

**MINUTES OF THE MEETING
OF THE
GREAT FALLS PLANNING ADVISORY BOARD/ZONING COMMISSION
April 8, 2014**

CALL TO ORDER

The regular meeting of the Great Falls Planning Advisory Board/Zoning Commission was called to order by Chair Nate Weisenburger at 3:00 p.m. in the Commission Chambers of the Civic Center.

ROLL CALL & ATTENDANCE

Planning Board Members present:

Mr. Nate Weisenburger, Chair
Mr. Scot Davis, Vice Chair
Ms. Dana Ball
Mr. Anthony Houtz
Ms. Cheryl Patton
Ms. Sophia Sparklin
Mr. Mark Striepe
Mr. Wyman Taylor

Planning Board Members absent:

Dr. Heidi Pasek

Planning Staff Members present:

Mr. Craig Raymond, CBO, Director P&CD
Mr. Lee Nellis, FAICP
Mr. Gregg Benson, Planner I
Ms. Phyllis Tryon, Sr. Administrative Assistant

Other Staff present:

Mr. Dave Dobbs, City Engineer

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

MINUTES

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

Mr. Weisenburger asked if there were any comments or corrections to the minutes of the regular meeting held on March 25, 2014. Seeing none, the minutes were approved as submitted.

**BOARD ACTIONS REQUIRING PUBLIC HEARING
315 21st Avenue South – Annexation / Zoning**

Gregg Benson, Planner I, presented the staff report for 315 21st Avenue South for Howard and Rosemary Cary, applicants. Mr. Benson entered the staff report into the minutes. The applicants are requesting annexation of ±1.26 acres abutting 21st Avenue South. The property is currently zoned County Urban Residential and will become R-2 Single-family medium density district under City zoning. The owner is making the request in order to connect the existing single-family home to the City sewer system with eventual connection to the City water system. The subject property is located in the Upper Lower River Road (ULRR) Water and Sewer District (WSD). If this request is approved, the subject property will become part of Service District #3 and the applicant will be required to pay their proportionate share of the applicable Improvement Fee to the District in the amount of \$6,180.56.

The applicant has already paid to extend the 8-inch City sewer main in 21st Avenue South, and connected a private service line. As a condition of annexation, the owner will be required to extend the 8-inch City water main at such time that their existing well and cistern fail. Any future utility extension and connection is subject to review by the City Public Works Department.

PETITIONER'S PRESENTATION

The Petitioner did not wish to speak.

PROPOSERS

There were no proposers.

OPPOSERS

There were no opposers.

PUBLIC COMMENT

There was no public comment.

PETITIONER'S CLOSING

The Petitioner did not wish to close.

PLANNING ADVISORY BOARD ACTION

MOTION: The Planning Advisory Board recommends the City Commission approve annexation of the subject property, legally described as Lot 4, Grandview Tracts, Section 13, Township 20 North, Range 3 East, P.M.M., Cascade County, MT, containing ±1.26 acres, subject to the Conditions of Approval being fulfilled by the applicant.

Conditions of Approval:

1. **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.
2. **Subsequent modifications and additions.** If 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 development application. If such proposed change would not alter a finding, the owner shall obtain all other permits as may be required.
3. **Fees.** All applicable fees owed as a condition of the annexation approval shall be paid upon annexation of the subject property, including the Upper Lower River Road Water Sewer District service fee.
4. **Annexation Agreement.** An Annexation Agreement shall be prepared containing the terms and conditions for annexation of 315 21st Avenue South including, but not limited to, agreement by applicant to:
 - a) Pay for the extension of the public water main and private service line at such time that the existing well and cistern fail.
 - b) At such time that said water main improvements are made, the final engineering drawings and specifications for public improvements for the subject property shall be submitted to the City Public Works Department for review and approval.
 - c) Pay all applicable standard utility fees associated with an annexed property.
 - d) Indemnify the City for any damages attributable to adverse soil or groundwater conditions.
 - e) Escrow of funds for the eventual improvement on 21st Avenue South.
 - f) Realign the driveway so it is solely located on Lot 4.
 - g) Construct the driveway in accordance with IFC 2012 Section 503.
 - h) Take necessary measures to preclude erosion along the adjacent slope and sedimentation onto the City street.

Made by: Mr. Davis
Second: Mr. Striepe

VOTE: All being in favor, the motion passed.

MOTION: The Zoning Commission recommends the City Commission approve rezoning of the subject property, legally described as Lot 4, Grandview Tracts, Section 13, Township 20 North, Range 3 East, P.M.M., Cascade County, MT, from the existing County UR Urban Residential district to City R-2 Single-family medium density district, subject to the Planning Advisory Board adopting Recommendation I and subject to the Conditions of Approval being fulfilled by the Applicant.

Made by: Ms. Sparklin
Second: Mr. Taylor

VOTE: All being in favor, the motion passed.

River City Casino – Conditional Use Permit

Mr. Benson presented the staff report for an application for a Conditional Use Permit (CUP) at 1905 4th Street Northeast for River City Casino. Mr. Benson entered the staff report into the minutes. In June 2012, a building at the location was demolished which housed Burgermaster Restaurant and also a casino. The applicant, MRO, Inc., has 2 years from the demolition date to re-establish that use. The subject property is zoned C-2 General Commercial, and a casino is an allowed use in that zoning district. The previous use was legal, non-conforming and a Conditional Use Permit is required to re-establish a casino at this location.

Mr. Benson reviewed details of the proposed project. City ordinance now requires 600 feet from door to door between a worship facility and a casino, and this casino will be 560 feet from Corpus Christi Catholic Church. Mr. Benson reviewed the Conditions of Approval as listed in the staff report. He answered questions from the Board and clarified how the 560-foot distance is measured from Corpus Christi Catholic Church to the casino.

PETITIONER'S PRESENTATION

Gregg Smith, 104 2nd Street South, presented handouts to the Board which are incorporated as part of the minutes. Mr. Smith said that State law regarding the 600-foot rule pertains to measurement on the same street and from main door to main door. In the early 2000s, the City of Great Falls adopted a more stringent ordinance than was previously in place, which caused the subject property use to become legal nonconforming. The previous owner has told Mr. Smith that in the 20 or so years he owned the property, he had no complaints from the church or problems with this use of the subject property.

Mr. Smith said there is a bank between the subject property and the church, and the building will be largely shielded from the church's view. He said that as owners, they could have kept the former building and continued the use of the property without the CUP requirement, but instead chose to develop the property. There will be no flashing neon signs; signage will instead be low key, and they intend to have almost twice as much landscaping as City code requires. He said this is a commercial area, and while they respect the church's position, the proposed project will have minimal effect on the church.

PROPOSERS

There were no proposers.

OPPOSERS

Richard Calsetta, #56 32nd Avenue NE, said he is the official delegate to Neighborhood Council #3. The Council heard from the applicant at a Council meeting last Thursday. He said there were comments from neighbors that they did not want another casino in the area, as there are four or five within a mile of this proposed project. As of that meeting, they had not heard from a church representative from Corpus Christi Catholic Church. The Council voted to withhold their decision on this project until they had heard from the church.

Kathleen Gessaman, 1006 36th Avenue NE, said she is a member of Neighborhood Council #3 and Corpus Christi Catholic Church, but was speaking on her own behalf at this meeting. She said the landscaping proposed for this project is great, but about half of the church parish

comes up the street on 4th Street NE to attend church, and a casino at this proposed location is not a welcome sight. She said JC Park is also up the street, and with all the children in the area, this is not a good location for a bar/casino. She would like Mr. Smith to sell the property to the City so the City can straighten out 4th Street NE.

Darren Eultgen, Chancellor of the Diocese of Great Falls/Billings, 121 23rd Street South, said he had spoken with the pastor of Corpus Christi Catholic Church and the bishop, and their concerns were whether we needed another casino in this neighborhood, not only with traffic for Saturday and Sunday mass, but also with many youth programs going on. He said they have objections to this project.

PETITIONER'S CLOSING

Mr. Smith asked the Board to weigh the conduct of patrons at the proposed casino. He said patrons are typically sober adults which engage in legal activities. He did not think there have been any complaints about this location in the last 20 or 30 years. He said he understands the concerns of the neighborhood and church, but the State Legislature adopts the public morality and has determined this is a legal activity. He talked about private property rights and zoning restrictions, and said they will be good neighbors. He asked the Board to recommend approval of the Conditional Use Permit to the City Commission.

ZONING COMMISSION ACTION

Ms. Ball recused herself from discussion and voting on this application. Chair Weisenburger called for Commission discussion. Ms. Patton asked Mr. Smith about whether the large billboard sign is still at this location. Mr. Smith said it is now gone. Ms. Sparklin asked for clarification about door to door or property line to property line distance requirements and which applies. Mr. Raymond said he believes the property line distance applies. Mr. Striepe asked how the nonconforming use came about and whether it was due to a zoning change. Mr. Raymond said it occurred due to the distance to the church. This type of use is generally allowed in the C-2 zoning district. The prior building was legal nonconforming also. Mr. Smith said that in the early 2000s, the City changed the zoning code, which created the nonconforming use.

Chair Weisenburger asked for clarification on street access. Jim Paige, 15 5th Street South, said there are three access points for this project. Chair Weisenburger asked whether the landscaping would interfere with safe access onto 3rd Street NW. Mr. Paige said the landscaping cannot obstruct the view and that has been addressed.

Mr. Taylor said he believed the casino, or a liquor license, was there before the church was there. He asked if they would have needed a Conditional Use Permit when the church was built. Mr. Raymond said they would not. Mr. Taylor asked whether a Conditional Use Permit would be required when a property with a liquor license sells if a church has moved into that area. Mr. Nellis said that, nationally, whatever nonconforming rights have been established remain with the land and not with people. Ownership is for all practical purposes irrelevant, and what is relevant is the existence of the prior building and the fact that the period for abandonment had not expired before they filed the new application.

Mr. Taylor asked if you own and liquor license and close a bar, whether you have a certain amount of time to use that license. Mr. Raymond said this issue is about land use, not liquor licenses, which are under State jurisdiction. This application is about the casino and its proximity

to the church. Mr. Davis said this application is within the two years conformance for rebuilding. Mr. Raymond said he determined this is a vested application. There was no further discussion.

MOTION: The Zoning Commission recommends the City Commission approve the Conditional Use Permit for a Casino, type I, to be established at the property legally described as Lot 2, Stan Oil Tracts, Great Falls Section 1, T20N, R3E, P.M.M., Cascade County, Montana, subject to the following Conditions of Approval being fulfilled by the applicant and based on the Findings of Fact.

Conditions of Approval:

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 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.

Made by: Ms. Patton
Second: Mr. Davis

VOTE: Ms. Ball recused herself from the vote. All others being in favor, the motion passed.

COMMUNICATIONS

Next Meeting Agenda – April 22, 2014

- Hilton Garden Inn – rezone and vacation of right-of-way
- NeighborWorks – minor subdivision and rezone request

Mr. Raymond said eight projects are currently being scheduled for the Design Review Board for April, and staff is scheduling others into May.

Upcoming Planning Board Projects

- East Great Falls Retail Center

Mr. Raymond said the name of the business has not yet been disclosed.

Project Status:

Stone Meadows PUD Rezone – approved at City Commission Public Hearing April 1, 2014

Petitions and Applications Received:

- None

PUBLIC COMMENT

Richard Calsetta said he does not understand the Conditional Use permitting process. Speaking as a citizen, he said if the law says a casino cannot be within 600 feet of a church, how can we move forward. He asked for clarification as to how this proceeds.

Mr. Raymond said City Code allows for the Planning Advisory Board/Zoning Commission and the City Commission to consider such applications through a Conditional Use Permit process on a case by case basis. He said the City Commission will hold a public hearing on the matter.

Mr. Calsetta again said he did not understand this process if the law is cut and dried. Mr. Raymond said it is not cut and dried, and read Title 17.64.020, Nonconforming Uses, Section B. Mr. Calsetta read MCA 16-3-306, Proximity to churches and schools, restricted (1). Mr. Raymond said that is a State licensing matter and is not under City jurisdiction.

ADJOURNMENT

There being no further business, Mr. Weisenburger adjourned the meeting at 4:07 p.m.

CHAIRMAN

SECRETARY