



## COMMUNITY PLANNING, DEVELOPMENT &

### Development Services Division

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## ANNEXATION CONDITIONS EXTENSION REQUEST STAFF REPORT & REFERRAL

Agenda Item:		Referral and Staff Report – Request for Extension of Annexation Conditions for 3719, 3721, 3723 Grant Creek Road
Report Date:		11/9/2022
Case Planner:		Dave DeGrandpre, Land Use Supervisor
Report Reviewed & Approved By:		Mary McCrea, Permits & Land Use Manager
Public Meetings & Hearing Schedule		
City Council Consent Agenda: Set Public Hearing and Referral to LUP:		11/14/2022
City Council Public Hearing:		11/28/2022
LUP Discussion Post-Hearing Informational Item:		11/30/2022
City Council Final Consideration of Resolution:		12/5/2022
Applicant & Fee Owner:		Brad Reid Diversified Real Estate, LLC 3723 Grant Creek Road Missoula, MT 59801
Representative:		Anna Vickers IMEG Corp. 1817 South Ave West Suite A Missoula, MT 59806
Location of Request:		Three tracts of land located at the southwest corner of the intersection of Howard Raser Drive and Grant Creek Road.
Legal Description:		Tracts described in Book 1040 Page 253, Book 960 Page 1011, and Book 1040 Page 253 in the NW ¼ of the NW ¼ of Section 8, Township 13 North, Range 19 West, P.M.M.
Legal Ad:		Published in the <i>Missoulian</i> October 30, 2022 and November 6, 2022.
Growth Policy:		The applicable regional plan is <i>Our Missoula: City Growth Policy 2035</i> , which provides a land use designation of Community Mixed-Use. The applicable issue plan is the <i>North Reserve – Scott Street Master Plan</i> , which provides a land use designation of Transitional Commercial.
Zoning:		M1-2 Limited Industrial
Surrounding Land Uses		Surrounding Zoning
North:	Equipment sales & Retail	M1-2 Limited Industrial, /DE-C Design Excellence Corridor Typology 4
South:	Gas station/oil services	M1-2 Limited Industrial
East:	Vacant land/manufacturing office	M2-4 Heavy Industrial, Industrial Center, Heavy (county zoning)
West:	Hotel	C2-4 Community Commercial

RECOMMENDED MOTIONS	
<b>CC consent agenda:</b> 11/14/2022	<b>Adopt a motion</b> to hold a public hearing on this item on November 28, 2022 and to refer this item to the Land Use & Planning Committee on November 30, 2022.
<b>CC p/h:</b> 11/28/2022	<b>No motion</b> – public hearing, presentation, and City Council discussion. No motion until final consideration.
<b>LUP:</b> 11/30/2022	<b>No motion</b> - discussion only, post-public hearing informational item.
<b>CC final consideration:</b> 12/5/2022	<b>Adopt/Deny a resolution</b> to amend conditions of approval #1 and #2 as shown in the “Recommended Conditions” section of the staff report for property located at 3719, 3721, and 3723 Grant Creek Road.

## I. RECOMMENDED CONDITIONS

1. The petitioner ~~shall is responsible for~~ installation of curb and gutter improvements and an ADA compliant crosswalk and curb ramp on Howard Raser Drive at the point of curvature of the new southwest curb radius to connect with the existing curb ramp across Grant Creek Road ~~prior to occupancy of the new addition or and the improvements shall be~~ included in an improvements agreement guaranteed with financial security prior to March 31, 2023, and installed within twelve (12) months of annexation, whichever occurs first, subject to the review and approval of City Public Works and Mobility. Installation of the improvements shall occur on or before December 13, 2024.
2. The petitioner ~~shall is responsible for~~ installation of half street improvements on Grant Creek Road to include sidewalk, boulevard, curb and gutter, and asphalt bike lane and drive lane ~~prior to occupancy of the new addition, or and the improvements shall be~~ included in an improvements agreement guaranteed with financial security prior to March 31, 2023, and installed within twelve (12) months of annexation, whichever occurs first, subject to the review and approval of City Public Works and Mobility and City Parks and Recreation. Installation of the improvements shall occur on or before December 13, 2024.
3. The petitioner shall construct the driveway entrance to the property on Grant Creek Road as a commercial entrance prior to occupancy of the new addition or included in an improvements agreement guaranteed with financial security and installed within twelve (12) months of annexation, whichever occurs first, subject to the review and approval of City Public Works and Mobility.
4. The petitioner shall execute a waiver of SID for future improvements and maintenance to Howard Raser Drive and Grant Creek Road, including but not limited to the installation of paving, drainage facilities, curbs and gutters, traffic control devices, motorized and nonmotorized facilities, and street widening, subject to the review and approval of the City Attorney and City Public Works and Mobility prior to the effective date of the annexation, to be filed with the Missoula County Clerk and Recorder.
5. The petitioner shall connect to city sewer, abandon the existing septic system, and if the petitioner chooses to connect to city water, install backflow prevention per City of Missoula standards prior to prior to occupancy of the new addition or included in an improvements agreement guaranteed with financial security and installed within twelve (12) months of annexation, whichever occurs first, subject to the review and approval of City Public Works and Mobility.
6. The petitioner shall install a fire hydrant prior to new combustible construction or included in an improvements agreement guaranteed with a security and installed within twelve (12) months of annexation, whichever occurs first, subject to the review and approval of City Fire and City Public Works and Mobility.

## II. PROJECT SUMMARY

### Introduction

1. At the request of property owner Diversified Real Estate, LLC, Inc., on December 13, 2021 the Missoula City Council annexed into city limits three parcels of land subject to six conditions.
2. The parcels of land are addressed as 3719, 3721, and 3723 Grant Creek Road. The property can be legally described as those tracts in Book 1040 Page 253, Book 960 Page 1011, and Book 1040 Page 253, located in the NW ¼ of the NW ¼ of Section 8, Township 13 North, Range 19 West, P.M.M.
3. The property is located east of North Reserve Street at the southwest corner of the intersection of Howard Raser Drive and Grant Creek Road in City Council Ward 2 and the Grant Creek Neighborhood Council area.

4. The property is home to Diversified Plastics, a Missoula-based custom plastics fabrication and engineering company that employs approximately 66 people who design, engineer, and fabricate plastic components used in a variety of industries including food processing, forestry, agriculture, and wastewater treatment.
5. Diversified Plastics is expanding its facilities and workforce. The first of potentially two expansion phases includes construction of a 4,000 square foot building addition as well as connection to municipal sewer, fire suppression improvements, a new street approach on Grant Creek Road, building improvements, and parking lot improvements.
6. The property is located within the North Reserve – Scott Street Urban Renewal District. The applicant is working with the Missoula Redevelopment Agency (MRA) to help fund a portion of the improvements. On September 15, 2022, MRA approved using tax increment finance funds to reimburse the applicant for the costs of new fire hydrant along Howard Raser Drive. The hydrant is a necessary component of the building addition project.
7. City Council's six conditions of annexation are listed above under the "Recommended Conditions" and in Corrected Resolution Number 8568. The conditions are required to be met within 12 months, so are scheduled to expire on December 13, 2022.
8. Condition #1 requires curb, gutter, crosswalk, and curb ramp improvements to Howard Raser Drive. Condition #2 requires half-street improvements to Grant Creek Road including sidewalk, boulevard, curb, gutter, bike lane, and driving lane.
9. The applicant has requested a two-year extension of conditions #1 and #2 to plan out the possible second expansion phase which, according to a September 12, 2022 memo from MRA, includes a 25,000 square foot building, a water main extension, and another fire hydrant. IMEG Corporation's September 19, 2022 extension request letter states the applicant would like more time to assess future expansion plans, acquire permits, and complete the underground utilities prior to finishing surface improvements to Howard Raser Drive and Grant Creek Road to avoid additional costs of asphalt removal and replacement.
10. Condition #3 requires a new commercial entrance on Grant Creek Road, which as of this writing is near completion.
11. Condition #4 requires an executed waiver of the right to protest the creation of a special improvement district for improvements to Howard Raser Drive and Grant Creek Road, which the applicant submitted to Development Services.
12. Condition #5 requires connection to city sewer, abandonment of a septic system, and installation of a backflow prevention system if connection is made to city water. According to Anna Vickers of IMEG Corporation, the property is connected to city sewer and water, the septic system has been removed, and backflow prevention is being installed.
13. Condition #6 requires a fire hydrant to be installed prior to new combustible construction. The hydrant has been installed and as of this writing is undergoing testing.

#### **Annexation Policy**

14. The subject property is part of Annexation Area "A" on the City 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 prioritizes the annexation of areas located within Annexation Area "A", areas that contribute to the logical growth pattern of the City by creating orderly and contiguous municipal boundaries, and properties that would fill gaps left by previous annexations that created islands or other non-contiguous boundaries.
15. The subject property was wholly surrounded by property within the City limits at the time of annexation on December 13, 2021, therefore the annexation filled a gap left by previous annexations.
16. 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 prioritizes the annexation of areas located within the Utilities Services Area.
17. The Annexation Policy states the City reserves the right to condition annexation approvals, but does not provide guidance on extensions of timeframes for when conditions must be met.

### **Growth Policy & North Reserve – Scott Street Master Plan**

18. The applicable regional plan is the *Our Missoula 2035 City Growth Policy*, which recommends a land use designation of Community Mixed-Use on the Future Land Use Map. 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.
19. The *Our Missoula 2035 City Growth Policy* includes several policy statements and goals that are relevant to this request. For example, the infrastructure statement at the top of page 51 states, “Infrastructure is the backbone of economic development. In order to build and maintain a viable base economy that brings dollars into the community while paying good wages, a community needs reliable and affordable utilities, roads, and carrier services.” Growth Policy Goal Econ 1 states, “Strategically build and maintain critical infrastructure that will support economic development.” Partnering with the applicant to build and expand the tax base to maintain improvements to Howard Raser Drive and Grant Creek Road would help to meet the infrastructure policy statement and growth policy goal Econ 1.
20. The property is located within the *North Reserve - Scott Street Master Plan* area. The *North Reserve-Scott Street Master Plan* is considered an ‘issue plan’ that focuses on improving transportation connections for all modes of travel, enhancing opportunities for industrial uses that provide good paying jobs, and exploring the potential for new homes and businesses that will stimulate Missoula's economy.
21. The *North Reserve - Scott Street Master Plan* includes three districts: a Reserve Street District, an Industrial Core, and a Scott Street District. The subject property is located within the Reserve Street District and is identified with land use designations of Light Industrial and Transitional Commercial.
22. The *North Reserve-Scott Street Master Plan* emphasizes mobility throughout the plan area including an improved road network, designated truck routes, and safe pedestrian and bicycle facilities. The street, street crossing, boulevard, drainage, sidewalk and bicycle improvements required in annexation conditions #1 and #2 comply with and help to implement connectivity and street-scape portions the Master Plan.
23. The *North Reserve-Scott Street Master Plan* recognizes that major infrastructure investments will be necessary to carry out the plan. The plan states that while implementation will be driven by private investment, public infrastructure investments using tax increment financing will be a powerful tool used to partner with private entities to revitalize the district, provide well-paying jobs, and to provide for new homes and businesses.

### **Statutory Requirements**

24. There are no statutory or local requirements for considering whether to grant an extension to conditions of annexation. The City met the statutory requirements for a petition method of annexation in regards to MCA 7-2-4601 – 4625 and the MMC 20.85.040(I)(2) in December of 2021 when City Council annexed and zoned the property. This included considering the petition, adopting a resolution of intent, 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 Council took was the adoption of the annexation request.
25. For the request to extend the deadlines to meet condition of approval #1 and #2, City staff required a letter from the applicant requesting extension of the two conditions, provided public notice, scheduled a public hearing, and provided a resolution amending condition of approval #1 and #2 for council's consideration.

### **Staff Recommendation**

1. Staff recommends City Council adopt a resolution to amend conditions of approval #1 and #2 as shown above in the “Recommended Conditions” section of this staff report for property located at 3719, 3721, and 3723 Grant Creek Road.
2. This recommendation is based primarily on substantial compliance with *Our Missoula 2035 City Growth Policy* and *North Reserve-Scott Street Master Plan*, as well as the applicant's good faith efforts to comply with annexation conditions of approval in a timely manner.

## **III. AGENCY COMMENT**

<b>City Police:</b>
No comment received prior to issuance of staff report.
<b>City Fire:</b>
No comment received prior to issuance of staff report.
<b>City-County Health Department:</b>
No comment received prior to issuance of staff report.
<b>Missoula Valley Water Quality District:</b>
No comment received prior to issuance of staff report.
<b>City Attorney:</b>
No comment received prior to issuance of staff report.
<b>Missoula Urban Transportation District:</b>
No comment received prior to issuance of staff report.
<b>City Public Works &amp; Mobility Department:</b>
<p>"No comment from me." Andy Schultz, City Engineer for Utilities, 10/20/22</p> <p>Follow-up regarding connection to city sewer from Andy Schultz: "After we got off the phone I did find the sewer permit and did confirm that Mickey had some inspections out there. Doesn't look like we have accepted it (need the ditch card) but they should be able to make the December deadline." 10/27/22</p>
<b>Missoula Redevelopment Agency:</b>
<p>"The MRA supports the Diversified Plastics request for extension of the Annexation conditions. They are actively working to meet the requirements of annexation, but must also work within construction scheduling restraints, MRA TIF assistance timing, etc. The MRA Board has approved TIF funding for the Howard Raser Drive fire hydrant. A provision of the MRA/Diversified Plastics Development Agreement is that the fire hydrant be installed by Dec. 13, 2022 per the annexation conditions. This work is tied to the expansion of the 4320 SF building.</p> <p>The MRA Board has grant Diversified Plastics authorization to Proceed Without Prejudice on the Howard Raser Dr and Grant Creek Rd public improvements. Diversified Plastics will need to request TIF assistance with these public improvements when they construct their 25,000 SF business expansion in order to meet the MRA metrics for approving TIF funds for Howard Raser Dr and Grant Creek Rd annexation conditions. An extension of time on the annexation conditions will provide Diversified Plastics the ability to complete their project planning and obtain hard costs prior to applying for TIF funds, which the MRA will require." Tod Gas, Project Manager, 10/20/22</p>
<b>Montana Department of Transportation:</b>
No comment received prior to issuance of staff report.
<b>III. ATTACHMENTS</b>
<ol style="list-style-type: none"> <li>1. Draft Resolution to Extend Conditions of Annexation</li> <li>2. Annexation approval letter dated January 7, 2022</li> <li>3. Resolution to Annex #8568 CORRECTED dated February 23, 2022</li> </ol>