

AGENDA REPORT

DATE September 6, 2005

ITEM Ordinance No. 2923 Great Falls Land Development Code

INITIATED BY City Commission

ACTION REQUESTED Close Public Hearing and Adopt Ordinance No. 2923, as amended excluding Chapter 46, Hillside Standards and Adopt the Official Zoning Map

PREPARED BY Land Development Code Staff

PRESENTED BY John Lawton, City Manager

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**RECOMMENDATION:**

The Great Falls City-County Planning Board recommended the City Commission approve the Great Falls Land Development Code.

Staff has reviewed and addressed comments received during the Land Development Code (Ordinance No. 2923) public hearings held on August 2 & 16, 2005. A list of proposed revisions and amendments to the Code is attached.

Staff believes a more thorough effort is needed to find a solution for Hillside Standards for Great Falls. Therefore, it is recommended that the City Commission close the public hearing and adopt Ordinance No. 2923, as amended to address the public hearing comments, excluding Chapter 46, Hillside Standards.

Staff further recommends that the City Commission direct staff to develop a Hillside Overlay District in consultation with representatives from the building community and interested homeowners and bring a new proposal to the Commission within six months.

Also, in a second motion it is recommended that the City Commission adopt the Official Zoning Map.

**MOTION #1:**

“I move the City Commission adopt Ordinance No. 2923, as amended, excluding Chapter 46, Hillside Standards. Furthermore, I move to direct staff to develop a Hillside Overlay District in consultation with representatives from the Homebuilders Association and interested homeowners and bring such overlay district back to the City Commission within six months for consideration.”

**MOTION #2:**

“I move the City Commission adopt the Official Zoning Map to accompany Ordinance No. 2923.”

**SYNOPSIS:**

Ordinance No. 2923 would amend the Official Code of the City of Great Falls to create “Title 17 –

Land Development Code” which would include a new and updated set of guidelines, requirements and standards to help govern zoning and physical growth and development within the City of Great Falls.

**BACKGROUND:**

In May 2003, the Great Falls City Commission hired the consulting firm of Vierbicher Associates, Inc. to work with members of the community and City staff to develop a new and updated set of guidelines, requirements and standards to help govern zoning and physical growth and development within the City of Great Falls.

Numerous reasons drove the need and interest to conduct a thorough and comprehensive update of the City’s existing land development codes. These primarily included:

1. The 1930 zoning code, with its multiple revisions, no longer met current expectations and standards;
2. Related land development provisions were scattered throughout the City code book;
3. Ambiguous language within the current code needed to be clarified;
4. Repetitive provisions needed to be combined;
5. Errors in the zoning map needed to be addressed; and,
6. Additional tools needed to be created to help implement the planning goals, strategies and actions identified in the newly adopted Growth Policy, Transportation Plan, and Missouri River Urban Corridor Plan.

The proposed Code will combine all land development provisions into one portion of the Official Code of the City of Great Falls and will be called, “Title 17 – Land Development Code.” In general, this effort will result in the following:

1. Updated definitions;
2. Updated administrative & enforcement procedures;
3. Updated zoning districts, uses, and standards;
4. Updated sign standards;
5. Updated subdivision and platting standards;
6. Updated parking and landscaping standards;
7. Updated floodplain and stormwater management standards, and,
8. New provisions for transportation facilities, outdoor lighting, hillside development, and erosion control during site development.

Copies of the Code were provided to the City Commission at its July 5, 2005 Work Session.

Community involvement has been a key component in the development of this proposed Code. The City administration appointed two groups to work closely and directly with the consultant. These groups were:

1. The “Land Use Advisory Committee” consisting of a broad section of community leaders, special purpose groups and City staff; and,
2. The “Focus Group” consisting of land development code users, including realtors, architects, engineers, and land developers.

Vierbicher Associates also conducted stakeholder interviews and meetings with Neighborhood Councils, in addition to using the results of a public visual preference survey conducted for the Growth Policy. A public open house was held in October 2004 to unveil the proposed Code and to provide opportunity for individual discussion. Several presentations were also provided by staff to

Neighborhood Councils, the Great Falls Homebuilder's Association, the Great Falls Association of Realtors, and the Great Falls Conservation Council. A timeline for these meetings, as well as the steps and presentations during preparation of the Code was previously provided to the Commission. Several comments were received during the public comment period, including the Planning Board's public hearing. Staff responses to each were previously provided to the Commission. Also provided were comment letters, memorandums, etc. that were received since the first reading of Ordinance No. 2923 on July 5, 2005.

The draft Code has been available for public review and comment since it's unveiling at the October 2004 open house. During that time, it has been available for viewing and downloading on the City of Great Falls web site at [www.ci.great-falls.mt.us](http://www.ci.great-falls.mt.us). Copies of the draft Code and zoning map have also been available for review at the Great Falls Public Library, as well as at the Planning Office in the Civic Center.

To assist the general public, current and future Code users, the Planning Board and the City Commission in their review and understanding of the proposed Code, a summary was prepared that generally compared the current Code with the proposed Code. A copy of this chapter by chapter comparison was previously provided to the Commission for its information. It is also posted on the City's website.

In the 1974 case of *Lowe v. Missoula*, the Montana Supreme Court ruled that a municipality must demonstrate that its zoning regulations were made in accordance with its growth policy, as well as several Court required findings, as specified in 76-2-304 MCA. As such, Chapter 20 (Land Use) and Chapter 24 (Subdivision and Platting) of the proposed Code specifically list each of the required findings within the "Legislative Findings" and "Purpose" sections and specifically state that each Chapter "is established to promote the public health, safety, and welfare and is intended to accomplish the following purposes...". The stated purposes are in fact the same findings listed in 76-2-304 MCA, regarding municipal zoning and the rezoning of land.

On June 14, 2005, the Great Falls City-County Planning Board conducted a public hearing on the proposed Code and zoning map. The Board unanimously passed a motion recommending that the Official Code of the City of Great Falls be amended to incorporate updated land development procedures, guidelines, standards and provisions to be titled as, "Title 17 – Land Development Code."

The Board further recommended that the City Commission approve Chapters 4, 8, 12, 16, 20, 24, 32, 46, 54, 58, & 64 (These chapters include provisions that fall under the purview of the Planning Board) and that the City Commission consider the public comment and testimony the Board received during its public hearing for Chapters 28, 36, 40, 44, 48, 52, 56, 60, & 68. (These chapters include provisions that do not fall under the purview of the Planning Board. Comments were documented in the "Public Comments/Proposed Responses Matrix.")

Attachments: Ordinance No. 2923  
List of revisions and amendments to the draft Code

**The following revisions and amendments were made to the Land Development Code in response to comments received during the City Commission public hearings:**

- 1.** Chapter 64 (Nonconformities) was revised, as encouraged by the Association of Great Falls Realtors and several Neighborhood Councils to better acknowledge pre-existing vacant and occupied lots and to allow for their development and redevelopment. In view of these revisions, staff determined that since pre-existing lots wouldn't be treated any differently than any other lots, all references to "pre-existing lots" were deleted. The length of time to reestablish nonconforming uses and structures was also increased to 24 months and all references to the percentage of fire damage or other cause were deleted.
- 2.** The zoning map was revised to designate the Easter Seals-Goodwill properties at Central Avenue and 44<sup>th</sup> Street South as M-1, Mixed-Use zoning district to better reflect the nature of its operations.
- 3.** The zoning map was revised to designate a block of parcels in west Great Falls as R-5 multifamily zoning district to better reflect adjoining multifamily uses and to address current and proposed uses, as discussed with Mr. Robert Melhoff.
- 4.** Casino, Type 1 and Type 2 were removed from the Airport zoning district as agreed to by the CasiNo group and the Tavern Association, with the understanding that casinos, as an accessory use, would still be allowed. Distance requirements between casinos and residential uses and between other casinos was retained for Type 1 casinos, but not added for Type 2 casinos, as requested by the CasiNo group. Additionally, the size of the casino floor area for casinos, as an accessory use, was not increased as requested by the Tavern Association.
- 5.** Chapter 40 (Outdoor Lighting) was extensively revised to incorporate a number of suggestions from Mr. Brad Kaufman, a local electrical engineer and consultant.
- 6.** No revisions were made to the Code to acknowledge special zoning exceptions for several multifamily dwelling structures in west Great Falls, as requested by Ms. Sue Strickland. However, Chapter 64 (Nonconformities), as noted above, was revised to delete the section titled, "Discontinuance due to removal, razing or structural damage greater than 75% of market value." This means that if a structure housing a nonconforming use is removed, razed or damaged by fire or other cause, the structure housing the nonconforming use can be reestablished; provide it is reestablished within 24 months. This change also addresses the concern raised by Mr. Art Vender regarding insurance policies and coverage.
- 7.** Chapter 60 (Signs) was revised to incorporate suggested changes by the City's Sign Code Officer.
- 8.** Exhibit 20-1, Chapter 20 (Land Use) was revised to reflect the same allowable uses in the Great Falls International Airport zoning district as are allowed in the 1<sup>st</sup> and 2<sup>nd</sup> Industrial zoning districts. The exceptions were for sexually oriented businesses and casinos, Type 1 and 2.
- 9.** Chapter 32 (Transportation Facilities) was revised to incorporate suggested changes by the City Engineer's Office and by Mr. Joe Aline regarding driveway widths for single-family residential and duplex structures.

10. Revisions, if any, are pending for Chapter 46 (Hillside Development Standards). Commissioner Rosenbaum agreed to facilitate discussion of this topic.

**Additionally, there were three requested or suggested changes that were not made by staff for the noted reasons. These included:**

1. No revisions were made to the Code to decrease the minimum width of 60 feet for newly created lots in the R-3 Residential zoning district. Staff believes the requested 50 feet only works where subdivisions provide alleys for access to garages. Both developers and the city public works department do not favor the use of alleys due to installation and maintenance costs. Most developers and homeowners prefer the wider lots to accommodate garages along side the housing structure.

2. No additional changes were made to the zoning map to increase the M-2, Mixed-Use Transitional and the M-1 Mixed-Use zoning districts, as requested by Mr. Stuart Lewin. The zoning map had already been extensively revised from an earlier draft to address similar comments previously provided by Mr. Lewin. The boundary and size of the industrial areas between 6<sup>th</sup> and 26<sup>th</sup> Streets along River Drive had already been significantly reduced.

3. The Code was not revised to require the building of fences on property lines or that trees be planted far enough away from property lines as to not hang over into the neighbor's yard. Restricting the height of fences to four feet from the front of a house to the front property line also was not included in the Code, as requested by Mr. William Spahr. Staff felt these were too restrictive.