

E X E C U T I V E S U M M A R Y

CASE PLANNER: Matt Heimel, AICP

REVIEWED AND APPROVED BY: Tim Worley

PUBLIC HEARING DATES: PB: September 1, 2020
BCC: September 24, 2020

AGENDA ITEM: **3705 Highway 200 E Rezoning**

APPLICANT / FEE OWNER: Tri East, Inc.
P.O. Box 2758
Missoula, MT 59806

REPRESENTATIVE: Paul Forsting, IMEG Corp.

LOCATION: 3705 Highway 200 E, East Missoula

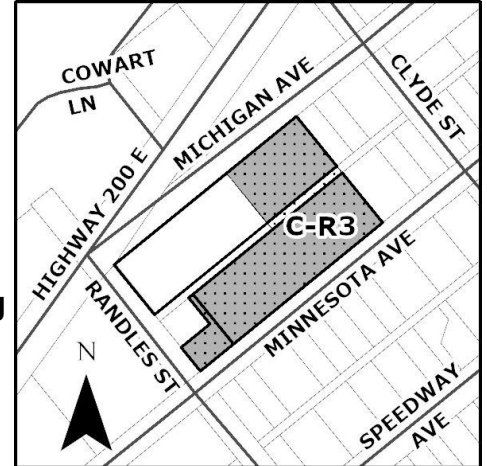
LEGAL DESCRIPTION: Lots 5-11 and Lots 16-26, Block 19, East Missoula Addition, Section 24, Township 13 North, Range 19 West, P.M.M., Missoula County, Montana

LEGAL NOTICE: The legal ad was published in the *Missoulian* on August 16 and 23, 2020. Six posters were placed along an alley adjacent to the property on August 10, 2020. Adjacent property owners within 300 feet of the site were notified by mail on August 12, 2020.

ZONING DESIGNATION: Current: C-R3 (Residential) & Canyon Gates/Ole's Planned Variation
Proposed: C-C1 (Neighborhood Commercial)

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

RECOMMENDATION: **THAT** the zoning request be **approved**.



Surrounding Land Uses

North: Highway / Commercial

South: Residential

East: Residential

West: Commercial

Surrounding Zoning

C-C2 General Commercial

Unzoned

C-C2 General Commercial

C-C2 General Commercial

MISSOULA CONSOLIDATED PLANNING BOARD
3705 Highway 200 E
C-R3 & Canyon Gate/Ole's Planned Variation to C-C1 Neighborhood Commercial
September 1, 2020

I. RECOMMENDED MOTIONS

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.

II. INTRODUCTION

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, in Section 24, Township 13 North, Range 19 West. The approximately 2.3 acres are currently zoned C-R3 Residential with the Canyon Gates/Ole's Planned Variation.

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 applicant intends to utilize the property for commercial use, and the anticipated commercial use is storage. The applicant is proposing a commercial zoning designation to allow for this use and to also comply with the Neighborhood Center land use designation of the Growth Policy.

III. REZONING REVIEW CRITERIA

Findings of Fact:

General Site Geography and Characteristics

1. The subject property is surrounded by uses that include residential and commercial. Michigan Avenue borders the property to the northwest, Randle Street borders the property to the west, and Minnesota Avenue borders the property along the southeast boundary.
2. The surrounding properties have been developed with a mix of uses from commercial to residential and paved parking areas.
3. The proposed rezoning would apply to property that fronts roads classified as local streets.
4. There are no pedestrian paths adjacent to the property.
5. The site is currently developed with a paved parking area associated with an adjacent service station and casino owned by the applicant.
6. On August 27, 2011, the Board of County Commissioners approved a proposal to rezone the subject properties from C-C2 General Commercial to C-R3 Residential with the Canyon Gate Planned Variation. The intent of the Canyon Gate Planned Variation is to provide attached housing units, with standards intended to provide adequate yard and building areas and promote an aesthetic neighborhood quality, while allowing attached housing units.
7. The site is located within the Air Stagnation Zone.
8. The site is located within the East Missoula Rural Fire District. The closest East Missoula Rural Fire Station is located approximately 0.3 miles away from the property.
9. The property is within the boundaries for East Missoula Sewer. Sewer is provided by the City of Missoula with delayed annexation for the area.
10. 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.
11. 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.
12. The site is outside of any FEMA mapped floodplain and is not within a 1-mile buffer area from a Zone-A designated floodplain area.
13. The Missoula County Sheriff's Department responds to calls in this area from the West Broadway location approximately 3.6 road miles away.

Growth Policy

14. The applicable land use plan is the Missoula Area Land Use Element (2019), an amendment to the Missoula County Growth Policy (2016).
15. The Land Use Element designates this property as Neighborhood Center and recommends land uses with a mix of residential, neighborhood services, offices, retail, and institutional uses.

16. The Land Use Element recommends a range of building sizes from small (1,000 square feet) to anchor size (45,000 square feet).
17. A maximum of eight residential dwelling units per acre is recommended per the Land Use Element, requiring connections to public sewer and water. The ability to achieve higher densities may be limited by site considerations, such as lot size, setbacks, floodplain, and slope.
18. 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-C1 Neighborhood Commercial

19. 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.
20. 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.
21. The intent of the C-C1 Zoning District is provide convenience shopping for a limited neighborhood market which involves retail enterprises dispensing commodities and providing personal or professional services to the individual. The uses should be both at the same intensity level and in the architectural scale of the neighborhood which they serve. Such developments should be clustered to provide centers of commercial activity which will effectively serve adjacent neighborhoods.
22. The site is currently zoned C-R3 with the Canyon Gates/Ole’s Planned Variation.
23. The proposal would zone the site to C-C1 from its current zoning designation.
24. Permitted uses in the C-C1 Zoning District include Retail trade and service, with a maximum floor area of 3,500 square feet and no outdoor storage or display; personal services; single-family dwellings (mobile homes constructed prior to June 15, 1976, must be placed on a minimum of 5 acres with 50’ front, rear, and side setbacks; two family dwellings; Commercial and residential facilities serving 8 or fewer persons; Day care centers; Boarding houses; Private lodges or fraternal organizations; Agricultural, including any and all structures or buildings needed to pursue such activities; Open space land; Accessory buildings and uses.
25. Conditional uses in the C-C1 Zoning District include Residential and commercial mini-warehouses; Professional, business, and government offices; Repair services, except automotive repair; Eating establishments, except drive-in and drive-through restaurant establishments; Home occupations; Day care centers; Community residential facilities serving 9 or more persons; long-term care facilities; Multiple-family dwellings; and Seasonal commercial and temporary uses.
26. Special Exception uses identified in the C-C1 Zoning District include Service Stations; Retail trades and services, with outdoor display or storage; Public and quasi-public buildings and uses; and Public utilities.
27. The proposed zoning will change development standards for setbacks, building height, and lot area and width
28. Development standards for parking, signage, landscaping, and other design aspects relative to the development proposal will remain unchanged.
29. The zoning regulations establish procedures for addressing future modification and development.

Agency and Neighborhood Comments

30. The Montana Department of Transportation, Missoula County Clerk and Recorder Office, and Floodplain Administrator stated they had no comments or concerns with the request.
31. The Water Quality District commented that they have no objection to the proposal, and that drainage should be managed by infiltration. Storm Water Injection Wells should work in the type of geology though shallow infiltration.
32. CAPS staff contacted the Water Quality District and confirmed that no special conditions or stipulations need to be added to the proposed rezoning to ensure adequate drainage for future development. The standard Missoula County building permitting process will route any development proposal for the appropriate drainage review.
33. The Missoula City-County Health Department commented that they had no concerns with the proposal and that the project is served by contract sewer and will continue to be.
34. As of August 21, 2020, Community and Planning Services had received one comment letter of support from a neighboring property owner. No other public comments have been received as of distribution of this staff report to the Planning Board.

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 Neighborhood Center.
- 1b. The uses and density permitted in the C-C1 Zoning District lay the framework for development and allow for opportunities identified in the comprehensive plan.
- 1c. The intended use and potential permitted uses in the C-C1 Zoning District conform to the objectives of the Land Use Element and intent of the zoning regulations.
- 1d. The proposed rezoning takes into consideration the context of the area, the adjacent land uses, and has 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-C1 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.
- 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-C1 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 growth in East Missoula that has a concentration of commercial and higher density residential development.
- 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 East Missoula area and adjacent to transportation thoroughfares.
- 4c. Neighborhood commercial zoning is well suited for the current topography.
- 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.

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. The proposed zoning will allow predictable development of the approximately 2.3-acre combined lots.
- 5c. Required landscaping, lighting, screening, parking review, and pedestrian circulation will be addressed with Zoning Compliance Permit review. 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 six locations 45 days prior to the Planning Board hearing. No objections to the proposal have been received.
- 6b. The Zoning Officer recommends approval of the rezoning request.

IV. AGENCY COMMENT

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| COUNTY PUBLIC WORKS DEPARTMENT: | No comments received |
| EAST MISSOULA RURAL FIRE DISTRICT: | No comments received |
| HEALTH DEPARTMENT: | "No comment from Health on this one. Looks like the property is served by contract sewer and would continue to be." |
| WATER QUALITY DISTRICT: | "The District has no objection to the proposal. Drainage should be managed by infiltration. Storm Water Injection Wells should work in this type of geology though shallow infiltration" |
| SHERIFF'S DEPARTMENT: | No comments received |
| COUNTY WEED DISTRICT: | No comments received |
| BOARD OF COUNTY COMMISSIONERS: | No comments received |
| MONTANA DEPARTMENT OF TRANSPORTATION: | "No comments or concerns with the proposal" |
| MONTANA FISH, WILDLIFE AND PARKS: | No comments received |
| MISSOULA COUNTY PARKS: | No comments received |
| MISSOULA COUNTY FLOODPLAIN: | No comments on this zoning request |
| CLERK AND RECORDER: | "No concerns about the proposed request." |

V. ATTACHMENTS:

- A. C-C1 Zoning Regulations
- B. Zoning Application
- C. Public Comments