



DEVELOPMENT SERVICES

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MEMORANDUM

TO: City Council, Land Use and Planning Committee Members

FROM: Ben Brewer, Planner III
Development Services, Planning Division

DATE: August 26, 2019

SUBJECT: **August 20th Planning Board recommended changes to Staff's Proposal for Amendments to Title 20 Zoning Code related to Townhome Exemption Development (TED)**

Dear Council Member,

At the August 20th Planning Board hearing, Planning Board members ***approved a recommendation*** that the Missoula City Council approve an ordinance to amend Title 20 City Zoning Chapters 20.05; 20.10; 20.15; 20.40; 20.45; 20.80; 20.100; 20.110, related to Townhome Exemption Development (TED) according to: amendments proposed by staff; amendments and revisions voted on by the Missoula Consolidated Planning Board pursuant to public comment and information received by the board; and to incorporate Development Services staff discretion in harmonizing the amendments to the document (5 ayes, 2 nays).

Staff has provided the specific Planning Board amendments here for your review in advance of the LUP meeting scheduled for August 28th.

NOTE:

- Original staff recommendations are shown in **red** (see Attachment A_Draft Ordinance_July 25_08062019)
- Additional staff recommendations made at the August 6th Planning Board meeting and approved by Planning Board at the August 20th meeting are shown in **blue** (see Attachment A_Additional Changes_08202019)
- Planning Board recommendations are shown in **purple**.

The motions below are mainly presented sequentially as they were voted on by Planning Board, but in some cases are grouped together if they are related. The full set of Planning Board minutes are provided in a separate document.

1) Re-term 'TED Tool' to 'Administrative TED Review'.

MOTION:

Revise section 20.05.040.D.1.c to add the term 'administrative' and replace the word 'tool' with 'review'. (Approved, 7-0)

SECTION:

20.05.040.D.1.c: Townhome Exemption Development (TED)

c. The administrative TED ~~tool~~ review 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.

MOTION:

Revise section 20.40.180.A. to add the term 'administrative review'. (Approved, 7-0)

SECTION:

20.40.180.A.1:

A. Applicability

1. The following administrative review standards apply to Townhome Exemption Developments of...

Rationale:

The Board expressed confusion on the use of the term 'tool', and thought 'review' was more appropriate. The reason for adding 'administrative' in advance of the term 'TED tool' is to clarify that TED reviews will be purely administrative once these amendments are adopted. The board also suggested changing these terms elsewhere as appropriate.

NOTE: 20.05.040.D.1 is the only section where 'tool' is used in these amendments.

2) Raise the maximum number of allowed units from 10 and 20, to 15 and 30.

MOTION:

Change Figure 20.05-7 and section 20.40.180.A.1 to raise the allowed number of dwelling units for a single TED project from 10 or 20 units, depending on the zoning district, to 15 or 30. (See specific language below). (Approved, 7-0)

SECTION:

Figure 20.05-7:

	<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) fifteen (15) total dwelling units</u>	<u>Administrative Approval, Comply with Zoning</u>	<u>Administrative Approval, Comply with Zoning</u>

<u>Eleven (11) to Twenty (20) Sixteen (16) to thirty (30) total dwelling Units</u>	<u>Prohibited as TED</u>	<u>Administrative Approval, Comply with Zoning</u>
<u>More than Twenty (20) thirty (30) 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>	

20.40.180.A.1:

A. Applicability

- The following administrative review standards apply to Townhome Exemption Developments of more than five ten fifteen or fewer dwelling units in R and RT RT5.4, RT10, and all R districts (except R3), or more than nine 20-30 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.

Rationale:

The Board expressed a desire to allow more units within a TED parcel, and a concern that what is proposed by staff works well for smaller, simpler projects, but shuts the door on larger developments, limiting the ability to accomplish full block development design and increasing the cost of the development by having to pursue subdivision instead or in addition.

3) Clarify the density implications for removing minimum parcel size requirements for new subdivisions.

MOTION:

Add a clarifying statement to the end of footnote 8, section 20.05.050.B, Table 20.05.3 as shown below: (Approved, 7-0)

20.05.050.B: Parcel and Building Standards, Basic Standards Table 20.05-3: Footnote [8]

[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. Total unit yield is calculated based upon the gross parcel area divided by the minimum parcel size.

Rationale:

The Board expressed concern that the language as proposed was not clear enough for applicants and reviewers that the intention is to calculate density for a new subdivision based on the gross area of the original tract of land.

- 4) Provide an incentive that increases the maximum size cap by 150% for projects that are reviewed together as subdivision and TED at the same time.

MOTION:

Recommend that the Missoula City council add a section to Title 20 City Zoning chapter 20.40.180.A that reads as shown below (sub-section A.7): (Approved, 5-2)

SECTION:

20.40.180: Townhome Exemption Development (TED) Standards

A. Applicability

1. The following administrative review standards apply to Townhome Exemption Developments of ~~more than five ten fifteen or fewer~~ dwelling units in ~~R and RT~~ RT5.4, RT10, and all R districts ~~(except R3)~~, or ~~more than nine 20 thirty 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).~~
6. Townhome Exemption Developments are only permitted on parcels in zoning districts described in Title 20.
7. If the number of townhome units and layout are disclosed as part of a subdivision review, then the maximum unit count can be exceeded by up to 150% of the maximum stated in the regulations

Rationale:

The Board suggested that in order to incentivize or reward projects that ‘take the curtain down’ by submitting TED development plans for a given site at the time of subdivision review, an increase in the maximum size cap would be granted. The subdivision process would address public comments and consideration, ability to establish public right-of-way, and evaluation of site constraints while the understanding of the TED proposal provides the layout details of the parcels planned to be development and should warrant more flexibility for the total number of units within the TED project. The 150% increase would result in zoning districts that are limited 15 units allowing up to 23 dwelling units on a single TED project, and in zoning districts that are limited to 30 dwelling units up to 45 dwelling units on a single TED project.

- 5) Add an exception to the Conditions Not Suitable for TED section for when Right of Way is required by the city, so that when the applicant is willing to dedicate it as part of their project, TED is not necessarily prohibited.

MOTION:

Revise section 20.40.180.B.4 to provide an exception from being prohibited as TED so that when public works identifies that the public right-of-way or connections of additional right-of-way in accordance with the transportation plan or maintenance plan are necessary, and the developer agrees, the project may move forward as a TED.

(Approved, 7-0)

SECTION:

20.40.180.B.4:

4. Any property requiring dedicated Public Right-of-Way as determined by the Development Services Director in consultation with the City Engineer.

a. Reasons for requiring dedicated Public Right of Way include, but are not limited to: Riparian resource areas

i. Allowing for public motorized and non-motorized connections;

ii. Allowing for provision of emergency services; or

iii. Completing road sections called for in applicable adopted City Plans or Resolutions

b. In situations where the City Engineer finds that RoW is necessary, and the developer agrees to dedication of that public right of way, then the project may proceed through TED review.

Rationale:

The Board expressed concern that TED projects should not be prohibited if the applicant volunteers the public right-of-way.

- 6) Add language to the end of 20.40.180.F: Blocks to clarify what qualifies as a topographic constraint.

MOTION:

Add language to the end of 20.40.180.F as shown below: (Approved, 7-0)

20.40.180: Townhome Exemption Development (TED) Standards

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. A topographic constraint is defined as a condition where street connections are not feasible in accordance with Title 12 standards.

Rationale:

The Board thought that a clarification would be appropriate and the situation would arise in a limited number of places.

- 7) Staff should craft language to allow phasing within TED projects. Staff is given discretion to reevaluate the language to accommodate phasing plans.**

MOTION:

Amend chapter 20.40.180, replace the text of “Phasing is not permitted for TED projects” in I-1 to “If Phasing is proposed, a phasing plan shall be submitted, is subject to review, and approval of the zoning officer in consultation with the City Engineer.” Staff was requested to work out the details of the permission to phase and incorporate any necessary additional amendments into the ordinance. (Approved, 7-0)

SECTION:

20.40.180.I.1

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. If phasing is proposed, a phasing plan shall be submitted, and is subject to review and approval by the zoning officer and in consultation with the city engineer. If it is deemed that future infrastructure is necessary for orderly development, then the developer shall include a development agreement with security for future or installation of infrastructure.

NOTE: ADDITIONAL LANGUAGE WILL BE PREPARED FOR CONSIDERATION IN COMMITTEE

Rationale:

The Board expressed support for the need for even smaller projects to be able to phase in order to finance the development and that the cap on the units already accomplish the concerns over timely development.

- 8) The requirement for when a public road easement is filed should be tied to the TED declaration, rather than the zoning compliance permit..**

MOTION:

Recommend that the Missoula City Council amend Title 20 City Zoning chapter 20.40.180 item I-4 from “if a public access easement is required for a TED project, it must be filed prior to ZCP approval.” to be incorporated into Section J. . (Approved, 7-0)

SECTION:

20.40.180.I.4:

- ~~4. If a public access easement is required for a TED project, it must be filed prior to ZCP approval.~~

20.40.180.J.3:

3. If a public access easement is required for a TED project, it must be filed prior to ZCP approval.

Rationale:

The Board found that moving this requirement was more applicable in relation to when a declaration is filed rather than when the zoning compliance permit is completed.

9) Pronouns in city code should be gender-neutral.

MOTION:

Recommend that the Missoula City Council amend Title 20 City Zoning chapter 20.40.180 item I-5 by changing the pronoun from “his” to “their” to remain gender neutral. (Approved, 7-0)

SECTION:

20.40.180.I.5:

5. TED Projects of more than 5 dwelling units require the review and approval of the Fire Chief or ~~his~~ their designee.

Rationale:

The Board recognized that the language for this standard was unnecessarily gender-specific.