



Development Services Division

435 RYMAN | MISSOULA. MT 59802-4297 | 406.552.6630 | FAX 406.552.6053

PUBLIC FORUM

Agenda Item: Public Forum to vary from Title 20 Zoning Code for Missoula County Airport Industrial District regarding remodel and addition to existing animal control center.

Report Date: June 18, 2024

Case Number: 2024-MSS-BRD-00005

Case Planner: Kristin Spadafore, Associate Planner, CPDI

Report Reviewed & Approved By: Cassie Tripard, Land Use Supervisor, CPDI

Public Meetings & Hearing Dates:

City Council Consent Agenda: June 24, 2024

City Council Public Hearing: July 8, 2024

Applicant: Missoula County Airport Industrial District
6700 Butler Creek Road
Missoula, MT 59808

Agent: Rex Thompson, OZ Architects
531 N Higgins Ave
Missoula, MT 59802

Location of

Request: The existing building is located at 6700 Butler Creek Road, Missoula MT, 59808, south of I-90 highway, on Tract 2 of Certificate of Survey 3858, located in Section 35, Township 14 North, Range 20 West, P.M.M.

Geocode: 04-2325-35-2-01-05-0000

Legal Notification: The legal ad for the July 8, 2024, public hearing was published in the *Missoulian* on June 15 and 22nd, 2024. Development Services sent mailings to owners within 150 feet of the subject property on June 12, 2024. Notification was posted on the property on June 12, 2024.

Zoning: M1-2 Limited Industrial / MDP Missoula Development Park Overlay

Surrounding Zoning

North: County Rural Residential Small Agriculture 1, MT SUDS, and East Butler Foothills

South: M1R-2 Limited Industrial-Residential

East: M1R-2 Limited Industrial-Residential

West: M1-2 Limited Industrial / MDP Missoula Development Park Overlay

Surrounding Land Uses

North: I-90 freeway, Detached House Residential across interstate

South: Desmet School, Detached House Residential

East: Utility service lot

West: Vacant lot and new commercial storage warehouse building site

STAFF RECOMMENDATION: None

RECOMMENDED MOTION:

City Council Consent Agenda (6/24/24):

Set a public hearing on July 8, 2024 to hold a public forum on an application from the Missoula County Airport Industrial District to vary from Title 20 Zoning Code requirements regarding remodel and expansion of the existing animal control center. Under state and local law, the Council's role is to conduct this public forum and take public comment; it does not have a decision-making role.

City Council Public Forum (7/8/24):

Not applicable. Title 20, Section 20.85.095.E indicates City Council has no power to deny the proposal but shall act only to allow a public forum for comment.

I. INTRODUCTION

Missoula City-County Animal Control has proposed to expand the existing animal control center on Butler Creek Road, just south of the I-90 freeway. The property is owned by the Missoula County Airport Industrial District. The proposed project will vary from zoning by not meeting multiple landscaping requirements including boulevard landscaping, natural grasses standards in the MDP Overlay, fence type, height, and locations, and landscape buffers. The expansion itself is not permitted since the current use of animal services, shelter/boarding is not a permitted use in the M1-2 Limited Industrial / MDP Missoula Development Park Overlay zoning district, where this building is located

The Missoula County Airport Industrial District is considered a county government agency and has the authority to vary from zoning requirements through public forum. Title 20, Chapter 20.85.095.E states, City Council shall hold the public hearing as a public forum and shall have no power to deny or condition the proposed use but shall act only to allow a public forum for comment on the proposed use.

II. STATE LAW

Part 4 of Title 76, MONTANA CODE ANNOTATED, Planning and Zoning, Section 76-2-402 reads as follows:

Local zoning regulations - Application to agencies. (1) Whenever an agency proposes to use public land contrary to local zoning regulations, a public hearing must be held and the agency shall attend the public hearing. (2) The local governing body shall hold a hearing within 30 days of the date the agency gives notice to the local governing body of its intent to develop land contrary to local zoning regulations.

"Agency" is defined as a board, bureau, commission, department, an authority, or other entity of state or local government.

Missoula City Zoning Code, Title 20, Chapter 20.85.095 - Public Forum reads as follows: For the purposes of this section, an "agency" means a board, bureau, commission, department, district, an authority, or other entity of state or local government.

A. Applicability; Authorized Public Forum - The City Council must hold a public hearing when an agency proposes to develop or use public land contrary to these zoning regulations.

E. Hearing - The City Council shall hold a public hearing within 30 days of the date the agency gives notice to Development Services of its intent to develop or use land contrary to these zoning

regulations. The City Council shall hold the public hearing as a public forum and shall have no power to deny or condition the proposed use but shall act only to allow a public forum for comment on the proposed use. The agency shall attend the public hearing (See 76-2-402, MCA.)

III. DISCUSSION

City of Missoula Community Planning, Development, and Innovation has received a notice from OZ Architects on behalf of the Missoula City-County Animal Control Center of their intent to expand the existing Missoula City-County Animal Control Center on Butler Creek Road, just south of the I-90 freeway. The property is owned by the Missoula County Airport Industrial District. The proposal includes adding approximately 4,300 square feet of office and kennel spaces.

The proposed scope of work for the project is not permitted in Title 20 zoning code. Animal Services, Shelter/Boarding is not a permitted use in the M1-2 Limited Industrial / MDP Missoula Development Park Overlay zoning district, where this building is located (Title 20, Section 20.25.075.F.1.b). Expansion of an existing, legal non-conforming use into a new building addition is prohibited.

There are multiple landscaping requirements the applicant will not be meeting, including: boulevard landscaping, natural grasses standards in the MDP Overlay, fence type, height, and locations, and landscape buffers. Title 20, Section 20.25.075.I requires boulevard landscaping. The applicant will not be planting additional boulevard trees, if approved by the urban forester. Two fences are proposed for dog runs and will be 7 feet tall if approved by Engineering. Fences may not exceed five feet in height (20.25.075.L.2). The Missoula Development Park Overlay requires the front yard to contain a maximum of 20% natural grasses (20.25.075.H.1.a). The front yard will contain 69% natural grasses. Last, a landscape buffer is required along the southern property line which abuts a residential use (20.65.060). The Animal Shelter will not be installing a buffer; however, there is an existing berm along this property line.

IV. NOTICE

Notices of this Public Forum have been published in the Missoulian and sent out to applicable City departments as well as to adjacent property owners within a 150-foot radius for comment. Notice has also been posted on the property.

V. COMMENTS FROM CITY AGENCIES

Fire Department: No comment received at time of staff report.

Police Department: No comment received at time of staff report.

Health Department – Air Quality: No comment received at time of staff report.

Health Department – Missoula Valley Water District: No comment received at time of staff report.

Parks and Recreation: No comment received at time of staff report.

Public Works and Mobility – Engineering: No comment received at time of staff report.

Public Works and Mobility – Utilities: No concerns with this request.

Public Works and Mobility – Transportation: No comment received at time of staff report.

Montana Department of Transportation:

- “Regarding highway operation, the government agency shall be liable for maintaining the animals confined and away from the interstate. If this requirement is met, MDT does not have any further comments for public safety.

- Regarding future developments, the Missoula County has a Wye Infrastructure Plan, in which approximately 15,000 new houses will be developed. In order to serve the future traffic in this area, the engineers are proposing creating a new interchange at Butler Creek. I see that it is possible that land would need to be acquired for the project, and the animal center might be affected. I would advise to take this development into consideration to make decisions on the Animal Control Center.”

Missoula Redevelopment Agency: No comment received at time of staff report.

Desmet School District: No comment received at time of staff report.

VI. ATTACHMENTS

- A. Application Packet
- B. Public Comment

EXHIBIT A LEGAL MAP

