

## REZONING STAFF REPORT AND REFERRAL

<b>AGENDA ITEM:</b>	Referral - Rezone properties located at 724, 730 and 738 Toole Avenue from RT2.7 Residential (two unit/townhouse) to B2-2 Community Business
<b>CASE PLANNER:</b>	Craig Malin, Planner III
<b>REVIEWED AND APPROVED BY:</b>	Mary McCrea Planning & Land Use Manager
<b>PUBLIC MEETINGS AND HEARINGS:</b>	Planning Board (PB) hearing: 2/18/2020 Land Use and Planning (LUP) pre-public hearing: 3/4/2020 City Council hearing: 3/9/2020
<b>APPLICANT &amp; FEE OWNER:</b>	Kelly Castleberry P.O. Box 726 Missoula, MT 59806
<b>LOCATION OF REQUEST:</b>	The three properties are located at the corner of Toole Avenue and Milton Street, across from Little McCormick Park.
<b>LEGAL DESCRIPTIONS:</b>	724 Toole: School Addition, Block 15, Lots 14 and 15, Section 16, Township 13 North, Range 19 West, P.M.M. 730 Toole: School Addition, Block 15, Lot 13, Section 16, Township 13 North, Range 19 West, P.M.M. 738 Toole: School Addition, Block 15, Lots 11 and 12, Section 16, Township 13 North, Range 19 West, P.M.M.
<b>LEGAL AD:</b>	The legal ad was published in the <i>Missoulian</i> on February 2 and 9, 2020. The site was posted on February 3, 2020. Adjacent property owners within 150 feet of the site were notified by first class mail on January 21, 2020.
<b>ZONING:</b>	Current: RT2.7 Residential (two unit/townhouse) Requested: B2-2 Community Business
<b>GROWTH POLICY:</b>	The applicable regional plan is <i>Our Missoula: City Growth Policy 2035</i> , which recommends a land use designation of "Neighborhood Mixed Use." These areas mix neighborhood-serving commercial uses with high-density residential development of up to 43 dwelling units per acre.

Surrounding Land Uses	Surrounding Zoning
North: Single Dwelling Residential	RT2.7 Residential (two unit/townhouse)
South: Park	M1R-2 Limited Industrial-Residential and B2-2 Community Business
East: Single Dwelling Residential	RT2.7 Residential (two unit/townhouse)
West: Mixed Use Office and Multi-Dwelling Residential	M1R-2 Limited Industrial-Residential

### **STAFF RECOMMENDATION:**

**APPROVE** the adoption of an ordinance to rezone property located at 724, 730 and 738 Toole Avenue from RT2.7 Residential to B2-2 Community Business based on the findings of fact in the staff report.

## **RECOMMENDED MOTIONS:**

<b>PB p/h: 2/18/2020</b>	<b>APPROVE</b> the adoption of an ordinance to rezone 724, 730 and 738 Toole Avenue from RT2.7 Residential (two unit/townhouse) to B2-2 Community Business, based on the findings of fact in the staff report.
<b>CC first reading: 2/24/2020</b>	[First reading and preliminary adoption] Set a public hearing on March 9, 2020 and preliminarily adopt an ordinance rezoning 724, 730 and 738 Toole Avenue from RT2.7 Residential (two unit/townhouse) to B2-2 Community Business and refer this item to the Land Use and Planning Committee for presentation on March 4, 2020.
<b>LUP: 3/4/2020</b>	Discussion only – pre-public hearing
<b>CC p/h: 3/9/2020</b>	[Second and final reading] (Adopt/Deny) an ordinance to rezone 724, 730 and 738 Toole Avenue from RT2.7 Residential (two unit/townhouse) to B2-2 Community Business, based on the findings of fact in the staff report.

## **I. INTRODUCTION**

Development Services has received a request from property owner Kelly Castleberry to rezone five lots (Lots 11-15 of Block 15 in the School Addition) addressed as 724, 730 and 738 Toole Avenue from RT2.7 Residential (two unit/townhouse) to B2-2 Community Business.

The rezone to B2-2 Community Business allows more diverse building types, from detached dwellings to multi-dwelling buildings, and greater density. It also permits a greater variety of neighborhood-serving commercial uses, including offices, restaurants and retail.

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

## **II. REZONING REVIEW CRITERIA**

### **Findings of Fact:**

#### **General**

1. The subject property is comprised of three parcels addressed as 724, 730 and 738 Toole Avenue. There are four (4) residential units in two buildings at 738 Toole, and 724 and 730 Toole each have one detached dwelling unit.
2. The parcels have five (5) lots, each of which is approximately 3,920 square feet. The approximate total area for rezoning is 19,600 square feet.
3. The surrounding area includes residential development, primarily single detached dwellings, as well as one mixed-use building across Milton Street from the subject properties. There is also a small park on the south side of Toole Street.
4. The subject property is inside the Urban Growth Area, the Wastewater Facilities Service Area, the Air Stagnation Zone, and is served by City water and sewer.
5. The subject property is located within an established service area for Missoula hospitals and the City Fire and Police Departments. Existing infrastructure includes:
  - a. The subject property is on Toole Avenue, classified as a Major Collector roadway;
  - b. Public transit is available on Spruce Street one block to the south;
  - c. Within a half mile there are several commercial uses including a grocery store; and
  - d. City parkland is located across Toole Avenue to the south.
6. These properties are part of City Council Ward 1, and the Heart of Missoula Neighborhood Council.

## **Growth Policy**

7. The applicable regional plan is the *Our Missoula: City Growth Policy 2035*, which recommends a land use designation for the subject properties of Neighborhood Mixed Use. These are areas that can contain a mix of neighborhood-serving commercial uses and high residential density development of up to 43 dwelling units per acre.
8. The requested zoning of B2-2 Community Business is one of the zoning districts that corresponds to the Neighborhood Mixed Use land designation. The B2-2 zoning district allows neighborhood-serving commercial uses, including small retail, restaurants and offices, and all residential building types from single detached dwellings to multi-dwelling buildings.
9. For single purpose residential development, the requested zoning of B2-2 Community Business requires a minimum parcel size of 3,000 square feet, and a minimum parcel area per dwelling unit of 1,000 square feet. Thus, the permitted density is up to forty-three (43) dwelling units per acre, which aligns with the Growth Policy's recommended density in areas designated Neighborhood Mixed Use.
10. The City Growth Policy promotes a "Focus Inward" approach to development, with mixed-use, increased density, and enhanced connectivity while limiting sprawl and promoting efficient use of infrastructure. This rezone facilitates all of those objectives.
11. The *Community Design* section of the City Growth Policy encourages building where there is existing infrastructure, as is the case here.
12. Both the *Community Design* and *Economic Health* sections of the City Growth Policy encourage compact development to make the most efficient use of land, and mixed-use developments to reduce costly expansion of infrastructure. The requested zoning aligns with both of those objectives.
13. The *Housing* section of the City Growth Policy outlines a goal to "meet the needs of a growing and diverse population in regard to age, income, physical abilities and household size by having a sufficient supply of housing and developing a variety of housing types." The requested rezone supports that goal by allowing a greater diversity of housing types, which in turn can serve varying household sizes and a more diverse range of incomes.

## **Zoning**

14. The current zoning on the subject properties is RT2.7 Residential (two unit/townhouse), which requires a minimum lot size of 3,000 square feet, and a minimum parcel area per unit of 2,700 square feet. Under the current zoning, the subject properties would allow detached houses or two-unit townhouse building types.
15. The setbacks in the RT2.7 zoning district are: 20 foot front and rear setback, 10 foot street-side setback, and 5 foot interior side setback. The maximum building height permitted in this district is 30 feet, or up to 35 feet with a roof pitch steeper than 8 in 12.
16. The RT2.7 Residential zoning district corresponds to a land use of Residential Medium High, allowing between 12 and 23 dwelling units per acre. This is lower than the up to 43 dwelling units per acre density that the Growth Policy recommends.
17. The RT2.7 Residential zoning district permits up to 16 dwelling units per acre. The subject properties combined area is 19,600 square feet, and permits up to seven (7) dwelling units.
18. The requested zoning of B2-2 permits single purpose residential development on a minimum parcel area of 3,000 square feet, and a minimum parcel area per unit of 1,000 square feet. The B2-2 zoning district permits all residential building types including detached house, two-unit house and multi-dwelling, along with some commercial uses.
19. There are no required setbacks in a B2-2 zoning district unless the site abuts a residential R-zoned district on the same street. In such cases, the B2-2 zoned parcel must match the actual front or street side setback of the building that exists on the abutting R-zoned parcel, up to the maximum distance of the required setback for the abutting R-zoned parcel. These parcels, if rezoned, would need to meet abutting residential side interior setback of five (5) feet to the east. They would not need to meet the setbacks to the north, as an alley right of way separates the property lines.

20. The maximum building height limit permitted by the B2-2 zoning district is 50 feet. For parcels zoned B2-2 abutting R districts that have a maximum allowed building height of 35 feet or less, the maximum building height at the point of the minimum setback line is 35 feet.
21. The subject property abuts an R zone along the eastern property line, which has a required setback of five (5) feet. The maximum building height on the subject property at the setback line is 35 feet. Height may be increased above 35 feet by up to one (1) foot vertical for each six (6) inches of additional building setback or upper floor step-back up to the maximum height of 50 feet.
22. The residential density permitted by the B2-2 zoning district is up to 43 dwelling units per acre. The subject properties combined area is 19,600 square feet, and under B2-2 zoning would allow up to nineteen (19) dwelling units.
23. 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.

### **Transportation**

24. The subject properties have frontage on three public rights-of-way: Toole Avenue, Milton Street and an alley. Toole Avenue is functionally classified as a Major Collector roadway and Milton Street is classified as a Local Street.
25. These properties are within two blocks of Mountain Line's Routes 2 and 3, which run along Spruce Street.
26. There is an existing sidewalk along the Toole Avenue frontage of these properties. New development involving the westernmost Lot 11 will require a sidewalk to be installed along the Milton Street frontage.
27. There is a bike lane and/or signed shared roadway within two blocks of the subject properties, along Spruce Street.
28. 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.

### **Rezoning Conclusions of Law:**

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

1. The applicable regional plan is the *Our Missoula: City Growth Policy 2035*. This rezoning complies with the Growth Policy's recommended land use designation of Neighborhood Mixed Use, which correlates with zoning districts B1-1, B2-1, and that requested by the applicant, B2-2.
2. The rezoning complies with many of the Growth Policy goals for focusing inward, developing in areas with existing infrastructure, and building more compact densities near the city core.

#### **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 is in an area that is already served by city public services, including water, sewer, streets, schools, parks, and other public requirements. Little McCormick park is across the street from these properties, and the Lowell School is less than half a mile away.
2. The rezoning gives reasonable consideration to the effect on motorized and non-motorized transportation systems. The property is within two blocks of two Mountain Line bus routes and has access to bike lanes nearby.
3. The subject property is located on Toole Avenue, classified as a Major Collector and capable of handling additional traffic generated by any redevelopment of the property as a result of the rezoning.

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

1. The rezoning reflects compatible urban growth because it permits residential and neighborhood commercial development in an area that includes both commercial and residential uses. The site could

be developed with limited commercial activity, such as has been built across the street, allowing residents to access services without the need to rely on automobile travel.

2. The rezoning promotes compatible urban growth by implementing City Growth Policy goals such as increasing density, mixing residential and commercial uses, and promoting efficient land use.

**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. City emergency services including police and fire already serve this site, and can address potential problems of noise, property damage, or personal injury. The site is within proximity to Missoula hospitals.
2. This area is already served by City Fire and building code regulations will ensure adequate spacing and fire protection between structures.
3. Zoning setbacks will ensure adequate provision of light and air. In addition, any future development will be required to meet internal and external building separation standards.
4. This rezoning encourages an appropriate use of the land by complying with City Growth Policy goals and objectives, and adopting a zoning designation that aligns with the land use recommendation in the Growth Policy.

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

1. The rezoning is suitable for the subject property and gives reasonable consideration to the character of the district, which already has a mix of commercial and residential development in the area, as well as a mix of single and multi-dwelling building types.

**V. AGENCY COMMENT**

MISSOULA VALLEY –  
WATER QUALITY DISTRICT:

No comment received.

HEALTH DEPARTMENT –  
AIR QUALITY DIVISION:

The Air Program at the Missoula City-County Health Department has no concerns with the Toole Street Rezone request. This area is close to services and if necessary upgrades/repairs are done to the sidewalk sections along with any new construction that would benefit the area. - Benjamin Schmidt

HEALTH DEPARTMENT –  
ENVIRONMENTAL HEALTH:

No comment received.

MISSOULA COUNTY –  
EMERGENCY MANAGEMENT:

OEM has no comment. - Adriane Beck

MISSOULA URBAN  
TRANSPORTATION DISTRICT:

This has no operational impact. – Jennifer Sweten

CITY PARKS & RECREATION:

No comment received.

OFFICE OF HOUSING &  
COMMUNITY DEVELOPMENT:

The Office of Housing and Community Development is in support of the requested rezone application for 738, 730, and 724 Toole Avenue from RT2.7 Residential to B2-2 Community Business. The B2-2 zoning designation is in alignment with Our Missoula, the city's adopted growth policy.

Furthermore, B2-2 Community Business is in alignment with the action priorities and goals outlined in the 2000 amendment to the Northside / Westside Neighborhood Plan. The applicant indicates

that the sites will remain residential, but at a higher density than currently allowed. The proposed use following rezone is in alignment with the neighborhood plan by encouraging in-fill and redevelopment of under-utilized sites. Additional commercial uses that could be established in the future under the proposed zoning would also be in alignment with the neighborhood plan by encouraging live/work commercial activities and by supporting land use that provides neighborhood residents with easy access to basic services (i.e. small grocery or coffee shop). – Eran Pehan

CITY ATTORNEY:

No comment received.

MISSOULA REDEVELOPMENT  
AGENCY:

No comment received.

CITY POLICE:

Nothing adverse for police. – Chris Odlin

CITY FIRE:

Established fire apparatus access roads and fire protection water supplies appear to adequately protect public health, safety, and welfare. – Adam Sebastian

STORMWATER:

No comment received.

MISSOULA WATER:

No comment received.