

EXECUTIVE SUMMARY

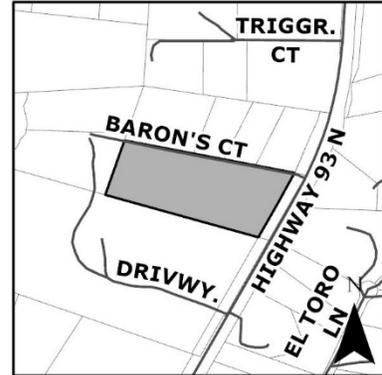
CASE PLANNERS: Jennie Dixon, AICP, Planner IV

REVIEWED BY: Tim Worley, Senior Planner

PUBLIC HEARING DATES: MCPB: December 5, 2023
BCC: January 4, 2024

AGENDA ITEM: 9399 Baron’s Court_Rosetti
Rezoning to AGRR-2

APPLICANT: Donald and Vicki Rosetti



LEGAL DESCRIPTION: Parcel 72C, COS #2339, less MDT ROW, in Section 16, Township 14 North, Range 20 West, P.M.M., Missoula County, Montana

LEGAL NOTICE: A legal advertisement was published in the Missoulian on November 18 and 25, 2023. Adjacent property owners within 300 feet of the parcel were notified by mail on November 8, 2023, at least 15 days prior to the hearing. Notice of the proposed zoning/rezoning request was posted in five locations near or adjacent to the property on November 20, 2023, more than 45 days in advance of the BCC public hearing. The project was posted on Missoula County Voice engagement page on November 3, 2023.

GROWTH POLICY: The 2019 Missoula Area Land Use Element and the 2016 Missoula County Growth Policy designate the property for Rural Residential and Agricultural use.

ZONING: AGRR-5 (Agriculture, Rural Residential)

	SURROUNDING ZONING	SURROUNDING LAND USE
NORTH	AGRR-2	Rural Residential, Small-Scale Agriculture
SOUTH	AGRR-2	Rural Residential, Small-Scale Agriculture
EAST	AGRR-2	Rural Residential, Small-Scale Agriculture
WEST	AGRR-2	Rural Residential, Small-Scale Agriculture

<u>PROPOSAL</u>	<u>STAFF RECOMMENDATION</u>
Rezoning from AGRR-5 to AGRR-2	Approval of the rezoning request

MISSOULA CONSOLIDATED PLANNING BOARD

9399 Baron's Court_Rosetti Rezoning

December 5, 2023

I. RECOMMENDED MOTION

I MOVE to approve the request to rezone property located at 9399 Baron's Court, legally described as Parcel 72C, COS #2339, based on the application, public testimony, and the findings of facts and conclusions of law contained in the staff report.

II. INTRODUCTION

On July 1, 2022, the Board of County Commissioners (BCC) adopted the Missoula County Zoning Regulations (text amendments and map amendments), following an extensive public outreach and participation process. At that time, the subject property was approved for AGRR5 zoning; all surrounding properties were zoned AGRR-2. The landowner is now requesting that the zoning for the subject property be amended to match that of the surrounding properties. Staff is recommending approval of this rezoning request.

III. ZONING FINDINGS OF FACT

Criteria for the review of zoning regulations and zoning map amendments are established in §76-2-203, MCA.

1. The subject property is located at 9399 Baron's Court, approximately one mile north of the Wye on the west side of Highway 93 North.
2. The use of the property is planned for the Rosetti home, currently under construction.
3. The Rosettis purchased the 11-acre property in 2020 as unzoned land.
4. The applicable plans are the 2016 Missoula County Growth Policy and the 2019 Missoula Area Land Use Element.
5. The recommended land use for the property is Rural Residential and Agricultural.
6. The Missoula County Zoning Regulations and Map Amendments, effective July 1, 2022, were developed to implement the 2016 Missoula County Growth Policy and the 2019 Missoula Area Land Use Element.
7. The subject property was initially proposed for AGRR-2 to the Planning Board as part of the Zoning Code and Map Amendments in 2022.
8. Based on testimony from the landowner at the March 15, 2022, Planning Board public hearing, the zoning recommendation changed to AGRR-5 when presented to the Board of County Commissioners on May 4, 2022. The Commissioners adopted the AGRR-5 zoning as recommended by staff.
9. The applicant's testimony at that Planning Board public hearing led staff to understand a desire to zone the Rosetti property at 9399 Baron's Court to AGRR-5. The Rosettis have since clarified that their comment was intended to request AGRR-5 zoning for the entire area west of Highway 93. Review of the minutes and recording of the March 15, 2022,

Planning Board public hearing confirm this, and based on this miscommunication, staff is now revising the recommended zoning for this property to AGRR-2 to match the zoning of all the lands surround this tract.

10. The property is zoned AGRR-5, and the requested zoning is AGRR-2. The purpose of the AGRR districts is “to balance rural residential development with the preservation of natural landscapes in areas where infrastructure may exist and services are proximal.”
11. All the lands surrounding this property were zoned in 2022 as AGRR-2 (Rural Residential and Agricultural, one dwelling per two acres). Approval of this rezoning request will create a uniform zoning district in this area.
12. The land use designations and land use map are a description of desired future conditions and their locations on the landscape. The policies within set the intensity and type of use for the area, taking into account public hazards, welfare, transportation, utilities, water and sewage, parks, and other public requirements.
13. The property is served by the Frenchtown Rural Fire District and the Missoula County Sheriff's Department.
14. All new construction is subject to Uniform Fire and Uniform Building Codes.
15. The property is just outside the Air Stagnation Zone.
16. None of the reviewing agencies provided any adverse comment regarding the request to rezone the property to AGRR-2.
17. The bulk and dimensional requirements of the AGRR districts are designed to implement the land use recommendations contained in the 2019 Missoula Area Land Use Element and Map.
18. The difference between the existing zoning and the requested zoning is the permitted density (one dwelling per five acres in AGRR-5 and one dwelling per two acres in AGRR-2) and the maximum lot coverage (40% in AGRR-5 and 50% in AGRR-2). Otherwise, all development standards, such as setbacks and building heights, are the same.
19. Surrounding zoning on all sides is AGRR-2, which is currently requested for the subject property. Approval of the rezoning request will result in uniform design standards, such as bulk and dimensional requirements, in the greater area west of Highway 93 North.
20. The character of the AGRR districts is rural in nature “even as low-density residential development mixes with larger tracts of land used for active agricultural production and supported uses. Development intensity is governed by site-specific conditions.”
21. There is a mixture of smaller 2 to 3-acre tracts amongst some larger 5 and 10-acre tracts in the area. Some of the lots to the north of the subject property, across Baron's Court, have been divided down to 2-acre tracts. The 36-acre Mahlum residences sits just south of the subject property.

22. The rezoning increases the density allowance on the subject property from two dwellings to five dwellings. None of the reviewing agencies expressed any concern about the impact of the increase in density on the transportation system.
23. The property is accessed from Highway 93 North to Baron's Court.
24. Baron's Court is a dead-end road with a 60' wide private road and public utility easement serving the subject property as well as the tracts on the north and the 10-acre parcel at the west end of Baron's Court (also Mahlum family property).
25. The road is shown on the filed surveys as a cul-de-sac road (see Figure 1). The easement for a cul-de-sac turnaround exists; however, it is not constructed as such (see Figure 2). Future subdivision along this road will require a turnaround, but exempt divisions, should they occur, will not. The Frenchtown Rural Fire District can require turnarounds to meet their needs to provide emergency services.

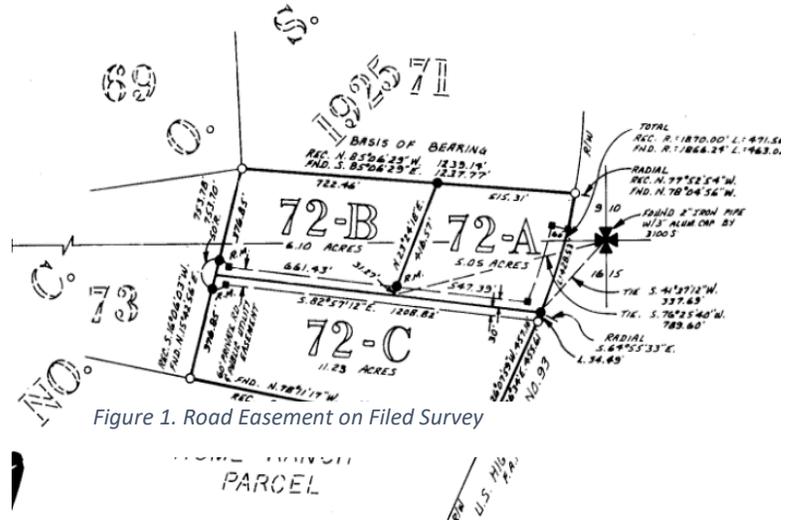


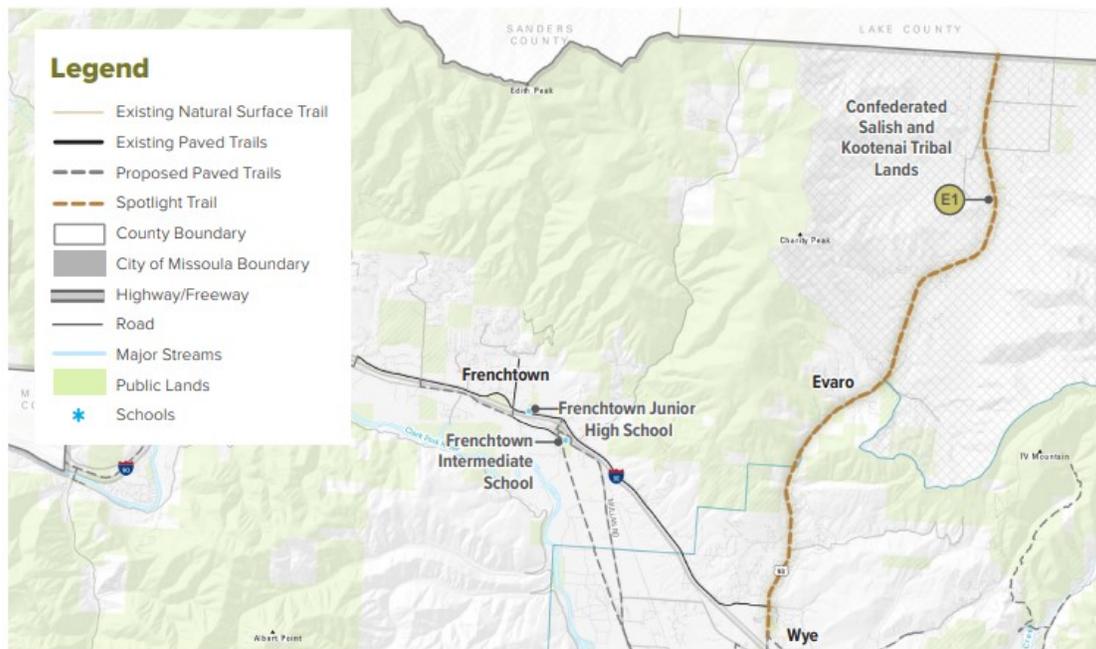
Figure 1. Road Easement on Filed Survey



Figure 2. Baron's Court – Road As-Built

26. Highway 93 is under the jurisdiction of the Montana Department of Transportation.

27. The Missoula County Zoning Regulations establishes off-street parking requirements, clarifies the arrangement of motorized and non-motorized systems, and requires coordination with Missoula County Public Works/MDT access approvals.
28. Non-motorized systems are not present at this location (Baron's Court or Highway 93 North) and are not required for development of residential tracts outside of subdivisions.
29. The Missoula County Pathways and Trails Plan adopted in August 2022 plans for "The People's Way Trail," a proposed 14.42-mile regional shared-use path along Highway 93 North, connecting the Wye in Missoula County with Lake County.



People's Way Trail from Wye to Lake County

30. Missoula County zoning districts were developed and adopted in 2022 to implement the 2019 Missoula Area Land Use Element, including several elements related to the core vision of Missoula County land use referred to as the "One Community Approach."
31. Through a description of values, ideas, and realities of the community related to planning for growth, imperatives that describe essential strategies, and the land use designations and land use map which describe desired future conditions and their locations on the landscape, the "One Community" approach considers how the responsibility of planning for the community's future is shared.
32. The land use map in the 2019 Land Use Element was constructed in cooperation with City staff and in accordance with the City of Missoula's growth policy in areas where urban growth is expected.
33. The subject property is over four miles from the City limits and is not within the Missoula Urban Service Area. It is outside of any areas anticipated for annexation into the City of Missoula within any projected timeframe.

34. The land situated north of Waldo Road and between Highway 93 and Interstate 90 is entirely designated for Agricultural and Rural Residential development, up to the base of Evaro Hill (see Figure 3). The zoning applied to this area in 2022 substantially complies with the land use designations, though at varying densities (see Figure 4). Higher intensity zoning at urban levels can be found outside of the Missoula City limits, at the Wye, though Waldo Road is the limit of these zoning districts (again, see Figure 4).

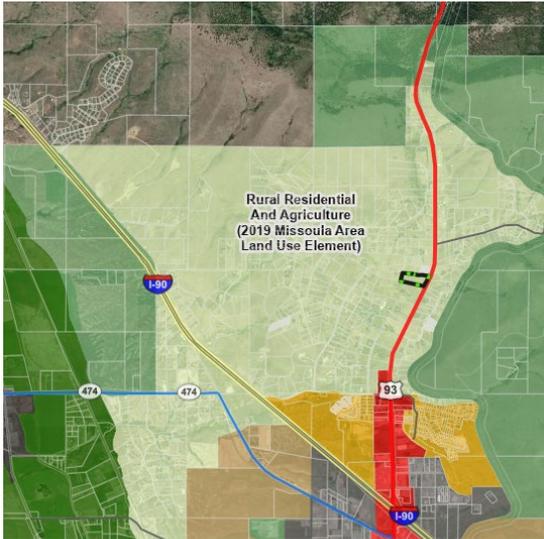


Figure 3. Land Use Designations

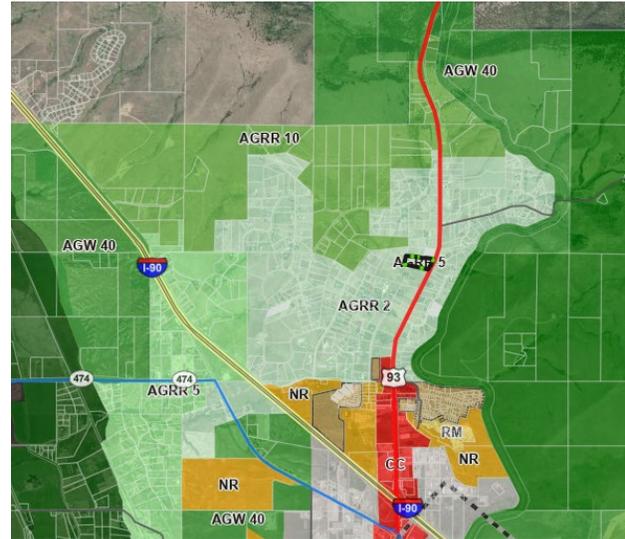


Figure 4. Zoning Districts Implementing Land Use Designations

35. The 2019 Missoula Area Land Use Element contains policies that set the character of the zoning districts, and these have been implemented by the Missoula County Zoning Regulations adopted by the BCC in 2022.

36. The proposed rezoning is compatible with the zoning on surrounding properties.

37. Land uses in the vicinity of this property are residential and small-scale agricultural. The AGRR zoning is consistent with these uses.

38. The AGRR zoning districts are intended for small-scale agricultural and rural residential development, at densities ranging from one dwelling per two acres to one dwelling per ten acres. Other similar homes have been constructed in the area, and the value of the buildings will not be affected by this difference in residential density.



Figure 5. Aerial Photo (Source: Google Earth)

39. The landowner is in the process of constructing a home on the subject property (see Figure 5). A building permit and land use/zoning compliance permit was issued in July 2022 for construction of a single dwelling on this tract.

IV. CONCLUSIONS OF LAW

- a. *The zoning is in accordance with the growth policy.*
 1. The rezoning request to AGRR-2 is an appropriate implementation of the recommended land use designation for this area and for this property.
 2. The proposed rezoning substantially complies with the Missoula County Growth Policy and Missoula Area Land Use Element.
- b. *The zoning secures safety from fire and other dangers; promotes public health, public safety, and general welfare; and facilitates the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.*
 1. The proposed rezoning secures safety from fire and other dangers.

2. The proposed rezoning will not adversely impact public health and safety or general welfare.
 3. The proposed rezoning facilitates the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements because it implements the 2019 Missoula Area Land Use Element which considers the appropriate type and density of development based on location, site constraints, and levels of infrastructure.
- c. *The zoning gives reasonable provision of adequate light and air.*
1. The proposed rezoning does not adversely affect the provision of adequate light and air.
- d. *The zoning considers the effect on motorized and nonmotorized transportation systems.*
1. The proposed rezoning considers the effect on motorized and nonmotorized transportation systems and will not result in any additional adverse impacts.
- e. *The zoning is compatible with urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities; and the zoning regulations must, as nearly as possible, be made compatible with the zoning ordinances of nearby municipalities.*
1. The proposed rezoning to AGRR-2 is compatible with the growth and development pattern in the area because the zoning is consistent with the 2019 Missoula Area Land Use Element which was designed to facilitate coordinated growth with the City of Missoula in edge areas.
 2. The rezoning request is compatible with the zoning ordinances of the nearby municipality of the City of Missoula, as applicable.
- f. *The zoning considers the character of the district and its peculiar suitability for particular uses.*
1. The proposed rezoning considers the character of the district and its peculiar suitability for particular uses.
- g. *The zoning conserves the value of buildings and encourages the most appropriate use of land throughout the jurisdictional area.*
1. The proposed rezoning conserves the value of buildings and encourages the most appropriate use of land throughout the jurisdictional area.

V. AGENCY COMMENT

- “FRFD has no comments regarding this rezone application.” (Joe Calnan, Fire Chief, FRFD, Nov. 3, 2023)
- “The Air Program has no comments for the proposed rezoning of this property (9399 Baron’s Court) for higher density.” (Benjamin Schmidt, Air Quality Specialist, Missoula Public Health, Oct. 24, 2023)
- “The subject property near O’Keefe Creek is not within FEMA-designated floodplain, and I recommend the owner or future developer(s) investigate groundwater levels for

future basement or crawlspace construction.” (Matt Heimel, Floodplain Administrator, Planning, Development and Sustainability, Oct. 23, 2023)

- “Only comments Building has is that Building and Land Use permits would be required for any structures placed or constructed on the property. Property is required to be in building code compliance. Addressing and approaches would need to be addressed by GIS and Brent O’Connor.” (Rita Hagler, Permits and Programs Manager, Public Works Building, Oct. 25, 2023)
- “Public Works has no comment on this change.” (Brent O’Connor, Public Works Engineering, Nov. 6, 2023)

VI. ATTACHMENTS

- A. Application Cover Letter
- B. Application
- C. Missoula County Property Fast Facts for 9399 Baron’s Court
- D. Land Use Map, 2019 Missoula Area Land Use Element
- E. Wye Area Zoning Map
- F. Zoning Map of Property and Surrounding Tracts