

## EXECUTIVE SUMMARY

**CASE PLANNER:** Anita McNamara, AICP, CFM

**REVIEWED AND  
APPROVED BY:** Mary McCrea

**PUBLIC HEARINGS:** CC: December 17, 2018

**AGENDA ITEM:** **Hillview Crossing Townhome  
Exemption Development (TED)  
Conditional Use Request**

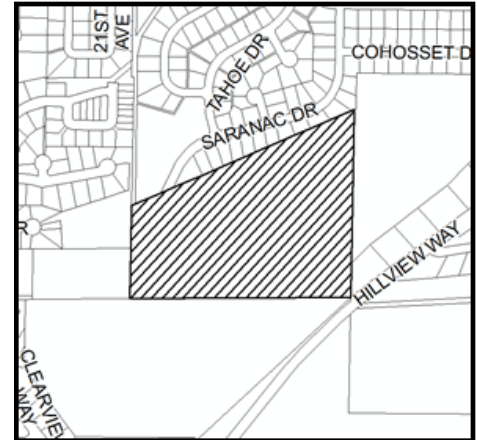
**APPLICANT:** Hillview Crossing Missoula, LLC  
3605 Arthur St  
Caldwell, ID 83605

**PROPERTY OWNERS:** Hillview Crossing Missoula, LLC  
3605 Arthur St  
Caldwell, ID 83605

**AGENT:** Territorial Landworks, Inc.  
1817 South Avenue West, Suite A  
Missoula, MT 59801

**LOCATION OF  
REQUEST:** West of Hillview Way, south of Wapikya area (see map)

**LEGAL DESCRIPTION:** A strip, piece or parcel of land situated in Lot 4, Section 5 and the ENE1/4 of Section 6, Township 12 North, Range 19 West, Missoula county, Montana and more particularly described as follows: Beginning at the North section corner common to Section 5 and 6, Township 12 North, Range 19 West; thence East along the section line a distance of 1,320 feet; thence S.0°10'W. a distance of 1,195.2 feet; thence S.89°53'30"W. a distance of 1,324 feet; thence S.0°22'W. a distance of 1,320 feet; thence S.89°53'30"W. a distance of 1,322.6 feet; thence N.0°25'E. a distance of 1,536.1 feet; thence N.33°34'E. a distance of 282.34 feet; thence N.64°04'E. a distance of 509.75 feet; thence N.12°27'W. a distance of 538.6 feet; thence East 828.9 feet to the place of beginning. EXCEPTING THEREFROM that portion platted as Wapikiya Addition #1, a platted subdivision in Missoula County, Montana, according to the official recorded plat thereof in Book 4 of Plats at Page 9. ALSO EXCEPTING THEREFROM that portion platted as Wapikiya Addition #2, a platted subdivision in Missoula County, Montana, according to the official recorded plat thereof in Book 5 of Plats at Page 13. ALSO EXCEPTING THEREFROM that portion platted as Wapikiya Addition #3, a platted subdivision in Missoula County, Montana, according to the official recorded plat thereof in Book 6 of Plats at Pages 1 and 2, and amended Plat in Book 6 of Plats at Pages 7 and 8.



**LEGAL  
NOTIFICATION:**

The legal ad for the December 17, 2018 public hearing was published in the *Missoulian* on December 2 and 9, 2018. The site was posted on November 20, 2018. Adjacent property owners within 150 feet of the site were notified by certified mail on November 2, 2018.

**ZONING:**

RT10 Residential

**GROWTH POLICY:**

The applicable regional plan is *Our Missoula: City Growth Policy 2035*, which recommends a land use designation of Residential Medium, with 3-11 dwelling units per acre. The applicable vicinity plan is the *1986 South Hills Comprehensive Plan*, which recommends a density of 2 dwelling units per acre.

Surrounding Land Uses	Surrounding Zoning
North: Residential	R8 Residential
South: Residential	R40 Residential
East: Residential / Common Area	R8 Residential
West: Residential / City Park / Vacant	RT10/PUD Homesteads; R40/PUD Homesteads; R40

**RECOMMENDATION**

**APPROVAL** of the townhome exemption development conditional use request based on the findings of fact in the staff report and subject to the conditions of approval.

# Hillview CrossingTownhome Exemption Development (TED) Conditional Use Request

December 6, 2018

## I. RECOMMENDED MOTION

**APPROVAL** of the townhome exemption development conditional use, in accordance with Missoula City Zoning Ordinance, Title 20, Sections 20.05.040D, 20.05.050, 20.40.180, and 20.85.070, based on the findings of fact in the staff report and subject to the conditions of approval.

## II. CONDITIONS OF APPROVAL

1. The Hillview Crossing townhome exemption development conditional use shall comply with all applicable portions of Title 20. Plans submitted at the time of zoning compliance approval of the townhome exemption declaration and of building permit application shall substantially conform to the plans submitted at the time of conditional use review, subject to the review and approval of Development Services.
2. The applicant shall revise the Stormwater Plan to address both Section 5.2B and Section 5.2C related to stormwater calculations as specified in the email message from the City Assistant City Engineer dated October 9, 2018, prior to zoning compliance approval of the townhome exemption declaration. The final stormwater plan for construction shall be reviewed and approved by City Engineering prior to zoning compliance approval of the townhome exemption declaration. Stormwater facilities shall be installed prior to building permit approval for the first structure or included in an Improvements Agreement guaranteed by a security subject to review and approval of the City Engineer.
3. The final stormwater plan shall specify long-term maintenance requirements for the stormwater facilities. The applicant shall specify in the Development Covenants that the maintenance of the stormwater facilities shall be the responsibility of the Developer, transferring to the Homeowners' Association once formed and shall include all maintenance and replacement costs as outlined in the final stormwater plan, subject to review and approval of Development Services, prior to zoning compliance approval of the townhome exemption declaration.
4. The applicant shall prepare plans for and install a pedestrian crossing at the intersection of Hillview Way and the southern segment of Road "A" to include crosswalk markings, crossing beacon and ADA accessible ramps. Plans shall be approved by the City Engineer prior to zoning compliance approval of the townhome exemption declaration. Improvements shall be installed prior to building permit approval of the first structure or included in an Improvements Agreement guaranteed by a security, subject to review and approval of the City Engineer.
5. The applicant shall provide a minimum 20-foot wide non-motorized trail easement and construct the trail within the easement through the subject property to connect the existing Tonkin Trail south of the TED to Wapikya Park. Plans shall be reviewed and approved by City Parks and Recreation and Development Services prior to zoning compliance approval of the townhome exemption declaration and improvements shall be installed prior to building permit approval of the first structure or included in an Improvements Agreement guaranteed by a security, subject to review and approval of the City Engineer and City Parks and Recreation. The developer shall work with the City's Conservation Land Manager to determine the exact width and location for the trail and shall construct the trail during construction of development to maximize cost-efficiency and reduce disturbance.

6. The applicant shall provide a 20-foot wide public access easement in the location of the east-west trail as shown on the site development plan, subject to review and approval by City Parks and Recreation and Development Services, prior to zoning compliance approval of the townhome exemption declaration. The developer shall employ effective means to protect the trail easement areas from construction disturbance such as a temporary fence throughout construction.
7. The applicant shall provide a minimum 20-foot wide non-motorized trail easement and construct the portion of the relocated Tonkin Trail where it connects with Hillview Way as shown on the site development plan. Plans shall be reviewed and approved by City Parks and Recreation and Development Services prior to zoning compliance approval of the townhome exemption declaration and improvements shall be installed prior to building permit approval of the first structure or included in an Improvements Agreement guaranteed by a security, subject to review and approval of the City Engineer and City Parks and Recreation.
8. The applicant shall prepare a plan for protection of trail easement areas during construction, subject to review and approval of City Parks and Recreation and Development Services, prior to zoning compliance approval of the townhome exemption declaration. The developer shall employ effective means to protect the trail easement areas from construction disturbance such as a temporary fence throughout construction.
9. The applicant shall dedicate a minimum 20-foot wide easement and construct a paved pedestrian pathway/stairs from southern segment of Road "A" through the common area extending between unit ownership parcel numbers 8 and 9, crossing Road "B" then continuing between unit ownership parcel number 18 and 19, crossing the common area and extending between unit ownership parcels 38 and 39, crossing the northern segment of Road "A" then continuing between unit ownership parcel number 56 and 57. An easement for future trail improvements shall be dedicated from northern parcel boundaries of unit ownership parcel numbers 56 & 57 northward through the common area and connecting to the east-west trail easement near the northern property line of the TED. Plans for the pedestrian pathway/stairs shall be reviewed and approved by Development Services prior to zoning compliance approval of the townhome exemption declaration. Improvements shall be installed prior to building permit approval of the first structure or included in an Improvements Agreement guaranteed by a security, subject to review and approval by Development Services.
10. The applicant shall specify in the Development Covenants that the maintenance of the paved pedestrian pathway/stairs shall be the responsibility of the developer, transferring to the Homeowners' Association once formed and shall include maintenance and replacement, drainage facilities and snow removal, subject to review and approval of Development Services, prior to zoning compliance approval of the townhome exemption declaration.
11. The applicant shall prepare plans and install road improvements for the northern segment of Road "A" and Road "B" resulting in a 28-foot wide back-of-curb to back-of-curb road section within a 52-foot wide public access easement including paving, curb and gutter, drainage facilities, ADA improvements and 5-foot wide curbside sidewalk on each side of the road per the Site Development Plan Exhibit in the Conditional Use application packet. Plans for road improvements shall be approved by the City Engineer prior to zoning compliance approval of the townhome exemption declaration. Improvements shall be installed prior to building permit approval of the first structure or included in an Improvements Agreement guaranteed by a security, subject to review and approval of the City Engineer.

12. The applicant shall prepare plans and install road improvements for the southern segment of Road "A" resulting in a 21-foot wide back-of-curb to back-of-curb road section within a 40-foot wide public access easement including paving, curb and gutter, drainage facilities, ADA improvements and a 5-foot wide curbside sidewalk on one side of the road per the Site Development Plan Exhibit in the Conditional Use application packet. Plans for road improvements shall be approved by the City Engineer prior to zoning compliance approval of the townhome exemption declaration. Improvements shall be installed prior to building permit approval of the first structure or included in an Improvements Agreement guaranteed by a security, subject to review and approval of the City Engineer.
13. The Development Covenants shall include a statement that parking is prohibited on one side of the northern segment of Road "A" and Road "B" and both sides of the southern segment of Road "A" subject to review and approval of Development Services, prior to zoning compliance approval of the townhome exemption declaration. The road improvement plans for Road "A" and Road "B" shall include provisions for restricting parking on one side of the northern segment of Road "A" and Road "B" and on both sides of the southern segment of Road "A" in the form of painting the curb yellow and installation of No parking signage, subject to review and approval of the City Engineer, prior to zoning compliance approval of the townhome exemption declaration.
14. The following statement shall appear in the Development Covenants, subject to review and approval by Development Services, prior to zoning compliance approval of the townhome exemption declaration: "The purchaser and/or owner of the lot or unit understands and agrees that private road construction, maintenance, drainage facilities and snow removal for Road "A" and Road "B" are the obligation of the owner or property owners' association and that the City of Missoula is in no way obligated to perform such maintenance or upkeep until the roads are brought up to standards and accepted by the City of Missoula for maintenance."
15. The applicant shall provide a boulevard landscaping and maintenance plan attached to the Development Covenants for the boulevards within the public access easement for the northern and southern segment of Road "A" and Road "B" including tree palette, general planting plan and irrigation, subject to review and approval by City Parks and Recreation and Development Services, prior to zoning compliance approval of the townhome exemption declaration. The boulevard landscaping shall be included in an Improvements Agreement guaranteed by a security, subject to review and approval by City Parks and Recreation.
16. The applicant shall petition into the Missoula Urban Transportation District prior to zoning compliance approval of the townhome exemption declaration.
17. The applicant shall provide a hydrant plan to include existing or proposed hydrant locations meeting fire code standards, subject to review and approval by City Fire, prior to zoning compliance approval of the townhome exemption declaration. For new hydrants required to serve the TED, hydrant installation shall occur prior to combustible construction.
18. The applicant shall provide a Missoula County Weed District approved Revegetation Plan for disturbed areas of the site prior to zoning compliance approval of the townhome declaration, subject to review and approval by Development Services.
19. The applicant shall provide a Missoula County Weed District approved Weed Management Plan for common areas and undeveloped portions of the site prior to zoning compliance approval of the townhome declaration, subject to review and approval by Development Services. The Weed Management Plan shall specify that the

developer is responsible for weed management for all undeveloped land including the common area. Once the Homeowners' Association is established, weed management of the common areas and boulevard areas within the public access easement of the private roads transfers from the developer to the Homeowners' Association. Control of weed management on developed unit ownership parcels shall transfer from the developer to each unit owner at the time of sale.

20. The Weed Management Plan approved by the Missoula County Weed District shall be attached as an Appendix to the Development Covenants prior to zoning compliance approval of the townhome exemption declaration, subject to review and approval by Development Services.
21. The applicant shall include a common area landscaping and maintenance plan for all common areas, including irrigation, street trees along the portions of Road "A" and Road "B" adjacent to common areas and parks and lawn for park areas shown with hatching on the Site Development Plan, subject to review and approval by City Parks and Recreation and Development Services prior to zoning compliance approval of the townhome exemption declaration. Improvements shall be installed prior to building permit approval of the first structure or included in an Improvements Agreement guaranteed by a security, subject to review and approval of City Parks and Recreation and Development Services.
22. The following statements shall appear in the Development Covenants, subject to review and approval by Development Services, prior to zoning compliance approval of the townhome exemption declaration:
  - a. "Radon Mitigation: The EPA has designated the Missoula area as having a high radon gas potential (Zone 1). Therefore, the Missoula City-County Health Department recommends that all new buildings incorporate radon resistant construction features."
  - b. "Wood Stoves: The Missoula City-County Air Pollution Control Program regulations prohibit the installation of wood burning stoves or fireplaces inside the Air Stagnation Zone. This development is inside the Air Stagnation Zone. Pellet stoves that meet emission requirements or natural gas or propane fireplaces may be installed. Pellet Stoves require an installation permit from the Health Department."
  - c. "Energy Efficiency: Builders should consider using energy efficient building techniques such as building orientation to the sun, appropriately sized eaves, wind breaks, super insulation techniques, day lighting, passive solar design, photovoltaic cells, and ground source heat pumps for heating/cooling. Ground Source heat pumps are usually more efficient and so create less pollution than other systems for heating and cooling. Increased energy efficiency reduces air pollution, reduces the need for people to use cheaper heating methods that pollute more and helps protect the consumer from energy price changes."
23. The applicant shall include the following Amendments section in the Development Covenants subject to review and approval by Development Services, prior to zoning compliance approval of the townhome exemption declaration: "Amendments: Sections relating to Common Area Landscaping and Maintenance Plan, Weed Management Plan, Boulevard Landscaping and Maintenance Plan, Pedestrian Pathway/Stairs and Sidewalk Maintenance, Private Road Maintenance, Parking on Road "A" (north and south segments) and Road "B", Stormwater Facilities Maintenance, Radon Mitigation, Woodstoves, and Energy Efficiency may not be amended or deleted without prior written approval of the governing body."

### **III. INTRODUCTION**

Development Services has received a request from Hillview Crossing LLC, represented by Territorial Landworks Inc., requesting approval of a conditional use for a Townhome Exemption Development (TED) consisting of 68 dwelling units (34 two-unit buildings) on 25.63 acres. Title 20 Zoning Ordinance requires conditional use approval of a Townhome Exemption Development (TED) of more than 10 units.

Title 20, Section 20.100.010 defines a Townhome Exemption Development (TED) as a residential development containing one or more dwelling units that are owned subject to an arrangement under which persons own their own units and hold separate title to the land beneath their units but under which they may jointly own the common area and facilities in accordance with MCA §§ 70-23-102(14) and 76-3-203.

### **IV. APPLICABLE ZONING REGULATIONS IN TITLE 20**

Title 20 Zoning Ordinance, Section 20.05.040D describes the process for review of Townhome Exemption Developments and Section 20.05.050 describes the parcel and building standards. Section 20.40.180 describes the use and building-specific standards for Townhome Exemption Developments.

Title 20 Zoning Ordinance, Section 20.85.070(H) outlines the review criteria for review of conditional use applications. According to the Zoning Ordinance, “not all review criteria will apply in every case... [and] only the applicable review criteria need to be met.” Uses that require conditional use approval may be approved by the City Council only when Council determines that the proposed uses meet all the applicable review criteria. Section 20.85.070(I) outlines “Factors to be Considered” that City Council may specifically consider in determining whether all applicable review criteria have been satisfied. This townhome proposal has also been reviewed according to TED-specific standards as outlined in Title 20, Section 20.40.180.

### **V. CONDITIONAL USE REVIEW CRITERIA**

#### **Findings of Fact:**

##### **General**

1. The subject property is located west of Hillview Way, south of the Wapikya area in the South 39<sup>th</sup> Street neighborhood and north of the Moose Can Gully neighborhood.
2. The subject property is vacant and is surrounded by existing residential development.
3. The subject property will be accessed via Hillview Way. Two new private cul-de-sac streets are proposed. Road “A” provides access from Hillview Way and will serve forty (40) dwelling units, while Road “B”, which is accessed from Road “A” will serve twenty-eight (28) dwelling units within the development.
4. The property is subject to Special Improvement District Agreement 549 for improvements to Hillview Way. This SID assesses property based on number and dwelling building type and does not terminate until 2040.
5. The subject property is surrounded by the Missoula Urban Transportation District. The closest bus is Route 12, roughly six-tenths of a mile north measured from the intersection of Road “A” and Hillview Way. Route 12 runs along S 39<sup>th</sup> Street.
6. The subject property has a gross site area of 25.63 acres and a net site area of 22.76 acres. The net site area excludes portions of the site with steep slopes.
7. There are curbside sidewalks along the eastside of Hillview Way, the opposite side of the street from the subject property.

8. Bicycle transportation facilities are located along both the east and west sides of Hillview Way.
9. The subject property is inside the Urban Growth Area, the Wastewater Facilities Service Area, and Air Stagnation Zone.
10. The property is served by City sewer and water and is located within an established service area for Missoula emergency services.

#### Growth Policy

11. The applicable regional plan is the Our Missoula 2035 City Growth Policy, which recommends a land use designation of “Residential Medium, 3-11 dwelling units per acre.”
12. The applicable vicinity plan is the *1986 South Hills Comprehensive Plan*, which recommended a density of “two dwelling units per acre” due to slopes, poor soils for septic systems and limited availability of city sewer at the time.
13. The subject property contains 25.63 acres of which 22.76 acres are developable and 2.87 acres contain slopes in excess of 25%. The overall density for the 22.76 acres is just under three dwelling units per acre.

#### Zoning

##### Title 20 Zoning Standards

14. According to Title 20, Section 20.05.040.D, townhome exemption developments of greater than 10 units require a conditional use approval.
15. The zoning of surrounding properties is R8 Residential, RT10/PUD/Homesteads, R40/PUD/Homesteads, R40 Residential and RM1-35 (multi-dwelling).
16. Surrounding uses in the area include primarily single-dwellings with some two-unit residential development and city parkland.
17. Access to the subject property is from Hillview Way, which is a public right-of-way.
18. The subject property is zoned RT10 (two-unit/townhouse).
19. Per Title 20 Section 20.40.180.B, townhome exemption development (TED) density is determined by dividing the net area of the site by the subject zoning district's minimum parcel area-per unit standard.
20. Title 20 Section 20.40.180.B.1-4 states that net site area cannot include land that is a special flood hazard area; sloped at greater than 25%; riparian resource area; or wetlands and waterways under the jurisdiction of the Army Corps of Engineers. The subject property contains areas of slopes greater than 25%. The application packet includes a slopes category map that shows that  $\pm 2.1$  acres of the site have slopes greater than 25%. The site plan shows that the net area after removing the slopes greater than 25% is  $\pm 22.76$  acres.
21. The net area of the north portion of this parcel intended for the TED development is 22.76 acres or 991,429 square feet. The zoning requires 10,000 square feet per unit, which equals a density of approximately 2.99 dwelling units per acre and up to 99 dwelling units.
22. The applicant proposes 68 dwelling units for this parcel, which equals a density of approximately 2.99 dwelling units per acre. The proposal meets the density requirement.



23. Per Title 20 Section 20.40.180.C, TED projects must meet the setbacks of the underlying zoning district. Setbacks for the RT10 Residential district are 20 feet for front and rear yards, 7.5 feet or 1/3 the height, whichever is greater for side interior yards, and 10 feet for street side yards.
24. Per the applicant's site development plan, each unit appears to meet all required setbacks: 20 feet in front and rear, and either 7.5 feet or 33% of the building height, whichever is greater, for side interior yards, and 10 feet for street side yards. Compliance with setbacks will be confirmed prior to building permit approval per condition of approval #1. A condition of approval requires substantial compliance to the plan submitted for the Conditional Use with plans submitted at the time of zoning compliance approval of the townhome declaration and of building permit application.
25. Per Title 20 Section 20.40.180.F, blocks may not be longer than 480 feet. Pedestrian access easements that create a break within a block may be required where there is a need for pedestrian access to school bus or transit stops, schools, shopping, parks, common areas or open space, and community facilities. The applicant shows mid-block pedestrian crossings on the northern segment of Road "A" and on Road "B." This provides a pedestrian crossing of each cul-de-sac road but does not mitigate block length by providing a pedestrian connection mid-block between the northern segment of Road "A" and Road "B" and between Road "B" and the southern segment of Road "A."
26. A pedestrian walking from the eastern end of the northern segment of Road "A" travels roughly a half mile to reach Hillview Way. Condition of approval #9 will help mitigate the longer distances by creating a more direct pedestrian connection between the northern segment of Road "A" with the southern segment of Road "A" greatly shortening the distance to the planned Hillview Way pedestrian crossing and bringing the TED into compliance with the maximum block length standards.
27. City Parks provided comment that walkability is important within this development to promote health and wellness and that it is essential that residents, including children walking to school, can access the sidewalk and trail system within a reasonable distance from each unit and between blocks and connect to routes to services and to the Hillview Way sidewalk.
28. The Missoula Urban Transportation District provided comment that with the current proposed layout of the site, with cul-de-sacs with lengths up to a half mile, the layout would require a pedestrian to walk between 0.9 and 1.2 miles to reach the closest bus stop. A walking path through the center or along the eastern area of the development would shorten the walking distance to Hillview Way, which would reduce the distance to the closest bus stop by 12 to 20%. As the Future Long-Term Network in the MUTD Strategic Plan plans for bus service on Hillview Way, this development has an opportunity to be designed and built to support public transit.
29. Title 20 Section 20.40.180.G.3 specifies that 11% of the site area must be used as open space accessible to residents of the development and useable for passive or active recreation. Per the standard, 2.5 acres of open space is required for this TED development. The applicant's site plan shows 2.68 acres of park/trail/open space in the four HOA park areas, the north-south trail easement and the east-west trail easement on this TED parcel meeting the standard.
30. Conditions of approval require the applicant to dedicate public access easements for both the north-south and east-west trails on the site layout plan and to construct the trail connections from the Tonkin Trail to Wapikya Park and from the Tonkin Trail to

Hillview Way, subject to review and approval by City Parks and Recreation. A condition also requires the applicant to dedicate the trail easement areas for a future east-west trail at the northern edge of the subject property.

31. Conditions of approval require the applicant prepare a plan for protection of trail easement areas during construction, subject to review and approval of City Parks and Recreation and Development Services, prior to zoning compliance approval of the townhome exemption declaration.
32. Per Title 20 Section 20.40.180.H bus stop facilities may be required for TEDs within one-fourth mile of an established public transit or school bus route. 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.
33. Although surrounding properties are within the Missoula Urban Transportation District (MUTD), the subject site is not currently within the District. The MUTD commented that it requests the developer to petition into the District. A condition of approval requires the applicant petition the subject property be added to the District prior to zoning compliance approval of the townhome exemption declaration.
34. The closet transit stop is located .6 miles south of the intersection of Russell Street / Hillview Way and South 39<sup>th</sup> Street /Southwest Higgins Avenue, which is on Route 12.

#### Missoula Municipal Code Title 12 Standards

35. According to Title 12, Section 12.22.140.C regarding Engineering Requirements for Townhome Exemption Developments, all roadways serving 12 or more living units must be paved to a 35 foot width from back of curb to back of curb if there is parking on both sides of the street; paved to a 28 foot width from back of curb to back of curb if there is parking on one side of the street; or paved to a 21 foot width from back of curb to back of curb if there is no on-street parking. Private roads shall be within public access easements.
36. The Conditional Use Exhibit Layout Plan shows two internal roads – Road “A” and Road “B” - within the parcel boundaries of the TED. The northern segment of Road “A” and Road “B” are shown as 28-foot wide back-of-curb to back-of-curb roads with parking on one side, curbside sidewalks on both sides with a public access easement per the applicant’s Site Development Plan.
37. The southern segment of Road “A” is shown as a 21-foot wide back-of-curb to back-of-curb road with no parking and curbside sidewalk on one side within a public access easement per the applicant’s Site Development Plan.
38. The 28-foot road width with parking along one side of the street for the northern segment of Road “A” and Road “B” meets the Title 12 standard. The 21-foot road width, without parking for the southern segment of Road “A” meet the Title 12 standard. However, the proposed 5-foot curbside sidewalks do not meet the Title 12 standard requiring boulevard sidewalks.
39. Title 12, Section 12.22.140.D and E, requires all sidewalks within public rights-of-way and public access easements to be boulevard sidewalks and those sidewalks shall be a minimum width of 5 feet, unless the Development Services Director approves a deviation to the standard.
40. Per Title 12 Section 12.22.140.D, the Development Services Director may approve a deviation to the boulevard sidewalk standard if one of three criteria are met. One these

criteria is that “topography would make the installation of boulevard sidewalks unusually expensive.”

41. The City Engineer reviewed the site development plan and recommended approval of the road design for Road “A” and Road “B” to have curbside sidewalk in front the townhome units and on one side of the southern segment of Road “A” due to topographical constraints. The Director of Development Services approved the deviation from the boulevard sidewalk standard for both Road “A” and Road “B.”
42. Conditions of approval require the northern segment of Road “A” and Road “B” be constructed to 28-foot back-of-curb to back-of-curb distance, with 5-foot wide curbside sidewalks on both sides of the road within a 52-foot wide public access easement, and the southern segment of Road “A” be constructed to a 21-foot width with a 5-foot wide curbside on one side within a 40-foot wide public access easement. City Engineer approval of the road plans is required and all road improvements shall be constructed prior to building permit approval for the first structure or included in an Improvements Agreement guaranteed by a security subject to City Engineer approval.
43. A condition of approval requires the road improvement plans include provisions for painting the curb yellow and No Parking signage in order to restrict parking on one side of the northern segment of Road “A” and Road “B” and prohibit parking on both sides of the southern segment of Road “A”, subject to review and approval of the City Engineer. The No Parking provisions shall also be included in the Development Covenants.
44. Title 12, Section 12.22.140.H regarding access and parking states that a Townhome Exemption Development unit shall be permitted only one (1) access or approach to the public right-of-way or public access easement in the following order of priority: alley, side road, fronting road. No alley or side roads are proposed.
45. According to the Site Development Plan in the conditional use application, each unit in this TED project has parking that is accessed via a driveway approach from either Road “A” or Road “B”, which meets the access standard.
46. Title 12, Section 12.22.140.K requires driveway approaches from a private road within a public access easement to have a minimum 20 foot distance measured from the back of curb and/or sidewalk to the garage doors. Confirmation of the minimum 20-foot distance for each dwelling unit will be confirmed by Engineering at the time of building permit approval.
47. Both the northern and southern segments of Road “A” and Road “B” will be private roads within public access easements and as such maintained by the developer or property owner’s association, in accordance with Missoula Municipal Code (MMC) Title 12. A condition of approval requires a private road maintenance statement be added to the Development Covenants for the northern and southern segments of Road “A” and Road “B.”
48. The site plan shows curbs along both sides of the northern and southern segments of Road “A” and Road “B”, thus meeting the standard specified in Title 12, Section 12.22.140.F, which requires all roadways or streets to have curbing on both sides.
49. Title 12, Section 12.32 includes standards for landscaping and maintenance of boulevard areas. A condition of approval requires review and approval by City Parks and Recreation of the boulevard landscaping and maintenance plan reviewed.
50. Title 20 Section 20.40.180.E states that all surface infrastructure shall meet the standards in Title 12. Conditions of approval ensure compliance with Title 12

standards, and review and approval by Development Services Engineering and City Parks and Recreation staff.

51. Conditions of approval require all road improvements to be constructed prior to building permit approval for the first structure or included in an Improvements Agreement guaranteed by a security subject to City Engineer approval.

#### Stormwater, Grading and Drainage

52. The applicant provided a preliminary stormwater and drainage report plan as part of the application packet.
53. City Engineering commented that while the proposed stormwater and drainage report/design in the application packet is sufficient, two calculations must be corrected for the final report.
54. A condition of approval requires that the final stormwater and drainage plan shall include the corrected calculations noted by City Engineering and shall be reviewed and approved by City Engineering prior to zoning compliance approval of the townhome exemption declaration. Improvements shall be installed prior to building permit approval of the first structure or included in an Improvements Agreement guaranteed by a security, subject to review and approval of the City Engineer.
55. A condition of approval requires the final stormwater plan include provisions for long-term maintenance and the Development Covenants specify the maintenance and replacement of stormwater facilities are the responsibility of the developer and transferring to the Homeowners' Association when the Homeowners' Association is formed.
56. City Parks provided comment that there is coordination between Parks and City Engineering and that if City Engineering's review of the final Stormwater and Drainage Plan determines that the post-development flows from the development meet pre-development flows as proposed and do not exceed the capacity of the stormwater system as designed, that Parks has no concerns with the design of the stormwater system.
57. Geotechnical evaluations are required at the time of building permit for each structure. If a foundation drain is required by the geotechnical evaluation, the foundation drain system shall be connected to the storm drain system.

#### Development Covenants, Revegetation and Weed Management

58. Title 20, Section 20.01.060 requires all uses and development to comply with all other applicable regulations. The Missoula City-County Air Pollution Control Program commented that the property is within the Missoula Air Stagnation Zone. A condition of approval requires statements regarding Woodstoves, Radon Mitigation, and Energy Efficiency to be included in the Development Covenants.
59. Title 20, Section 20.01.060 requires all uses and development to comply with all other applicable regulations. A condition of approval requires the applicant to provide a Revegetation Plan for disturbed areas of the site prior to zoning compliance approval of the townhome declaration.
60. Title 20, Section 20.01.060 requires all uses and development to comply with all other applicable regulations. A condition of approval requires the applicant to provide a Weed Management Plan that requires the developer, Homeowners' Association and townhome unit owners to maintain their property in conformance with the Montana County Weed Control Act and the Missoula County Noxious Weed Management Plan

61. A condition of approval requires an Amendments section be added to the Development Covenants that requires written approval by the governing body prior to amending or deleting any Development Covenants that are required by conditions of approval.

#### Conditional Use Review

62. Title 20, Section 20.85.070.H.2 outlines criteria for the review of conditional uses, which include whether the proposed uses are: compliant with all applicable Title 20 zoning standards; compatible with the character of the surrounding area; in the interest of public convenience; will not have a significant adverse impact on the general welfare of the neighborhood or community; compatible operating characteristics in terms of hours of operation, noise, outdoor lighting and traffic generation; and will not have a significant adverse impact on traffic safety or comfort – both motorized and non-motorized.
63. Title 20, Section 20.01.060 requires all uses and development to comply with all other applicable regulations. A condition of approval requires the applicant to provide a hydrant plan to include existing or proposed hydrant locations meeting fire code standards, subject to review and approval by City Fire, prior to zoning compliance approval of the townhome exemption declaration. If new hydrants are required to serve the townhome exemption development (TED), hydrant installation shall occur prior to combustible construction.
64. The TED as shown on the site development plan must comply with all applicable regulations, subject to compliance with the conditions of approval.
65. Residential development on this parcel is generally compatible with both the character and operating characteristics of uses in the surrounding area, which are primarily residential. The TED is compatible with the single dwelling and duplex residential building types found on the west side of Hillview Way.
66. The scale of the proposed TED residential use in this location should not compromise either public convenience or the general welfare of the neighborhood or community, subject to compliance with the conditions of approval. The setbacks of the RT10 zoning for the TED and the surrounding subdivisions, which are zoned R8 to the north and east and RT10/PUD/Homesteads to west are identical.
67. Any signs or outdoor lighting associated with this project will be required to meet all applicable standards as outlined in the Title 20 zoning regulations, as well as all other applicable Missoula Municipal Codes.
68. The TED will generate additional traffic in this area. The TED as shown on the site development plan includes installation of roads within the TED boundaries that are private roads within public access easements maintained by the Homeowners' Association.
69. The property is subject to Special Improvement District Agreement 549 for improvements to Hillview Way. This SID assesses property based on number of dwelling units and dwelling building type constructed and does not terminate until 2040.
70. The owner/developer is responsible for paying these fees on a per unit ownership parcel basis at the time of building permit issuance.
71. The increase in traffic generated by this development should impose no significant adverse impact on traffic safety or comfort in the area, regardless of the mode of transportation, subject to compliance with the conditions of approval. The additional traffic generated by this TED will not result in significant adverse impacts to the capacity

or safety of the roads and Hillview Way will remain well within the range of the local street classification.

72. The public sidewalk runs along the eastern side of Hillview Way. In order to provide safe access routes to schools and transit, a pedestrian crossing of Hillview Way is required.
73. A condition of approval requires that the applicant prepare plans for and installation of a pedestrian crossing at the intersection of Hillview Way and Road "A" to include crosswalk markings, crossing beacon and ADA accessible ramps.
74. The TED layout includes long cul-de-sacs with a pedestrian travelling roughly a half mile from the eastern end of Road "A" to the intersection with Hillview Way. In order to meet the minimum block length standard of 480 feet and provide safe and efficient pedestrian routes to schools and transit, a mid-block pedestrian pathway/stairs is required.
75. A condition of approval requires that the applicant dedicate a minimum 20-foot wide easement and construct a paved pedestrian pathway/stairs from southern segment of Road "A" through the common area extending between unit ownership parcel numbers 8 and 9, crossing Road "B" then continuing between unit ownership parcel number 18 and 19, crossing the common area, then continuing between unit ownership parcels 38 and 39, crossing the northern segment of Road "A" then continuing between unit ownership parcel number 56 and 57.

## **Conclusions of Law:**

### **1. Whether the proposed use complies with all applicable standards of the Title 20 Zoning Ordinance;**

1. The townhome exemption development will comply with all applicable sections of the Title 20 Zoning Ordinance and other applicable Missoula Municipal Codes, subject to compliance with the conditions of approval.

### **2. Whether the proposed use is in the interest of public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community;**

1. Residential development as shown on the TED site development plan for this parcel is compatible with both the character and operating characteristics of uses in the surrounding area, which are primarily residential.
2. The scale of the development in this location will not compromise either public convenience or the general welfare of the neighborhood or community if the conditions of approval are imposed.

### **3. Whether the proposed use is compatible with the character of the surrounding area in terms of site planning, building scale and project design;**

1. Residential development as shown on the TED site development plan is compatible with the single dwelling and duplex residential building types found along Hillview Way. The area includes a mix of large and small lots.
2. The setbacks of the RT10 zoning for the TED and the surrounding subdivisions, which are zoned R8 to the north and east and RT10/PUD/Homesteads to west are identical.
3. The site design, building and project scale of the TED buildings as shown on the site development plan are similar to those in the surrounding area and are compatible if the conditions of approval are imposed.

### **4. Whether the proposed use has operating characteristics that are compatible with the surrounding area in terms of hours of operation, outdoor lighting, noise, and traffic generation; and**

1. The hours of operation and noise generated by the residential development are generally compatible with those of the surrounding uses.
2. Outdoor lighting for the project will conform to the regulations described in the Missoula Outdoor Lighting Ordinance.
3. Surrounding infrastructure is adequate to manage the amount of additional traffic generated by this TED project.

### **5. Whether the proposed use will not have a significant adverse impact on traffic safety or comfort, including all modes of transport (non-motorized and motorized).**

1. Additional traffic generated by the TED project will not have significant adverse impacts on traffic safety or comfort, regardless of the mode of transportation if the conditions of approval are imposed.
2. The property is subject to Special Improvement District Agreement 549 for improvements to Hillview Way. This SID assesses property based on number and dwelling building type and does not terminate until 2040.
3. The owner/developer is responsible for paying these fees at the time of building permit approval for each building.

4. A condition of approval requires that the applicant install a striped pedestrian crossing with crossing beacon at the intersection of the southern segment of Road "A" and Hillview Way to provide a safe crossing of Hillview Way to access the sidewalk on the east side of the street.
5. The additional traffic generated by this TED will not result in significant adverse impacts to the capacity or safety of the roads and Hillview Way will remain well within the range of the local street classification.
6. A condition of approval provides increased safety and comfort by requiring the applicant to dedicate a minimum 20-foot wide easement and to construct a paved pedestrian pathway/stairs from southern segment of Road "A" up through the common area extending between unit ownership parcel numbers 8 and 9, crossing Road "B" then continuing between unit ownership parcel number 18 and 19, crossing the common area, then continuing between unit ownership parcels 38 and 39, crossing the northern segment of Road "A" then continuing between unit ownership parcel number 56 and 57.
7. The existing motorized and non-motorized transportation infrastructure through and around the subject property is adequately sized and designed to manage the anticipated loading if the conditions of approval are imposed.



## **VI. AGENCY COMMENT**

HEALTH DEPARTMENT –  
AIR QUALITY DIVISION:

No comment received.

DS ENGINEERING DIVISION:

Troy Monroe, see attached comment letter.

MOUNTAIN LINE:

Corey Aldridge, see attached comment letter.

CITY PARKS & RECREATION:

Elizabeth Erickson: see attached comment letter.

CITY ATTORNEY:

No comment received.

CITY POLICE:

No comment received.

CITY FIRE:

No comment received.

MISSOULA HOUSING &  
COMMUNITY DEVELOPMENT:

No comment received

WASTEWATER TREATMENT:

No comment received.

## **VI. ATTACHMENTS**

1. Agency Comment: Comment letter from Troy Monroe, Development Services Engineering Division
2. Agency Comment: Comment letter from Elizabeth Erickson, City Parks and Recreation
3. Agency Comment: Comment Letter from Corey Aldridge, MUTD