

**STAFF REPORT & REFERRAL**

Agenda item: Rezone Request to Amend the Mill Site Special Zoning District Standard

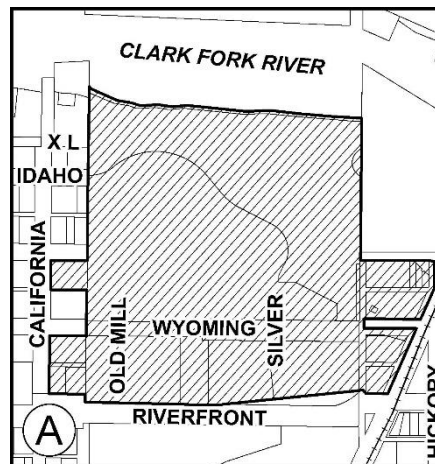
Report Date(s): 10/12/2021 [Click or tap to enter a date.](#)

Case Planner: Emily Gluckin, Associate Planner

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

Public Meetings & Hearings:

- Planning Board (PB) Hearing:** 10/19/2021
- City Council (CC) 1st Reading:** 10/25/2021
- City Council Public Hearing:** 11/8/2021
- Land Use & Planning (LUP) Post-Hearing:** 11/10/2021
- City Council Final Consideration:** 11/15/2021



Applicant & Fee Owner: Ed Wetherbee
Millsite Revitalization Project LLC
945 Wyoming Street, Suite 120
Missoula, MT 59801

Location of request: The subject property is located in the Mill Site Subdivision, between California and Hickory Street on the south side of the Clark Fork River in Riverfront Neighborhood Council and Ward 3.

Legal description: See Exhibit A

Legal ad: The legal ad was published in the *Missoulian* on October 3rd, 2021, and October 10th, 2021. The site was posted on October 1st, 2021. Adjacent property owners within 150 feet of the site were notified by first class mail on October 1st, 2021.

Zoning: Mill Site Special Zoning District

Growth Policy: The applicable regional plan is Our Missoula: City Growth Policy 2035 which recommends a land use designation of Community Mixed-Use, with a density of up to 43 Dwelling Units per acre. The site is also included in the *Missoula Downtown Master Plan (2019)*.

STAFF RECOMMENDATION

APPROVE the adoption of an ordinance to amend standards of the Mill Site Special Zoning District for the property legally described in Exhibit A to remove the use restrictions on Moose Creek Trail and Silver Parkway in Subdistrict B/C.

RECOMMENDED MOTIONS

PB p/h: **APPROVE** the adoption of an ordinance to amend the standards of the Mill Site Special Zoning District, legally described in Exhibit A, to remove the use restrictions on Moose Creek Trail and Silver Parkway in Subdistrict B/C.
10/19/2021

CC first reading: [First reading and preliminary adoption] Set a public hearing on November 8th, 2021, and preliminarily adopt an ordinance amending the standards of the Mill Site Special Zoning District, legally described in Exhibit A, to remove the use restrictions on Moose Creek Trail and Silver Parkway in Subdistrict B/C and refer this item to the Land Use and Planning Committee for presentation on November 10th, 2021.
10/25/2021

LUP: Discussion only – post-public hearing informational item.
11/10/2021

CC p/h:
11/8/2021

No motion – public hearing, presentation, and City Council discussion. No motion until final consideration.

**CC Final
Consideration**
11/15/2021

[Second and final reading] (Adopt/Deny) an ordinance amending the standards of the Mill Site Special Zoning District, legally described in Exhibit A, to remove the use restrictions on Moose Creek Trail and Silver Parkway in Subdistrict B/C.

I. INTRODUCTION

Development Services has received a rezone request from Don MacArthur of MMW Architects on behalf of Millsite Revitalization Project, LLC to amend the standards of the Mill Site Special Zoning District. The Special Zoning District, which was approved in 2007 with the intention of facilitating mixed-use development with pedestrian-oriented design, includes ten (10) subdistricts. On November 25th, 2013, City Council approval amendments to the Mill Site Special Zoning District which included updating the zoning to reference Title 20 standards.

The subject request is to amend the requirements of Subdistrict B/C to remove the use restriction at the street level along Moose Creek Trail between Wyoming and Silver Parkway and along Silver Parkway between Moose Creek Trail and Big Timber Lane. The uses currently allowed in this area include restaurants/café, restaurants with cabaret license, taverns/nightclubs, retail trades, and sidewalk cafés. The applicant proposes this change to allow flexibility in this area to permit uses that are market-driven and economically viable while still facilitating the intended patterns of growth in the district.

Staff has reviewed the applicant's proposed revisions to the Mill Site Special Zoning District standards in the 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 was subdivided in 2007 to create the Mill Site Subdivision and rezoned to the Mill Site Special Zoning District. In 2013, the Missoula City Council approved amendments to the Mill Site Special Zoning District, which included updating the zoning to reference Title 20 standards. See Exhibit B for the current zoning ordinance.
2. The property covers 46.59 acres and is located between California and Hickory, just south of the Clark Fork River and north of the Bitterroot Branch Trail in the Mill Site Subdivision.
3. In 2009, 2012, and 2014, the City Council approved amendments to the phasing plan for the Mill Site Subdivision. The 2014 phasing plan includes eleven (11) phases with a deadline of December 31st, 2025, for the final plats of all phases to be submitted for approval.
4. The Phase 1 – Wyoming North final plat was filed on May 27, 2015. No other final plats have been filed for the phases of the subdivision.
5. Mill Site Special Zoning District is accessed from Wyoming Street, which is functionally classified as a local collector street which provides a connection between two arterials: Russell Street and Orange Street.
6. Ogren Park at Allegiance Field is adjacent to the northeast and the Bitterroot Branch railroad is adjacent to the southeast.
7. Silver Park, located in Sub-district H, was dedicated to the City of Missoula on September 7, 2012.
8. The River Front Trail passes through Silver Park adjacent to the Clark Fork River and the Milwaukee Trail is adjacent to the property along the Southern boundary.
9. The Mill Site Special Zoning District standards are divided into six (6) subdistrict sections: A, B/C, D, E/F, G, H/H-1/H-2.
10. A LOMA became effective in July 2015 to remove the northern portions of the Mill Side Special Zoning District, which contains Silver Park and the Riverfront Trail, out of the flood hazard zone.

Growth Policy and Adopted Plans:

11. The applicable regional plan is the *Our Missoula: City Growth Policy 2035*, which recommends a land use designation of Community Mixed-Use for the majority of the Mill Site Special Zoning District, which supports a broad range of commercial uses and high density residential.
12. Areas designated Community Mixed-Use are identified as areas providing basic employment and services integrated with main transportation corridors including public transit and active transportation system, where city services and infrastructure are readily available. A broad range of functions including retail, education, financial

institutions, professional and personal services, offices, residences, and general service activities typify these areas.

13. The *Growth Policy* indicates that the following districts are most closely aligned with the Community Mixed-Use designation: C1-4 Neighborhood Commercial, C2-4 Community Commercial, and M1R-2 Limited Industrial and Residential. These zoning districts permit residential density up to 43 dwelling units per acres.
14. The portion of the Mill Site Special Zoning District that contains Silver Park has a land use designation of Parks and Open Space.
15. Areas designated Parks and Open Lands are for larger park areas that are in public ownership, larger common areas that are intended for use by a group of residents, or larger conservation lands that indicate a partnership between a public group and the private landowner. These areas are generally open in character and may or may not be developed for active recreational purposes. This category includes conservation easements which may not be open for public use. The City Growth Policy recommends the OP1 Open Space zoning district in the Parks and Open land use designation.
16. The “Economic Health” chapter of the *Growth Policy* encourages a dynamic mix of businesses, housing and retail in the downtown area that contributes to the economic vitality of Missoula’s urban core.
17. The “Housing” chapter of the *Growth Policy* encourages the promotion of live-work opportunities through mixed-use developments.
18. The “Community Design” chapter of the *Growth Policy* describes the City’s “focus inward” approach to development, which promotes pedestrian-oriented mixed-use development which allows a range of residential, retail, artisan, and commercial uses to be located in close proximity to each other.
19. The Mill Site Special Zoning District is located within the *Missoula Downtown Master Plan (2019)* boundaries, which refers to the Mill Site Special Zoning District as the “Old Sawmill District.” The plan states that “a mix of residential and commercial uses are appropriate within the neighborhood, a wide range of housing densities and scales, and ownership and rental opportunities should be encouraged.”
20. The *Missoula Downtown Master Plan (2019)* describes the Old Sawmill District as “the next tech hub” that can draw in new tech industry and build upon the existing coworking spaces and active green spaces as amenities for tech workings.
21. The *Missoula Downtown Master Plan (2019)* encourages new mixed-use development on the north side of Wyoming Street to continue the strengths of the mixed-use developments on the south side of Wyoming Street.
22. The Mill Site Special Zoning District is located with the Southside Riverfront Planning Area. The *Southside Riverfront Area Comprehensive Plan Amendment* encourages a mix of residential and commercial uses in the Mill Site area as well as a neighborhood center.
23. The intent statement of the Mill Site Special Zoning District ordinance states that the intent of the special district is to “emulate and build on the *Southside Riverfront Area Comprehensive Plan Update* by providing a mixture of land uses including civic, general commercial, office, retail, service, and residential, in a pedestrian-friendly design.
24. Mixed use options encouraged at the Mill Site by the *Southside Riverfront Area Comprehensive Plan Amendment* include commercial uses at grade with residential uses at the second level and above, as well as residential uses adjacent to commercial uses. Residential uses are not permitted at street level in Subdistricts A, B/C and G in order to ensure active street-oriented commercial uses on the street. Residential uses are permitted on all levels in all the other sub-districts.
25. The proposed amendment will not prohibit the uses currently allowed in the restricted use area, such as restaurants or retail, but will instead allow for a wider diversity of non-residential uses in addition to those currently allowed in ground-floor locations along Moose Creek Trail and Silver Parkway.
26. The proposed expansion of allowed uses will continue to adequately reflect the goals for mixed-use development in the Old Sawmill District, as mentioned in the *Our Missoula 2035 Growth Policy*, *Missoula Downtown Master Plan (2019)*, and the *Southside Riverfront Area Comprehensive Plan Amendment* by

contributing to the economic vitality of the area while continuing to promote a pedestrian-oriented pattern of development in the district,

Zoning

Adjacent Zoning and Land Uses

Surrounding Land Uses	Surrounding Zoning
North: Clark Fork River	M2-4 Heavy Industrial
South: Public Park, Multi-Use Trail	OP3 Public Lands & Institutional
East: Public Park, Community Center, Governmental Offices	M1R-2 Limited Industrial-Residential / OP3 Public Lands & Institutional
West: Multi-dwelling Residential, Single Detached Residential	B2-2 Community Business / R20 Residential / RT2.7 Residential (two-unit/townhouse) / R80 Residential / C-12 (County Zoning)

27. The Mill Site Special Zoning District is surrounded by a mixture of public parks, public trails, community centers, governmental offices, multi-dwelling residential, and single detached residential uses.
28. The surrounded zoning districts include industrial zoning to the north and east, open lands and institutional zoning to the south and east, business, commercial, and a mix of medium- and low-density residential zoning districts to the west.
29. Each of the surrounding zoning districts permits varying setbacks, heights, uses, and densities in comparison to the Mill Site Special Zoning District.

Current Zoning Requirements

30. In addition to the general development standards and subdistrict-specific standards of the Mill Site Special Zoning District, Title 20 zoning standards apply unless a standard is specifically addressed in the Special Zoning District ordinance.
31. The general development standards for the Mill Site Special Zoning District provide setback, build-to line, architecture, building height, lighting standards, loading and unloading, parking, sidewalk café, common area, landscaping/hardscaping, and on-premises liquor, wine, or beer sales standards.
32. The specific subdistrict standards and permitted uses for Subdistrict A, B/C, D, E/F, G, and H/H-1/H-2 provide unique requirements for each subdistrict and supersede the general development standards of the Mill Site Special Zoning District.
33. Subdistrict B/C of the Mill Site Special Zoning District, the location of the proposed amendment, is wholly surrounded by other properties within the Mill Site Special Zoning District. It is bordered by Subdistricts H to the north, H-1 to the east, H-2 to the west, and D to the south.
34. Subdistrict B/C is in an area intended for a mixture of commercial and multi-dwelling residential uses. The permitted uses include art galleries/museums, civic uses, day care homes/centers, hotels/motels, medical and research centers, micro-breweries and micro-distilleries, office uses, outdoor display, open/public space, accessory parking lots, parking structures, public utilities, radio/television studios, recreation, residential uses (2nd story and above), restaurants/café, restaurants with cabaret licenses, retail trade, public and private schools, service businesses, sidewalk cafés, taverns/nightclubs, theaters, transportation terminals, small-scale wineries, and accessory buildings/uses. Detached houses and two-unit houses are prohibited in this district.
35. Subdistrict B/C has a currently has a restricted use area on the street level along Moose Creek Trail between Wyoming Street and Silver Parkway, and along Silver Parkway between Moose Creek Trail and Big Timber Lane where only the following uses are permitted: restaurants/café, restaurants with cabaret licenses, taverns/nightclubs, retail trade, and sidewalk cafés. The applicant is requesting to remove this restricted use area from the standards of Subdistrict B/C with the proposed amendment.

36. The amount of required parking for uses within Subdistrict B/C, as outlined in the general development standards, are in conformance with the Off-Street Parking Schedule in Title 20.60.020.C except for the following modifications:
- a. A minimum of one (1) off-street parking space is required for each multi-dwelling residential unit, unless fewer spaces are required under Title 20.60.020.C.
 - b. A minimum of one (1) parking space per five hundred (500) square feet of gross leasable floor area for office uses.
 - c. A minimum of one (1) parking space per four hundred (400) square feet of gross leasable floor area for retail trade, restaurant/café, restaurant with cabaret license, and tavern/nightclub uses.
 - d. On-street parking spaces along the street frontage of a building or use may count toward the required off-street parking spaces for non-residential uses.
37. Subdistricts H, H-1, and H-2 are areas intended to provide public parks, a link in the trail system between the Milwaukee Trail and the Riverfront Trail, parking, and outdoor display. Subdistrict H includes Silver Park, which is the only permitted use in that district. Subdistrict H-2 allows common areas, parks and accessory uses, public plaza areas, public recreation, open, space, outdoor entertainment venues, bridges, pedestrian trails, and public art. Subdistrict H-1 allows all of the uses permitted in H and H-2 with the exception of common areas, and also allows a boat ramp and accessory parking, and parking and outdoor displays for the commercial uses in Subdistricts A, B/C, G, H, and Ogren Park at Allegiance Field, allowed through a shared parking agreement.
38. Subdistrict D is intended for primarily residential uses, as well as day care homes/centers, public utilities, open/public space, parking lots, accessory buildings, and parking structures. Within 100 feet of Wyoming Street, the following additional uses are permitted on the street level: restaurants/café, restaurants with cabaret licenses, retail trade, service businesses, and sidewalk cafés.

Transportation

39. Pedestrian access is provided via existing boulevard sidewalks on Wyoming Street and proposed boulevard sidewalks on each street planned in the subdivision as the final plat for each phase is filed and the road improvements are constructed.
40. The subject property is within the Missoula Urban Transportation District and is within walking distance of Route 2 along Russell Street and Route 7 and 9 along Orange Street that each travel inbound and outbound from downtown Missoula.
41. Bicycle lanes exist on either side of the portion of Wyoming Street that travels through the Mill Site Special Zoning District. There is a link in the trail system traveling north-south connecting the Milwaukee Trail to the Riverfront Trail along the east side of the subject property. North-south trail connections are planned in future phases of the subdivision.
42. Parking for the uses within the Old Sawmill District is currently provided through several surface parking areas and underground parking structures.

Safety Services

43. The subject property is located within an established service area for Missoula hospitals and City Fire and Policy Departments. The nearest fire station is located at 625 E. Pine Street, approximately 1.5 miles away. The nearest police station is location on Catlin Street approximately 0.7 miles away.
44. Several fire hydrants exist throughout the portions of the Mill Site subdivision that are currently built, including four (4) on Wyoming Street, two (2) on either side of the Polleys Square condominiums, one (1) adjacent to the baseball stadium, and two (2) on opposite ends of the multi-dwelling developments located on the corner of California and Montana streets.

Water, Sanitation, and Utilities:

45. The subject property is served by City sewer and water.

46. Water, sanitary sewer, and stormwater utilities are currently available on Wyoming Street. Water and sewer lines also run on either side of the Polleys Square condominiums. Additional water mains exist to the east of the multi-dwelling buildings on California and Montana Streets, and to the west of the baseball stadium. Additional infrastructure will be provided when each phase of the subdivision final plats is filed, and improvements are constructed.

Conclusions of Law:

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

1. The zoning amendment to revise the standards of the Mill Site Special Zoning District will comply with the Community Mixed Use land use designation and the goals for mixed-use development outlined in *the Our Missoula 2035 Growth Policy*.
2. The zoning amendment to revise the standards of the Mill Site Special Zoning District will continue to encourage a mix of uses and amenities, and therefore maintains compliance with the goals and objective for the Old Sawmill District identified in the *Missoula Downtown Master Plan (2019)*.
3. The zoning amendment to revise the standards of the Mill Site Special Zoning District will comply with the *Southside Riverfront Area Comprehensive Plan Update* by continuing to provide a mixture of land uses including civic, general commercial, office, retail, service, and residential, in a pedestrian-friendly design. The prohibition of residential uses at the street level in Subdistrict B/C is not being removed, which will continue to encourage active street-fronting uses.

1.b. Whether the zoning is designed to secure safety from fire and other dangers;

1. Emergency services are available to the site in a manner consistent with its distance from services and ease of access. 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.

1.c. Whether the zoning is designed to promote public health, public safety, and the general welfare;

1. The zoning amendment to revise the standards of the Mill Site Special Zoning District will promote public health, public safety, and the general welfare by continuing to allow for mixed use development in an area with access to sewer, public water, emergency services, streets, non-motorized trails, and other urban services.
2. Public health and safety will be provided by the requirement for new construction to be subject to International Building and International Fire Codes.

1.d. Whether the zoning is designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements;

1. The zoning amendment to revise the standards of the Mill Site Special Zoning District facilitates the adequate provision of transportation, water, sewerage, schools, parks, and public utilities and services, which are available to serve the site.

1.e. Whether the zoning considers the reasonable provision of adequate light and air;

1. The zoning amendment to revise the standards of the Mill Site Special Zoning District will provide reasonable provision for adequate light and air provided by maintaining the building setbacks, step back requirements for upper stories and maximum height limit requirements of the zoning district, and by not impacting the provision of open space through the Common Area Greenscapes and Silver Park.

1.f. Whether the zoning considers the effect on motorized and non-motorized transportation systems;

1. The zoning amendment to revise the standards of the Mill Site Special Zoning District gives reasonable consideration to the effect on motorized and non-motorized transportation systems because of the appropriate street, parking, transit, pedestrian, and bicycle facilities that currently exist in the district and their ability to serve an expanded array of uses.

1.g. Whether the zoning considers the promotion of compatible urban growth;

1. The zoning amendment to revise the standards of the Mill Site Special Zoning District promotes compatible urban growth because it is inside the Urban 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 zoning amendment to revise the standards of the Mill Site Special Zoning District will retain the mixed-use, pedestrian friendly nature of the current zoning ordinance.

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

1. The zoning amendment to revise the standards of the Mill Site Special Zoning District is suitable for the subject property and considers the facilitation of uses and a development pattern consistent with the intended character of the district.

1.i. Whether the zoning conserves the value of buildings and encourages the most appropriate use of land throughout the jurisdictional area;

1. The expansion of allowed uses in Subdistrict B/C will provide opportunities to conserve the value of the buildings by providing the flexibility of uses and preventing vacancies due to a restriction to certain uses that the market may not support over time.

2. Whether the proposed zoning amendment corrects an error or inconsistency in the zoning ordinance or meets the challenge of a changing condition;

1. The proposed zoning amendment meets the challenge of a changing condition by allowing the existence of nonresidential uses that can be supported by current market conditions and fluctuations in market conditions over time.
2. The proposed amendment will allow the existence of a variety of uses and services to be provided to residents of the surrounding area to best meet the needs of the neighborhood.

3. Whether the proposed zoning amendment is in the best interest of the city as a whole.

1. The proposed amendment is in the best interest of the city as a whole because it will continue to promote mixed-use development in a high-density environment in a pedestrian-friendly manner.
2. The proposed amendment will provide additional economic opportunities in close proximity to Missoula's downtown core.

III. AGENCY COMMENT

City Police:

No comment received prior to issuance of staff report

City Fire:

"Fire has no comments or concerns regarding this rezone request for an amendment to the Mill Site Special Zoning District." – Adam Sebastian

Health Department – Environmental Health:

"The Air Program at the City of Missoula City-County Health Department has no concerns with the Mill Site Special District Rezone request." – Ben Schmidt

Missoula Valley Water Quality District:

No comment or concern on this request.

City Parks & Recreation:

"The Parks Department has no comment on this rezone request." – Neil Miner

City Attorney:

No comment received prior to issuance of staff report

Missoula Urban Transportation District:

No comment received prior to issuance of staff report

City Public Works & Mobility:

The Transportation Division provided the following comment:

“The proposed change to remove restrictions on allowable ground-floor uses is consistent with goals of increasing mixes of uses and creating walkable neighborhoods. While care should be taken to consider appropriate mixes of different types of land use, the transportation benefits of having commercial and employment uses in close proximity to higher density residential is a key goal of the Long Range Transportation Plan or reduction of single-occupancy vehicles. The proposed changes will retain the benefits to the transportation system envisioned in the Sawmill District development.

However, we would like to take this opportunity to point out that continued development within the Sawmill District is impacting traffic operations and safety at the Cregg Lane/Orange Street intersection. Installation of that signal was a condition of approval for the original subdivision, however we understand that it is proposed with future phases. As development and use continues to expand, consideration should be given to accelerating installation of the signal improvements.” – Aaron Wilson

“I don’t have any concerns.” – Andy Schultz, Utilities

City Wastewater:

No comment received prior to issuance of staff report

Missoula Redevelopment Agency:

“The MRA has no objection to this zoning change.” – Ellen Buchanan

Office of Emergency Management:

“OEM has no comment.” – Adriane Beck

Montana Department of Revenue:

No comment received prior to issuance of staff report

Missoula Irrigation District:

No comment received prior to issuance of staff report

V. EXHIBITS:

- A. Legal Description
- B. Ordinance No. 3514 – Mill Site Special Zoning District (as amended in 2013)