

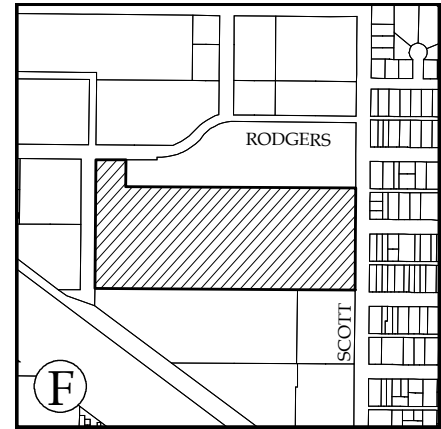
E X E C U T I V E S U M M A R Y

CASE PLANNER: Janet Rhoades

REVIEWED AND APPROVED BY: Mary McCrea

PUBLIC HEARINGS: MCPB: April 1, 2008
CC: April 28, 2008

AGENDA ITEM: #6A. **Scott Street Lots, Lot 3**
Rezoning from D (Industrial)
to I-1 (Light Industrial)



APPLICANT & FEE OWNER: Scott Street Partners, LLC, 950 Mellot Lane, Missoula, MT 59808

AGENT: Mike Stevenson, 950 Mellot Lane, Missoula, MT 59808-6027

LOCATION OF REQUEST: West side of Scott Street, north of the railroad tracks and south of Rodgers.

LEGAL DESCRIPTION: Lot 3 of Scott Street Lots Subdivision, located in Section 16 of T13N, R20W. (See Map F.)

LEGAL NOTIFICATION: The legal ad was published in the Missoulian on March 16 and 23, 2008. The site was posted on March 14, 2008. Neighborhood Councils, Neighborhood Associations, and Adjacent Property Owners within 150 feet of the property were notified by first class mail on March 7, 2008.

ZONING: D (Industrial)

GROWTH POLICY: The applicable growth policy is the *2000 Joint Northside/Westside Neighborhood Plan*, as an amendment to the *Missoula Urban Comprehensive Plan, 1998 Update*, which is an amendment of the *2005 Missoula County Growth Policy Update* and the *2002 Missoula County Land Use Guide*. The land use designation for this parcel is Light Industrial.

Surrounding Land Uses	Surrounding Zoning
North: Light Industrial, Public Lands	D (Industrial), P-II (Public Lands & Institutions)
South: Light Industrial, Open Space	City Maintenance Facility Special District, P-1 (Open Space District)
East: Residential	B (Residential)
West: Light Industrial	D (Industrial)

RECOMMENDATION

THAT the zoning request be **denied**.

MISSOULA CONSOLIDATED PLANNING BOARD

**Scott Street Lots, Lot 3 Rezoning
April 1, 2008**

Agenda Item #6A

I. RECOMMENDED MOTION

THAT request to rezone the property legally described as Lot 3 of Scott Street Lots Subdivision, located in Section 16, T13N, R19W, P.M.M, from D (Industrial) to I-1 (Light Industrial), be **denied**, based on the findings of fact and conclusions of law.

II. CONDITIONS OF REZONING APPROVAL - None

III. REZONING REVIEW CRITERIA

Findings of Fact:

General Site Geography

1. The 19.15-acre subject property is located on the west side of Scott Street, north of the railroad tracks and south of Rodgers Street.
2. The subject property is on the site formerly occupied by White Pine Sash. It is currently vacant.
3. The site is accessible from Scott Street, Rodgers Street, and a street along the railroad tracks.
4. The property is within the Missoula Urban Transportation District and is along Bus Route #3.
5. The property is inside the Primary Urban Growth Area and the Wastewater Facilities Service Area.
6. The property is served by City sewer and public water (Mountain Water Co.).
7. The property is located within an established service area for Missoula hospitals and the City Fire and Police Departments.
8. The property is located within the Air Stagnation Zone.

Zoning Districts

9. The subject property is zoned D (Industrial). The applicant is requesting that the entire property be rezoned to I-1 (Light Industrial).
10. The subject property is surrounded by D (Industrial) to the north and west, P-II (Public Lands and Institutions) to the north, City Maintenance Facility Special District and P-1 (Open Space District) to the south, and B (Residential) to the east.
11. The minimum lot width requirement for the D (Industrial) zoning district is 50 feet.
12. The minimum lot width requirement for the I-1 (Light Industrial) zoning district is also 50 feet.

13. The height, yard, and lot area requirements for commercial and industrial uses in the D (Industrial) zoning district reference the height, yard, and lot area requirements of the I-1 (Light Industrial) zoning district.
14. The maximum building height permitted in the D (Industrial) and I-1 (Light Industrial) zoning district is 50 feet.
15. The minimum front and rear yard setback requirement for the D (Industrial) and I-1 (Light Industrial) zoning district is 20 feet for both front and rear yards.
16. The minimum lot size requirement for the D (Industrial) and I-1 (Light Industrial) zoning district is 6,000 square feet (approximately 0.14 acres).
17. Off-street parking requirements are contained in Chapter 19.78 of the Missoula City Zoning Ordinance.
18. The subject property has a minimum lot width of approximately 500 feet, which meets the requirements for both the D (Industrial) and the I-1 (Light Industrial) zoning districts.
19. The subject property has a lot size of 19.15 acres, which meets the minimum lot size requirements for both the D (Industrial) and the I-1 (Light Industrial) zoning districts.
20. There are no existing buildings on the subject property. New construction of structures will be required to meet the height requirements and front, side, and rear setback requirements of the zoning district at building permit review.
21. The D (Industrial) zoning district permits all industrial uses permitted in the I-1 (Light Industrial) zoning district. In addition, the D (Industrial) zoning district permits the residential uses permitted in the B (Residential) zoning district, subject to the standards of the B (Residential) zoning district.
22. The D (Industrial) zoning district requires new industrial uses to provide a visual buffer in side and rear yards adjacent to existing residential uses.
23. The I-1 (Light Industrial) zoning district does not permit residential uses and does not require new industrial uses to provide a visual buffer in side or rear yards adjacent to existing residential uses.
24. Rezoning from D (Industrial) to I-1 (Light Industrial) would eliminate the potential for residential or mixed-use residential/commercial development on the site. However, the rezoning from D (Industrial) to I-1 (Light Industrial) would not expand the industrial uses permitted on the site.
25. Ben Schmidt, Air Quality Specialist for the Missoula City-County Health Department, expressed concern that rezoning the site to I-1 (Light Industrial) would preclude residential development near the urban core, services, and other residential areas. See Attachment G.

Comprehensive Plan

26. The applicable land use plan is the *2000 Joint Northside/Westside Neighborhood Plan*, as an amendment to the *Missoula Urban Comprehensive Plan, 1998 Update*, which is an amendment of the *2005 Missoula County Growth Policy Update* and the *2002 Missoula County Land Use Guide*.

27. The comprehensive plan land use designation for the subject property is Light Industrial.
28. The subject property is surrounded by Light Industrial land use designation to the north, south, and west; Public & Quasi-Public Lands land use designation to the north; and Residential land use designation to the east.
29. The comprehensive plan emphasizes interface areas and transitional uses between commercial, industrial, and residential uses.
30. The comprehensive plan's Goal H, Action #4 encourages the use of the D (Industrial) zoning district as an "Industrial Transition" district. (p. 2C-3)
31. The comprehensive plan states that "The 'D' (Industrial/Residential) Zoning District has been a significant defining factor in terms of neighborhood character." (p. 2B-4)
32. The comprehensive plan states that "the vision for [the White Pine Sash] area contains several possibilities, realizing that the developers will aim for an outcome of the best economic use of the property. Extent and requirements for cleanup will be key factors in determining types of uses in this area. The goal for planning of this area is that developers work with the neighborhood and interested parties to develop quality development standards." (p. AD 13)
33. The comprehensive plan's Goal A (relating to Brownfields at the White Pine Sash site), Action #3 is to "work with current property owners to address neighborhood concerns and ensure safe and compatible development." (p. 7A-3)
34. The Missoula Historic Preservation Office opposes the rezoning request, commenting that the existing D (Industrial) zoning district provides greater flexibility for development on this site because it includes residential uses. See Attachment I.

Environmental Cleanup

35. The comprehensive plan states that the neighborhood's vision for the environmental health of the neighborhood is "to clean up the existing conditions that present public health risks to the neighborhood, and ... to ensure that future development does not degrade the human or natural environment." (p. 7A-2)
36. The White Pine Sash site is a designated State of Montana Superfund Site. The historic use of pentachlorophenol at this site has contaminated the site's surface soils with pentachlorophenol and dioxin.
37. DEQ requires a commercial soil sampling plan for industrial- and commercial-use sites where there is no residential-use potential.
38. DEQ requires a residential soil sampling plan for sites where residential-use potential exists. A residential soil sampling plan requires an increased number and depth of soil samples than are required by a commercial soil sampling plan, providing more information about contamination at the site.
39. Huttig Building Products, Inc., (the Principle Responsible Party for the contamination at the site) and the Scott Street Partners (the owners of the subject property) have submitted a commercial soil sampling proposal for the site to DEQ.

40. DEQ will not accept the commercial soil sampling plan unless the site is rezoned to preclude residential development.
41. Rezoning the property to I-1 (Light Industrial), and thereby eliminating the potential for residential development, will result in DEQ's accepting a commercial soil sampling plan for the site. The commercial soil sampling plan requires fewer samples taken at a lesser depth, resulting in a less intensive study of the contamination at the site.
42. Maintaining the existing D (Industrial) zoning, with the potential for residential development, will result in DEQ's requiring a residential soil sampling plan for the site.
43. Kisha Schlegel, Brownsfield Coordinator for the City of Missoula, opposes the rezoning request, commenting that the City should maintain the current zoning in order to more comprehensively understand the contamination at the site. See Attachment H.
44. The North Missoula Community Development Corporation (NMCDC) and Northside Neighborhood Association (NNA) Boards oppose the rezone, commenting that "Rezoning that would disallow residential uses is, in effect, rezoning to lower the cleanup standards." See Attachments K and L.

Conclusions of Law:

1. Whether the zoning is compatible with the Comprehensive Plan

1. The I-1 (Light Industrial) zoning district substantially complies with the land use recommendation in the *2000 Joint Northside/Westside Neighborhood Plan*.
2. The existing D (Industrial) zoning district complies more substantially because the comprehensive plan encourages the use of the D (Industrial) zoning district as an "Industrial Transition" district.

2. Whether the zoning will lessen congestion in the streets

1. Rezoning the site to I-1 (Light Industrial) would have no impact on congestion in the streets.

3. Whether the zoning will secure safety from fire and other dangers

1. Rezoning the site to I-1 (Light Industrial) would have no impact on safety from fire or other dangers.
2. The City of Missoula currently serves the area with police and fire protection. Law enforcement personnel and procedures are available to address potential problems of noise, property damage, or personal injury.
3. Police and fire protection service would not change with a rezone to I-1 (Light Industrial).

4. Whether the zoning promotes the health and general welfare

1. Rezoning the site to I-1 (Light Industrial) could negatively impact the health and general welfare of the area.
2. Rezoning the site to I-1 (Light Industrial) would result in the site's soil contamination not being investigated as thoroughly as it would be if the existing D (Industrial) zoning district is maintained.
3. Rezoning the site to I-1 (Light Industrial) would result in the risks to the health and general welfare of users of the site and surrounding area, including residents of the historic residential area to the East, remaining unknown.

- 5. **Whether the zoning provides adequate light and air; AND**
- 6. **Whether the zoning will prevent overcrowding of the land; AND**
- 7. **Whether the zoning will avoid undue concentration of population**

1. Rezoning the site to I-1 (Light Industrial) would have no impact on the provision of adequate light and air, overcrowding of the land, or undue concentration of population.

8. Whether the zoning facilitates the adequate provision of public services

- 1. Rezoning the site to I-1 (Light Industrial) would have no impact on the provision of public services.
- 2. The area is inside the Urban Growth Area and the Sewer Service Area and is served by public infrastructure.
- 3. Provision of public services would not change with a rezone to I-1 (Light Industrial).

9. Whether the zoning gives reasonable consideration to the character of the district; AND

10. Whether the zoning gives consideration to the particular suitability of the district for the particular uses

- 1. The I-1 (Light Industrial) zoning district does not give reasonable consideration of the character of the district or the particular suitability of the district for the particular uses.
- 2. The existing D (Industrial) zoning district is a significant defining factor in terms of neighborhood character, as determined by the applicable comprehensive plan.
- 3. The existing D (Industrial) zoning district is more suitable as an “Industrial Transition” district because it allows for mixed-use development and includes buffer requirements for industrial uses adjacent to residential uses.

11. Whether the zoning was adopted with a view toward conserving the value of the buildings

- 1. There are no existing buildings on the site.
- 2. Rezoning to I-1 (Light Industrial) would not conserve the value of the buildings in the surrounding area and could cause surrounding buildings, including homes in the historic residential area to the east, to devalue if the site were not cleaned up to residential standards.

12. Whether the zoning will encourage the most appropriate use of land throughout the municipality

- 1. The I-1 (Light Industrial) zoning district does not encourage the most appropriate use of land throughout the municipality because it does not permit the mixed-use and transitional development appropriate for the site, given its proximity to both industrial and residential areas.
- 2. The existing D (Industrial) zoning district encourages a more appropriate use of the land by permitting mixed-use and transitional development.

IV. AGENCY COMMENT

MT DEPT. OF TRANSP.	No comment received prior to issuance of staff report.
MUTD:	No comment received prior to issuance of staff report.
CITY ENGINEERING:	No comment received prior to issuance of staff report.
HEALTH DEPARTMENT:	See Attachments F and G.
BICYCLE PEDESTRIAN COORDINATOR:	“No comments.” (Phil Smith, Bike-Ped Coordinator)

OPG GRANTS DIVISION	See Attachment H.
TRANSPORTATION PLANNING DIVISION:	No comment received prior to issuance of staff report.
BUILDING INSPECTION:	"No comment on this one." (Don Verrue, Building Official)
POLICE DEPARTMENT:	"No comment." (Rob Scheben, Crime Prevention Officer)
PARKS & RECREATION:	"We do not have any Parks comments for this rezone." (Jackie Corday, Open Space Program Manager)
FIRE DEPARTMENT:	"I have no adverse comments regarding this zoning change." (Bob Rajala, Missoula Fire Department)
HISTORIC PRESERVATION:	See Attachment I.
URBAN INITIATIVES:	No comment received prior to issuance of staff report.
CITY ATTORNEY:	No comment received prior to issuance of staff report.
MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY:	See Attachment J.
NORTHSIDE/WESTSIDE NEIGHBORHOOD COUNCIL:	No comment received prior to issuance of staff report.
NORTHSIDE NEIGHBORHOOD ASSOCIATION:	See Attachments K and L.

V. ATTACHMENTS

- A. Aerial Photo
- B. Northside/Westside Plan Land Use Map
- C. Zoning Map
- D. D (Industrial) Zoning District Standards
- E. I-1 (Light Industrial) Zoning District Standards
- F. Jon Harvala, Missoula City-County Health Department, dated 03/14/08
- G. Ben Schmidt, Missoula City-County Health Department, dated 02/29/08
- H. Kisha Schlegel, OPG Grants Division, dated 03/13/08
- I. Philip Maechling, Missoula Historic Preservation Commission, dated 03/14/08
- J. Colleen Owen, Montana Department of Environmental Quality, dated 03/14/08
- K. North Missoula Community Development Corporation (NMCDC) and Northside
Neighborhood Association (NNA) Boards, dated 03/13/08
- L. Bob Oaks, president of Northside Neighborhood Association (NNA), dated 03/01/08
- M. Pam Walzer, Missoula City Council Ward 2 Representative, dated 03/14/08
- N. Marcus Grauman, dated 03/25/08
- O. Michelle Balaguy, dated 03/15/08