



## DEVELOPMENT SERVICES

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### CONDITIONAL USE STAFF REPORT & REFERRAL

<b>Agenda item:</b>	Referral – Staff Report for 2275 N Reserve Street Tavern and Casino Conditional Use	
<b>Report Date(s):</b>	9/10/2020	
<b>Case Planner:</b>	Cassie Tripard, Associate Planner	
<b>Report Reviewed &amp; Approved By:</b>	Mary McCrea, Permits and Land Use Manager	
<b>Public Meetings &amp; Hearings:</b>	<b>Land Use &amp; Planning (LUP) pre-hearing:</b> 9/16/2020 <b>City Council hearing:</b> 9/21/2020	
<b>Applicant &amp; Owner:</b>	Jeff Maphis 319 W Pine St. Suite A Missoula, MT 59802  Bob Powell & Nick Alonzo – Club Properties LLC 3101 S Russell St. Missoula, MT 59801	
<b>Representative:</b>	Jeff Maphis JCM Architecture 319 W Pine St. Suite A Missoula, MT 59802	
<b>Location of request:</b>	The subject property is located at 2275 N Reserve Street. Neighborhood Council: Capt. John Mullan Ward: Ward 2	
<b>Legal description:</b>	Tract 2 of Certificate of Survey Number 4590, located in the Southeast ¼, Northeast ¼ of Section 18, Township 13 North, Range 19 West, P.M.M.	
<b>Legal ad:</b>	The legal ad was published in the <i>Missoulian</i> on 9/6/2020 and 9/13/2020. The site was posted on 9/4/2020. Adjacent property owners within 150 feet of the site were notified by certified mail on 8/19/2020.	
<b>Growth Policy:</b>	The applicable regional plan is the Our Missoula: City Growth Policy 2035 which recommends a land use designation of Regional Commercial and Services	
<b>Zoning:</b>	C2-4 Community Commercial / DE-C Design Excellence Corridor Typology 4	
	<b>Surrounding Land Uses</b>	<b>Surrounding Zoning</b>
North:	C2-4 Community Commercial / DE-C Design Excellence Corridor Typology 4	Retail
South:	C2-4 Community Commercial / DE-C Design Excellence Corridor Typology 4	Fuel sales, retail, casino
East:	M1R-2 Limited Industrial – Residential / DE-C Design Excellence Corridor Typology 4	Fuel sales, retail, restaurant
West:	C2-4 Community Commercial / DE-C Design Excellence Corridor Typology 4	Fuel sales, retail, casino

**I. RECOMMENDED MOTION**

**Approval** of the tavern and casino conditional use request located at 2275 North Reserve Street, in accordance with Missoula City Zoning Ordinance, Title 20, Sections 20.10.020.D, 20.40.040, 20.85.070, and 20.105.040.I.2 and X.1, based on the findings of fact in the staff report and subject to the condition of approval.

**II. CONDITION(S) OF APPROVAL**

1. The tavern and casino conditional uses at 2275 North Reserve Street shall comply with all applicable portions of Title 20 and Design Excellence Review approval. Plans submitted at the time of building permit application shall substantially conform with the plans submitted at the time of conditional use review, subject to the review and approval of Development Services prior to building permit approval.

### **III. INTRODUCTION**

The City of Missoula Development Services has received a conditional use request from Jeff Maphis of JCM Architecture on behalf of Club Properties LLC for a tavern and casino conditional use at 2275 North Reserve Street. The existing building which was previously used as a restaurant will be remodeled to accommodate tavern, casino, and restaurant uses. The building façade will be updated in compliance with Design Excellence as well.

The subject property is zoned C2-4 Community Commercial / DE-C Design Excellence Corridor Typology 4. According to Title 20, Section 20.10.020, both tavern and casino uses require conditional use approval to operate in the C2-4 Community Commercial zoning district. Title 20 defines a tavern as “an establishment that is primarily engaged in serving alcoholic liquor for consumption on the premises and in which the serving of prepared food and meals constitutes less than 65% of the establishment's gross income...”. Title 20 defines a casino as “any establishment that offers legalized gambling authorized under MCA Title 23, Chapter 5, Part 1 et seq.,...”. The proposed restaurant use is permitted as-of-right in the C2-4 Community Commercial zoning district.

### **IV. APPLICABLE ZONING REGULATIONS IN TITLE 20**

Title 20 Zoning Ordinance, Section 20.85.070(H) outlines the review criteria for review of conditional use applications. According to the Zoning Ordinance, “not all review criteria will apply in every case... [and] only the applicable review criteria need to be met.” Uses that require conditional use approval may be approved by the City Council only when Council determines that the proposed uses meet all the applicable review criteria. Section 20.85.070(I) outlines “Factors to be Considered” that City Council may specifically consider in determining whether all applicable review criteria have been satisfied.

### **V. Conditional Use Review Criteria**

#### **Findings of fact:**

#### **General**

1. The property is located at 2275 North Reserve Street.
2. The subject property is legally described as Tract 2 of Certificate of Survey 4590, located in the Southeast ¼ Northeast ¼ of Section 18, Township 13 North, Range 19 West, P.M.M.
3. The subject property has frontage on North Reserve Street which is functionally classified as a major arterial street.
4. The subject property is within the Missoula Urban Transportation District, the Urban Growth Area, the Wastewater Facilities Service Area, and Air Stagnation Zone. The building is connected to City Water and Sewer.
5. The subject property is within an established service area for Missoula hospitals and the City Fire and Police Departments.
6. The building is existing. The applicant is proposing to remodel the building to update the façade and to accommodate the new tavern and casino uses.
7. The proposed casino will be located in a separate room within the existing building and will have a separate entrance from the restaurant and bar.
8. There is a proposed pedestrian path from the main entry to the public sidewalk on North Reserve Street. Aside from the new pedestrian path and voluntary landscaping improvements, no other site work is proposed.

#### **Growth Policy and Zoning:**

9. The applicable regional plan is the Our Missoula 2035 City Growth Policy. The subject property has a land use designation of Regional Commercial and Services.
10. Areas designated as Regional Commercial and Services are for commercial uses that serve the needs of the broader region and often require larger land areas. High density residential development (up to 43

dwelling units per acre) is also permitted in most zoning districts corresponding to this land use designation. The corresponding zoning districts for lands designated as Regional and Commercial Services are: C2 Community Commercial, M1R-2 Limited Industrial-Residential, OP3 Public Lands and Institutions, and C1 Neighborhood Commercial.

11. The subject property is zoned C2-4 Community Commercial / DE-C Design Excellence Corridor Typology 4.
12. Pursuant to Table 20.10-1 "Uses Allowed in Business and Commercial Districts" of the Title 20 Zoning Code, tavern and casino uses require conditional use approval to operate in the C2-4 Community Commercial zoning district.
13. Parcels to the north, south, and west of the subject property are zoned C2-4 Community Commercial / DE-C Design Excellence Corridor Typology 4. The parcel to the east of the subject property is zoned M1R-2 Limited Industrial – Residential / DE-C Design Excellence Corridor Typology 4.
14. Surrounding uses include retail, fuel sales, restaurant, and casino. There are no abutting residential uses.
15. There is no minimum parcel area or building setback requirements for commercial use buildings in the C2-4 zoning district unless the property abuts a residential zoning district, which is not the case for this parcel.
16. The new tavern and casino uses will be required to meet all Missoula Municipal Code requirements at the time of building permit approval, per condition of approval #1.

#### **Design Excellence Review**

17. The project was reviewed and approved under Missoula's Design Excellence Review. Design Excellence Review includes site and building design standards that are intended to shape development to be consistent with community character. The project meets all applicable standards required by Design Excellence.

#### **Parking and Access**

18. Per Title 20.60.020, Table 20.60-1, the parking requirement for both the tavern and casino uses is one (1) space per four (4) seats plus one (1) space per two (2) employees plus one (1) space per billiard table plus one (1) space per two (2) gambling machines. The required parking for a restaurant use is one (1) space per four (4) seats plus one (1) space per two (2) employees.
19. A total of fifty-five (55) parking spaces are required for all three uses. The existing parking lot contains fifty-eight (58) parking spaces. The parking requirement for the project is met.
20. There will not be an increase in parking requirements from the previous restaurant use.
21. According to Title 12, Section 12.22.060.B, a parking lot containing fifty-one (51) to seventy-five (75) parking spaces must have three (3) ADA accessible spaces, one (1) of which must be ADA van-accessible. Three (3) ADA space will be provided to meet this requirement, per the provided site plan. The provision of these spaces in compliance with federal and local regulations will be verified by Development Services Engineering Division, prior to building permit approval, as described in condition of approval #1.
22. There is an existing two-way access drive from North Reserve Street. The site will continue to be accessed by the existing drive. The parcel can also be accessed through the parking lot of the adjacent parcel to the south and to the west. No right-of-way improvements are required.
23. Design Excellence required that a pedestrian route be provided from the main entry to the public sidewalk. The applicant is proposing to meet this requirement by providing a new five-foot wide pedestrian route along the drive access to the main entry. The pedestrian route will be highlighted by a change in paving material.
24. Title 12, Section 12.22.060 I & M requires accessible routes to maintain five (5) feet clear width. All accessible routes are in compliance with the accessible route width standards.
25. Title 20, Table 20.60-2 outlines the bicycle parking requirements for commercial uses. One (1) short term bicycle parking space is required per ten (10) motor vehicle parking spaces. Six (6) short term bike parking spaces are required.

26. Six (6) short term bike parking spaces are proposed near the main entry to the building in compliance with the short term bike parking location and design standards of Title 20, Section 20.60.090.C.
27. One (1) long term bicycle parking space is required per five (5) employees. The applicant has indicated there will be fifteen (15) employees. Three (3) long term bike parking spaces are required.
28. Three (3) long term bike parking spaces are proposed on the north side of the site near the trash enclosure in compliance with the long term bike parking location and design standards of Title 20, Section 20.60.090.D.
29. Compliance with the minimum required provision of bicycle parking will be confirmed at the time of building permit review per condition of approval #1.

#### **Conditional Use Review**

30. Title 20, Section 20.85.070(H)2 outlines criteria for the review of conditional uses, which include whether the proposed uses are: compliant with all applicable Title 20 zoning standards; compatible with the character of the surrounding area; in the interest of public convenience; will not have a significant adverse impact on the general welfare of the neighborhood or community; compatible operating characteristics in terms of hours of operation, noise, outdoor lighting and traffic generation; and will not have a significant adverse impact on traffic safety or comfort – both motorized and non-motorized.
31. The tavern and casino uses will comply with all applicable Title 20 regulations. Compliance with zoning, engineering, fire and building code will be confirmed prior to building permit approval per condition of approval #1.
32. The proposed design for the façade upgrade has received Design Excellence Review approval and will be compatible with the character of the surrounding area.
33. There are no abutting residential uses. Abutting parcels contain retail, fuel sales, casino, and restaurant uses. The tavern and casino uses are compatible with adjacent uses and the character of the surrounding area.
34. Adverse impacts on the general welfare of the neighborhood or community are not anticipated. The tavern and casino are located in a commercial business area that includes similar uses. Motorized and non-motorized transportation options are available to serve the tavern and casino and the property is served by City Police and City Fire.
35. The tavern and casino uses in this location are in the interest of public convenience by providing more services adjacent to a major arterial street. The new proposed pedestrian path will make accessing the building safer and more convenient for pedestrians.
36. The total parking requirement for the new project will not increase from the previous restaurant use. No additional traffic will be generated by the proposed project.
37. The hours of operation for the tavern and conditional uses are 8:00 am to 2:00 am. Abutting parcels containing fuel sales and casino uses have similar hours of operation.
38. No new site lighting was proposed at the time Design Excellence Review. The existing parking lot lighting will remain. The project will not increase the amount of outdoor lighting. If new site or building lighting is installed it must be reviewed by Development Services as a condition of the Design Excellence approval and must meet the Missoula Outdoor Lighting Ordinance.
39. Any signage associated with this project will be required to meet all applicable standards as outlined in Title 20, Chapter 20.75.

#### **Conclusions of Law:**

1. **Whether the proposed use complies with all applicable standards of the Title 20 Zoning Ordinance;**
  1. Both tavern and casino uses are permitted as conditional uses in the C2-4 Community Commercial zoning district. The project has been approved for compliance with Design Excellence. Compliance with

all applicable sections of the Title 20 Zoning Ordinance will be confirmed prior to building permit approval if City Council imposes condition of approval #1.

- 2. Whether the proposed use is in the interest of public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community;**
  1. The tavern and casino uses in this location will not compromise public convenience or the general welfare of the neighborhood or community. There are no abutting residential uses and the project is similar to adjacent commercial businesses.
  2. The Tavern use is in an area that is already served by City Police and City Fire.
- 3. Whether the proposed use is compatible with the character of the surrounding area in terms of site planning, building scale and project design;**
  1. The existing building and parking lot will remain.
  2. The façade improvements were approved for Design Excellence and will be compatible with the character of the surrounding area in terms of building scale and project design.
  3. The site will be improved by a new pedestrian route from the public sidewalk to the main entry, and expanded plaza area, and revitalized landscaping.
- 4. Whether the proposed use has operating characteristics that are compatible with the surrounding area in terms of hours of operation, outdoor lighting, noise, and traffic generation; and**
  1. The proposed tavern and casino uses will have similar operating hours to adjacent properties.
  2. No new site or building lighting is being proposed. If new site or building lighting is installed it must be reviewed by Development Services as a condition of the Design Excellence approval and must meet the Missoula Outdoor Lighting Ordinance.
  3. Noise generated by the use will be required to conform with the regulations for a commercial zone, as established in the Missoula Municipal Code, Chapter 9.30.040.
  4. The parking requirement for the project will not increase from the previous restaurant use. The project will not generate additional traffic.
- 5. Whether the proposed use will not have a significant adverse impact on traffic safety or comfort, including all modes of transport (non-motorized and motorized).**
  1. North Reserve Street adjacent to the subject property has existing pedestrian, bicycle, and vehicular infrastructure.
  2. Additional traffic will not be generated by the project.
  3. A new pedestrian route from the public sidewalk to the main entry will be installed to increase pedestrian safety. The route will be ADA accessible.
  4. Short term and long term bike racks will be installed in compliance with Title 20.
  5. The tavern and casino conditional uses will not have adverse impacts on traffic safety or comfort, regardless of the mode of transportation.

## **VI. AGENCY COMMENT**

**Missoula Valley Water Quality District:** No comment.

**Health Department - Air Quality Division:** No comment.

**Missoula County Emergency Management:** No comment.

**Missoula Urban Transportation District:** No comment received at the time of this report.

**City Parks & Recreation:** No comment.

**Office Of Housing & Community Development:** No comment.

**Missoula Redevelopment Agency:** No comment.

**City Police:** No comment.

**City Fire:** No comment received at the time of this report.

**Montana Department of Transportation:** “It does not appear there are any proposed changes to the Reserve St access that serves both this parcel and the corner parcel. If there are to be any proposed changes to the access MDT will require a new approach application submittal to be reviewed and approved.

Any additional amenities within the Reserve St right of way such as trees, shrubs, irrigation system, new or widened sidewalk will require a HSSRA maintenance agreement with the City of Missoula.” – Glen Cameron 8/14/20

**City Stormwater Division:** No comment.

**City Wastewater Division:** No comment.

**City Water Division:** No comment received at the time of this report.

**Neighborhood Council (NC):** No comment received at the time of this report.