

**MINUTES OF THE MEETING
OF THE
GREAT FALLS PLANNING ADVISORY BOARD/ZONING COMMISSION
November 13, 2012**

CALL TO ORDER

The regular meeting of the Great Falls Planning Advisory Board/Zoning Commission was called to order by Chair Bill Roberts at 2:59 p.m. in the Commission Chambers of the Civic Center.

ROLL CALL & ATTENDANCE

Planning Board Members present:

Mr. Bill Roberts
Mr. Marty Byrnes
Mr. Scot Davis
Dr. Heidi Pasek
Ms. Cheryl Patton
Mr. Wyman Taylor
Mr. Thor Swensson
Mr. Nate Weisenburger

Planning Board Members absent:

None

Planning Staff Members present:

Mr. Mike Haynes, AICP, Planning & Community Development Director
Ms. Jana Cooper, Planner II
Ms. Galen Amy, Planner
Mr. Andrew Finch, Senior Transportation Planner
Ms. Phyllis Tryon, Sr. Administrative Assistant

Others present:

Ms. Patty Cadwell, Neighborhood Councils Coordinator

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

MINUTES

Chair Roberts asked if there were any changes to be made to the minutes of the public hearing and regular meeting held on October 23, 2012. Seeing none, the minutes were approved as submitted.

Action Minutes of the Planning Advisory Board/Zoning Commission. Please refer to the audio/video recording of this meeting for additional detail.

BOARD ACTIONS REQUIRING PUBLIC HEARING

Calumet Montana Refining & General Distributing Co. Rezoning/Amended Plat

Jana Cooper, Planner II, reviewed the staff report for the application from both Calumet Montana Refining and General Distributing Co. for rezoning, and an amended plat for Calumet. Ms. Cooper entered the staff report into the record. She stated there were actually two applications combined into this one report because they are inter-related. Calumet Montana Refining is requesting rezoning property generally located south of 3rd St NW/Smelter Ave NE and north and south of 17th Avenue NE from C-2 General Commercial and I-1 Light Industrial to I-2 Heavy Industrial district, as well as requesting an amended plat of their property which adjusts and aggregates nine lots into seven lots. General Distributing Company (Gendco) is requesting rezoning their property located in the same general area at 430 17th Avenue NE from I-1 Light Industrial to I-2 Heavy Industrial district, as their existing operations are heavy industrial in nature.

Ms. Cooper gave some history on the subject properties. The Westgate Mall is located on the Calumet subject property, was established in the 1960s and has been in decline for a number of years. Montana Refining Company purchased the property in November 2011, and MRC subsequently sold to Calumet Montana Refining. Calumet is requesting rezoning to utilize the building for bulk dry material storage and warehousing.

If the rezoning is granted, Calumet will be able to fully utilize the subject property for their daily operations. They do not have immediate plans for expansion at this time, but possible expansion of bulk fuel storage or crude oil storage and any other activities related to petroleum refining may occur in the future.

The northerly ±300-500 feet adjacent to 3rd Street NW and Smelter Avenue NE will retain C-2 zoning. Calumet is reviewing options for future highway commercial development that would accommodate retail, restaurants, and/or other commercial uses commonly found along C-2 zoned corridors. The existing Pizza Hut and Dimitri's restaurants along 3rd Street NW are not part of this application. Calumet has committed to constructing a minimum 8-foot high wall with a minimum 15-foot wide planted landscape buffer where industrial uses abut non-industrial uses on the subject property to help mitigate some of the impacts of future industrial development.

Calumet is also requesting property at 1620 6th Street NE be rezoned to I-2 Heavy Industrial so that it is contiguous to I-2 zoning. Lastly, the property at 610 Smelter Ave NE contains a maintenance warehouse, which is a legal non-conforming use. Rezoning this property to I-2 Heavy Industrial will bring the property into conformance with the current Land Development Code.

Gendco, which is also requesting rezoning their property, employs a manufacturing process whereby liquids are converted into gaseous form and filled into high pressure cylinders, which is considered hazardous materials by the Department of Transportation. Previously this property was zoned 2nd Industrial, which permitted this use on the subject property. Existing activities on the subject property are considered legal non-conforming, and a change or expansion is permitted but must go through City approval. Gendco does not have immediate plans for expansion of their operations at this location.

Ms. Cooper stated that the oil refinery, now Calumet Montana Refining, has been in existence at its current location for over 90 years. At the time it was built, there was no development surrounding the site.

Calumet presented information on the rezoning request to Neighborhood Council 3 on October 4, 2012. Comments from the Council included concerns about expanding refining operations related to air quality, visual impacts and lack of a development plan for the subject property. The Council did not vote for or against support of the project.

Ms. Cooper stated that the City's Public Works Department is requesting a storm drain easement be provided in order to accommodate a new storm main through the property. The roadways within the property will be private roadways maintained by Calumet. Calumet will be required to create a property owners association that will be responsible for installation and maintenance of all private facilities. There are no development plans at this time for the subject property; should development occur, it will be subject to review by Public Works for storm water management.

Calumet has committed to provide a public easement and bicycle/pedestrian path through the subject property that will connect to 4th Street NE and the River's Edge Trail. Ms. Cooper noted that non-public buildings built within the existing and proposed refinery site are not subject to permits or review by the City's Building Safety Division. Ms. Cooper stated that Calumet may, in the future, expand bulk fuel or crude oil storage on the site, which could impact the view to the Missouri River. Staff has been working with Calumet to help mitigate adverse impacts and there has been agreement on the majority of the Conditions of Approval, with the exception that Calumet provide a 5-foot wide sidewalk adjacent to the north side of 17th Avenue NE. The Planning Advisory Board can add, remove, or modify any of the Conditions of Approval as part of the approval process.

Ms. Cooper reviewed the 11 Conditions of Approval as listed in the staff report. She noted that one of the conditions is that Calumet will provide an 8-foot continuous decorative wall where industrial uses abut non-industrial uses on the subject property, and also plant a canopy tree for each 35 linear feet of frontage in the 15-foot buffer adjacent to non-industrial uses. Ms. Cooper concluded her review of the staff report and offered to answer any questions from the Board.

PETITIONER'S PRESENTATION

Dexter Busby, 260 Dune Drive, stated that he works for Calumet Montana Refining. He noted an early photo of the oil refinery, and that there was no development at that time surrounding the property. He said the only disagreement Calumet has with the Conditions of Approval is for installation of a sidewalk adjacent to the north side of 17th Avenue NE. He said the sidewalk would be in an industrial area and would not provide the public with any better access, particularly since there will already be the addition of the bicycle/pedestrian path connecting to the River's Edge Trail.

Mr. Byrnes stated he would like more information from the architect on the screening wall. Tony Houtz, CTA Architects and Engineers, said the plans are for a minimum 8-foot wall with no gaps, with potential planters integrated into the wall itself, as well as a possible sign monument on the end to indicate the River's Edge Trail connection. There may possibly be lighting on the wall, but there will be street and parking lot lighting on site.

Glenn Bliss, 1128 Valley View Drive, stated he is president of General Distributing Company, and that when his father bought the subject Gendco property in the early 1980s, it was zoned Heavy Industrial. He said the business has not substantially changed and remains a manufacturing operation. He said the business has grown and that Gendco is requesting to be rezoned into the proper classification to reflect the business operations.

COMMENTS BY PROPONENTS

John Juras, 220 Woodland Estates, stated that he works for TD&H Engineering and has been assisting Calumet with engineering for the past five years. He said Calumet is a high quality company. He said TD&H has been working on the storm drain easement and utilities needed for the subject property.

Stuart Boylan, 10 Bend View Lane, representing Pacific Steel & Recycling, said that both Calumet Montana Refining and General Distributing Company are fine neighbors and good for the community, and offer good jobs and services. He said Pacific Steel & Recycling fully supports the zoning and lot changes for this application.

John Harding, 3601 Huckleberry Drive, said the subject property used to be a wonderful place to shop but has become dilapidated over the past 30 years. He said given the options for this property, I-2 Heavy Industrial zoning makes perfect sense. He said staff has worked very well with the applicant to develop a good plan which will be an improvement for the community. He said the Gendco property should have been I-2 zoning in the 2005 rezoning effort, and he urged the Board to vote in favor of this project.

Jeremiah Johnson, 1900 Whispering Ridge Drive, representing the Great Falls Development Authority, said that GFDA strongly supports the requested rezoning for the subject property. He said both companies provide a great deal of economic support for our community.

Gene Thayer, 220 40th Avenue South, Chairman of the Great Falls Development Authority, urged the Board to support this project. He requested that the Board drop the sidewalk requirement for this project.

Mark Macek, 801 Fox Drive, urged the Board to support this project. He said the ability to expand a primary jobs supplier in the community is extremely important at this time. He said that Calumet is a good corporate citizen for Great Falls and they are providing a buffer for the commercial zoned lots, which will provide significant improvement to an area that has been languishing for the past 30 years.

COMMENTS BY OPPONENTS

Kathleen Gessaman, 1006 36th Avenue NE, said she lives about one mile north of the refinery, and there is a significant sulfur smell carried on the wind to her neighborhood. She said she is wondering about future development of the refinery as allowed in I-2 Heavy Industrial zoning. She said she is very sensitive to the smells from the refinery and that the smells affect different people in different ways. She stated that I-1 zoning would work for this current request from the refinery, and that I-2 zoning leaves the neighborhood out of the loop for input if the refinery

decides to add more storage tanks or add another processing site. She said a well-run refinery should not smell like this one does and she requested I-1 zoning instead of I-2 zoning.

Stuart Lewin, 615 3rd Avenue North, said he was involved in the creation of the Missouri River Urban Corridor Plan and that the goal was to move industry further away from the river corridor. He said the impact on the river from the refinery continues to get worse, and allowing an expansion is not wise. He said the river is our most important asset and provides our drinking water. He commended the refinery for planning to construct a bicycle/pedestrian path to the river, but suggested that some of the property be converted to park land and open space. He said there is a cost to enforcement and expressed concern over the location of Gendco operations right next to the refinery and the possibility of a disastrous explosion. He said the Planning Advisory Board has an opportunity to maintain a direction to protect the river and it is not worth the trade-offs to approve this application. On behalf of the Missouri River Citizens and himself personally, he strongly requested the application be denied, or that more park land and open space be brought into this project, as well as additional parking area for citizens using West Bank Park. He suggested that rather than a minimal plan to mitigate effects on the river, there should be a best plan.

Hilary Ransdell, 2304 2nd Avenue South, said that the planned connectivity to the river was great, but that the wall which will screen the industry from the roadway will also screen the river from view. She asked that the Board consider the river, as well as the concerns and suggestions brought up by Stuart Lewin, especially that we should come up with a best plan rather than a minimum plan. She said she would like to know why the City has such a plan as the Missouri River Urban Corridor Plan when at every turn we abdicate it. She said the river is our jewel that draws people here and supports this area and we need to take it seriously.

Jody Mintsiveris, 2606 3rd Avenue South, stated she and her husband own Dimitri's Restaurant in Great Falls and she was concerned about the impact on her business, the time frame for constructing the wall, whether truck traffic would increase, whether property values would increase or decrease, and the future of the undeveloped property next to their property. She wondered about the storage of chemicals and the safety of the storage and asked that the Board think about these matters further.

Ron Gessaman, 1006 36th Avenue NE, stated he was opposed to I-2 zoning for the subject property. He said that future possibilities could involve a coker for the refinery, which he would be opposed to, but unable to comment on, if I-2 zoning were in place for the subject property. He said that since there are no proposed development plans with this application, it is not possible to assess impacts. He said he approved an I-1 zoning designation for the subject property. He said the DEQ in Helena has a document on their website which lists 31 areas of the refinery facility which need remedial action. There were reported gasoline product spills in 1995 and 2001 and document fines this year for air quality violations and for storing hazardous waste. He reiterated that I-1 zoning is adequate for this application.

Michael Witsoe, 510 11th Street South, complained about the odor of the refinery and stated the refinery is putting out pollution. He expressed concern about spills on the river and the possibility of a fire without the capability of putting it out. He said he was opposed to this application.

PUBLIC COMMENT

Mr. Bliss stated that the Gendco property was originally zoned I-2 Heavy Industrial and they would like that zoning to be re-established. He said it would cost \$250,000 to move the business location, and that they are inspected annually by the Fire Department and pass their inspection with flying colors. He is in favor of this application.

Dana Leach, Vice President of Montana Refining Company, 455 U.S. Highway 89, said he wanted to clarify that the SO₂ emissions per barrel of crude charge for the refinery is less than any other refinery in Montana. He also encouraged the Board to look at the DEQ website to check on the water quality at the lower end of the refinery, and stated that the degradation of water quality as some represented at this hearing is not happening.

Keith Nelson, Western States Insurance, 600 Smelter Avenue NE, said he supported General Distributing's application, but that the building leased by Western States Insurance will be vacant due to this proposed change.

PLANNING ADVISORY BOARD DISCUSSION & ACTION

Chair Roberts asked if there was any further discussion. Mr. Byrnes stated he was recusing himself from the vote on this application. Ms. Patton asked if the subject property was included in the Missouri River Urban Corridor Plan footprint. Mr. Haynes replied affirmatively that it was in the study area for that plan.

Mr. Weisenburger asked staff if the sidewalk noted under Condition 6 of the Conditions of Approval was a negotiable condition. Mr. Haynes noted that the Board has the authority to delete that condition as they see fit. Mr. Finch stated that the condition is a reminder to the applicant that a sidewalk is required on both sides of public streets. He stated this is a standard condition and that staff is treating it as a code requirement.

MOTION: Recommendation I: That the Planning Advisory Board recommend the City Commission approve the Amended Plat of the subject property, legally described in Exhibit L of the staff report, and the accompanying Findings of Fact, subject to the Zoning Commission adopting Recommendation II (below) and the following Conditions of Approval being fulfilled by the Owner, with Condition 6 being deleted.

Conditions of Approval:

1. The Amended Plat of Lots 1-3 of the Amended Plat of Lot 1, Block 1, Third Supplement to Riverview Tracts and Tracts 1-A and 2 of the Amended Plat of Tracts 1-A, 2, 3 and 4, Riverview Tracts and Tract 5-A of the Amended Plat of Tracts 5, 6, 7, 8, and 9, Riverview Tracts, and Tract 3 of the Amended Plat of the Tracts 1-A, 2, 3 and 4, Riverview Tracts, and Lot 1 Block 1, of the Amended Plat of Lot 1, Block 1, of the Amended Plat of Block 1, Fourth Supplement to Riverview Tracts, and Tracts 10-13 of the Riverview Tracts Addition, a Tract of Land Located in Government Lots 3 & 4 of Section 1, and Government Lot 1 of Section 2, T20N, R3E, P.M.M., City of Great Falls Cascade County Montana, herein referred to as Amended Plat, shall incorporate corrections of any errors or omissions noted by staff.

2. Calumet shall provide a continuous decorative wall where an industrial use on Lot 5 of the Amended Plat abuts a non-industrial use, excluding necessary access points, to mitigate any negative impacts to neighboring properties. The wall shall be 8-12 feet tall and be 100% opaque. The wall shall be installed at such time as any new development occurs within any area of the Amended Plat.
3. The subject property shall conform to the Land Development Code 17.44.4 Design Standards for Industrial Buildings, including buffer and screening between uses. Where an industrial use abuts a non-industrial use, a minimum 15-foot landscape buffer shall be provided along the shared property line. In addition, to help mitigate the effects of the subdivision, Calumet shall install and maintain at least one canopy or evergreen tree for each thirty-five (35) lineal feet of frontage in the 15-foot buffer adjacent to non-industrial uses. The landscaping/buffer shall be installed at such time as any new development occurs within any area of the Amended Plat.
4. Calumet shall submit all proposed development plans to the City for applicable code review (including, but not limited to zoning and landscaping) at such time as development occurs within the Amended Plat area.
5. Calumet shall provide a 15-foot wide bicycle and pedestrian easement from Smelter Ave NE to 4th St NE (Exhibit M - Proposed River's Edge Trail Alignment). Calumet shall construct a 10-foot trail on this easement at such time that development occurs within the Amended Plat area.
6. Per the Land Development Code (17.24.130 & 17.32.210), Calumet shall provide a minimum of a 5-foot wide sidewalk adjacent to the north side of 17th Ave NE adjacent to their property in order to provide safe pedestrian movement between the west and east components of the refinery, as well as for general public safety. This sidewalk shall be constructed at such time that development occurs within the Amended Plat area.
7. Calumet shall conform to all EPA, federal, state and local codes related to owning and operating a refinery.
8. Calumet shall provide a storm drain easement across the Amended Plat from Smelter Ave NE to 17th Ave NE. The size and location of said easement shall be approved by Public Works prior to final approval of the Amended Plat. At such time as development occurs on the site, the owner shall provide plans to the City's Public Works Department to determine if a stormwater management plan is necessary. If necessary the applicant shall provide a plan in compliance with the City of Great Falls Storm Design Manual and City standards. The plan will be reviewed and approved by the Public Works Department prior to development of the site.
9. All roadways within the Amended Plat shall be private roadways, maintained by the property owner. Internal, private roadways and associated sidewalks and traffic control shall be approved by the Public Works Department prior to installation and shall include sidewalks where appropriate. Calumet shall create a property owners association, before any lot is sold within the Amended Plat, which is responsible for installation and maintenance of all private roadways, sidewalks and traffic control devices within the area of the Amended Plat.
10. Calumet shall work with Montana Department of Transportation on the number and location of private access driveways from 3rd St NW.
11. Calumet shall be responsible for any damage caused to 6th St NE and 17th Ave NE due to the movement of heavy equipment across these roadways at no cost to the City.

Made by: Ms. Patton
Second: Mr. Swensson

Mr. Roberts asked if this Board can recommend deleting Condition 6, or if that is up to the City Commission. Ms. Patton explained that, as staff indicated, this Board can confirm or deny any of the Conditions of Approval, and it is up to the City Commission to agree or disagree with their recommendation. She clarified that the bicycle/pedestrian path is a separate condition of this application and is not affected by the deletion of Condition 6. Mr. Weisenburger stated that a sidewalk leading into the industrial site of the property would invite the public to potentially walk into harm's way. He was in favor of Ms. Patton's motion. Mr. Taylor stated he was also in agreement.

VOTE: All being in favor, the motion passed.

MOTION: Recommendation II: It is recommended the Zoning Commission recommend the City Commission approve rezoning the property owned by Calumet Montana Refining as described in the staff report from the existing C-2 General Commercial and I-1 Light Industrial to I-2 Heavy Industrial, subject to the Conditions of Approval as previously amended being fulfilled by the Owner.

Made by: Mr. Weisenburger
Second: Dr. Pasek

VOTE: All being in favor, the motion passed.

MOTION: Recommendation III: It is recommended the Zoning Commission recommend the City Commission approve rezoning the property owned by General Distributing Company as described in this staff report from the existing I-1 Light Industrial to I-2 Heavy Industrial.

Made by: Ms. Patton
Second: Mr. Davis

VOTE: All being in favor, the motion passed.

Ms. Cooper advised the applicant of the next procedural steps.

BOARD ACTIONS NOT REQUIRING PUBLIC HEARING

FFY2013 FTA Section 5303 Funding Agreements

Andrew Finch, Senior Transportation Planner, reviewed the staff report for the Federal Fiscal Year 2013 Section 5303 Funding Agreements. Mr. Finch entered the staff report into the record. He explained that the Planning Advisory Board (PAB) takes action on this item on an annual basis. As part of the Unified Planning Work Program, City Planning passes Federal funds to the Great Falls Transit District. The PAB approves and signs agreements between the City and the Montana Department of Transportation, and also between the City and the Great Falls Transit District Board to formalize the requirements that go along with use of those funds.

Mr. Finch offered to answer any questions from the Board. Mr. Byrnes noted a discrepancy in the local matching funds figure (approximately \$15,000) in the staff report as compared to the amount stated in the contract (\$23,850.50). Mr. Finch said that the higher amount stated in the contract is the correct figure.

MOTION: That the Planning Advisory Board approve the FFY2013 Section 5303 Agreements.

Made by: Mr. Weisenburger

Second: Mr. Swensson

VOTE: All being in favor, the motion passed.

COMMUNICATIONS

Selection of Nominating Committee

- For Chair and Vice Chair for 2013

Chair Roberts requested three volunteers to serve on the Nominating Committee for Chair and Vice Chair for 2013. Ms. Patton, Mr. Davis and Dr. Pasek volunteered. The Nominating Committee will submit a report at the next meeting of the Planning Advisory Board.

Upcoming Planning Board Projects

- Conditional Use Permit 1309 4th Avenue N, 2nd Dwelling
- Panda Express Minor Subdivision
- Great Bear Phase II – Preliminary Plat, on hold

Project Status:

- 6th Street NE Closure – on hold by applicant

Meeting/Obligation Calendar, November 9 – November 23, 2012

A copy of the calendar is attached and incorporated herein by reference, and was received without comment.

Petitions & Applications Received

- None

Good & Welfare

The next regularly scheduled meeting of the Planning Advisory Board/Zoning Commission is November 27, 2012.

PUBLIC COMMENT

Mr. Gessaman asked about details on the 6th Street NE closure. Ms. Cooper explained that it is not a vacation but a closure and is on hold by the applicant while the applicant works with the railroad on access.

Mr. Gessaman stated that the timing of this meeting is awful because the public cannot attend unless they are retired. Mr. Swensson stated he took offence to the comment because he does work and still attends these meetings. He stated the meeting is held for the convenience of City

staff. Mr. Davis commented that all the Board members take time away from their jobs to attend meetings. Mr. Byrnes stated as a business owner that his company makes time for employees to serve on boards and attend meetings.

Mr. Witsoe stated he agrees with Mr. Gessaman. He said he didn't believe this was a progressive board looking to the future. Ms. Patton commented that all City advisory committee meetings are held during the work day so that the public is not paying overtime for City staff to attend evening meetings. She also stated that City Commission meetings are held in the evenings so that the public may attend and have the opportunity to give comment.

Mr. Haynes informed the Board that the City Commission approved annexation of AgriTech Park Addition, but remanded the matter of the annexation agreement, zoning and the final plat back to the Planning Advisory Board. The matter will be on the agenda for the PAB on December 11. Due to some concerns of the Interim City Attorney, a zoning designation of Planned Unit Development (PUD) is being recommended. He added that there did not appear to be any agenda items for a meeting on November 27.

ADJOURNMENT

There being no further comments, the meeting was adjourned by Chair Roberts at 4:42 p.m.

CHAIRMAN

SECRETARY