

RESOLUTION 10421

A RESOLUTION AMENDING RESOLUTION 10096 (CONDITIONAL USE PERMIT) TO ALLOW THE TEMPORARY STORAGE OF ANHYDROUS AMMONIA ONSITE AT A PARCEL OF LAND ADDRESSED AS 6201 18<sup>TH</sup> AVENUE NORTH, GREAT FALLS, MONTANA.

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WHEREAS, Helena Agri-Enterprises, LLC, f/k/a Helena Chemical Company, has petitioned the City of Great Falls to approve an amendment to an existing Conditional Use Permit to allow the temporary storage of Anhydrous Ammonia onsite at 6201 18<sup>th</sup> Avenue North (subject property) in order to manufacture Ammonium Polyphosphate; and

WHEREAS Section 17.20.3.060 of the Official Code of the City of Great Falls (OCCGF) states, “a permitted land use that emits air contaminates 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.”; and

WHEREAS, the proposed modification to the existing Conditional Use Permit upon the subject property meets the Basis of Decision requirements in the OCCGF Section 17.16.36.040; and

WHEREAS, the Great Falls Zoning Commission conducted a public hearing on June 22, 2021, to consider said amendment to the existing Conditional Use Permit application and, at the conclusion of said hearing, passed a motion recommending the City Commission approve the amendment to the existing Conditional Use Permit (CUP) to allow Helena Agri-Enterprises, LLC, to temporarily store Anhydrous Ammonia onsite at 6201 18th Avenue North in order to manufacture Ammonium Polyphosphate, subject to the following conditions:

CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT

- 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. Substantial Change.** Substantial changes are not permitted. A new public review and permitting process will be required for such changes. ‘Substantial

Change' is defined here in order to clarify the contrasting term, 'Minor Change.' A substantial change changes the permitted use; the location or extent of the area proposed to be cleared, graded, or otherwise disturbed by more than 4,000 square feet (a smaller change in the area that will be cleared, graded, or otherwise disturbed may be treated as a minor dimensional change); the location, extent, or design of any required public improvement, except where a minor change is approved by the Director of Public Works and the Administrator; the approved number of lots, buildings, structures or units; or the size of any lot, building, or structure by more than 10% (a smaller change in the size of a lot, building, or structure may be treated as a minor dimensional change).

- 3. 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.
- 4. Expiration:** The amendment to 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.
- 5. Abandonment:** If a conditional use ceases to operate for more than six (6) months, the conditional use permit is void.
- 6. Chemicals:** The applicant shall not handle or store ammonium nitrate at this site.
- 7. Emergency Management Plan:** An Emergency Management Plan shall be updated and approved by the Great Falls Fire Department before the amendment to allow the chemical can take place. 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.
- 8. 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 the amendment to the Conditional Use Permit can take place.

**9. 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.

**10. 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.

WHEREAS, the City Commission having allowed for proper public notice, conducted a public hearing to consider said application, and considered the comments and recommendations made by the Zoning Commission.

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

That an amendment to the existing Conditional Use Permit be granted to Helena Agri-Enterprises, LLC, f/k/a Helena Chemical Company, at the subject property located at 6201 18th Avenue North, Great Falls, Montana, conditioned upon the owner complying with the conditions listed herein.

BE IT FURTHER RESOLVED BY SAID CITY COMMISSION that, pursuant to the OCCGF Section 17.16.36.090, the permit shall be considered a covenant that runs with the land and shall be binding on all subsequent property owners. Additionally, pursuant to OCCGF Section 17.16.36.100, the Conditional Use Permit shall expire one (1) year after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion. If the Conditional Use is established, but ceases to operate for more than six (6) months, the Conditional Use Permit shall expire.

BE IT FURTHER RESOLVED BY SAID CITY COMMISSION that this Resolution shall become effective from and after the date of the filing of said document in the office of the Cascade County Clerk and Recorder.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on August 3, 2021.

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Bob Kelly, Mayor

ATTEST:

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Lisa Kunz, City Clerk

(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

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Sara Sexe, City Attorney