# PLANNING ADVISORY BOARD ZONING COMMISSION

#### **APRIL 8, 2014**

#### Case Number

CUP2014-1

#### Applicant

Gregory Smith

#### **Owner**

MRO, Inc.

#### **Property Location**

1905 4th Street Northeast

#### Parcel ID Number

1489800

#### Requested Action

#### **Conditional Use Permit**

Request for a Conditional Use Permit for a Casino, Type 1

#### Neighborhood Council

Neighborhood Council #3

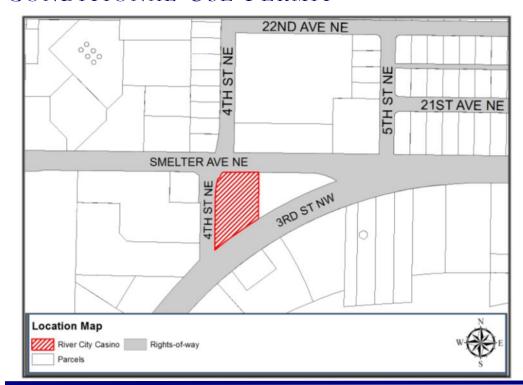
#### Recommendation

Approval of the request with Conditions

#### Project Planner

Gregg Benson, Planner1

## 1905 4TH STREET NORTHEAST-CONDITIONAL USE PERMIT



#### **Project Description**

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. 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, landscap-

ing 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 a casino at this location.

- Legal description of subject property: Lot 2, Stan Oil Tracts, Great Falls
- Total area:  $\pm 1.4$  acres or 40,590 sq ft
- Property zoning: C-2 General Commercial
- Proposed use: Casino, Type 1

#### **Agency Comment**

Representatives from the City's Public Works and Fire Departments have been involved in the review process for this application. All comments made by the above parties have been addressed by the applicant or in the conditions of this report.

#### Subject Property Conditions

**Existing Use:** In June 2012 there was an existing restaurant and casino. Currently the site has been cleared and is vacant.

**Existing Zoning:** C-2 General commercial district. This district is primarily intended to accommodate high-traffic businesses that focus on vehicle traffic. Where this district abuts a residential district, appropriate screening and landscaping will be provided to lessen associated impacts.

**Adjacent Land Use:** The property is completely surrounded by C-2 General commercial zoning district. See Exhibit A - Vicinity/ Zoning Map, and Exhibit B - Aerial Photo, for more information on the surrounding properties.



View East from 4th Street Northeast toward subject property.



View south from northwest corner of subject property.

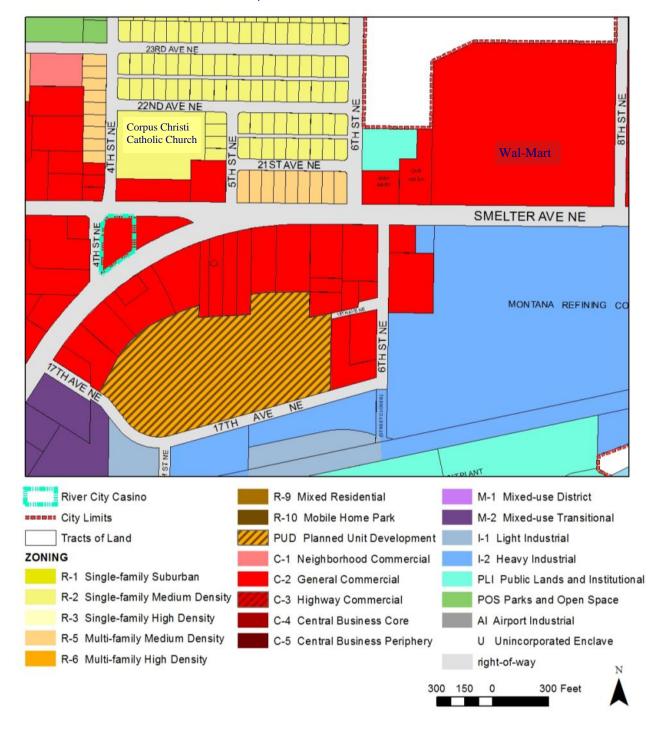


View north from corner of 3rd Street Northwest and 4th Street Northeast. Corpus Christi Catholic Church in background.

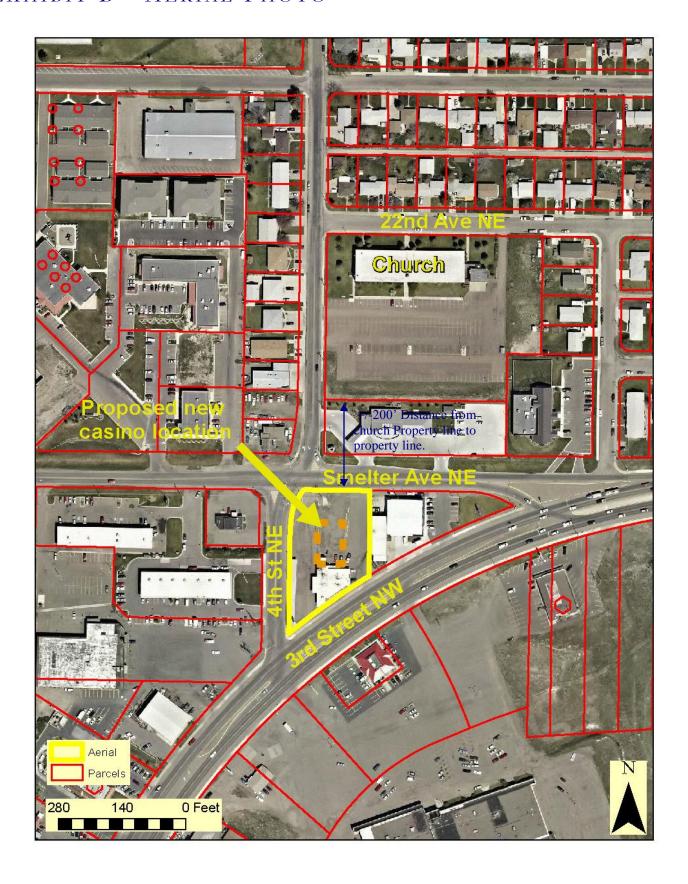


View East from 4th Street Northeast toward subject property.

## EXHIBIT A - VICINITY / ZONING MAP



# EXHIBIT B - AERIAL PHOTO



#### Conditional Use Permit

#### **Project Overview**

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 previous land use was non-conforming 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.
- Code allows nonconforming use to continue with a Conditional Use Permit.
- Applicant is applying for a Conditional Use Permit to reestablish a Casino, type I.
- The distance between the church and the casino is approximately 560 feet door to door, and 200 feet from property line (see Exhibit B -Aerial Map).
- Applicant is proposing 25 feet of landscaping along Smelter Avenue. The sign on the north side, facing the church, will not indicate "casino" as part of the design.

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

The first reading at City Commission will be on May 6, 2014.

#### **Zoning Analysis**

Although the previous casino and the new proposed Casino type 1 is technically a non-conforming use due to its proximity to the Corpus Christi Catholic Church, City Code 17.64.020 (A) (1) (b) provides for a change or expansion of non-conforming uses through a conditional use permit procedure as set forth in Chapter 16.

The Planning and Community Development Director has determined the application for the proposed use meets all of the criteria for parking and is similar as the most recent use. The proposed use is allowed as a permitted use within the C-2 Zoning District. It is further determined that the noise, dust, smoke, and other environmental impacts associated with the proposed casino is equal to or less than the most recent use.

A Casino type I is allowed in the C-2 General Commercial zoning district. In addition, there are special standards that accompany this land use, including:

#### 17.20.6.170 - Casino, type I.

- Purpose. This section is intended to allow the location of new casinos or the relocation of existing casinos in certain zoning districts provided they meet more stringent development and appearance standards than type II casinos.
- Proximity to residentially zoned properties. There is no minimum distance requirement from residential
  uses or between casinos.
- Proximity to other specified uses.
  - 1. Casinos shall not locate within six hundred (600) feet of an education facility (K through post-secondary), worship facility, park or playground. The distance shall be measured by direct line, without regard to intervening structures or streets, between closest property boundaries; and,
  - 2. Casinos shall not locate on premises operating a sexually oriented business.
- Design Review Board approval. The Design Review Board shall review and approve the exterior building design and finishes, and landscaping, signage, lighting and parking plan for any new or relocated casino, or an expansion or exterior renovation of an existing casino.
- Special landscaping. Casinos must comply with all applicable landscaping requirements in Chapter 44 Landscaping. Additional or special landscaping requirements for type I casinos include the following:
  - 1. Minimum square footage of interior landscaping, inclusive of landscaping in vehicular use areas and foundation planting areas, shall be twenty (20) percent of the gross property area to be developed.

- 2. Fifty (50) percent of said landscaping shall be located between the front lot line and the building.
- Special signage. The following signage requirements shall apply:
  - 1. No freestanding signs shall be allowed.
  - 2. Wall signs shall not exceed seven and one-half (7.5) percent of the building wall area per frontage.
  - 3. No exterior or interior signage indicating any form of gaming shall be allowed to face an adjacent residential use.

The subject property will meet all of the special requirements for casino, type I with the exception of the 600 feet distance from a worship facility.

City Commission, as part of the approval process, has the right to modify regulations through the Conditional Use Permit process. In this case, Staff is in favor of allowing the owner to reestablish the use of a casino type I, provided that the owner constructs this project as it has been proposed and meet the rest of the standards in the Official Code of the City of Great Falls 17.20.7.040.

#### Stormwater Management

The new casino's stormwater will be retained on site. The City Engineer will review the storm water design as part of the building permit process. The stormwater facilities shall comply with the City of Great Falls Storm Design Manual and other applicable City standards.

#### Neighborhood Council Input

The subject property is located in Neighborhood Council #3. Gregg Smith, representing MRO, Inc. provided information to the Council on April 3, 2014. The Neighborhood Council would like to hear from Corpus Christi Catholic Church before they provide a recommendation on the casino project. Planning Staff has also received multiple general inquiries related to the project.

#### Signage

The new casino will meet the Special Signage requirements under City Code 17.20.6.140 (G). River City Casino will have signage on 3 sides (north, west and south). There is no adjacent residential use. The sign on the north side, facing the church, will not indicate "casino" as part of the design. Less than 7.5% of each side of the building will be used for signage, and no pole sign is proposed for this site. This will meet the special conditions within the code. Staff is recommending no LED reader board type signs on this site.

#### Landscaping

The landscape requirements associated with a Casino Type 1 specify 8,000 sq. ft. of on-site landscaping for a site of this size. The applicant is proposing approximately 14,375 sq. ft. of new on-site landscaping. This will create a 25 foot buffer along Smelter Ave NE to help screen the view from the Corpus Christi Catholic Church. The proposed landscaping plan provides for the required number of trees (20) and shrubs (140).

#### **Parking**

The Planning Staff has reviewed the City Code, and the parking requirement for casinos is 1 per 2.5 seats, plus 1 per employee per shift. The casino has 44 seats and 8 employees per shift. There are 23.6 required parking spaces for the casino. The proposed parking plan provides 28 parking stalls, including two (2) handicap van accessible. All parking will be striped. Therefore, the site will meet the current City parking requirements.

## Conditional Use Permit Findings

#### Primary Review Criteria

The procedure for processing a Conditional Use Permit is to conduct a public hearing before the Zoning Commission, which makes a recommendation to the City Commission. The City Commission will hold a public hearing and make a final decision regarding the Conditional Use Permit application. The City Commission may, through a written agreement with the applicant, establish such conditions and restrictions upon the construction, mainte-

nance and operation of the conditional use as is deemed necessary for the protection of the public interest and to secure compliance with standards and requirements. The City Land Development Code lists seven criteria to be applied to a request for a conditional use for evaluation purposes, including:

#### 1. The conditional use is consistent with City's Growth Policy and applicable neighborhood plans, if any.

The proposed Conditional Use Permit is consistent with the overall intent and purpose of the 2013 City Growth Policy Update. This project supports the Economic Policies, Land Use elements of the Growth Policy. Goals of the economic element of the Great Falls Growth Policy include:

- Attract and retain new businesses.
- Continue efforts to support and develop small businesses in Great Falls.
- Optimize the efficiency and use of the City's public facilities and utilities.

Goals of the Land Use element of the Great Falls Growth Policy include:

- To support and encourage efficient, sustainable development and redevelopment throughout the community. Approval of the Conditional Use Permit on the subject property will enhance health, safety and welfare through application of City Codes and the required conditions of approval.
- 2. That the establishment, maintenance or operation of the conditional use will not be detrimental to, or endanger the health, safety, morals, comfort or general welfare.

Re-establishment, maintenance or operation of the casino type I will not be detrimental to, or endanger the health, safety, moral comfort or general welfare because the use of the subject property is compatible to the commercial use surrounding the property and had been previously established as a casino type 1.

3. 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. River City Casino was previously established at this site, as well as the Burgermaster Restaurant. Replacing the building may increase traffic, which may help to support the surrounding businesses.

4. 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.

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

The subject property adjoins three established roads: 3rd Street Northeast, 4th street Northwest and Smelter Avenue Northeast. The streets in this area are improved to City standard. The applicant will not be required to improve any streets as a part of this application. 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. Any future connection to City services would be reviewed and approved by the City of Great Falls Public Works Department.

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

The site currently has access from 4 existing access points from the surrounding right of ways. 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 development of the site, a second access onto 3rd street NW will be closed and the curb replaced due to its location in relationship with the nearby intersection potentially causing conflicts and potentially unsafe conditions.

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.

## Findings of Fact

- 1. The conditional use is consistent with City's Growth Policy and applicable neighborhood plans, if any.
- 2. That the establishment, maintenance or operation of the conditional use will not be detrimental to, or endanger the health, safety, morals, comfort or general welfare.
- 3. 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.
- 4. The conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- 5. Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.
- 6. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- 7. 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.

#### Staff Recommendation

The redevelopment of the subject property is a positive step enhancing landscaping along all traffic routes. The proposed changes improve the visual quality of the property, and provide visual screening along Smelter Ave Northeast. Based on the conditions of approval listed below, staff finds the spirit of Title 17, Chapter 20 of the Land Use Code is being met and supports the application and proposed plan. The proposal will be compatible with and support nearby commercial and residential properties, neighborhood character, and natural features. Therefore Staff recommends the Zoning Commission approve with conditions the River City Casino's application for a Conditional Use Permit subject to the conditions listed below.

**Recommendation:** It is recommended that the Zoning Commission recommend 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

- 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.

## Review/Approval Process

#### **Next Steps**

- 1. The Zoning Commission recommendation will be presented to the City Commission.
- 2. City Commission will approve or deny the Conditional Use Permit.
- 3. If approved, the applicant will submit any required documents for review and then file the required documents with the Cascade County Clerk and Recorder's Office.

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 C - APPLICATION

Form Updated: 08.2.2012

Representative's Signature:			Date:	
Property Owner's Sign	gure:		Date:	
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## EXHIBIT D - 2012 ZONING DETERMINATION



Planning Department

P. O. Box 5021, 59403-5021

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

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\_

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

