

From: [Lisa C. Kunz](#)
To: [Krista Artis](#); [Brock Cherry](#); [Lonnie Hill](#)
Subject: FW: Letter regarding Public Hearing regarding Bay Dr. Multifamily Housing Project*
Date: Thursday, March 28, 2024 4:18:27 PM

FYI

Lisa

From: Lisa C. Kunz
Sent: Thursday, March 28, 2024 4:16 PM
To: 'Karen Venetz' <kvenetz183@gmail.com>
Subject: RE: Letter regarding Public Hearing regarding Bay Dr. Multifamily Housing Project*

Good Afternoon Mr. and Mrs. Venetz – the April 2, 2025 Commission meeting agenda has been posted, see item 16: <https://greatfallsmt.net/citycommission/city-commission-meeting-april-2-2024>.

Thank you for submitting written public comment pertaining to the Bay View housing project. Your comments will be shared with the Commission and appropriate staff for consideration during the public hearing of agenda item 16.

Best regards and Happy Easter.

Lisa Kunz

City Clerk/Records Manager
Civic Center Room 204
406.455.8451

From: Karen Venetz <kvenetz183@gmail.com>
Sent: Thursday, March 28, 2024 3:41 PM
To: commission <commission@greatfallsmt.net>
Subject: Letter regarding Public Hearing regarding Bay Dr. Multifamily Housing Project*

Karen and Ed Venetz
939 2nd St SW, Great Falls, MT 59404
kvenetz183@gmail.com
406-868-5989

City Commission

P.O. Box 5021
Great Falls, MT 59403
commission@greatfallsmt.com

RE: Public Hearing for Bay Dr. Multifamily Housing Project*

Dear Honorable Mayor, City Commissioners, and City Staff

We are out of town and unable to attend this important meeting.

I don't have any problems with the proposed project—my concern is the increased traffic. I am grateful a traffic study was completed even though it was not necessary per the project size requirements.

My husband and I have lived in our home since 1975. We know the area and the traffic patterns. From watching the meeting live and reading the news, I know we are not the only ones in the vicinity of the project to share our concerns.

Contrary to the traffic study, the vehicles speed and do not watch for pedestrians or bikes. The Rivers Edge Trail is very popular and attracts many people to enjoy it. Those people will be coming from 10th Ave South. The corner of 10th Ave South and 2nd St. SW is narrow, and most drivers don't stay in their lane. Plus, off-site parking will certainly make the roads even narrower.

The area needs to be developed and safe from increased traffic. We'd like you to include speed enforcement as you progress

with this development. Speed enforcement could be lowering the speed limit, speed bumps, and regular patrolling.

Please listen to the citizens in the area who are concerned. This is not just for the current residents but for the new renters and owners.

Respectfully submitted,
Karen *and Ed Venetz

*I believe the agenda is not available at this time. I was unable to include an agenda item.



March 26,2024

Great Falls City Commission

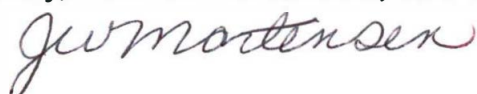
Dear Commissioners,

I regret I may not be able to attend the April 2 meeting to address the ongoing “debate” about the housing units to be built at 805 2nd St Southwest. The multiple reasons for NOT allowing this: the destruction of the wetlands, bird flight patterns, traffic concerns, recreational use, parking issues, detriment to our river frontage, contaminated land across the street, the beginning or ending of the river’s edge trail, the disruption of the quality of life to the neighborhood and city. Use as a whole seems of little concern to the planning board that has the job of orderly and considered growth of the city. I have had other community members questioning the development to house over 200 people on this property as well. Many people around the town use this land for fishing, hiking, biking, skate-boarding and swimming throughout the year. The need for this housing appears tenuous at best considering the influx of people from the base construction has been negated by the base information released on March 5.

The purpose of this high- density development appears to be solely a greed factor by the developer, contractors, realtors and other crafts people and particularly the city. The premise appears to be that making a profit is no longer an acceptable way of doing business, now getting wealthy on one project appears to be the goal. Other lands are available for this project. The development of the 4 + acres off Park Garden Lane appears to hold the same potential without the disruption of so many other functions.

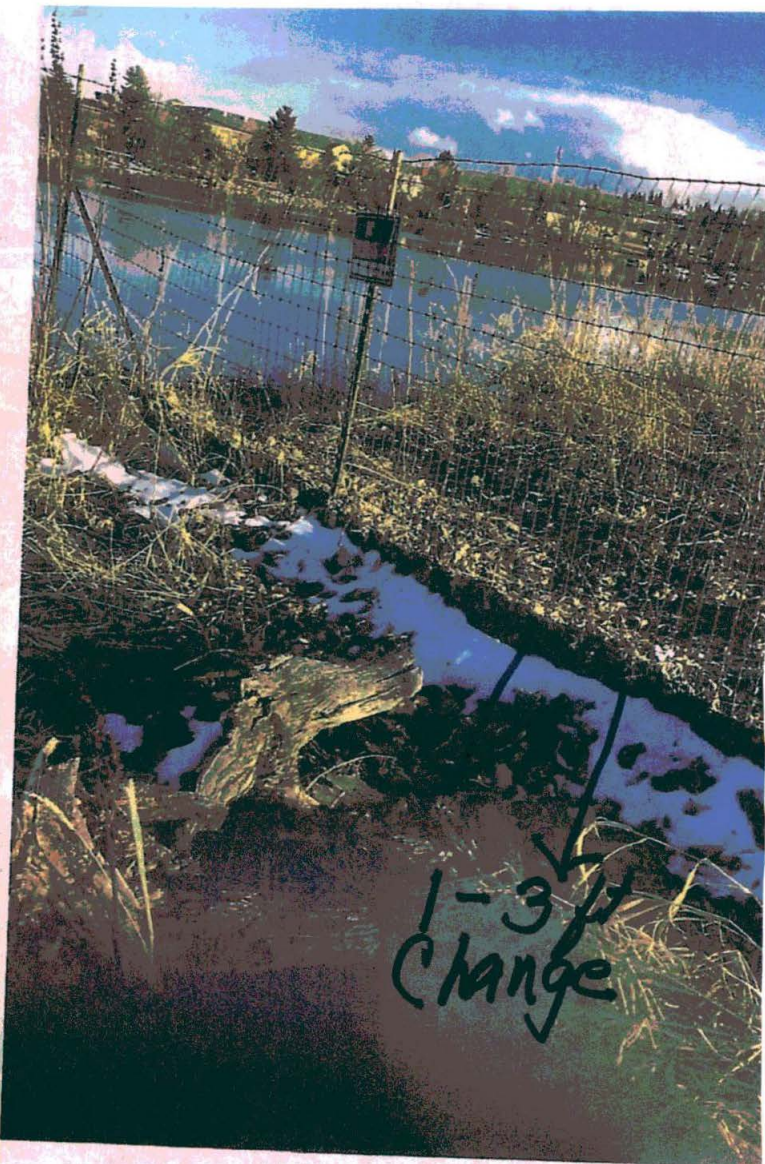
This development will not only solve NO legitimate problems but degrades our neighborhood, river front and the entire community. I encourage you to seriously consider the ramifications and other development opportunities. Vote NO for this rezoning.

Sincerely, Judith Mortensen, 326 10th Ave SW

A handwritten signature in cursive script, appearing to read "Judith Mortensen", written in dark ink.



DISRUPTION OF THIS RIPARIAN RESTORATION. BEGINNING OF RIVER'S EDGE TRAIL.



RAPARIAN/WETLANDS THAT HAVE
 BEEN FILLED IN.
 PARK USEAGE REQUIRERING SAFETY
 AT THE BEGINNING OF THE TRAIL

ELEVATION CHANGES DUE TO FILL
 BEING APPLIED IN THE AREA

UNIVERSITY OF CALIFORNIA
 EXTENSION CENTER
 1000 UNIVERSITY AVENUE
 BERKELEY, CA 94720-1300
 TEL: (415) 863-1000 FAX: (415) 863-1001



1900 10th Street NE Great Falls, MT 59404
Phone: 406-761-4100 Main Fax: 406-761-0174 www.calumet.com

March 27, 2024

Lonnie Hill
Senior City Planner
City of Great Falls
PO Box 5021
Great Falls, MT 59403

Dear Lonnie,

We are expressing our support for the Bay View Housing Development apartment complex project in Great Falls, Montana. As the largest industrial employer in the Great Falls area, we have seen the impact that the housing shortage has had on the community, our existing employees, our imbedded contract staff, and relocation needs of new employees for many years. Our business has been in growth mode, and we are not the only employer experiencing growth in the area. Projects like this apartment complex are what is needed to get ahead of a housing shortage.

As a prominent business in Great Falls, we support the Bay View Housing Development Apartment Project. It is imperative that the community & businesses support this project to address a lack of adequate housing. This project will help fill a critical need in the community.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Marlena Halko". The signature is fluid and cursive.

Marlena Halko

HR Manager

From: [Lisa C. Kunz](#)
To: [Krista Artis](#)
Subject: FW: 805 2nd St SW property development
Date: Friday, March 29, 2024 2:05:22 PM

FYI

From: Lisa C. Kunz
Sent: Friday, March 29, 2024 2:05 PM
To: 'Kristina Landon' <bigskypixiebobs@hotmail.com>
Subject: RE: 805 2nd St SW property development

Good Afternoon Kristina - thank you for submitting written public comment. Your comments will be shared with the Commission and appropriate staff for consideration of item 16 on the April 2, 2024 Commission agenda.

Happy Easter weekend and best regards,

Lisa Kunz

City Clerk/Records Manager
Civic Center Room 204
406.455.8451

From: Kristina Landon <bigskypixiebobs@hotmail.com>
Sent: Friday, March 29, 2024 1:02 PM
To: commission <commission@greatfallsmt.net>
Subject: 805 2nd St SW property development

I am writing this to voice my opinion on the housing project at 805 2nd Street SW. I work in the area and have been driving by this property for years. I don't understand the opposition to this project. It will be a huge improvement for the whole community and fill a need for the housing crisis we are facing. I have heard all the NIMBY complaints about this but none of them have any kind of proof. Just purely the not in my back yard type of complaints. This will be a huge improvement to the area plus a huge asset to Great Falls. We need to approve this project so it doesn't deter any other developers who are looking to invest in Great Falls. Voting no would be a **huge black eye** on the city to

anybody looking to build here.

Thank you for letting me express my opinion.

Kristina Landon

E

Krista Artis

From: Lisa C. Kunz
Sent: Friday, March 29, 2024 2:31 PM
To: Krista Artis
Subject: FW: City Commission Ordinance 3264 (April 2 Agenda Item 16) Public Comment Re-Submission
Attachments: FW: City Commission Ordinance 3264 (Agenda Item 20) Public Comment Submission; PublicCommentOrdinance3264.pdf

FYI

Lisa

From: Lisa C. Kunz
Sent: Friday, March 29, 2024 2:28 PM
To: 'Nicholas Sudan' <n_sudan@hotmail.com>
Subject: RE: City Commission Ordinance 3264 (April 2 Agenda Item 16) Public Comment Re-Submission

Good Afternoon Nicolas – thank you for submitting written public comment. Your comments will be shared with the commission and appropriate staff for consideration of public hearing item 16 on the Commission’s April 2nd agenda.

Your comments submitted for the March 5th Commission meeting were shared with the Commission on March 5th at 8:03 a.m. –see attached. Your comments were set forth under “Supporting Documents” (see 4th pdf) and opposition to Ordinance 3264 was so noted in the official minutes of the meeting – see <https://greatfallsmt.net/citycommission/city-commission-meeting-march-5-2024>.

Happy Easter weekend and best regards,

Lisa Kunz
City Clerk/Records Manager
Civic Center Room 204
406.455.8451

From: Nicholas Sudan <n_sudan@hotmail.com>
Sent: Friday, March 29, 2024 1:18 PM
To: commission <commission@greatfallsmt.net>
Subject: Fw: City Commission Ordinance 3264 (April 2 Agenda Item 16) Public Comment Re-Submission

I corrected the date in the e-mail title.

From: Nicholas Sudan <n_sudan@hotmail.com>
Sent: Friday, March 29, 2024 12:16 PM
To: commission@greatfallsmt.net <commission@greatfallsmt.net>
Subject: City Commission Ordinance 3264 (March 2 Agenda Item 16) Public Comment Re-Submission

Hello all,

My public comment is not being presented in the public forum. I believe my right to be heard is not being properly supported, and I do not know why.

I previously submitted public comment on Ordinance 3264 just prior to the City Commission meeting of March 5th (see this e-mail's history). Ordinance 3264 is being considered a second time by the City Commission at the upcoming meeting on April 2nd. However, I do not see my written public comment in the April 2nd meeting packet, agenda item 16, Attachment M - "Comments received after Zoning Board Meeting on 2/13/24."

I am resubmitting my public comment. Please find the attached PDF. If for some reason you do not find the attached PDF, please let me know, and I will work with you to provide the public comment in a format you prefer and/or passes your e-mail filters.

I will add to my public comment, on the topic of spot zoning, the following. I read Forrest Mandeville's assessment of spot zoning. Despite all the text of his letter, he weakly addresses the situation with only two sentences, essentially saying 'it is across the street from mixed-use zoning' and asserting that this fact undermines two of the three parts of the Little test. I will point out that two of the three parts of the Little test are more concerned with who benefits from the zoning change, not what undeveloped land is adjacent to the rezoned land. Further, Montana courts recognize that "All three elements typically exist when spot zoning is present, though a court need not necessarily find all three elements for spot zoning to occur." I assert that, with regard to the Little test, Mr. Mandeville's written assessment is not thorough and it is not complete.

I respectfully ask that the packet for the upcoming meeting be corrected to include my properly submitted public comment, and that it be distributed to the commissioners as well as replace the one currently available at <https://greatfallsmt.net/meetings>.

I also respectfully request that the reason for my previously submitted comment not being represented in the current meeting packet be addressed by the city staff. I would appreciate being informed of the results of any investigation.

Regards,
Nick Sudan

From: Lisa C. Kunz <lkunz@greatfallsmt.net>
Sent: Tuesday, March 5, 2024 7:01 AM
To: 'Nicholas Sudan' <n_sudan@hotmail.com>
Subject: RE: City Commission Ordinance 3264 (Agenda Item 20) Public Comment Submission

Good Morning Nicholas – thank you for submitting public comment. Your comments will be shared with the Commission and appropriate staff for consideration of agenda item 20 this evening.

Best regards,

Lisa Kunz
City Clerk/Records Manager
Civic Center Room 204
406.455.8451

From: Nicholas Sudan <n_sudan@hotmail.com>

Sent: Monday, March 4, 2024 5:05 PM

To: commission <commission@greatfallsmt.net>

Subject: City Commission Ordinance 3264 (Agenda Item 20) Public Comment Submission

City Commission of the City of Great Falls,

I am a resident of Great Falls, and I respectfully submit my public comment for Agenda Item 20 of the March 5, 2024 City Commission meeting. Please find my comment as the attached .pdf.

Regards,

Nicholas Sudan

City of Great Falls e-mails may be subject to Montana's Right To Know law (Article II Sec 9, Montana Constitution) and may be a Public Record (2-6-1002, M.C.A.) and available for public inspection.

Krista Artis

From: Lisa C. Kunz
Sent: Tuesday, March 5, 2024 8:03 AM
To: Greg Doyon; Charles Anderson; Krista Artis; Darcy Dea; Brock Cherry; Lonnie Hill; Cory Reeves; Joe McKenney; Rick Tryon; Shannon Wilson; Susan Wolff
Subject: FW: City Commission Ordinance 3264 (Agenda Item 20) Public Comment Submission
Attachments: PublicCommentOrdinance3264.pdf

Written comments pertaining to agenda item 20.

Lisa

From: Lisa C. Kunz
Sent: Tuesday, March 5, 2024 8:02 AM
To: 'Nicholas Sudan' <n_sudan@hotmail.com>
Subject: RE: City Commission Ordinance 3264 (Agenda Item 20) Public Comment Submission

Good Morning Nicholas – thank you for submitting public comment. Your comments will be shared with the Commission and appropriate staff for consideration of agenda item 20 this evening.

Best regards,

Lisa Kunz

City Clerk/Records Manager
Civic Center Room 204
406.455.8451

From: Nicholas Sudan <n_sudan@hotmail.com>
Sent: Monday, March 4, 2024 5:05 PM
To: commission <commission@greatfallsmt.net>
Subject: City Commission Ordinance 3264 (Agenda Item 20) Public Comment Submission

City Commission of the City of Great Falls,

I am a resident of Great Falls, and I respectfully submit my public comment for Agenda Item 20 of the March 5, 2024 City Commission meeting. Please find my comment as the attached .pdf.

Regards,
Nicholas Sudan

March 4, 2024

Dear City Commission of the City of Great Falls,

I am a resident of the City of Great Falls. I am writing to provide public comment on Agenda Item 20 (Ordinance 3264, rezoning of 805 2nd Street SW) of the planned City Commission meeting to be held on March 5, 2024.

The City of Great Falls Illegal Spot Zoning Legal Analysis is Flawed

The City of Great Falls planning staff cites the Supreme Court of Montana 2021 opinion in *Hartshorne v. City of Whitefish* in their analysis that the rezoning of 805 2nd Street SW from R-1 Single-family Suburban to M-2 Mixed-use Transitional does not constitute illegal spot zoning. The city's analysis is flawed and leaves the City of Great Falls open to a legal challenge. A legal challenge that the approval of the Bay View Apartments zoning request constitutes illegal spot zoning by the City Commission.

In short, the circumstances of Whitefish's zoning change are not sufficiently similar to the circumstances in Great Falls's proposed zoning change for *Hartshorne v. City of Whitefish* to be used to support Great Falls's proposed zoning decision.

The City of Whitefish's Zoning Action was Years in the Making and Specific to a 2.5 Acre Parcel

At issue in *Hartshorne v. City of Whitefish* is whether or not the City performed illegal spot zoning in the adoption of Ordinance 18-23. The case concerns the Riverside at Whitefish neighborhood center, a 2.5 acre parcel of land. Plans for the neighborhood center had been explicitly identified as commercial in nature since the neighborhood plan was adopted by the City of Whitefish in 1993, and amended in 1999. From page 4 of the Montana Supreme Court opinion (also page 145 of the Great Falls City Commission meeting agenda packet ("the agenda packet")):

"The 1999 Neighborhood Plan "embodies the public policy for the area it addresses." It provides that "[a]ny land use ordinances or regulations, such as zoning or subdivision review, shall be based on this plan[.]""

"A 2.5 acre neighborhood center to meet the demand for basic services created by the walking community and youth athletic facility. The site will be developed under the auspices of a mixed PUD whereby 10% of the gross area of the site can be developed in commercial uses intended to be complimentary to the proposed development of the neighborhood"

Suit was brought by James Hartshorne and Angelo Queirolo in 2018, 25 years after the adoption of the neighborhood plan, and 19 years after the adoption of the amended neighborhood plan. Suit was

brought because the City of Whitefish adopted Ordinance 18-23 that amended the zoning map and allowed the commercial development of the neighborhood center parcel through a conditional use permit (CUP) and supporting city ordinance change, instead of a planned unit development (PUD).

Because the neighborhood plan that contemplated commercial use of the neighborhood center was in place well before the adoption of Ordinance 18-23 that enabled commercial use of the neighborhood center, the Supreme Court of Montana ruled correctly that the City of Whitefish did not engage in illegal spot zoning as outlined in Montana's three-part test:

1. The proposed use is significantly different from the prevailing use in the area.
2. The land area is small from the perspective of the number of separate benefitted land owners from the proposed change.
3. The zoning change is designed to only benefit one or a few land owners.

Importantly, the court evaluated parts two and three together and arrived at the opinion:

"Ordinance 18-23's permitted commercial uses thus were compatible with the Neighborhood Plan, weighing heavily against satisfaction of the second and third elements."

Essentially, the zoning action that the City of Whitefish undertook in 2018 was not illegal spot zoning because the neighborhood plan envisioned the commercial use of the land as a public benefit 18 to 25 years earlier. The neighborhood plan explicitly acknowledged and provided for the future commercial development of the neighborhood center. The city's zoning action merely affirmed the commercial use of a property that had been planned for years.

The City of Great Falls' Proposed Rezoning is Dissimilar to the Whitefish Rezoning, and Therefore *Hartshorne v. City of Whitefish* Does Not Apply to Rezoning the Bay View Apartments Parcel

The zoning action before the City of Great Falls Commissioners does not fit the fact pattern found in *Hartshorne v. City of Whitefish*.

The land covered by the Bay View Apartments zoning request is currently zoned single family residential. It has had a non-conforming use as a mobile home park and is now vacant. No city, county, or state document exists that explicitly identifies the use of the 4.46 acre parcel as anything except residential. This was not the circumstance in Whitefish—the decades old plan in Whitefish clearly identified a small parcel of land to be developed commercially, and they knew a PUD (later implemented as a CUP coupled with an ordinance change) would be needed to support the plan.

The 2013 Growth Policy Update and Missouri River Urban Corridor Plan cited as support by the City of Great Falls planning department only covers the generalized expected benefits of land use changes. They do not call out the Bay View Apartments land parcel specifically, nor do they call out the Garden Home Tracts neighborhood it is a part of. Further, there is no neighborhood plan specific to the area—it is old and well established. I believe no neighborhood plan exists because the residents felt no plan was needed for the fully developed neighborhood. That was not the circumstance in Whitefish—that was a

pre-planned development with a neighborhood plan and city plan that explicitly called out the uses and expected changes necessary to implement the plan.

Conclusion: The City of Great Falls will Arguably be Illegally Spot Zoning the Bay View Apartments Parcel

In one singular act, the City Commission will replan the use of the parcel and enable its redevelopment to benefit the parcel's land owners/developers at the expense of the surrounding neighborhood.

The city-provided background in the agenda packet page 114 is very clear: "The applicant's rezoning request is to facilitate the sale of the property to developers..." The city knows the owners want to rezone to make a land sale, and are asking for the Commission's assistance in making that sale.

If this zoning request is approved, the City Commission will be on record with the intent to make a zoning change that arguably meets all three illegal spot zoning tests provided by the Supreme Court of Montana in *Little v. Board of County Commissioners*. The subject zoning change request:

1. Is significantly different than the surrounding area: *there are only parks and open space, single family residential, and many-decades-old commercial development (that predates city's growth policy and river corridor plan) in the nearby area;*
2. Rezones a small land area that directly benefits only the current land owners and future developers: *the surrounding residents have been clear and consistent in their disapproval of the rezone request, as evidenced by the formal protest and dozens of pages of public comment found at the end of the agenda packet;*
3. Is specifically designed to benefit the current land owners: *clearly stated in the city-provided zoning request background—the rezone request is to facilitate the sale of the property.*

A Respectful Recommendation to the City Commission of the City of Great Falls

Do not accept Ordinance 3264 and associated rezoning request. Combined with the analysis above, a reasonable basis for the Commission's disapproval can be found in Great Falls's 2013 Growth Policy Update. Section 4.2 on page 164 of the update provides zoning guidance for the physical realm. Specifically, section 4.2.8 states "The City may recommend against spot zoning."

Respectfully,
Nicholas Sudan

From: [Lisa C. Kunz](#)
To: [Krista Artis](#)
Subject: FW: Ordinance 3264 - Zoning Map Amendment proposed for the property addressed as 805 2nd St SW
Date: Friday, March 29, 2024 4:20:04 PM

FYI

Lisa

From: Lisa C. Kunz
Sent: Friday, March 29, 2024 4:20 PM
To: 'Kathy Steffenson' <ksteffenson@citymotor.com>
Subject: RE: Ordinance 3264 - Zoning Map Amendment proposed for the property addressed as 805 2nd St SW

Good Afternoon Kathy – thank you for submitting written public comment. Your comments will be shared with the commission and appropriate staff for consideration of public hearing item 16 on the Commission’s April 2nd agenda.

Happy Easter weekend and best regards,

Lisa Kunz

City Clerk/Records Manager
Civic Center Room 204
406.455.8451

From: Kathy Steffenson <ksteffenson@citymotor.com>
Sent: Friday, March 29, 2024 4:16 PM
To: commission <commission@greatfallsmt.net>
Cc: Kathy Steffenson <ksteffenson@citymotor.com>
Subject: Ordinance 3264 - Zoning Map Amendment proposed for the property addressed as 805 2nd St SW

My parents raised their family next door to the house we purchased in the 1980's. I grew up in this area and have raised our family here. Our sons also purchased homes in this area. It is a nice residential area with great neighbors and we don't want any multi-family housing in our area.

Adding in an apartment complex of 92 units and several townhouses will create not only too many people in this area but also a traffic nightmare. Their driveway will be straight across from my house and all those lights will shine in my windows as they leave that area. Adding in all that traffic to 2nd Street SW will cause not only too much wear and tear to this road but will cause horrible traffic congestion as we all try to come and go each day.

All I will be able to see is the apartment complex which will block my view and will be unpleasant viewing. I don't want to lose my view - it's why I live here.

I am totally against this project and ask that it is not approved in any way. Over 100 signatures were gathered and sent in to protest this project.

Kathy Steffenson
826 2nd Street SW
Great Falls, MT 59404

From: [Lisa C. Kunz](#)
To: [Krista Artis](#); [Brock Cherry](#); [Lonnie Hill](#)
Subject: FW: Public Comment Ordinance 3264
Date: Tuesday, April 2, 2024 8:54:47 AM
Attachments: [Public Comment Ordinance 3264.pdf](#)

FYI

From: Lisa C. Kunz
Sent: Tuesday, April 2, 2024 8:54 AM
To: 'Steve Gillespie' <steve@montanarivers.com>
Subject: RE: Public Comment Ordinance 3264

Good Morning Steve – thank you for submitting written public comment. Your comments will be shared with the commission and appropriate staff for consideration of public hearing item 16 on this evening’s Commission agenda.

Best regards,

Lisa Kunz

City Clerk/Records Manager
Civic Center Room 204
406.455.8451

From: Steve Gillespie <steve@montanarivers.com>
Sent: Tuesday, April 2, 2024 8:44 AM
To: commission <commission@greatfallsmt.net>
Subject: Public Comment Ordinance 3264

Please find attached PDF for the record pertaining to hearing the ordinance 3264

Thank you,
steveg

April 2, 2024

To: Commissioners/Planning Department, City of Great Falls, MT

RE: Public Comment: Ordinance 3264

From: Steve Gillespie, resident city of great falls.

Buffers such as parks, roadways, and alleyways should be absolutely required to separate zoning categories: (Residential, Commercial, Industrial, Mixed-Use, Etc.)

Adjacent properties within (at least) the "RESIDENTIAL" category should have the same zoning "intensity" unless there is strong support and good reason for a zone change to an adjacent property.

Suggested caveats for "RESIDENTIAL" category zoning districts.

- 1) Adjacent lots can be only ONE zone intensity differentiation; i.e. You can have R2 adjacent to R1, but R1 cannot be adjacent to R3; AND,
- 2) Any zone change applications must be brought to the commissioners from a majority of property owners who are affected by the change, who reside in the established neighborhood: NOT from a third party outside entity.

Show disregard for a neighborhood community and people will leave.

Wealthy people will go find their solitude on a ten acre tract of land outside the city; poor people will remain. The city tax will increasingly be borne by the poor people making the already unaffordable housing less affordable.

What are you thinking! Planning departments do not shoehorn in "mixed-use" or other high intensity zoning categories up against "single family" use lot lines. Totally irresponsible! If your goal is to create a 15 minute city, be careful because everyone will leave in about fifteen minutes.

A handwritten signature in black ink, appearing to read 'Steve Gillespie', with a long, sweeping horizontal line extending to the right across the page.

Steve Gillespie

CITY OF GREAT FALLS MONTANA

Search

Check the Status of Your Ticket

Ticket ID

29209ac4d

Apply

Update Ticket/Add Comment

Bayview Apartments 2nd St Sw

Status: Open

Assigned To: Ikunz (City Commission)

Ticket ID: 29209ac4d

Email: gijane107@gmail.com

Name: Jane Brinkman

Phone Number: 406 788 9734

Please listen to the people that voted you into office. Neighbor hood Council #2 has said this rezoning should not happen. Over 100 people have signed a petition opposing this too massive of a project in this particular area. Numerous people have said this is already a done deal , so quit wasting my time! I feel need to give it one more chance to express my opinion! We simply don't have the infrastructure to support this. So many from the Westside and Fox farm use this area to connect to The Rivers Edge Trail. We have bikes, baby strollers, toddlers on bikes, high school cross country runners and now electric bikes frequenting this area! We certainly don't need anymore traffic! No stop light connecting to 6th Street. It's already been said no improvements are to be made over here and they want to add 100's of more people??? Where's the common sense in this way too large of a project? The Gadbows on the corner are to be surrounded by apartments with very little parking and no overflow parking? The neighbors across the street and down the street with no sidewalks and an already too narrow road and a severe corner are to accommodate the overflow of campers, boats, vehicles etc? This voluntary list of what they won't do hold absolutely no weight as it is only voluntary! They

get their foot in the door and their voluntary list won't matter and their will be no one to enforce it because it is now an M2! Please keep our old and quaint neighborhood an R1 for safety reasons. A taxpayer, Jane Brinkman.

Ticket History

Open

Updated By: ddea

Assigned To: lkunz (City Commission)

Jane -

Thank you for submitting written public comment pertaining to the Bay View housing project. Your comments will be shared with the Commission and appropriate staff for consideration of item 16 on the 4/2/2024 commission agenda.

Thank you,

Darcy Dea, Deputy City Clerk

04/01/2024 - 2:32pm

New

Assigned To:

Citizen request/question created.

04/01/2024 - 1:20pm

Disclosures

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RECEIVED

APR 02 2024

CITY CLERK

Attention City Commissioners,

I recently moved back to Great Falls after I retired. I spent months searching for a place to live. Everything that was available was either run down, filthy dirty or in a bad neighborhood. I would love to live in this area and especially if it is close to the River's Edge trail and in a safe, secure apartment. This is a wonderful addition to Great Falls. I would love to move in as soon as it is completed and renting.

Thank you,

A handwritten signature in blue ink that reads "Patsy Hagen". The signature is written in a cursive style with a long, sweeping underline.

Patsy Hagen

**City Clerk,
PO Box 5021,
Great Falls, MT 59403**

RECEIVED

APR 02 2024

CITY CLERK

I am writing in concern of the Bayview zoning request from R1 to M2. I am in full support of this change. I drive by this property weekly and think the Apartments will be a drastic improvement over the old trailer park that was there. It will be a win win for the city and the area.



**Kade Landon
Great Falls, MT. 59404**

From: [Lisa C. Kunz](#)
To: [Krista Artis](#); [Brock Cherry](#); [Lonnie Hill](#)
Subject: FW: Bayview Spot Zoning Legal Opinion
Date: Tuesday, April 2, 2024 11:26:24 AM
Attachments: [image004.png](#)
[image005.png](#)
[A. McCormick to S. Woith re Bay View Rezoning Spot Zoning Opinion.pdf](#)

FYI

From: Lisa C. Kunz
Sent: Tuesday, April 2, 2024 11:26 AM
To: 'Spencer Woith' <spencer@woitheng.com>
Subject: RE: Bayview Spot Zoning Legal Opinion

Good Morning Spencer – thank you for submitting your attorney’s legal opinion pertaining to the application for rezoning for the Bay View Apartments with respect to the question of spot zoning. Attorney Alan McCormick’s legal opinion will be shared with the commission and appropriate staff for consideration of public hearing item 16 on this evening’s Commission agenda.

Best regards,

Lisa Kunz

City Clerk/Records Manager
Civic Center Room 204
406.455.8451

From: Spencer Woith <spencer@woitheng.com>
Sent: Tuesday, April 2, 2024 11:15 AM
To: Lisa C. Kunz <lkunz@greatfallsmt.net>
Cc: Brock Cherry <bcherry@greatfallsmt.net>; Lonnie Hill <lhill@greatfallsmt.net>; Robert Osowski <robert@woitheng.com>
Subject: FW: Bayview Spot Zoning Legal Opinion

Lisa,

Please see attached and email correspondence below, to be included for the record.

Thank you



SPENCER WOITH
President

405 3rd St NW, Suite 206, Great Falls, MT
o (406) 761-1955
c (406) 868-5920
woitheng.com

From: Spencer Woith

Sent: Tuesday, April 2, 2024 11:11 AM

To: Brock Cherry <bcherry@greatfallsmt.net>; Lonnie Hill <lhill@greatfallsmt.net>

Cc: Klostermeier, Dustin <dustin.klostermeier@hubinternational.com>;
Dale@NelsonArchitects.com; Robert Osowski <robert@woitheng.com>

Subject: Bayview Spot Zoning Legal Opinion

Brock and Lonnie,

Please find attached a legal opinion from our attorney that explains why this rezone is not spot zoning.

Thank you



SPENCER WOITH
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GARLINGTON | LOHN | ROBINSON

MONTANA'S ATTORNEYS SINCE 1870

April 2, 2024

Sent Via Email

Spencer Woith
Woith Engineering
405 3rd St. NW, Suite 206
Great Falls, MT 59404
spencer@woitheng.com

RE: Bay View Rezoning Application

Dear Spencer:

At your request, I have reviewed the application for rezoning for the Bay View Apartments, specifically with respect to the question of spot zoning.

The current zoning for the parcel is R-1 with a most recent land use as a mobile home park. The proposed zoning is M-2 to allow for the redevelopment of the parcel for apartments and townhomes, a multi-family residential land use. The parcel is 4.46 acres. There are various land uses near the parcel including residential and commercial/light industrial and several vacant parcels.

The zoning designations adjacent to the parcel vary. To the immediate north, parcels are zoned M-2 and POS. The M-2 zoning is intended to “promote a transition over time to a predominately mixed-use land use pattern” because of changing economic conditions and other factors, and permits a variety of commercial, residential, and other uses. To the west and south, parcels are zoned R-1 which encourages low-density residential uses. Much of the area to the northwest is zoned I-1, allowing “activities typically associated with manufacturing of finished products, storage, and wholesale operations.”

“Spot zoning” is a legal concept that roots out whether the zoning or rezoning of real property unfairly benefits a landowner or small group of landowners at the expense of the general public. Montana’s supreme court has further defined it as “the process of singling out a small parcel of

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land for a use classification totally different from that of the surrounding area, for the benefit of the owner of such property and to the detriment of other owners.”

The Court adopted a three part test in *Little v. Board of County Commissioners* in 1993: (1) whether the requested use is significantly different from the prevailing use in the area; (2) whether the area in which the requested use is to apply is rather small; and (3) whether the requested change is more in the nature of special legislation. The second and third elements of the *Little* test are analyzed together. All three elements typically exist when spot zoning is present, though this is not a requirement.

Spot zoning has been addressed by our courts many times since 1993. In *North 93 Neighbors, Inc. v. Board of County Commissioners*, a 2005 opinion in which I represented Flathead County, the court upheld the County’s decision to rezone 481 acres of agricultural ground to various commercial and residential zoning designations even though the request was made by a single landowner. The court looked not only to the immediately adjacent land uses, but also the wide variety of land uses within an area extending quite a distance from the proposed rezoning. That area included a variety of land uses and constituted a natural extension of commercial and residential growth that had been encroaching toward the site. The rezoning also substantially complied with a neighborhood plan that had been adopted for the area and anticipated the conversion of agricultural land into commercial and residential purposes.

More recently in *Hartshorne v. City of Whitefish*, the court validated a concept first discussed in the *Little* decision: if the rezoning substantially complies with an adopted growth policy and/or neighborhood plan, it is not spot zoning even if the zoning is substantially different from the prevailing land uses in the area. The prevailing land use in the area for the Hartshorne rezoning was residential, but the rezoning allowed for commercial uses which all parties agreed were different than the prevailing land use for the area. Nevertheless, the court held the rezoning was not illegal spot zoning because the neighborhood plan specifically contemplated adding commercial uses to the area. To hold otherwise, would not allow cities to adopt planning documents that specifically incentivize growth patterns that make sense for changing land use patterns.

Applying these principles to the Bay View rezoning application, I find the proposal does not constitute illegal spot zoning. As stated in *North 93 Neighbors*, “extending a preexisting zone classification to include a larger area does not constitute spot zoning.”

The Bay View parcel is immediately adjacent to the M-2 zoning district which would simply be extended into a larger area. The prevailing land uses in the area represent quite a mix, with significant low-density residential land uses and nearby light-industrial uses. The 2013 Growth

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Policy update does not include a specific future land use map, but includes several policies and objectives that encourage a variety of housing types and infill development, and notes the Bay View proposal is subject to the Missouri River Corridor Plan. The Missouri River Corridor Plan appears to explicitly suggest higher density residential and commercial development throughout the corridor, which includes the Bay View site.

Please contact me if you have questions or need additional information.

Sincerely,

GARLINGTON, LOHN & ROBINSON, PLLP



Alan F. McCormick

Email: afmccormick@garlington.com

AFM:emq