EXECUTIVE SUMMARY

CASE PLANNER: Matt Heimel, AICP

REVIEWED AND APPROVED BY: Tim Worley

PUBLIC HEARING DATES: PB: January 7, 2020
BCC: January 30, 2020

AGENDA ITEM: 9772 Waldo Road Zoning

APPLICANT / FEE OWNER: TLK Properties LLC
1001 E. Broadway #613
Missoula, MT 59802

REPRESENTATIVE: Taylor Tillman

LOCATION: 9772 Waldo Road

LEGAL DESCRIPTION: Lot 1 of Denbleyker Subdivision in Sec. 16, T14 N, R20 W, P.M.M., Less MDOT ROW .24ac

LEGAL NOTICE: The legal ad was published in the Missoulian on December 15 and 22, 2019. Five posters were placed along property on Waldo Road and Highway 93 on November 22, 2019. Adjacent property owners within 300 feet of the site were notified by mail on November 22, 2019.

ZONING DESIGNATION: Current: Unzoned
Proposed: C-C2 (General Commercial)

GROWTH POLICY: Commercial Center, Missoula Area Land Use Element (2019)

RECOMMENDATION: THAT the zoning request be approved, as conditioned.

Surrounding Land Uses

North: Residential
South: Commercial
East: Highway / Residential
West: Vacant

Surrounding Zoning

Unzoned
C-R2 Residential
Unzoned
Unzoned
I. RECOMMENDED MOTIONS

THAT the request for zoning the unzoned parcel to the C-C2 General Commercial Zoning District be approved, based on the findings of fact contained in the staff report, public testimony, and written comment, and subject to the recommended condition of approval. The property subject to this approval is legally described Lot 1 of Denbleyker Subdivision in Section 16, T14 N, R20 W, P.M.M.

II. RECOMMENDED CONDITIONS OF APPROVAL

1. The construction of basements is prohibited, and the lowest floor and all utilities including ductwork shall be constructed a minimum of 2’ above highest adjacent existing grade. (Missoula County Zoning Regulations Chapter 8.01.D.6)

III. INTRODUCTION

Taylor Tillman with TLK Properties, LLC, proposes to establish zoning for 9772 Waldo Road, legally described Lot 1 of Denbleyker Subdivision in Sec. 16, T14 N, R20 W, P.M.M. The 9.76 acre parcel is currently vacant.

The applicant is proposing to zone the property C-C2, General Commercial. The property is currently unzoned. The intent of the C-C2 Zoning District is to provide for the conduct of retail trades and services that are inherently automotive and highway oriented and for commercial uses of low intensity which may require large areas of land. Maximum residential density if connected to public water and sewer would be 1,000 square feet per dwelling unit.

The applicant intends to utilize the property for an approved mini storage facility. In order to connect to city sewer and water, the parcel must be zoned. The applicant is proposing a commercial zoning designation to allow for this use and to also comply with the Commercial Center land use designation of the Growth Policy.
IV. REZONING REVIEW CRITERIA

Findings of Fact:

General Site Geography and Characteristics
1. The subject property is surrounded by uses that include residential and commercial. Highway 93 borders the property to the east.
2. The parcel to the west has not yet been developed.
3. Highway 93 occupies an 80’ right-of-way along the east boundary of the subject property.
4. Waldo Road occupies a 60’ roadway easement along the south boundary of the subject property.
5. A 40’ public drainage easement is located on the south half of the east boundary property and traverses the property southeast to northwest.
6. The proposed zoning would apply to property that fronts Waldo Road and Highway 93. Waldo Road and Highway 93 are classified as a Major Collector and Principal Arterial, respectively.
7. An existing pedestrian path is located along the southern edge of the subject property.
8. The site is currently vacant.
9. On August 2, 2018, the Board of County Commissioners approved the Meadowlark Storage buildings for lease or rent project to build nine new mini-warehouse buildings which will include 250 new units and one single-family dwelling on the south half of the subject property.
10. The site is located within the Air Stagnation Zone.
11. The site is located within the Frenchtown Rural Fire District. The closest Frenchtown Rural Fire Station is located approximately 0.3 miles away from the property.
12. A condition of the Denbleyker Subdivision approval requires plans for and the installation of water supply for fire protection meeting National Fire Protection Association requirements for commercial structures to be reviewed and approved by the Frenchtown Rural Fire District prior to building permit approval.
13. The property is within the Urban Service Area. The city of Missoula has given approval to connect to city water and sewer with a condition that the property be zoned.
14. Zoning compliance review has requirements for safety, visibility, off-street parking, loading, driveways and access requirements, pedestrian movement, sidewalks and safety, lighting, landscaping, and grading and drainage plans. Any structure built on the property will be subject to zoning compliance review.
15. As a component of zoning compliance review, grading, drainage, and erosion control shall be reviewed by County Public Works. The purpose of this review is to ensure that site grading and the control of storm water runoff, both quantity and quality, comply with Missoula County Standards.
16. The site does not contain any mapped floodplain and is greater than 1 mile from any Zone-A designated floodplain area.
17. Flooding has been observed on the southern end of the property. This has been associated with springtime snowmelt and rain-on-snow events. A culvert under Highway 93 discharges drainage onto the southeastern portion of the property. A defined ditch for this water does not exist on or adjacent to the property.

18. The Missoula County Sheriff’s Department responds to calls in this area from the West Broadway location approximately 10 miles away.

**Growth Policy**

19. The applicable land use plan is the Missoula Area Land Use Element (2019), an amendment to the Missoula County Growth Policy (2016).

20. The Land Use Element designates this property as Commercial Center and recommends predominantly auto-oriented retail, lodging, offices, food service, and automobile land uses with residential uses as a secondary use.

21. The Land Use Element recommends a range of building sizes from small (1,000 square feet) to large (80,000 square feet or more). Commercial buildings should be sited with a minimum distance from streets and lot lines.

22. A maximum of eight residential dwelling units per acre is recommended per the Land Use Element. The ability to achieve higher densities may be limited by site considerations, such as lot size, setbacks, floodplain, and slope.

23. The Land Use Element encourages a mix of primarily commercial and higher intensity residential choices in a well-connected, walkable pattern.

24. The Growth Policy states that “zoning should reflect the pattern of development set forth on the Land Use Designation Map.” It further notes that zoning need not be a replica of the plan, however it should assist in carrying out the goals of the plan.

**Missoula County Zoning District C-C2 General Commercial**

25. The Missoula County Zoning Regulations were adopted by the Board of County Commissioners on July 13, 1976 and most recently amended on April 11, 2017.

26. The purposes identified in the general provisions of the Zoning Regulations identify key issues such as health, safety, infrastructure, consistency and innovation through land development.

27. The intent of the C-C2 Zoning District is to provide for the conduct of retail trades and services that are inherently automotive and highway oriented and for commercial uses of low intensity which may require large areas of land.

28. The site is currently unzoned.

29. The proposal would zone the site to C-C2 from its current unzoned designation.

30. Permitted uses in the C-C2 Zoning District include Automotive, marine, trailer, mobile home, recreational vehicle, and accessories sale, rental, and Service; Building materials, hardware, and farm equipment sale and service; Contractor / construction service; Wholesale trade; Farm and garden supply; Retail trades and service, with no outdoor storage or display, with a gross building floor area of less than one hundred thousand (100,000) square feet; Transient lodging; Professional, business, and governmental office; Personal services; Repair service; Eating and drinking establishment; Commercial recreation, amusement, and cultural facility; Printing and publishing establishment; Single-family dwelling; mobile homes constructed prior to June 15, 1976, must be placed on a minimum of five (5) acres with fifty (50’) foot front, rear, and side yard setbacks; Two family dwelling; Day care home; Community residential facility serving eight (8) or fewer persons; Boarding
house; Civic, social, and fraternal organization; Agricultural, including any and all structures or buildings needed to pursue such activities; Open space land; Accessory buildings and uses.

31. Conditional uses in the C-C2 Zoning District include Retail trade and service with gross building floor area of less than one hundred thousand (100,000) square feet; service station; Residential and commercial mini-warehouse; Recreational vehicle park; Multiple-family dwellings; Home occupation; Day care center; Community residential facility serving nine (9) or more persons; Long-term care facility; Seasonal commercial and temporary uses.

32. Special Exception uses identified in the C-C2 Zoning District include Public and quasi-public buildings and uses; Public utility.

33. The proposed zoning will establish development standards for setbacks, building height, lot area and width, parking, signage, landscaping, and other design aspects relative to the development proposal.

34. The zoning regulations establish procedures for addressing future modification and development to the existing commercial use which would be considered a special exception use under the current regulations.

35. Staff is recommending a condition that construction of basements is prohibited, and the lowest floor and all utilities including ductwork shall be constructed a minimum of 2’ above highest adjacent existing grade.

**Agency and Neighborhood Comments**

36. The Clerk and Recorder Office and Public Works Department staff stated they had no comments or concerns with the request.

37. The former County Public Works Director commented that the subject property is subject to spring flooding when sheet flow occurs on the property after emptying from a culvert underneath Highway 93. The comment email is attached to this report.

38. The Environmental Health Supervisor recommends a thorough evaluation of existing and future drainage associated with this project and stated that 2018 showed significant drainage issues on and around the subject property during spring run-off and rain events in April. In addition, soils in this area do not appear to readily infiltrate runoff, and groundwater is shallow.

39. The Floodplain Administrator commented that while not located within the floodplain, the subject property is regularly subjected to sheetflow and also stated that to minimize flood-related damages, recommend that basement construction be prohibited with lowest floor and all utilities including ductwork be constructed a minimum of 2’ above highest adjacent grade.

40. No comments were received from neighboring property owners about the proposal.
Conclusions of Law:

1a. Whether the zoning is made in accordance with a growth policy;
1b. Whether the use sought would enhance and promote the development of the immediate neighborhood as outlined in the comprehensive plan;
1c. Whether the use conforms generally to the objectives of the adopted comprehensive plan and to the purpose of this Resolution;
1d. Whether the zoning is compatible with the zoning ordinances of nearby municipalities;

1a. The proposed rezoning is compatible with the Missoula Area Land Use Element (2019) and the Missoula County Growth Policy (2016), which designate this property as Commercial Center.
1b. The uses and density permitted in the C-C2 Zoning District lay the framework for development and allow for opportunities identified in the comprehensive plan.
1c. The approved use and potential permitted uses in the C-C2 Zoning District conform to the objectives of the Land Use Element and intent of the zoning regulations.
1d. The proposed zoning takes into consideration the context of the area, the adjacent land uses, and has created standards that are compatible with Missoula County Zoning Regulations. City of Missoula zoning districts B3, C1, and C2 are comparable districts in term of use and density to the C-C2 County Zoning proposed.

2a. Whether the zoning is designed to secure safety from fire and other dangers;
2b. Whether the zoning is designed to promote public health, public safety and the general welfare;
2c. Whether the zoning provides adequate light and air;
2d. Whether the use will not adversely affect nearby properties or their occupants;

2a. The zoning will secure safety from fire and other dangers based on emergency response, zoning restrictions, and site infrastructure. The site is outside of any FEMA mapped floodplain. The recommended condition of approval to prohibit basements and require construction 2’ above adjacent grade will mitigate the impact to structures and property associated with sheetflow flooding that is caused by poor drainage, high groundwater, and low soil infiltration rates.
2b. The zoning is designed to promote the public health, public safety, and the general welfare of the neighborhood based on the ability to provide a level of predictability to the site and development standards based on the proposed zoning.
2c. The proposed rezoning will provide density, lot area, building height and setback restrictions that allow adequate light and air between buildings.
2d. The potential uses that are allowed in the C-C2 Zoning District will not adversely affect nearby properties or their occupants in a more intense manner than what could be developed on unzoned property.

3a. Whether the zoning considers the promotion of compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities;
| 3b. | Whether the zoning is designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; |
| 3c. | Whether the zoning considers the effect on motorized and non-motorized transportation systems; |
| 3d. | Whether the zoning considers the availability of public utilities and services; |

3a. The zoning considers and promotes compatible urban growth between Missoula and this transitional location north of Wye.
3b. The proposed zoning is designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.
3c. The proposed zoning will have no adverse effect on the motorized or non-motorized transportation system.
3d. Public utilities and services are not anticipated to be negatively affected by the proposal.

| 4a. | Whether the zoning considers the character of the district and its peculiar suitability for particular uses; |
| 4b. | Whether the zoning considers the location, character and natural features of the property and surrounding properties; |
| 4c. | Whether the zoning considers vegetation, topography, and natural drainage; |
| 4d. | Whether the use meets overall density, yard, height, and other requirements of the zone in which it is located; |

4a. The proposed zoning matches the character of the district and its peculiar suitability for particular uses.
4b. The proposed zoning considers the location, character, and natural features of this and surrounding properties by maintaining a development character with commercial use appropriate for the area north of Wye and adjacent to transportation thoroughfares.
4c. General commercial zoning is well suited for the current topography and vegetation. Compliance with the recommended condition of approval will ensure that there are no significant adverse impacts associated with the natural drainage issues on the subject property.
4d. Any new use proposed will be required to meet the overall density, yard, height, and other requirements of the zoning district at time of Zoning Compliance Permit submittal. The previously approved use of storage buildings for lease or rent will be considered a permitted use.

| 5a. | Whether the zoning conserves the value of buildings and encourages the most appropriate use of land throughout the jurisdictional area; |
| 5b. | Whether the zoning considers non-economic situations which prevent the utilization of the property for the full range of uses allowed in that zone; |
| 5c. | Whether the zoning considers site plan design amenities intended to promote the appearance of the proposed use and mitigate adverse |
neighborhood impacts, including but not limited to landscaping, fencing, screening, access, parking, pedestrian circulation, signs and lighting;

5a. The proposed zoning is expected to maintain the existing value of buildings and the surrounding area. The zoning proposes uses that are consistent with the lot size and location. The zoning promotes development as outlined in the Growth Policy and the Land Use Element.

5b. Zoning is required by the City of Missoula in order to develop the property with use of sewer connection. The proposed zoning will allow predictable development of the 9.76-acre parcel.

5c. Required landscaping, lighting, screening, parking review, and pedestrian circulation will be addressed with various land use permits. Mitigation of impacts will exceed what was required prior to the zoning.

6a. Whether the zoning considers expressed public opinion on the above consideration;

6b. Whether the zoning considers recommendations of the Zoning Officer.

6a. Noticing was sent to all property owners within 300 feet of the property and agencies potentially affected by the rezoning. The property was posted in five locations 45 days prior to the Planning Board hearing. No objections to the proposal have been received.

6b. The Zoning Officer recommends conditional approval of the rezoning request.

V. AGENCY COMMENT

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<thead>
<tr>
<th>AGENCY</th>
<th>COMMENT</th>
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<tbody>
<tr>
<td>COUNTY PUBLIC WORKS DEPARTMENT</td>
<td>“No comment on this zoning request”</td>
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<tr>
<td>FRENCHTOWN RURAL FIRE DISTRICT</td>
<td>No comments received</td>
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<tr>
<td>HEALTH DEPARTMENT</td>
<td>“I recommend a thorough evaluation of existing and future drainage associated with this project. 2018 showed significant drainage issues on and around this parcel during spring run-off and rain events in April. Soils in this area do not appear to readily infiltrate runoff. In addition, groundwater is shallow” Environmental Health Supervisor</td>
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<tr>
<td>SHERIFF’S DEPARTMENT</td>
<td>No comments received</td>
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<tr>
<td>COUNTY WEED DISTRICT</td>
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<tr>
<td>BOARD OF COUNTY COMMISSIONERS</td>
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<tr>
<td>MONTANA DEPARTMENT OF TRANSPORTATION</td>
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<tr>
<td>MONTANA FISH, WILDLIFE AND PARKS</td>
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<tr>
<td>MISSOULA COUNTY PARKS</td>
<td>No comments received</td>
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MISSOULA COUNTY FLOODPLAIN:  
“While not located within the floodplain, this tract is regularly subjected to sheet flow. To minimize potential for flood related damages, recommend that basement construction be prohibited with lowest floor and all utilities including ductwork be constructed a minimum of 2’ above highest adjacent grade.” Floodplain Administrator

<table>
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<tr>
<th>CITY DEVELOPMENT SERVICES:</th>
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<tr>
<td>FRENCHTOWN SCHOOL DISTRICT:</td>
<td>No comments received</td>
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<tr>
<td>CLERK AND RECORDER:</td>
<td>“No concerns about the proposed request.”</td>
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**VI. ATTACHMENTS:**

A. Applicant packet
B. Gregory Robertson’s comments
C. C-C2 Zoning Regulations