



**Item:** Resolution 10069 - Conditional Use Permit to allow the re-establishment and expansion of a non-conforming Type-1 Casino.

**From:** Craig Raymond, Director, Planning and Community Development

**Initiated By:** MRO, Inc, Gregory Smith, Property Owner

**Presented By:** Craig Raymond, CBO, Director of Planning and Community Development

**Action Requested:** City Commission set public hearing for Resolution 10069.

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission (set/not set) a public hearing for June 3, 2014 to consider adoption of Resolution 10069.”

2. Mayor calls for a second, discussion, public comment, and calls the vote.

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**Recommendation:** At the conclusion of a public hearing held April 8, 2014, the Zoning Commission passed a motion recommending to the City Commission that a Conditional Use Permit be **granted**, subject to the conditions of approval stated within this agenda report, to re-establish and expand a Type-1 Casino on the subject property addressed as 1905 4th St NE and legally described as Lot 2, Stan Oil Tracts, Great Falls, Section 1, Township 20 North, Range 3 East, PMM, Cascade County, Montana.

Staff recommended the Zoning Commission approve the requested Conditional Use Permit. Several citizens spoke generally in opposition to the Conditional Use Permit.

**Background**

The applicant intends to re-establish River City Casino at 1905 4th Street NE. The proposed building will be located on the vacant lot adjacent to Aaron's Furniture, and will replace a building that was demolished in June 2012, of which a portion was used as a casino. The new building will be placed on a new foundation in a different location on the site (see Exhibit B, C). The property is located at the intersection of 4th Street NE, 3rd Street NW, and Smelter Ave NE. The building will be located approximately in the center of the lot. The remainder of the site is used for vehicular circulation, landscaping and storm water retention. As the previous use was non-conforming (within 600 feet from Corpus Christi Catholic Church), a new Conditional Use Permit is required to re-establish an increased or expanded casino at this location.

### *Zoning Analysis*

The property is zoned C-2 General Commercial district, and a Casino Type 1 is permitted as a primary use when specific development standards are met. The new structure will incorporate EIFS with a brick masonry wainscot. Landscaping will be used along the street to soften the building appearance and improve the overall appearance of the lot. The new project will also serve to screen the back of Aaron's Furniture from view.

- The previous land use (Type 1 Casino) was an existing non-conforming use since it was located within 600 feet from (Corpus Christi Catholic Church), a worship facility. The casino was established prior to the current City Code which requires the 600 foot distance from educational facilities, worship facilities, parks and playgrounds.
- Code allows for a nonconforming use to be re-established within 24 months of ceasing.
- Code provides for the City Commission to consider the change to another non-conforming use or the increase or expansion of a non-conforming use through the conditional use process.
- Applicant is applying for a Conditional Use Permit to re-establish casino.
- The distance between the church and the casino is approximately 560 feet door to door, and 200 feet from property line to property line (see Exhibit B -Aerial Map).
- Applicant is proposing 25 feet of landscaping along Smelter Avenue NE. The sign on the north side, facing the church, will not indicate "casino" as part of the sign.

The proposed Casino Type 1 is a new structure. Site improvements will include: paved, striped parking, landscaping, lighting and storm water retention.

### *Parking*

The off-street parking requirements for the proposed building require the construction of 23.6 parking spaces. The proposed design complies with section 17.36, as it provides for 28 parking stalls, including 2 van accessible handicap stalls. Construction of the parking area and driveways must be done in accordance with section 17.32.150 and 17.36 of the Municipal Code and appropriate construction standards.

### *Streets & Utilities*

3rd St NW, 4th ST NE and Smelter Ave NE are built to City standards. It is not anticipated that the proposed casino will generate additional traffic impact above what the previous casino and Burgermaster restaurant had generated, so the applicant will not be required to provide any off-site roadway improvements. The applicant is being required abandon an existing curb cut access from 3rd ST NW, as it was determined that the access location was too close to the 4th ST NE intersection and had the potential to pose safety and circulation issues. There are adequate existing water and sewer service lines available to serve the property and proposed development.

### *Stormwater Management*

The applicant will be required to provide a stormwater management plan in compliance with the City of Great Falls Storm Design Manual and City standards. The City Engineer's office will be tasked with reviewing and approving the proposed design prior to the applicant obtaining building permits.

### *Neighborhood Council Input*

The subject property is located in Neighborhood Council #3. The applicant provided information in person to the Council on April 3, 2014. At this meeting N.C. #3 chose to not

provide any specific comment or recommendation until such time that officials at Corpus Christi Church have had an opportunity to review the project and provide their thoughts.

### **Conditional Use Permit Findings**

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 each of the following criteria have been satisfied:

#### **1. The conditional use is consistent with the City's growth policy.**

The proposed Conditional Use Permit is consistent with the overall intent and purpose of the 2013 City Growth Policy Update. This project supports the physical portion of the Growth Policy, specifically the goals to:

- 1) promote infill development that is compatible with the scale and character of established neighborhoods;
- 2) encourage the redevelopment or adaptive reuse of underutilized land; and
- 3) support actions that bring the properties into conformance with the City's Land Development Code.

#### **2. The conditional use is consistent with and furthers adopted neighborhood plans, if any.**

Great Falls is separated into nine Neighborhood Councils. There are no adopted Neighborhood plans for any of the Councils at this time.

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

The subject property is located along a developed commercial corridor. By encouraging redevelopment of this site the City will expand the tax base, eliminating blight and establishing a positive development environment for the sustainability of the neighborhood.

#### **4. 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.**

This site is surrounded by other General Commercial (C-2) sites. The River City Casino was previously established at this site, as well as the Burgermaster Restaurant. By replacing the building and use, the site will be improved, allowing for increased traffic that could help to support the surrounding businesses.

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

The proposed casino will not impede the development and improvement of the surrounding property. As this property is brought into compliance with the landscaping, lighting and parking codes of the City, it will encourage the surrounding properties to do the same.

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

1905 4th St NE has three established roads surrounding the property with utilities in all three roads. Water is easily accessed from 3rd Street NW. Sewer, water and storm water are located in 4th Street NE. There is also a water and storm water line in Smelter Avenue NE.

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

The site has access points from each road. This will allow circulation throughout the site with the main access off 4th Street NE. The access on 3rd Street NW is currently a right in, right out only and will remain as is. With the proposed development of the site, a second existing access onto 3rd street NW was deemed to be too close to 4th ST NE and will be closed and the curb replaced.

**8. 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.**

With the exception of City Code Section 17.20.6.140 (D) (1), this property will conform to all applicable regulations for the C-2 Zoning District as well as the Special Exceptions for a Casino Type 1 as found in section 17.60.4.20, and 17.20.6.140 of the City Code.

Staff concludes no significant negative aspects, associated with the eight above mentioned criteria, should result from the approval of the Conditional Use Permit, provided the applicant is otherwise conducting business in compliance with City Code and State laws. The approval of the Conditional Use Permit will result in an positive redevelopment of previously under developed and blighted property.

The Notice of Public Hearing was mailed to neighboring property owners on May 7, 2014, and was published in the *Great Falls Tribune* on May 11, 2014.

At the conclusion of the public hearing held April 8, 2014, the Zoning Commission passed a motion recommending the City Commission grant a Conditional Use Permit to allow the proposed re-establishment and expansion of the River City Casino (Type 1 Casino) subject to the following conditions:

1. **Stormwater Management.** A Stormwater Management Plan shall be developed to City standards and shall be submitted to the City Public Works Department for review and approval prior to issuance of building permits for the Site.
2. **Substantial Compliance.** Final build-out of the project shall be in substantial compliance with the final approved site plan documents, drawings and renderings as depicted in this staff report.
3. **Land Use and Zoning.** Except as provided herein, development of the property shall be consistent with the allowed uses and development standards of the C-2 General Commercial district designation.
4. **General Code Compliance.** The proposed project shall be developed consistent with the conditions in this report, and all codes and ordinances of the City of Great Falls, the State of Montana, and all other applicable regulatory agencies.
5. **Subsequent modifications and additions.** If after establishment of a conditional use, the owner proposes to expand or modify the use, buildings, and/or structures, the Director of the Planning Department shall determine in writing if such proposed change would alter the finding for one or more review criteria. If such proposed changes would alter a finding, the proposal shall be submitted for review as a new conditional use application. If such proposed change would not alter a finding, the owner shall obtain all other permits as may be required.
6. **Landscape Screening.** Applicant shall provide at least the minimum required special landscaping as required in City code 17.20.6.140 (F).

**7. Site Signage.** Site signage shall comply with the City Sign Code as well as the following special conditions:

- Signs facing Smelter Ave NE shall not provide any “casino” designation.
- LED reader board type signs shall not be allowed on-site.

**8. Exterior lighting.** All exterior lighting shall be fully shielded, down-cast type lights so as to reduce any light spill onto adjoining properties.

**9. Exterior HVAC Equipment.** All exterior HVAC equipment shall be screened

**10. Food Service.** If food preparation is conducted on the subject property, an appropriate grease interceptor shall be provided per City standard and installed according to the appropriate plumbing/building codes.

**Concurrences:** Representatives from the City’s Public Works, Park and Recreation, and Fire Departments have been involved throughout the review and approval process for this project.

**Fiscal Impact:** Approving the Conditional Use Permit will not require the City to provide additional services.

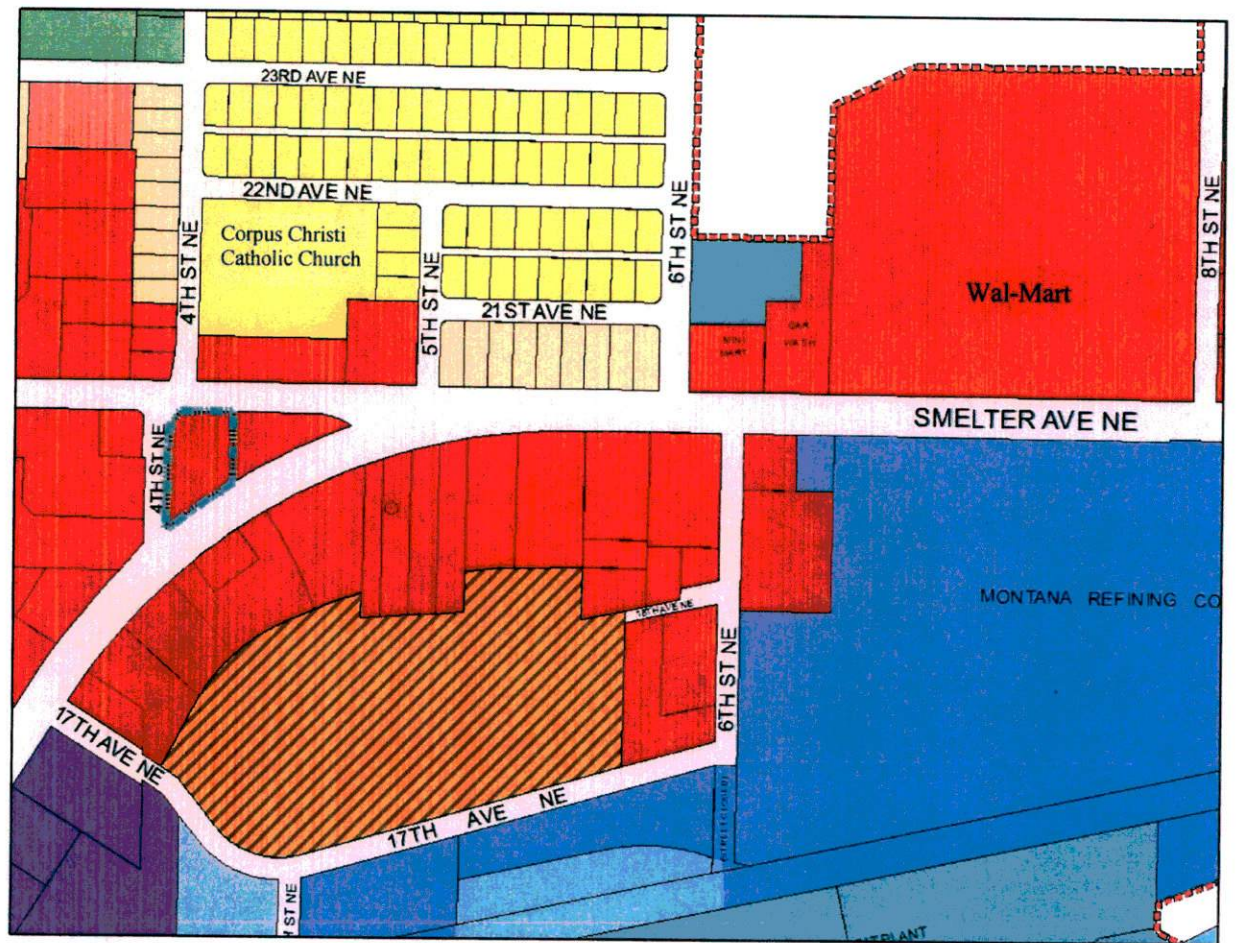
**Alternatives:** If there are justifiable reasons to do so, the City Commission could deny the requested action to the extent allowed in City Code and State Statute.

**Attachments/Exhibits:**

Exhibit A-Zoning Map  
Exhibit B-Aerial Map  
Exhibit C-Application  
Exhibit D-Zoning Determination  
Exhibit E-Site Plan  
Exhibit F-Landscaping Plan  
Exhibit G-Lighting Plan  
Exhibit H-Building elevations  
Resolution 10069

Cc: Jim Rearden, Public Works Director  
Dave Dobbs, City Engineer  
Patty Cadwell, Neighborhood & Youth Council Coordinator  
Gregg Smith, Applicant, gregg@bigskylaw.com  
Jim Page, Applicant’s Engineer, JimP@lpwarchitecture.com

# EXHIBIT A - VICINITY / ZONING MAP




 River City Casino

 City Limits

 Tracts of Land

## ZONING

 R-1 Single-family Suburban

 R-2 Single-family Medium Density

 R-3 Single-family High Density

 R-5 Multi-family Medium Density


 R-6 Multi-family High Density


 R-9 Mixed Residential

 R-10 Mobile Home Park


 PUD Planned Unit Development

 C-1 Neighborhood Commercial

 C-2 General Commercial

 C-3 Highway Commercial


 C-4 Central Business Core

 C-5 Central Business Periphery


 M-1 Mixed-use District

 M-2 Mixed-use Transitional


 I-1 Light Industrial

 I-2 Heavy Industrial

 PLI Public Lands and Institutional

 POS Parks and Open Space

 AI Airport Industrial

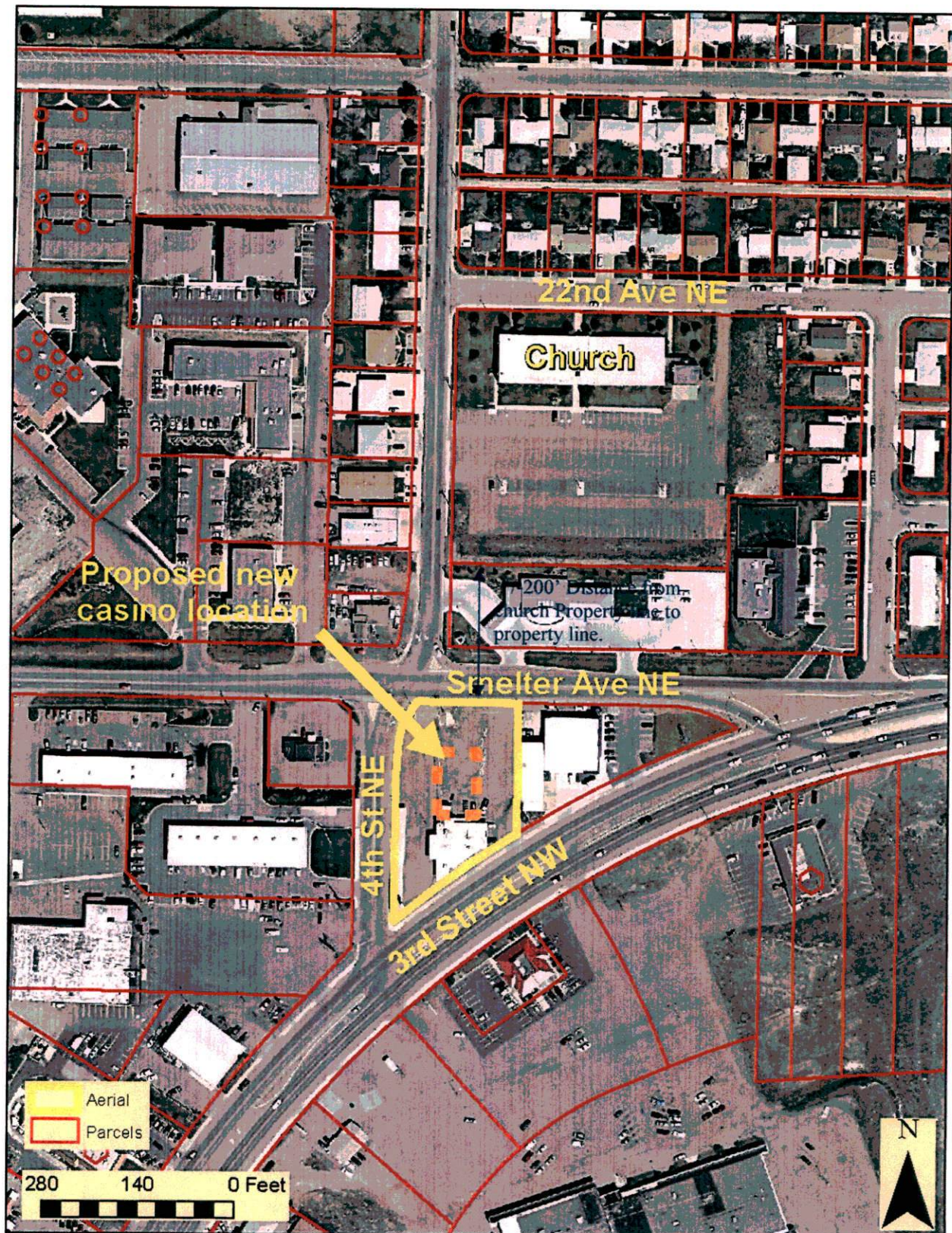
 U Unincorporated Enclave  
right-of-way

300 150 0 300 Feet





## EXHIBIT B - AERIAL PHOTO





# EXHIBIT C - APPLICATION



River City Casino

Name of Project / Development:

MRO, Inc.

Owner Name:

626 10th Ave So., Great Falls, MT 59405

Mailing Address:

406-453-7824

Phone:

gregg@bigskyland.com

Email:

Gregg Smith

Representative Name:

P.O. Box 2685, Great Falls, MT 59403

Mailing Address:

406-453-8144

Phone:

gregg@bigskyland.com

Email:

## PROPERTY DESCRIPTION / LOCATION:

2

Mark/Lot:

Section:

Township/Block:

STAND OIL TRACTS

Range/Addition:

402 Smelter Ave NE, Great Falls, MT 59404

Street Address:

## ZONING:

C2

Current:

C2

Proposed:

## LAND USE:

Casino Type 1

Current:

Casino Type 1

Proposed:

I (We), the undersigned, understand that the filing fee accompanying this application is not refundable. I (We) further understand that the fee pays for the cost of processing, and the fee does not constitute a payment for approval of the application. I (We) further understand that public hearing notice requirements and associated costs for land development projects are my (our) responsibility. I (We) further understand that other fees may be applicable per City Ordinances. I (We) also attest that the above information is true and correct to the best of my (our) knowledge.

[Signature]

Property Owner's Signature:

2-11-14

Date:

Representative's Signature:

Date:



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## EXHIBIT D - 2012 ZONING DETERMINATION

P. O. Box 5021, 59403-5021



Planning Department

August 20, 2012

Zoning Determination Number: 12-01933

Legal Description of Parcel: Lot 2, Stanoil Tracts

Addressed as: 402 Smelter Avenue Northeast

### ZONING DETERMINATION

The Parcel, for which this zoning determination has been requested, is zoned C-2 General commercial district. The C-2 district is intended to accommodate high-traffic businesses that focus on vehicle traffic. The current land use on the Parcel has been researched using City records, Montana Department of Revenue, Liquor Licensing Division records and information provided by the owners' representative.

Using these sources, it is determined that the existing use upon Parcel include a tavern and a casino. The tavern is a legal conforming land use upon this Parcel within the C-2 zoning district. Per the definition of a tavern an alcoholic beverage license is permitted associated with this use, the definition of a tavern is:

***17.8.120 - General definitions.***

*"Tavern" means a place and/or building, or portion thereof, that is used or is intended for retail sales of alcoholic beverages for on-site consumption and where food consumption, if any, is clearly secondary to the sale of alcoholic beverages. The term includes bars and lounges.*

The current City of Great Falls Land Development Code only permits casinos in certain zoning districts subject to special standards. A casino, type 1 is a legal conforming land use upon this Parcel subject to the special standards and a casino, type 2 is not permitted on this Parcel. City records indicate there was a casino in operation on this Parcel until June 31, 2012, which did not meet the special standards of the Land Development Code (17.20.6.140 or 17.20.6.150) and existed prior to the adoption of the Land Development Code in October, 2005. As such, the casino business is determined to be a legal nonconforming land use and may continue as a legal nonconforming use as long as it remains otherwise lawful and is reestablished within 24 months of the June 31, 2012 date.

As the provisions of Title 17, Chapter 64 "Nonconformities" of the Land Development Code contains no provisions precluding or limiting the sale or transfer of controlling interest in a legal nonconforming use, ownership of the herein above mentioned casino business may be sold or transferred. In addition, the Land Development Code contains no provisions precluding or limiting

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the transfer of an alcoholic beverage license, therefore, an alcoholic beverage license maybe transferred to the subject Parcel, subject to compliance with State regulations.


Further, it is advised this zoning determination does not imply that the Parcel is in compliance with all applicable City building codes, standards or requirements. If remodeling or reconstruction occurs on the Parcel it is subject to building permits and design review through the Planning and Community Development Department and may have to come into conformance with City Code.

For reference, the complete Land Development Code is available at the following website.

[http://www.municode.com/library/MT/Great\\_Falls](http://www.municode.com/library/MT/Great_Falls)

If you have any questions please feel free to contact this office at (406) 455-8415.

Respectfully submitted



Jana Cooper, RLA  
Planner II

CC:

PROPERTY FILE,

G:\City Planning\0\_Planning Projects\0\_Zoning Determinations\402 Smelter Ave NE

# EXHIBIT E - SITE PLAN

## OWNER/DEVELOPER

Deery and Mc Pringle

## LEGAL DESCRIPTION

LOT 2 BRANCO TRACTS

## BUILDING AREA

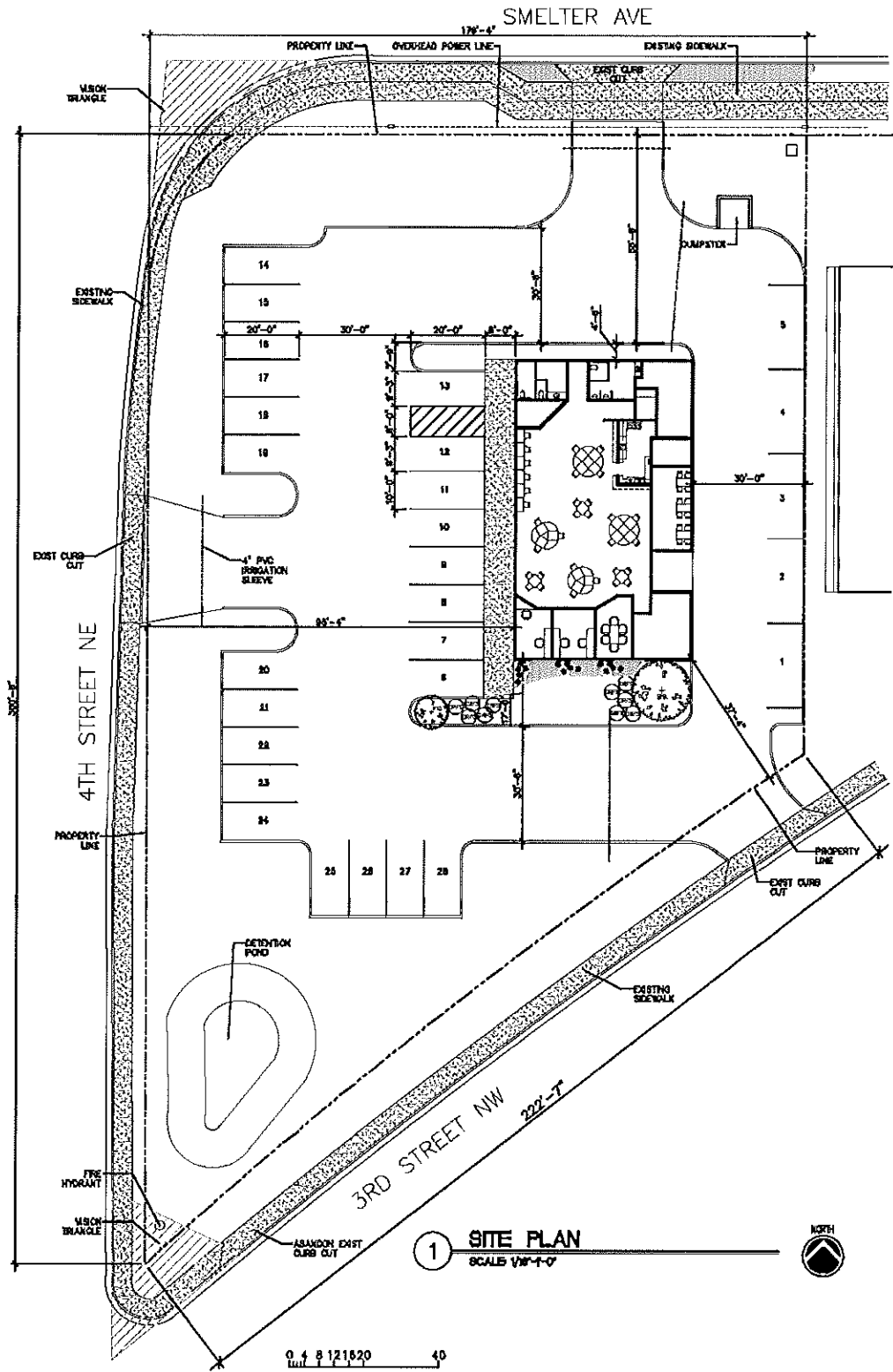
3840 SF

## PARKING

Number of Spaces	44
Employees per Shift	8
Required Parking-1 Per 2.5	17.6
Required Employee Parking-1 Per Shift	8
Maximum Required Parking	25.6
Maximum Parking Allowed	38
Total Provided	28

## NOTES

THE GREATEST EXISTING SLOPE IS 8% AT THE NORTH END OF THE SITE. THIS CONDITION EXTENDS TO APPROXIMATELY 40 FT SOUTH FROM THE EDGE OF SIDEWALK. THE SITE HAS A GENTLE SLOPE FROM NE TO SW.



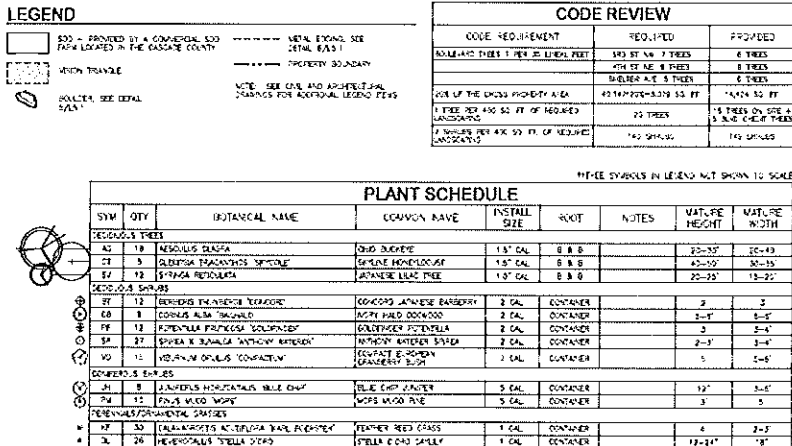
1 SITE PLAN  
SCALE 1/8"=1'-0"



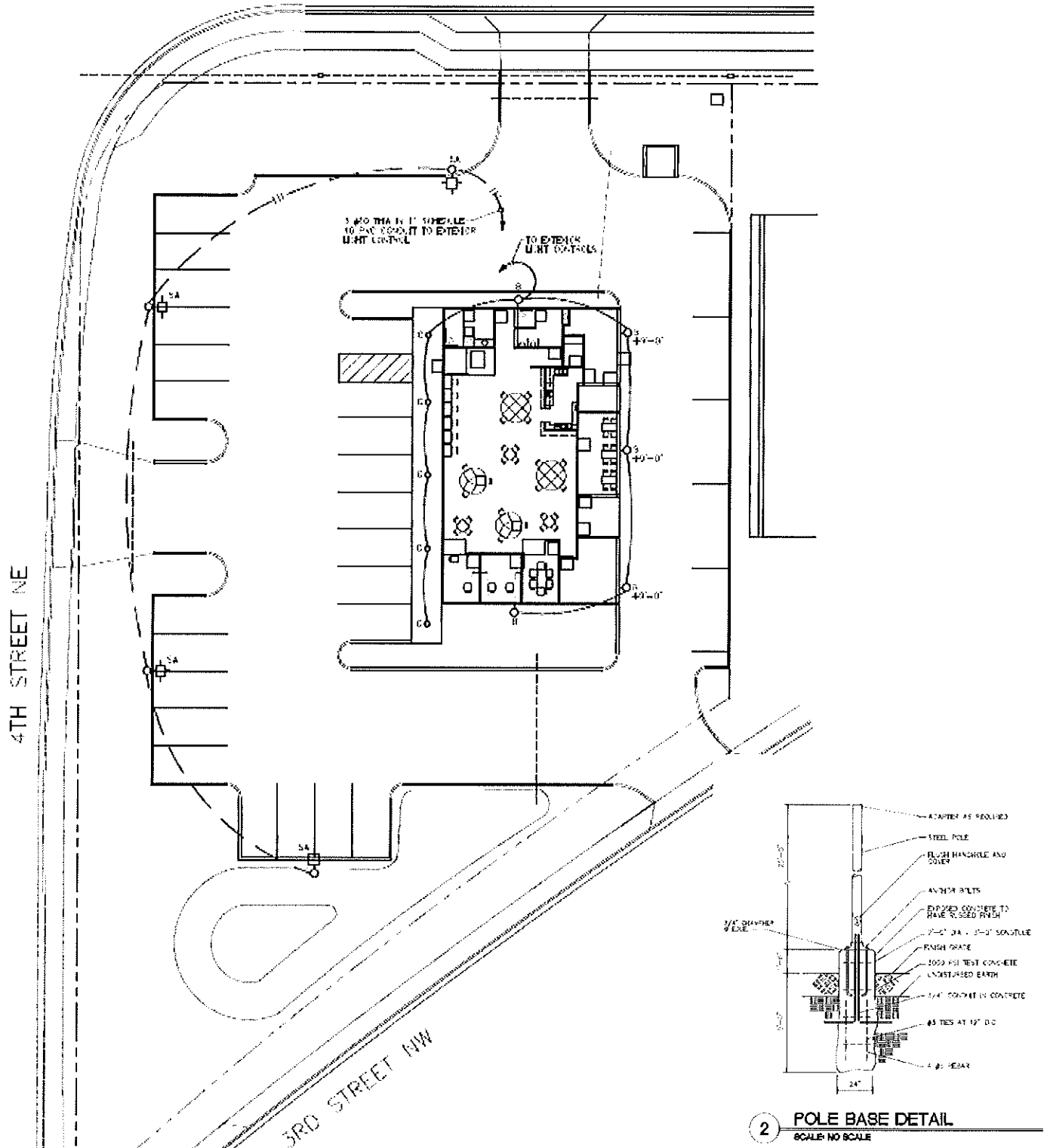
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# EXHIBIT G - LIGHTING PLAN

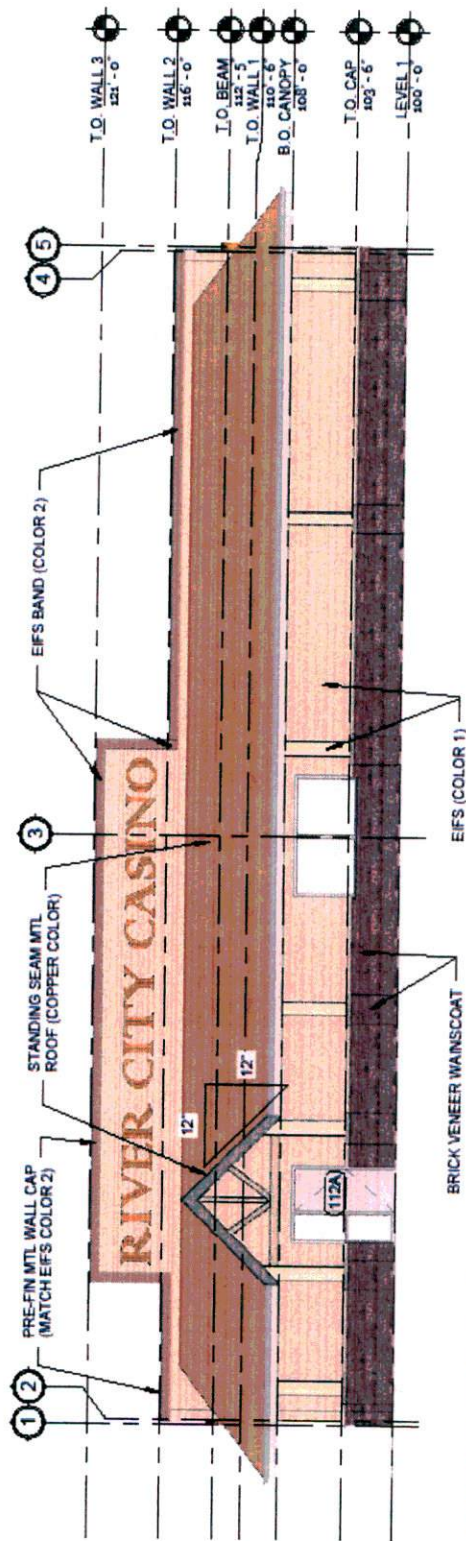


LIGHT FIXTURE SCHEDULE							
LETTER DESIG.	FIXTURE		LOCATION	TYPE	LAMP		NOTES
	MANUFACTURER	CATALOG NO.			TYPE	NO.	
A	CANDCO	EFC-1-S-54LE-3753-N	POLE	ARM	52W LED	-	(1)
B	NITE BRITES	ATV 24KLU MCB	HALL	SURFACE	24W LED	-	
C	LIGHTING SCIENCE	CLPS WVA AH	SCOFFIT	SURFACE	15W LED	-	

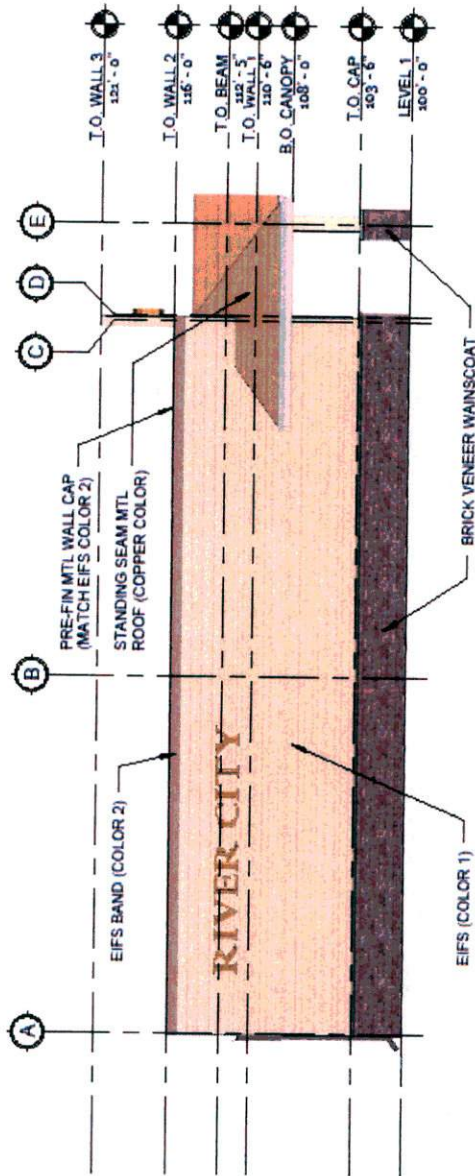
(1) MOUNT FIXTURE ON A CANDCO SRS-25-50 25'-0" ROUND STEEL POLE WITH BOLT COVER.

# EXHIBIT H - NORTH & WEST ELEVATION

3/15/2014 8:45 AM



1 WEST EXTERIOR ELEVATION  
1/8" = 1'-0"



1 NORTH EXTERIOR ELEVATION  
1/8" = 1'-0"



## RESOLUTION 10069

### A RESOLUTION TO APPROVE A CONDITIONAL USE PERMIT TO ALLOW THE RE-ESTABLISHMENT AND EXPANSION OF A NON-CONFORMING TYPE-1 CASINO

\* \* \* \* \*

WHEREAS, MRO, Inc, is the owner of record of the property addressed as 1905 4<sup>th</sup> St NE and legally described as Lot 2, Stan Oil Tracts, Section 1, Township 20 North, Range 3 East, PMM, Cascade County, Montana; and,

WHEREAS, said property is presently zoned C-2 General Commercial District wherein a Type-1 Casino is generally permitted; and,

WHEREAS, The River City Casino previously existed as a non-conforming Type-1 Casino until its demolition in June 2012; and,

WHEREAS, The Official City Code of the City of Great Falls allows the City Commission to approve the re-establishment and expansion of a non-conforming use upon the processing and approval of a Conditional Use Permit (CUO); and,

WHEREAS, the owner has applied for a Conditional Use Permit to allow a non-conforming Type-1 Casino be re-established and expanded in a new building, addressed as 1905 4<sup>th</sup> St NE, subject to the following conditions:

- 1. Stormwater Management.** A Stormwater Management Plan shall be developed to City standards and shall be submitted to the City Public Works Department for review and approval prior to issuance of building permits for the Site.
- 2. Substantial Compliance.** Final build-out of the project shall be in substantial compliance with the final approved site plan documents, drawings and renderings as depicted in this staff report.

**3. Land Use and Zoning.** Except as provided herein, development of the property shall be consistent with the allowed uses and development standards of the C-2 General Commercial district designation.

**4. General Code Compliance.** The proposed project shall be developed consistent with the conditions in this report, and all codes and ordinances of the City of Great Falls, the State of Montana, and all other applicable regulatory agencies.

**5. Subsequent modifications and additions.** If after establishment of a conditional use, the owner proposes to expand or modify the use, buildings, and/or structures, the Director of the Planning Department shall determine in writing if such proposed change would alter the finding for one or more review criteria. If such proposed changes would alter a finding, the proposal shall be submitted for review as a new conditional use application. If such proposed change would not alter a finding, the owner shall obtain all other permits as may be required.

**6. Landscape Screening.** Applicant shall provide at least the minimum required special landscaping as required in City code 17.20.6.140 (F).

**7. Site Signage.** Site signage shall comply with the City Sign Code as well as the following special conditions:

- Signs facing Smelter Ave NE shall not provide any “casino” designation.
- LED reader board type signs shall not be allowed on-site.

**8. Exterior lighting.** All exterior lighting shall be fully shielded, down-cast type lights so as to reduce any light spill onto adjoining properties.

**9. Exterior HVAC Equipment.** All exterior HVAC equipment shall be screened

**10. Food Service.** If food preparation is conducted on the subject property, an appropriate grease interceptor shall be provided per City standard and installed according to the appropriate plumbing/building codes.

and,

WHEREAS, the Great Falls Zoning Commission conducted a public hearing on April 8, 2014, to consider said Conditional Use Permit application, and at the conclusion of said hearing passed a motion recommending a Conditional Use Permit be granted to allow the re-establishment and expansion of a Type-1 Casino on the subject property.

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

That a Conditional Use Permit be granted for the property addressed as 1905 4<sup>th</sup> St NE and legally described as Lot 2, Stan Oil Tracts, Great Falls, Section 1, Township 20 North, Range 3 East, PMM, Cascade County, Montana, to allow the re-establishment and expansion of a Type-1 Casino, contingent on the owner complying with the said conditions; and,

BE IT FURTHER RESOLVED BY SAID CITY COMMISSION that this Resolution shall become effective immediately upon its passage and approval.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana,  
on June 3, 2014.

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Michael J. Winters, 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