

MINUTES OF THE MEETING
GREAT FALLS PLANNING ADVISORY BOARD/ZONING COMMISSION
January 09, 2024

CALL TO ORDER

The regular meeting of the Great Falls Planning Advisory Board/Zoning Commission was called to order by Chair Dave Bertelsen at 3:01 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:

- 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, January 09, 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 City 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.

Planning Board Members present:

Dave Bertelsen, Chair

Tory Mills, Vice Chair

Julie Essex

Lindsey Gray

Pat Green

Samantha Kaupish

Jake Schneiderhan

Planning Board Members absent:

None

Planning Staff Members present:

Brock Cherry, Director Planning and Community Development
Tom Micuda, Deputy Director Planning and Community Development
Sara Doermann, Associate Planner
Kayla Kryzsko, Assistant Planner
Jamie Nygard, Sr. Administrative Assistant

Other Staff present:

David Dennis, City Attorney
Rachel Taylor, Deputy City Attorney

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

MINUTES

Chair Bertelsen asked if there were any comments or corrections to the minutes of the meeting held on November 14, 2023. Seeing none, the minutes were approved.

COMMISSION ACTIONS NOT REQUIRING A PUBLIC HEARING

Election of Officers for 2024

Mr. Micuda stated that every year, the Board is required to elect officers for the year.

MOTION: That the Planning Advisory Board/Zoning Commission re-elect Dave Bertelsen as the Chair for 2024.

Made by: Tory Mills

Second by: Samantha Kaupish

Vote: All in favor, the motion passed 7-0

MOTION: That the Planning Advisory Board/Zoning Commission re-elect Tory Mills as the Vice Chair for 2024.

Made by: Dave Bertelsen

Second by: Pat Green

Vote: All in favor, the motion passed 7-0

COMMISSION ACTIONS REQUIRING A PUBLIC HEARING

Conditional Use Permit for a “Type II Community Residential Facility” land use for the property addressed as 2201 11th St SW and legally described as Lot 7 of Block 5 of the Montana Addition

Sara Doermann, Associate Planner, presented to the Board. She stated that the applicant, Annaliza Koczur, with Park View Assisted Living, was requesting a Conditional Use Permit to allow for an increase in the number of residents from 14 to 17, within the established assisted living facility. The property is currently zoned R-2 Single-family Medium Density and is roughly 12,850 square feet.

Ms. Doermann presented an Aerial Map, Zoning Map, and Site Photos.

Ms. Doermann presented some history on the facility. In 1999 the property was Donnalee's Assisted Living Care as a Type I Community Residential Facility, with 8 beds. In 2000 she obtained state licensure for up to 12 beds. In 2014, Park View Assisted Living was established by the current owner, and a Safety Inspection Certificate (SIC) was received for 12 beds. Currently, Park View Assisted Living has 14 beds and is up to date on state licensure as a Category A facility, which allows up to 19 beds. Per City Code, the applicant's request to increase the beds from 14 to 17 requires a Conditional Use Permit (CUP) for additional beds.

Ms. Doermann stated that the CUP process ensures that land uses not permitted, can fit into the proposed location, without specific negative impacts. The Commission must determine if impacts are reasonable or clearly negative. She stated that the request is for a nominal increase from 14 beds to 17 and that staff acknowledges that two conditions exist. One is the high amount of emergency responses to the property and the other is the location next to an existing,

unofficial school drop off area for Meadow Lark Elementary School. Staff is not providing a positive or negative recommendation for the request. Within the report, staff provides justification for the Zoning Commission to approve or deny the request based on the issue of public safety. She stated that after all of the testimony is heard, the Zoning Commission should determine which justification is the most appropriate.

Ms. Doermann presented the staff evaluation for transportation and expressed that an increase in 3 beds would be less than one vehicle trip during peak hours. She stated that the concern from nearby residents is that the school children may not be safe in the location due to generated traffic. However, the largest portion of vehicle and pedestrian travel comes from nearby residents using the unofficial drop off.

Ms. Doermann stated that staff does not have any parking concerns. There is off-street parking provided for employees and the guest parking is limited.

Ms. Doermann stated that there is larger than normal Emergency Medical Service (EMS) calls with an average of 31 calls per year. She showed a slide from the City of Great Falls Fire Department with 5 years' worth of calls.

Ms. Doermann presented an EMS Heat Map which illustrated a high EMS call volume at the facility.

Ms. Doermann stated that Neighborhood Council #1 met on October 10, 2023 and voted unanimously to recommend approval to the Zoning Commission. The Council is going to reconsider the request at its meeting scheduled January 9, 2024 at 7:00 P.M. Staff will provide a full report of the Council's discussion to the City Commission.

Ms. Doermann stated that the original Zoning Commission public hearing was scheduled for November 14, 2023. Due to a large number of public comments provided with a wide range of concerns, the applicant requested a continuance to January 9, 2024, to allow for more time to gather information. All of the public comments were included in the Agenda Packet and four additional letters were provided to the Board and posted on-line.

Ms. Doermann presented the Basis of Decision for the Approval Option:

2. The establishment, maintenance or operation of the zoning and conditional use will be detrimental to, or endanger the health, safety, morals, comfort or general welfare.

The proposed use of a Type II Community Residential Facility will allow the applicant to increase the facility by three individuals, which will not be a detrimental to, or endanger the health, safety, morals, comfort or general welfare. In this regard, the Commission can only consider whether the incremental increase in activity from 14 to 17 residents will create a new endangerment. The applicant has provided enough information to staff for a conclusion to be made that the applicant vets her residents, manages them appropriately, has adequate on-site parking for employees, and minimizes traffic impacts due to usage of transit. The delivery of equipment is reasonable, and there are virtually no visitors to the facility. The only issue identified by staff is that there is a potential cause for denial due to the EMS response. On the topic of concern, the applicant is not responsible for the school drop off activity to the north that

has created the public safety concern expressed by nearby residents. Staff simply has no measurable data indicating that additional call volumes generated by the small increase will result in public safety incidents.

Ms. Doermann presented the Basis of Decision for the Denial Option:

2. The establishment, maintenance or operation of the zoning and conditional use will be detrimental to, or endanger the health, safety, morals, comfort or general welfare.

The applicant's request to increase the residential occupant limit from 14 to 17 residences will increase the amount of EMS visits to the facility. Based on a 5-year time series data provided by the Fire Department, the number of visits is already higher than what would typically be expected with a permitted use in a single-family zoning district. Additionally, the applicant's facility adjoins a location with high amounts of vehicle and pedestrian activity during certain periods due to the proximity of Meadow Lark Elementary School. Approval of the applicant's Conditional Use Permit will increase the conflict and be detrimental to public safety.

Ms. Doermann 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 R-2 Single-family Medium Density zoning district development standards contained within the Official Code of the City of Great Falls.
3. Building Permit Review. The final architectural drawings and specification for the improvements to the subject property shall be submitted to the Planning and Community Development Department for review and approval.

APPLICANT'S PRESENTATION

Annaliza Koczur, with Park View Assisted Living, presented a slide show that included videos of the traffic and parking on 11th Street Southwest. She stated that she works closely with Adult Protective Services and Big Sky Waiver for placement. It is difficult to find quick placement for individuals that have no other place to go and cannot take care of themselves. She stated that they are more flexible than other large companies. She stated that a Category A facility helps patients that need minimal assistance. It is a 6600 square foot facility and has 6 bathrooms. She addressed that there is a Tier I offender that is living at Park View and that she contacted Special Unit Detective, Scott Fisher and was informed that he is not on probation, has no restrictions and is compliant with the registry.

PUBLIC QUESTIONS

Kevin Johnson, 1100 24th Ave SW, asked what a Community Residential Property was or if the proposed request was an Assisted Living Retirement Community. Mr. Micuda responded that it is a bit of a hybrid as it is an Assisted Living Facility that is conducted in a home environment. He stated that the parking could be handled under either option. If it is a Community Residential Property, there is no parking standard in the code. If it was called an Assisted Living Retirement Community, you would need 3 or 4 spaces, which the circular driveway accommodates. City staff stuck to what the facility was classified as in the City's records, which is a Type II Community Residential Facility so the parking was based off of number of employees. Mr. Johnson also asked if the CUP is approved and the business is sold, does the CUP go with the property, or does the new person that is buying the property have to reapply. Mr. Micuda responded that if the request gets approved, the Commission will approve it by Resolution and the CUP will run with the property and future owners.

Mary Bowe, 2109 11th St SW, wanted to know if the applicant wanted to add more beds in the future, could she do that because she is approved by the state for 19 beds. Mr. Micuda responded that the City has a regulatory process and if the CUP is approved it would only be approved for 17 beds. Ms. Bowe asked if the offender is ever sitting out on the porch and can look into the neighbor's backyards. Ms. Koczur responded that he is mainly in his room and does not socialize with the residents. There is a tiny window in his bedroom. He would need help to get out of bed.

Timothy Koczur, 2806 16th Ave S., asked if the resident that was the offender, was mobile. He also asked how many EMS calls on average per month occurred for the facility. He asked about the Fire Department on Fox Farm Road and if residents can hear the sirens every time they respond to a call. He wanted to know what the improvements were that have been done to the property.

Ms. Koczur responded that the resident that is an offender, is not mobile and needs assistance to get to the dining room. She also stated that since she bought the property, she has installed a new roof, replaced an upper deck, a vinyl fence, a wheelchair ramp and a retaining wall. Mr. Micuda responded that the average EMS calls per month is 2.61. He also stated that staff cannot get the data from the Fire Department on the siren usage.

Mr. Koczur asked what the assessment and vetting process was for the residents in the facility. Ms. Koczur responded that she looks at the medications that people are on and will not just take anybody that wants to live there. She also looks at history of health and behavior. Mr. Koczur asked if Ms. Koczur allowed medical marijuana. Mr. Micuda responded that the Zoning Commission is there to decide whether or not the increase in the beds causes the facility to have negligible impacts or if the collective impact is measurable and potentially negative. The proposed question would be about an internal policy which the Commission cannot take into consideration. Mr. Cherry stated that the staff was there to speak specifically to the land use

applications and any concerns about the facility practices should be taken to the licensing bodies.

BOARD QUESTIONS TO APPLICANT

Ms. Essex asked about the average age of the residents living in the facility. Ms. Koczur stated that it is mainly an older population.

Ms. Essex asked about the typical EMS calls the facility receives. Ms. Koczur responded that it is typically for a drastic change of condition, severe pain, chest pain, or any medical emergencies.

Ms. Essex asked if she was aware that the 3 more beds would add a 23% increase in calls to EMS. Ms. Koczur responded that she was aware. They are staying at a level Category A, so most patients will not need as much care.

Mr. Bertelsen asked if a requirement to live in the facility was that patients couldn't drive. Ms. Koczur responded that in her 30 years of doing that kind of work, no one has ever driven but there could be a possibility in the future that someone could.

Ms. Kaupish asked the City Staff why the Neighborhood Council approved it in November but it is going back on January 9th. Ms. Doermann responded that there were some neighbors that went to the Neighborhood Council meeting in December with questions, but because the item was not on their Agenda, it had to be pushed to the January meeting. Ms. Kaupish asked if the original vote in November could be rescinded. Mr. Micuda responded that Neighborhood Councils do not have a formal vote in the process. Ms. Kaupish asked if the City is looking at Meadow Lark School and the issues with the traffic. Mr. Micuda responded that the district would like to re-engage with the City to discuss school drop-off traffic, but it has not happened yet.

Mr. Mills asked about the State Jurisdiction and the City Jurisdiction and if the application was denied, could the State come back against the City. Mr. Micuda responded that the City code regulates the land use. The State has no authority over the City's decision.

Ms. Essex asked City Staff if the application is approved, does it stay with whomever purchases the property in the future. Mr. Micuda responded that it would stay with the property unless there was a change in use.

Mr. Cherry addressed the Commission and stated that there could be a condition put on the approval if the application is approved.

Mr. Bertelsen asked about future visitors to the residence and if there should be parking spaces for them. Mr. Micuda responded that the parking requirement is based on the condition of the property as it is today.

Mr. Bertelsen asked if a CUP should have been requested when the facility went from 8 beds to 12. Mr. Micuda responded that it should have been flagged at that time and a CUP requested.

PROPONENTS

Timothy Kozcur, 2806 16th Ave S, stated that Ms. Kozcur is a minority business owner in the community and uses a lot of other resources in the community. The property is kept clean and well taken care of. He stated that the house could easily be converted back to a single-family home. He also stated that she spends a lot of time vetting the resident's to get the right candidates for the facility. Ms. Kozcur errs on the side of caution, so if there is a question about the safety of a patient, she will call EMS. She also does not allow medical marijuana in the facility.

Charlene Kitto, 3001 15th Ave S #108, stated that she has a family member at the facility and visits at least once a week. She has never had any issues with parking and has never seen anyone outside. She stated that the staff is wonderful and gives exemplary care.

Faith Johnson, 2201 11th St. S.W., stated that the facility gives elderly people a chance to have a loving home when they have no place else to go. The house is always clean and quiet. There a lot of people that do not have anywhere to go and 3 more beds would give others in the community that opportunity.

Nonie Lane, 2201 11th St. S.W., stated that if it wasn't for Ms. Kozcur, she would not have a home. She could not live on her own and the facility and staff is loving and caring.

OPPONENTS

Kevin Johnson, 1100 24th Ave. S.W., stated that he does not have any issue with the current facility, but is concerned about the future in the residential area.

Mary Bowe, 2109 11th St. S.W., stated that 17 beds is a lot and if the garage is converted than it is no longer a single-family home. She respects what Ms. Kozcur does but she has had residents approach them and one that tipped in a wheelchair that her husband had to assist with getting back up. The police have been called because people said they were trying to escape. Residents have yelled at her from the porch. There was a resident that came to her house on Christmas Eve and knocked on the door and claimed that two men lived there and that she knew the dog in the backyard, so she had already been around the yard. It can be very uncomfortable. She stated that had she known that before she purchased the property, she may not have.

BOARD DISCUSSION AND ACTION

Mr. Bertelsen asked if there was any data about the valuation of the property, with the facility in a single-family area. Mr. Cherry responded that the resident was not talking valuation by monetary means and made the distinction that it was enjoyment of the property and neighborhood that the facility was diminishing.

Mr. Mills asked if the item should be tabled until the Neighborhood Council #1 met on January 9th. Mr. Cherry responded that the Neighborhood Council vote was not part of the process, and he believed the Zoning Commissioners had enough information to make a recommendation.

Ms. Essex stated that it appeared that the Great Falls Public Schools is conflicted about the request.

Mr. Bertelsen stated that it is obvious that Ms. Koczur runs a wonderful facility. It is unfortunate that the facility is right by a school drop-off. A 23% increase in calls is a significant increase if 3 more beds were added. The public safety impact is insurmountable.

Mr. Mills stated that 17 beds in a 5800 square foot space, is a tight area to fit that many people.

Mr. Green asked if the Commission's job was to predict the future and the odds of something happening. Mr. Bertelsen responded that it was for public safety.

Ms. Essex stated that with the increase in beds but no increase in staff, it would be unsafe for the residents living in the facility.

MOTION: That the Zoning Commission recommend the City Commission deny the Conditional Use Permit as legally described in the Staff Report and the accompanying Findings of Fact.

Made by: Ms. Essex

Second by: Mr. Mills

Vote: All in favor, the motion passed 7-0 (Zoning Commission issues a denial recommendation to City Commission)

COMMUNICATIONS

Mr. Cherry announced that Deputy Director Tom Micuda was retiring on February 2, 2024 and thanked him for his invaluable knowledge and dedication to the City of Great Falls.

Mr. Micuda stated that there will not be a Planning Board meeting on January 23, 2024.

Mr. Cherry stated that the Growth Policy Update is coming up and the Planning Board will play a large role in it.

PUBLIC COMMENTS

None.

ADJOURNMENT

There being no further business, Chair Bertelsen adjourned the meeting at 4:59 p.m.

CHAIRMAN DAVE BERTELSEN

SECRETARY BROCK CHERRY