ANNEXATION AND ZONING STAFF REPORT & REFERRAL

Agenda item: Referral and Staff Report - 2508 & 2536 South Avenue West and 26th Avenue ROW Annexation

Report Date: 2/20/2019

Case Planner: Craig Malin, Planner III

Report Reviewed & Approved By: Mary McCrea, Permits and Land Use Manager

Public Meetings & Hearing Schedule

City Council referral: 2/24/2020

LUP recommends resolution of intent: 2/26/2020

City Council adopts resolution of intent & sets public hearing: 3/2/2020

City Council public hearing & final resolution to annex: 3/23/2020

Applicant & Owner:

2508 South Avenue W.:
Mary Kathryn Leprowse, Trustee
Dorothy A. Dryden Living Trust,
PO Box 206, Big Arm, MT 59910-0206; and

2536 South Avenue W.:
Shawn R. and Laura K. Andres
66582 N. Valley Creek Rd.
Arlee, MT 59804

Representative: Jason Rice
Territorial Land Works
1817 South Avenue West Suite A
Missoula, MT 59801

Location of request: The subject property is located at 2508 & 2536 South Avenue W., just west of Reserve Street.

Legal description:

2508 South Avenue W.: Lot 63 of U. S. Government Survey #2, in Section 30, Township 13 North, Range 19 West, P.M.M.; and

2536 South Avenue W.: Lot 3 of Ochsner Addition in Section 30, Township 13 North, Range 19 West, P.M.M.

Legal ad: The legal ad will be published in the Missoulian on 3/8/2020 and 3/15/2020

Growth policy: The applicable regional plan is the Our Missoula: City Growth Policy 2035 which recommends a land use designation of Community Mixed-Use

Zoning:

Current: C-R3 Residential (36 du/ac. Multi-dwelling) County
Proposed: B2-2 Community Business (City)

Surrounding Land Uses | Surrounding Zoning
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North: Single Dwelling and Duplex Residential | Z.D. 12 (Citizen Initiated Zoning District #12) (County), C-R3 Residential 36 du/ac, Multi-Dwelling (County)
South: Rural Fire Station & Multi-dwelling | OP3 Public Lands & Institutional (City)
East: Gasoline & Fuel Sales | C1-4 Neighborhood Commercial (City)
West: Single dwelling & Religious Assembly | C-R3 Residential 36 du/ac, Multi-Dwelling (County)
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## I. RECOMMENDED CONDITIONS

### Road Improvements

1. The applicant shall dedicate 10 feet of right-of-way measured from the southern property boundary of Lot 63 of U. S. Government Survey #2 and Lot 3 of Ochsner Addition located in Section 30, Township 13 North, Range 19 West, and is responsible for the cost of half street improvements meeting Minor Arterial roadway standards for South Avenue West adjacent to the subject property (both lots), subject to review and approval of City Engineering, prior to the first building permit on either lot on the subject property. The City of Missoula has a road improvement project planned for South Avenue West and the developer may seek a postponement for installation of improvements, in order for the installation of improvements to coincide with the City project, subject to the applicant applying for and receiving approval of the postponement by City Engineering, prior to the first building permit on either lot on the subject property.

2. The applicant shall install traffic control devices at the driveway approach of the subject property to South Avenue West in order to restrict traffic movement to right-in and right-out, prior to approval of the first building permit on either lot on the subject property, or with approval of a Cost Estimate, Improvements Agreement and a security, subject to review and approval by Development Services. Only one driveway approach is permitted to the subject property in the location shown (Lot 63 of U. S. Government Survey #2) on the site development plan.

3. The applicant shall dedicate 10 feet of right-of-way measured from the western property boundary of Lot 3 of Ochsner Addition located in Section 30, Township 13 North, Range 19 West and shall prepare plans for and install half street improvements to 26th Avenue adjacent to the subject property meeting Urban Local Street standards within the public right-of-way, including curb, gutter, drainage facilities, 7-foot wide landscaped boulevard, and 5-foot wide sidewalk, prior to the first building permit on either lot on the subject property or with approval of a Cost Estimate, Improvements Agreement and a security, subject to review and approval of City Engineering.

### Utilities

4. The applicant shall extend the gravity sewer main from the east starting at manhole P91-1-20 to serve development on the subject property, subject to review and approval by City Public Works and City Engineering, prior to the first building permit on either lot on the subject property. The City will require the sewer main to be installed as deep as practicable and the City may consider upsizing the main.

5. The applicant shall file a 32-foot wide public utility easement through the parking lot on the subject property extending north to the alley, subject to review and approval by City Public Works and City Engineering, prior to approval of the first building permit on either lot on the subject property.

6. The applicant shall install a sewer main from South Avenue West extending to a point 5-ft north of where a sewer service line can be extended perpendicular to the northern proposed building within the public utility easement through the proposed parking lot, prior to the first building permit on either lot on the subject property, subject to review and approval of City Public Works and City Engineering. The applicant shall install an 8-inch diameter water main north from South Avenue West within the public utility easement through the proposed parking lot prior to the first building permit on either lot on the subject property, subject to review and approval of City Public Works and City Engineering. The water main should terminate with a blow-off located at least 5 feet north of the point where the fire and domestic lines to the north proposed building tee off the main.
## Boulevard Landscaping

7. The applicant shall prepare a boulevard landscaping and maintenance plan for 26th Avenue and South Avenue West (adjacent to the subject property), prior to approval of the first building permit on either lot on the subject property, subject to review and approval of City Parks and Recreation. Installation of boulevard landscaping shall be installed and maintained per the approved boulevard landscaping and maintenance plan prior to certificate of occupancy for the first structure on either lot on the subject property.

## II. PROJECT SUMMARY

### Introduction

Development Services has received petitions from property owners Mary Kathryn Leprowse, Trustee for the Dorothy A. Dryden Living Trust, and Shawn R. and Laura K. Andres, represented by Jason Rice of Territorial Landworks Inc., for annexation into the City of Missoula, and zoning upon annexation of B2-2 Community Business for 1.32 acres of land at 2508 and 2536 South Avenue West.

### Property Information

1. The subject property is located at 2508 and 2536 South Avenue West, at the intersection of South Ave West and 26th Avenue, west of Reserve Street.

2. The subject property is adjacent to City limits to the east and south; other adjacent parcels remain under Missoula County jurisdiction.

3. Upon annexation, the subject property will become part of City Council Ward 6, and the Two Rivers Neighborhood Council.

4. The legal descriptions of the properties are: 2508 South Avenue W.: Lot 63 of U. S. Government Survey #2, in Section 30, Township 13 North, Range 19 West, P.M.M.; and 2536 South Avenue W.: Lot 3 of Ochsner Addition in Section 30, Township 13 North, Range 19 West, P.M.M.

5. The subject property is approximately 1.32 acres in size, .99 acres for 2508 South Avenue West and .33 acres for 2536 South Avenue West and is developed with a single dwelling on each lot.

6. Parcels adjacent to the subject property are developed as single dwelling and religious assembly to the west, single dwelling and duplex dwelling to the north, gasoline and fuel sales to the east, and multi-dwelling to the south.

7. The subject property has frontage on two public rights-of-way: South Avenue West to the south which is classified as a Minor Arterial and 26th Avenue on the west which is an Urban Local Street.

8. These parcels fall under the floodplain classification of Zone X, Area of Minimal Flood Hazard.

9. The subject property is not connected to City water and sewer. New construction will be required to connect to both utilities.

### Road Improvements, Transit and Utility Infrastructure

10. City of Missoula requires infrastructure improvements at the time of annexation into the city limits. South Avenue West borders the southern boundary of 2508 and 2536 South Avenue West and is functionally classified as a Minor Arterial roadway adjacent to the subject property. The required right-of-way width for a minor arterial roadway is 100 feet.

11. Per the Ochsner Addition filed plat, 40 feet of right-of-way was dedicated at the time the plat was filed. In order to meet the minor arterial road standards for right-of-way width, a condition of approval requires the applicant to dedicate an additional 10 feet of right-of-way adjacent to the subject property. The condition of approval also states the applicant is responsible for the cost of half-street improvements meeting Minor Arterial roadway standards for South Avenue West adjacent to the subject property, subject to review and approval of City Engineering.

12. City Engineering commented that the City of Missoula has a road improvement project planned for South Avenue West and the developer may seek a postponement for installation of improvements, in order for the installation of improvements to coincide with the City project, subject to the applicant applying for and receiving approval of the postponement by City Engineering.
13. The subject property is within 250 feet of the intersection of South Avenue West and Reserve Street. City Engineering commented that one driveway approach to South Avenue West is permitted, however traffic movement shall be restricted to right-in / right-out. A condition of approval requires the applicant to install traffic control devices restricting traffic movement to right-in / right-out at the driveway approach to the subject property from South Avenue West.

14. 26th Avenue borders the western boundary of the subject property adjacent to 2536 South Avenue West and is functionally classified as an Urban Local Street adjacent to the subject property. The required right-of-way width for an Urban Local Street is 80 feet.

15. Per the Ochsner Addition filed plat, 30 feet of right-of-way was dedicated at the time the plat was filed. In order for 26th Avenue (adjacent to the subject property) to meet the Urban Local Street standards for right-of-way width, a condition of approval requires the applicant to dedicate an additional 10 feet of right-of-way adjacent to the subject property. The condition of approval also states the applicant is responsible for installation of half-street improvements meeting Urban Local Street standards for 26th Avenue adjacent to the subject property, subject to review and approval of City Engineering.

16. City Parks commented that the applicant is required to prepare a boulevard landscaping and maintenance plan for improvements within the 26th Avenue and South Avenue West right-of-way adjacent to the subject property. A condition of approval requires the applicant to prepare a boulevard landscaping and maintenance plan for 26th Avenue and South Avenue West (adjacent to the subject property) and install the boulevard landscaping prior to certificate of occupancy for the first structure.

17. City Public Works commented that water and sewer is available via mains located in South Avenue West. The City requires the applicant to file a 32-foot wide public utility easement through the parking lot shown on the site development plan through the subject property extending north to the alley. The filing of the public utility easement is required by a condition of approval.

18. City Public Works commented that the City will require the developer to extend the sewer main within South Avenue West from the east, starting at Manhole P91-1-20, which is located immediately south of the Holiday Gas Station. Extending the gravity sewer main from this direction will eliminate the need to pump this sewage at the Community Lift Station. The City requires the sewer main to be installed as deep as possible and the City may choose to upsize this main in order to provide sewer service for future developments to the north. The City requires a sewer main to be installed within the required public utility easement on the subject property through the parking lot shown on the site development plan, from South Avenue West extending to a point 5-ft north of where a sewer service line can be extended perpendicular to the northernmost proposed building. The extension of the sewer mains within South Avenue West and within the public utility easement on the subject property are required by conditions of approval.

19. City Public Works commented that the City will require the applicant to install an 8-inch diameter water main north from South Avenue West within the required public utility easement through the parking lot shown on the site development plan. The City will require the water main to terminate with a blow-off located at least 5 feet north of the point where the fire and domestic lines to the northernmost proposed building tee off the main. The extension of the water main from South Avenue West within the public utility easement on the subject property is required by a condition of approval.

20. Missoula Public Health Air Quality Specialist Ben Schmidt commented that complete streets be incorporated where applicable, energy efficient construction be used for any new buildings; and that buildings be constructed with radon resistant measures. Also that Bike and pedestrian infrastructure be incorporated wherever possible.

21. New development will be required to meet Missoula Municipal Codes, as well as all other applicable standards and regulations.

Annexation Request

22. The property owners, Mary Kathryn Leprowse, Trustee for the Dorothy A. Dryden Living Trust, filed Petition No. 9980 and Shawn R. and Laura K. Andres, filed Petition No. 10015, requesting the annexation of the subject property.

23. The subject property is inside the Urban Growth Area, the Utility Service Area, and the Air Stagnation Zone.

24. The subject property will be added to the service area for Missoula hospitals and the City Fire and Police
Departments.

Annexation Policy

25. The subject property is part of Annexation Area ‘A’ on the City’s Annexation Policy Map. Areas so designated meet the majority of the City’s criteria determining priority for annexation.

Growth Policy & Zoning

26. The applicable regional plan is Our Missoula: City Growth Policy 2035 which recommends a land use designation of Community Mixed-Use.

27. Areas designated as Community Mixed Use are the basic employment and services necessary for a vibrant community with a broad range of functions including retail, education, financial institutions, professional and personal services, offices, residences and general service activities. The Growth Policy indicates that the following zoning districts are most closely aligned with the Community Mixed Use Land Use Designation: CI-4 Neighborhood Commercial, C2-4 Community Commercial, M1R-2 Limited Industrial-Residential, and Pedestrian Overlay. Residential development up to 43 dwelling units per acre is permitted in the zoning districts corresponding to this land use designation. The current County zoning that applies to this parcel is C-R3, a residential designation that allows up to 36 dwelling units per acre.

28. The requested City zoning upon annexation for this parcel is B2-2 Community Business. The B2-2 zoning district permits less intensive commercial uses compared to the C1-4 and C2-4 zoning recommended for land with the Community Mixed Use designation of the Growth Policy. The residential density for the B2-2 zone matches the density permitted in the C1-4 and C2-4 zones of 43 dwelling units per acre. The maximum height is 50 feet in the B2-2 and 125 feet in the C1-4 and C2-4 zoning districts.

29. Staff supports the request for B2-2 Community Business zoning at the time of annexation, as it aligns with the Growth Policy recommended density for this area. The B2-2 zoning permits neighborhood commercial and includes a maximum 50 foot height for structures. The B2-2 zoning considers the existing development pattern of single dwelling and duplex development to the north and west and serves as a transitional zone between existing development and higher intensity commercial development along Reserve Street.

Statutory Requirements

30. Section 7-2-4211 MCA requires municipalities to include the full width of any public street or road right-of-way that are adjacent to the property being annexed.

31. The adjacent public right-of-way for South Avenue West has already been annexed into the City of Missoula. The adjacent public right of way for 26th Avenue will be annexed with this request.

32. The City will meet the statutory requirements for a petition method annexation in regards to MCA 7-2-4601 – 4625 and the MMC 20.85.040(I)(2) by considering the petitions, adopting a resolution of intent and scheduling a public hearing regarding the zoning upon annexation, and advertising public notice for at least 15 days prior to the public hearing with the appropriate recommended zoning. The final step for the City Council will be to adopt a resolution to adopt or deny the annexation request.

Zoning Upon Annexation

33. MCA 76-2-303 allows a municipality to conduct a hearing on the annexation in conjunction with a hearing on the zoning of the property proposed for annexation. Title 20 Zoning Ordinance, Section 20.85.040(I)(2) outlines the three review criteria taken from MCA 76-2-303 which may be considered for zoning upon annexation. The following are the three criteria from Title 20 and staff’s assessment as to whether the annexation complies with the criteria. An annexation must comply with at least one of the criteria. The zoning district classification assigned at the time of annexation must:

a. Authorize land uses comparable to the land uses authorized under the county zoning classification that applied to the property immediately before it was annexed in the city;

Staff Assessment:

i. The County zoning of the subject property is C-R3, a residential zone which allows up to 36 dwellings per acre to be constructed.

ii. This County zoning designation of C-R3 is a residential zone that permits some commercial uses as
iii. Criterion 2a does not apply to this annexation request because the C-R3 County zoning is not directly comparable to the requested B2-2 Community Business City zoning designation.

b. Authorize land uses that are consistent with the land uses approved by the Board of County Commissioners or the County Board of Adjustment; or

Staff Assessment:

i. No special land uses have been approved by the Board of County Commissioners or the County Board of Adjustment on the subject property.

c. Be consistent with the land use and zoning recommendations for the subject areas, as set forth in the “Growth Policy.”

Staff Assessment:

i. The applicable regional plan is the Our Missoula: City Growth Policy 2035 which recommends a land use designation of “Community Mixed Use”. The relatable zoning districts for lands with the Community Mixed Use land use designation are C1-4, C2-4 and M1R-2 which allow up to 43 dwelling units per acre residential density and general commercial uses.

ii. The requested B2-2 Community Business zoning district also permits up to 43 dwelling units per acre residential density and neighborhood commercial uses. The Growth Policy states that areas with a Mixed-Use land use designation serve as a transition between commercial and residential neighborhoods. Also that building height transitions should be considered as needed in relation to adjacent development.

iii. Criterion 2c applies to this annexation request because it applies the B2-2 zoning district that is in alignment with the residential density recommended by the Growth Policy land use designation for the subject parcel. The B2-2 zoning district reduces the height to 50 feet compared to the 125 feet allowed in the adjacent C1-4 zoning to the east. The B2-2 provides a mix of neighborhood commercial and residential uses recommended for lands with the Community Mixed Use designation and serves as a transition to the existing adjacent development.

34. Based on compliance with Criteria 20.85.040(I)(2)(c), staff recommends annexation of the subject property and zoning upon annexation of the subject property of B2-2 Community Business upon annexation subject to the conditions of approval.

35. If the City Council does not approve the request to annex the subject property and/or the zoning upon annexation of the subject property to B2-2 Community Business, the Resolution of Intent to Annex and the zoning upon annexation of the subject property shall become null and void, and the property shall revert to its original status in the County of Missoula.

### III. ATTACHMENTS

Resolution of intent to annex