

AGENDA REPORT

DATE December 21, 2004

ITEM Public Hearing - Ordinance No. 2891 to Rezone Lots 1 & 2 of the Replat of the West 100.0 Feet and a Portion of the Vacated Avenues and Alleys in Blocks 416, 418, and 453, Original Townsite

INITIATED BY Renaissance Square, LLC, Property Owner

ACTION REQUESTED After Conducting Scheduled Public Hearing, Commission Adopt Ordinance No. 2891

PREPARED BY Bill Walters, Senior Planner

APPROVED & PRESENTED BY Ben Rangel, Planning Director

**RECOMMENDATION:**

The City-County Planning Board has recommended the City Commission adopt Ordinance No. 2891.

**MOTION:**

“I move the Commission adopt Ordinance No. 2891.”

**SYNOPSIS:**

If approved on final reading, Ordinance No. 2891 will rezone Lots 1 & 2 of the Replat of the West 100.0 Feet and a Portion of the Vacated Avenues and Alleys in Blocks 416, 418, and 453, Original Townsite, located at the southeast corner of the intersection of 2<sup>nd</sup> Avenue South and 2<sup>nd</sup> Street South, from Heavy Commercial Business (B-4) to High Density Business (B-3).

**BACKGROUND:**

The owners of subject Lots 1 & 2 have submitted a petition to rezone the property from “B-4” Heavy Commercial Business to “B-3” High Density Business District. A majority of the existing building on the premises is occupied by the Antique Mall (Bull Market Antiques) and a restaurant (The Breaks Ale House and Grill) which includes alcohol sales and consumption. The rezoning is precipitated by the applicant’s desire to add professional office space, which is not permitted in the B-4 District, and gaming to the restaurant which is only allowed in the B-3 District.

The City-County Planning Board, on November 9, 2004, conducted a public hearing on the Revitalization Plan Amendment. Jeff Mora and Brian Lindseth spoke on behalf of the applicant. No opponents spoke during the hearing. Planning Board Chairman Bill Bronson abstained from participating and voting in this hearing in that the petitioner’s representative practices law in the same firm as Mr. Bronson. At the conclusion of the hearing, the Planning Board unanimously passed a motion recommending the City Commission adopt Ordinance No. 2891, which amends the land use map of the Great Falls Central Place Revitalization Program to rezone Lots 1 & 2 of the Replat of the West 100.0 Feet and a Portion of the Vacated Avenues and Alleys in Blocks 416, 418, and 453, Original Townsite, from Heavy Commercial Business (B-4) to High Density Business (B-3).

Attach: Ord. No. 2891

Staff Report and Recommendation dated Nov. 3, 2004

Minutes of Planning Board Public Hearing held Nov. 9, 2004

cc w/o attach: Jeffrey Mora, Attorney, 104 2<sup>nd</sup> Street South, Suite 101, G. F., MT. 59405

DATE November 3, 2004

AGENDA ITEM 1.F.

HRG. DATE November 9, 2004

GREAT FALLS CITY-COUNTY PLANNING BOARD

PLANNING STAFF Report and Recommendation

REGARDING Planning Board Hearing Scheduled for November 9, 2004

SUBJECT: Amendment to Great Falls Central Place Revitalization Program  
Ordinance No. 2891 to Rezone Lots 1 and 2 of the Replat of the West  
100.0 Feet and a Portion of the Vacated Avenues and Alleys in Blocks  
416, 418, and 453, Original Townsite, from Heavy Commercial Business  
(B-4) to High Density Business (B-3)

GENERAL INFORMATION:

Lot Owners: Renaissance Square, LLC  
300 Central Ave., 7<sup>th</sup> Floor, US Bank Building  
Great Falls, MT 59405

Property Location: Southeast corner of the intersection of 2<sup>nd</sup> Avenue South  
and 2<sup>nd</sup> Street South

Property Area: Subject two lots contain 22,164 sq. ft.

Existing Zoning: Heavy Commercial Business (B-4)

Requested Action: Amend Revitalization Plan to rezone subject  
Lots 1&2 to High Density Business (B-3)

Purpose: To allow professional office space and gaming to be  
added to the existing building on the premises.

Existing Land Use: The northerly portion of subject property is occupied by  
a 21 stall parking lot and the southerly portion is  
occupied by a 10,000 sq. ft. 3-story building.

Surrounding Zoning and Land Uses:

| <u>Direction</u> | <u>Legal Description</u> | <u>Zoning Classification</u> | <u>Existing Land Use</u> |
|------------------|--------------------------|------------------------------|--------------------------|
| North            | Lots 13&14, Blk. 369     | B-3 High Density Bus.        | Ownerent Store           |
| East             | Lots 3 & 12, Blk. 416    | B-4 Heavy Comm. Bus.         | Scrap yard               |

|       |                  |                       |                       |
|-------|------------------|-----------------------|-----------------------|
| South | Lots 3, Blk. 416 | B-4 Heavy Comm. Bus.  | Home Furnishing Store |
| West  | Lot 3, Blk. 417  | B-3 High Density Bus. | Warehouse/Office      |

Attachments:

Application material with site plan  
Vicinity Map illustrating existing zoning  
Objectives of Central Place Revitalization Program  
Permitted and Prohibited Uses in the Heavy Comm. Business (B-4)  
Permitted Uses in the High Density Business (B-3)  
Ordinance No. 2891

SPECIAL INFORMATION:

1. The Planning Office is in receipt of a Revitalization Plan Amendment Application submitted by Renaissance Square, LLC, to rezone Lots 1 & 2 of the Replat of the West 100.0 feet and a Portion of the Vacated Avenues and Alleys in Blocks 416, 418, and 453, Original Townsite, from Heavy Commercial Business District (B-4) to High Density Business District (B-3).
2. A portion of the existing building on the premises is occupied by the Antique Mall (Bull Market Antiques) and the applicant intends to add professional office space and a restaurant (The Breaks Ale House and Grill) including alcohol sales and consumption and gaming to the balance of the building. The rezoning is precipitated by the proposed professional office space, which is not permitted in the B-4 District, and the proposed gaming, which is only allowed in the B-3 District.
3. The Notice of Public Hearing was mailed to all property owners (1,800+) within the Revitalization Area on October 22, 2004. The Notice was published in the Great Falls Tribune on October 24 and 30, 2004. A sign containing copies of the Notice of Public Hearing was placed on subject property on November 1, 2004.
4. Attached is a draft of Ordinance No. 2891, which, if adopted by the City Commission, rezones subject Lots 1 & 2 to High Density Business (B-3) District.

STAFF ANALYSIS:

Purpose and intent of the Revitalization Program: The objectives of the Great Falls Central Place Revitalization Program are attached. These objectives contain general language about providing additional employment opportunities, expanding local economy, upgrading property values, providing opportunities for private investment, elimination of slums and other blighting influences, and providing a pleasant atmosphere for both residents and visitors.

Subject property is located along 2<sup>nd</sup> Street South between the Downtown and 10<sup>th</sup> Avenue South, which has been gradually transitioning from primarily industrial uses to commercial uses including numerous

professional offices. The property is also considered a part of the 'linkage' corridor between the Downtown and Broadwater Bay.

CONCLUSION:

As subject property is bordered on two sides by areas zoned "B-3" High Density Business District; the project will rejuvenate and expand the vitality of the Central City; and the permitted uses in the High Density Business District would, for the most part, not conflict with existing abutting uses, staff concludes the proposed zoning action would not be contrary to the stated objectives of the Revitalization Program.

RECOMMENDATION:

Based upon the above conclusion, it is recommended that the Planning Board recommend the City Commission adopt Ordinance No. 2891, which would amend the land use map of the Great Falls Central Place Revitalization Program to Rezone Lots 1 & 2 of the Replat of the West 100.0 feet and a Portion of the Vacated Avenues and Alleys in Blocks 416, 418, and 453, Original Townsite, from Heavy Commercial Business District (B-4) to High Density Business District (B-3).

Prepared by: Bill Walters, Senior Planner

Concurrence by: Ben Rangel, Planning Director

Attach: As noted hereinabove

Memo dated Oct. 26, 2004, from City Engineer

cc w attach: Jeffrey Mora, Attorney, 104 2<sup>nd</sup> Street South, Suite 101, G. F., MT. 59405

**GREAT FALLS CITY-COUNTY PLANNING BOARD**

**MINUTES OF THE PUBLIC HEARING ON  
REVITALIZATION PLAN AMENDMENT  
REZONE LOTS 1 & 2 OF THE REPLAT OF THE WEST 100 FT  
AND A PORTION OF VACATED AVENUES AND ALLEYS  
IN BLOCKS 416, 418 AND 453, ORIGINAL TOWNSITE,  
FROM "B-4" HEAVY COMMERCIAL BUSINESS DISTRICT  
TO "B-3" HIGH DENSITY BUSINESS DISTRICT**

November 9, 2004

The public hearing on the Revitalization Plan Amendment was called to order at 3:05 p.m. in the Commission Chambers of the Civic Center by Planning Board Vice President Greg Madson.

**ROLL CALL & ATTENDANCE**

Planning Board Members present:

Mr. Bill Bronson (abstained)  
Mr. John Harding  
Mr. Fay Lesmeister  
Dr. Greg Madson  
Ms. Jan Popa  
Mr. Bill Roberts

Planning Board Members absent:

Mr. George Gallagher  
Ms. Andrea Pierce  
Mr. Joe Summers

Planning Staff Members present:

Ms. JoAnn Painter, Admin. Asst.  
Mr. Ben Rangel, Planning Director  
Mr. Charlie Sheets, Planner I  
Mr. Bill Walters, Senior Planner

Others present:

Mr. Jeff Mora, Attorney Representing Petitioner  
Mr. Dave Dobbs, City Engineer

A copy of the attendance list as signed by those present is attached and incorporated by reference.

### **ABSTENTIONS**

Mr. Bronson abstained from participating and voting in this hearing in that the petitioner's representative practices law in the same firm as Mr. Bronson.

### **EXPLANATION OF HEARING PROCEDURES**

Dr. Madson advised the audience that agendas are available on the table at the back of the room and the agenda will be followed. He requested that everyone present sign the attendance list, which was also on the table. He stated that there will be the opportunity for proponents as well as opponents to speak. There will also be a time for public comments. Anyone wishing to speak should come to the rostrum, state their name, address and whom they represent. He requested remarks be on current business before the Board. The hearing is recorded on tape as an aid in preparing minutes. He asked that cell phones be turned off.

### **READING OF PUBLIC NOTICE**

As there was no response to Dr. Madson's question on whether anyone present wished to have the public notice read, the public notice was not read.

### **PLANNING STAFF REPORT & RECOMMENDATION**

Mr. Walters said this public hearing involves a request from Renaissance Square to rezone Lots 1 and 2 of the Replat of the West 100 feet and a portion of the vacated avenues and alleys in Blocks 416, 418 and 453, Original Townsite, from Heavy Commercial Business to High Density Business. The purpose of the rezoning is to allow professional office space and gaming to be added on the premises of the existing building.

A vicinity zoning map was displayed.

After reviewing the staff report and recommendation, Mr. Walters said he would be glad to respond to any questions from the Board.

Mr. Roberts noted that under staff's analysis, it states an objective of the Revitalization Program is to eliminate slums and other blighting influence and provide a pleasant atmosphere for residents and visitors. At the same time, staff recommends approval of gaming for this area. He asked Mr. Walters if staff thought that gaming was an attractive influence when the community has expressed its opposition to casinos.

Mr. Walters replied that the positive and negative aspects associated with gaming are a personal judgmental decision. Gaming usually goes hand-in-hand where alcoholic beverage sales are permitted for consumption. The gaming in this particular instance was described to staff as a minor use in conjunction with the restaurant and bar. Staff didn't view this use as a noticeable impact on neighboring properties or the community. Also, with the quota on the number of beverage licenses, the license for The Breaks has

probably been relocated from another establishment in the community. Perhaps the applicant can further respond.

Mr. Roberts suggested the Board approve the rezoning with a condition of no gaming allowed.

### **PETITIONER'S PRESENTATION**

Mr. Jeff Mora, 104 2<sup>nd</sup> Street South, Attorney representing the petitioner, said the petitioner was comfortable with staff's report and asked for the Board's approval. He said he would respond to any questions.

Mr. Lesmeister asked if the liquor license was being transferred from another location or if it was existing on the property. Mr. Mora replied the license is transferred from another establishment that is now closed.

Mr. Roberts asked if the petitioner intended to bring gaming to this location. Mr. Mora replied yes, but as a smaller component of the establishment. The primary focus is a restaurant. He explained that gaming helped pay for overhead expenses. There would be no large casino signs as the petitioner intends to keep the present sign on the property. Professional office space would also be provided.

There was further discussion about restaurants not having gaming.

### **PROponents OPPORTUNITY TO SPEAK**

Mr. Brian Lindseth, 202 2<sup>nd</sup> Avenue South, said he was associated with Renaissance Square. He said the focus of the establishment is an upscale restaurant and bar. The alcoholic beverage license costs a large amount of money and gaming will help offset that cost. The gaming component will not detract from the main focus of providing an upscale restaurant, bar and professional office space. Gaming is one aspect but is not the primary focus.

### **OPponents OPPORTUNITY TO SPEAK**

There were no opponents to speak.

### **PUBLIC COMMENTS**

There were no public comments.

### **PLANNING BOARD DISCUSSION & ACTION**

Mr. Harding said he thought this was a great use for the building. The restaurant is not part of a national chain. It was important to keep in mind that liquor licenses are extremely expensive and gaming will be a small part of this business. Gaming was a way to help pay for the business.

Mr. Lesmeister asked what the City's stand was on new gaming establishments and if the moratorium still existed. Mr. Rangel replied there is an interim code within the current municipal code dealing with gaming. That interim code places new parameters in terms of locating new gaming facilities adjoining residential areas. New gaming facilities have to be a certain distance from churches, schools, etc. They are still required to be in a General Commercial zoning district unless it is in the Revitalization Area, where a B-3 High Density Business District is required

Mr. Roberts said that with his intention of voting no and one Board member abstaining, the vote would probably be four to one and would kill it. In that case, he would make a motion putting this item on hold until the next Board meeting wherein additional Board members may be present to consider the matter.

In response to Mr. Harding asking if Mr. Roberts was willing to vote in favor of the zone change but go on record that he was against gaming, Mr. Roberts replied no. He felt that casinos were taking over the community and felt it had to stop somewhere and this was as good a place as any.

Dr. Madson said that the Board's decision is about zoning, not gaming. However, gaming is involved indirectly. He asked Mr. Rangel if five votes were necessary to pass a motion.

Mr. Rangel replied there needed to be a majority of the Board, with at least five voting affirmatively, either for or against, in order to forward the item onto the City Commission with a recommendation from the Board. It wouldn't necessarily kill the item if only four voted for it. The item can continue onto the City Commission, but it would be without a recommendation from the Board. Another option would be of continuing the public hearing until the next Planning Board session to perhaps have a different mix of Board members voting.

There was further discussion about gaming connected with restaurants and the alcoholic beverage license being transferred.

Ms. Popa asked what the new Land Development Code classification would be for this property. Mr. Rangel replied it was proposed to be M-2 Mixed-Use Transitional. That type of district is intended as a transition from industrial uses to a mixture of land uses. Under a mixed-use district, it is intended to allow a balanced mixture of commercial, residential, institutional and public spaces. A mix of uses within the same building is also allowed such as office space, restaurant, commercial, gaming, etc. The proposed use for this building would fit very well within the newly proposed zoning classification.

Ms. Popa said that based on that information she would hate to see the Board hold this item up. She agrees there are too many casinos and would like to see that changed in the community. But, she didn't think this was the correct avenue to do that type of change.

Mr. Rangel added that under the mixed-use transition, gaming would be allowed as a conditional use. The conditional use would need action by this Board and by the City Commission to specifically look at the gaming situation and decide if it is an appropriate conditional use within the district. It still acknowledges

that gaming is a possible allowed use provided certain conditions are met and it isn't saying outright that gaming is not allowed in the district.

Mr. Mora stated that if the item is tabled, it delays what the client is trying to accomplish. He asked for a ruling today and they would go before the City Commission and present their case. They want to keep the business open.

There was a discussion about making a motion sending the requested Plan Amendment to the City Commission without a recommendation.

Mr. Roberts withdrew his motion.

**MOTION:** That the City-County Planning Board transfer this request onto the City Commission without a recommendation regarding amending the land use of the Great Falls Central Place Revitalization Program to rezone Lots 1 and 2 of the Replat of the West 100.0 feet and portion of the vacated avenues and alleys in Blocks 416, 418 and 453, Original Townsite.

Made by: Mr. Lesmeister

A discussion followed about the motion. Dr. Madson suggested the motion follow the staff's recommendation and the Board's vote would determine whether it goes to the City Commission with or without a recommendation. Mr. Lesmeister withdrew his motion.

**MOTION:** That the Planning Board recommend the City Commission adopt Ordinance No. 2891, which would amend the land use map of the Great Falls Central Place Revitalization Program to Rezone Lots 1 and 2 of the Replat of the West 100 feet and a portion of the vacated avenues and alleys in Blocks 416, 418 and 453, Original Townsite, from Heavy Commercial Business District (B-4) to High Density Business District (B-3).

Made by: Mr. Harding

Second: Ms. Popa

Mr. Harding said he felt businesses in Great Falls needed support to give future entrepreneurs the idea that a business like this can be successful in Great Falls.

Mr. Lesmeister said he agreed that while we have an abundance of casinos, he did not have a problem with those that are located in suitable areas. In this case, residential areas are several blocks away. He considered this a suitable area for an upscale restaurant.

Mr. Roberts said he thought this was going to pass with or without the Board's recommendation. The community needs a place to go to dinner and not be surrounded by gaming machines. He thought gaming machines drove people away. However, he thought that Mr. Lesmeister's remarks about where the establishment is located made a lot of sense.

Vote:           The motion carried unanimously with Mr. Roberts reluctantly voting yes and Mr. Bronson abstaining.

Mr. Walters said the Board's recommendation will be forwarded to the City Commission for consideration on first reading at its December 7 meeting and final action on December 21.

### **ADJOURNMENT**

The hearing adjourned at 3:40 P.M.

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PRESIDENT

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SECRETARY