



## COMMUNITY PLANNING, DEVELOPMENT &

### Development Services Division

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#### ANNEXATION AND ZONING STAFF REPORT & REFERRAL

|                                                                                   |                              |                                                                                                                                                                  |
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| Agenda item:                                                                      |                              | Referral and Staff Report – Portion A of Lot A-1 of Fairway View Addition, Lot A-1, Lot A-2                                                                      |
| Report Date:                                                                      |                              | 6/10/2022                                                                                                                                                        |
| Case Planner:                                                                     |                              | Spencer Starke, Associate Planner                                                                                                                                |
| Report Reviewed & Approved By:                                                    |                              | Dave DeGrandepre, Land Use Supervisor                                                                                                                            |
| Public Meetings & Hearing Schedule                                                |                              |                                                                                                                                                                  |
| City Council adopts resolution of intent, sets public hearing, and refers to LUP: |                              | 6/20/2022                                                                                                                                                        |
| City Council public hearing:                                                      |                              | 6/27/2022                                                                                                                                                        |
| LUP discussion (info. Item):                                                      |                              | 6/29/2022                                                                                                                                                        |
| City Council final consideration on resolution to annex:                          |                              | 7/11/2022                                                                                                                                                        |
| Applicant and Owner:                                                              |                              | Joshua L. Green<br>3946 Fox Den Court<br>Missoula, MT 59803                                                                                                      |
| Representative:                                                                   |                              | Lynne Edens<br>Montana Northwest Company<br>P.O. Box 8777<br>Missoula, MT 59807                                                                                  |
| Location of request:                                                              |                              | 3946 Fox Den Court<br>Missoula, MT 59803                                                                                                                         |
| Legal description:                                                                |                              | Portion ‘A’ of Lot A-1, Fairway View Addition, Lot A-1, Lot A-2 and Lot 3, Fairway View Addition, located in Section 1, Township 12 North, Range 20 West, P.M.M. |
| Legal ad:                                                                         |                              | June 12 <sup>th</sup> , 2022 and June 19 <sup>th</sup> , 2022 in the <i>Missoulian</i>                                                                           |
| Growth policy:                                                                    |                              | The applicable regional plan is the <i>Our Missoula: City Growth Policy 2035</i> , which recommends a land use designation of “Residential Low Density”.         |
| Zoning:                                                                           |                              | C-RR2 Residential (County)                                                                                                                                       |
| Surrounding Land Uses                                                             |                              | Surrounding Zoning                                                                                                                                               |
| North:                                                                            | Detached House               | C-RR2 Residential                                                                                                                                                |
| South:                                                                            | Detached House & Vacant Land | C-RR2 Residential, R20 Residential, and Fairway View Addition Planned Unit Development                                                                           |
| East:                                                                             | Detached House               | C-RR2 Residential                                                                                                                                                |
| West:                                                                             | Right-Of-Way                 | R215 Residential                                                                                                                                                 |
| RECOMMENDED MOTIONS                                                               |                              |                                                                                                                                                                  |

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| <b>CC consent agenda:<br/>6/20/2022</b>      | <b>Adopt</b> a resolution of intention to annex and incorporate within the boundaries of the City of Missoula one certain parcel of land described as Portion 'A' of Lot A-1, Fairway View Addition, Lot A-1, Lot A-2 located in Section 1, Township 12 North, Range 20 West, P.M.M., as shown on Exhibit A and Exhibit B, and zone the property Fairway View Addition Planned Unit Development, based on the findings of fact in the staff report, subject to the recommended condition of annexation approval, set a public hearing for June 27, 2022, and refer this item to the Land Use and Planning Committee for June 29, 2022.                                                                    |
| <b>CC p/h:<br/>6/27/2022</b>                 | <b>No motion</b> – public hearing, presentation, and City Council discussion. No motion until final consideration.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>LUP:<br/>6/29/2022</b>                    | <b>No motion</b> – City Council discussion and informational meeting only.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>CC final consideration:<br/>7/11/2022</b> | <b>Adopt/Deny a resolution to annex and</b> incorporate within the boundaries of the City of Missoula one certain parcel of land described as Portion 'A' of Lot A-1, Fairway View Addition, Lot A-1, Lot A-2, Fairway View Addition, located in Section 1, Township 12 North, Range 20 West, P.M.M., as shown on Exhibit A and Exhibit B, and zone the property Fairway View Addition Planned Unit Development, based on the findings of fact in the staff report, subject to the recommended conditions of annexation approval and subject to an effective date for the annexation and zoning to occur at the time the amended plat for 2020-MSS-SEA-00021 is filed with the County Clerk and Recorder. |

## I. RECOMMENDED CONDITIONS

1. The applicant shall file the amended plat subject to the condition of approval for 2020-MSS-SEA-00021 within one hundred and eighty (180) days of annexation approval, subject to review and approval by Development Services and Public Works & Mobility, otherwise the Resolution to Annex and the zoning upon annexation of the property shall become null and void, and the property shall revert to its original status in the County of Missoula.

## II. PROJECT SUMMARY

### Introduction

1. Development Services received a petition from Lynne Edens with Montana Northwest Company on behalf of property owner Joshua L. Green requesting annexation into the City of Missoula and zoning upon annexation of Fairway View Addition Planned Unit Development (PUD) for 0.20 acres of land legally described as Portion 'A' of Lot A-1, Fairway View Addition, Lot A-1, Lot A-2 located in Section 1, Township 12 North, Range 20 West, P.M.M.

This annexation is the result of a boundary line relocation request through subdivision exemption between a property within the City of Missoula at 4190 Birdie Court, legally described as Lot 3 of the Fairway View Addition located in Section 1, Township 12 North, Range 20 West, P.M.M., and a property within the County of Missoula at 3946 Fox Den Court, legally described as Lots A-1 of Fairway View Addition, Lot A-1, Lot A-2 located in Section 1, Township 12 North, Range 20 West, P.M.M. to rectify an existing encroachment.

As a result of the boundary line relocation and annexation, the subject property, Portion 'A', that is currently included with the County of Missoula property at 3946 Fox Den Court, as shown in Exhibit A and Exhibit B, will be incorporated into Lot 3 Fairway View Addition within the City of Missoula at 4190 Birdie Court.

The proposed annexation and rezone were originally reviewed and approved by City Council in May of 2021. The applicant was unable to satisfy the condition of approval assigned during the previous review. The applicant did not file the amended plat within the 180-day deadline. As a result, the Resolution to Annex and the zoning upon annexation were nullified. The applicant has reapplied for annexation and rezoning, the application, and request are identical to the proposal previously reviewed by City Council.

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| <b>Property Information</b>                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 2.                                                                      | The subject property is adjacent to City limits on the south and west boundaries. Per the Annexation Policy, the City should prioritize the annexation of properties that would fill in gaps left by previous annexations that created islands, and other types of non-contiguous boundaries. This annexation will create a contiguous boundary.                                                                                                                     |
| 3.                                                                      | Upon annexation, the subject property will become part of City Council Ward 5 and Miller Creek Neighborhood Council.                                                                                                                                                                                                                                                                                                                                                 |
| 4.                                                                      | The legal description of the subject property is Portion 'A' of Lots A-1, Fairway View Addition, Lot A-1, Lot A-2, located in Section 1, Township 12 North, Range 20 West, P.M.M.                                                                                                                                                                                                                                                                                    |
| 5.                                                                      | The subject property, Portion A, is vacant. As a result of the boundary line relocation and annexation, the subject property will be incorporated into Lot 3 of Fairway View Addition within the City of Missoula at 4190 Birdie Court, which contains one existing detached house.                                                                                                                                                                                  |
| 6.                                                                      | The subject properties fall under floodplain classification Zone X, Area of Minimal Flood Hazard.                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Road Improvements, Transit, Utility Infrastructure, and Parkland</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 7.                                                                      | The subject property has frontage along one public right-of-way, Lower Miller Creek Road, to the west which is functionally classified as an urban collector road.                                                                                                                                                                                                                                                                                                   |
| 8.                                                                      | This portion of Lower Miller Creek Road meets the current City standards for an urban collector. Per the City Annexation Policy, the City should prioritize the annexation of areas that meet current city standards, including transportation infrastructure, and equitably provide the same levels of service and infrastructure as other parts of the municipality with similar topography, land use, and population density.                                     |
| 9.                                                                      | As a result of the boundary line relocation and annexation, Portion A will be incorporated into Lot 3 of Fairway View Addition at 4190 Birdie Court, which is already in the Missoula Urban Transportation District.                                                                                                                                                                                                                                                 |
| 10.                                                                     | As a result of the boundary line relocation and annexation, Portion A will be incorporated into Lot 3 of Fairway View Addition within the City of Missoula at 4190 Birdie Court, which is already connected to City sewer and water.                                                                                                                                                                                                                                 |
| <b>Annexation Request</b>                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 11.                                                                     | The property owner, Joshua L. Green, filed Petition No. 10064 requesting the annexation of this property.                                                                                                                                                                                                                                                                                                                                                            |
| 12.                                                                     | The subject property is inside the Urban Growth Area, the Utilities Service Area, and the Air Stagnation Zone. Per the City Annexation Policy, the City should prioritize the annexation of areas located within the Utilities Services Area, and areas that contribute to the logical growth pattern of the City by creating orderly and contiguous municipal boundaries.                                                                                           |
| 13.                                                                     | The subject property will be added to the service area for the City Fire and Police Departments.                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Annexation Policy</b>                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 14.                                                                     | The subject property is part of Annexation Area 'A' on the City's Annexation Policy Map. Areas designated as Annexation Area 'A' largely meet the guidelines of the City's Annexation Policy. Per the City Annexation Policy, the City should prioritize the annexation of areas located within Annexation Area 'A'.                                                                                                                                                 |
| <b>Growth Policy &amp; Zoning</b>                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 15.                                                                     | The applicable regional plan is the <i>Our Missoula: City Growth Policy 2035</i> , which recommends land use designations of "Residential Low Density". The City Annexation Policy states that any annexation by the City should be guided by the current City Growth Policy.                                                                                                                                                                                        |
| 16.                                                                     | Areas that are designated as Residential Low Density are encouraged to be clustered in order to consolidate development in smaller areas and retain larger open areas between development for other functions. The Growth Policy indicates that the following zoning districts are most closely aligned with the Residential Low-Density Land Use Designation: R40 and R20.                                                                                          |
| 17.                                                                     | The current County zoning that applies to the subject property is C-RR2, Residential. This zoning district promotes a single-family residential environment in areas served by adequate public water or sewer system and promotes a residential density consistent with the availability of public facilities and with the physical limitations of the land. Planned unit developments and planned variations are encouraged to further the intent of this district. |

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| 18. The requested City zoning upon annexation for the subject property is Fairway View Addition PUD. The subject property will be incorporated into Lot 3 of Fairway View Addition at 4190 Birdie Court, which is in the 'Single-Family Residential' sub-district of the Fairway View Addition PUD. Within this sub-district, the only allowed uses are single family dwellings and accessory buildings and uses. 4190 Birdie Court has one existing detached house.                                                                                                                                             |
| <b>Statutory Requirements</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 19. Section 7-2-4211 MCA requires municipalities to include the full width of any public street or road right-of-way that are adjacent to the property being annexed.                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 20. The adjacent public right-of-way for Lower Miller Creek Road has already been annexed into the City of Missoula.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 21. The City will meet the statutory requirements for a petition method annexation in regards to MCA 7-2-4601 – 4625 and the MMC 20.85.040(l)(2) by considering the petition, adopting a resolution of intent and scheduling a public hearing regarding the zoning upon annexation, and advertising public notice for at least 15 days prior to the public hearing with the appropriate recommended zoning. The final step for council will be to adopt a resolution to adopt or deny the annexation request.                                                                                                    |
| <b>Zoning Upon Annexation</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 22. MCA 76-2-303 allows a municipality to conduct a hearing on the annexation in conjunction with a hearing on the zoning of the property proposed for annexation. Title 20 Zoning Ordinance, Section 20.85.040(l)(2) outlines the three review criteria taken from MCA 76-2-303 which may be considered for zoning upon annexation. The following are the three criteria from Title 20 and staff's assessment as to whether the annexation complies with the criteria. An annexation must comply with at least one of the criteria. The zoning district classification assigned at the time of annexation must: |
| <ul style="list-style-type: none"> <li>a. Authorize land uses comparable to the land uses authorized under the county zoning classification that applied to the property immediately before it was annexed in the city; or <ul style="list-style-type: none"> <li>i. Criterion 2a applies to this annexation request because planned unit developments and planned variations are encouraged to further the intent of the C-RR2 Residential County zoning district.</li> </ul> </li> </ul>                                                                                                                       |
| <ul style="list-style-type: none"> <li>b. Authorize land uses that are consistent with the land uses approved by the Board of County Commissioners or the County Board of Adjustment; or <ul style="list-style-type: none"> <li>i. No special land uses have been approved by the Board of County Commissioners or the County Board of Adjustment on the subject property.</li> </ul> </li> </ul>                                                                                                                                                                                                                |
| <ul style="list-style-type: none"> <li>c. Be consistent with the land use and zoning recommendations for the subject areas, as set forth in the "Our Missoula Growth Policy." <ul style="list-style-type: none"> <li>i. Criterion 2c applies to this annexation request because the proposed Fairway View Addition PUD is in alignment with the Growth Policy land use designation.</li> </ul> </li> </ul>                                                                                                                                                                                                       |
| 23. The applicable regional plan is Our Missoula: City Growth Policy 2035 which recommends a land use designation of Residential Low Density. Areas designated as Residential Low Density are designed to support one to two dwelling units per acre with varying parcel size. When Portion A is added to the parcel at 4190 Birdie Court the parcel will increase in size to just under one (1) acre making the parcel more conforming to the growth policy.                                                                                                                                                    |
| 24. Based on compliance with Criteria 20.85.040(l)(2)(c), staff recommends annexation of the subject property, and zoning upon annexation of the subject property of Fairway View Addition PUD upon annexation, subject to one condition of approval.                                                                                                                                                                                                                                                                                                                                                            |
| 25. Staff recommends a condition of approval to ensure the annexation and zoning upon annexation apply at the time the amended plat is filed for the subdivision exemption. Title 20 zoning does not allow the creation of split zoned parcels. Zoning Portion A the same as the current zoning for 4190 Birdie Court complies with the Title 20 zoning ordinance.                                                                                                                                                                                                                                               |
| 26. If the City Council does not approve the request to annex the subject property and apply the Fairway View Addition PUD, the Resolution to Annex and the zoning upon annexation of the property shall become null and void, and the property shall revert to its original status in the County of Missoula.                                                                                                                                                                                                                                                                                                   |

### III. ATTACHMENTS

1. Exhibit A
2. Exhibit B