



# MISSOULA COMMUNITY PLANNING, DEVELOPMENT & INNOVATION

Development Services Division

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## REFERRAL AND STAFF REPORT

**Agenda Item:** Referral and Staff Report - Rezone 2145 W Sussex Ave. from RM2.7 Residential (Multi-dwelling) to RM1-45 Residential (Multi-dwelling).

**Report Date:** 11/21/2023

**Case Planner:** Charlie Ream, Associate Planner

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

### **Public Meetings & Hearings:**

City Council (CC) Consent Agenda:	11/27/2023
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 & Fee Owner:**

James Sage  
P.O. Box 2833  
Missoula, MT 59806

**Location of Request:** 2145 W Sussex Avenue, southeast of the intersection of Schilling Street and W Sussex Ave. in the Franklin-to-the-Fort Neighborhood and City Council Ward 5 (Exhibit A).

**Legal Description:** Lots 13-16 in Block 28 of Carline Addition, located in Section 29, Township 13 North, Range 19 West, P.M.M.

**Geocode:** 04-2200-29-3-04-32-0000

**Legal Notification:** The legal ad was published in the Missoulian on November 4 and 11, 2023. The site was posted on November 7, 2022. Adjacent property owners within 150 feet of the site were notified by first class mail on November 2, 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 Residential High Density, greater than 24 dwelling units per acre. This designation is identified for areas within the core of the community and where city services and infrastructure are readily available. Structures may be a range of dwelling types from small-lot single dwelling, large scale multistory, multi-dwelling development.

**Local Zoning Law:** Title 20, Missoula Municipal Code amended October 16<sup>th</sup>, 2023.

**Current and Proposed Zoning:** The parcel is zoned RM2.7 Residential (Multi-dwelling). If City Council approves the rezoning, the parcel would be zoned RM1-45 Residential (Multi-dwelling).

### **Surrounding Land Uses:**

North: Detached Residences  
South: Utility / Retail Sales  
East: Detached Residences  
West: Detached residences

### **Surrounding Zoning:**

North: RM2.7 Residential (Multi-dwelling)  
South: C1-4 Neighborhood Commercial  
East: RM2.7 Residential (Multi-dwelling)  
West: RM2.7 Residential (Multi-dwelling)

## **III. RECOMMENDED MOTIONS**

### **City Council Consent Agenda (11/27/2023)**

[First reading and preliminary adoption] **Set a public hearing** on December 11<sup>th</sup>, 2023 and **preliminarily adopt** an ordinance to rezone the subject property located at 2145 W Sussex Ave. and legally described Lots 13-16 in Block 28 of Carline Addition, located in Section 29, Township 13 North, Range 19 West, P.M.M. from RM2.7 Residential (Multi-dwelling) to RM1-45 Residential (Multi-dwelling), and **refer this item** to the Land Use and Planning Committee for presentation and discussion on December 13, 2023.

### **Planning Board Public Hearing (12/05/2023)**

Recommend City Council **approve** the adoption of an ordinance to rezone the subject property located at 2145 W Sussex Ave. and legally described Lots 13-16 in Block 28 of Carline Addition, located in Section 29, Township 13 North, Range 19 West, P.M.M. from RM2.7 Residential (Multi-dwelling) to RM1-45 Residential (Multi-dwelling), based on the findings of fact and conclusions of law in the staff report.

### **City Council Public Hearing (12/11/2023)**

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

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

No motion – City Council discussion and informational meeting only.

### **City Council Final Consideration (12/18/2023)**

[Second and final reading] **(Adopt/Deny)** an ordinance to rezone the subject property located at 2145 W Sussex Ave. and legally described Lots 13-16 in Block 28 of Carline Addition, located in Section 29, Township 13 North, Range 19 West, P.M.M. from RM2.7 Residential (Multi-dwelling) to RM1-45 Residential (Multi-dwelling), based on the findings of fact and conclusions of law in the staff report.

## **IV. INTRODUCTION**

Development Services has received a request from James Sage of Missoula Engineering, LLC to rezone the subject property at 2145 W Sussex Ave. and legally described Lots 13-16 in Block 28 of Carline Addition, located in Section 29, Township 13 North, Range 19 West, P.M.M. from RM2.7 Residential (Multi-dwelling) to RM1-45 Residential (Multi-dwelling). The requested RM1-45 zoning district is a standard district that applies equally to other areas of the City with the same RM1-45 zoning designation. City Council either approves or denies the rezoning request and cannot approve it subject to conditions per MCA 76-2-302.

The RM2.7 and RM1-45 zoning districts allow for similar residential building types and the same land uses, property line setbacks, and building heights. The primary difference between the two districts is RM2.7 has a minimum parcel size of 3,000 square feet and minimum area per unit of 2,700 square feet, while RM1-45 has a minimum parcel size of 3,000 square feet and minimum area per unit of 1,000 square feet. This means the RM1-45 zoning district allows for higher density residential development than the RM2.7 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. Findings of fact and conclusions of law pertain to the rezoning review criteria in Title 20, Section 20.85.040.G.

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

1. The property is 12,500 square feet in size and contains one existing structure.
2. The property is in a developed area of Missoula between Russell Street and Reserve Street and is surrounded by single detached dwelling units to the North, West and East and commercial buildings to the south.
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 5 and the Franklin-to-the-Fort 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 (1.0 mile away) and Providence St. Patrick Hospital (3.2 miles away). The closest fire station is Missoula Fire Department Station 2 at 247 Mount Avenue (1.9 miles away). The nearest fire hydrant is located approximately 100 feet to the south of the property at the intersection of Schilling Street and South Avenue West.
7. Missoula RailLink Park is approximately 0.4 mile to the east of the property and is accessible via sidewalk. Fort Missoula Regional Park is approximately 2.0 miles to the west of the property and is accessible via South Ave.
8. The property is located within the attendance boundaries of Franklin Elementary, C.S Porter Middle School, and Sentinel 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 High Density, greater than 24 dwelling units per acre. This designation is identified for areas within the core of the community and where city services and infrastructure are readily available. Structures may be a range of dwelling types from small-lot single dwelling, large scale multistory, multi-dwelling development.
11. The City Growth Policy indicates the following districts are current relatable zoning districts within the Residential High Density designation: RM1-35, RM1-45, RM1.5 and RM0.5. All four zoning districts are residential districts that permit all residential building types, including multi-

dwelling. These four zoning districts permit some civic and commercial uses such as day cares, schools, religious assembly, and community gardens.

12. The property is currently zoned RM2.7 Residential (Multi-dwelling). The applicant is requesting to rezone the subject property to RM1-45 Residential (Multi-dwelling). The proposed zoning district is consistent with the Growth Policy recommendation for the Residential High Density land use designation. The current zoning is not consistent with the 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 RM1-45 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 RM2.7 Residential (Multi-dwelling). Parcels surrounding the subject property are zoned RM2.7 Residential (Multi-dwelling) and C1-4 Commercial. The applicant is requesting to rezone the subject property to RM1-45 Residential (Multi-dwelling).
19. Given the 12,500 square foot size of the property, the existing RM2.7 zoning district, which has a minimum parcel area per unit of 2,700 square feet, would allow 4 dwelling units.
20. In the requested RM1-45 zoning district, the minimum area per unit is 1,000 square feet. The 12,500 square foot property would allow up to 12 dwelling units.
21. Both the existing RM2.7 zoning district and the proposed RM1-45 zoning district allow detached houses, two-unit houses, two- and three-unit+ townhouses, multi-dwelling house, multi-dwelling building.
22. The setbacks are the same for the existing RM2.7 and the proposed RM1-45 zoning districts: 20-foot front and rear setbacks, 5-foot interior side setback, and 10-foot street-side setbacks. The maximum building height permitted in the existing RM2.7 district 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. The maximum building height permitted in the proposed RM1-45 zoning district is 45 feet.
23. The main difference between the two zoning districts is the height and that the RM2.7 has a minimum parcel size of 3,000 square feet and minimum area per unit of 2,700 square feet,

while RM1-45 has a minimum parcel size of 3,000 square feet and minimum area per unit of 1,000 square feet.

24. The uses allowed in the RM2.7 zoning district will remain consistent with those allowed in RM1-45, apart from allowing Fraternity/Sorority, College/University, and residential support service uses outright.
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 frontages on West Sussex Avenue and Schilling Street, which are 2-lane, public street classified as Local Streets. The subject property is also accessed from the alley.
27. Missoula Mountain Line Route 2, which runs approximately every 15 minutes from 7:30 a.m. to 6 p.m. on weekdays and every 60 minutes from 9 a.m. to 9 p.m. on Saturdays, is located approximately 0.2 miles east of the subject property at South 3rd Street West and Johnson Street. The route from the subject property to the bus stop (W Sussex Ave. and Johnson St.) consists of sidewalks in good condition. There is no designated bicycle route along Schilling St. or W Sussex Ave, but there is along South Ave.
28. The Bitterroot Branch Trail, a City-maintained shared use path that can be used to access the downtown and other parts of Missoula, is located less than 0.2 mile to the east of the property and can be accessed by going eastward on the sidewalks along W Sussex Ave.
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 RM1-45 district is a 'current relatable district' of the Residential High 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. Missoula RailLink Park is located within walking distance of the property.
3. The subject property is within existing school districts. The rezoning would allow for eight 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 0.2 mile from the Bitterroot Branch 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 where services and infrastructure already exists.

**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 RM2.7 and RM1-45 zoning districts have the same setbacks. The parcel abuts right-of-way on three sides, mitigating the impact of increased height.
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 RM1-45 is suitable for the subject property and considers the character of the district because it is adjacent to commercial uses to the South. RM1-45 is a residential zoning district, consistent with surrounding residential districts and uses.
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 because the rezoning implements the recommendations of the 2035 *Our Missoula* City Growth Policy for areas designated Residential High Density greater than 24 dwelling units per acre. The RM1-45 zoning designation is listed in the Growth Policy as currently relatable to lands with the Residential High Density land use designation.

**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:**

“We have no comments regarding the rezoning specifically.

Our comments for future development are:

-Sussex Ave is a neighborhood greenway and therefore may require traffic mitigation; limit the number of driveways onto greenway.

-There is a current driveway on Schilling; eliminate this driveway.”

**City Parks and Recreation Department:**

Agency comment has not been received.

**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:**

“City Engineering does not have comments related to re-zoning. Development specific comments for this parcel were provided in a PRT meeting. Thanks.” – Troy Monroe, City Engineer for Development Review

“No comment from me.” – Andy Schultz, Utility Engineer

**Franklin-to-the-Fort Neighborhood Council:**

Agency comment has not been received.

**Montana Department of Revenue:**

“The Department of Revenue has no comment at this time.” – Kristi Richards, Area Manager

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

