presented the Traffic Review to the Commission. He stated that code requires Traffic Impact Analysis when the estimated peak-hour trips generated by the proposed development exceeds 300 peak-hour trips. The City has the option to require one if the estimated peak-hour trips exceed 200 peak-hour trips. He stated that the proposed development is estimated to generate 43 peak-hour trips and that Staff has performed the analysis based on public interest in the proposed use.

Mr. Finch presented a few slides on how the calculation of the Trip Generation was estimated and what the existing and projected future traffic will be upon the existing street network. He stated that there were traffic counts done in early December, on a nice day, and presented the daily traffic volume to the Commission.

Mr. Finch presented the Trip Distribution and stated that new trips are redistributed by the “attractiveness” of each potential route, including likely destinations, design limitations (width, travel speeds, traffic control, lighting, etc.), directness, congestion, etc.

Mr. Finch stated that Staff did a Bike/Pedestrian Review and that the development would construct trail connection to the River’s Edge Trail in the Garden Home Park. The bike route along 10th Avenue SW and 2nd Street SW would see additional traffic, however traffic growth is projected to be relatively low and is not anticipated to adversely affect bicyclist safety. He stated that the current pedestrian use of 10th Avenue SW and 2nd Street SW is mainly off of paved travel surface so any growth in pedestrian use would be expected to use the same off-street path of travel.

Mr. Finch stated that Huffman Avenue/Bay Drive is built to typical local street standards. The pavement width is approximately 36’, allowing for safe usage with room for parking and two travel lanes. 2nd Street/10th Avenue SW has room for two-way traffic on the paved surface. There is unpaved “boulevard” areas that are used for parking or are landscaped.

Mr. Finch stated that traffic will increase along the area routes, however current and projected daily volumes are in line with volumes on a typical local roadway, and current and projected peak hour volumes do not indicate congestion is likely to occur. Roadway designs are appropriate to safely carry projected volumes. The construction of a shared use path between the proposed development and Garden Home Park Trail will provide a safe, off-street connection and no street modification or improvements are expected to be necessary to accommodate the traffic generated by the proposed development.

Mr. Hill stated that a City representative presented at the November 8, 2023 Neighborhood Council #2 meeting and that members in attendance commented that not enough of the neighborhood was aware of the proposal at the meeting. A second meeting was held on December 6, 2023, where residents expressed various concerns, including traffic and safety. He stated that Neighborhood Council #2 did not take action on December 6, 2023, but has

rescheduled the item for discussion at its February 14, 2024 meeting at 5:30 P.M., at West Elementary.

Mr. Hill presented a slide with Public comment concerns and summarized them in categories with traffic being the highest concern.

Mr. Hill stated that residents within 150feet of the subject property have filed a formal protest of the request. The documentation was provided in the Agenda Packet. He stated that per OCCGF 17.16.40.040 and MCA the request may not become effective except upon a favorable vote of two-thirds of the present and voting members of the City Commission.

Mr. Hill presented a few of the Findings of Fact: Zoning Map Amendment

1. The amendment is consistent with and furthers the intent of the City's growth policy.
 - The proposed zoning map amendment is consistent with the overall intent and purpose of the City of Great Falls 2013 Growth Policy Update
 - Staff finds the City's Growth Policy supports the proposed zoning map amendment to facilitate higher density development upon an infill parcel, particularly to provide needed housing.
2. The amendment is consistent with and furthers adopted neighborhood plans, if any.
 - The subject property is located in Neighborhood Council #2
 - Because there is no neighborhood plan adopted for the general area, the amendment does not conflict with Criterion #2.
3. The amendment is consistent with other planning documents adopted by the City Commission, including a river corridor plan, transportation plan, and sub-area plans.
 - The subject property is located within the "Primary Impact Area" of the Missouri River Urban Corridor Plan shown on page 15 of the plan.
 - The request and the proposed development meet multiple goals of the Missouri River Urban Corridor Plan Staff finds consistency between the request and the plan.
4. The code with the amendment is internally consistent. The subject property is located within the "Primary Impact Area" of the Missouri River Urban Corridor Plan shown on page 15 of the plan.
 - The rezone will not be in conflict with any portion of the existing City Code and will be internally consistent
 - The developers expressed willingness to include voluntary commitments beyond the M-2 zoning district
5. The amendment is the least restrictive approach to address issues of public health safety, and welfare.
 - No existing public health, safety, or welfare issues have been identified for the property.
 - The proposed development will require water and sanitary sewer services to be extended from the utility mains that surround the property.
 - The proposal will trigger stormwater quantity and stormwater quality requirements.

- These items, and public safety, will be addressed during building permit review to ensure City requirements are met and safe access is provided within the property and to the surrounding streets.

Mr. Hill presented the Conditions of Approval.

1. General Code Compliance. The proposed project shall be developed consistent with the conditions in the report and all codes and ordinances of the City of Great Falls, the State of Montana, and all other applicable regulatory agencies.
2. Land Use and Zoning. The proposed plans shall conform to the M-2 Mixed use Transitional zoning district development standards contained within the Official Code of the City of Great Falls.
3. Engineering Review. The final engineering drawings and specification for improvements to the subject property shall be submitted to the City Public Works Department for review and approval.
4. Agreement with the Park and Recreation Department. Prior to the time of the building permit, the developer must enter into an agreement with the City regarding the installation and maintenance of proposed improvements to the City's property adjoining the owner's site that will be used for access.

APPLICANT'S PRESENTATION

Spencer Woith, Woith Engineering, presented to the Commission. He stated that the project is for 78 quality, market rate units, and will never be subsidized housing. The remaining units are proposed to be higher end, purchased, housing units.

Mr. Woith presented a map of the project, certificate of survey, National Flood Hazard Layer, land use proposal, the development agreement topics and the Voluntary Development Agreement, which is a legally binding document that will be filed and runs with the land.

Mr. Woith presented a slide with the unit density, setbacks, land use restrictions, fencing and screening, and a 10 foot off-site trail connection.

Mr. Woith stated that developers use the Growth Policy Update and Missouri River Corridor Plan as guiding documents for new development. They believe that based on those two documents, the proposed development falls in line with both.

Mr. Woith stated that the property is on 4 acres of land, it is adjacent to the Missouri River, it is in the heart of Great Falls, it is in close proximity to downtown, it's adjacent to the River's Edge Trail, it is adjacent to a City park, it has all of the utilities already, it will not stretch the response time for emergency services and it provides housing, which we are in a housing crunch currently.

PUBLIC QUESTIONS

Nicholas Sudan, 46th Ave. NE, asked why M-2 zoning was requested verses R-6. Mr. Hill replied that the applicant requested M-2 zoning, and staff agreed that it was appropriate based on the M-2 zoning next to the property.

Sheryl Schmidt, 910 2nd St SW, asked if permits had been taken out already for the fill dirt work that is currently being done on the property. The developer did have to move any dirt that was in the floodplain area out of it. The developer has also been working with Environment for an Erosion Control Permit.

Kirby Berlin, 825 2nd St SW, asked if there was a direct Economic Impact Study, on the neighborhood, in regards to the project. Mr. Cherry responded that an Economic Impact Study has not been done, as it is not required.

Mike Nelson, 523 9th Ave SW, asked when the traffic study was done, why 9th Ave SW wasn't included. He also asked if a study was done to see how the stormwater will affect the Missouri River with the project. He also asked why there are no sidewalks, when kids ride the bus and have to walk home. Mr. Finch responded that 9th Ave SW does not have a direct connection to the development site and it is likely that residents will not be using that route. Mr. Hill stated that when an application is submitted for permitting, the project will be reviewed for stormwater and will be expected to meet the requirements at that time. Mr. Finch responded about the school buses dropping off children on the street without a sidewalk, and he stated that not all neighborhoods have sidewalks but it could be pursued at a cost to the adjoining property owners. He stated that there are currently no plans to change the character of the neighborhood, nor has the neighborhood requested it.

Aimee Steffenson, 421 10th Ave SW, asked when the traffic study was done, why the counters were put in the spots that they were. Mr. Finch responded that they were in the same spots as the previous study. Staff was also trying to capture the average neighbor in the neighborhood.

Bill Budeski, 614 10th Ave SW, stated that the center line on 10th Ave SW is 10 feet off and asked if the City is going to move the road where it is supposed to be. He stated that there is no sidewalk or curb and gutter. Mr. Finch responded that there is no plans to improve 10th Ave SW or 2nd St. SW.

Brooke Corry, 405 10th Ave SW, wanted to know why the traffic count was done during December, which is the slowest time of year. She also wanted to know if 10th Avenue SW was part of the River's Edge Trail. She asked if the railroad was accounted for in the traffic study. Mr. Cherry responded that the reason the traffic count was done in December is because the neighborhood asked staff to do one. Mr. Finch responded that a seasonal counter is done based on what month the study is done which could add or subtract the numbers. He also responded that 10th Ave SW is not part of the River's Edge Trail, but is part of the bike network. Mr. Finch also responded that the railroad was not considered in the traffic study as the City does not have any control over what happens at the crossings. Mr. Hill also added that a

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notification was sent to Burlington Northern about the proposed development and they had not responded, as of the meeting.

Bonnie Fogerty, 500 9th Ave SW, stated that the Burlington Northern property, that is directly across from the subject property, used to have Falls Chemical and is wondering if there is contamination in the area and if the soil has been tested. Mr. Woith responded that they did do Geotech testing and nothing was found in the soil.

Russ Jacques, 400 10th Ave SW, wanted to know if the project would be part of the TIF and wondered how that would affect the neighborhood. Mr. Hill responded that the development is not part of the TIF district, so it will not affect the neighborhood.

Lyle Fogerty, 500 9th Ave SW, asked if the rezoning is approved, can it be passed on to other developers. He also stated that he thinks the traffic study is flawed. He asked when the developer is going to put the paperwork into FEMA for the part of the property that is in the floodplain. He also asked where 1.5 parking spaces per unit came from. Mr. Hill responded that the purpose of the meeting was to rezone the property, to allow the use and once the entitlement is approved, the developer will be required to get the paperwork from FEMA. There are many steps that will need to be taken, and the rezone is just one of them. Mr. Hill also responded that the rezoning approval will follow with the land. Mr. Hill addressed the 1.5 parking spaces question, stating that some of the units will be studio's that would only have one vehicle, so staff analyzes the amount of parking spaces per code, and the 1.5 is just rounded to reflect that. Mr. Woith also added that the development agreement will run forever with the land, unless someone in the future goes through the rezoning process again.

Velma Thompson, 406 10th Ave SW, asked about the amount of parking spaces. Mr. Hill addressed the question to the previous citizen.

Kirby Berlin, 825 2nd St SW, asked where the children will play, that will live in the new development. He also asked if there will be management on site of the project. Mr. Woith responded that the development team will reevaluate where the children would play on the proposed development. Mr. Cherry stated that whether or not there will be management on site, cannot be a deciding factor for the Commission.

Mr. Mills asked why the property was not originally zoned R-10 for a Mobile Home Park. Mr. Hill responded that there is a number of small mobile home parks, which were not captured in the Mobile Home Park R-10 zoning.

Mr. Mills asked if there are traffic studies done after a project is done. Mr. Finch responded that not unless there is an impact greater than what was planned.

Brooke Corry, 405 10th Ave SW, asked what the bedroom count was for the planned apartments and townhouses. She also asked where the overflow parking will go. Mr. Cherry responded that the number of bedrooms cannot be used as a basis of decision. Mr. Hill responded that the public can park anywhere on a public street, so the City has no control over that.

Bill Budeski, 614 10th Ave SW, wanted to know what the footage was from 6th St to 4th St Hill, as Jerry McKinney had recommended lowering the speed limit to 20 MPH around 2005. Mr. Finch

responded about the travel speeds and stated that they are set at the 85th percentile, so what 85% of the traffic speed is. He had the traffic department evaluate the speeds in December and 10th Ave SW was 26 MPH and 2nd St it was 23 MPH, so based on the data, the current speed limits are the most appropriate.

Mike Nelson, 523 9th Ave SW, wanted to know how the children are supposed to get to the school bus stops, if the City is saying that it is not safe to walk on the streets.

PROPONENTS

Ryan Smith, 1328 Beargrass Drive, stated that he appreciated what the City and the Developer did for all the studies and stated that it will be good infill for a blighted area and will be an anchor to the neighborhood. He said that there are 12-15 small businesses in the area that would benefit from the development.

Jake Clark, 405 3rd St. NW, Great Falls Development Authority, read an email from the CEO of GFDA, Brett Doney, in favor of the project. He also stated that increasing housing in Great Falls is the top priority for GFDA, because housing cost has the highest impact on the cost of living in Great Falls. He said that there is a significant undersupply of housing. He thanked City Staff and the Development team.

Katie Hanning, Home Builders Association, stated that she gets a call almost daily with someone looking for housing, and the proposed development will meet some of that need. There are also airmen out at MAFB that will need housing as they become Senior Airmen.

OPPONENTS

Kirby Berlin, 825 2nd St SW, stated that he handed in 100 signatures, on a petition of neighbors, to the proposed development. There are currently 317 apartments for rent in Great Falls. The neighborhood is stable with low crime. The traffic count was flawed as there were 66 homes that were not captured on it. Emergency services will be stretched.

Lyle Fogarty, 500 9th Ave SW, stated that in the neighborhoods that development projects are planned in, the neighbors should be listened to.

Mike Nelson, 523 9th Ave SW, stated he does understand the housing crunch in Great Falls, but the crunch is for affordable housing, and wants to know why the project couldn't be homes instead of an apartment building.

Bill Budeski, 614 10th Ave SW, stated with all of the apartment buildings going up around Great Falls, the people that are renting, do not have to pay property taxes for services, so property owners are having to contribute more. He also stated that on 10th Ave SW, people speed all the

time, and adding more traffic will increase that. The railroad crossing is an issue as well, as it is utilized a lot. He also was wondering about the water and soil sample for the substructure. He also said that there is fill dirt on the property illegally in the floodplain.

Judith Mortenson, 326 10th Ave SW, stated the M-2 zone, adjacent to the property, has not been used because of the contamination and has been mitigated a couple times for the runoff into the Missouri River. She also stated that the run-off that would be produced by the number of buildings, is a concern, because there are no storm drains. They started filling in the wetlands some years ago, with some questionable material. The Lomé is down way below the property depth of what is normal in the area. When they were hauling in fill dirt recently, there were several pieces of asphalt and concrete and they were filling in very close to the river bank, until a complaint was registered and they had to pull the dirt back. The possibility of stable ground, to put a large foundation on, has been avoided because of the questionable soil.

Sheryl Schmidt, 910 2nd St SW, stated the area was known as Garden Home Tract as the area grew gardens for the whole town. Since Fox Farm had their water changed, the area no longer has good water pressure, so with the large amount of proposed units, she is worried about what that will do to the water pressure. It is not a good area for a large amount of people.

Kirby Berlin, 825 2nd St S, stated his main concern is the economic impact of the surrounding area and that is why an impact study is so important, because people rely on the equity of their home.

Brooke Corry, 410 10th Ave SW, stated that she is for the project but is against the rezone. She would like to see permanent affordable housing. An apartment complex is a temporary solution.

Bonnie Fogerty, 500 9th Ave SW, stated that the overflow parking concerns her and the FEMA application for Phase 2 and 3 could take over a year and wants to know why the rezoning is happening first, as FEMA could deny it and then the applicant could build something else that is approved in the M-2 zone.

COMMISSION QUESTIONS TO APPLICANT

Julie Essex asked Mr. Woith if he planned to develop the uses that were not listed in the Voluntary Development Agreement or if someone in the future would be able to develop any of those uses. Mr. Woith responded that based on the Development Agreement, that there may be some uses that were missed. Mr. Cherry responded that the Voluntary Development Agreement was solely motivated by the developer. The Commission cannot make a decision based on what was not included in the Agreement.

Ms. Essex asked if she should not take into consideration the email that was received from Cascade County. Mr. Hill responded that what the Commission is looking at is a land use rezone, and the developer will need to go through FEMA for the floodplain requirements, so will not be able to start construction until that is approved.

Ms. Essex asked about the background section of the zoning request and the statement that the applicants request is to facilitate the sale of the property to the developers and wanted to know if that was true. Mr. Hill responded that the owners, the Stainsby's, are not the developers, so the developer will enter into a contract with the owners but will not finalize the sale, until they secure the entitlements needed to secure their development.

Ms. Essex asked about the Montana Supreme Court in Little vs the Board of the County Commissioners that has outlined 3 criterion in outlining illegal spot zoning. She asked if the approval of requested zoning will expose the City to a possible illegal spot zoning challenge. Ms. Taylor responded that she was not aware of the case and could not speak to the similarities of the cases. She stated that she was not aware of any risk for spot zoning with the request. Mr. Cherry responded that with general best practice, when it comes to planning, the other zones that are surrounding a project are looked at and because it is in close proximity to the M-2 zone, it was decided that it was a continuation of zoning, as it is in a transition area.

Mr. Mills stated that it wouldn't make sense, as an investor, to purchase a large lot and only develop two homes, so that is why they are looking at doing an apartment complex first and condominiums later.

Ms. Kaupish asked if the Voluntary Development Agreement would follow if the property sold. Ms. Taylor responded that it would be recorded with the County, so it would follow with the land unless a rezone was filed.

Mr. Woith responded that 45 feet is the height that they are planning on building to and in the M-2 zone, if you are within 200 feet of a residentially zoned property, you are restricted to 45 feet. He also stated that the FEMA application will be intensive and they have contracted with someone to start the process, but started with the rezone portion first, to make sure that the land can be developed.

COMMISSION DISCUSSION AND ACTION

Ms. Essex read her findings and the opinion of the Montana Supreme Court in the case of Little vs the Board of County Commissioners. She stated that the prevailing zoning in the area of interest is R-1 Residency, which is single family suburban vacant land, which contains current and former super fund sites, and Garden Home Park which is part of the River's Edge Trail System. There are also two occupied mobile homes. She stated that rezoning to M-2 would allow the building of a hotel, a restaurant, a funeral home, and other structures whose use is significantly different than the prevailing use. The parcel of land is 4.46 acres, and the number of land owners benefiting by the change is two. There are 100 signatures from the neighborhood. She stated that she was concerned that approval of the zoning request will expose the city to possible litigation concerning illegal spot zoning. She quoted from the 2013 Growth Policy Update, 4.2.6, that the City may oppose zoning changes that will result in incompatible land uses and 4.2.8, that the City recommend against spot zoning.

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Mr. Cherry responded that he appreciated Ms. Essex's due diligence in looking out for the City, but there will be legal issues if the Commission does not make decisions based on the Conditions of Approval and Findings of Fact.

Ms. Essex handed out, to the Commission Members, the Wikipedia definition of spot zoning and stated that there is no definition within the City of Great Falls Growth Policy.

Mr. Mills thanked Ms. Essex for doing her due diligence for the spot zoning but stated that the City did their research as well. He stated that he thought the project will be great for the City.

Mr. Green stated that on the website for DEQ, the subject property is not listed on the cleanup site. He also stated that there are multiple studies where an apartment complex was built in a neighborhood and the single family homes, within half a mile, were found to appreciate slightly faster than single family homes more than half a mile away.

MOTION: That the Zoning Commission recommend the City Commission deny the zoning map amendment for the subject property as legally described in the Staff Report to rezone the property from R-1 Single-family Suburban to M-2 Mixed-use Transitional, based on the accompanying Findings of Fact, subject to the Conditions of Approval being fulfilled by the applicants.

Made by: Julie Essex

Second by:

Vote: Motion Failed, as no Second was made.

MOTION: That the Zoning Commission recommend the City Commission approve the zoning map amendment for the subject property as legally described in the Staff Report to rezone the property from R-1 Single-family Suburban to M-2 Mixed-use Transitional, based on the accompanying Findings of Fact, subject to the Conditions of Approval being fulfilled by the applicants.

Made by: Tory Mills

Second by: Jake Schneiderhan

Vote: 5-1, motion passed

Mr. Hill stated that the First Reading for the project will be presented to City Commission on March 5, 2024, at 7:00 P.M. in the Commission Chambers and the Public Hearing will be on April 2, 2024, at 7:00 P.M. in the Commission Chambers.

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COMMUNICATIONS

PUBLIC COMMENTS

None.

ADJOURNMENT

There being no further business, Vice Chair Mills adjourned the meeting at 5:55 p.m.

CHAIRMAN DAVE BERTELSEN

SECRETARY BROCK CHERRY



Meeting Date: March 26, 2024

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

Item: Public Hearing – Conditional Use Permit (CUP) to allow handling of a hazardous substance, hydrogen sulfide (H₂S), which is listed as an ingredient of asphalt, for the property addressed as 6501 18th Ave N and legally described as Lot 6A of AgriTech Park.

Initiated By: Ponderosa Solutions LLC

Presented By: Lonnie Hill, Deputy Director, 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 Zoning Commission recommend the City Commission (approve/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, commission discussion, and calls for the vote.

Background:

On October 2, 2012, the City Commission adopted Resolution 9993 for annexation and approved Ordinance 3097 to assign the PUD zoning classification to AgriTech Park Addition. The entire AgriTech Park measures roughly 196.5 acres, of which roughly 193.7 acres are proposed to be industrial lots. The applicant, Ponderosa Solutions LLC, is looking to develop Lot 6A, which is located near the intersection of 18th Ave N and 67th St N and shown on *Exhibit B – Aerial Map*. Ponderosa Solutions LLC has been providing transloading services across the US for over 15 years, according to their application. They anticipate the facility will provide transloading of asphalt, steel, lumber, building materials, livestock feed, aggregates, and packaged goods.

Specifically, the process of transloading asphalt involves loaded delivery trucks arriving on site and parking alongside a transloader positioned next to an empty rail car. The transloader pumps the asphalt product from the truck into the railcar. The applicant states that asphalt is non-penetrating, non-flammable, and non-combustible, and therefore, it is low-risk when handling.

The application states the development will have roughly ten employees on-site during peak season that can be expected to generate an estimated 20 trips each day. In addition, according to the applicant, the facility is anticipated to process an average of fifteen truck deliveries each day, generating 30 truck trips. In total, the development can be expected to generate an estimated 50 daily trips ends per day.

Conditional Use Request:

Chapter 20 of Title 17 of the Official Code of the City of Great Falls (OCCGF) requires a Conditional Use process before permitting a land use proposal that involves the handling of hazardous materials, among other potentially dangerous or offensive activities. Specifically, Section 17.20.3.060 states, “a permitted land use 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.” Because the EPA lists hydrogen sulfide (H₂S) as a hazardous substance, a conditional use permit is required to allow the transload facility to handle asphalt.

2013 Growth Policy Update Analysis:

Staff has reviewed the City’s 2013 Growth Policy Update and has concluded the Growth Policy supports the proposed conditional use to handle asphalt as part of a transloading facility. Specifically, on page 155, the Growth Policy states an economic policy to, “Continue efforts to expand, retain and attract new business to Great Falls.” Additionally, on page 164, the Growth policy states a physical policy that states, “Implement the City’s land use codes to protect the health, safety, and welfare of its residence.

The basis of decision for a conditional use permit is listed in OCCGF §17.16.36.040. The Conditional Use Permit process prescribes a public decision making process to consider whether a land use not otherwise permitted by City code can fit into its locational setting and identify if any additional conditions are required of the request. The recommended list of additional conditions for this request are listed as “Conditions of Approval” at the end of this report.

The Zoning Commission's recommendation and the City Commission's decision to approve, conditionally approve, or deny an application shall at a minimum consider the criteria which are attached as *Attachment A - Findings of Fact - Conditional Use*.

Neighborhood Council Input:

The subject property is located in Neighborhood Council #4. Information was sent to the council before the Zoning Commission Public Hearing, however the Neighborhood Council will meet on March 28, 2024. The project will be presented on that meeting’s agenda and then reported to the City Commission.

Concurrences:

Representatives from the City's Public Works and Fire Departments have been involved with this application's review. All comments have been considered for the recommendation and conditions of the project.

Fiscal Impact:

Approval of the Conditional Use Permit will allow the applicant to establish a transloading facility that provides transloading services for several industries. The developer will pay for the cost of site improvements, including any utility services. The development of the subject property will increase the City’s tax base and revenue and potentially attract other industrial users needing transloading services.

Conditions of Approval:

1. **Modifications:** It is understood that minor changes are often necessary during the development and operation of a conditional use. The Administrator (the Administrator is the City employee assigned by the City Manager to administer conditional uses) is hereby authorized to permit minor changes, as provided below.
2. **Changes in Use.** Conditional uses are regulated as such because the use presents the possibility of significant impacts on the community. Therefore, changes in conditional uses must be strictly limited. A significant change in the type or level of activity, including changes in the number of employees or operating hours, or changes in the types of materials present on the site, may void the conditional use permit. Proposed changes shall be submitted to the Administrator, who may require that the permit be amended following the same public process used for its adoption.
3. **Expiration:** The conditional use permit shall expire one (1) year after the date of issuance, if the operation has not been established for the applicant's request. The Administrator may extend the expiration date by up to one year if substantial work is ongoing.
4. **Abandonment:** If a conditional use ceases to operate for more than six (6) months, the conditional use permit is void.
5. **Chemicals:** The applicant is specifically approved for handling hydrogen sulfide (H₂S). Handling of any other hazardous substance will require a new public review and permitting process for such changes.
6. **Emergency Management Plan:** An Emergency Management Plan shall be updated and approved by the Great Falls Fire Department before operation of the transloading facility commences. This plan shall be reviewed annually at the time the applicant renews its Safety Inspection Certificate (SIC) and revised as necessary to ensure compliance with the City's adopted fire code and other applicable regulations.
7. **Spill Prevention and Control Plan:** The applicant shall review and update if necessary the Spill Prevention and Control Plan, in accordance with the requirements under OCCGF 13.12.080.G.3 to the Director of Public Works for review and approval before operation of the transloading facility commences.
8. **Industrial Wastewater Survey:** The applicant shall provide an updated Industrial Wastewater Survey to the Director of Public Works for review and approval as product inventory changes.
9. **Acceptance of Conditions:** The amendment will not go into effect until the applicant acknowledges in writing that it has received, understands, and agrees to comply with these conditions of approval.

Alternatives:

The Zoning Commission could deny the conditional use permit requested by the applicant. For this action the Zoning Commission must provide alternative Findings of Fact/Basis of Decision to support a denial of the request.

Attachments/Exhibits:

- Attachment A - Basis of Decision – Conditional Use Permit
- Attachment B - Aerial Map
- Attachment C - Zoning Map
- Attachment D - Applicant's Narrative
- Attachment E - Applicant's Preliminary Engineering Plans

ATTACHMENT A

CONDITIONAL USE PERMIT - BASIS OF DECISION

The applicant is requesting the approval of a Conditional Use Permit (CUP) for Ponderosa Solutions LLC at 6501 18th Ave N to allow handling of a hazardous substance, hydrogen sulfide (H₂S), which is listed as an ingredient of asphalt.

PRIMARY REVIEW CRITERIA:

The basis for 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, Zoning Commission recommendation, or additional information demonstrates that the decision of City Commission shall at a minimum consider the following criteria:

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

The proposed conditional use is consistent with the overall intent and purpose of the 2013 City of Great Falls Growth Policy Update. This project and amendment is strongly supported by the following Economic and Physical portions of the Growth Policy.

Economic Policy 3.4 (page 155): Continue efforts to expand, retain and attract new business to Great Falls.

Physical Policy 4.2 (page 164): Implement the City's land use codes to protect the health, safety and welfare of its residents.

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

The CUP allows the City to review the modification and place appropriate conditions on the specific project to help mitigate or reduce the total off-site impacts a project may have on the surrounding properties and environment. The conditions listed under the Conditions of Approval apply specific measures to protect the health, safety, and general welfare of the public.

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

The proposed project is within an approved industrial park that was designed to accommodate heavy industrial uses. The surrounding properties have similar heavy industrial uses. The proposed project will meet all the development standards in the PUD Ordinance and underlying I-2 zoning district. The conditions imposed on the project should mitigate any potential harmful effects on Giant Springs State Park and nearby environmentally sensitive areas.

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

ATTACHMENT A

The conditions of approval are proposed to minimize all effects on the surrounding area to be developed.

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

Construction of the facility will go through the City's permitting process which will ensure all adequate utilities, access roads, and drainage will be provided.

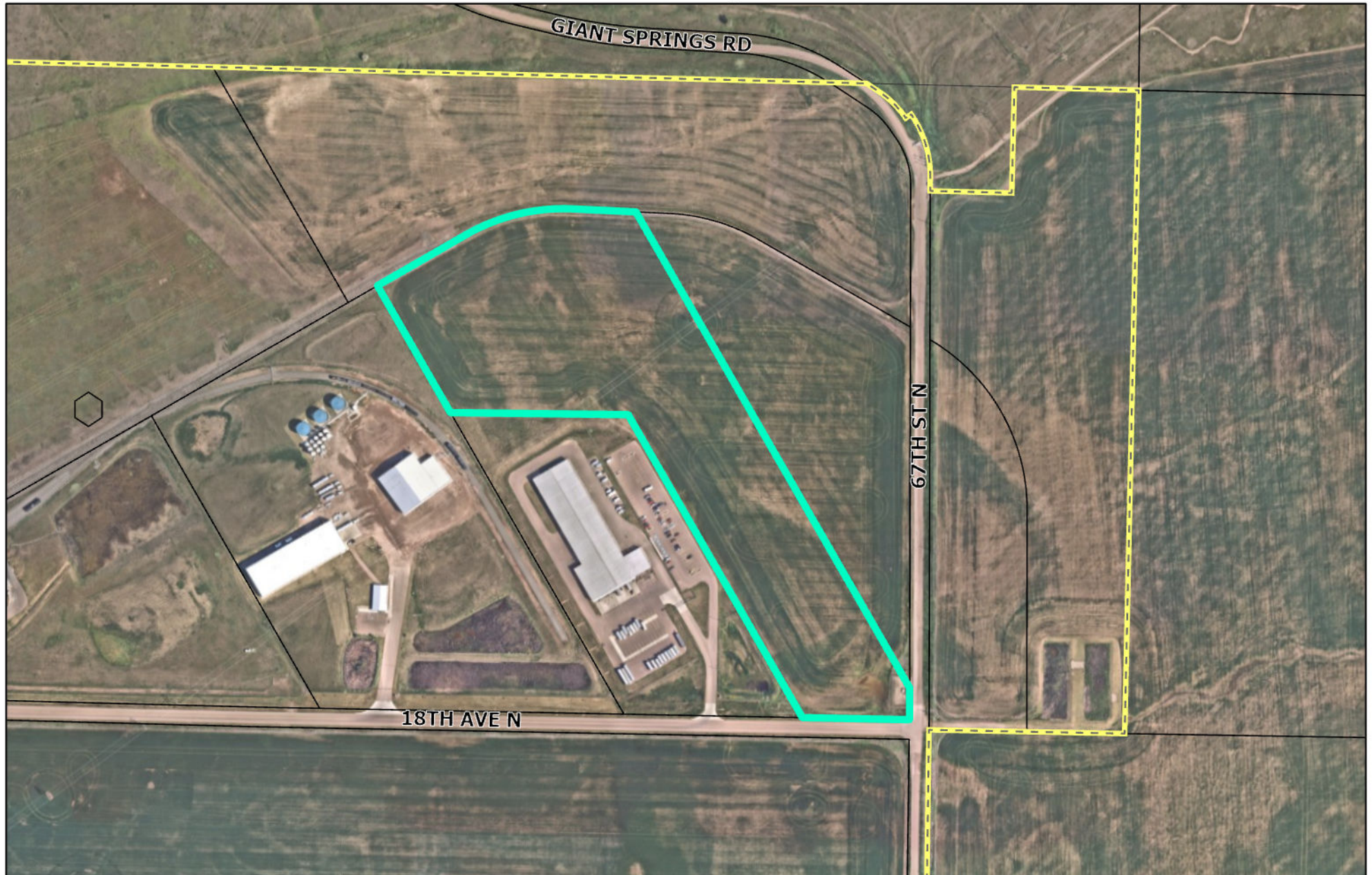
6. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

Ingress and egress to the proposed facility can be served through the existing rail line to the north and vehicular access to 18th Avenue North.

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

The proposed project will conform to the applicable regulations of the PUD Ordinance and underlying I-2 zoning district and all codes and ordinances of the City of Great Falls, the State of Montana, and all other applicable regulatory agencies.

Aerial Map

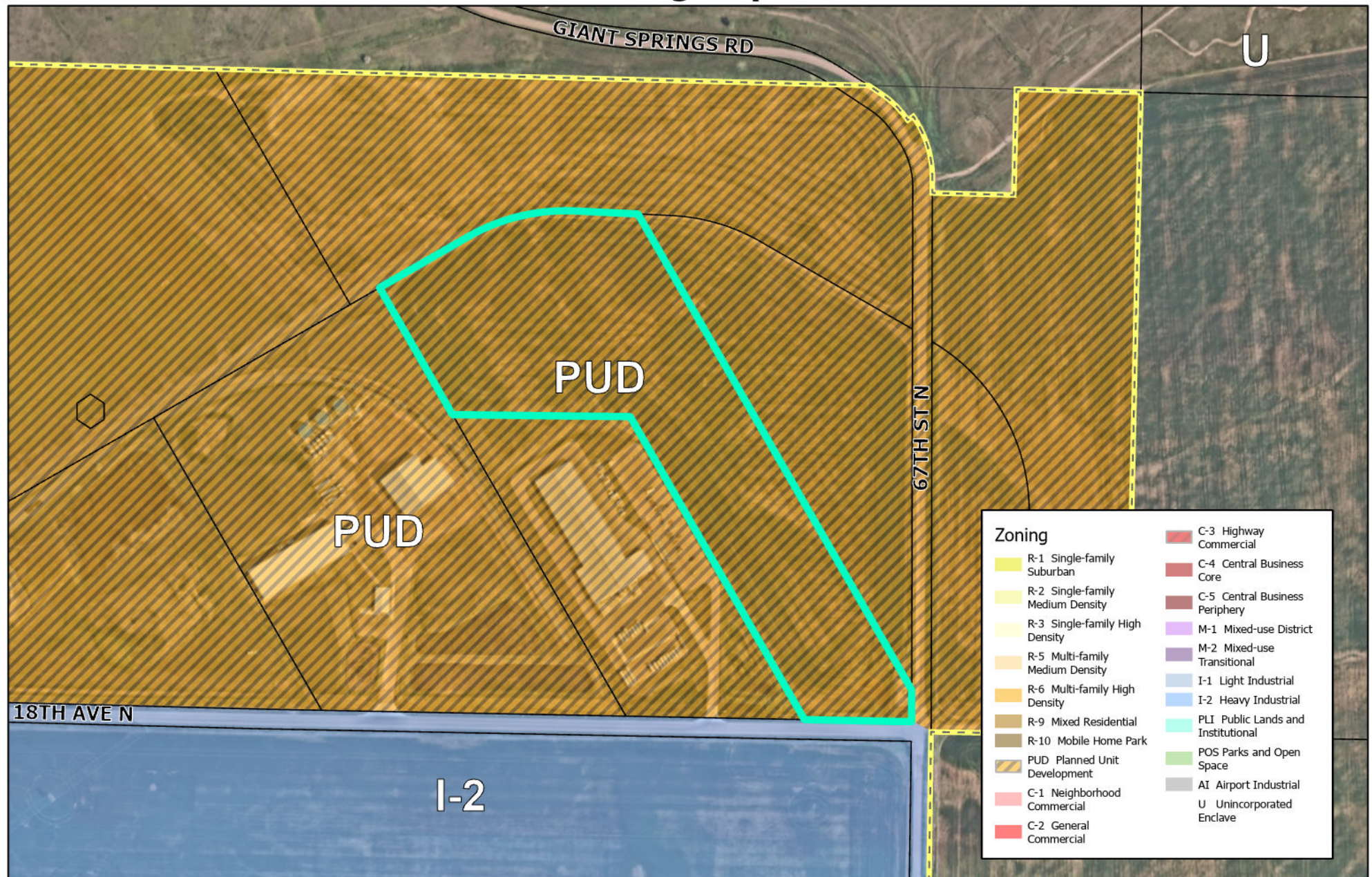


- City Limit
- Parcels
- ▬ Subject Property - 6501 18th Ave N

0 500 1,000 Feet



Zoning Map



--- City Limit

□ Parcels

■ Subject Property - 6501 18th Ave N

0 500 1,000 Feet



ATTACHMENT D



Project Name: Great Falls Transload Terminal

Developer/Owner: Ponderosa Solutions LLC (F.K.A. Ponderosa Petroleum LLC)

Project Description

At the request of existing Great Falls businesses, Ponderosa Solutions is proposing a multi-product transload facility to meet existing and increasing demand. Transload facilities provide a valuable service in the supply chain of moving goods from rail to truck and vice versa. Many area businesses do not have rail services and currently there is no commercial transloading site for them to utilize, leaving them dependent on one mode of transportation - trucking. Transportation and logistics costs in our region remain higher than other markets due to our location and the limited transportation options. By offering this much needed service, Ponderosa hopes to reduce regional transportation and logistics costs to area businesses and meet their demands.

At the proposed facility on Lot 6A in the Agritech Park of Great Falls, MT at 6501 18th Avenue North, Ponderosa will offer transloading and miscellaneous rail services to local customers.

Examples of transload commodities that have been requested by local businesses include:

- Asphalt
- Steel
- Lumber
- Drywall and other building materials
- Grains for livestock feed
- Aggregates
- and packaged goods that include food and merchandise

In addition, Ponderosa Solutions will be able to offer other common transload rail services that may include graffiti cleaning, stencil repairs, railcar heating, railcar cleaning, equipment repair and maintenance, short term railcar storage, etc.

Ponderosa has been providing a host of transloading services across the US for over 15 years. Transloading involves a variety of tools depending on the commodity. Transloading non-liquid goods can be performed using equipment such as forklifts, telehandlers, bucket loaders, grain augers, and conveyors. Transloading liquid goods is performed using well vetted custom pumping systems on mobile transload trucks.

Ponderosa Solutions can handle the routine commodities and specializes in handling the most difficult and unique commodities including high viscosity liquids.

As with most projects, this project started with an anchor customer requesting service and has expanded when the regional demand was established. The first phase of the project is to meet the demands of the anchor customer.

The anchor customer needs asphalt to be transloaded from tanker trucks to railcars at the proposed facility. Truck to railcar asphalt transloading will be performed using mobile transloaders. These are truck-mounted platforms with the pumps, piping, hoses, and controls to safely move products between tanker trucks and tanker rail cars.

For asphalt transloading, loaded delivery trucks will arrive onsite and park alongside the transloader which will be positioned next to an empty railcar. The truck will connect to the transloader with a hose, and the transloader will pump product from the truck into the railcar. Transloaders are equipped with redundant overfill protection devices which shut off the pump and sound an alarm when the railcar is near full to ensure the proper amount is distributed and avoid any spills.

Considering asphalt is non-penetrating, non-flammable, and non-combustible, it presents an inherently low risk when handling. The product being transferred is the same asphalt being used to pave roads throughout the City of Great Falls on a daily basis. Ponderosa does not anticipate that the operations of the facility will generate any waste or uncontrolled spills of asphalt. Over our 15 years in this industry, Ponderosa Solutions has established the highest of industry standards and implements thorough Spill Response and Prevention Plans (SPRP). Should a spill occur, it will be properly contained and remediated to ensure there is no hazardous impact to our employees or our surrounding community.

Reason for Request of Conditional Use Permit

While asphalt is widely utilized in all our roads, asphalt by its nature contains very trace amounts of the biproduct Hydrogen Sulfide (H₂S) at concentrations less than 0.1% in the form of a gaseous substance. When H₂S is released from asphalt to the atmosphere at such low concentrations, it dissipates immediately posing negligible exposure concerns. In our other facilities we have not had to submit conditional use permit requests as asphalt is not deemed hazardous because the H₂S is in such low concentration. In the City of Great Falls code OCCGF 17.20.3.060 - Certain land uses shown as permitted may be a conditional use, “A permitted land use[...] 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.**” Thus, the presence of H₂S, ‘in every circumstance’ no matter the quantity or form, requires a Conditional Use Permit if it is to be handled.

Proposed Development

The development will meet the previously agreed upon development conditions as set forth in the existing AgriTech Park development agreement.

Phase 1 of the facility construction will include the installation of 3 rail tracks (Tracks C, D, and E), an office building, retention pond, parking lot, site lighting, perimeter fencing, access roads to the rail tracks, and landscaping. Phase 2 construction allows for 2 more rail tracks (Tracks A and B) and their service roads to be built when the capacity is needed. Phase 3, which is not depicted on the site map, could include expansion of any of these facilities. Generally, an expansion of the existing facilities would include adding railcar access platforms, adding equipment to transload a new commodity, and/or building new rail spurs.

Outdoor Lighting

The facility will utilize lighting that is shielded and oriented in a manner to illuminate the intended area as in accordance with the existing AgriTech Park development agreement. The lighting design is specified in the drawings below and will comply with Chapter 40 of the City code.

Stormwater Facilities

The site plan proposes the installation of one retention pond at the Southeast corner of the property and will meet the existing AgriTech Park development agreement. The total capacity and location is being determined by a professional civil engineer to meet the set standards.

Setbacks

The proposed facility has the following depicted setbacks:

North: 205 ft

East: 72 ft

South: 94 ft

West: 67 ft

Height of Buildings

Office – 20' peak height

Estimated Truck Trips

Ponderosa anticipates an average 10 trips per day for operations staff. Delivery truck trips are estimated at an average of 15 per day over the course of the year. Truck traffic will consist of MT DOT legal trucks (80,000 GVWR).

Operational Hours

24/7

Number of Employees

Ponderosa will employ an average of 8 employees throughout the year.

Existing Land Uses Nearby:



Pacific Steel and Recycling: “Pacific offers new steel sales, a wide variety of processing services for our customers to prepare their steel and agricultural steel products. We deal in Scrap, Commercial & Consumer and Electronics Recycling. Learn more about the large variety of items we handle.” ([website](#))

Montana Specialty Mills: “Our new, state-of-the-art crush plant and refinery represents a firm investment in Montana agriculture. Located along the Missouri River in Great Falls, this facility is focused on processing specialty oilseeds. Our Great Falls plant has the capability to load product into railcars, bulk trucks, and totes. This facility is designed to process identity-preserved crops, and we offer a wide variety of products and toll processing services.” ([website](#))

Helena Chemical: “Helena offers virtually every input that is used in production agriculture. This includes fertilizer, seed, crop protectants and many other products.” ([website](#))

FedEx: Shipping distribution center. ([website](#))

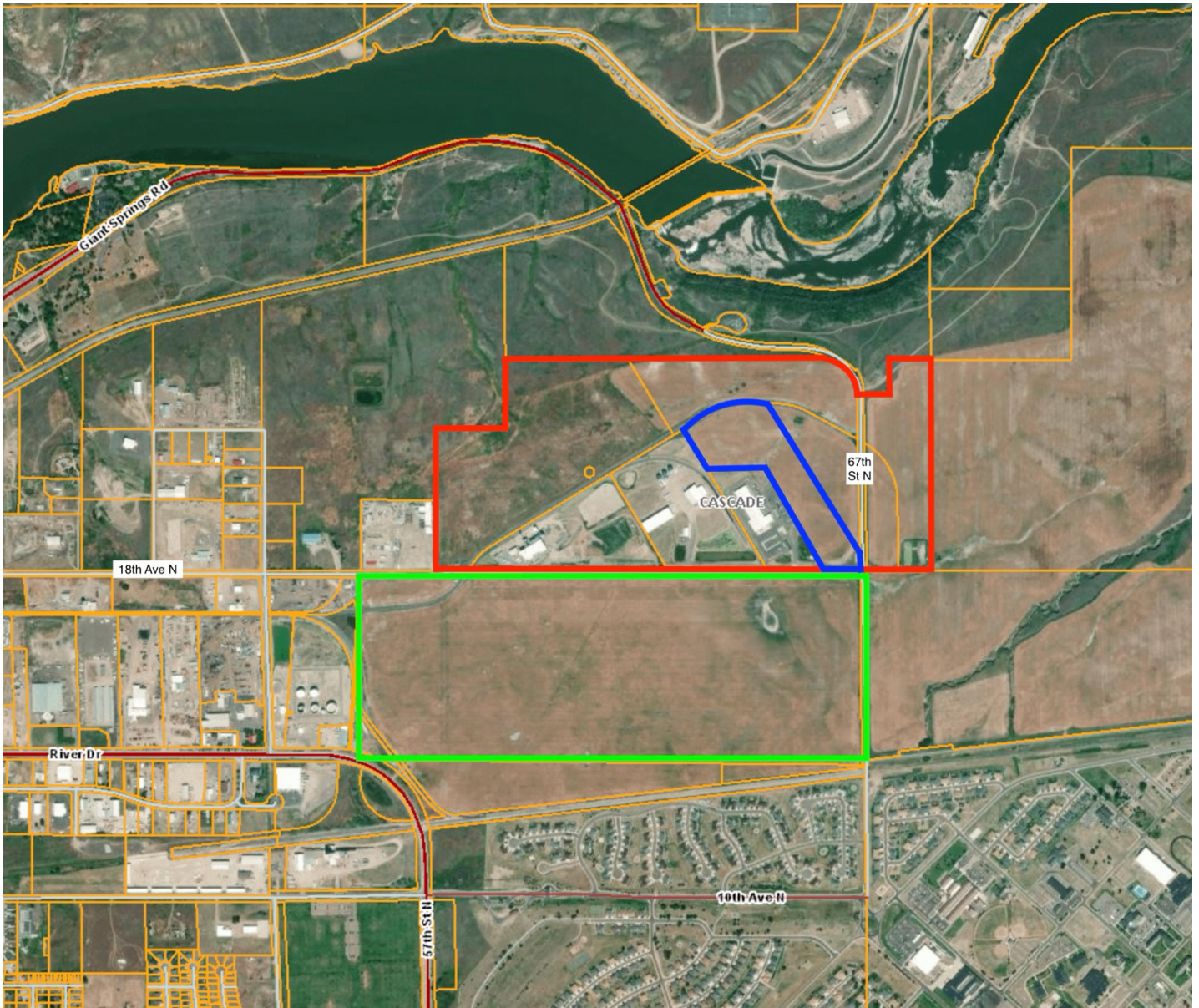
Governing agencies




OSHA
EPA
DOT
FRA
DHS
Montana DEQ

Additional Regulatory Compliance

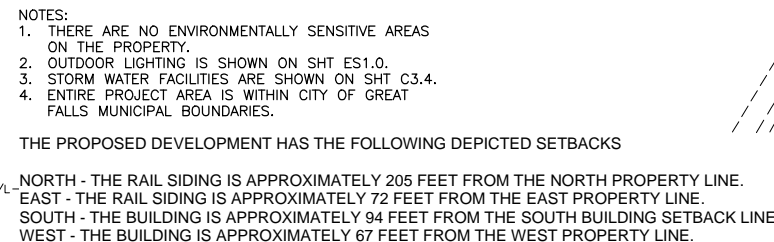
Air Quality Permit (Administrative Rules of Montana (ARM), Title 17 – Environmental Quality, Chapter 8 – Air Quality; Prevention of Significant Deterioration (PSD), Title V, or Federal Air Pollutant (HAP))
BNSF Guidelines for Industry Track Projects
Spill Prevention and Response Plans (SPRP) – also known as Spill Prevention, Control, and Countermeasure (SPCC) (EPA, Oil Pollution Act amendment to the Clean Water Act)

Aerial Map

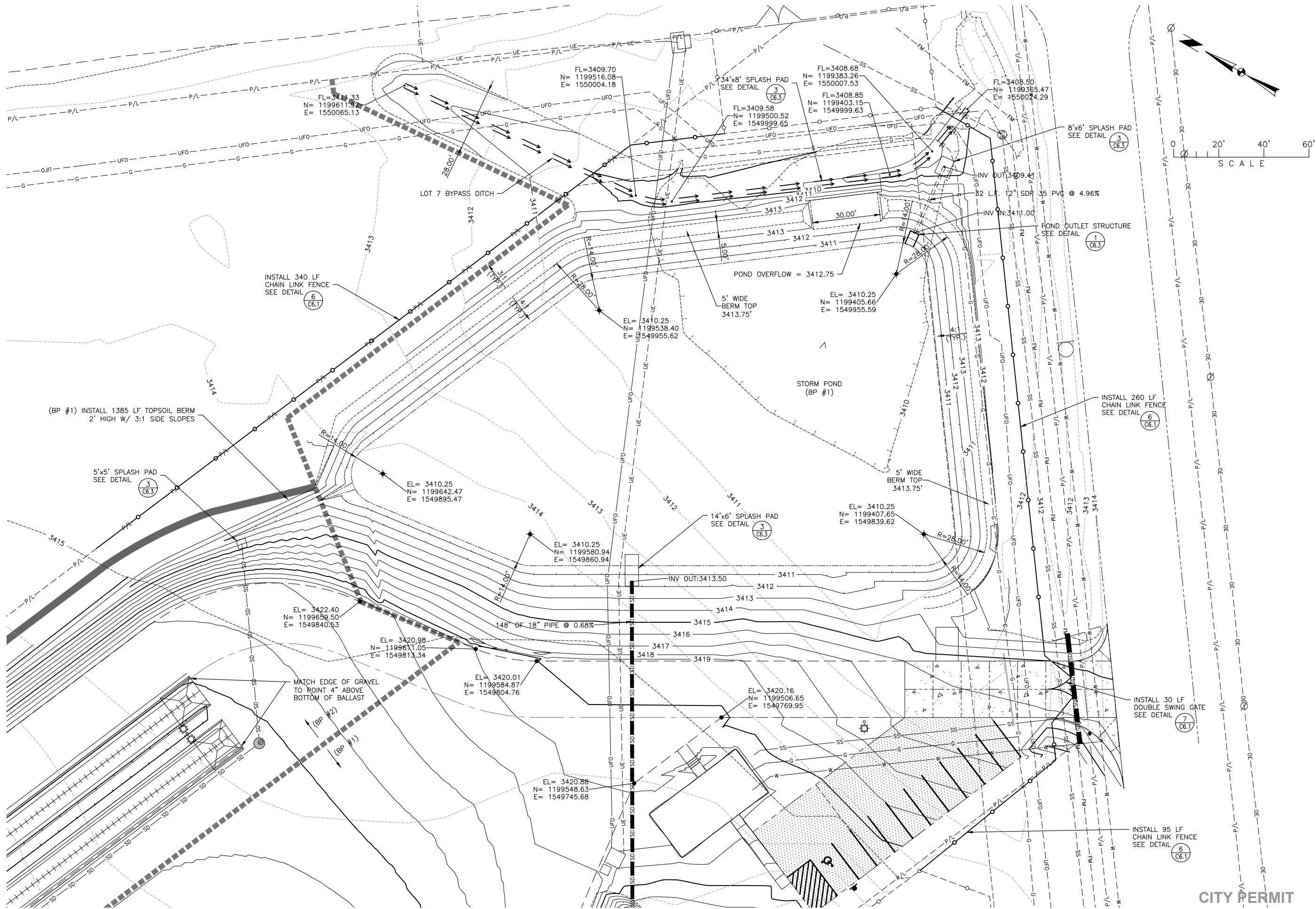


-  Subject Property
-  Agritech Park Subdivision
-  I-2 Zoned Development Area





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CITY PERMIT
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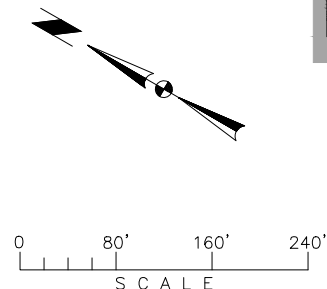
GREAT FALLS TRANSLOAD IN THE AGRITECH PARK
PONDEROSA SOLUTIONS

3/4/24
TD&H ENGINEERING
LOT 6A, AGRITECH PARK ADDITION

DRAWN BY: CDF
DESIGNED BY: CDF
QUALITY CHECK: JPJ
DATE: 03/01/2024
JOB NO. 23-059
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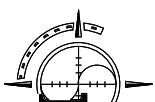
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Engineering

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DESIGNED BY: BM
QUALITY CHECK: GR
DATE: 03-01-20
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**GREAT FALLS TRANSLOAD IN THE AGRITECH PARK
PONDEROSA SOLUTIONS**

3/4/24
TD&H ENGINEERING
LOT 6A, AGRITECH PARK ADDITION

32

SHEET EST.0

CITY PERMIT
REVIEW SET

