



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 550 N. California St. from PUD / Missoula Youth Homes to C1-3 Neighborhood Commercial / DE-D Design Excellence Downtown Gateway Overlay and removal of Deed Restriction Book 340, Page 1595.

Report Date: 11/17/2023

Case Planner: Mary McCrea, CPDI, Permits and Land Use Manager

Report Review & Approved by: Cassie Tripard, Planning Supervisor

Public Meetings & Hearings:

City Council (CC) Consent Agenda: 11/27/2023 (1st reading of an ORD, set public hearing & refer to LUP)

Planning Board (PB) Public Hearing: 12/05/2023

City Council Public Hearing: 12/11/2023

Land Use & Planning (LUP): 12/13/2023

City Council Final Consideration: 12/18/2023

I. GENERAL PROJECT INFORMATION

Applicant:

Amy Schaer, CEO
Youth Homes
550 N. California St.
Missoula, MT 59802

Representative:

Colin Lane
MMW Architects
125 W Alder St
Missoula, MT 59802

Owner:

Youth Homes
c/o Amy Schaer, CEO
435 Ryman St
Missoula, MT 59802

Location of Request: The subject property is located at 550 N. California Street, just north of the Clark Fork River and near the intersection of Cedar Street and California Street in the Westside Neighborhood Council and City Council Ward 2 (Exhibit A).

Legal Description: Lot 2 of Eagle Watch Estates, located in Section 21, Township 13 North, Range 19 West, 37,251 square feet, P.M.M.

Geocode: 04-2200-21-2-15-07-0000

Legal Notification: The legal ad was published in the Missoulian on November 18th, 2023 and November 25th, 2023. The site was posted on November 17th, 2023. Adjacent property owners were notified by first class mail on November 17th, 2023.

II. DECISION AND REGULATORY FRAMEWORK

Applicable State Law: Montana Code Annotated 2023

Growth Policy: The [Our Missoula 2035 City Growth Policy](#) is the applicable regional plan and recommends a land use designation of Urban Center, which is intended for areas with a concentration of downtown uses including commercial offices, retail, arts and entertainment, eating and drinking establishments and residential. The Our Missoula 2035 City Growth Policy incorporates previously approved neighborhood area plans. The applicable vicinity plan is the 2019 Missoula Downtown Master Plan which recommends a land use designation of West Broadway Gateway.

Local Zoning Law: [Title 20, Missoula Municipal Code](#) amended April 7, 2023, with the addition of the /NC-RT Riverfront Trails Neighborhood Character Overlay approved on December 12, 2022.

Current and Proposed Zoning: The parcel is zoned PUD / Missoula Youth Homes with Ordinance #2788. If City Council approves the rezoning, the parcel would be zoned C1-3 Neighborhood Commercial / DE-D Design Excellence Downtown Gateway Overlay.

Surrounding Land Uses:

North: Commercial: Cannabis Dispensary, and Family Practice Medical Clinic
South: Civic: City Park
East: Residential: Apartments
West: Industrial: Western Cider

Surrounding Zoning:

North: C1-4 Neighborhood Commercial / DE-D Design Excellence Downtown Gateway Overlay
South: RM1-35 Residential / PUD Shady Grove
East: PUD Eagle Watch
West: C1-4 Neighborhood Commercial / DE-D Design Excellence Downtown Gateway Overlay

III. RECOMMENDED MOTIONS

Planning Board Public Hearing (12/05/2023)

Recommend City Council **approve** the adoption of an ordinance to rezone the subject property located at 550 N. California Street and legally described as Lot 2 of Eagle Watch Estates, located in Section 21, Township 13 North, Range 19 West, 37,251 square feet, P.M.M., from PUD Missoula Youth Homes to C1-3 Neighborhood Commercial / DE-D Design Excellence Downtown Gateway Overlay, based on the findings of fact in this staff report.

City Council Consent Agenda (11/27/2023)

[First reading and preliminary adoption] **Set a public hearing** on December 11, 2023 and **preliminarily adopt** an ordinance rezoning the subject property located at 550 N. California Street and legally described as Lot 2 of Eagle Watch Estates, located in Section 21, Township 13 North, Range 19 West, 37,251 square feet, P.M.M., from PUD Missoula Youth Homes to C1-3 Neighborhood Commercial / DE-D Design Excellence Downtown Gateway Overlay, based on the findings of fact in this staff report and **refer this item** to the Land Use and Planning Committee for presentation on January 25, 2023.

City Council Public Hearing (12/11/2023)

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

Land Use and Planning Committee (12/13/2023)

Recommend City Council **approve** the adoption of an ordinance to rezone the subject property located at 550 N. California Street and legally described as Lot 2 of Eagle Watch Estates, located in Section 21, Township 13 North, Range 19 West, 37,251 square feet, P.M.M., from PUD Missoula Youth Homes to C1-3 Neighborhood Commercial / DE-D Design Excellence Downtown Gateway Overlay, based on the findings of fact in this staff report.

Recommend City Council **approve** the request to remove the Deed Restriction imposed by the City and recorded at Book 340, Page 1595 from the subject property, based on the findings of fact in the staff report.

City Council Final Consideration (12/18/2023)

[Second and final reading] **(Adopt/Deny)** an ordinance rezoning the subject property located 550 N. California Street and legally described as Lot 2 of Eagle Watch Estates, located in Section 21, Township 13 North, Range 19 West, 37,251 square feet, P.M.M., from PUD Missoula Youth Homes to C1-3 Neighborhood Commercial / DE-D Design Excellence Downtown Gateway Overlay, based on the findings of fact in this staff report.

Adopt/Deny the request to remove the Deed Restriction imposed by the City and recorded at Book 340, Page 1595 from the subject property, based on the findings of fact in the staff report.

IV. INTRODUCTION

Development Services has received a request from Colin Lane of MMW Architects representing Youth Homes, to rezone the subject property at 550 N. California Street and legally described as Lot 2 of Eagle Watch Estates, located in Section 21, Township 13 North, Range 19 West, 37,251 square feet, P.M.M., from Planned Unit Development (PUD) Missoula Youth Homes to C1-3 Neighborhood Commercial / DE-D Design Excellence Downtown Gateway Overlay. This rezoning will result in a standard zoning district under Title 20 which cannot be conditioned.

The applicant also requests removal of the Deed Restriction imposed by the City and recorded at Book 340, Page 1595, which restricts the use of the subject property for low to moderate income housing.

Staff has reviewed the applicant's rezoning submittal packet and request to remove the deed restriction and bases the recommendation of approval of both requests on the following findings of fact:

V. GENERAL FINDINGS OF FACT

1. The subject property has frontage on N. California Street, which is functionally classified as an Urban Local Street.
2. The subject property is approximately 37,251 square feet (0.85 acres) and currently has a Mixed-Use Commercial/Residential structure.
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 2, and the Westside 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 routes 11 and 14 run on West Broadway located approximately 250 feet north of the subject property. Route 2 is available at Russell Street and West Broadway, approximately a third of a mile west of the subject property.
7. The subject property is less than one-half mile from Missoula Fresh Market grocery store on West Broadway.
8. The subject property is adjacent to a City Park directly to the south. Trail locations east along the north side of the Clark Fork River and south over the California Street bridge to Silver Park and the Milwaukee Trail provide recreational and pedestrian/bicycle commuter services to the subject property.

VI. GROWTH POLICY FINDINGS OF FACT

9. The applicable regional plan is the *Our Missoula: City Growth Policy 2035*, which recommends a land use designation of Urban Center, which is intended for areas with a concentration of downtown uses including commercial offices, retail, arts and entertainment, eating and drinking establishments and residential.
10. The City Growth Policy indicates that the following districts are most closely aligned with the Urban Center land use designation: C1 Neighborhood Commercial, C2 Community Commercial, and CBD Central Business District. These zoning districts support a variety of commercial uses and a residential density of up to 43 dwelling units per acres.
11. The Our Missoula 2035 City Growth Policy incorporates previously approved neighborhood area plans. The applicable vicinity plan is the 2019 Missoula Downtown Master Plan which recommends a land use designation of West Broadway Gateway.
12. The applicant is requesting rezoning of the subject properties from PUD Missoula Youth Homes to C1-3 Neighborhood Commercial / DE-D Design Excellence Downtown Gateway Overlay. The C1-3 Neighborhood Commercial zone is consistent with the Growth Policy land use recommendation for the Urban Center land use designation. Adjacent properties zoned C1 also include the DE-D Design Excellence Downtown Gateway Overlay. Downtown Gateway areas contribute to a sense of entry into the urban center. These areas are in transition, evolving from an auto-oriented character to a more urban experience and will include commercial and residential developments with a variety of building forms and street edge characteristics.
13. The PUD Missoula Youth Homes zoning allows a 16-bed youth attention home, offices and a future 6-unit multi-dwelling building for low to moderate income residents. The 6-unit multi-dwelling required approval by City Council before development and has never been built on the subject property.
14. The C1-3 Neighborhood Commercial zoning allows a variety of commercial uses including general and medical offices, and residential densities up to 43 dwelling units per acre.
15. The maximum height limit of the C1-3 zoning is 65 feet. Adjacent C1-4 zoning to the north and west allows a maximum height of 125 feet.
16. 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.

17. The *Livability* section of the City Growth Policy includes the objective to ensure equal, fair, and adequate services for all children from infancy to adulthood in order to allow them to thrive as Missoula Citizens. Youth Homes cares for vulnerable children facing abuse, neglect, emotional trauma and substance abuse. Youth Homes Dan Fox Family Care Program, which will relocate to the subject property, provides therapeutic foster care, adoption, outpatient services and Transitional Living Services, which is a program that helps youth aging out of the foster care system. Youth Homes Dan Fox Family Care Program intends to use the site for offices and medical offices which are not permitted as primary uses under the current PUD zoning.
18. The *Livability* section of the City Growth Policy encourages compatible reuse of existing buildings as a priority over outward expansion.
19. The *Safety and Wellness* section of the City Growth Policy supports well-integrated cooperation between public and private health care agencies and providers, local school districts and the University of Montana to provide a continuum of care for Missoula youth and their families. Youth Homes cares for vulnerable children, provides therapeutic foster care, adoption, outpatient services and helps youth aging out of the foster care system.
20. The *Safety and Wellness* section of the City Growth Policy supports efforts to streamline existing social service programs. The rezone and removal of the deed restriction will support Youth Homes efforts to adapt their programs and services, increase efficiency in their staffing and programs, while the number of youth in need of behavioral health has increased in recent years.
21. The *Safety and Wellness* section of the City Growth Policy supports efforts to locate development close to existing service systems. The subject property provides access to active transportation facilities such as recreational and commuter trails that will serve Youth Homes staff and their clients.

VII. ZONING FINDINGS OF FACT

22. The proposed zoning of C1-3 Neighborhood Commercial / DE-D Design Excellence Downtown Gateway Overlay requires 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. The C1-3 zoning allows the following building types: commercial, limited industrial, detached dwellings, multi-dwelling buildings, mixed-use buildings, and vertical mixed-use buildings.
23. There are no setbacks in the C1-3 zoning district if the subject property is not abutting a residential district. The subject property abuts an RM1-35 / PUD to the South and PUD Eagle Watch Estates to the East, which are both residential zoning districts. A 5-foot interior side setback from the south boundary would be required if the property was redeveloped. Front setbacks are required when a C1-3 zoned parcel abuts a residentially zoned parcel with frontage on the same street. The property zoned RM1-35 / PUD to the south has frontage on California Street. However, the subject property is proposed to be rezoned with a Design Excellence Downtown Gateway Overlay which requires new structures and additions to be located in the 'build-to-zone'. The 'build to zone' for the subject property would be between 5 and 15 feet from the west property boundary. Title 20, Section 20.25.080.C.3.b.4.a states "the build-to zone supersedes any minimum setback established in the base zoning district." The

front setback of the abutting RM1-35 / PUD zoned parcel would not apply to the subject property. A rear setback equal to 25% of the property depth or a maximum of 20 feet is required from the east property boundary if the property was redeveloped. The property is approximately 250 feet in depth and 25% of 250 feet is 62 feet, however the maximum required rear setback is 20 feet.

24. The applicant states that the accommodation of the additional offices for the Dan Fox Family Care Program will not expand the building footprint and all modifications will be minor and at the interior of the building. The existing structure is approximately 32 feet from the south property boundary and complies with the 5-foot interior side setback standard. The existing structure is setback approximately 90 feet from the east property boundary and complies with the 20-foot rear yard setback standard. The 'build to zone' requirements on the west property boundary would apply at the time of redevelopment.
25. The C1-3 zoning has a maximum building height of 65 feet, which would apply at the time of redevelopment. The existing structure is two stories and well under the maximum building height.
26. The C1-3 zoning allows up to 43 dwelling units per acre. Given the approximate 37,251 square foot size of the subject property, the requested C1-3 zoning would allow up to 36 dwelling units with future development. The rezoning would allow for more density than the current PUD zoning which only allows for a 6 unit multi-dwelling building and a 16 unit youth attention home.
27. 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

28. The subject property has frontage on N. California Street, which is functionally classified as an Urban Local Street.
29. Missoula Mountain Line routes 11 and 14 run on West Broadway located approximately 250 feet north of the subject property. Route 2 is available at Russell Street and West Broadway, approximately a third of a mile west of the subject property.
30. There is a curbside sidewalk along the N. California Street frontage of the subject property. There is a multi-user trail along the north side of the Clark Fork River located approximately 100 feet south of the subject property and the California Street pedestrian bridge crosses the Clark Fork River and connects the subject property to trails within Silver Park and the Milwaukee Trail.

IX. DEED RESTRICTION FINDINGS OF FACT

31. The subject property includes a Deed Restriction imposed by the City and recorded at Book 340 Page 1595, that restricts the use of the property to housing for low to moderate income residents. Both the Deed Restriction and PUD Missoula Youth Homes zoning were approved in 1991.
32. The structure on the subject property originally housed administrative offices for Youth Homes and emergency shelter services for 12–17-year-olds. The applicant states that in June of 2023, the emergency shelter services were relocated out of this location and accommodated at three other shelter locations in Missoula operated by Youth Homes, due to staffing shortages.

33. The applicant states that Youth Homes currently rents medical office space for their Dan Fox Family Care Program at a location on Reserve Street. Earlier this year Youth Homes was notified that the lease rents would increase by 40%, which made the lease unaffordable.
34. The applicant states that Youth Homes Board and Leadership Team made the fiscally prudent decision to seek a rezoning, in order to relocate the medical offices for the Dan Fox Family Care Program to the 550 N. California Street location.
35. The applicant states that in 1991 Youth Homes operated three group homes serving a total of 24 youth and today Youth Homes operates four group homes and three shelters serving 42 youth. In addition, Youth Homes serves 200 youth in their Dan Fox Family Care Program. This program provides therapeutic foster care, adoption, outpatient services and Transitional Living Services, which is a program that helps youth aging out of the foster care system.

X. CONCLUSIONS OF LAW

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

1. The rezoning from PUD Missoula Youth Homes to C1-3 Neighborhood Commercial / DE-D Design Excellence Downtown Gateway Overlay complies with the Growth Policy because the C1 zoning district is a 'current relatable district' of the Urban Center future land use map designation. The rezoning to C1-3 better complies with the uses and densities intended for land with the Urban Center land use designation.
2. The rezoning complies with many of the Focus Inward, Livability, and Safety and Wellness 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, 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, pedestrian sidewalks, and active transportation recreational and commuter trails.

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 adaptive reuse of an existing structure which provides 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, accommodates the reuse of existing building to provide Youth Homes services, supports Youth Homes efforts to streamline their existing social service programs, provides for the relocation of the Dan Fox Family Care Program to the urban core in order to better serve their clients, and provides for zoning that will allow

increased density and mixed-use projects at the time of any future redevelopment in a location served by transit, motorized and active transportation 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 the existing building exceeds the setback requirements of the C1-3 zoning district and all future development will be required to meet 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 C1-3 Neighborhood Commercial / DE-D Design Excellence Downtown Gateway Overlay zoning with uses and densities recommended for lands with the Urban Center land use designation of the Growth Policy.

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

1. The rezoning to C1-3 Neighborhood Commercial / DE-D Design Excellence Downtown Gateway Overlay is suitable for the subject property and gives reasonable consideration to the character of the district because lands to the north and west are similarly zoned.
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 PUD Missoula Youth Homes to C1-3 Neighborhood Commercial / DE-D Design Excellence Downtown Gateway Overlay.
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 Urban Center. The C1 zoning is listed as a current relatable zoning district for lands with the Urban Center land use designation in the City's Growth Policy. The existing building and proposed uses comply with the C1-3 zoning allowable uses, building types, and parcel standards.

3. The rezoning does not correct an error or inconsistency in the zoning ordinance. The rezoning addresses the challenging or changing condition for Youth Homes to adapt their programs and services, increase efficiency in their staffing and continue to serve the increasing number of children in need of behavioral health care.
4. The rezoning is in the best interest of the city because it will support Youth Homes efforts to adapt their programs and services, increase efficiency in their staffing and programs through the re-use of a portion of their existing structure to accommodate the Dan Fox Family Care Program.
5. The rezoning is in the best interest of the city because it supports Youth Homes continuing ability to affordably provide a continuum of care for vulnerable children, children in need of therapeutic foster care, adoption services, outpatient services and assistance to youth aging out of the foster care system.
6. The rezoning is in the best interest of the city because it allows for the relocation of the Dan Fox Family Care Program to a site closer to the urban core served by transit and active transportation facilities.
7. The rezoning is in the best interest of the city because it provides the opportunity for future high density residential and mixed-use 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.

XI. STAFF RECOMMENDATION ON REMOVAL OF THE DEED RESTRICTION

1. The removal of the Deed Restriction is in the public interest because it will support Youth Homes efforts to adapt their programs and services, increase efficiency in their staffing and programs through the re-use of a portion of their existing structure to accommodate the Dan Fox Family Care Program.
2. The removal of the Deed Restriction is in the public interest because it supports Youth Homes continuing ability to affordably provide a continuum of care for vulnerable children, children in need of therapeutic foster care, adoption services, outpatient services and assistance to youth aging out of the foster care system.
3. The removal of the Deed Restriction is in the public interest because it allows for the relocation of the Dan Fox Family Care Program to a site closer to the urban core served by transit and active transportation facilities.

XII. AGENCY COMMENT

City Fire: No comment received at the time of this report.

City Police: No comment received at the time of this report.

Missoula Valley Water Quality District: “The Water Quality District has no comment or objection to this rezoning request.”

City – County Health Department: No comment received at the time of this report.

Parks & Recreation: No comment received at the time of this report.

City Attorney: The City Attorney’s Office notified staff of the existence of and the need to resolve the Deed Restriction before authorizing a change of use, but has no other comment on the application.

Missoula Urban Transportation District: No comment received at the time of this report.

City Public Works and Mobility - Utilities: “No comment.”

City Public Works and Mobility - Engineering: No comment received at the time of this report.

City Public Works and Mobility – Transportation: No comment received at the time of this report.

Missoula Redevelopment Agency: No comment received at the time of this report.

County Office of Emergency Management: No comment received at the time of this report.

Montana Department of Revenue: No comment received at the time of this report.

Westside Neighborhood Council: No comment received at the time of this report.

Internal Comment from CPDI Housing: “Thanks for sharing the internal memo with me and Montana. I’ve reviewed the memo and application packet and support this request for rezoning and to remove the deed restriction. The proposed actions do not result in the loss/reduction of existing housing and the rezone district of C1-3 Neighborhood Commercial continues to allow for housing should the use of the property change in the future. The removal of the deed restriction is supported by our team, given the outlined circumstances.” – Emily Harris-Shears, Housing Policy Specialist

EXHIBIT A: LEGAL MAP OF SUBJECT PROPERTY

