



Missoula Consolidated Planning Board Minutes

September 1, 2020, 6:00 PM

Virtual Meeting: Live Stream and On Demand: <http://www.ci.missoula.mt.us/webcasts>

YouTube Live Stream and On Demand:

<https://www.youtube.com/channel/UC5fnfMPFGSk8Gwq6F5UoqGg>

Live call in phone numbers: 1 (253) 215-8782 1 (888) 475-4499 (landlines only) Meeting ID: 960 049 3694

Voting members present: Peter Bensen (County Appt), Sean McCoy (County Appt), Stephanie Potts, Vice Chair (County Appt), Dave Loomis (County Alt), Josh Schroeder (Conservation Dist Appt), Caroline Lauer (City Appt), Neva Hassanein (Mayor appointee), Shane Morrissey (City Alt), Vince Caristo (City Appt)

Regular member(s) absent: Andy Mefford (County Appt)

1. Call to Order

<https://www.youtube.com/watch?v=GIY1dBLTVbQ>

Mr. Caristo called the meeting to order at 6:02 p.m.

2. Roll Call

Ms. McCammon called the roll.

3. Approval of Minutes

Mr. Morrissey moved, and Mr. Schroeder seconded the approval of the August 18, 2020 Missoula Consolidated Planning Board minutes as submitted. With a voice vote of all ayes the minutes were approved.

4. Public Comment

Public comments addressed to the Missoula Consolidated Planning Board (MCPB) received after the August 18, 2020 Planning Board meeting are attached to the agenda.

5. Staff Announcements

Karen Hughes, Assistant Director, Missoula County Community and Planning Services (CAPS), reviewed open meeting laws, right to know, and right to participate. She advised board members advised to bring their comments to the next meeting, agenda item eleven the best way to participate. The process is the same for committees and sub-committees. Board members cannot represent their perspective on behalf of the board without board approval. Any public comments received on a development proposal after a Planning Board hearing are funneled to the next hearing.

Mr. Bensen cited the difficulty and challenges boards experience in the decision-making process on short timelines.

Mr. McCoy shared Mr. Bensen's concerns and asked if city councils' first and second readings of public hearings could be utilized for Planning Board hearings. Ms. Hughes stated that Planning Board does not have the same procedural requirements as City Council, which adopt rules vs. recommendations; occasionally MCPB hearings will be held open, usually due to Planning Board requests to staff for changes. She stated that many subdivisions are under legally mandated timelines, so those time frames must be adhered to. The jurisdictions have to abide by those timelines or can be penalized.

Ms. Hassanein noted the fullness of the recent agendas, and the upcoming hearings for Remington Flats Subdivision and the Mullan Area Master Plan in October 2020, and the order in which those were originally scheduled. Ms. McCrea explained that the Remington Flats Subdivision was deemed sufficient under the current regulations of annexation and zoning. Per state law, those of the rules that will apply through the approval and phases being filed regardless of the timing of the approval of the Mullan Area Master Plan. Ms. McCrea added that, in the big picture, it is always better to have the planning and zoning done ahead of when the development occurs in certain areas. She reminded board members that the developers were working on these projects, sometimes for two years, prior to them being brought forward for hearings.

Mr. Morrissey asked about appropriate time for recusal from an agenda item. Ms. McCrea stated that it is okay to contribute to the discussion, even if you needed to recuse yourself from the vote. Ms. Hughes indicated that recusal should occur as early as possible; when a perceived, possible, or real conflict of interest exists.

Ms. McCrea urged board members to not provide an opinion to members of the public seeking one but give them information meetings and on how to participate in the process.

6. Public Hearings

6.1 3705 Hwy 200 E Rezone, East Missoula. Matt Heimel, Community and Planning Services, Missoula County

Matt Heimel, AICP, Planner II, Missoula County Community and Planning Services (CAPS), stated that Tri-East, Inc., represented by Paul Forsting with IMEG, proposes to rezone the properties addressed as 3705 Highway 200 E, legally described Lots 5-11 and Lots 16-26 of Block 19 in the East Missoula Addition. The approximately 2.3 acres, bordered by Michigan Avenue, Minnesota Avenue, Randles Street, and Clyde Street, are currently zoned C-R3 Residential with the Canyon Gates/Ole's Planned Variation. The planned variation was enacted to allow for reduced setbacks on a housing development that never came to fruition. Mr. Heimel explained that surrounding zoning is C-C2 General Commercial to the north, east, and west, and residential unzoned to the south.

The applicant is proposing to zone the property C-C1, Neighborhood Commercial. The intent of the C-C1 Zoning District is to provide convenience shopping for a limited neighborhood market which involves retail enterprises dispensing commodities and providing personal or professional services to the individual. The 2019 Missoula Area Land Use Element, which is an amendment to the 2016 Missoula County Growth Policy, designates this property as Neighborhood Center. The Neighborhood Center land use designation recommends a mix of residential, neighborhood services, offices, retail, and institutional uses. The applicant intends to utilize the property for commercial use, and

the anticipated commercial use is storage. Mr. Heimel stated that the uses and densities permitted in C-C1 lay the framework for development to allow for opportunities that are identified in the comprehensive plan and detailed in the Neighborhood Center land use designation. The uses listed in C-C1 conform to the objectives of the land use element and the intent of the zoning regulations. Agency comments regarding future use were received; and those will be addressed in building permitting. i.e. drainage. There was one public comment of support, which was in the board member packets. Staff recommends approval of the rezoning request. Mr. Heimel invited board and public comments, and stated that Mr. Forsting, IMEG, the clients' representative, would also comments and/or questions. If approved by the Planning Board, this request would advance to a hearing before the county commissioners on September 24, 2020.

PUBLIC COMMENT [6:44 p.m.]

No public comments received during the hearing.

PUBLIC COMMENTS CLOSED [6:48 p.m.]

PLANNING BOARD COMMENTS

Mr. Caristo asked if this was an area that was planned for annexation to the city in the near- or long-term future; and if so, what would be the comparable city zoning. Mr. Heimel was not aware of any current annexation plans; however, this site is on city sewer with deferred annexation in place. Comparable districts are in the range of B and C districts in Title 20. Mr. Caristo asked if the requested zoning would require sidewalks along Michigan or Minnesota Avenues. Mr. Heimel stated that Missoula County commercial zoning districts do not have requirements for sidewalks; there may be requirements in subdivision review for pedestrian facilities. The installation of sidewalks is not a requirement for zoning compliance review.

Mr. Paul Forsting, IMEG, thanked Mr. Heimel for his professional assistance and concise presentation. He advised board members that both he and Mr. Heimel would be available for comments.

Ms. Hassanein mentioned the number of storage facilities already available and asked if that would be the primary use for this site. Mr. Forsting stated that storage is listed on the application, but there are suites of options available with the commercial zoning, and the business climate has changed due to COVID-19.

Mr. Schroeder asked about permitted and conditional uses for this zoning district, and residential and commercial mini warehouse would be a conditional use. Mr. Heimel stated that it was correct and provided a distinction; in the current Missoula County zoning regulations a conditional use only implies that there are particular standards within the zoning regulations; which would be an administrative review at the staff level for certain requirements within zoning. Mr. Schroeder asked if that with the zoning change, if the intended use is for storage, is this the correct zoning district. Mr. Heimel answered that if the intended use is storage, then this is the correct zoning district; C-C1 is most compatible with the neighborhood center land use designation.

Mr. Loomis felt that this would be a key component on future commercial uses. He feels that mini storage would be a misuse for the entirety of the property and recommended other opportunities for mixed use.

Ms. Hassanein stated that storage units was not what she would think of when defining a neighborhood center. She would like more robust development in this strategic location. Mr. Bensen asked how ephemeral storage units are; how long would they exist on the site? Mr. Forsting felt that storage units could be a temporary use, but they could also be for 50-100 years. Only two zoning options were available with the growth policy, and both guide them into the channel that allows storage units.

Mr. Morrissey asked Mr. Heibel to explain the conditional use process compared to a special exception. Mr. Heibel stated that a special exception is what most people would think of as a "conditional use permit", but it is a "special exception use permit". The special exception use permit goes before the Missoula County Board of Adjustment for a public hearing. Compatibility is checked, along with other review criteria.

Mr. McCoy asked about other possible zoning options and the approval processes. Mr. Heibel explained that uses listed under the current regulations as permitted or conditional would be reviewed administratively through zoning compliance and building permit review. A special exception goes to a public hearing. All of these undergo review and checks for compliance and any use would need a permit. Besides C-C1, the other possible option was C-C2, general commercial, which is more intensive zoning district regarding the scale of use. Although C-C2 is adjacent to this property; C-C1 is the most compatible with the current land use designation.

Mr. Morrissey stated that he will be voting no on the proposed rezoning as the current zoning of C-R3 Residential has a special exception for any of the permitted uses as C-C1; and he feels that C-R3 is more appropriate. The special exception clause in C-R3 would require public input at the time of submission. Mr. Heibel stated that although the commercial uses are available in the C-R3 residential zoning district by special exception; the rezoning and was supportable given the land use designation, which C-R3 does not match to as well.

Mr. McCoy encouraged owners to consider greater land development potential than storage units.

Mr. Schroeder asked if all permitted uses in C-C1 permitted were allowed under the current zoning district, but under special use exemption. He asked if the process would be more onerous to attain those permitted uses under the existing zoning. Mr. Heibel stated that as a special exception use to C-R3 Residential; any of the permitted allowable uses would need to go to the Board of Adjustment for a special exception use permit to review compatibility with the area. Another avenue would be to come before the Planning Board with the rezoning request. Ms. Hughes stated that the space and bulk requirements differ between the two districts. The requirements for commercial are more appropriate than those for residential. As the county zoning gets updated, it needs to align with what it should be zoned.

Ms. Potts will abstain from the vote as she was unable to attend the earlier part of the presentation.

Ms. Lauer asked for further clarification on the zoning and special permitting. Mr. HeimeI added that the Canyon Gates/Ole's Planned Variation was specifically for an attached housing development, which would also need to go through either a repeal or amendment process.

Mr. Caristo stated that it was almost impossible to consider a use for this property; however, this is a rezoning request, which transcends the next developed use. He will vote for the request. Mr. McCoy agreed.

Moved by: Neva Hassanein

Seconded by: Sean McCoy

THAT the request for zoning the lots zoned C-R3 Residential with the Canyon Gates/Ole's Planned Variation to the C-C1 Neighborhood Commercial Zoning District be approved, based on the findings of fact contained in the staff report, public testimony, and written comment. The property subject to this approval is legally described as Lots 5-11 and Lots 16-26, Block 19, East Missoula Addition, Section 24, Township 13 North, Range 19 West, P.M.M., Missoula County, Montana.

AYES: (6): Peter Bensen , Sean McCoy, Dave Loomis, Josh Schroeder, Caroline Lauer, and Vince Caristo

NAYS: (2): Neva Hassanein, and Shane Morrissey

ABSTAIN: (1): Stephanie Potts

ABSENT: (1): Andy Mefford

Vote results: Approved (6 to 2)

6.2 601 W. Broadway Rezoning. Mary McCrea and Kaitlin McCafferty, City of Missoula

Kaitlin McCafferty, City Development Services, received a request from Nick Kaufman of WGM Group representing Dennis B. Wise, Mary Conway Wise and the Wise Family Trust to rezone the subject property located at 601 W Broadway from Special District SD/Riverfront Triangle, Sub-district D to CBD-4 Central Business District / DE-D Outer Core Design Excellence Downtown Overlay. This rezone would result in a standard zoning district in Title 20 and may not be conditioned.

Ms. McCafferty provided a vicinity map and aerial map of the two parcels on West Broadway. The applicable regional plan is Our Missoula City Growth Policy 2035, which recommends a land use designation of urban center. This land use designation is intended to address the concentration of downtown uses, which includes offices, retail, arts, and entertainment, eating and drinking establishments, as well as residential uses. The property to the south is designated as Parks and Open Lands. Current zoning map was presented. Ms. McCafferty stated that this is the last parcel left in the Riverfront Triangle special zoning district. Adjacent properties to the east were rezoned from Riverfront Triangle special zoning district to CBD-4 Central Business District and OP1 Open Space in 2017. To the north and west of the parcel are properties C1-4 Neighborhood Commercial; to the south is the river and the riverfront.

The 2019 Downtown Master Plan brings up the Riverfront Trail easement. North Riverside Parks and Trails Map was presented and a potential mixed used trail along the river side of the parcel was pointed out. The Riverfront Trail has been addressed by the applicant; and a 15-foot wide trail easement across the subject property, east-to-west, will connect to sidewalks on West Broadway at the western edge of the property.

Staff is recommending a Development Agreement to cover the dedication and width of the easement as well as construction and management of the trail. The proposed development agreement would address the following:

- Include a 20-foot wide public non-motorized access easement filed with the Development Agreement.
- Include construction of the Riverfront Trail along the north shore of the Clark Fork River from east to west without interruption or detour, connecting to West Broadway on the west end.
- State developer's responsibility for the cost of a minimum 10-foot wide asphalt trail
- State the City of Missoula's responsibility for the cost of up-sizing the trail to a 14-foot wide concrete trail, repair, maintenance, and replacement
- Design of the Riverfront Trail and any variation from the standards, including easement width, surface width of the trail, lighting, provision for trash receptacles and benches, shall be specific to the site and approved by City Parks and Recreation.
- Reviewed by City parks, Missoula Redevelopment Agency and Development Services and approved by City Council.

Ms. McCafferty detailed the main differences between the current zoning (RTSZD) and proposed zoning (CBD-4 Central Business District):

Benefits of the RTSZD:

- Building design standards
- Extension of the Riverfront Trail to the western edge of the zoning district connecting to West Broadway
- Requirement for structured parking instead of parking lots

Difficulties for development within the RTSZD include:

- Limited permitted and restrictions on locations for permitted uses, and
- Reverts back to Title 19 for any standards not specified in the Special District such as off-street parking; and
- Max height of 30 feet within 50 feet of the river and maximum height of 52 feet along West Broadway.

She stated that, in comparison, CBD-4 / DE-D provides:

- CBD-4, Central Business District provides for a wide variety of high intensity commercial uses, high density housing and some industrial uses.

- CBD-4 closely aligns with the Urban Center land use designation in the Growth Policy.
- CBD-4 is a standard district in Title 20 which is updated yearly. Permitted uses are approved administratively and conditional uses require a public hearing at City Council.
- In the RTSZD, any uses that were not contemplated are not permitted.
- Maximum height of 125 feet.
- Design Excellence Overlay requires design standards.

Zoning - Setbacks:

- CBD-4 does not require buildings to be setback from property lines except as follows:
 - Setbacks are required when a CBD-4 zoned parcel abuts an R-zoned parcel; and
 - No building may be located within 50-feet of the 100-year floodplain. This minimum setback area may contain pedestrian plazas, walkways, bikeways, and other pedestrian-oriented facilities, but it may not be used for parking lots, driveways, or other vehicular uses.
- In the RTSZD building are required to be setback 50-feet from the top of the north bank of the Clark Fork River.

Parking Requirements:

- Parking Requirements in RTSZD:
 - Off-street parking is required per the Title 19 parking schedule, which generally requires more off-street parking than Title 20;
 - Locations of structured parking limited to areas without frontage on a street or public space - underground or at the interior of blocks; and
 - The size and irregular shape of the blocks, and limits on locations of structured parking has hampered development options under the RTSZD zoning.
- Parking Requirements in CBC-4:
 - Off-street parking is not required for uses in the CBD-4; and
 - Design Excellence Review contains guidelines and standards regulating design and location of off-street parking.

In summary, Ms. McCafferty provided a zoning differences summary: In general, the CBD-4 Central Business District / DE-D Outer Core Design Excellence Downtown Overlay zoning offers compared to the RTSZD:

- A wider variety of commercial uses
- A mix of permitted residential and non-residential uses

- An increase in height to 125-feet vs. building height of 52 feet in RTSZD
- A 50-foot setback from the 100-year floodplain in the CBD-4 vs. the RTSZD 50-foot setback from the top of the riverbank
- No off-street parking in the CBD-4

She provided photos of the lot from the east, west, and from across the river. Preliminary design sketches were displayed of possible site development; although no plans have been submitted nor approved at this time. Review criteria was presented:

1. Complies with the growth policy
2. Facilitates public services/transportation
3. Promotes compatible urban growth
4. Promotes public health and safety
5. Considers district character and suitability of uses
6. Corrects an error or inconsistency in the zoning ordinance or meets the challenge of a changing condition; in the best interests of the city.

Recommended motion provided.

Nick Kaufman, WGM Group, Owners' Representative, thanked Ms. McCafferty and Ms. McCrea for their hard work on the project and for the presentation. Carl Posewitz is the architect on the project and represents the potential purchaser of the property. Kate Dinsmore, WGM Group, is the landscape architect; and Ryan Salisbury, WGM Group, is the engineer. Mr. Kaufman stated that historically this property had been used for tire sales and service and was a carry-over from the Highway 10 business district. This is a transition area, and Mr. Kaufman noted that the nearby DRIFT project was recently withdrawn due to financial impacts to the entertainment business caused by COVID-19. The existing zoning is outdated for the community vision for this area. The rezoning would allow for mixed-use office, which were displayed in the architectural renderings of the site.

Mr. Kaufman explained that the current zoning is Special Zoning District Riverfront Triangle; the proposed CBD-4 will allow for the appropriate use of the parcel allowing increased building height, higher density while allowing flexibility for design on this constrained parcel. Due to the constraints, parking needs to be paid for with a higher building, which is in line with the growth policy in the Downtown Master Plan. He provided a history of project work in the area by WGM Group. Mr. Kaufman provided a slide depicting the property location. The property is approximately 250 feet wide along the riverfront. A multi-story hospital is across the street along with a multi-story hospital expansion. There is a quarter mile of open space to the south, on the other side of the Clark Fork River.

Site opportunities include:

- River Frontage
- Riverfront Trail System

- Adjacent to the Riverfront Triangle
- Views to McCormick Park and Lolo Peak
- Across the street from Providence Health Center
- Part of the vision for the Downtown Master Plan

Site Constraints:

- Floodplain
- Constrained parcel size
- Riverfront Trail System
- Adjacent to the Riverfront Triangle and future entertainment venue
- The current zoning is Special Zoning District Riverfront Triangle
- Parking Requirements
- Location of Structures on Adjoining Parcels

Photographs of significant elevation constraints were displayed. Site plan was presented identifying 100-year floodplain, top of bank, 50-foot building setback from 100-year floodplain, and 20-foot trail easement from top of bank. A 15-foot trail easement was shown when they met with City Development Services initially; however, that has since been changed to a 20-foot trail easement. Mr. Kaufman explained that the entire parcel area is 37,246 square feet; but 375 square feet are lost to the 100-year floodplain and 12,145 square feet are lost to the trail easement and 50-foot setback; making 33% of this parcel encumbered. Office/retail space will be provided on West Broadway as well as on the river wide, with parking behind those businesses. Building footprint and trail explained. Mr. Powesitz's renderings of the site were presented. Mailings were sent to neighbors on December 6, 2019. Mr. Kaufman provided project steps and project time frame, demonstrating the 2-year process from inception to construction.

PUBLIC COMMENTS [7:40 p.m.]

No public comments.

PUBLIC COMMENT PERIOD CLOSED [7:44 p.m.]

PLANNING BOARD COMMENTS

Mr. Loomis felt that CBD-4 zoning seemed appropriate but took issue with overall building height for persons using the river. He questioned bank stabilization and why the trail, in excess of 10-foot wide, was the city's responsibility.

Neil Miner, Park and Open Space Planning and Development, City of Missoula, stated that the original special zoning district required a 10-foot wide trail, since then the Downtown Master Plan and other planning documents have changed to require a wider trail. The

required 10-foot wide trail will be paid for by the developer, and any additional width will be bore by the city. The change to concrete is due to the Downtown Master Plan adopted last year, requiring a 16 to 18-foot wide river promenade, which severely further limits the site. 20-foot wide trails are the minimum for maintenance and snow removal equipment. Concrete offers a longer lifespan as opposed to other materials, which need more frequent maintenance.

Ms. McCrea stated that building height for rezoning requests has to comply to the Growth Policy, the regional plan of the current growth policy is the *2035 Our Missoula Growth Policy* which lists an Urban Center land use designation; CBD-4 is one of the zonings currently relatable with that land use designation. In state law standard city zoning districts in Title 20 need to have the same standards wherever they are in the city, and CBD-4 has a 125-foot height limit, which was approved on the property directly to the east. This is also a constrained site and the developer needs to fit some parking on it for residents as well as compensate for losses to the trail and construction of the trail. Previous 30-foot height constraints were reasons this property remained undeveloped for so long. Mr. Kaufman reminded board members of the setbacks of the proposed building structure. Bank stabilization was discussed along with vegetation choices and placement.

Ms. Lauer felt the developer should bear the full cost of the pedestrian trail. She opposed the decision to use concrete and would like to see other materials used with lower embodied carbon. She asked if the floodplain assessment included climate projections for increased spring flooding. Mr. Kaufman stated that Eric Anderson, the WGM Group, floodplain division manager, engineer-hydrologist specialist, studies Federal Emergency Management Agency (FEMA) elevations and events over the last 10-years and adjust for those. They use the most contemporary data based on actual river data, not only the FEMA requirements. Ms. Lauer would like to see projections from the Montana Climate office. Mr. Miner stated that when considering concrete vs. asphalt; concrete has a longer life span and withstands snowplowing better, which is important when the easement is constrained. Mr. Kaufman asked Ms. McCafferty about this condition in the motion for concrete vs. asphalt. The purpose of the development agreement is come up with the best design for the trail in this situation and removing the word "concrete" will provide flexibility. Ms. Hassanein would like to see a more permeable surface, possibly decomposed granite, due to the proximity to the river.

Mr. Schroeder asked if the Conservation District provided an opinion and perspective on bank stabilization and vegetation. Ms. McCrea stated that the focus of this meeting is the rezoning request, the requirements of the development agreement, and trail easement. All required permits as the project moves forward would have to be applied for an approved. Mr. Ryan Salisbury, WGM Group, stated that they met with the Conservation District and Fish Wildlife and Parks and discussed the 310 permits in regard to the Riverfront Triangle, Fox Site, and the Drift Project.

Mr. Bensen asked for clarification about parking elevation. Mr. Kaufman stated that parking would be at grade (first level) on Broadway, there would not be basement parking. Mr. Bensen asked if there were concerns about building height, considering what is around it. Ms. Hassanein stated that solutions to protecting the landscape involve density. She asked if some of the street level office space could instead be food/beverage related businesses; and how much of the proposed building would be

residences. Mr. Kaufman stated that the Clark Fork Riverside retirement community, off the east side of Orange Street, is as high as the proposed building; however, that building has no setbacks. The proposed building will have setbacks on the riverfront side and on the Broadway side. He appreciated Ms. Hassanein's suggestion for food/beverage outlets at this location and finds it useful. Mr. Kaufman stated that 90% of the proposed building would be for residential uses. Mr. Salisbury added that there would not be underground parking because of bank stabilization issues and sensitivity to the river.

Mr. Morrissey asked Ms. McCrea and/or Ms. McCafferty if there were any requirements in CBD zoning or the design excellence overlay that requires a certain depth of retail on the main floor. Ms. McCafferty stated that there is not a requirement for the use, but an active use. Without an active use, screening and/or landscaping would be required, which is harder to get approved; commercial or office uses enhance the pedestrian experience. Mr. Kaufman answered that the plans are "yield plans" to see if this plan can work on this site; he appreciates the comments and they will be considered as they move forward into final plans. Mr. Morrissey asked if there was no depth requirement for these retail/office spaces. Ms. McCafferty stated that this was correct.

Mr. Loomis again voiced that the public view from the river and the trail would be potentially intimidating and felt that the existing Clark Fork Riverside retirement community was a bad choice for the community.

Ms. Potts stated she would vote in favor of the motions; she appreciates that this will be the last fix in that piece of the zoning code; which the city has been trying to do for a long time. It is in line with the growth map, growth policies, and although the other adjacent parcels are sitting empty; they are zoned to be at the same height. Even if this property is not rezoned, those properties will be developed to full allowable height. She appreciates the promenade and overall design.

Ms. Lauer asked what percentage of the housing units would be high end. Mr. Kaufman stated that the developer is proposing housing for mixed incomes.

Ms. Lauer repeated that she felt the developer should bear the full cost of the pedestrian trail. Mr. Miner again explained that the original special zoning district required a 10-foot wide trail, since then the Downtown Master Plan and other planning documents have changed to require a wider trail. Ms. Hassanein stated that she felt the plan was fair as the developer is giving up some of their property for trail usage; this is a value to the city and she would not make the developer paying 100% of the cost a condition of her approval. It will be used by the public. Ms. Lauer stated that they could not develop in this area of the property anyway due to floodplain restrictions; she did not feel they would be giving up anything. Ms. Hassanein stated that although this was in the floodplain, the developer could have proposed landscaping for residents and not a trail for the public. Ms. Lauer asked about costs and width of the proposed trail. Mr. Miner stated that this property is in an urban renewal district and there could be multiple funding sources available. He cited American Association of State Highway and Transportation Officials (AASHTO) trail width standards in this situation. The 20-foot easement would accommodate the trail, shoulders, benches, and lighting. Mr. Caristo asked about trail width in neighboring properties. Mr. Miner described the differences in width and pavement. Mr. Morrissey stated the importance of having a 20-foot trail easement. He would like consistent surfacing materials on the trail. Ms. Potts asked about trail maintenance, should this rezoning request not be approved, and something else was

constructed. Mr. Miner stated that it would be maintained by Parks and Rec. Ms. Potts appreciates that the proposed trail cannot exclude non-residents, which is valuable to the entire community.

Ms. Lauer asked Mr. Miner the amount of money involved in the difference between a 14-foot trail and a 10-foot trail. Mr. Salisbury stated that paving equipment was designed for wider trails, and it was not always cheaper to build a narrower trail. Mr. Miner that that urban renewal district fees, park impact fees may contribute funds to this project, also transportation impact fees. Long term maintenance costs would go down overtime. Mr. Miner ran some quick calculations and estimated it would be \$4.00 more per square foot to use concrete than asphalt; so a 280' long trail would be approximately \$20,000.

Ms. Hassanein stated she will support the motion, even though some community members would react negatively to the building height along the river. Development downtown needs to be encouraged. She trusts that the FEMA and floodplain experts are correct. Mr. Caristo will support it as well and feels the development agreement is a good model.

Ms. Lauer will support the project as she feels it is a good place for density. She feels that developers capitalize on Missoula, and not much can be demanded of them. She stated that other cities and states have requirements for affordable housing units.

Mr. Morrissey will support the proposal. He hoped the developer would engage someone with expertise in repairing the riparian area next to the river.

Moved by: Peter Bensen

Seconded by: Neva Hassanein

APPROVE the adoption of an ordinance to Rezone property located at 601 W Broadway and legally described as Lots A, B, 1, 2, 3, 4, 5, and the east half of Lot 6 in Block 51 and Lots 48 and 49 in Block 56 of W.J. McCormick's Addition in Section 21, Township 13 North, Range 19 West from Special District SD/Riverfront Triangle, Sub-district D to CBD-4 Central Business District / DE-D Outer Core Design Excellence Downtown Overlay subject to the applicant and the City executing a Development Agreement and public non-motorized access easement filed with the County Clerk and Recorder prior to the effective date of the ordinance which is 120 days from City Council approval. The Development Agreement and easement documents shall be reviewed by City Parks, Missoula Redevelopment Agency and Development Services and approved by City Council. The Development Agreement shall include construction of the Riverfront Trail along the north shore of the Clark Fork River from east to west, connecting to W Broadway on the west end and to the River Front Trail on property adjacent to the east without interruption or detour; the developer's responsibility for the cost of a minimum 10-foot wide trail with 1 foot shoulders on either side of the path; the City of Missoula's responsibility for the cost of upsizing the trail to a 14-foot wide trail; the City of Missoula's responsibility for repair, maintenance and replacement of the trail once constructed; and a 20-foot wide public non-motorized access easement filed with the Development Agreement. Design of the Riverfront Trail and any variation from the standards, including easement width, surface width of the trail, lighting, provision for trash receptacles and benches, shall be specific to the site and approved by City Parks and Recreation.

AYES: (8): Peter Bensen , Sean McCoy, Stephanie Potts, Josh Schroeder, Caroline Lauer, Neva Hassanein, Shane Morrissey, and Vince Caristo

NAYS: (1): Dave Loomis

ABSENT: (1): Andy Mefford

Vote results: Approved (8 to 1)

7. Communications and Special Presentations

No communications nor special presentations.

8. Committee Reports

Mr. Bensen may seek a substitute for the next TPCC, on September 17.

9. Old Business

No old business

10. New Business and Referrals

There was no new business.

11. Comments from MCPB Members

Mr. Benson requested insight on communications and legality responsibilities between property owners and local governments. Ms. Hughes stated that no one intentionally tries to mislead the Planning Board or any other public body. Members of the public may not have as many facts available, so they speak from their perspective, and that needs to be considered. It is the job of the Planning Board to filter out much of this and determine what is critical to the decision-making process. Ms. Hughes stated that a Growth Policy designation sets a guide as to what is appropriate for land use; a subdivision proposal is a land use development proposal that creates lots, blocks, tracts, and roads. It is a legal land development issue; the Planning Board provides recommendations on those. A zoning action is a set of rules that guides the use and development of lots or parcels in the community; they are the rule of law and changes to them are done through re-zoning processes or challenging a zoning process. A covenant is an agreement among the people that are bound through it; sometimes a city or a county could be connect to it; more commonly they are agreements among private property owners.

Planning Board members discussed comments on Heron's Landing subdivision that arrived after the August 18, 2020 hearing. All comments received after a Planning Board hearing are forwarded to the next scheduled hearing; in this case they were sent to Land Use and Planning and City Council. Mr. Kaufman provided a short explanation and history of the subdivisions. Details at <https://www.youtube.com/watch?v=GIY1dBLTVbQ> [3:10:00]

- A map from 2002 showed the one-acre tracts in 44 Ranch Estates. These properties have individual wells, septic systems, and drain fields.
- Roundup Drive was built to access the subdivision.

- Preliminary plat concessions were made, and a new collector street east and parallel to Roundup Drive was constructed. That collector street is Chuck Wagon Drive, and Roundup Drive is a local street.
- Increase of minimum lot size by 10% to 4,400 square feet; average lot size became 6,000 square feet. Neighbors had asked for 5,400 and this has been exceeded.
- The development was phased from east (George Elmer Drive) to west to protect 44 Ranch Estates.
- Lots adjacent to 44 Ranch Estates on the north and west would be larger lots. This was being worked out when Mr. Kaufman sent out his email in 2005.

The recorded final plat of phase 8 of 44 Ranch was displayed. 20,000 square foot lots were created along the north; the phase to the west has not yet been completed. Email from May 11, 2005 from Nick Kaufman was displayed, and contents explained.

"...lots adjacent to Roundup Drive, on the west would, of course, meet the density requirement of two dwelling units per acre."

Mr. Kaufman stated that is important to note that this understanding was for lots adjacent to Roundup Drive on the west. On July 19, 2017, a neighborhood meeting was held for a proposed development; a new growth policy was approved during these 12 years. Residents were notified that plans had changed at that time.

Mr. McCoy asked if known neighbor concerns could be brought forward on a timelier basis in the future. Mr. Caristo asked if decisions/deliberations could be spread over multiple meetings. Ms. McCrea reminded board members that rezoning, and subdivision go hand in hand; the subdivision could not have been approved without the rezone.

Ms. McCrea stated that there are statutory deadlines that have to be met, so on that particular project, the planning board needed to make a recommendation or forward it on to City Council without a recommendation if the board could not reach a vote. Sometimes there are subdivision requests with deadlines in state law, and the planning board will not be allowed to hold it over to the next meeting. If that happens, the board must forward it on without recommendation. Ms. Hughes added that when the board receives public comment; staff will not respond necessarily to all comments received and relies on Planning Board members to determine what is necessary to follow up on.

Ms. Potts would like more resources for board members. She would like future meetings to focus on hearing requests and the legal considerations that go with that.

Ms. Hassanein recalled when 44 Ranch subdivision was approved and compared that to where we are today in the overall housing picture.

Mr. Bensen stated that the low income affordable/incentive committee had suspended meeting until the fall. He asked for input on how the committee wanted to get involved and when it would make sense to re-start those conversations. Ms. Hughes has been in contact with the affordable housing department with the city and feels something could be arranged within the next month or two, probably in October. The county has an affordable housing study position in the budget, which may be funded. The county study would be complimentary to the city program; but will encompass a different geographic area and different issues.

12. Adjournment

Mr. Caristo adjourned the meeting at 9:45 p.m.