



# MISSOULA COMMUNITY PLANNING, DEVELOPMENT & INNOVATION

Development Services Division

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## REFERRAL AND STAFF REPORT

**Agenda Item:** Referral and Staff Report - Rezone 2160 Carol Ann Court from RT10 Residential (Two-Unit / Townhouse) to RT5.4 Residential (Two-Unit / Townhouse).

**Report Date:** 12/22/2022

**Case Planner:** Madson Matthias, Associate Planner

**Report Review & Approved by:** Cassie Tripard, Planning Supervisor

### **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 & Fee Owner:**

Troy & Kristina Hanninen  
2160 Carol Ann Court  
Missoula, MT 59801

**Location of Request:** 2160 Carol Ann Court, east of the intersection of South Curtis Street and Carol Ann Court in the River Road Neighborhood Council and City Council Ward 6 (Exhibit A).

**Legal Description:** Lot 2 of Hansen Addition #2, located in the Southwest Quarter of Section 20, Township 13 North, Range 19 West, P.M.M.

**Geocode:** 04-2200-20-3-29-04-0000

**Legal Notification:** The legal ad was published in the Missoulian on December 18 and 25, 2022. The site was posted on December 14, 2022. Adjacent property owners and the physical addresses within 150 feet of the site were notified by first class mail on November 17, 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 Residential Medium Density, 3 to 11 dwelling units per acre. This designation is intended to fit with many already established residential neighborhoods and acknowledge the single dwelling residential building type as the primary use with the potential for accessory dwellings as well.

**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 RT10 Residential (Two-Unit / Townhouse). If City Council approves the rezoning, the parcel would be zoned RT5.4 Residential (Two-Unit / Townhouse).

**Surrounding Land Uses:**

North: Detached residences  
South: School  
East: Detached and two-unit residences  
West: Detached residences

**Surrounding Zoning:**

North: RT10 Residential (Two-Unit / Townhouse)  
South: R5.4 Residential  
East: RT5.4 Residential (Two-Unit / Townhouse)  
West: RT10 Residential (Two-Unit / Townhouse)

**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 2160 Carol Ann Court and legally described Lot 2 of Hansen Addition #2, located in the Southwest Quarter of Section 20, Township 13 North, Range 19 West, P.M.M. from RT10 Residential (Two-Unit / Townhouse) to RT5.4 Residential (Two-Unit / Townhouse), based on the findings of fact and conclusions of law in the 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 to rezone the subject property located at 2160 Carol Ann Court and legally described as Lot 2 of Hansen Addition #2, located in the Southwest Quarter of Section 20, Township 13 North, Range 19 West, P.M.M. from RT10 Residential (Two-Unit / Townhouse) to RT5.4 Residential (Two-Unit / Townhouse), and **refer this item** to the Land Use and Planning Committee for presentation and discussion 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 to rezone the subject property located at 2160 Carol Ann Court and legally described as Lot 2 of Hansen Addition #2, located in the Southwest Quarter of Section 20, Township 13 North, Range 19 West, P.M.M. from RT10 Residential (Two-Unit / Townhouse) to RT5.4 Residential (Two-Unit / Townhouse), based on the findings of fact and conclusions of law in the staff report.

**IV. INTRODUCTION**

Development Services has received a request from Lynne Edens of Montana Northwest Company representing Kristina and Troy Hanninen to rezone the subject property at 2160 Carol Ann Court and legally described as Lot 2 of Hansen Addition #2, located in the Southwest Quarter of Section 20,

Township 13 North, Range 19 West, P.M.M. from RT10 Residential (Two-Unit / Townhouse) to RT5.4 Residential (Two-Unit / Townhouse). The requested RT5.4 zoning district is a standard district that applies equally to other areas of the City with the same RT5.4 zoning designation. City Council either approves or denies the rezoning request and cannot approve it subject to conditions per MCA 76-2-302.

RT10 and RT5.4 allow for similar residential building types and the same land uses, property line setbacks, and building heights. The main difference between the two districts is RT10 has a minimum parcel size and minimum area per unit of 10,000 square feet, while RT5.4 has a minimum parcel size and minimum area per unit of 5,400 square feet. This means the RT5.4 zoning district allows for higher density residential development than the RT10 zoning district.

Staff have reviewed the applicant's rezoning submittal packet and based the recommendation of approval on the following findings of fact and conclusions of law.

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

1. The property is approximately 22,300 square feet in size and contains 1 existing detached house.
2. The property is in a developed area of Missoula between Russell Street and Reserve Street and is surrounded by single-unit, detached dwelling and two-unit residences.
3. The subject property is inside the Urban Growth Area, the Utility Service Area, and the Air Stagnation Zone.
4. The subject property is served by City sewer and water.
5. The property is part of City Council Ward 6 and the River Road Neighborhood Council.
6. The property is located within an established service area for Missoula Hospitals and the City Fire and Police Departments. The closest hospitals are Community Medical Center (2.5 miles away) and Providence St. Patrick Hospital (2.4 miles away). The closest fire stations are Missoula Rural Fire District Station 1 at 2521 South Avenue West (2 miles away) and Missoula Fire Department Station 2 at 247 Mount Avenue (2.3 miles away). The nearest fire hydrant is located approximately 100 feet to the west of the property at the intersection of Carol Ann Court and Curtis Street.
7. LaFray Park is approximately 0.29 miles to the north of the property and is accessible via sidewalk. Bentley Park is approximately 0.33 miles to the west of the property and is accessible via the Milwaukee Trail.
8. The property is located within the attendance boundaries of Hawthorne Elementary, C.S Porter Middle School, and Big Sky High School.
9. There are no steep slopes on the property. The parcel is in FEMA Flood Zone X, an area of minimal flood risk.

## **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 Residential Medium Density, 3 to 11 dwelling units per acre. This land use designation is intended to fit with many already established residential neighborhoods to acknowledge the single dwelling residential building type as the primary use with the potential for accessory dwellings as well.

11. The City Growth Policy indicates the following districts are most closely aligned with the Residential Medium Density designation: RT10 Residential (Two-Unit / Townhouse), R8 Residential, R5.4 Residential, and RT5.4 Residential (Two-Unit / Townhouse). These four zoning districts permit a variety of lower intensity residential supportive land uses such as day cares, schools, religious assembly, and community gardens.
12. The property is currently zoned RT10 Residential (Two-Unit / Townhouse). The applicant is requesting to rezone the subject property to RT5.4 Residential (Two-Unit / Townhouse). Both zoning districts are consistent with the Growth Policy recommendation for the Residential Medium Density land use designation.
13. 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, compact development, and enhanced connectivity while limiting sprawl and promoting efficient use of existing infrastructure.
14. The Community Design section of the City Growth Policy encourages building where there is existing infrastructure, as is the case here.
15. 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.
16. 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.
17. The proposed RT5.4 zoning would increase density in an area with existing infrastructure, complying with the Focus Inward, Community Design, Housing, and Safety and Wellness sections of the City Growth Policy.

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

18. The property is zoned RT10 Residential (Two-Unit / Townhouse). Parcels surrounding the subject property are zoned RT10 Residential (Two-Unit / Townhouse), RT5.4 Residential (Two-Unit / Townhome), and R5.4 Residential. The applicant is requesting to rezone the subject property to RT5.4 Residential (Two-Unit / Townhouse).
19. Given the approximate 22,300 square foot size of the property, the existing RT10 zoning district, which has a minimum parcel area per unit of 10,000 square feet, would allow 2 dwelling units.
20. In the requested RT5.4 zoning district, the minimum area per unit is 5,400 square feet. The 22,300 square foot property would allow up to 4 dwelling units.
21. Both the existing RT10 zoning district and the proposed RT5.4 zoning district allow detached houses, lot line houses, two-unit house, two-unit townhouses.
22. The setbacks are the same for the existing RT10 and the proposed RT5.4 zoning districts: 20-foot front and rear setbacks, 10-foot street-side setbacks, and 7.5-foot or 1/3 of the building height interior side setbacks, whichever is greater. The maximum building height permitted in both districts is 30 feet for buildings with a primary roof pitch of less than 8 in 12, or up to 35 feet for buildings with a primary roof pitch 8 in 12 or greater.

23. The main difference between the two zoning districts is RT10 has a minimum parcel size and minimum area per unit of 10,000 square feet, while RT5.4 has a minimum parcel size and minimum area per unit of 5,400 square feet.
24. The uses allowed in the RT5.4 zoning district will remain consistent with those allowed in RT10, apart from allowing Residential Storage Warehouses through Conditional Use approval.
25. Any new development on the subject property will be required to meet all applicable portions of Title 12 and Title 20, as required by the Missoula Municipal Code, including sanitation, and building setbacks.

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

26. The subject property has frontage on Carol Ann Court, which is a 2-lane, public street classified as a Local Street. The subject property is accessed from Carol Ann Court
27. Missoula Mountain Line Route 2, which runs approximately every 15 minutes from 7 a.m. to 6 p.m. on weekdays and every 60 minutes from 10 a.m. to 6 p.m. on Saturdays, is located approximately 0.25 miles southeast of the subject property at South 3rd Street West and Johnson Street. There is limited sidewalk and no designated bicycle route along Curtis Street for approximately 300 feet; the rest of the route from the subject property to the bus stop (including Carol Ann Court, Curtis Street, and South 3rd Street West) all contain sidewalks in good condition.
28. The Milwaukee Trail, a City-maintained shared use path that can be used to access the downtown and other parts of Missoula, is located less than 200 ft (one parcel) to the north of the property and can be accessed by going eastward on the sidewalks along Carol Ann Court.
29. Any new development on the subject property will be required to meet all applicable portions of Title 12 and Title 20, as required by the Missoula Municipal Code.

## **IX. CONCLUSIONS OF LAW**

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

1. The proposed rezoning is made in accordance with the Growth Policy because the RT5.4 district is a 'current relatable district' of the Residential Medium Density land use designation.
2. The rezoning helps to support with the Focus Inward, Community Design, Housing, and Safety and Wellness guidance provided in 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 subject property is served by sewer, water, motorized and non-motorized facilities. The subject property is within a half mile of bus stops.
2. Both Bentley Park and LaFray Park are located within walking distance of the property.
3. The subject property is within existing school districts. The rezoning would only allow for two additional units which will not adversely impact schools.
4. The zoning is designed to facilitate the adequate provision of transportation, sewer, parks, and open space, schools, and other public requirements.

5. The rezoning considers the effect on motorized and non-motorized transportation systems because the property is within the Missoula Urban Transportation District, is served by public transit, is located on a street where active transportation infrastructure exists and is located approximately 100 feet from the Milwaukee Trail which can be used to travel to other parts of the City.

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

1. The rezoning reflects compatible urban growth because it permits residential development at a similar – but slightly higher – scale than surrounding residential development.
2. The rezoning promotes compatible urban growth because it helps to implement the focus inward approach of the City Growth Policy and provides for increased density.

**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 uses in an area with access to public sewer, water, emergency services, streets, schools, and other urban services.
2. Future development will be subject to all applicable local, state, and federal regulations ensuring the protection of public health, safety, and welfare.
3. 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.
4. The subject property does not contain steep slopes or floodplain.
5. This rezoning will 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 building heights, ventilation, and other elements.
6. The rezoning will not impact provision of light and air because the RT10 and RT5.4 zoning districts have the same setbacks and building height maximums.
7. This rezoning encourages the most appropriate use of the land because it would allow for development as envisioned in the Growth Policy.

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

1. The rezoning to RT5.4 is suitable for the subject property and considers the character of the district because it permits the same and similar residential building types and uses as currently developed in the surrounding neighborhood.
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, so there is no change to the Title 20 zoning ordinance that would correct an error or inconsistency. It would provide for an incremental increase in housing, which is in great demand in Missoula and considered a changing condition.
2. The rezoning is in the best interest of the city as a whole because the rezoning implements the recommendations of the 2035 Our Missoula City Growth Policy for areas designated Residential Medium Density 3 – 11 dwelling units per acre. The RT5.4 zoning designation is listed in the Growth Policy as currently relatable to lands with the Residential Medium Density land use designation.

## **X. AGENCY COMMENT**

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

Agency comment has not been received.

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

“The Air Program at the Missoula City-County Health Department has no concerns with the rezoning request for 2160 Carol Ann Ct.” Benjamin Schmidt, M.S., Q.E.P. Air Quality Specialist. November 16, 2022.

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

Agency comment has not been received.

### **City Parks and Recreation Department:**

No comment. – Parks and Trails Design and Development

### **Missoula Redevelopment Agency:**

Agency comment has not been received.

### **City Police:**

Agency comment has not been received.

### **City Fire:**

Agency comment has not been received.

### **Office of Emergency Management:**

Agency comment has not been received.

### **City Public Works and Mobility:**

“No comment.” Andy Schultz, PE. City Engineer for Utilities. November 16, 2022.

### **River Road Neighborhood Council:**

Agency comment has not been received.

**EXHIBIT A: LEGAL MAP OF FULL SUBJECT PROPERTY**

