



STAFF REPORT & REFERRAL

Agenda item: 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 Di

Report Date(s): 8/11/2020

Case Planner: Kaitlin McCafferty, Associate Planner

Report Reviewed & Approved By: Mary McCrea, Permits and Land Use Manager

Public Meetings & Hearings:
Planning Board (PB) hearing:
9/1/2020
City Council (CC) 1st reading:
8/24/2020
Land Use & Planning (LUP) pre-hearing:
9/9/2020
City Council hearing:
9/14/2020

Applicant & Fee Owner: Dennis B. Wise, Trustee, Mary Conway Wise, Trustee, Wise Family Trust
c/o Jim Lentine
7652 East Acoma Drive
Scottsdale AZ 85260



Location of request: The subject property is located at 601 W Broadway Street and the parcel directly east of 601 W Broadway in Heart of Missoula Neighborhood Council and Ward 1.

Legal description: 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, P.M.M.

Legal ad: The legal ad was published in the *Missoulian* on August 16 & 23, 2020. The site was posted on August 14, 2020. Adjacent property owners and the physical addresses within 150 feet of the site were notified by first class mail on August 10, 2020.

Zoning: Special District SD/Riverfront Triangle, Sub-district D

Growth Policy: The applicable regional plan is Our Missoula: City Growth Policy 2035 which recommends a land use designation of Urban Center, intended to address the concentration of downtown uses including commercial office, retail, arts and entertainment, eating and drinking establishments, and residential. The applicable vicinity plans include the 2019 Missoula Downtown Master Plan, the 2019 North Riverside Parks and Trails Plan and the 2000 / 2006 Joint Northside / Westside Neighborhood plan.

STAFF RECOMMENDATION

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 Di, 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 concrete 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.

RECOMMENDED MOTIONS

PB p/h: 9/1/20	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 Di 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 concrete 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.
CC first reading: 8/24/20	[First reading and preliminary adoption] Set a public hearing on September 14, 2020 and preliminarily adopt an ordinance rezoning the subject 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 concrete 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 and refer this item to the Land Use and Planning Committee for presentation on September 9, 2020.
LUP: 9/9/20	Discussion only – pre-public hearing
CC p/h: 9/14/20	[Second and final reading] (Adopt/Deny) an ordinance rezoning the subject 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 concrete 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.

I. INTRODUCTION

Development Services has 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 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, P.M.M. 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.

Staff has reviewed the applicant's rezoning submittal packet and bases the recommendation of approval on the following findings of fact:

II. Rezoning review criteria

Findings of fact:

General

1. The subject property has frontage on West Broadway Street, classified as a Principal Arterial and W Front Street, classified as a Major Collector.
2. The subject property is approximately 33,250 SF and is vacant.
3. The site was formally used as a site for the Limited Motor Vehicle Repair business, Tire-Rama. The building was demolished in 2008.
4. The subject property is inside the Urban Growth Area, the Wastewater Facilities Service Area, the Air Stagnation Zone, and can be served by City water and sewer.
5. The subject property is located within an established service area for Missoula hospitals and the City Fire and Police Departments.

Growth Policy:

6. The applicable regional plan is the Our Missoula: City Growth Policy 2035, which recommends a land use designation of Urban Center intended to address the concentration of downtown uses including office, retail, arts and entertainment, eating and drinking establishments, and residential.
7. Areas designated Urban Center are identified as areas of high intensity commercial, retail, arts and entertainment, and high density residential. The City Growth Policy indicates that the following districts are most closely aligned with this residential density: C1-4 Neighborhood Commercial, C2-4 Community Commercial, and CBD Central Business District. The C1-4, C2-4 and CBD zoning districts permit residential density up to 43 dwelling units per acre.
8. The applicant is requesting to rezone the subject property to CBD-4 Central Business District, which is consistent with the Growth Policy land use recommendation for the Urban Center Land Use designation.
9. On January 16, 2019, the City Council adopted the Design Excellence Overlay and applied the /DE-D Outer Core Design Excellence Downtown Overlay zoning to property surrounding the subject property. The Design Excellence Review includes a set of site and building design guidelines that are intended to shape development that is consistent with community character. The overlay was not applied to property with Special District zoning designations, such as the current subject property zoning of Special District SD/Riverfront Triangle, Sub-district D. Staff recommends that with the request to rezone to CBD-4, the /DE-D Outer Core Design Excellence Downtown Overlay zoning be applied to the subject property, consistent with adjacent property zoning.
10. The 2019 Missoula Downtown Master Plan is the applicable vicinity plan. The subject property is within the Riverfront Triangle & Medical District highlighted in the plan, described as an area to include retail, conference center, office, and family and professional housing. The housing is intended to serve the workforce, market-rate and senior rental housing as well as for sale condominiums.
11. The 2019 Missoula Downtown Master Plan describes the Clark Fork River in Missoula as a defining feature, and recommends that the river's edge be treated with care. The Plan states that where

development approaches the riverbank, it should be designed to limit negative impacts to the river and to provide public access between the river and buildings. The Plan recommends an extension of the river front trail along the north bank of the Clark Fork River and open space along the river.

12. The southeast edge of the 2000 Joint Northside/Westside Neighborhood Plan and the 2006 Update plan area covers the portion of the subject property between W Broadway Street and W Front Street. The 2000/2006 Northside/Westside Plan recommends a City Center land use designation for the portion of the subject property within the plan area.
13. The 2000/2006 Northside/Westside Plan encourages mixed use development on land designated as City Center, and supports extending the riverfront trail from N Orange Street to the California pedestrian bridge.
14. The North Riverside Parks and Trails Master Plan (pending adoption) shows an extension of the river front trail along the north bank of the Clark Fork River across the subject property with the trail connecting to W Broadway at the western edge of the subject property.

Zoning

Adjacent Zoning and Land Uses

15. The property to the north and west is zoned C1-4 Neighborhood Business / DE-D Outer Core Design Excellence Downtown Overlay and to the south and east the property is zoned CBD-4 Central Business District / DE-D Outer Core Design Excellence Downtown Overlay. Adjacent to the south is the Clark Fork River and property south of the river is zoned OP3 Public Lands and Institutional.
16. The subject parcel is the last remaining parcel in the SD/River Front Triangle zoning district. All other parcels in this district were rezoned to CBD-4 Central Business District in 2008 and the Design Excellence Overlay was applied in 2019.
17. Surrounding uses include medical office, hospital, retail, hotel/motel, restaurants, office, financial services, communication service establishment, sports and recreation participants and residential.

Surrounding Land Uses	Surrounding Zoning
North: Hospital	C1-4 Neighborhood Commercial / DE-D Outer Core Design Excellence Downtown Overlay
South: Clark Fork River, Parks and Open Lands	Unzoned, OP3 Public Lands and Institutional and CBD-4 Central Business District / DE-D Outer Core Design Excellence Downtown Overlay
East: Commercial	CBD-4 Central Business District / DE-D Outer Core Design Excellence Downtown Overlay
West: Commercial	C1-4 Neighborhood Commercial / DE-D Outer Core Design Excellence Downtown Overlay

Current Riverfront Triangle Special Zoning District (RTSZD)

18. On April 19, 2004 the City Council approved Ordinance #3245 establishing the Riverfront Triangle Special Zoning District (RTSZD). The RTSZD was applied to the Riverfront Triangle Area as a way to implement the Riverfront Triangle Redevelopment Master Plan (RTRMP).
19. The RTSZD was created to establish a mixed use area that functions as an introduction to the downtown area with a variety of uses, such as offices, residential, commercial and retail to serve the neighborhoods as well as the larger community.
20. In addition the RTSZD included building design standards intended to reinforce a pedestrian friendly experience on the streets; encourage development with primary entrances facing the street and public

areas; establish views from and through the site to the vistas both north and south; and expand the options for pedestrian movement throughout the site, including expansion of the Riverfront Trail corridor through the property.

21. The RTSZD includes General Development Standards related to parking, building design standards, riverfront and public access, riparian resources and street trees. The zoning district refers to the former Title 19 zoning ordinance for standards not specifically addressed in the RTSZD such as off-street parking requirements, signage standards, and Riparian Resource provisions.
22. The General Development Standards for parking refer to Title 19 for calculating the number of required parking spaces, which is considered both a minimum and a maximum requirement. Off-street parking spaces are not required to be located on the same parcel as the use they serve, and may be shared or in a communal parking garage as long as agreements are in place verifying the number of reserved spaces per use and details of the shared spaces. Parking structures and parking lots are not allowed to be located in areas with frontage on a right-of-way or public space except for entrances, exits and driveways.
23. The General Development Standards include building design standards requiring building entrances facing public streets, modulation of building facades, inclusion of building elements to reduce the bulk of buildings, and sixty percent (60%) glazing at street level with frontage and fifteen percent (15%) glazing at all other levels.
24. The General Development Standards include Riverfront and Public Access standards which include extension of the riverfront trail through the property across the entire riverfront frontage with accesses from W Broadway Street and W Front Street leading to the riverfront trail spaced every 200 feet. In addition the standards require open space in the form of ADA accessible public parks and/or plazas with several specific locations specified.
25. The RTSZD is divided into five sub-districts: A, B, C-north, C-south and D. Each sub-district includes standards for permitted uses, setbacks/build-to lines, maximum building height and supplemental regulations.
26. The RTSZD is very prescriptive in terms of the type of uses permitted on each street frontage throughout the zoning district. For each street and sub-district the RTSZD prescribes specific uses permitted at street level with frontage, street level without frontage, on the second level and on levels above the second level.
27. For example, within Sub-district D the only permitted uses on W Broadway Street and W Front Street or from a plaza or open area within the sub-district are as follows:
 - a. Street level with frontage on West Broadway or West Front Street: Retail and Service Businesses, Professional Office, or Residential
 - b. Street level without frontage on West Broadway or West Front Street: Residential, Professional Office, Retail and Service Businesses
 - c. Second level: Retail and Service Businesses, Professional Office, Residential
 - d. Other levels: Professional Office or Residential

Permitted uses facing the Clark Fork River are as follows:

- e. Ground level with frontage: Retail and Service Businesses, Residential
 - f. Ground level without frontage: Retail and Service Businesses, Residential
 - g. Second level: Professional Office Residential
 - h. Other levels: Professional Office, Residential
28. Setbacks vary in the RTSZD by sub-district and by street frontage. Sub-district D requires street facades to be built parallel to the principal frontage line along a minimum of 70% of its length with a setback of 0 feet. In the absence of a building along the remainder of the frontage line, a street wall shall be built coplanar with the façade. Also, minimum sidewalk width on West Broadway is ten (10) feet. Minimum sidewalk width on West Front Street is fifteen (15) feet. Also, no building shall be built within twenty (20) feet of the north bank of the Clark Fork River.

29. Maximum building height standards vary in the RTSZD by sub-district and by street frontage. Generally taller buildings are allowed along the north side of the site with a decrease in height for structures closer to the Clark Fork River. The maximum building height of this parcel under SD/Riverfront Triangle sub-district D is 52 feet along W Front Street and West Broadway. Buildings within 50 feet of the top of the Clark Fork River's north bank are restricted to two (2) stories and a maximum height of 30 feet from the top of the river bank.

Proposed Zoning: CBD-4 Central Business District / DE-D Outer Core Design Excellence Downtown Overlay

30. One of five commercial zoning districts in Title 20, the CBD-4 Central Business District permits commercial uses that are moderate to high in intensity. In addition, all the residential building types from detached house (single dwelling) through multi-dwelling residential are permitted in the CBD-4 zoning district.
31. The applicant states in the submittal packet that they propose a mixed use building that will include multi-dwelling residential housing, parking and office space.
32. In CBD-4 there are no minimum parcel area standards or parcel area per unit standards. Also, because the area is not adjacent to any residential zoning districts, the only zoning setback in CBD-4 prohibits the location of buildings within 50 feet of the 100 year floodplain boundary along the Clark Fork. Walkways, plazas, pedestrian-oriented facilities, and bike trails are permitted within the 50-foot setback area.
33. Maximum building height in CBD-4 is 125 feet.
34. Uses listed as permitted in the CBD-4 zoning district are approved in an administrative process through zoning compliance review as part of a building permit application or zoning compliance permit. Uses listed as conditional in the CBD-4 zoning district require a public hearing and approval by City Council. Conditional uses must comply with all applicable standards of the zoning ordinance and meet the review criteria listed in Section 20.85.070.H of Title 20.
35. Two of the common general standards of the Title 20 zoning ordinance, landscaping and off-street parking, do not apply in the CBD-4.
36. The Title 20, multi-dwelling building standards do not apply in the CBD district, to mixed use buildings or to vertical mixed use buildings.
37. The Design Excellence Overlay includes a set of site and building design standards and guidelines that are intended to shape development that is consistent with community character. The Design Excellence Downtown Outer Core design standards regulate site design, vertical scale, façade design - including glazing, entrance locations and materials - such that buildings contribute to the urban experience with facades located at the street edge and activated storefronts to ensure an engaging street experience.
38. In the Design Excellence Overlay, the Title 20, Commercial Building Design standards do not apply.
39. In the Design Excellence Overlay, the Title 20, Enterprise Commercial Uses are exempt from conditional use review and exempt from all the Enterprise Commercial Use standards except for the requirement for a Traffic Impact Analysis.
40. Full Design Excellence Review is required for all properties located within the Downtown Outer Core which requires compliance with the Design Excellence standards and compliance with the applicable standards in the Design Excellence Guidelines.

Comparison of RTSZD and CBD-4 Central Business District / DE-D Outer Core Design Excellence Downtown Overlay

41. The RTSZD lists uses as permitted and prohibited. Permitted uses are approved administratively by Development Services permit staff with application for a building permit or Zoning Compliance permit. Permitted uses in Sub-district D include:
- a. Retail Trade which includes restaurants in addition to retail sales;
 - b. Service Businesses which includes banks, health clubs, businesses for personal grooming, tailors and instructional businesses;

- c. Professional Office use which includes medical and general office uses, medical laboratory, Out-Patient Surgical Center and Research Laboratories; and
 - d. Residential use includes detached house, two-unit house, multi-dwelling, senior housing, skilled nursing facilities, residential hospice facilities and assisted living facilities.
- 42. In CBD-4 permitted uses are approved administratively by Development Services permit staff. Conditional uses require a public hearing and approval by City Council. The CBD-4 includes a wider variety of permitted uses than the RTSZD.
- 43. RTSZD prohibits any use not specifically listed as permitted in addition to the following: adult bookstore/theater type uses, auto-related uses such as vehicle repair, sales and service, welding or metal shops and any business that is noxious or offensive, or imposes extraordinary hazard to life or property.
- 44. CBD-4 prohibits construction sales and service, check cashing/loan service, funeral and interment service uses, truck stop and travel plaza service use, recreational vehicle park, recycling service uses, general warehousing/wholesaling/freight movement, residential storage warehouse use, and most vehicle related uses. All of these uses are not listed as permitted in the RTSZD, therefore they would also be prohibited.
- 45. In the CBD-4 and RTSZD there are no minimum parcel area or minimum parcel area per unit standards. Density is limited in the RTSZD by the maximum height allowed in each sub-district and by the amount of land occupied by parking to meet the minimum parking required for all the uses. In the CBD-4 off-street parking requirements do not apply. Density is limited in the CBD-4 by the maximum building height and unit size.
- 46. Except for a floodplain setback, there are no setbacks required in the CBD-4 zoning district unless the property abuts an R-zoned district. The subject property does not abut an R-zone. The floodplain setback in the CBD-4 prohibits buildings within fifty (50) feet of the 100 year floodplain.
- 47. In the RTSZD along all street frontages, buildings are required to be built at the property line, with zero (0) setback, for at least 70% of the frontage length. The /DE-D Outer Core Design Excellence Downtown Overlay requires structures to be built between 0 – 5 feet from W Broadway for at least 80% of the street frontage.
- 48. In CBD-4 the maximum structure height is 125 feet. The /DE-D Outer Core Design Excellence Downtown Overlay restricts the street wall height to 85 feet (6 stories) and then the street wall must step back 10 feet above 85 feet to the maximum height of 125 feet in CBD-4.
- 49. The maximum building height of this parcel under RTSZD, Sub-district D is 52 feet along W Front Street and West Broadway. Buildings within 50 feet of the top of the Clark Fork River's north bank are restricted to two (2) stories and a maximum height of 30 feet from the top of the river bank.
- 50. For Special Districts created under the Title 19 zoning ordinance, any standards not addressed in the Special District would refer back to the Title 19 standards. The RTSZD refers to Title 19 for calculating the number of required parking spaces, which is considered both a minimum and a maximum requirement. The RTSZD anticipates that off-street parking will be shared between uses and at least a portion will be provided in one or more communal parking garages, with parking agreements in place. In CBD-4 the general parking and landscaping standards in Title 20 do not apply. No off-street parking is required for uses in the CBD-4 zoning district.
- 51. Both the RTSZD General Standards and the /DE-D Outer Core Design Excellence Downtown Overlay include building design standards such as location for entrances, façade modulation, façade articulation to create visual variety and reduce the apparent bulk of buildings, a minimum amount of glazing (glass doors and windows) and restrict the location of parking areas related to street frontage. Design Excellence review also regulates the use of certain materials in order to ensure that a building's façade design reflects Missoula's location and character.
- 52. The RTSZD includes Riverfront and Public Access standards, with a primary requirement to extend the riverfront trail along the entire riverfront frontage of the subject property. In addition the RTSZD requires

accesses from W Front Street and W Broadway leading to the riverfront trail spaced every 200 feet. Several locations are listed as preferred for ADA accessible public parks and plazas.

53. The CBD-4 zoning district does not require extension of the Riverfront Trail and does not include requirements for public plazas. The Title 20 landscaping standards do not apply in the CBD-4 zoning district.
54. The Design Excellence Downtown Guidelines include standards for landscape design. Standard SD29 requires a landscape buffer between the building and the Clark Fork River to maintain the natural aesthetic of the river edge.
55. In general the CBD-4 Central Business District /DE-D Outer Core Design Excellence Downtown Overlay zoning offers the following compared to the RTSZD:
 - a. A wider variety of commercial uses without the prescriptive requirements of the RTSZD;
 - b. A mix of permitted residential and non-residential uses similar to the RTSZD
 - c. An increase in height to 125 feet, with a step back of 10 feet above 85 feet at the street edge compared to a maximum building height of 52 feet in RTSZD;
 - d. A 50 foot setback from the 100 year floodplain in the CBD-4, however no requirement to extend the Riverfront Trail within this setback area, whereas the RTSZD requires a 50 foot setback from the top of the river bank and extension of the Riverfront Trail within this setback area; and
 - e. No off-street parking in the CBD-4 compared to the RTSZD requirements for parking per Title 19.
56. Any new development on the subject property will be required to meet all applicable portions of Title 12 & Title 20, as required by the Missoula Municipal Code.

Riverfront Trail

57. The rezone application includes a proposal by the developer to grant a 15-foot wide riverfront trail and utility easement, east to west across the subject property and extending north along the west property boundary. From the easement exhibit in the rezone application it is not clear where the top of bank for the north bank of the Clark Fork River is located. The easement appears to extend into areas of increased slope along the riverbank at the eastern property boundary and extend away from areas of increased slope along the riverbank toward the western property boundary.
58. City Parks commented that they could support the rezoning, but the riverfront trail would require a minimum 20-foot wide non-motorized access easement, east to west across the subject property and along the western boundary of the property to connect the trail to W Broadway. The 20-foot easement width is required in order to ensure the easement will accommodate public safety for the volume of users of the shared use path, accommodate trail lighting and seating, and provide sufficient width for short / long term maintenance of the trail.
59. City Parks noted that the Missoula Downtown Master Plan recommends extension of the riverfront trail along the north bank of the Clark Fork River. The Plan proposes a design for the Ron's River Trail (located east of Orange Street along the river) as a Promenade that includes a 14-foot wide trail with 2-foot shoulders each side with seating and lighting located along the trail.
60. City Parks noted that the North Riverside Parks and Trails Master Plan (pending adoption) recommends a 16 – 20-foot width for a Promenade and that the proposed 2020 AASHTO Guide for the Development of Bicycle Facilities also calls for wider minimum widths for shared-use paths due to the volume of use.
61. With the rezone of the Sub-districts A, B and C of RTSZD to CBD-4 Central Business District in 2017, the City applied standards with a Land Use and Development Agreement that required a minimum 20-foot wide riverfront trail easement measured from the top of bank of the north bank of the Clark Fork River. In addition, the Land Use and Development Agreement required buildings to be setback 25 feet from the top of the north bank of the Clark Fork River.
62. In addition, completion of the north bank riverfront trail is identified as a project in Activate Missoula 2045, Missoula's Long Range Transportation Plan.

63. The recommended motion includes approval of the rezone 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.

Transportation

64. Per the Road Functional Classification Map from the MPO 2012 Transportation Plan, roads adjacent to or within the subject property have the following classifications:
 - a. W Broadway Street is classified as Principal Arterial
 - b. W Front Street is classified as a Major Collector
65. The W Broadway Street frontage of the subject property includes curbside sidewalks south of the Owen Street intersection.
66. The W Front Street frontage of the subject property includes curbside sidewalks on the north side of the street.
67. The Riverfront Trail extends along the Clark Fork River from under the N Orange Street bridge to the Owen Street right-of-way.
68. The subject property is within the Missoula Urban Transportation District. The subject property is within a quarter mile of the Downtown Transfer Station providing access to all the bus routes. Bus stops for Routes 11 and 14 are adjacent on W Broadway Street. Bus routes 7 and 9 run on N Orange Street adjacent to the subject property.

Conclusions of Law:

1. Whether the zoning is made in accordance with a growth policy;

1. The 2035 Our Missoula City Growth Policy incorporates previously approved regional, vicinity and issue plans. The 2035 Our Missoula City Growth Policy is the applicable regional plan and recommends an Urban Center land use designation for the subject property. The Urban Center land use designation is recommended for areas where there is a concentration of downtown uses including high intensity commercial, office, retail, arts and entertainment, eating and drinking establishments and high density residential.
2. The rezoning of the subject property to CBD-4 Central Business District /DE-D Outer Core Design Excellence Downtown Overlay complies with the Urban Center land use designation because the 2035 Growth Policy recommends CBD-4, C1-4 and C2-4 as the relatable zoning districts for lands with the Urban Center land use designation.
3. The 2019 Missoula Downtown Master Plan is the applicable vicinity plan. The subject property is within the Riverfront Triangle & Medical District highlighted in the plan, described as an area to include retail, conference center, office, and family and professional housing. The housing is intended to serve the workforce, market-rate and senior rental housing as well as for sale condominiums.
4. The rezoning of the subject property to CBD-4 Central Business District /DE-D Outer Core Design Excellence Downtown Overlay complies with the 2019 Missoula Downtown Master Plan because the CBD-4 zoning permits all the uses recommended in the Plan.
5. The 2019 Missoula Downtown Master Plan describes the Clark Fork River in Missoula as a defining feature, and recommends that the river's edge be treated with care. The Plan states that where development approaches the riverbank, it should be designed to limit negative impacts to the river and to provide public access between the river and buildings. The Plan recommends an extension of the river front trail along the north bank of the Clark Fork River and open space along the river.

6. The rezone to CBD-4 Central Business District /DE-D Outer Core Design Excellence Downtown Overlay does not implement the 2019 Missoula Downtown Master Plan recommendation for extension of the river front trail along the north bank of the Clark Fork River.
7. The applicant has included a document illustrating a 15-foot wide easement proposal extending east to west along subject property, however the easement has not been filed with the County Clerk and Recorder.
8. The Downtown Master Plan recommends the trail east of Orange Street be designated a Promenade trail that includes a 14-foot wide trail with 2-foot shoulders each side with seating and lighting located along the trail. A minimum 20-foot wide easement is required for a Promenade trail.
9. In order for the rezoning to comply with and implement the recommendations of the 2019 Missoula Downtown Master Plan, the applicable vicinity plan for the subject property, staff recommends the motion for approval be 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.

2a. Whether the zoning is designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; 2b. Whether the zoning considers the effect on motorized and non-motorized transportation systems;

1. The rezoning facilitates the adequate provision of public services, including transportation, water, sewerage, schools, parks, and other public requirements, because the area is inside the Waste Water Service Area, and is served by public infrastructure.
2. The current Riverfront Triangle Special Zoning District, Sub-district D zoning provides for an extension of the riverfront trail. The rezone to CBD-4 Central Business District /DE-D Outer Core Design Excellence Downtown Overlay does not require an extension of the riverfront trail.
3. The applicant has included a document illustrating a 15-foot wide easement proposal extending east to west along subject property, however the easement has not been filed with the County Clerk and Recorder.
4. The Downtown Master Plan recommends the trail east of Orange Street be designated a Promenade trail that includes a 14-foot wide trail with 2-foot shoulders each side with seating and lighting located along the trail. A minimum 20-foot wide easement is required for a Promenade trail.
5. In order for the rezoning to comply with and implement the recommendations of the 2019 Missoula Downtown Master Plan, the applicable vicinity plan for the subject property, staff recommends the motion for approval be 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.
6. The rezoning gives reasonable consideration to the effect on motorized and non-motorized transportation systems because the property is within the Missoula Urban Transportation District and the property is served by existing public sidewalks, public transit facilities, and bicycle lanes.
7. The rezoning will benefit the City as a whole if City Council approves the recommended motion providing for extension of the Riverfront Trail across the property connecting to W Broadway and by providing the appropriate width of trail and amenities that provide safe and effective non-motorized facilities while implementing key goals and objectives from the 2019 Missoula Downtown Master Plan.

3. Whether the zoning considers the promotion of compatible urban growth

1. The rezoning promotes compatible urban growth because it is inside the Waste Water Service Area and served by public infrastructure and services, including motorized and non-motorized transportation, water, sewer, schools, parks, and public utilities and services.

2. The rezone promotes compatible urban growth because it will facilitate mixed-use development on a site served by a Principal Arterial roadway and a Major Collector road.
3. In order for the rezoning to comply with and implement the recommendations of the 2019 Missoula Downtown Master Plan, the applicable vicinity plan for the subject property, staff recommends the motion for approval be 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.
4. The rezoning of the subject property to CBD-4 Central Business District /DE-D Outer Core Design Excellence Downtown Overlay complies with the Urban Center land use designation because the 2035 Growth Policy recommends CBD-4, C1-4 and C2-4 as the relatable zoning districts for lands with the Urban Center land use designation.

4a. Whether the zoning is designed to promote public health, public safety, and the general welfare; 4b. Whether the zoning is designed to secure safety from fire and other dangers; 4c. Whether the zoning considers the reasonable provision of adequate light and air; 4d. Whether the zoning conserves the value of buildings and encourages the most appropriate use of land throughout the jurisdictional area;

1. The rezoning of the subject property to CBD-4 Central Business District /DE-D Outer Core Design Excellence Downtown Overlay will promote public health, public safety, and the general welfare by accommodating mixed-use development that is also supported in the 2019 Missoula Downtown Master Plan.
2. The rezoning will promote public health, public safety, and the general welfare and secure safety from dangers such flooding because the CBD-4 zoning district requires a 50 foot setback for all structures from the 100 year floodplain.
3. Emergency services are available to the site. Law enforcement personnel and procedures are available to address potential problems of noise, property damage, or personal injury. Fire protection is also available to the site.
4. This rezoning encourages an appropriate use of the land because it is located in an area the 2035 Growth Policy recommends that CBD-4 Central Business District /DE-D Outer Core Design Excellence Downtown Overlay zoning be applied due to the Urban Center land use design.
5. In addition the rezone to CBD-4 Central Business District /DE-D Outer Core Design Excellence Downtown Overlay is appropriate because the area has access to sewer, public water, emergency services, streets, and other urban services. The recommended motion to require dedication of an easement to support extension of the riverfront trail will enhance non-motorized facilities.

5. Whether the zoning considers the character of the district and its peculiar suitability for particular uses;

1. The rezoning to CBD-4 Central Business District /DE-D Outer Core Design Excellence Downtown Overlay is suitable for the subject property and gives reasonable consideration to the character of the district by providing a mix of residential and commercial uses at an intensity that is context-appropriate.
2. The rezoning considers the location and character of the property, which has easy access to urban infrastructure and services in Missoula.

6a. Whether the proposed zoning amendment corrects an error or inconsistency in the zoning ordinance or meets the challenge of a changing condition; 6b. Whether the proposed zoning amendment is in the best interests of the city as a whole.

1. The zoning amendment is a map amendment and not a text amendment, therefore there is no change to the Title 20 zoning ordinance with the map amendment to rezone the subject property from Riverfront Triangle Special Zoning District, Sub-district D to CBD-4 Central Business District /DE-D Outer Core Design Excellence Downtown Overlay.

2. The rezoning is in the best interest of the city as a whole because the rezoning implements the recommendations of the 2035 Our Missoula City Growth Policy for areas designated Urban Center. The CBD-4 zoning designation is listed in the Growth Policy as currently relatable to lands with the Urban Center land use designation.
3. Application of the /DE-D Outer Core Design Excellence Downtown Overlay with this zoning map amendment is consistent with the zoning applied to adjacent properties. The rezoning will provide a mix of residential and commercial at an intensity that is context appropriate.
4. The rezoning promotes compatible urban growth because it is inside the Waste Water Service Area and served by public infrastructure and services, including motorized and non-motorized transportation, water, sewer, schools, parks, and public utilities and services.
5. The rezoning will benefit the City as a whole if City Council approves the recommended motion providing for extension of the Riverfront Trail across the property connecting to W Broadway and by providing the appropriate width of trail and amenities that provide safe and effective non-motorized facilities while implementing key goals and objectives from the 2019 Missoula Downtown Master Plan.

III. AGENCY COMMENT

Missoula Valley Water Quality District: No comment provided

Health Department - Air Quality Division: The Air Program at the Missoula City-County Health Department has no comments on the proposed rezone request for 601 W Broadway – Ben Schmidt

Health Department – Environmental Health: The District supports the trail easement and 50 ft buffer that's proposed. It would be nice to see some of the concrete debris removed on the bank. Also, not sure that zoning is a tool to memorialize the riparian buffer and trail easement but the District would be supportive of this. Thanks. Travis Ross

Missoula County – Emergency Management: Emergency Management has no Comment- Adriane Beck

Missoula Urban Transportation District: Missoula Urban Transportation District does not have any concerns about the rezoning of 601 W Broadway to CBD-4/DE-D Outer Core. – Dan Stone

City Parks & Recreation: Thank you for allowing the Parks Department the opportunity to review this rezone.

The existing SD/Riverfront Triangle zoning for this parcel has a number of requirements in regards to:

- expanding the non-motorized system,
- continuing the Riverfront Trail corridor, which is the primary east/west commuter on the north side of the riverfront,
- considering views from and through the site,
- preservation and enhancement of open space area, and
- encourage land uses which will promote the natural, recreational, and historical character, as well as land uses that will allow public enjoyment of the area.

Specific to this parcel, the SD/Riverfront Triangle Subdistrict 4 requires:

- a public riverfront trail that will connect to the Ron's River Trail to the east
- building setbacks of 20' from top of bank, with buildings within 50' of top of bank to be no higher than 30', with either retail, service business or residential on the ground level.
- Minimum sidewalk widths of 10' on West Broadway and 15' on West Front Street

The recent update of Missoula's Downtown Master Plan proposed to design Ron's River trail as a Promenade with a 14' minimum width (w/2'shoulders), with lighting and seating. Completing the north bank riverfront trail is also an identified project in Activate Missoula 2045, Missoula's Long Range Transportation plan. The North Riverside Parks and Trails

Masterplan (pending adoption) recommends for a 16-20' width promenade, and the proposed 2020 AASHTO Guide for the Development of Bicycle Facilities also calls for wider minimum shared-use path widths due to volume of use.

The Parks Department could support this rezoning, but we would need a minimum of a 20' wide non-motorized access easement (25' width preferred) through this parcel to ensure we can accommodate trail lighting, provide both short/long term maintenance, future trail expansion, seating, and public safety. The current application only provides for a 15' easement.

The Parks department acknowledges that this is a narrow parcel with many constraints. We are willing to work with the applicant on meeting the intent of the original zoning, as well as implementing the City's adopted plans. - Neil Miner

Office Of Housing & Community Development: No comment provided

City Attorney: No comment provided

Missoula Redevelopment Agency: Thanks for the opportunity to comment.

This parcel currently carries the remnant of a special zoning district created in the mid-2000s that once extended eastward to Orange Street south of West Broadway. 601 West Broadway is now an isolated zoning island and should be considered part of the overall developable area in the Riverfront Triangle along the River it coincides and can be developed in concert with parcels to the east of it. The CBD-4 designation was applied to the parcels between the subject lot and Orange Street in 2019. At that time, the then owner of 601 West Broadway was not interested in changing to CBD-4.

The old special zoning for the property speaks specifically to height and setback restrictions and may include allowance for a public riverfront trail along the south and west sides of the property, which are important to the best development of that part of downtown Missoula. The CBD-4 zoning to the east was adopted pursuant to a Land Use Agreement (attached) which speaks to trail easements and design requirements that are very important to future development of the City's riverfront trail system, views from West Broadway, and promotion of proper urban form and architectural design. (The design requirements are superseded by the Design Excellence Standards). MRA supports the rezoning to CBD-4 pursuant to the owner providing written assurances that the riverfront trail on the south and west sides of the parcel remains viable though easements or allowance of the trail to be placed in south and west building setbacks. – Chris Behan

City Police: No issues from Police Department – Chris Odlin

City Fire: Thank you for the opportunity to comment. Specific requirements for providing the necessary tools for community fire protection, i.e., fire department access roads and fire protection water supplies, shall be reviewed at the time of construction permit submittal by the fire code official. Fire has no present concerns/comments with the proposed rezone request. – Adam Sebastian

Montana Department of Transportation: I do not have any concerns or comments with the proposed Rezone Request. – Glen Cameron

City Stormwater Division: No comment provided

City Wastewater Division: No comment provided

City Water Division: No comment provided

Neighborhood Council (NC): No comment provided

V. EXHIBITS: