



## COMMUNITY PLANNING, DEVELOPMENT & INNOVATION

Development Services Division

435 RYMAN | MISSOULA, MT 59802-4297 | 406.552.6630 | FAX 406.552.6053

### **REFERRAL AND STAFF REPORT**

**Agenda Item:** Referral and Staff Report - Rezone of Tract 3 of the amended plat of Scott Street Lots, Lot 3 located in the north half of Section 16, Township 13 North, Range 19 West, P.M.M. from M1R-2 Limited Industrial-Residential to M1R-3 Limited Industrial-Residential.

**Report Date:** December 21, 2022

**Case Planner:** Tara Porcari, Senior Planner

**Report Review & Approved by:** Mary McCrea, Permits and Land Use Manager

**Public Meetings & Hearings:**

Planning Board (PB) Public Hearing: 01/03/2023

City Council (CC) Consent Agenda: 01/09/2023

City Council Public Hearing: 01/23/2023

Land Use & Planning (LUP): 01/25/2023

City Council Final Consideration: 02/06/2023

### **I. GENERAL PROJECT INFORMATION**

**Applicant:**

Ravara Development LLC  
129 W Alder St  
Missoula, MT 59802

**Representative:**

Jamie Erbacher, WGM Group  
1111 E Broadway St  
Missoula, MT 59802

**Owner:**

City of Missoula  
435 Ryman St  
Missoula, MT 59802

**Location of Request:** The subject property is located at the southwest corner of Scott Street and Charlo Street in the Northside Neighborhood Council and City Council Ward 1 (Exhibit A).

**Legal Description:** Tract 3 of the amended plat of Scott Street Lots, Lot 3 located in the north half of Section 16, Township 13 North, Range 19 West, P.M.M.

**Geocode:** 04-2200-16-2-03-26-0000

**Legal Notification:** The legal ad was published in the Missoulian on December 18<sup>th</sup>, 2022 and December 25<sup>th</sup>, 2022. The site was posted on October 21<sup>st</sup>, 2022. Adjacent property owners were notified by first class mail on October 18<sup>th</sup>, 2022.

### **II. DECISION AND REGULATORY FRAMEWORK**

**Applicable State Law:** [Montana Code Annotated 2021](#)

**Growth Policy:** The [Our Missoula 2035 City Growth Policy](#) is the applicable regional plan and recommends a land use designation of Neighborhood Mixed-Use, which is intended to include a mix of neighborhood-serving commercial uses and medium to high density residential development where City services and infrastructure are readily available. The Our Missoula 2035 City Growth Policy incorporates previously approved neighborhood area plans. The applicable vicinity plan is the 2016 North Reserve/Scott Street Master Plan which recommends a land use designation of Open Space/Park on the East end and Neighborhood Retail on the west end of the parcel.

**Local Zoning Law:** [Title 20, Missoula Municipal Code](#) amended May 2<sup>nd</sup>, 2022, with Conditional Use Interim Ordinance amendments approved on November 28, 2022.

**Current and Proposed Zoning:** The parcel is zoned M1R-2 Limited Industrial-Residential. If City Council approves the rezoning, the parcel would be zoned M1R-3 Limited Industrial-Residential.

**Surrounding Land Uses:**

North: Vacant  
South: City Park and Maintenance Facility  
East: Residential  
West: Vacant

**Surrounding Zoning:**

North: M1R-2 Limited Industrial/Residential  
South: OP1 Open Space & City Maintenance Facility  
East: RM1-45 Residential 1 (multi-dwelling)  
West: M1R-2 Limited Industrial/Residential

### **III. RECOMMENDED MOTIONS**

**Planning Board Public Hearing (01/03/2023)**

Recommend City Council **approve** the adoption of an ordinance to rezone the subject property located at the southwest corner of Scott Street and Charlo Street, legally described as Tract 3 of the amended plat of Scott Street Lots, Lot 3 located in the north half of Section 16, Township 13 North, Range 19 West, P.M.M., from M1R-2 Limited Industrial-Residential to M1R-3 Limited Industrial-Residential based on the findings of fact in this staff report.

**City Council Consent Agenda (01/09/2023)**

[First reading and preliminary adoption] **Set a public hearing** on January 23<sup>rd</sup>, 2023 and **preliminarily adopt** an ordinance rezoning the subject property located at the southwest corner of Scott Street and Charlo Street, legally described as Tract 3 of the amended plat of Scott Street Lots, Lot 3 located in the north half of Section 16, Township 13 North, Range 19 West, P.M.M., from M1R-2 Limited Industrial-Residential to M1R-3 Limited Industrial-Residential and **refer this item** to the Land Use and Planning Committee for presentation on January 25, 2023.

**City Council Public Hearing (01/23/2023)**

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

**Land Use and Planning Committee (01/25/2023)**

No motion – City Council discussion and informational meeting only.

## **City Council Final Consideration (02/06/2023)**

[Second and final reading] **(Adopt/Deny)** an ordinance rezoning the subject property located at the southwest corner of Scott Street and Charlo Street, legally described as Tract 3 of the amended plat of Scott Street Lots, Lot 3 located in the north half of Section 16, Township 13 North, Range 19 West, P.M.M., from M1R-2 Limited Industrial-Residential to M1R-3 Limited Industrial-Residential.

### **IV. INTRODUCTION**

Development Services has received a request from Jamie Erbacher of WGM Group representing Ravara Development LLC, to rezone the subject property at the southwest corner of Scott Street and Charlo Street and legally described as Tract 3 of the amended plat of Scott Street Lots, Lot 3 located in the north half of Section 16, Township 13 North, Range 19 West, P.M.M., from M1R-2 Limited Industrial-Residential to M1R-3 Limited Industrial-Residential. This rezoning will result in a standard zoning district under Title 20 which cannot be conditioned.

Staff has reviewed the applicant's rezoning submittal packet and bases the recommendation of approval on the following findings of fact:

### **V. GENERAL FINDINGS OF FACT**

1. The subject property has frontage on Scott Street, which is functionally classified as an Urban Collector, and Charlo Street and Shakespeare Street, which are both functionally classified as local streets.
2. The subject property is approximately 224,557 square feet (5.16 acres) and is currently vacant.
3. The subject property is inside the Urban Growth Area, the Utility Services Area, the Air Stagnation Zone, and is served by City water and sewer.
4. The property is part of City Council Ward 1, and the Northside Neighborhood Council.
5. The subject property is located within an established service area for Missoula hospitals and the City Fire and Police Departments.
6. Missoula Mountain Line route 3 runs on Scott Street adjacent to the subject property. Route 2 is available at Scott Street and Phillips Street, approximately a half mile south of the subject property.
7. The subject property is less than one mile from Missoula Fresh Market on Broadway grocery store.
8. The subject property is less than one half mile from Lowell Grade School.
9. Westside Park is roughly one-half of a mile away and accessible from the subject property.

### **VI. GROWTH POLICY FINDINGS OF FACT**

10. The applicable regional plan is the *Our Missoula: City Growth Policy 2035*, which recommends a land use designation of Neighborhood Mixed-Use. This land use designation is intended to include a mix of neighborhood-serving commercial uses and medium to high density residential development where City services and infrastructure are readily available. These areas support and help give identity to individual or small groupings of neighborhoods by providing a visible distinctive focal point.
11. Areas designated Neighborhood Mixed-Use promote uses such as retail, offices, eating and drinking, entertainment, and medium to high residential density. The City Growth Policy

indicates that the following districts are most closely aligned with this residential density: B1 Neighborhood Business, B2 Community Business, and M1R Limited Industrial-Residential. These zoning districts support a variety of commercial uses and a residential density of up to 43 dwelling units per acres.

12. The applicant is requesting to rezone the subject properties from M1R-2 to M1R-3 Limited Industrial-Residential, which is consistent with the Growth Policy land use recommendation for the Neighborhood Mixed-Use land use designation. The allowed uses and densities are the same for the M1R-2 and M1R-3 zoning districts. The only difference is an increase in maximum building height. The M1R-2 has a maximum height limit of 50 feet and the M1R-3 has a maximum height limit of 65 feet.
13. Given the approximate 224,557 square foot size of the subject property, the requested M1R-3 zoning would allow up to 224 dwelling units, which is the same number of dwelling units permitted under the current zoning. Both the M1R-2 and M1R-3 districts permit detached house, lot line house, two-unit townhouse, three-unit townhouse, two-unit house, multi-dwelling building, multi-dwelling house, mixed-use buildings and vertical mixed-use buildings.
14. The City Growth Policy calls for a focus inward approach to encourage infill development in the urban core where infrastructure already exists and promotes mixed-use, increased density, and enhanced connectivity while limiting sprawl and promoting efficient use of existing infrastructure.
15. The *Community Design* section of the City Growth Policy encourages building where there is existing infrastructure, as is the case here.
16. The *Housing* section of the City Growth Policy describes the Focus Inward approach to development as one that provides opportunities by designating appropriate areas for higher density and housing near existing infrastructure and services. The Growth Policy states such development has added benefits, including decreasing household expenses like transportation.
17. The *Safety and Wellness* section of the City Growth Policy encourages healthy lifestyles by promoting a complete active transportation network to increase safety for all transportation systems including vehicular and active transportation.

## **VII. ZONING FINDINGS OF FACT**

18. The current zoning of M1R-2 Limited Industrial-Residential and the proposed zoning of M1R-3 Limited Industrial-Residential both require a minimum lot size of 5,000 square feet for commercial and industrial use development, a minimum parcel size of 3,000 square feet for single purpose residential and mixed-use development, and a minimum parcel area per unit of 1,000 square feet for single purpose residential and mixed-use development. Both the current M1R-2 zoning and the proposed M1R-3 zoning allow the following building types: commercial, limited industrial, detached dwellings, multi-dwelling buildings, mixed-use buildings, and vertical mixed-use buildings.
19. There are no setbacks in the M1R-2 and M1R-3 zoning districts if the subject property is not abutting a residential district, which it is not. The M1R-2 zoning has a maximum building height of 50 feet while the M1R-3 zoning has a maximum building height of 65 feet.
20. The M1R-2 and M1R-3 zoning districts have the same density standards and allow up to 43 dwelling units per acre. The subject property is 224,557 square feet, which permits up to 224 dwelling units.

21. Any new development on the subject properties will be required to meet all applicable portions of Title 12 & Title 20, as required by the Missoula Municipal Code.

## **VIII. TRANSPORTATION FINDINGS OF FACT**

22. The subject properties have frontage on Scott Street, which is functionally classified as an Urban Collector, and Charlo Street and Shakespeare Street, which are functionally classified as local streets.
23. Mountain Line's Route 3 runs on Scott Street adjacent to the subject property. Route 2 is available at Scott Street and Phillips Street, approximately a half mile south of the subject property.
24. There are no existing sidewalks or boulevard landscaping on Scott Street. Boulevard sidewalks and associated landscaping will be required to be installed and maintained with future development. Road improvements for Scott Street, adjacent to the subject property, meeting Urban Collector road standards shall include bicycle/pedestrian facilities and accommodations for transit and will be required at the time of building permit approval.
25. New development on the subject properties will be required to meet all applicable portions of Title 12 & Title 20, as required by the Missoula Municipal Code, including installation of sidewalks and bicycle lanes.

## **IX. CONCLUSIONS OF LAW**

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

1. The rezoning from M1R-2 to M1R-3 complies with the Growth Policy because the M1R district is a 'current relatable district' of the Neighborhood Mixed-Use future land use map designation. The allowable uses and densities are the same for both the current M1R-2 zoning and the proposed M1R-3 zoning.
2. The rezoning from the current M1R-2 zoning to the proposed M1R-3 zoning complies with many of the focus inward goals and objectives of the growth policy.

### ***2a. Whether the zoning is designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; 2b. Whether the zoning considers the effect on motorized and non-motorized transportation systems;***

1. The rezoning facilitates the adequate provision of public services, including transportation, water, schools, parks, and other public requirements, because the area is inside the Urban Growth Area and the Sewer Service Area, and is served by water, sewer, motorized and nonmotorized and park infrastructure.
2. The rezoning gives reasonable consideration to the effect on motorized and non-motorized transportation systems because the property is within the Missoula Urban Transportation District and is served by public transit, the installation of boulevard sidewalks is required along the public streets at the time of building permit, and the property is served by bicycle facilities.

### ***3. Whether the zoning considers the promotion of compatible urban growth;***

1. The rezoning reflects compatible urban growth because it permits low-impact industrial, commercial, mixed-use and high-density residential development in an area that includes both residential and limited industrial/commercial uses. The rezoning supports mixed-use

and residential development in a location that provides residents easy access to services within the core of the community.

2. The rezoning promotes compatible urban growth because it implements the focus inward goal of the City Growth Policy and provides for increased density and mixed-use development while promoting efficient use of existing infrastructure.

**4a. Whether the zoning is designed to promote public health, public safety, and the general welfare; 4b. Whether the zoning is designed to secure safety from fire and other dangers; 4c. Whether the zoning considers the reasonable provision of adequate light and air; 4d. Whether the zoning conserves the value of buildings and encourages the most appropriate use of land throughout the jurisdictional area;**

1. The rezoning will promote public health, public safety, and the general welfare by providing for residential, commercial, mixed-use and low-impact industrial uses in an area with access to sewer, public water, emergency services, streets, bicycle lanes, schools, and other urban services.
2. Emergency services are available to the site. Law enforcement personnel and facilities are available to address potential problems of noise, property damage, or personal injury. Fire protection is also available to the site.
3. This rezoning should not adversely impact the provision of adequate light and air as all future development will meet required internal and external building code and zoning requirements for activity area, landscaping, and building heights.
4. This rezoning encourages an appropriate use of the land because it applies the MR1-3 Limited Industrial-Residential zoning designation with a dwelling unit density matching the current M1R-2 zoning and that of the Growth Policy Neighborhood Mixed-Use land use designation.

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

1. The rezoning to MR1-3 is suitable for the subject property and gives reasonable consideration to the character of the district because MR1-3 zoning district permits the same uses and building types as are currently allowed with the existing MR1-2 zoning.
2. The rezoning considers the location and character of the property, which has easy access to urban infrastructure and services in Missoula.

**6a. Whether the proposed zoning amendment corrects an error or inconsistency in the zoning ordinance or meets the challenge of a changing condition; 6b. Whether the proposed zoning amendment is in the best interests of the city as a whole.**

1. The zoning amendment is a map amendment and not a text amendment, therefore there is no change to the Title 20 zoning ordinance with the map amendment to rezone the subject property from MR1-2 Limited Industrial-Residential to MR1-3 Limited Industrial-Residential.
2. The rezoning is in the best interest of the city as a whole because the rezoning implements the intent of recommendations of the 2035 Our Missoula City Growth Policy for areas designated Neighborhood Mixed-Use. The M1R zoning is listed as a current relatable zoning district for lands with the Neighborhood Mixed-Use land use designation in the City's Growth Policy. There is no difference between the current M1R-2 zoning and the proposed M1R-3 zoning regarding allowable use, building types, or parcel standards. The

only difference is an extra 15 feet in allowable height, allowing up to 65-foot buildings in the M1R-3 instead of the 50 feet maximum building height in the M1R-2.

3. The rezoning from M1R-2 to M1R-3 does not correct an error or inconsistency in the zoning ordinance. The rezoning to M1R-3 addresses the challenging condition of a lack of housing for residents, and the added height will allow the development to get closer to the maximum density allowed in the M1R zoning districts while retaining on-site landscaped area by building up instead of out.
4. The rezoning is in the best interest of the city because it promotes development in a location served by public infrastructure and services, including motorized and non-motorized transportation, water, sewer, schools, parks, and public utilities and services.

## **X. AGENCY COMMENT**

### **Missoula Valley Water Quality District:**

Agency comment has not been received.

### **City – County Health Department:**

Agency comment has not been received.

### **Missoula Urban Transportation District:**

“Mountain Line supports this rezone and requests that the developers of this site incorporate a bus stop in the downstream side of the Scott and Charlo intersection into their building plans. Zoning for medium- to high-density residential and commercial use makes this site an ideal location for an ADA accessible bus stop that will allow residents and workers to easily access Mountain Line’s Route 3, which serves the Northside with 7-day-a-week transit service to downtown.” – Dan Stone, Transit Planner

**City Parks and Recreation Department:** “Parks supports this rezone as an integral part of the larger vision for this area.” – Nathan McLeod, PLA, Senior Landscape Architect

No comment. – Urban Forestry

### **City Attorney:**

Agency comment has not been received.

### **Missoula Redevelopment Agency:**

“This rezoning request has the full support of the MRA. It is a positive step toward addressing our housing needs.” Ellen Buchanan, Director

### **City Police:**

Agency comment has not been received.

### **City Fire:**

Agency comment has not been received.

### **Montana Department of Transportation:**

Agency comment has not been received.

### **CPDI, Community Development:**

Agency comment has not been received.

**City Public Works and Mobility:**

“This rezoning request has the full support of Public Works & Mobility. We are taking steps through our Capital Improvement Plan and Neighborhood Traffic Management Program to address transportation needs and neighborhood traffic impacts, including infrastructure improvements to Turner, Worden, and 5th along with quick-build traffic calming measures in the Northside Neighborhood next year, and preliminary design for improvements to the Scott/Phillips intersection in the Westside Neighborhood beginning this winter. PWM has also fully evaluated and planned for water and sewer infrastructure to support the proposed project, as well as other development in the Scott Street area.” – Jeremy Keene, PE, Director

**Northside Neighborhood Council:**

Agency comment has not been received.



## EXHIBIT A: LEGAL MAP OF FULL SUBJECT PROPERTY

