



Missoula Consolidated Planning Board
Agenda

Date: August 6, 2019, 7:00 PM

Location: City Council Chambers

140 W. Pine Street, Missoula, MT

Members: Jamie Hoffman (PB appointee), Neva Hassanein (Mayor appointee),
Dudley Improta (CC appointee), John Newman (Mayor appointee),
Helen Pent Jenkins (CC appointee), Michael Houlihan (BCC appointee),
Andy Mefford (BCC appointee), Stephanie Potts (BCC appointee), Peter Bensen (Co. Alt.),
Vince Caristo (City Alt), Jason Rice (BCC appointee)

If anyone attending this meeting needs special assistance, please provide 48 hours advance notice by calling Development Services at 406-552-6630 or Missoula County Community & Planning Services at 406-258-4657.

Pages

1. Call to Order
2. Roll Call
3. Approval of Minutes 1
4. Public Comment
5. Staff Announcements 9
Christine Dascenzo, Staff Memo of 07-30-2019.
6. Communications and Special Presentations
 - 6.1 Urban Renewal District Presentation, Ellen Buchanan
Missoula Redevelopment Agency, Ellen Buchanan
7. Public Hearings

**7.1 Ordinance to Amend Title 20 Related to
Townhome Exemption Development (TED)**

Laval Means, Benjamin
Brewer

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Recommended motion:

RECOMMENDED MOTION: Recommend that the Missoula City Council approve an ordinance to amend Title 20 City Zoning chapter 20.05; 20.10; 20.15; 20.40; 20.45; 20.80; 20.100; 20.110, related to Townhome Exemption Development (TED). See Attachment A – Proposed Ordinance Amendments (July 25, 2019).

- 8. Committee Reports**
 - 9. Other Business**
 - 10. New Business and Referrals**
 - 11. Comments from MCPB Members**
 - 12. Adjournment**
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Missoula Consolidated Planning Board Minutes

July 16, 2019, 7:00 PM
City Council Chambers
140 W. Pine Street, Missoula, MT

Voting members present: John Newman (Mayor appointee), Helen Pent Jenkins (CC appointee), Neva Hassanein (Mayor appointee), Andy Mefford (BCC appointee), Michael Houlihan (BCC appointee), Peter Bensen (Co. Alt.)

Regular member(s) absent: Dudley Improta (CC appointee), Jason Rice (BCC appointee), Stephanie Potts (BCC appointee), Jamie Hoffman (PB appointee), Vince Caristo (City Alt)

1. Call to Order

Mr. Newman called the meeting to order at 7:00 p.m.

2. Roll Call

Ms. McCammon called the roll.

3. Approval of Minutes

A motion was made by Mr. Houlihan, seconded by Mr. Mefford, to approve the July 2, 2019 meeting minutes as presented. With a voice vote of all 'ayes' the minutes were approved.

4. Public Comment

There were no public comments.

5. Staff Comments

There were no staff comments.

6. Public Hearings

There were no public hearings.

7. Communications and Special Presentations

7.1 County Growth Policy Update; Christine Dascenzo, County

Ms. Dascenzo, a planner with Missoula County Community Planning Services (CAPS), presented a progress update on the 2016 Growth Policy. An annual review was established for the 2016 Growth Policy Report and was last presented in 2017. Unfortunately, the 2018 report was missed; and 2021 will be the 5-year review. The 2019 report is more visual than the previous report, data is provided in a report card style format with icons identifying project start dates, ongoing project work, project completion, as well as "review" and "potential". Not all the action items apply to each project.

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Page One of the report was for Planning and Permitting with the subcategory of Zoning Regulations. The text of the zoning code is being updated. Phase 1 has been completed, which was housekeeping and capital changes. After the code is updated the map will be updated, where currently zoned areas could possibly be changed. There will be an update to the rural area code, which may not be zoned currently. Those touch on some of the actions from the Growth Policy: updating the zoning, using priority resource areas, working with businesses to improve permitting and streamlining development, modernizing zoning uses, encouraging clean technology, updating for modern development, exploring zoning regulations to guide growth in appropriate areas outside hazard areas, and maximizing outreach and public engagement, among other growth policy actions.

Page Two of the report was on subdivision regulations and hazardous areas. Ms. Dascenzo referred to the recent updates regarding off-site roads and fire standards in the subdivision regulations. CAPS is working on implementation of the Missoula Area Mapping Project, updating subdivision regulations to better align road standards and infrastructure standards with land use designations. The Community Wildfire Protection Plan (CWPP) has been updated. It was first adopted in 2005 and the updates implemented in 2018. That also updated the Wildland Urban Interface (WUI) map for relevancy. Ms. Jenkins asked about the CWPP, and if the document interfaced with Wildfire Adaptive Missoula regarding comprehensive wildfire adaptation. Ms. Dascenzo stated she would check with Diana Maneta, in the CAPS office, for confirmation.

Long Range Planning was on Page Three of the report. The Missoula Area Mapping Project was completed and adopted in June 2019. The MAMP BUILD grant was submitted yesterday for infrastructure in the Mullan/West Broadway area. Concurrently, master planning of that area has begun with a joint City-County effort. Ms. Hassanein asked for further details on the master planning process and the BUILD grant; and to what extent it matches what the planning board and commissioners envisioned in the mapping project. Is it a consistent alignment and how can people get involved with the master planning process on the west side of town? Ms. Dascenzo stated that those efforts were just getting off the ground. The staff is similar to those who worked on the mapping project, which provides consistency, and the Grass Valley area was not included. There are coordinated efforts between the Missoula Organization of Realtors (MOR) and CFAC; a letter of support of the BUILD grant had been sent. She stated that there is an opportunity to restore Grant Creek in addition to some agricultural projects. Although she didn't have specific details for the meeting, Ms. Dascenzo stated that there would be opportunity for public comment. She stated that, continuing with the long-range planning theme on page 3, a rural area mapping project is being outlined. This is for those areas which have not had any mapping done or have some of the oldest maps.

Parks, Trails, and Open Lands (PTOL) program and the Bond Programs are on Page Four of the report. Some of the program work at PTOL included:

- Vegetation management of conservation lands with the University of Montana's (UM) restoration program which has been on-going since FY16.
- An update of the open space chapter of the Parks, Recreation and Open Space and Trails (PROST) plan for this fiscal year. Ms. Dascenzo stated that this a shared City-County PROST plan. Ms. Hassanein asked how this partnership was

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developed. Ms. Dascenzo stated that both open lands and open space are involved; City parks staff as well as County parks staff.

- Management of the 2014 Parks and Trails Bond which includes the Fort Missoula Regional Park. Phases 1 and 2 have been completed; the dog park has also been completed.
- The trails bond was awarded approximately 4 projects, but no funds have been expended to date.
- Administration of the open space bond (a new bond), which was re-invigorated in 2019.

Grants and Community Programs, within the CAPS group, (see Page Five of the report) joined in FY17. This group manages grants for the County and City; economic development loans, and mental health and criminal justice grants. They recently received grant funding to change out the lagoon system at the Buena Vista mobile home park to a sewer system and were awarded a MacArthur Foundation grant to seek ways in reducing the jail population. A housing affordability initiative may be moving forward in FY20, depending on staffing.

Page Six highlights sustainability and community resiliency. An inventory of the greenhouse gas emissions in FY18 had been completed and is being followed by the development of a climate action plan. Those are all inward facing on county facilities. They have partnered with the CAPS planning staff on cryptocurrency zoning. The county passed a resolution for carbon neutrality by 2035, another inward facility goal. The urban area goal, partnering with the City of Missoula, is an initiative to get to 100% clean electricity by 2030.

Additional county-wide efforts, as listed on page 7 of her report, included:

- Increase of transparency and communications by the Commissioners' office
- County fairgrounds redevelopment and growth policy actions
- Development of more maps and story maps as an outreach effort
- The Sophie Moiese Public Meeting Room was dedicated
- The MissoulaCounty.Build website has been making the permitting system more accessible.

Mr. Houlihan asked if Ms. Dascenzo had heard anything about the county fairgrounds not allowing campers during fair week. Ms. Dascenzo will check.

Mr. Bensen asked about the cryptocurrency issue. Ms. Dascenzo stated that cryptocurrency operations consume large amounts of energy; more than a third of what is used by housing in Missoula County. The zoning that went into effect requires that any new cryptocurrency operations or expansions buy into new renewable energy. There are five criteria that must be met, but the main purpose is to find new renewable energy.

Mr. Newman asked when more information would be coming forward on the BUILD grant. Ms. Dascenzo stated that they have been advised that it would be January 2020.

Mr. Bensen asked how the growth in East Missoula would integrate within this schedule. An advocate from East Missoula has voiced enthusiasm about annexation and the positive changes that would accompany that. Mr. Bensen asked for a general overview on how this would look. Ms. Dascenzo stated she was aware of the efforts going on in East Missoula. She stated that her report does not capture everything going on at CAPS nor the County in general. Mr. Hagemeyer, at CAPS, covers the community council of East Missoula. She is aware of the energy of the East Missoula community and their corridor plan for the highway. Mr. Houlihan has gotten the same messages regarding East Missoula; properties are selling quickly, and residents feel an urgent need for annexation.

Ms. Jenkins recalled that when John DiBari was on the Planning Board one of the pieces of feedback at that time was "is the policy actionable?". Ms. Jenkins appreciated Ms. Dascenzo sharing some of the benchmark projects with the board; however, she still has questions about non-highlighted items. She asked where she can go for specific details of actionable items. Ms. Dascenzo stated that it is being developed and not currently available.

7.2 Our Missoula Development Guide (replacing the UFDA Report); Garin Wally and Tom Zavitz, City

Mr. Tom Zavitz, City of Missoula / Development Services, introduced Garin Wally, a long-range planner in the department. He stated that "Our Missoula Development Guide" is a 10-year project that tracks development outside and inside the City of Missoula. The name has been changed from UFDA to "Our Missoula Development Guide". This is an effort to try and guide development to areas where the growth policy has indicated it wants to see development. Mr. Zavitz endeavored to take the text from the Growth Policy and superimpose it on a map. Mr. Wally possesses the appropriate GIS skills needed to realize this goal. Mr. Zavitz stated that they are at about 1.5 to 2 years into the project. He stated that Mr. Wally did a great job in converting words in the growth policy to mapping. He hopes the mapping is useful to persons looking for places to develop per the growth policy.

Mr. Wally presented the details of "Our Missoula Development Guide". He stated that this document took over where UFDA left off. UFDA looked at the past 10 years, and this report looks into the future, at the next 10 years. He stated that this document is guided by the Missoula growth policy and is an attachment to that document. The 10-year review estimated that there will be 6,5000 new dwelling units. This project looks at where those units could and should go. Mr. Wally said that this guide would improve the usefulness of the Residential Allocation Map to 1) better locate development potential in sub-areas of the UFDA regions and 2) inform other planning efforts.

Mr. Wally displayed the Residential Allocation Map and explained the text and codes of that map. One of the first objectives of his group was to do away with the allocation concept, which was an estimate based on 2007 growth metrics. The goal of the new map, or series of maps, is to depict capability, capacity and suitability. Goals were tied to the growth policy. He displayed maps depicting 1) Capability: where development can or cannot occur; 2) Capacity: how much development can occur; 3) Suitability: where development should occur; and 4) Opportunity: where development can and should occur.

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Mr. Bensen asked about legal restrictions for building in floodplains, wetlands and slopes. Mr. Zavitz stated that when floodplains, wetlands and slopes come up there are specific controls in the review process.

Mr. Newman asked about the source of the data used in the maps; was it cadastral and tax records? Mr. Wally stated that those were the sources; and an ILR ratio as used in some cases. Mr. Zavitz stated that they also used a common planning formula which originated at the University of Oregon. Mr. Wally replied that it is also used in combination with the development ratio, which is how much the zoning or land use allows vs. how much is upon it.

Mr. Wally explained the suitability suite. The composite suitability map showed tiers of suitability; this is the implementation of the actions and outcomes from the growth policy objectives and goals. This map showed where infrastructure could support growth. Using GIS, connectable sewer and water were mapped where it is municipally owned with 500' buffer zones, which they deemed connectable, and within that they tessellated hexagons. Tier 1 had the minimum requirements for suitability. Tier 4 properties had all the features for suitability.

Ms. Hassanein asked about the selection of growth policy actions and outcomes and the decision process that was used. Mr. Wally replied that not all variables can be mapped; things like cultural character could not be mapped with a reasonable objective sense. Ms. Hassanein asked about the mapping of agricultural lands, prime soils, and soils of statewide importance. She stated that the larger point is not agriculture lands, but that this is an example of the limitations of attempting to convey growth policy values on a map. Mr. Wally stated that agricultural data was listed in the data sets and internal discussions resulted in removing them from the map. Mr. Zavitz replied that they tried to address the agricultural lands through the focus inward lens overall. They were not sure how agricultural lands would relate to where someone would live; however, they did look at community gardens. It was unknown what agricultural land would mean in terms of dwelling units, so it was set aside in this report. Mr. Bensen stated that when the board looked at the zoning policy, the preservation of agricultural lands was significant. Mr. Zavitz stated he understood the concerns; however, there was also the need to keep it simple, as too many layers can make a map useless. He acknowledged that the map does miss the less tangible parts of the growth policy. The primary purpose of the map is to try and answer the questions on where the housing units could be located for the least expense and allow people to drive less.

Ms. Jenkins appreciated the GIS effort. She asked if this conflicted with the County's desired development areas. She cited how properties at the Wye are affordable, close to existing infrastructure and the County had communicated that they are very developable; however, there are no suitability hexagons on that area of the map. Mr. Zavitz stated that the City has the focus inward policy, which has been used for 15 years. He cited the Mullan area master plan; there will be many units built there, but is it focusing inward? However, by doing some master planning it will yield the kind of development with a combination of commercial, open space, gardens, agriculture; so that the community will not be "suburban", but a focus inward, getting people away and out of their cars. The City has the intention to join with the County to master plan that area and create a new kind of development considering the focus inward principle, without being a standard suburban development.

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Mr. Houlihan asked about commuting and transportation. Mr. Zavitz stated he has been working with transportation specialists and engineers. This will need to be a group effort between the City and the County.

Mr. Wally presented a map on "opportunity", showing where development should occur. The total calculation comes to 33,000 more residential units; however, not every parcel would meet the maximum land use potential. These parcels are not available and ready for development. Vacant lands account for over 6,000 units of the 33,000; which means that 70% of the 33,000 will be redeveloped properties. Ms. Hassanein asked about capacity vs. need over the next 10 years, and 20 years. Mr. Wally stated that, by the numbers, there are 15-20 years' worth of development. He stated that 70% of that opportunity is already built on; for example, a duplex might currently exist where 12 units are allowed by zoning; not all the land is vacant. Mr. Zavitz stated that commercially zoned land can take residential development. This helps to get the numbers up, but does the owner want to sell? He stated that there is much unpredictability. There is capacity, but how can it be accessed and developed.

Mr. Wally spoke about entitled lots and how they have changed. He said the first type of entitled lots are platted vacant subdivision lots for sale. The other type is in future phases; these are un-filed subdivision phases; the land has not been platted and they are not currently available for sale. He presented these in a table format showing the numbers of phases and lots as well as the timeline he anticipates they will become available. Mr. Zavitz stated that although there are over 3,000 entitled lots, the owners have their own strategies on when and how these might be developed.

Mr. Wally provided the 2018 development report by development type and if it was City or County. The strategies map showed vacant land and parcels that do not currently match the land use, so there are up-zoning opportunities. He finished with the key takeaways:

- A framework to measure "focus inward" through the concept of "suitability";
- Identified locations where suitable capacity exists (the Opportunity map); and
- Estimated that 6,500 new residential units will be built in the next ten years. Zoning and land use currently support an urban level of development, with capacity for 33,000 new units.

Ms. Jenkins asked about incentives and the underutilized land map. Mr. Zavitz stated that they have no answers at this time. Ms. Jenkins asked if LUP was considering what to do next. Mr. Zavitz stated LUP has not made any requests to his office.

Mr. Mefford asked if the statistics reflect where people are going. The City may feel one way, but the people may be going elsewhere. He asked if the board should continue to recognize that although the ideology and metrics are great, they may not generate the anticipated outcomes. Mr. Zavitz stated that the numbers are just a measurement of what is out there; they do not measure what the market wants, nor the cost of the land. This is a report of facts. Mr. Zavitz stated that a lot of people have use the information in UFDA, especially the transportation department in long range planning.

Mr. Bensen asked about how much of the map is unzoned. Mr. Wally stated that the percent of unzoned areas in the City amount to single digits. The land use capacities were used when those were encountered.

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Mr. Houlihan asked if any study was done on the demographics of who would be moving to the Missoula City-County area. Where are they coming from, what age groups, incomes, what do they want for housing? Mr. Zavitz that that the MOR report has much of that information. Mr. Houlihan asked if that information was used for this report. Mr. Zavitz stated that the information was not used for this report.

Mr. Bensen asked about incentive tools for low income housing. Mr. Zavitz answered that incentives would help. Although there is capacity, it will probably stay at the same slow rate of coming on to the market unless something is done to push it. Ms. Jenkins asked about tax increment financing and the possibility of having someone from MRA come in in the future and explain tax structures to the board, specifically for residential neighborhoods. She would like to see a list of recommendations to give to LUP and the County Commissioners which could incentivize development on vacant lots. Mr. Bensen stated that the City has multiple small pieces of land that have the potential to be used in trade to incentivize something else.

8. Committee Reports

Mr. Houlihan attended a transportation committee earlier today. They reviewed the draft of the FFY 2020 planning work program; \$1.6M available funding and where to best use the funds. Mullan/Broadway/and Reserve Streets were discussed as good options. They reviewed the draft of the 2020-2024 transportation improvement program. There is about \$4M to spend in that program. There was a presentation review of the transportation market and research survey. The overall outcome was that one third of the area residents rated the quality of the area transportation system as excellent or very good; one third rated it is a good; and one third rated it as fair or poor. There was a presentation of the East Missoula corridor Hwy 200 study.

9. Old Business and Referrals

There was no old business nor referrals.

10. New Business and Referrals

Ms. Jenkins expressed the need to continue the conversation on incentivizing the development of vacant land/land suitable, especially for low income housing. She proposed:

1. Forming a subcommittee to keep the conversation moving; and
2. Having representatives from MOR, MRA (if appropriate) and Eran Pehan from Housing and Community Development, give reports, perspectives and recommendations at a future Planning Board meeting.

Mr. Bensen was especially interested in incentivizing low income housing while preserving agricultural land.

A subcommittee name and acronym will be developed. Ms. Jenkins will email Planning Board members a summary and general vision of the subcommittee.

Initial subcommittee members:

1. Helen Jenkins
2. Peter Bensen

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3. Michael Houlihan

Absent Planning Board members will be given an opportunity to join the subcommittee.

Ms. Dascenzo will assist in scheduling representatives from the agencies/offices listed above to give presentations at a future planning board meeting.

11. **Comments from MCPB Members**

There were no comments from MCPB members.

12. **Adjournment**

Mr. Newman adjourned the meeting at 8:50 p.m.

Date: July 30, 2019

To: Missoula Consolidated Planning Board

From: Christine Dascenzo, Planner, Missoula County Community & Planning Services

Re: Staff - Planning Board Communication

A. UPCOMING PLANNING BOARD AGENDA ITEMS

1. August 6, 2019

- a. Hearing: Title 20 Amendments to Townhome Exemption Development (TED), Ben Brewer, City
- b. Presentation: Urban Renewal District Presentation, Missoula Redevelopment Agency, Ellen Buchanan

2. August 20, 2019

- a. Hearing: Open Space Plan - finding of conformance and recommendation for adoption as an issue plan, City-County
- b. Presentation - Downtown Master Plan Update 2019, Linda McCarthy (Downtown Missoula Partnership) and Laval Means (Development Services) – tentative, City

3. September 3, 2019

- a. Hearing: Montana Suds, LLC, - Special Zoning District Rezoning, Jamie Erbacher, County

B. UPDATE ON PREVIOUS ITEMS

1. Missoula Area Mapping Project

On June 6, 2019, the Board of County Commissioners officially adopted the Missoula Area Land Use Element on a 3-0 vote. Some changes were made to the map and text of the element while under BCC review. The final version can be reviewed online, here: <https://www.missoulacounty.us/home/showdocument?id=47140>.

2. City Annexation Policy

On July 22, 2019, the Missoula City Council adopted the Annexation Policy on a 9-0 vote.

C. OTHER ITEMS OF INTEREST

1. Recruitment for Jamie Hoffmann's Seat

After receiving word that Jamie Hoffmann will be relocating at the end of the year, the process to recruit a new member has begun. This seat is appointed by the Conservation District and that board will be discussing it at their next meeting on August 12. If they choose not to appoint, the Planning Board selects a member who is then approved by the County Commissioners and City Council.

2. New Committee Forming Out of Infill Discussion at 7/16 Meeting

a. Summary from Helen, Emailed on 7/16

Dear Planning Board Members,

Thank you for a spirited meeting this evening. For those of you that missed it, we had a presentation by Tom Zavitz from the City where he shared the "Our Missoula Development Guide--Looking Forward" document (attached). You can read more about the specifics of the document as well as the minutes in the next few days, but one issue did arise from our conversations. We decided to begin exploring potential policy recommendations to the County Commissioners as well as the City Council as they relate to re-aligned incentives to promote infill development in the Urban Development Area. We didn't discuss specifics other than to state that the incentive structure needs to be reviewed because we continue to want to promote infill development but development continues to grow outside of areas with easily accessible infrastructure.

Therefore, we formed a subcommittee consisting of myself, Peter Bensen, Michael Houlihan, and Andy Mefford to begin to move this project forward. We would love additional participation by other planning board members. Additionally, we have asked CAPS to invite a member of the Missoula Redevelopment Agency to provide the full board with a presentation on tax incentives for residential development. We may also have the Missoula Association of Realtors come to a meeting. This is in an effort to bring the entire planning board up to speed on current incentives and development perspectives.

At our next planning board meeting, I'd love to see if other folks would like to join the subcommittee, we can name the subcommittee, and schedule some time for goal-setting.

I look forward to sharing more about this project with all of you. Peter and others, if I missed anything, please chime in!

Sincerely,
Helen Pent Jenkins
Vice Chair, Planning Board

b. Update on Presentations to the Full Board

Ellen Buchanan from MRA will present to the full board at the August 6 meeting. Eran Pehan from the City's Housing and Community Development office will present on October 15. A presentation from MOR has yet to be scheduled.

c. Committee Requirements

Agendas and minutes are required for committee meetings. In order to provide 48-hour notice of the meeting, agendas should be sent to CAPS four days before to the meeting. They must include an item for public comment on anything not on the agenda. Minutes must include:

- Date, time, and place of meeting
- A list of the individual members of the public body, agency or organization in attendance
- The substance of all matters proposed, discussed, or decided
- At the request of any member, a record of individual votes taken by member

Agendas and minutes can be sent to caps@missoulacounty.us.



DEVELOPMENT SERVICES

435 RYMAN | MISSOULA, MT 59802-4297 | 406.552.6630 | FAX 406.552.6053

EXECUTIVE SUMMARY

Agenda item:	Ordinance amending Title 20 City Zoning regulations related to Townhome Exemption Development (TED).
Report Date:	7/25/2019
Project Lead:	Ben Brewer, Planner III
Public Meetings & Hearings	
Planning Board (PB) hearing:	8/6/2019
Planning Board public hearing legal ad:	Published in the Missoulian on July 21 and 28, 2019
City Council public hearing	To be determined
Applicant:	This is a City Council initiated request.
Notification:	<ul style="list-style-type: none">• Sent agency and interested party memo (attached) via email to interested parties and City agencies for review• Posted on the city website• Published a legal ad in the Missoulian

RECOMMENDED MOTION

Recommend that the Missoula City Council approve an ordinance to amend Title 20 City Zoning chapter **20.05; 20.10; 20.15; 20.40; 20.45; 20.80; 20.100; 20.110**, related to Townhome Exemption Development (TED). See Attachment A – Proposed Ordinance Amendments (July 25, 2019).

I. PROPOSAL SUMMARY

At the request of the City Council, Development Services planning staff have drafted amendments to Title 20 City Zoning Ordinance to update Townhome Exemption Development (TED) and associated regulations. These proposed amendments are being developed during the time frame of an adopted Interim Ordinance to address TED projects that expires on Nov. 5, 2019, and new regulations are anticipated to be adopted by that time. The goal is to review current codes and develop a package of proposed amendments in order to accommodate orderly development while protecting the public health, safety and welfare of the community.

II. BACKGROUND

History of Townhome Exemptions in Missoula:

The townhome exemption from subdivision was originally created by the Montana State legislature to address the changes to financing for condominiums that occurred after the great recession. This financing tool broadened the type of projects that were considered exempt from subdivision from just condominiums to include townhomes and townhouses (Montana Code Annotated 76-3-203). The exemption allows for a streamlined review process for qualifying development projects located on legally created lots and zoned accordingly.

While other Montana communities struggled with how to interpret the state law and approached it with ways to limit it primarily to townhouse building types, Missoula accommodated and even encouraged TEDs as a legitimate and cost-

II. BACKGROUND

effective alternative to minor subdivisions. The primary goal that TED's help accommodate is infill development, especially for projects that establish new sites for additional dwelling units on a parcel that is not yet developed fully.

As TED projects grew in scale and complexity, they presented greater challenges. Largely this is due to them being exempt from subdivision regulations, which curtails the ability to require the types of public amenities that are typically associated with subdivisions and limits the kinds of submittal information, review, coordination, and conditions that are time-tested and responsive to concerns related to the community's public health, safety and general welfare. As an exemption from subdivision, the city is unable to require public right-of-way if needed and stands to lose valued transportation connections. There is also less ability to manage for impacts to the surrounding areas. Additionally, the TED exemption process is not equipped to adequately address the types of issues that arise from developing on hazardous and constrained lands. (The interim ordinance laying out some of these challenges can be viewed [here](#).)

More recently, the City adopted a comprehensive housing policy – *A Place to Call Home: Meeting Missoula's Housing Needs*. This policy document provides recommendations to address the city's affordability crisis, including for TED projects. It recognizes that TEDs present unique opportunities and challenges with an emphasis on ensuring that the benefits of flexibility and cost savings for smaller infill TED projects are not lost. The Housing Policy also acknowledges the need for regulatory controls on TEDs in order to address public health and safety issues and to minimize impacts on surrounding neighbors. It provides a recommendation to increase the allowed number of units for by-right approval for TEDs and the need for higher regulatory oversight on projects over a certain number of units (p.37). See the Housing Department Agency Comment in Attachment C for more information on how the following strategies and proposed amendments implement the Housing Policy recommendations.

The regulations in place before the Interim Ordinance was established already limited the TED process to residential development; permitted administrative review of smaller TED projects (varying by zoning district) and required a conditional use review process for larger TED projects. The larger TED projects included minimal development standards and required a percentage of land set aside or accounted for through a cash-in-lieu process for park areas. The conditional use review relied heavily on already established review criteria found in 20.85.070, and coordination with other city agency regulations to complete the review and potentially address outstanding issues.

Approach to ordinance amendments:

While the interim ordinance is in place, we re-examined what the role of TEDs should be for development in Missoula. State law grants municipalities the ability to define TEDs in their local zoning laws. This is an opportunity to comprehensively guide this development tool and regulate TEDs so that they are used in a way that meets city goals and also addresses the challenges that TED projects present.

Early in this process, a TED Leadership Team was formed to help define how TEDs help to further city policy. The following intent statement was developed to guide the process:

The Townhome Exemption Development Option is intended to encourage residential infill development that contributes to compact and walkable neighborhoods; makes efficient use of existing City infrastructure; and addresses housing affordability by generating new housing stock in a timely manner.

The TED Option is not intended for new greenfield development if it is in an area that is lacking in existing infrastructure; or for sites that would jeopardize the City's ability to manage development in an orderly manner or protect and promote the general health, safety and welfare of the community.

II. BACKGROUND

The strategy for recalibrating how to better align the TED ordinance with city goals is based on the intent statement above. The following are primary components of the selected strategy:

- TED is limited to residential development that includes either detached home or townhouse building types.

Explanation:

This strategy is how the regulations are currently applied and therefore is not a change to content. State law is ambiguous on the use or building type that 'Townhome' ownership units may be used for, but allows local zoning to provide specifics. Since the Townhome Exemption has become law, the City of Missoula has seen a wide variety of applications. Based on the Leadership intent statement, development for fee-simple residential units remain the City's primary focus for TED development in order to respond to the current housing affordability issue. TED is not a silver bullet for all situations all the time, but is meant here to be an important tool for supplying new homes and townhouses on the market in a timely manner.

- TED is permitted only in current Title 20 zoning districts (not in special districts or PUDs).

Explanation:

TEDs and the TED process are defined and contained within Title 20. The various Special Districts and PUDs that were established under Title 19 and still refer to Title 19 are not equipped to adequately process TED projects and still provide for health, safety and welfare.

- Limit TEDs to 10 dwelling units in single dwelling and some two-dwelling unit district (RT10 and RT5.4), and 20 dwelling units in R3, RT2.7, and all multi-dwelling and commercial districts.

Explanation:

Currently, the number of units allowed in a permitted TED (not requiring a conditional use approval) is 5 in single dwelling and two-dwelling unit districts and 9 in multi-dwelling and commercial districts.

Implementing a size cap is one of the key strategy components for the proposed ordinance. The general idea of implementing a cap on the number of units is to ensure that use of the TED option is limited to developments that are not too complex and that are brought on line in a timely manner. Based on the housing policy, and input from the Housing Department, a key consideration was the importance of TED as a means of reducing barriers to new supply of affordable homes. While TED projects do not necessarily lead to homes in the range of affordability identified in the housing policy, they can be a useful tool for addressing the shortage of housing stock across all price points by providing a streamlined review process that accommodates new construction and comes online quickly. If larger projects were allowed through TED at a certain point not only would the city's ability to maintain the review process as a stream-lined approach be challenged, so would the likelihood that new construction will actually occur in a timely manner.

With the above considerations in mind, the proposed cap on number of residential units in a TED project is derived for the following reasons:

Based on Institute of Trip Engineers (ITE) formulas, a development of 20 single family homes would be the point where 200 daily workday trips would be generated by a residential development and a traffic study may be needed. This threshold is already contained in Title 20 (20.60.140), and is derived from City Subdivision Regulations. The point that a traffic study is required is one indicator that a project is of a scale that could call for off-site improvements or be large enough that road grid connectivity or public right-of-way acquisition, as well as the potential for other impacts, becomes more likely.

II. BACKGROUND

We have also been looking over the existing TED projects to get a sense of what has actually been done and what to anticipate in the future. At the time of writing, there are 60 residential TED declarations on file in the City since 2012. Fifty of those (84%) are for 10 or less dwelling units, and 10 (16%) are larger than that. For TED projects of 10 or less units, the average size is 4 units, and there are just a few that are between 6-10 units. For larger TED projects (over 10 units), there are only 3 that are between 10 and 30 units, and the remaining 7 projects are between 30-60 units.

We have taken a balanced approach in limiting the scale of development, given that the TED option is an exemption to a subdivision process. Through subdivision, projects with more than 5 units are required to meet additional levels of review and public participation that are not required through TED. At the same time, we recognize that there are situations where a subdivision can be unduly onerous and review through TED may be appropriate.

Lastly, a split in the size cap based on zoning district should be maintained because of the implications for the actual area that can be developed. Most single dwelling districts have a lower density, so a development of 10 units may require more actual area than an even larger development in a higher density district. For example, a 10 unit development in R5.4 would require 1.2 acres (roughly half a city block), while a 20 unit development in RM2.7 would require the same area.

- **Developments over the new cap on number of dwelling units would be prohibited as a TED. We would no longer use the conditional use process for TEDs of any size. Larger developments would need to go through some form of subdivision process (either minor and then TEDs on those lots, or a single major subdivision).**

Explanation:

Eliminating the conditional use process will help to provide predictability and certainty to development that uses the TED option. See above for explanation of a size cap.

- **Development of any size on sites that have significant constraints or hazardous lands issues would be prohibited from TED. Significant constraints include floodplain and steep slopes.**

Explanation:

The TED exemption process is not sufficient to adequately address significant types of issues that arise from developing on hazardous and constrained lands. Some potential hazards and constraints will be addressed by adding provisions to the zoning code to enable requesting additional information for constrained sites as needed. However, there are some situations where constraints should be reviewed through the subdivision process, which is already set up to account for the appropriate level of submittal information, review, and possible mitigation of impacts. In these cases, redirecting development to the subdivision process allows for actual division of land to contain constrained areas on their own parcels, ensuring that those areas remain undisturbed and zoned accordingly.

- **Development that jeopardizes acquiring public roadways that are crucial to connectivity would be prohibited from TED (at the discretion of the Development Services Director in consultation with the City Engineer).**

Explanation:

There are some situations where, in order to best provide for orderly development and protect for the general health, safety and welfare of the community, development should include the creation of new public right-of-way, and should be directed to the subdivision process. Even though the size cap will ensure that most new large developments necessarily go through some extent of subdivision review, this is meant to address the rare case of a TED project that is proposed in an area where it is vital that public roads be included in the project, based on City plans, provision of emergency services, or allowing for needed public connections.

II. BACKGROUND

- TED projects are expected to be developed in a condensed time frame with infrastructure installed and initial building permits pulled within 2-3 years. No phasing is permitted within TEDs.

Explanation:

As established in the leadership statement, one of the primary benefits that the TED option offers for meeting City goals is that it offers a streamlined review process that can enable new housing to be brought into the housing supply pool in a timely manner. Also, with the expectation that development happen in a timely manner, there is less likelihood for regulation (state, local or federal) to change between the time of approval and actual construction.

- New subdivisions would not be subject to minimum parcel size by zoning (but would still be held to maximum density.)

Explanation:

This change to the general Title 20 zoning was included in the interim ordinance and is intended for this general ordinance. It is meant to make subdivision and TED an equally appealing development option. Essentially, in TED projects, since TED Ownership Units are not recognized as lots, the minimum parcel size requirement in zoning has not applied, and so TED projects are generally able to develop to the maximum that zoning allows more easily than in subdivisions where individual lot size must be of a certain minimum size. By removing the zoning standard for minimum parcel size, this will remove that barrier and enable development to reach maximum density potential for new subdivisions.

Section of code affected:

Based on the afore mentioned strategy components, the proposal calls for modifications to the following sections in Title 20:

- **20.05.040.D: Residential Districts: Townhome Exemption Development Option**
- **20.05.050.B: Residential Districts: Basic Parcel and Building Standards**
- **20.05.060/20.10.050/20.15.060: Residential/Commercial/Industrial Districts: Other Regulations**
- **20.40.180: Use and Building Specific Standards: Townhome Exemption Development (TED)**
- **20.45.060: Accessory Uses and Structures: Accessory Dwelling Units**
- **20.80.020: Nonconformities: Nonconforming Lots**
- **20.100: Terminology**
- **20.110.010: Measurements and Exceptions: Parcel Area**
- **20.110.050.F Measurements and Exceptions (New Section): Setbacks and Separation of Residential Buildings on TED Parcels**

For full draft language, see Attachment A

Concurrent Updates:

There are elements of TED projects that should be addressed in other regulations in order to best meet the City's intent for the townhome exemption. The following list describes other adjustments that will help to better accommodate TED projects overall:

- **Update/Modify Title 12 Standards for streets, roads, alleys and driveways**

Explanation:

As TED projects have increased in scale, it has been a constant challenge to properly review the design of interior streets and alleyways. Typically, if development was under subdivision, it would be reviewed to street design standards in the existing subdivision regulations. But since TED projects are exempt from subdivision review, there is less clarity for requirements regarding roads and access. This is especially the case since TED projects are often infill projects where efficient use of space matters greatly. In the interest of providing clarity and coordination with the modifications to TED zoning standards, Title 12 engineering code will be modified to address TED projects and align with these zoning amendments.

II. BACKGROUND

- **County Clerk's Office to implement an electronic, cloud-based system for filing documents, including TED Declarations**

Explanation:

The process for finalizing a TED project is by filing a Declaration with the County Clerk and Recorder's office, similar to establishing covenants for a subdivision or creating a condo association. The city's involvement technically ends once it releases the 'zoning letter' stating that the project has been reviewed by the City and is in compliance with zoning. At this point, the city and the Clerk's office coordinate with each other so that the City has an additional opportunity to review the Declaration that is submitted to the Clerk to verify that it matches with what was approved. This process has been necessary to ensure that TED projects have not been altered at the last minute, but also adds additional time onto the Declaration process. However, the County is currently in the process of implementing new electronic submittal capabilities that will allow an applicant to submit a document and for it to be viewed electronically by multiple parties, including Development Services, which would reduce the need for the circular reviewing process set up now. It is anticipated that the new process at the Clerk's office will be up and running close to when this proposed ordinance would go into effect.

Further Recommendations:

It is clear that the interest in development through the Townhome Exemption is bolstered by an aversion to the existing subdivision regulations. As this project has moved forward, there are issues that have been identified for how development occurs in Missoula that may not relate to, or be able to be addressed through, TED zoning regulations but are important for the City and the Missoula community to further consider even after these amendments are adopted. Many of these issues are also reiterated in the Missoula Housing Policy: *A Place to Call Home – Meeting Missoula's Housing Needs*. The following is a list of recommendations to be considered in the future:

- **Develop an Urban Subdivision Working Group**
- **Update City Subdivision Regulations**
- **Modify/update setbacks in residential zoning districts**
- **Explore ways to further accommodate/incentivize live/work unit development**
- **Update/modify City Floodplain Regulations**
- **Update/modify Storm Water Specifications and Design Standards (as part of a new Public Works Manual)**
- **Explore subsidization of open space in-lieu of fees for projects that meet affordability targets in areas that are sufficiently served by existing parkland**

III. AGENCY AND PUBLIC COMMENT

On July 12, 2019, Development Services requested agency and interested party review and comment on the proposed amendments, see Attachment B – Agency Memo. As of July 25th, 2019, no public comments were received, and three agency comments were submitted (see Attachment C – Agency and Public Comment). All agency comments received were in support of the ordinance. Also on July 12th, 2019, intra-agency comments were requested and as of July 25th, 2019, several comments were submitted. The current draft has implemented some suggested changes related to submitted comments, as well as to clarify initially proposed language.

IV. REVIEW CRITERIA

1. Whether the proposed zoning amendment is consistent with §76-2-304(2) MCA.

MCA 76-2-304(2) requires that governing bodies, in adopting zoning regulations, must be made in accordance with a growth policy and be designed to secure safety from fire and other danger, promote public health, safety, and general welfare and facilitate the adequate provision of transportation, water, sewerage, and schools, parks and other public requirements. In addition, the governing body shall consider the reasonable provision of adequate light and air; the effect on motorized and non-motorized transportation systems; the promotion of compatible urban growth, the character of the district and its peculiar suitability for particular uses, and conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

The proposed regulation revisions are in accordance with the 2015 Our Missoula Growth Policy (Growth Policy.) The Growth Policy generally recognizes the need for development to locate in areas close to existing service systems and discourages development which does not have the infrastructure necessary to support it. A housing goal of the Growth Policy is to encourage the close connection between development patterns, community infrastructure and the environment as well as the importance of a healthy environment to our sense of social, economic, and physical well-being. From multiple perspectives, the Growth Policy stresses the importance of supporting innovative, orderly and well-connected development in areas that will not impact the natural resources and that will efficiently relate to our existing physical and social infrastructure. An action summary from the Growth Policy states that we should “support quality, compact, and connected urban development in areas with the necessary existing infrastructure and with consideration of the existing context.” The proposed new intent statements summarize that need.

The proposed cap is intended to help focus the TED option as an infill tool and supports the general understanding that projects of this size or less tend to create fewer impacts within the existing infrastructure system and character of the district. Other new TED regulations prohibiting the use of TED if significant hazards or resource constraints are present will ensure that the public health, safety and general welfare of the area is addressed.

The strategy to establish a cap for the number of dwelling units proposed also helps to secure the safety from fire and other danger and addresses the need for compatible urban growth that is suitable for a particular area because it ensures that the scale of the TED projects will remain small, with limited need for public through-access. Motorized and non-motorized connectivity and facilitating adequate provision of transportation are addressed through the ability to require additional infrastructure as needed, while the cap on the number of units is consistent with the point at which a traffic study may be required to evaluate potential traffic impacts. Additionally, all development subject to zoning must comply with all other applicable city, state and federal regulations (Title 20.01.060.B) so fire safety, emergency services, water, sewer and other public facilities are taken into consideration.

In situations where development is proposed for a greater number of dwelling units, or significant constraints are present, or public right-of-way and connectivity is necessary, the applicant has the ability to pursue a subdivision proposal for the appropriate level of review in those areas. This distinction helps to encourage the appropriate use of land throughout the jurisdiction.

This development option leaves the base density of a parcel unchanged and the external setback expectations along the TED parcel are considerate of the transition to surrounding areas. In that way, a TED project is responsive to adequate light and air for the community, the character of the district, and supports compatible urban growth.

The growth policy and housing policy include action items that address the need for affordable housing including the recommendation to consider zoning tools such as reduced minimum lot size. The proposed regulations provide relief from the minimum parcel size for new subdivisions while not changing the maximum density allowed by zoning. This will enable greater flexibility for subdivision design and potentially provide an alternative to TED. Incorporating the flexibility of parcel size helps to encourage the most appropriate use of land.

IV. REVIEW CRITERIA

2. Whether the proposed zoning amendment corrects an error or inconsistency in the zoning ordinance or meets the challenge of a changing condition.

The proposed zoning amendments address the challenge of a changing condition given the increasing complexity and size of TED project proposals. The previous process for reviewing larger TED projects through the conditional use review relied heavily on the established conditional use review criteria that are more appropriate for single building, non-residential uses. The review process for larger TEDs also relied on the ability of other agencies to review the project and place conditions/requirements depending on those agencies regulations. Since many of the other city agencies establish review conditions at the time of a zoning compliance permit or a building permit, the need to require necessary information, evaluate a project, and place conditions at an earlier stage in project development (the conditional use site plan review) has been impeded.

Due to the changing conditions of larger TED projects, the limitations of review through conditional use, and the recognition that subdivision regulations are already in place to address many of the types of concerns that may arise from larger TED projects, we recommend a cap on the number of units that a TED project can include. Should a development consider planning for more units then the cap, they will have the option to pursue the project as a minor subdivision first to establish the viable future TED parcels or to pursue a major subdivision.

One final response to addressing the challenge of a changing condition is to recognize the value of the streamlined process of the TED option for needed housing supply. The process should result in a predictable review for sites that are generally unconstrained and require minimal internal infrastructure. The regulations also clarify that TED projects are required to install infrastructure in a timely manner and construction of dwelling units will occur within a limited timeframe with less likelihood for regulations (federal, state or local) to change over the course of development. The ability to place dwelling units on the ground in a timely manner would be undermined should projects become larger, with more complex site constraints. For that reason, the regulations also include the cap on dwelling units.

3. Whether the proposed zoning ordinance amendments are in the best interests of the city as a whole.

The proposed zoning ordinance amendments address a community concern by providing zoning regulations to update the TED regulations. The recommended amendments establish a balance between the need for new residential development occurring in a timely manner; the need to appropriately evaluate and possibly even limit development on significant hazardous or constrained lands; the need to establish the appropriate amount of information to conduct a thorough evaluation of a proposal; and the need to ensure that public connectivity and orderly development is occurring. These amendments are in the best interests of the city as a whole because they consider the public health, safety and general welfare of the community when determining the appropriate scale of TED projects.

V. ATTACHMENTS:

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| A. Proposed ordinance amendments (July 25, 2019) |
| B. Agency memo and draft ordinance (July 12, 2019) |
| C. Agency and Public comment document |

Amendments to Title 20 Related to Townhome Exemption Development – 2019

<u>CODE SECTION</u>	<u>Page</u>
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SPECIFIC AMENDMENTS BY CODE SECTION:

1. 20.05: RESIDENTIAL DISTRICTS

20.05.40.D: Townhome Exemption Development

D. Townhome Exemption Development (TED)

1. Intent

- a. The Townhome Exemption Development Option (TED) is intended to encourage affordable fee simple detached house , two-unit townhouse , and 3+-unit townhouse development without subdivision review in accordance with City zoning regulations.
- b. ~~Public notice and City Council approval of a conditional use is required if the development contains more than five dwelling units in R and RT districts, or more than nine dwelling units in RM, B, C, and M1R districts.~~ The Townhome Exemption Development tool is intended to encourage residential development in the city's core in concert with the city of Missoula's stated policy goals, including the development of compact and walkable neighborhoods; the effective use of existing infrastructure, and the building of new, affordable housing in a timely manner.
- c. The TED tool is not intended for new greenfield development if it is in an area that is lacking in existing infrastructure; or for sites that would jeopardize the City's ability to manage development in an orderly manner or protect and promote the general health, safety and welfare of the community.

2. General Description

- a. The only permitted residential building types that may be included in a TED project are detached houses , two-unit townhouses , and 3+-unit townhouses as described in Section 20.05.030 and as allowed within the applicable zoning district. TED is not permitted for development that includes nonresidential uses.
- b. Two-unit townhouse and 3+-unit townhouse building types as part of TED projects must also comply with Section 20.40.140, Townhouse standards.
- c. TED projects must comply with Section 20.40.180, Townhome Exemption Development (TED) Standards.
- ed. Townhome Exemption Developments must meet all applicable City zoning municipal regulations (see Figure 20.05-7).

Figure 20.05-7 Townhome Exemption Development Requirements

	R-Districts	RT-Districts	RM-Districts	All B, C-Districts M1R
One (1) to five (5) total dwelling units	Administrative Approval Comply with Zoning 15-day neighborhood notice (20.05.040 D 4)		Administrative Approval Comply with Zoning	
Six (6) to Nine (9) Total dwelling Units	Conditional Use Approval (20.85.070) + Building Specific Standards (20.40.180)		Administrative Approval Comply with Zoning	
Ten (10) or More Total dwelling Units	Conditional Use Approval (20.85.070) + Building Specific Standards (20.40.180)			

	<u>R Districts (except R3), and RT5.4 and RT10 Districts</u>	<u>RT2.7 and R3 Districts All RM Districts All B, C, Districts and M1R</u>
<u>One (1) to ten (10) total dwelling units</u>	<u>Administrative Approval, Comply with Zoning</u>	<u>Administrative Approval, Comply with Zoning</u>
<u>Eleven (11) to Twenty (20) total dwelling Units</u>	<u>Prohibited as TED</u>	<u>Administrative Approval, Comply with Zoning</u>
<u>More Than Twenty (20) total dwelling Units</u>	<u>Prohibited as TED</u>	
<u>Property is not suitable for TED 20.40.180.B</u>	<u>Prohibited as TED</u>	

~~d.—All surface infrastructure shall meet the standards in Title 12 and be approved by Development Services Engineering Division.~~

3. Condominium Conversion to Townhome

Conversion of condominium projects constructed prior to May 18, 2016, to Townhome Exemption Development (TED) are not subject to the provisions of TED regulations unless dwelling units are added.

4. Notice to Neighboring Property Owners

Notice of the application for a zoning compliance permit for Townhome Exemption

Developments ~~of one to more than~~ five dwelling units ~~in the R and RT zoning districts~~ must be mailed to all owners of property within 150 feet of the subject parcel at least 15 days before a permit is issued. ~~(Mailed notice for projects of six or more dwelling units in those districts and~~

~~ten or more dwelling units in RM, M1R, B, and C districts is required within the Conditional Use process.)~~

20.05.050.B: Parcel and Building Standards, Basic Standards

Table 20.05-3 [Parcel](#) and Building Standards (Residential Districts)

[Portion of Table]

Standards	R215	R80	R40	R20	RT10	R8	R5.4	RT5.4	R3	RT2.7	RM2.7	RM2	RM1.5	RM1-35	RM1-45 RMH [1]	RM0.5
CONVENTIONAL DEV'T																
Min. District Area (sq. ft.)	None	None	None	None	None	None	None	None	30,000	None	None	None	None	None	None	None
Minimum Parcel Size [8]																
^L Area (square feet)	215,000	80,000	40,000	20,000	10,000	8,000	5,400	5,400	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000
^L Area per unit (sq. ft.)	215,000	80,000	40,000	20,000	10,000	8,000	5,400	5,400	3,000	2,700	2,700	2,000	1,500	1,000	1,000	500

Townhome Exemption Development	<p>Minimum parcel area, minimum area per unit, and building height will be based on the zoning designation of the overall TED parcel found under Conventional Development in Table 20.05-3 above.</p> <p>Building setback and separation standards are as follows: Front or street side setbacks for Townhome Exemption Development dwellings are measured to the nearest parcel line or public circulation system such as a street, roadway, sidewalk, or trail, whichever is closer.</p> <p>Rear setbacks are measured to the parcel line.</p> <p>Side setbacks are measured to the parcel line. Minimum distance between buildings is the equivalent of two side setbacks. A minimum 6' interior side separation between buildings is allowed for zoning districts which require a minimum side yard setback distance of 7.5' or less.</p> <p>For B, C, and M1R districts refer to standards in Chapters 20.10.030 and 20.15.040.</p>
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- [1] RMH standards do not apply to manufactured housing parks. Manufactured housing parks are subject to Title 16.
- [2] In a cluster or conservation development , when a contiguous set of parcels is served by a rear alley and no building line has been established by existing buildings on the subject block face , the minimum front setback requirement is 10 feet.
- [3] Combined total front and rear setback depths must equal at least 30 feet (e.g., 10' front and 20' rear or 15' each).
- [4] Minimum interior side setbacks for principal buildings must equal at least 33% of the height of the subject building .
- [5] Maximum height limit is 30 feet for buildings with primary roof pitch of less than 8 in 12 and 35 feet for buildings with primary roof pitch of 8 in 12 or greater.
- [6] Only applies per Section 20.05.040.C.
- [7] Area per unit calculation may include a density bonus up to 20% when a project meets the criteria in Section 20.05.040.C.
- [8] The minimum parcel area requirement does not apply to lots created through subdivisions approved under MCA 76-3, parts 5 and 6 after May 6, 2019.

Explanation:

Primary changes include updating the intent statement, updating the regulations to reflect the dwelling unit cap (varying among zoning districts); clarifying that this does not apply to non-residential development; modifying regulations and the table to remove reference to a conditional use process; and infrastructure is addressed in section 20.40.180 (later in this ordinance).

Setback and Building Separation information is removed from Table 20.05-3 to a new section in 20.110: Measurements and Exceptions to better clarify the distinction between TED Parcel setback requirements versus building separation between structures within a TED Parcel.

Removal of the minimum parcel area requirement for new subdivisions is meant to create more parity between subdivision and the TED option for larger projects. Historically, TED projects have not been held to minimum parcel size restrictions which enables them to more ably meet density limits than new subdivisions. Previously, parcels created though subdivision were required to retain parcel area minimums.

2. OTHER REGULATIONS; Residential, Business and Commercial, and Industrial Districts Chapters, 20.05, 20.10, and 20.15

Explanation: The Other Regulations sections in the zoning districts chapters are meant to inform users that other standards may exist outside of the district type chapters and to guide them to where those standards can be found. Adding the Use and Building Specific chapter will benefit not just users working through the TED process, but for various other uses and design types as well.

20.05.060: Residential Districts, Other Regulations

A. Overlay Districts

See Chapter 20.25.

B. Use and Building Specific Standards

See Chapter 20.40.140 for Townhouse Development Standards

See Chapter 20.40.180 for Townhome Exemption Development (TED) Standards

AC. Accessory Uses and Structures

(e.g., home occupations, detached garages, gazebos, and sheds)

See Chapter 20.45.

BD. Natural Resource Protection

See Chapter 20.50.

CE. Parking and Access

See Chapter 20.60.

DF. Landscaping

See Chapter 20.65.

E. Overlay Districts

See Chapter 20.25.

FG. Signs

See Chapter 20.75.

GH. Nonconformities

See Chapter 20.80.

20.10.050: Commercial Districts, Other Regulations

Uses and development in B and C districts may be subject to other provisions of this zoning ordinance, including the following:

A. Overlay Districts

See Chapter 20.25.

B. Use and Building Specific Standards

See Chapter 20.40

AC. Accessory Uses and Structures

See Chapter 20.45.

BD. Natural Resource Protection

See Chapter 20.50.

GE. Parking and Access

See Chapter 20.60.

DF. Landscaping

See Chapter 20.65.

~~E. Overlay Districts~~

~~See Chapter 20.25.~~

FG. Signs

See Chapter 20.75.

GH. Nonconformities

See Chapter 20.80.

20.15.060: Industrial Districts, Other Regulations

Uses and development in M districts may be subject to other provisions of this zoning ordinance, including the following:

A. Overlay Districts

See Chapter 20.25.

B. Use and Building Specific Standards

See Chapter 20.40

AC. Accessory Uses and Structures

See Chapter 20.45.

BD. Natural Resource Protection

See Chapter 20.50.

GE. Parking and Access

See Chapter 20.60.

DF. Landscaping

See Chapter 20.65.

~~E. Overlay Districts~~

~~See Chapter 20.25.~~

FG. Signs

See Chapter 20.75.

GH. Nonconformities

See Chapter 20.80.

3. 20.40.180: TOWNHOME EXEMPTION DEVELOPMENT (TED) STANDARDS

20.40.180: Townhome Exemption Development (TED) Standards

Commentary: Townhome vs. Townhouse - Townhouse refers to a building type that is two or more units which have common walls along shared property lines as described in 20.05.030.B.3, and is required to meet standards detailed in 20.40.140. Townhome refers to a development type consisting of residential dwellings that may be single unit or townhouse and owned in fee simple on TED Ownership Units (TOUs) and located on a TED Parcel as two-unit or, multi-unit and described in above (20.05.040.D). ~~A townhouse can also be attached or be located on its own parcel (20.100.010).~~

A. Applicability

1. The following standards apply to Townhome Exemption Developments of ~~more than five ten or fewer~~ dwelling units in ~~R and RT~~ RT5.4, RT10, and all R districts ~~(except R3), or more than nine 20 or fewer~~ dwelling units in RT2.7, R3, and all RM, B, C, and M1R districts. Developments that exceed these numbers are not permitted through the TED process.
2. The only permitted ~~residential~~ building types that may be included in a TED project are detached houses, two-unit townhouses, and 3+-unit townhouses as described in Section 20.05.030 and as allowed in the applicable zoning district.
3. Two unit townhouse and 3+-unit townhouse building types as part of TED projects must also comply with Section 20.40.140, Townhouse Standards.
4. TED shall not be used for nonresidential developments.
45. Townhome Exemption Developments must meet all applicable City zoning municipal regulations, including Title 12 and Title 20. (see Figure 20.05-7).

B. Conditions not suitable for TED Maximum Density

Explanation:

This section is being changed because many of the things that could reduce the possible density of a project are now being added to the list of what could make a project not suitable for TED in the first place.

~~The maximum number of dwelling units allowed within a Townhome Exemption Development is computed by dividing the net area of the site by the subject zoning district's minimum parcel area per unit standard. Net site area is calculated by subtracting all of the following from the site's gross land area:~~

If the subject property contains any of the following conditions, it is not suitable for development through the TED process and is not permitted for TED:

1. Any portion of the subject property contains land with areas designated by FEMA as Floodways and Special Flood Hazard Areas (SFHAs) subject to inundation by the 1% Annual Chance of Flood, or that would require a permit from one of the agencies listed on the "Joint Application for Proposed Work in Montana's Streams, Wetlands, Floodplain and Other Water Bodies". ~~Special flood hazard areas;~~

2. Any portion of the subject property includes land with a slope of greater than 25%. Jurisdictional (Army Corps of Engineers) wetlands and waterways;
 - a. In situations where the proposed TED project does not include any disturbance of the area with slopes over 25%, and those areas with slope over 25% are surveyed and designated No Build/No Improvement zones in the project application and in the survey accompanying the final TED declaration, the Zoning Officer is authorized to waive 20.40.180.B.2
3. Any land that is already included in a filed TED Declaration. Land with a slope of greater than 25%;
4. Any property requiring dedicated Public Right-of-Way as determined by the Development Services Director in consultation with the City Engineer. Reasons for requiring dedicated Public Right of Way include, but are not limited to: Riparian resource areas
 - a. Allowing for public motorized and non-motorized connections;
 - b. Allowing for provision of emergency services; or
 - c. Completing road sections called for in applicable adopted City Plans or Resolutions

Commentary: There are some situations where in order to best provide for orderly development and protect for the general health, safety and welfare of the community, development should include the creation of new public right of way, and should be directed to the subdivision process.

C. Setbacks and Separations

Minimum Setbacks that apply to TED Parcels for dwellings in Townhome Exemption Developments are found in Table 20.05-3, unless otherwise noted. Building separation requirements apply for structures within a TED Parcel as well. Refer to 20.110.050.F for specific information on how setbacks and building separation requirements apply to TED projects.

D. On-Site Constraints Minimum buildable envelope area

Each townhome exemption building envelope must have an average slope of no more than 25% and at least a 2,000 square foot contiguous building and disturbance area on parcels that are subject to hillside standards. See 20.50.010.B.1 for average slope determination.

Explanation:

This section is being changed to describe the types of potential hazards and constraints, identify the types of submittal information needed to conduct appropriate review and outline the review process.

Land that is subject to hazards such as swelling soils, subsidence, landslides, drainage issues or concerns, high ground water, and steep slopes, shall not cause any unmitigated adverse impacts on adjacent or nearby lands. Land with these hazards shall not receive zoning compliance approval until an engineering design sufficient to alleviate the foregoing hazard has been submitted by the applicant as follows:

1. Land with slopes averaging 15% or more: Provide a slope category map (20.50.010.C.1.a). Provide a complete geotechnical report by a soils engineer with a grading and drainage plan and storm water plan that evaluates the safety of construction on the subject property.
 - a. Each TED ownership unit (TOU) building envelope must have an average slope of no more than 25% and at least a 2,000 square foot contiguous building and disturbance area on parcels that are subject to hillside standards. See 20.50.010.B.1 for average slope determination.

2. Land with the potential for expansive soils, landslides, slope instability, and high ground water: Provide a complete geotechnical report prepared by a soils engineer with a grading and drainage plan and storm water plan that evaluates the safety of construction on the subject property and includes an evaluation of groundwater depth relative to basement construction.
3. A complete grading and drainage plan and storm water plan is required including storm drainage calculations for a 100-year frequency 24-hour storm to show that storm water shall be detained on site at pre-development levels, subject to review and approval by the City Engineer.

E. Surface Infrastructure and Fire Safety

All ~~surface~~ infrastructure shall meet the standards in Title 12 and be approved by Development Services Engineering ~~Division Department~~ and meet the requirements of the City of Missoula Standards and Specifications Manual. TED projects are subject to compliance with the adopted Fire Code.

1. Garage access off of a public or private road must be a minimum of 20 feet from back of curb or edge of sidewalk, whichever is closer.
2. Garage or surface parking access off of a public or private alley must meet engineering requirements.
3. All public and/or private streets, roads, alleys, and/or driveways must meet engineering and fire code requirements.
4. Proposed internal motorized and non-motorized access routes will be evaluated by the Development Services Director and City Engineer for connectivity in order to address public health and safety and meet the applicable goals and policies of any relevant and adopted community plans.

F. Blocks

Blocks shall be designed to assure traffic safety and ease of ~~pedestrian non-motorized~~ and ~~motorized automobile~~ circulation. Blocks ~~lengths~~ shall not exceed 480 feet in length ~~and be wide enough to allow two tiers of dwelling units in a Townhome Exemption Development unless topographic constraints y or other constraining circumstances are present as confirmed by the Zoning Officer. TOUs shall not be designed as through parcels. Pedestrian Non-motorized access easements and installation of pedestrian facilities~~ that create a break within a block may be required where there is a need for ~~pedestrian non-motorized connectivity~~.

G. Parks and Trails

TED projects of more than 10 (ten) dwelling units must:

1. Meet applicable goals and policies of the Missoula Open Space Plan, Long Range Transportation Plan, Active Transportation Plan, Conservation Lands Management Plan, Missoula County Parks and Conservation Plan and the Master Parks and Recreation Plan for the Greater Missoula Area:
 - a. Provide for trail connection to existing or planned public trail , park, open space, school, shopping, or community facilities.
 - b. Provide for protection of high quality resources and sensitive features by grant of conservation easement , dedication as public open space, or establishment of a managed common area.
 - c. Provide for useable private open space, landscaped boulevards, social interaction and livability.
2. Preserve and protect the site's natural resource values that include but are not limited to: ~~floodways,~~ wetlands, riparian lands, hillsides ~~greater than 25% slope~~, established upland forested areas, culturally significant features, natural drainage courses, irrigation canals

and ditches, etc. Means of preservation and protection may include establishing a single common area, conservation easement, or dedication of said areas as public open space.

3. Provide for 11% of the net site area (see 20.40.180.B above) as contiguous, useable private or public open space, on site, that is accessible by residents of the development and useable for passive or active recreation in conformance with the following standards:
 - a. Private Open Space shall not be sloped more steeply than five percent and must be a minimum 40 feet in width and length, unless it is used for the purpose of a trail and then the area must be a minimum of 20 feet in width.
 - b. Shall not include natural resource value areas of the site that are to be preserved.
 - c. Shall not include required zoning setback areas, parking spaces, drainage basins, driveways, or public utility features.
 - d. May be improved and dedicated as a public park, trail or open spaces subject to meeting minimum standards and approval of the Parks and Recreation Board.
 - e. May be exempted from the requirement to provide land (20.40.180.G.3) for the following reasons:
 1. ~~If~~ a cash donation is given in lieu to the Parks Department, equal to the fair market value for the amount of land that would have been required. Fair market value is determined by a Montana State certified general real estate appraiser, hired and paid for by the applicant, and is based on the market value of the unsubdivided, unimproved land based upon the applicable zoning designation of the TED project.
 - a4. Cash-in-lieu is typically permitted only if there are existing parks or other facilities (e.g., public recreational area, open space, conservation easement, trail), within reasonably close proximity to the proposed TED, as described in the most recent version of the Master Parks Plan and measured along existing and accessible travel routes. Final determination on whether cash is permitted in lieu of actual parkland is left to the discretion of the Department of Parks and Recreation.
 - b2. Money received through this cash-in-lieu process is held to the following:
 - 1a. No more than 50% of money received may be used for maintenance on existing Parks facilities.
 - 2b. Money received by the Parks Department must be spent on facilities reasonably close in proximity to the TED, as described in the most recent version of the Master Parks Plan.
 2. Development is on parcels in subdivisions that were approved subject to the parkland dedication requirements in effect after December 31, 2009.

H. Transit

If the Townhome Exemption Development is more **than ten dwelling units and** within one-fourth mile of an established public transit or school bus route, bus stop facilities may be required by the **Zoning Officer City Engineer**. If the Townhome Exemption Development parcel is not in the Missoula Urban Transportation District, a petition to annex into the District shall be provided prior to receiving zoning compliance approval.

Explanation:

This following sections are added to specifically address review process, submittal requirements, timing for installation of improvements, the relationship to TED Declarations and the potential for amendments to the Declaration, as well as introducing an entry design requirement for detached homes.

I. Review Process and Submittal Requirements

1. TED projects shall be submitted in their entirety in one townhome exemption application and reviewed in one zoning compliance permit (ZCP) application in compliance with section 20.85.120. Phasing is not permitted for TED projects.
2. The zoning compliance permit will lapse and have no further effect two years after it is issued by the Zoning Officer and the townhome exemption approval is rendered invalid unless:
 - a. A building permit has been issued; and
 - b. All infrastructure improvements, including but not limited to roads, curbs, gutters, utilities, sidewalks, boulevard improvements, storm water facilities, and drainage are installed and approved by the City Engineer or an estimate of probable cost is provided and an improvements agreement guaranteed by a security for the remaining infrastructure is approved by the City Engineer.
 - c. The Zoning Officer has extended the ZCP expiration period for no more than one year after determining that there are circumstances warranting the extension. Requests for extensions must be submitted to the Zoning Officer before the ZCP expires. An extension granted for the ZCP shall be subject to the applicable zoning regulations in place at the time the Zoning Officer grants the time extension.
3. The Zoning Officer is authorized to require additional materials for review beyond what is required through 20.85.120.
4. If a public access easement is required for a TED project, it must be filed prior to ZCP approval.
5. TED Projects of more than 5 dwelling units require the review and approval of the Fire Chief or his designee.
6. Information submitted at the time of a subdivision review approved under MCA 76-3, parts 5 and 6 may need to be resubmitted and updated if the subdivision submittal packet did not expressly contemplate the proposed TED project.

Commentary: In situations where a development is large enough that it must first go through subdivision before filing declarations for TED Parcels on the new lots, the fastest and most comprehensive way for the project to be reviewed and processed is all together during subdivision review. Expressly contemplated means that a site plan indicating access and number, size and location of TED Ownership Units was reviewed as part of the subdivision review.

J. TED Declarations

1. TED projects shall be filed as one townhome exemption declaration per TED parcel.
2. The final TED declaration must be reviewed by the Zoning Officer prior to when the declaration is filed by the Clerk and Recorder.
3. Amendments to Filed Declarations shall be reviewed for zoning compliance except for:
 - a. Incidental changes or modifications to building design; or

- b. Changes that do not affect site plan layout, easements, infrastructure improvements, or other Municipal code requirements.

K. Design Standards for TED Projects with Detached Homes on Public Roads

1. For detached homes on TED Ownership Units (TOUs) adjacent to a public road, the primary entrance must face the public road. In cases where a TOU is adjacent to more than one public road, the entrance must face at least one public road.

4. 20.45.060: ACCESSORY USES AND STRUCTURES, ACCESSORY DWELLING UNIT

20.45.0600.B.1: Accessory Dwelling Units, Regulations for all Accessory Dwelling Units

General Standards

Accessory dwelling units are subject to all applicable regulations of the zoning district in which they are located, except as otherwise expressly stated in this section. Lots that are nonconforming as to minimum parcel area are not eligible. Accessory dwelling units are not permitted on TED Ownership Units (TOUs).

5. 20.80.020.B; NONCONFORMING LOTS

20.80.020: Nonconforming Lots

A. Description

1. A nonconforming lot is a lawfully created tract of record, shown on a plat or survey map recorded in the office of the County Clerk and Recorder that does not comply with all applicable minimum parcel area or parcel width standards of the zoning district in which the lot is located.
2. All nonconforming lots are subject to nonconformity determination provisions of 20.80.010.D.
3. Lots created through subdivisions approved under MCA 76-3, parts 5 and 6 after May 6, 2019 are not considered to be nonconforming lots.

B. Use of Nonconforming Lots

1. Any nonconforming lot in an R district may be used as a building site for a single detached house, except as expressly stated in 20.80.020.B.3 and 20.80.020.B.4.
2. In nonresidential zoning districts, a nonconforming lot may be used as a building site and developed with a use allowed in the subject zoning district, except as expressly stated in 20.80.020.B.3 and 20.80.020.B.4. If the zoning allows a variety of uses or a variety of intensities of uses and one or more uses or intensities would comply with applicable parcel area and parcel width standards, while others would not, then only the uses or intensities that comply with applicable standards are permitted.
3. Effective May 4, 2005, when two contiguous lots are held in common ownership, and when both of the lots are nonconforming lots, they will be deemed a single parcel for the purpose of meeting applicable parcel area and parcel width requirements of the zoning district in which they are located. This provision treats contiguous lots under common ownership as merged for the purposes of the zoning regulation of bulk, size, and similar dimensional standards only and does not aggregate individual parcels in a manner affected by MCA § 76-3-103(16)(b).
 - a. Lots in the R215, R80, R40, R20, and RT10 zone districts that have been rendered nonconforming as to the minimum lot size requirements by the adoption of this ordinance (Title 20) are not subject to 20.80.020.B.3.
 - b. Lots created through subdivisions approved under MCA 76-3, parts 5 and 6 after May 6, 2019 are not subject to 20.80.020.B.3.
4. A nonconforming lot may not be used as a building site if the land area resulted from:
 - a. The redesign or rearrangement of contiguous nonconforming tracts of record pursuant to a boundary line relocation exemption of the

Montana Subdivision and Platting Act occurring after October 23, 2006;
or

- b. The removal or destruction of a structure that utilized contiguous nonconforming lots as a single building site.

C. Parcel and Building Standards

- 1. Development on nonconforming lots must comply with the parcel and building standards of the subject zoning district unless otherwise expressly stated.
- 2. Nonconforming lots may not be adjusted in size or shape to create nonconformity or increase the degree of nonconformity for parcel area, parcel width, setbacks or other applicable parcel and building standards. Lot area or shape adjustments that decrease the extent of nonconformity are allowed.

6. 20.100.A; Terminology

Lot:

A contiguous area of land with defined boundaries under common ownership created by subdivision, subdivision exemption or their legal equivalent. TED Ownership Units (TOUs) are not lots.

TED Ownership Unit (TOU)

A parcel created through Townhome Exemption (MCA 76-3-203) that includes the land beneath each dwelling unit and can include land adjacent to each dwelling unit as shown in the approved Townhome Declaration Site Plan. Only one dwelling unit is associated with each TED ownership unit. TED Ownership Units (TOUs) are not lots.

7. 20.110; Measurements and Exceptions

20.110.010: Parcel Area

20.110.010 - Parcel Area

- A. Parcel area includes the total land area contained within the property lines of a parcel. The zoning officer is authorized to approve an administrative adjustment to permit the construction of a detached house on a parcel that would otherwise be prohibited solely because the parcel does not comply with the minimum parcel area standards of the subject zoning district. Such administrative adjustments are subject to the procedures and criteria of 20.85.110.
- B. The minimum parcel area requirement does not apply to lots created in subdivisions, approved under MCA 76-3, chapters 5 and 6, after May 6, 2019.
- C. The minimum parcel area requirement does not apply to TED Ownership Units (TOUs).

-

20.110.050.F: Setbacks and Separation of Residential Buildings on TED Parcels (**NEW SECTION**)

The following applies to buildings on TED Ownership Units (TOUs) created through the Townhome Exemption Development (TED) process after November 5, 2019.

1. TED projects (20.40.180) are required to meet setback standards for the underlying zoning district as described in Table 20.05-3, unless otherwise noted below.
 - a. Setbacks apply to the entire TED parcel used for a TED project as described in 20.110.050.
 - b. Setbacks for buildings within a TED parcel are measured to the nearest adjacent property line. A TOU separation line is not considered an adjacent property line. Depending on the design of the TED project, not every setback will apply to every TOU. (See 20.110.050.F.2 for information on TED building separation requirements).
 - c. TED projects of more than 5 dwelling units shall provide a side setback of no less than 7.5 feet.
2. Building separation
 - a. Building separation requirements apply on TED projects for structures on TOUs as described in 20.110.050.E. Minimum distance between buildings is the equivalent of two side setbacks.
 - b. A minimum building separation of 6' is allowed for zoning districts which require a side yard setback distance of 7.5' or less.



DEVELOPMENT SERVICES

435 RYMAN • MISSOULA, MT 59802 - 4297 • (406) 552-6630 • FAX: (406) 552-6053

MEMORANDUM

TO: Jim Nugent, City Attorney
Marty Rehbein, City Clerk
Gordy Hughes, City Fire Department
Shannon Therriault, Health Department
Donna Gaukler, City Parks Department
Mike Brady, City Police Department
Ellen Buchanan, MRA
Eran Pehan, Housing and Community Development

CC: John Engen, Mayor
City Council Members
Dale Bickell, City CAO
John Newman, Chair, Planning Board
Missoula Organization of Realtors
Missoula Chamber of Commerce
Missoula Building Industry Association
Missoula Office of Neighborhoods
CAPS
Missoula Downtown Association
Interested citizens

DATE: July 12, 2019
FROM: Ben Brewer, Planner III, Development Services
RE: Townhome Exemption Development (TED) Zoning Amendments – City of Missoula Zoning Ordinance Title 20

At the request of the City Council, Development Services planning staff have drafted amendments to Title 20 City Zoning Ordinance to update Townhome Exemption Development (TED) and associated regulations. These proposed amendments are being developed during the time frame of an adopted Interim Ordinance to address TED projects. The interim ordinance established limitations for the review process for conditional use TEDs and greater parcel area flexibility for subdivisions while staff conducted a review of current codes and developed this package of proposed amendments in order to accommodate orderly development while protecting the public health, safety and welfare of the community. The goal is to establish these permanent revised regulations by the time the interim ordinance expires on Nov. 5, 2019. The interim ordinance and associated background documents can be found through the link below.

Background

The townhome exemption from subdivision was originally created by the Montana State legislature to address the changes to financing for condominiums that occurred after the great recession. This financing tool broadened the type of projects that were considered exempt from subdivision from just condominiums to include townhomes and townhouses (Montana Code Annotated 76-3-203).

The exemption allows for a streamlined review process for qualifying development projects located on legally created lots and zoned accordingly.

While other Montana communities struggled with how to interpret the state law and approached it with ways to limit it primarily to townhouse building types, Missoula accommodated and even encouraged TEDs as a legitimate and cost-effective alternative to minor subdivisions. The primary goal that TED's help accommodate is infill development, especially for projects that establish new sites for additional dwelling units on a parcel that is not yet developed fully.

As TED projects grew in scale and complexity, they presented greater challenges. Largely this is due to them being exempt from subdivision regulations, which curtails the ability to require the types of public amenities that are typically associated with subdivisions, and limits the kinds of submittal information, review, coordination, and conditions that are time-tested and responsive to concerns related to the community's public health, safety and general welfare. As an exemption from subdivision, the city is unable to require public right-of-way if needed and stands to lose valued transportation connections. There is also less ability to manage for impacts to the surrounding areas. Additionally, the TED exemption process is not equipped to adequately address the types of issues that arise from developing on hazardous and constrained lands. (For more details on the challenges brought on by TED developments please refer to the link for interim ordinance materials.)

The regulations in place before the Interim Ordinance was established already limited the TED process to residential development; permitted administrative review of smaller TED projects (varying by zoning district) and required a conditional use review process for larger TED projects. The larger TED projects included minimal development standards and required a percentage of land set aside or accounted for through a cash-in-lieu process for park areas. The conditional use review relied heavily on already established review criteria found in 20.85.070, and coordination with other city agency regulations to complete the review and potentially address outstanding issues.

Proposal Intent

While the interim ordinance is in place, we re-examined what the role of TEDs should be for development in Missoula. State law grants municipalities the ability to define TEDs in their local zoning laws. We have the opportunity to comprehensively guide this development tool and regulate TEDs so that they are used in a way that meets city goals and also addresses the challenges that TED projects present.

Early in this process, a TED Leadership Team was formed to help define how TEDs help to further city policy. The following intent statement was developed and incorporated into the regulations:

The Townhome Exemption Development Option is intended to encourage residential infill development that contributes to compact and walkable neighborhoods; makes efficient use of existing City infrastructure; and addresses housing affordability by generating new housing stock in a timely manner.

The TED Option is not intended for new greenfield development if it is in an area that is lacking in existing infrastructure; or for sites that would jeopardize the City's ability to manage development in an orderly manner or protect and promote the general health, safety and welfare of the community.

Proposal Strategies

The strategy for recalibrating how we better align the TED ordinance with city goals is based on the intent statement above. The primary components of the strategy that was selected is the following:

- TED is limited to residential development that includes either detached home or townhouse building types.

Explanation:

State law is ambiguous on the use or building type that 'Townhome' ownership units may be used for, but allows local zoning to provide specifics. Since the Townhome Exemption has become law, the City of Missoula has seen a wide variety of applications. Based on the Leadership intent statement, development for fee-simple residential units remain the City's primary focus for TED development in order to respond to the current housing affordability issue. TED is not a silver bullet for all situations all the time, but is meant here to be an important tool for supplying new homes and townhouses on the market in a timely manner.

- TED is permitted only in current Title 20 zoning districts (not in special districts or PUDs).

Explanation:

TEDs and the TED process are defined and contained within Title 20. The various Special Districts and PUDs that were established under Title 19 and still refer to Title 19 are not equipped to adequately process TED projects and still provide for health, safety and welfare.

- Currently, the number of units allowed in a permitted TED (not requiring a conditional use approval) is 5 in single dwelling and two dwelling unit districts and 9 in multi-dwelling and commercial districts. Our strategy would change those numbers to 10 in single dwelling and some two dwelling unit district (RT10 and RT5.4), and 20 in R3, RT2.7, and all multi-dwelling and commercial districts.

Explanation:

Implementing a size cap is one of the key strategy components for the proposed ordinance. The general idea of implementing a cap on the number of units is to ensure that use of the TED option is limited to developments that are not too complex and that are brought on line in a timely manner. The numbers that we are proposing are derived from a few considerations:

Based on Institute of Trip Engineers formulas, a development of 20 single family homes would be the point where 200 daily workday trips would be generated by a residential development and a traffic study may be needed. This threshold is already contained in Title 20 (20.60.140), and is derived from City Subdivision Regulations. The point that a traffic study is required is one indicator that a project is of a scale that could call for off-site improvements or be large enough that road grid connectivity or public right of way acquisition, as well as the potential for other impacts, becomes more likely.

We have also been looking over the TED projects that we've seen to get a sense of what has actually been done and to get a sense of what to anticipate in the future. Overall, there are 61 residential TED declarations on file in the City since 2012. Fifty-one of those (85%) are for 10 or less dwelling units, and 10 (15%) are larger than that. For TED projects of 10 or less units, the average size is 4 units, and there are just a few that are between 6-10. For larger TED projects (over 10 units), there are only 3 that are between 10 and 30, and the remaining 7 projects are between 30-60. The numbers we are proposing are balanced with other proposed new regulations as part of this

ordinance.

We have taken a balanced approach in limiting the scale of development, given that the TED option is an exemption to a subdivision process. Through subdivision, projects with more than 5 units are required to meet additional levels of review and public participation that are not required through TED. At the same time, we recognize that there are situations where a subdivision can be unduly onerous and review through TED may be appropriate.

Lastly, a split in the size cap based on zoning district seems worth maintaining because of the implications for the actual area that can be developed. Most single family districts have a lower density, so a development of 10 units may require more actual area than an even larger development in a higher density district. For example, a 10 unit development in R5.4 would require 1.2 acres (roughly half a city block), while a 20 unit development in RM2.7 would require the same area.

- Developments over the new cap on number of dwelling units would be prohibited as a TED. We would no longer use the conditional use process for TEDs of any size. Larger developments would need to go through some form of subdivision process (either minor and then TEDs on those lots, or a single major subdivision).

Explanation:

Eliminating the conditional use process will help to provide predictability and certainty to development that uses the TED option.

- Development of any size on sites that have significant constraints or hazardous lands issues would be prohibited from TED. Significant constraints include floodplain and steep slopes.

Explanation:

The TED exemption process is not sufficient to adequately address the types of issues that arise from developing on hazardous and constrained lands. Some potential hazards and constraints will be addressed by adding provisions to the zoning code to enable requesting additional information for constrained sites when the situation arises. However, there are some situations where constraints should be reviewed through the subdivision process, which is already set up to accommodate that, and which allows for actual subdivision of land to contain constrained lands on its own parcel that can then be zoned accordingly.

- Development that jeopardizes acquiring public roadways that are crucial to connectivity would be prohibited from TED (at the discretion of the Development Services Director in consultation with the City Engineer).

Explanation:

There are some situations where in order to best provide for orderly development and protect for the general health, safety and welfare of the community, development should include the creation of new public right of way, and should be directed to the formal subdivision process. Even though the size cap will ensure that most new large developments necessarily go through some extent of subdivision review, this is meant to address the rare case of a TED project that is proposed in an area where it is vital that public roads be included in the project, based on City plans, provision of emergency services, or an interrupted road grid.

- TED projects are expected to be developed in a condensed time frame with infrastructure installed and initial building permits pulled within 2-3 years. No phasing is permitted within TEDs.

Explanation:

As established in the leadership statement, one of the primary benefits that the TED option offers for meeting City goals is that it offers a streamlined review process that can enable new housing to be brought into the housing supply pool in a timely manner. Also, with the expectation that development happen in a timely manner, there is less likelihood for regulation (state, local or federal) to change between the time of approval and actual construction.

- New subdivisions would not be subject to minimum parcel size by zoning (but would still be held to maximum density.)

Explanation:

This change to the general Title 20 zoning was included in the interim ordinance and is meant to make subdivision and TED an equally appealing development option. Essentially, in TED development, since TED Ownership Units are not recognized as actual lots, the minimum parcel size requirement in zoning has not applied, and so TED developments are generally able to develop to the maximum that zoning allows more easily than in new subdivisions where individual lot size must be of a certain size. By removing the zoning standard for minimum parcel size, this will remove that barrier and enable development to reach maximum density potential for new subdivisions.

TED Ordinance Update: Modifications to the Following Standards:

- 20.05.040.D: Residential Districts , Townhome Exemption Development Option
 - 20.05.050.B: Residential Districts, Basic Parcel and Building Standards
 - 20.05/20.10/20.15: Residential/Commercial/Industrial Districts: Other Standards
 - 20.40.080: Use and Building Specific Standards: Townhome Exemption Development (TED)
 - 20.45.060: Accessory Uses and Structures: Accessory Dwelling Units
 - 20.80.020: Nonconformities: Nonconforming Lots
 - 20.100: Terminology
 - 20.110: Measurements and Exceptions: Parcel Size; Setbacks and Separation for TEDs
-

Agency and Public Comment Request

The attached document provides the proposed language.

For additional reference, the current Title 20 Municipal Code can be viewed at:

https://library.municode.com/mt/missoula/codes/code_of_ordinances?nodeId=TIT20ZO

Agency and interested citizen comments are requested. Comments received by Monday, July 22, 2019 will be included in an informational packet to the Planning Board prior to their public hearing. Comments will continue to be taken by Planning Board after this time until the public hearing is closed. Written comments received by noon on August 5, 2019 will be forwarded under separate cover to Planning Board prior to their meeting.

After agency input, the Planning Board will review and provide recommendations to the City Council for their final review, recommendation, and decision. Should you wish to attend, the Planning Board will hold a public hearing on Tuesday, August 6, 2019 beginning at 7:00 p.m., in the Missoula City Council Chambers, 140 W. Pine Street, Missoula, MT. Printed material is available for inspection at Development Services, 435 West Ryman Street, Missoula, MT 59802.

Please forward your comments to Ben Brewer, bbrewer@ci.missoula.mt.us. Send a notice of *no comment* if you have none so the Planning Board and City Council are aware of your participation. If you have problems viewing the document or have questions, please contact Ben Brewer via email or telephone at 552-6086.

Attachment

July 12 Draft TED Related Title 20 Ordinance Amendments

Related Materials:

See City Planning Current Projects page: <http://ci.missoula.mt.us/1521/Current-Projects>

-Interim Ordinance Materials

-Draft Ordinance Materials

Townhome Exemption Amendments – 2019

LIST OF AMENDMENTS

- 1) RESIDENTIAL DISTRICTS
 - Townhome Exemption Development Option
 - Parcel and Building Standards
- 2) Other Regulations
 - Residential Districts
 - Commercial Districts
 - Industrial Districts
- 3) USE AND BUILDING SPECIFIC STANDARDS
 - Townhome Exemption Development (TED) Standards
- 4) ACCESSORY USES AND STRUCTURES
 - Accessory Dwelling Units
- 5) NONCONFORMITIES
 - Nonconforming Lots
- 6) TERMINOLOGY
 - LOT
 - TED OWNERSHIP UNIT (TOU)
- 7) MEASUREMENTS AND EXCEPTIONS
 - PARCEL AREA
 - SETBACKS AND BUILDING SEPARATION

Townhome Exemption Amendments – 2019

SPECIFIC AMENDMENTS BY CODE SECTION:

1. 20.05: RESIDENTIAL DISTRICTS

20.05.40.D: Townhome Exemption Development

D. Townhome Exemption Development

1. Intent

- a. The Townhome Exemption Development Option is intended to encourage affordable fee simple detached house , two-unit townhouse , and 3+-unit townhouse development without subdivision review in accordance with City zoning regulations.
- b. ~~Public notice and City Council approval of a conditional use is required if the development contains more than five dwelling units in R and RT districts, or more than nine dwelling units in RM, B, C, and M1R districts.~~ The Townhome Exemption Development tool is intended to encourage residential development in the city's core in concert with the city of Missoula's stated policy goals, including the development of compact and walkable neighborhoods; the effective use of existing infrastructure, and the building of new, affordable housing in a timely manner.
- c. The TED tool is not intended for greenfield development where public infrastructure is missing and where there are significant impediments to the community's ability to guide development in an orderly manner or to protect and promote the general health, safety and welfare of the community.

2. General Description

- a. The only permitted residential building types that may be included in a TED project are detached houses , two-unit townhouses , and 3+-unit townhouses as described in Section 20.05.030 and as allowed within the applicable zoning district. TED is not permitted for development that includes nonresidential uses.
- b. Two-unit townhouse and 3+-unit townhouse building types as part of TED projects must also comply with Section 20.40.140, Townhouse standards.
- c. Townhome Exemption Development must comply with Section 20.40.180, Townhome Exemption Development (TED) Standards.
- ed. Townhome Exemption Developments must meet all applicable City ~~zoning~~ municipal regulations (see Figure 20.05-7).

Figure 20.05-7 Townhome Exemption Development Requirements

	R-Districts	RT-Districts	RM Districts	All B, C Districts M1R
One (1) to five (5) total dwelling units	Administrative Approval Comply with Zoning 15-day neighborhood notice (20.05.040-D 4)		Administrative Approval Comply with Zoning	
Six (6) to Nine (9) Total dwelling Units	Conditional Use Approval (20.85.070) + Building Specific Standards (20.40.180)		Administrative Approval Comply with Zoning	
Ten (10) or More Total dwelling Units	Conditional Use Approval (20.85.070) + Building Specific Standards (20.40.180)			

	<u>R Districts (except R3) RT5.4 and RT10 Districts</u>	<u>RT2.7, R3 RM Districts All B, C Districts M1R</u>
<u>One (1) to ten (10) total dwelling units</u>	<u>Administrative Approval Comply with Zoning</u>	<u>Administrative Approval Comply with Zoning</u>
<u>Eleven (11) to Twenty (20) Total dwelling Units</u>	<u>Prohibited as TED</u>	<u>Administrative Approval Comply with Zoning</u>
<u>More Than Twenty (20) Total dwelling Units</u>	<u>Prohibited as TED</u>	
<u>Property is not suitable for TED 20.40.180.B</u>	<u>Prohibited as TED</u>	

~~d. — All surface infrastructure shall meet the standards in Title 12 and be approved by Development Services Engineering Division.~~

3. **Condominium Conversion to Townhome**

Conversion of condominium projects constructed prior to May 18, 2016, to Townhome Exemption Development (TED) are not subject to the provisions of TED regulations unless dwelling units are added.

4. **Notice to Neighboring Property Owners**

Notice of the application for a zoning compliance permit for Townhome Exemption Developments ~~of one to more than five dwelling units in the R and RT zoning districts~~ must be mailed to all owners of property within 150 feet of the subject parcel at least 15 days before a permit is issued. ~~(Mailed notice for projects of six or more dwelling units in those districts and ten or more dwelling units in RM, M1R, B, and C districts is required within the Conditional Use process.)~~

20.05.050.B: Parcel and Building Standards, Basic Standards

Table 20.05-3 [Parcel](#) and Building Standards (Residential Districts)

[Portion of Table]

Standard s	R21 5	R8 0	R4 0	R2 0	RT1 0	R8	R5. 4	RT5. 4	R3	RT2. 7	RM2. 7	RM 2	RM1. 5	RM1 -35	RM1 -45 RMH [1]	RM0. 5
CONVENTIONAL DEV'T																
Min. District Area (sq. ft.)	None	None	None	None	None	None	None	None	30,000	None	None	None	None	None	None	None
Minimum Parcel Size [8]																
^L Area (square feet)	215,000	80,000	40,000	20,000	10,000	8,000	5,400	5,400	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000
^L Area per unit (sq. ft.)	215,000	80,000	40,000	20,000	10,000	8,000	5,400	5,400	3,000	2,700	2,700	2,000	1,500	1,000	1,000	500

Townhome Exemption Development	<p>Minimum parcel area, minimum area per unit, and building height will be based on the zoning designation of the overall TED parcel found under Conventional Development in Table 20.05-3 above.</p> <p>Building setback and separation standards are as follows: Front or street side setbacks for Townhome Exemption Development dwellings are measured to the nearest parcel line or public circulation system such as a street, roadway, sidewalk, or trail, whichever is closer.</p> <p>Rear setbacks are measured to the parcel line.</p> <p>Side setbacks are measured to the parcel line. Minimum distance between buildings is the equivalent of two side setbacks. A minimum 6' interior side separation between buildings is allowed for zoning districts which require a minimum side yard setback distance of 7.5' or less.</p> <p>For B, C, and M1R districts refer to standards in Chapters 20.10.030 and 20.15.040.</p>
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[1] RMH standards do not apply to manufactured housing parks. Manufactured housing parks are subject to Title 16.

- [2] In a cluster or conservation development , when a contiguous set of parcels is served by a rear alley and no building line has been established by existing buildings on the subject block face , the minimum front setback requirement is 10 feet.
- [3] Combined total front and rear setback depths must equal at least 30 feet (e.g., 10' front and 20' rear or 15' each).
- [4] Minimum interior side setbacks for principal buildings must equal at least 33% of the height of the subject building .
- [5] Maximum height limit is 30 feet for buildings with primary roof pitch of less than 8 in 12 and 35 feet for buildings with primary roof pitch of 8 in 12 or greater.
- [6] Only applies per Section 20.05.040.C.
- [7] Area per unit calculation may include a density bonus up to 20% when a project meets the criteria in Section 20.05.040.C.
- [8] The minimum parcel area requirement does not apply to lots created in subdivisions approved under MCA 76-3, chapters 5 and 6 after May 6, 2019.

Explanation:

Setback and Building Separation information is removed from Table 20.05-3 to a new section in 20.110: Measurements and Exceptions to better clarify the distinction between TED Parcel setback requirements versus building separation between structures within a TED Parcel.

2. OTHER REGULATIONS; Residential, Business and Commercial, and Industrial Districts Chapters, 20.05, 20.10, and 20.15

Explanation: The Other Regulations sections in the zoning districts chapters are meant to inform users that other standards may exist outside of the district type chapters and to guide them to where those standards can be found. Adding the Use and Building Specific chapter will benefit not just users working through the TED process, but for various other uses and design types as well.

20.05.060: Residential Districts, Other Regulations

A. Overlay Districts

See Chapter 20.25.

B. Use and Building Specific Standards

See Chapter 20.40.140 for Townhouse Development Standards

See Chapter 20.40.180 for Townhome Exemption Development (TED) Standards

AC. Accessory Uses and Structures

(e.g., home occupations , detached garages , gazebos, and sheds)

See Chapter 20.45.

BD. Natural Resource Protection

See Chapter 20.50.

CE. Parking and Access

See Chapter 20.60.

DF. Landscaping

See Chapter 20.65.

E. Overlay Districts

See Chapter 20.25.

FG. Signs

See Chapter 20.75.

GH. Nonconformities

See Chapter 20.80.

20.10.050: Commercial Districts, Other Regulations

Uses and development in B and C districts may be subject to other provisions of this zoning ordinance, including the following:

A. Overlay Districts

See Chapter 20.25.

B. Use and Building Specific Standards

See Chapter 20.40

AC. Accessory Uses and Structures

See Chapter 20.45.

BD. Natural Resource Protection

See Chapter 20.50.

GE. Parking and Access

See Chapter 20.60.

DF. Landscaping

See Chapter 20.65.

~~E. Overlay Districts~~

~~See Chapter 20.25.~~

FG. Signs

See Chapter 20.75.

GH. Nonconformities

See Chapter 20.80.

20.15.060: Industrial Districts, Other Regulations

Uses and development in M districts may be subject to other provisions of this zoning ordinance, including the following:

A. Overlay Districts

See Chapter 20.25.

B. Use and Building Specific Standards

See Chapter 20.40

AC. Accessory Uses and Structures

See Chapter 20.45.

BD. Natural Resource Protection

See Chapter 20.50.

GE. Parking and Access

See Chapter 20.60.

DF. Landscaping

See Chapter 20.65.

~~E. Overlay Districts~~

~~See Chapter 20.25.~~

FG. Signs

See Chapter 20.75.

GH. Nonconformities

See Chapter 20.80.

3. 20.40.180: TOWNHOME EXEMPTION DEVELOPMENT (TED) STANDARDS

20.40.180: Townhome Exemption Development (TED) Standards

Commentary: Townhome vs. Townhouse - Townhome refers to a development type consisting of residential dwellings that may be single unit or townhouse and owned in fee simple on TED Ownership Units (TOUs) and located on a TED Parcel as two-unit or, multi-unit and described in above (20.05.040.D). Townhouse refers to a building type that is two or more units which have common walls along shared property lines as described in 20.05.030.B.3, and is required to meet standards detailed in 20.40.140. A townhouse can also be attached or be located on its own parcel (20.100.010).

A. Applicability

1. The following standards apply to Townhome Exemption Developments of more than five ten or fewer dwelling units in R and RT RT5.4, RT10, and all R districts (except R3), or more than nine 20 or fewer dwelling units in RT2.7, R3, and all RM, B, C, and M1R districts. Developments over these numbers are not permitted through the TED process.
2. The only permitted residential building types that may be included in a TED project are detached houses, two-unit townhouses, and 3+-unit townhouses as described in Section 20.05.030 and as allowed in the applicable zoning district.
3. Two unit townhouse and 3+-unit townhouse building types as part of TED projects must also comply with Section 20.40.140, Townhouse Standards.
4. TED shall not be used for developments including nonresidential uses.
45. Townhome Exemption Developments must meet all applicable City zoning municipal regulations, including Title 12 and Title 20. (see Figure 20.05-7).

B. Conditions not suitable for TED Maximum Density

Explanation:

This section would be changed as many of the things that could reduce the possible density of a project are now being added to the list of what could make a project not suitable for TED in the first place.

The maximum number of dwelling units allowed within a Townhome Exemption Development is computed by dividing the net area of the site by the subject zoning district's minimum parcel area-per unit standard. Net site area is calculated by subtracting all of the following from the site's gross land area:

If the subject property contains one or more of the following conditions, it is not suitable for development through the TED process and is not permitted for TED:

1. Any portion of the subject property contains land with areas designated by FEMA as Floodways and Special Flood Hazard Areas (SFHAs) subject to inundation by the 1% Annual Chance of Flood, or that would require a permit from one of the agencies listed on the "Joint Application for Proposed Work in Montana's Streams, Wetlands, Floodplain and Other Water Bodies". Special flood hazard areas;
2. Any portion of the subject property includes land with a slope of greater than 25%. Jurisdictional (Army Corps of Engineers) wetlands and waterways; \

- a. In situations where the proposed TED project does not include any disturbance of the area with slopes over 25%, and those areas with slope over 25% are surveyed and designated No Build/No Improvement zones in the project application and in the survey accompanying the final TED declaration, the Zoning Officer is authorized to waive 20.40.180.B.2
- 3. Any land that is already on an existing TED Parcel. ~~Land with a slope of greater than 25%;~~
- 4. Any property requiring dedicated Public Right-of-Way as determined by the Development Services Director in Consultation with the City Engineer. Reasons for requiring dedicated Public Right of Way include: ~~Riparian resource areas~~
 - a. Interrupted street grids;
 - b. Lack of capacity for provision of emergency services; or
 - c. Road sections called for in applicable previously adopted City Plans or Resolutions

Commentary: There are some situations where in order to best provide for orderly development and protect for the general health, safety and welfare of the community, development should include the creation of new public right of way, and should be directed to the subdivision process.

C. Setbacks and Separations

Minimum Setbacks ~~apply to TED Parcels and for dwellings in Townhome Exemption Developments~~ are found in Table 20.05-3. Building separation requirements apply for structures within a TED Parcel as well. Refer to 20.110.050.F for specific information on how setbacks and building separation requirements apply to TED projects.

D. On-Site Constraints ~~Minimum buildable envelope area~~

Each townhome exemption building envelope must have an average slope of no more than 25% and at least a 2,000 square foot contiguous building and disturbance area on parcels that are subject to hillside standards. See 20.50.010.B.1 for average slope determination.

Land that is subject to hazards such as swelling soils, subsidence, landslides, drainage issues or concerns, high ground water, and steep slopes, shall not cause any unmitigated adverse impacts on adjacent or nearby lands. Land with these hazards shall not receive zoning compliance approval until an engineering design sufficient to alleviate the foregoing hazard has been submitted by the applicant as follows:

- 1. Land with slopes averaging 15% or more: Provide a slope category map (20.50.010.C.1.a). Provide a complete geotechnical report by a soils engineer with a grading and drainage plan and storm water plan that evaluates the safety of construction on the subject property.
 - a. Each TED ownership unit (TOU) building envelope must have an average slope of no more than 25% and at least a 2,000 square foot contiguous building and disturbance area on parcels that are subject to hillside standards. See 20.50.010.B.1 for average slope determination.
- 2. Land with the potential for expansive soils, landslides, slope instability, and high ground water: Provide a complete geotechnical report prepared by a soils engineer with a grading and drainage plan and storm water plan that evaluates the safety of construction on the subject property and includes an evaluation of groundwater depth relative to basement construction.
- 3. A complete grading and drainage plan and storm water plan is required including storm drainage calculations for a 100-year frequency 24-hour storm to show that storm water shall be detained on site to pre-development levels, subject to review and approval by the City Engineer.

E. **Surface Infrastructure**

All ~~surface~~ infrastructure shall meet the standards in Title 12 and be approved by Development Services Engineering ~~Department~~ and meet the requirements of the City of Missoula Standards and Specifications Manual.

1. Garage access off of a public or private road must be a minimum of 20 feet from back of curb or edge of sidewalk, whichever is closer.
2. Garage or surface parking access off of a public or private alley must meet engineering requirements.
3. All public and/or private streets, roads, alleys, and or driveways must meet engineering requirements.
4. The Zoning Officer, in consultation with the City Engineer, is authorized to permit woonerfs (as described in City Subdivision Regulations) in place of streets or alleys.

F. **Blocks**

Blocks shall be designed to assure traffic safety and ease of ~~pedestrian non-motorized~~ and ~~motorized automobile~~ circulation. ~~Blocks lengths shall not exceed 480 feet in length. TOUs shall not be designed as through parcels. and be wide enough to allow two tiers of dwelling units in a Townhome Exemption Development unless topographic constraints y or other constraining circumstances are present as confirmed by the Zoning Officer .~~ ~~Pedestrian Non-motorized~~ access easements that create a break within a block may be required where there is a need for ~~pedestrian non-motorized connectivity, or~~ access to school bus or transit stops, schools, shopping, parks, common areas or open space, and community facilities.

G. **Parks and Trails**

The following applies to TED projects of more than 10 (ten) dwelling units.

1. Meet applicable goals and policies of the Missoula Open Space Plan, Long Range Transportation Plan, Active Transportation Plan, Conservation Lands Management Plan, Missoula County Parks and Conservation Plan and the Master Parks and Recreation Plan for the Greater Missoula Area:
 - a. Provide for trail connection to existing or planned public trail , park, open space, school, shopping, or community facilities.
 - b. Provide for protection of high quality resources and sensitive features by grant of conservation easement , dedication as public open space, or establishment of a managed common area.
 - c. Provide for useable private open space, landscaped boulevards, social interaction and livability.
2. Preserve and protect the site's natural resource values that include but are not limited to: ~~floodways~~, wetlands , riparian lands, hillsides ~~greater than 25% slope~~ , established upland forested areas, culturally significant features, natural drainage courses, irrigation canals and ditches, etc. Means of preservation and protection may include establishing a single common area, conservation easement , or dedication of said areas as public open space.
3. Provide for 11% of the net site area (see 20.40.180.B above) as contiguous, useable private or public open space, on site, that is accessible by residents of the development and useable for passive or active recreation in conformance with the following standards:
 - a. Private Open Space shall not be sloped more steeply than five percent and must be a minimum 40 feet in width and length, unless it is used for the purpose of a trail and then the area must be a minimum of 20 feet in width.

- b. Shall not include natural resource value areas of the site that are to be preserved.
- c. Shall not include required zoning setback areas, parking spaces, drainage basins, driveways, or public utility features.
- d. May be improved and dedicated as a public park, trail or open spaces subject to meeting minimum standards and approval of the Parks and Recreation Board.
- e. May be exempted from the requirement to provide land (20.40.180.G.3) for the following reasons:
 - 1. ~~If~~ a cash donation is given in lieu to the Parks Department, equal to the fair market value for the amount of land that would have been required. Fair market value is determined by a Montana State certified general real estate appraiser, hired and paid for by the applicant, and is based on the market value of the unsubdivided, unimproved land based upon the applicable zoning designation of the TED project.
 - a1. Cash-in-lieu is typically permitted only if there are existing parks or other facilities (e.g., public recreational area, open space, conservation easement, trail), within reasonably close proximity to the proposed TED, as described in the most recent version of the Master Parks Plan and measured along existing and accessible travel routes. Final determination on whether cash is permitted in lieu of actual parkland is left to the discretion of the Department of Parks and Recreation.
 - b2. Money received through this cash-in-lieu process is held to the following:
 - 1a. No more than 50% of money received may be used for maintenance on existing Parks facilities.
 - 2b. Money received by the Parks Department must be spent on facilities reasonably close in proximity to the TED, as described in the most recent version of the Master Parks Plan.
 - 2. Development on parcels in subdivisions approved subject to the parkland dedication requirements in effect after December 31, 2009.

H. Transit

If the Townhome Exemption Development is more ~~than ten dwelling units and~~ within one-fourth mile of an established public transit or school bus route, bus stop facilities may be required by the ~~Zoning Officer~~ ~~City Engineer~~. If the Townhome Exemption Development parcel is not in the Missoula Urban Transportation District, a petition to annex into the District shall be provided prior to receiving zoning compliance approval.

I. Review Process and Submittal Requirements

- 1. TED projects shall be submitted in their entirety in one townhome exemption application and reviewed in one zoning compliance permit (ZCP) application in compliance with section 20.85.120. Phasing is not permitted for TED projects.
- 2. The zoning compliance permit will lapse and have no further effect two years after it is issued by the Zoning Officer and the townhome exemption approval is rendered invalid unless:
 - a. A building permit has been issued; and
 - b. All infrastructure improvements, including but not limited to roads, curbs, gutters, utilities, sidewalks, boulevard improvements, storm water facilities, and drainage are installed and approved by the City Engineer or an estimate of probable cost is

- provided and an improvements agreement guaranteed by a security for the remaining infrastructure is approved by the Zoning Officer.
- c. The Zoning Officer has extended the ZCP expiration period for no more than one year after determining that there are circumstances warranting the extension. Requests for extensions must be submitted to the Zoning Officer before the ZCP expires. Any time extension granted for the ZCP shall be subject to the applicable zoning regulations in place at the time the Zoning Officer grants the time extension.
 3. The Zoning Officer is authorized to require additional materials for review beyond what is required through 20.85.120.
 4. If a public access easement is required for a TED project, it must be filed prior to ZCP approval.
 5. TED Projects on lots subdivided after November 6th, 2019, should expressly contemplate the proposed TED development during the subdivision review process.

Commentary: In situations where a development is large enough that it must first go through subdivision before filing declarations for TED parcels on the new lots, the fastest and most comprehensive way for the project to be reviewed and processed is all together during subdivision review. In cases where TED projects are proposed on lots in subdivisions that occurred after 2019 that did not expressly contemplate the proposed TED project, it is possible that the proposed TED project will require additional mitigation.

J. TED Declarations

1. TED projects shall be filed as one townhome exemption declaration per TED parcel.
2. The final TED declaration must be reviewed prior to when the declaration is filed by the Zoning Officer.

K. Design Standards for TED Projects with Detached Homes on Public Roads

1. For detached homes on TOU's adjacent to a public roadway, the entrance must face the public roadway. In cases where a TOU is adjacent to more than one public roadway, the entrance must face at least one public roadway.

4. 20.45.060: ACCESSORY USES AND STRUCTURES, ACCESSORY DWELLING UNIT

20.45.0600.B.1: Accessory Dwelling Units, Regulations for all Accessory Dwelling Units

General Standards

Accessory dwelling units are subject to all applicable regulations of the zoning district in which they are located, except as otherwise expressly stated in this section. Lots that are nonconforming as to minimum parcel area are not eligible. Accessory dwelling units are not permitted on TED Ownership Units (TOUs).

5. 20.80.020.B; NONCONFORMING LOTS

20.80.020: Nonconforming Lots

A. Description

1. A nonconforming lot is a lawfully created tract of record, shown on a plat or survey map recorded in the office of the County Clerk and Recorder that does not comply with all applicable minimum parcel area or parcel width standards of the zoning district in which the lot is located.
2. All nonconforming lots are subject to nonconformity determination provisions of 20.80.010.D.
3. Lots created through subdivisions approved under MCA 76-3, chapters 5 and 6 after May 6, 2019 are not considered to be nonconforming lots.

B. Use of Nonconforming Lots

1. Any nonconforming lot in an R district may be used as a building site for a single detached house , except as expressly stated in 20.80.020.B.3 and 20.80.020.B.4.
2. In nonresidential zoning districts , a nonconforming lot may be used as a building site and developed with a use allowed in the subject zoning district, except as expressly stated in 20.80.020.B.3 and 20.80.020.B.4. If the zoning allows a variety of uses or a variety of intensities of uses and one or more uses or intensities would comply with applicable parcel area and parcel width standards, while others would not, then only the uses or intensities that comply with applicable standards are permitted.
3. Effective May 4, 2005, when two contiguous lots are held in common ownership, and when both of the lots are nonconforming lots , they will be deemed a single parcel for the purpose of meeting applicable parcel area and parcel width requirements of the zoning district in which they are located. This provision treats contiguous lots under common ownership as merged for the purposes of the zoning regulation of bulk, size, and similar dimensional standards only and does not aggregate individual parcels in a manner affected by MCA § 76-3-103(16)(b).
 - a. Lots in the R215, R80, R40, R20, and RT10 zone districts that have been rendered nonconforming as to the minimum lot size requirements by the adoption of this ordinance (Title 20) are not subject to 20.80.020.B.3.
 - b. Lots created through subdivisions approved under MCA 76-3, chapters 5 and 6 after May 6, 2019 are not subject to 20.80.020.B.3.
4. A nonconforming lot may not be used as a building site if the land area resulted from:
 - a. The redesign or rearrangement of contiguous nonconforming tracts of record pursuant to a boundary line relocation exemption of the

Montana Subdivision and Platting Act occurring after October 23, 2006;
or

- b. The removal or destruction of a structure that utilized contiguous nonconforming lots as a single building site .

C. Parcel and Building Standards

- 1. Development on nonconforming lots must comply with the parcel and building standards of the subject zoning district unless otherwise expressly stated.
- 2. Nonconforming lots may not be adjusted in size or shape to create nonconformity or increase the degree of nonconformity for parcel area, parcel width, setbacks or other applicable parcel and building standards. Lot area or shape adjustments that decrease the extent of nonconformity are allowed.

6. 20.100.A; Terminology

Lot:

A contiguous area of land with defined boundaries under common ownership created by subdivision, subdivision exemption or their legal equivalent. TED ownership units are not lots.

TED Ownership Unit (TOU)

A parcel created through Townhome Exemption (MCA 76-3-203) that includes the land beneath each dwelling unit and can include land adjacent to each dwelling unit as shown in the approved Townhome Declaration Site Plan. Only one dwelling unit is associated with each TED ownership unit. TED ownership units are not lots.

7. 20.110; Measurements and Exceptions

20.110.010: Parcel Area

20.110.010 - Parcel Area

- A. Parcel area includes the total land area contained within the property lines of a parcel . The zoning officer is authorized to approve an administrative adjustment to permit the construction of a detached house on a parcel that would otherwise be prohibited solely because the parcel does not comply with the minimum parcel area standards of the subject zoning district. Such administrative adjustments are subject to the procedures and criteria of 20.85.110.
- B. The minimum parcel area requirement does not apply to lots created in subdivisions, approved under MCA 76-3, chapters 5 and 6, after May 6, 2019.
- C. The minimum parcel area requirement does not apply to TED Ownership Units (TOUs).

20.110.050.F: Setbacks and Separation of Residential Buildings on TED Parcels (**NEW SECTION**)

The following applies to buildings on TED Ownership Units (TOUs) created through the Townhome Exemption Development (TED) process after November 5, 2019.

1. TED projects (20.40.180) are required to meet setback standards for the underlying zoning district as described in Table 20.05-3.
 - a. Setbacks apply to the entire TED parcel used for TED projects as described in 20.110.050.A.1.
 - b. Setbacks for buildings within a TED parcel are measured to the nearest adjacent property line. A TOU separation line is not considered an adjacent property line. Depending on the design of the TED project, not every setback will apply to every TOU. (See 20.110.050.F.2 for information on TED building separation requirements).
2. Building separation
 - a. Building separation requirements apply on TED projects for structures on TOUs as described in 20.110.050.E. Minimum distance between buildings is the equivalent of two side setbacks.
 - b. A minimum building separation of 6' is allowed for zoning districts which require a side yard setback distance of 7.5' or less.

Mr. Brewer,

The Office of Housing and Community Development is in full support of the proposed amendments related to Townhome Exemption Development (TED). The amendments are in alignment with recommendations in *A Place to Call Home: Meeting Missoula's Housing Needs*. These amendments align closely with one of the key goals of the adopted housing policy, reducing barriers to new supply and promoting access to affordable homes. Specifically, they represent opportunities to reduce development costs and address barriers to building to currently zoned density.

The proposed TED amendments align with the following recommendations found in *A Place to Call Home*:

- Administrative approval for TEDs under the cap of 10 units (in R Districts, except R3, RT5.4 and RT10 Districts) and 20 units (in RT2.7, R3, RM Districts, All B,C, Districts M1R).
 - *A Place to Call Home* recommends the following:

“Ultimately, the City may want to consider a two-tiered approach that increase the size of by-right approval for TEDs to 10 units. Given the problematic nature of very large TEDs, which challenge the local government’s ability to protect general health and safety as provided for in the subdivision regulations, a higher tier of regulatory oversight should be considered for projects over a certain threshold”.
- The elimination of minimum parcel size for lots created in subdivisions approved under MCA 76-3, chapters 5 and 6 after May 6, 2019.
 - *A Place to Call Home* recommends the following:

“The current land use code limits minimum lot size at 3,000 square feet. Allowing smaller lots is contemplated as an incentive for TED and subdivision development under the proposed program, which could serve as a valuable pilot for eventual changes to underlying code across the board. This is critical for promoting infill development while also ensuring overall housing affordability”.

Thank you for the opportunity to provide comment and support for these proposed changes.

Eran Fowler Pehan
Director
Office of Housing and Community Development
406-552-6395

Ben,

Thanks for giving us the opportunity to comment on the proposed amendments for the Townhome Exemption Developments. The Parks Department supports the proposed changes as drafted, particularly in regards to 20.40.180. Item G. Parks and Trails.

Please let me know if you have any additional questions.

Thanks

Neil

Neil Miner, PLA

Parks and Trails Design/Development Manager

Missoula Parks and Recreation

600 Cregg Lane | Missoula, MT 59801

406-552-6264

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nminer@ci.missoula.mt.us

Ben,

On page 9 under section E. 3. I would like to add after "...must meet engineering requirements and the requirements of the adopted Fire Code at the time of construction."

I would like to see a subsection (maybe after Transit) entitled Fire Protection and have the following language attached:

- TED projects are subject to compliance with the adopted Fire Code.

I would also like to see a sentence within the subsection of Review Process and Submittal Requirements, something along the lines of:

- TED projects require the review and approval of the Fire Chief or his designee.

I hope that covers it, give me a shout if you need clarification on any of this. Thanks Ben for the opportunity to comment, I think this is a good step forward for these TED's.

Gordy Hughes
Assistant Fire Chief
552-6189

BEN:

I believe that I have possibly figured out your MCA citation problem in the draft ordinance text. The word "chapter" is erroneous and should be "part(s)" This needs to be corrected at three (3) locations that I previously identified to you.

The correct language should most accurately be cited as MCA, title 76, chapter 3, parts 5 and 6.". This revised language needs to be corrected in three (3) locations.

JIM NUGENT
City Attorney
552-6025



**Missoula Building
Industry Association**

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August 6, 2019

Missoula City County Planning Board Members
Sent Via Email: BrewerB@ci.missoula.mt.us

RE: Missoula Building Industry Association Government Affairs Committee
Proposed Amendments Related to Townhome Exemption Development (TED)

Dear Planning Board Members:

The Missoula Building Industry Association (MBIA) Government Affairs Committee appreciates the opportunity to provide comments regarding the proposed amendments related to Townhome Exemption Development (TED). The MBIA is a strong proponent of TED projects as they provide an important mechanism for permitting development projects.

The TED review process is a viable alternative to requiring lengthy, cumbersome and expensive subdivision review. The result of the current TED review requirements has been high-quality developments that have been processed and permitted quicker than would be possible for subdivision projects. The MBIA is unaware of any single TED project that has created undesirable living situations and/or unwise growth. Across the board, TED projects have provided an overwhelming net benefit to our community.

Reducing the usability of the current TED rules in an attempt to require subdivision review more frequently is a bad idea for our community. Subdivision projects are rare in Missoula. The main reason that they are seldomly pursued relates to the cost and associated review processes that they trigger. The state statutes that guide subdivision require no less than 30 elemental items be submitted for the smallest of subdivision projects. Requiring significant amounts of partially or wholly irrelevant information amplifies the reviewer's and the applicant's responsibilities and time commitments for completing a subdivision review. This adds undue cost to both the city and the developer. The TED review process allows for a detailed review while limiting resources needed to complete the review because the project review scope can be focused on the important review elements.

TED projects are ideal for locations with sophisticated zoning ordinances in place. The City of Missoula is greatly positioned with its updated Title 20 Zoning Ordinance. Title 20 has been updated on a regular basis which makes it a great compliment to TED review. On the other hand, Missoula's Subdivision regulations have not been updated since 2010. These have not been updated largely due to the lack of subdivision projects. Guiding



additional development projects toward the outdated subdivision review requirements will undoubtedly further delay development projects that are needed for our community.

Planning professionals from across the state have been having ongoing conversations on how to best update and fix the state subdivision rules. It is generally agreed upon that the current subdivision rules do not result in a review process that is suitable for its purpose. It would be unwise to shift Missoula's development projects back towards this outdated process. Missoula should continue to be a leader when it comes to being creative with policy. The MBIA strongly urges the City Council to find new opportunities within the framework of the TED rules that will continue to help our local economy, that will support efforts to expand workforce housing, and that add to our amazing community.

Here is a list of the MBIA's comments specific to the proposed amendments:

- Non-Residential TEDs are not Permitted
 - *State Law permits and encourages commercial and industry TEDs. Missoula should embrace this tool to strengthen local economy by permitting all possible TED project types.*
- Removing Conditional Use Permitting (CUP) Review Process
 - *We support the proposed amendment that will permit administrative review for all TEDs. This will make the review process as expedited and consistent as possible.*
- TED Projects are Limited to 20 Units
 - *Missoula needs large projects to bolster our housing supply. Approving new housing units of all price ranges will help maintain and/or lower current housing prices.*
- TEDs are not Permitted on Properties with Floodplain Designations
 - *Existing floodplain requirements adequately address all applicable floodplain considerations for developments. There is no need to disallow TEDs on properties with areas of floodplains.*
- TEDs are not Permitted on Properties with Instances of 25% Slope
 - *Existing slope requirements adequately address all applicable slope considerations for developments. There is no need to disallow TEDs on properties with areas of 25% slope.*
- TEDs are not Permitted on Existing TED Units
 - *Subsequent TED projects should be permitted on units created through the TED review process. Any new TED project will be subject to the TED rules. There is no need to permanently restrict future TEDs from occurring on projects with existing TED approvals.*

- TED Projects Under 10 Units are not Required to Provide Parkland Dedication
 - *This is a positive amendment. It will reduce project costs, which promotes affordable and workforce housing.*
- Phasing is not Permitted
 - *Phasing should be allowed to provide for the systematic development of the site. Phasing permits a developer to have some flexibility with how they approach the development of their project, while at the same time ensuring that a site is completely developed.*
- ZCP is Valid for Two Years
 - *A 3-4 year approval will better provide adequate time for projects to be constructed completely in accordance with the City's requirements.*
- ZCP can be Extended for One Additional Year
 - *Unlimited extensions should be permitted. At the very least a project should have at minimum of six years to be completed. This could come in the form of a 3-4 year initial ZCP and a 3-4 year extension.*
- New Subdivision Projects must Contemplate TED Projects
 - *This restriction is unnecessary. Most TED projects are occurring on previously subdivided lots. A newly approved subdivision lot will have gone through a far more detailed review process than all other subdivision projects. New subdivision lots should not be penalized.*
- ADUs not Permitted on TED Units
 - *ADUs provide an opportunity for infill housing. Let's find a way to permit ADUs on TED units.*

Thank you for your consideration.

Sincerely,
MBIA Government Affairs Committee



Paul Forsting, Committee Chairman

August 6, 2019

Dear Planning Board Members,

On behalf of the 700+ members of the Missoula Organization of REALTORS® we ask that you do not recommend adoption of the proposed amendments to the Townhome Exemption Development (TED) regulations. We disagree with the premise that current TED regulations have limited the City's "ability to adequately accommodate orderly development while protecting the public health, safety and welfare of the community". We are unaware of any approved TED projects that have jeopardized orderly development or public health, safety and welfare of the community.

MOR has been at the forefront of communicating the increasing challenges to Missoula's housing affordability with our 2018 Making Missoula Home study and the annual housing reports. Our information demonstrates an increasing demand for, and a decreasing supply of, homes in our market. At a time when policy makers should be working to promote increased residential development, these proposed rules will significantly limit an effective development tool, further exacerbating affordability problems.

TEDs have provided builders with the opportunity to lower development cost, reduce length of reviews and increase the supply of residential housing. Since the 2011 enactment of TED legislation, 461 residential units have been created by TEDs while at the same time only 55 units were created through subdivision. TED project larger than 10 units have also been key to significantly adding to the housing supply, representing 61% or 281 units created. Forcing projects over 10 units into the subdivision process will increase time, cost and have an immediate adverse impact to housing development.

If the city believes that it needs to further direct TED development, we would encourage them to utilize the zoning ordinances rather than subdivision as the avenue to better refine the approach. We should be looking for ways to increase housing stocks thereby reducing pressure on home prices created by the housing shortage in Missoula. After consideration of the significant negative impact to development of housing in Missoula we would ask that the board oppose recommending the adoption of these regulations.

Sincerely,



Dwight Easton
Public Affairs Director
Missoula Organization of REALTORS®

To Whom It May Concern:

Thank you for giving me the opportunity to comment on the proposed TED regulations. I have used the TED regulations to develop several small townhome projects (5 or fewer units) in Missoula.

I understand the need for a traditional subdivision for very large projects, or where there is green field development involved. However, this ordinance is not limited to just green field development, or to large TED projects. It applies to all TED projects, and I am concerned the ordinance will have unintended and unforeseen consequences that will create barriers for small, in-fill TED projects.

For example, a small in-fill parcel that is properly zoned and served by existing public infrastructure could still be prohibited as a TED just because a portion of the property is in the floodway. Development of the floodway is not permitted anyway, and whether or not the project happens to be a TED project does not change this. Nevertheless, under this ordinance, all TED projects will be completely prohibited on any parcel including a river, creek, or floodplain within the City limits. Similarly, if any part of the property has a 25% slope, the TED option is not allowed, regardless of how the plan would affect, or not affect, the slope. Are these "blunt instrument" restrictions really what the City is trying to achieve with this ordinance?

As another example, TED projects would be prohibited on "any land that is already on an existing TED Parcel." It is unclear to me what this is supposed to address, but if the intent is to prohibit any amendments or changes to existing TED approvals, I would question the reason for this. The fact is, plans change, markets change, and developers quite often have varying visions for development. It seems to me very arbitrary to prohibit a TED project simply because there was a previous TED plan that was approved, but never built.

Again, I do not disagree with proposed ordinance as it relates to green field development and large projects. But this ordinance regulates all TED projects of any size or location, and I am concerned the ordinance is a disproportionate response to the problem it is intended to solve. I am concerned that it is jeopardizing the most effective tool that developers have to efficiently create small in-fill housing projects. I have given you a few examples of where this will be the case, but I worry there will be other unintended and unforeseen consequences for small, in-fill TED projects.

I know that the City's planning staff has put a tremendous amount of time and effort into this ordinance and on the whole I think it is probably a good approach to regulating green field development and large projects. However, I respectfully suggest that the new ordinance and all of its restrictions should be limited to TED projects of 10 or more units. Small in-fill projects of fewer than 10 units that are already served by public infrastructure should be exempt from these new restrictions.

Thank you for taking the time to consider my comments.

Reghan Brandt

Missoula City Council Land Use and Planning Committee Minutes

Date: July 24, 2019
Time: 10:15 am
Location: City Council Chambers
140 W. Pine Street, Missoula , MT

Members present: Stacie Anderson, Michelle Cares, John DiBari, Heather Harp, Jordan Hess, Gwen Jones, Julie Merritt, Bryan von Lossberg, Heidi West
Members absent: Julie Armstrong, Mirtha Becerra, Jesse Ramos
Others present: Jim Nugent, Jeremy Keene, Laval Means, Ben Brewer, Randy Frazier

1. ADMINISTRATIVE BUSINESS

1.1 Roll Call

1.2 Approval of the Minutes

Minutes from July 17, 2019 were approved as presented.

2. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

3. COMMITTEE BUSINESS

3.1 Ordinance to Amend Title 20 Related to Townhome Exemption Development (TED)

Ben Brewer, Development Services, spoke on this item along with a PowerPoint presentation attached to the item record.

John DiBari stated that Townhome Exemption Developments are a good tool for housing in our community.

Ben Brewer provided background on the TED Ordinance, information on the Interim Ordinance, the strategy selection, and the proposed amended TED Ordinance. He shared that the State of Montana created an avenue for local governments to allow TEDs within their community. Most TED projects in Missoula, approximately 85 percent, consist of 10 units or less; approximately 15 percent are larger projects which equate to around 60 percent of the total TED units in our community. TEDs are not allowed in all Montana communities; Missoula is considered unique in its allowance of TEDs.

Ben Brewer covered how TED projects evolved over the years. The need to update the TED ordinance has been realized as project complexities had presented themselves. The recommended amendments in this request would address problems such as natural resource constraints, connectivity, off-site improvement needs. An interim ordinance was passed to address these issues and is set to expire; the intent is to have approved amendments to the ordinance passed to avoid a gap between when the interim ordinance expires and the Ordinance to Amend Title 20 related to Townhome Exemption (TED) is enacted.

Heather Harp asked about the public process. Ben Brewer covered the outreach efforts made during the stages of bringing this amendment forward. Additionally, Mr. Brewer covered the TED general ordinance timeline, the goals for the community, and the challenges that had been experienced. Mr. Brewer read the Leadership Statement which was developed to guide the creation of the amendments to the TED ordinance as presented which include: defining TEDs as SFR (single family residence) Townhouse residential building type only; permitting TEDs in T20 zoning districts; capping TED projects to 20 dwelling units or less; prohibiting TEDs from areas with substantial constraints; prohibiting TEDs where connectivity is jeopardized.

Julie Merritt asked if the ordinance changes conflicted with state law. Ben Brewer informed that state law does not provide guidance related to TEDs. John DiBari added that TEDs are not required by state law; a community can determine whether to allow TEDs or not.

Michelle Cares asked if there would be another route for development in areas with challenges. Ben Brewer said that a project could move forward by going through the subdivision process. John DiBari commented on why certain projects are appropriate for TED and others should go through a subdivision process.

John DiBari asked Mr. Brewer to come back to Land Use & Planning to continue this discussion.

4. ADJOURNMENT