

# Council Meeting Action Summary

## Missoula City Council

May 9, 2022, 6:00 pm

Council Chambers (in person) or ZOOM Webinar (virtually)

Attend in person: City Council Chambers, 140 W. Pine, Missoula, MT

Members Present: Stacie Anderson, Mirtha Becerra, Daniel Carlino, John P. Contos, Jordan Hess, Gwen Jones, Kristen Jordan, Mike Nugent, Jennifer Savage, Amber Sherrill, Sandra Vasecka, Heidi West

Administration Absent: Mayor John Engen, Marty Rehbein, Jim Nugent, City Attorney

### 1. CALL TO ORDER AND ROLL CALL

The virtual meeting of the Missoula City Council was called to order by Acting President Jones at 6:00 PM.

Due to technical difficulties, the video sound begins at the 9:00 minute mark.

### 2. APPROVAL OF THE MINUTES

The minutes were approved as submitted.

### 3. PUBLIC COMMENT - NON-AGENDA ITEMS

[unknown/unannounced speaker] There's a road where the bike lane actually separates from the primary roadway, then you may have an idea of what this can look like. We need more bike safe roadways to provide our community with safe and effective non-motorized transportation options. Everyone here, at least in this room and probably abroad, knows that Missoula is a very active community that's filled with open-minded and forward-thinking people who care about community safety. The access to outdoor recreation here is unparalleled by other metropolitan areas in the United States making it a special place to live. We can also see that great bonds are formed from our common interests in the great outdoors. A great example of this bond is provided by what happened at Marshall Mountain Park in the last year, a space that bicyclists including myself value greatly for its proximity to town. I have found, however, that although mountain bikers love to hurdle themselves down mountains at high speeds, many of them avoid riding roads in the city at all costs. If we can apply energy, the energy that we put into places like Marshall Mountain Park and Mount Dean Stone, for example, to the city streets then we could see a similar result with more, more diverse, frequent, and practical usership of our roadways. I'm guessing this hasn't happened yet because we lack the infrastructure for it simply and frankly people don't feel as safe as a result. If you've traveled into Missoula from the south, you may have noticed a road sign that proclaims that Missoula is a bicycle friendly city. With the current layout of Missoula streets and as an urban cyclist, commuter, and mountain biker, I frankly disagree. I'm here informing you all that there are bicyclists all over Missoula who agree with me and many of them are here tonight. I'm begging you to please represent us and advocate for bicycle safety and infrastructure to get more people out there. Thank you.

President Jones Thank you. Jordan or Claire, we have a dark screen for Council chambers, and it should be actually, people talking should be on there. So, I don't know if we can....You don't know how to do that? All right well, Claire, I don't know if we know how to turn the camera on for the Council chambers video.... we're going to do the best we can tonight. In the meantime, thank you for your comments and thank you for patience while we work through the tech...So it's a dark screen. I feel like our camera's not turned on but I'm not quite sure how to do it. Oh, that's good,

there we go. Okay, thank you. All right, just like to have a rough start to every beginning of every meeting but we're gonna get there. Okay, any other public comment on items not on the agenda. Please come forward, thanks.

Simon McCullough Hello everybody.

President Jones Just state your name...

Simon McCullough Yes. My name is Simon McCullough and I live at 1937 Maple Street. About a month and a half ago, a person driving a car hit me on my bike while I was on my way home. And I was stopped at a stop sign waiting for cars to move through the intersection, a young woman tried to take a quick left turn onto the street where I was waiting, and they were trying to beat the oncoming car. They hit me. Luckily I was unhurt, but pretty rattled from the massive jeep knocking me down. This collision made me think anybody could have been walking through that crosswalk. This woman didn't see me and on my bike in broad daylight, how could she have seen anybody? It could have been a person in a wheelchair, a person walking, or a child. A week ago, another person riding a bike was hit but this collision killed him. There's a large population of Missoulians that are currently, that currently commute and recreate on their bikes. As one of those people, this death terrifies me. I'm a rather confident commuter but fast moving vehicles brushing past me with a foot to spare is objectively unsafe. For most roads in Missoula, this is the only option. People might say just right on the sidewalk then, but just last week somebody biking on the sidewalk was killed by a person driving a car. Another thing people like to say is but there's all those bike lanes, and yeah there are like lanes, but they're often filled with loose gravel, glass, car debris, litter, parked cars, construction materials, delivery trucks, people walking, deep puddles, big piles of leaves, and in the winter snow and ice. And even when they are clear of obstructions, the magic 5-inch painted white line separating me from cars does not prevent distracted drivers from crossing that line and hitting me. We all know that people ought to have the option to ride their bike or walk but if we design our town in a way that is unsafe for anybody and everybody to do so, and those that can afford it will drive. And again, we all know the consequences if everyone drives, louder streets, more death and injury and more air pollution, more road wear, more congestion, more road rage, more sprawl, and more dependence on foreign oil. I'm not saying that people shouldn't be able to drive in town. Motor vehicles are super useful at times. I'm saying that cars are a dangerous and helpful tool, and we should mitigate their dangers by having drivers take on that responsibility instead of telling those outside of the car to get out of the way or die. With more safe transportation options, we can mitigate those harms on our community. My conversations with people, both before and after this tragic and entirely preventable death this last week, I have heard people remark about how they want to ride their bike or walk to their destinations, be it to work, to the trailhead, to the grocery store. They'd rather do this instead of driving, but they are too scared to do so. It's not people's fitness, the weather, or the distance preventing them from making this choice, it's the danger posed by cars that makes them choose to drive. Let's design our public spaces for the safety of people and not the volume, convenience, and speed of cars. We've done the opposite in the past, now let's give our public space back to the people and give them the unintimidated choice on how to get around. Thank you.

President Jones Thank you Mr. McCullough. So, we actually, excuse me.... point of order. We don't allow any booze or clapping or anything during public comment, just so that everyone feels welcome one way or the other. So, anyone else that wanted to come up and give public comment on this item? Or on, I'm sorry, on any items not on the agenda? Yes, please come forward.

Joe Joe again....Could you tell I was a little upset last week? I do want to say that on the record that I'm not usually, I'm usually a pretty easygoing guy. I don't like being harsh, it kind of bums me out, but I think you can only bear witness to so much unnecessary suffering and cruelty before it kind of gets to you. And I want to point out before I really get into this one, that the folks that we heard from last week, those mental and physical health care professionals that we're talking to you about folks who live in the camps and the shelters, almost all of them are criminally

underpaid and overworked and we expect those people to do that work out of the charity of their own hearts, as if you can pay for rent and food with piety. And you can't help but wonder, how many of the folks who work for the Pov, work for the HOT team, work in these kind of critical care infrastructure jobs are among the 25% of Missoula County residents who has to use the food bank, but to get into the meat of this one. Last week, I was pretty, let's say harsh about the City's cynical use of social justice language surrounding the, the use, surrounding the issue of homelessness in this community and I think I'm justified in that. I don't like being lied to and I don't like kind of the implicit condescension in being told that hands are tied when I know they're not, hiding behind forms, and hiding behind bureaucracy is not an excuse when people are going hungry and cold. Again, I don't think the Rogers employees are monsters, I just resent the fact that my hard-earned tax dollars are going to them to fund their blackwater larp when the J Street Shelter would run out of food on the on the weekends. And again, since the City has decided that we want to use this jetty initiative to try and make the community better, which is a good thing. It is something that I do support, I just want to hold your feet to the fire and make sure that it's consistent. So, here's some demographics about the people from your own website that was taken last month. In the shelters and camps, indigenous people are overrepresented by a factor of 15, black people by a factor of 5, Hawaiian and Pacific Islanders by a factor of 4, and Hispanic folks by a factor of 1 1/2. And life expectancy among the homeless is 48 years old. The research has been clear on this issue for decades. We know what solves crime. We know what makes our community safer, stable housing, stable shelter, and access to mental and physical healthcare is the single greatest predictor in every longitudinal study that decreases crime in every community. It has also been shown that putting more men with guns and more prisons, whether they're private or public, does not have that effect. I understand that this is complicated. I understand that it's uncomfortable. I understand that you're sick of seeing me, I'm sick of being here, but this is not a problem that's going to go away easily, and I hope that you all take that into account. In the next month, we're going to be talking about a plan that includes what we can move on from here to do and I'm going to ask that you take into consideration what Councilwoman Jordan said, that you ask each public entity to justify their spending and find the money to do what needs to be done to fix this problem. Thanks.

President Jones Thank you. Any other comments on items not on the agenda? Okay seeing none, none we will go to our people who are virtual for their comment on items not on the agenda, and first we have Leticia Ray. Leticia Ray, are you able to unmute yourself?

Leticia Romero Yes, can you hear me?

President Jones Yes, we can hear you. Go ahead.

Leticia Romero Hi, sorry. I updated my name. My name is Leticia Romero; I live in Ward 4. I apologize if you guys already have been talking about this or not, but I just wanted to ask City Council if there's been any thought on water conservancy, as far as the droughts that are happening all over the northwest, the plains. Last year, our governor declared state emergency for extreme drought, almost 93% of the state was in extreme drought. I know, I'm remembering last year surrounding areas had in had put water conservancy limits and we didn't. I'm wondering if that's because we, we have the aquifer underneath us. I was just remembering the Flathead had restrictions on water and all of Missoula went the whole summer without any kind of thought or as if no drought was happening. You know all of us need water to survive, all of us you know have children, grandchildren, one way or another. If we're thinking seven generations ahead, I think we need to really start thinking about that right now, rather than waiting for later. Lake Mead has lowest levels right now. So, I don't know yeah.... So, if the City has been thinking about that and just because we have an aquifer underneath us doesn't mean we can, you know, splurge on our water. So, has any thought been put or into that because I think it's really important for us to really take care of our water and restricting use that really you know like golf courses, things like that that we don't really need? We can grow gardens better than recreational usage that just waste water but yes that's all I wanted just to bring that up to City Council and see if any kind of thoughts....You know, we're gonna be heading into summer here and it's gonna be pretty quick, pretty hot soon. So, thank you.

President Jones Thank you for your comments, appreciate it. All right the last one I have a hand raised for is Matt Larson. You can unmute yourself...

Matt Larson Hi, yes, Matt Larson, Ward 3. I wanted to also echo the sentiments of everyone that was speaking earlier regarding the community member who lost his life riding a bike on Orange Street and Third. I've personally been hit by two cars as a pedestrian, one ticket was issued, a failure to yield, and I still go to a bunch of doctor's appointments regarding it and still continue treatment like physical therapy and all types of stuff. The, I think one of the other issues at hand that hasn't been mentioned is the lack of tickets being issued at all for these types of incidences and I think it's, it's kind of deplorable, especially if you're trying to like create a message of overall safety in the community with, with these types of events. You know, it's tragic that this guy lost his life, and you know I think we can prevent that too with like actually ticketing these types of events properly. And it's tragic that to, to, to hit someone but you know an \$85.00 bond forfeiture, I don't think is even sufficient. You know, if these people don't even have to go to a to a court date but you know other community members are being pulled over for cell phone violations and failure to make complete stops at a traffic intersections and blinker violations and such as that. I think we need to reevaluate what we're doing here from a policing standpoint too. And there are numerous intersections that can be made far safer just by employing just simple lights and stuff like that. I do think personally I'm never gonna ride a bike in this community, but you know you can make that decision for yourself hopefully in the future but thank you for your time and I'll be speaking on the claims later.

President Jones Thank you.

**4. ANNOUNCE COMMITTEE MEETINGS, COMMITTEE MEMBERSHIP APPOINTMENTS AND CHANGES TO COMMITTEE AGENDAS**

President Jones Next we have committee meetings, committee membership appointments, and changes to committee agendas and I'm going to go to Mr. Hess first. There is a change to the committee agenda and then Claire, we'll have you go through all of the committee meetings. Thanks.

Aldersperson Hess Thanks and this is in regard to the Land Use and Planning Committee. This meeting will go from 4:15 p.m. until 4:55 p.m. and I'm going to hold our second item. I requested four hours for that item because it's a, it's a conversation that, that warrants, that's for the, the Expo Parkway rezoning. I, I don't want to shortchange this. I want to give... I want to be fair to the applicant and I want to be fair to the members of the public who want to comment on this, and I also want to allow time for Council discussion. We have 11 hours of committee meetings scheduled, so I'm going to I'm going to hold this until we have, for one week until we have the time to do it, to give it the justice it, the time that it deserves.

President Jones Great. Thank you for that change. And Claire, if we can go to you, to go through the committee, the committee meeting schedule for this week.

Public Safety, Health and Operations Committee, May 11, 8:00 - 9:10 a.m.

Public Works and Mobility Committee, May 11, 9:25 - 10:25 a.m.

Budget and Finance Committee, May 11, 10:40 - 11:20 a.m.

Climate, Conservation and Parks Committee, May 11, 11:35 a.m. - 1:05 p.m.

Housing, Redevelopment, and Community Programs Committee, May 11, 1:35 - 4:00 p.m.

Land Use and Planning Committee, May 11, 4:15 - 4:55 p.m.

President Jones Thank you. So again, just so that it's clear for the public, we are going to continue the last item Expo Parkway from this Wednesday until next Wednesday, so we should be completing Land Use and Planning around 5:15 or 5:30, you estimate?

Alderson Hess 4:55 p.m.

President Jones 4:55 p.m. Okay. Thank you. All right, next on our agenda, we have the consent agenda.

## 5. **CONSENT AGENDA**

President Jones Items on the consent agenda were approved in City Council committees to be placed on the consent agenda to save time at Council meetings by voting on them as a package. The city clerk will read the list aloud so citizens watching on MCAT will know what is on the consent agenda. We'll invite community comment on these items before we do, before we vote. So, to you Claire, to go through a long consent agenda.

President Jones Thank you Claire, appreciate it. Is there any public comment on the consent agenda? We have one person virtually attending who wants to give public comment. Mr. Larson, if you can unmute yourself, you can....

Matt Larson Matt Larson, Ward 3. Thank you. I just wanted to provide some attention to the \$40,000.00 consulting fee from Dorsey Whitney for the water department regarding a quote unquote water tank, sounds like a lot of money to do something with the water tank but who knows what you're doing. And then 5.4, just wanted to err caution when redirecting waterways, that's pretty important stuff, so hopefully, so hopefully DJ&A is qualified to do that. And then the nighttime contract for the correctional facility lands and the project adjacent, the Trinity Mullan Project. If they're gonna do that at night, how are all the prisoners in the, the prisons supposed to sleep while they dig giant sewer lines during the nighttime? I'm just wondering but you know who knows if those people are considered people to you guys even, but have a great night. Thank you for allowing me to speak.

President Jones Okay thank you. Any other public comment on items on our consent agenda? Seeing none, any comment from Council? Mr. Hess.

Alderson Hess Thanks. Grant Creek was relocated, I believe, in the 50's without a permit back in the day when you could dig up a creek and move it with without regard for downstream impacts and this has been part of a federally vetted grant through the build grant a few years ago, as well as a process that's received relevant state permits through the Department of Environmental Quality. So, I have absolute confidence that our consultant that was selected through our procurement policy and is has been deemed to be qualified will restore the creek to its pre-1950 realignment and to a more meandering, natural, resilient, beneficial pattern. So, I'm totally confident in that item.

President Jones Thank you for that. Any other comment from Council? Mr. Carlino.

Alderson Carlino I just wanted to speak to the code reform in 5.14 because I know we're doing a rezone today and I think it's going to be really helpful for our affordable housing crisis in Missoula to hire this consultant to do entire code reform for the City but currently I live in the U District in one of the only neighborhood blocks that allows for three-plexes like where I live today, that was converted out of a single-family home. And we need to you know go ahead with this code reform so that we can re-legalize housing in Missoula. Most neighborhoods in, most residential neighborhoods in Missoula only allow for single-family homes and we need to re-legalize housing to get our housing stock back up.

President Jones Thank you. Any other comments from Council? Seeing none, we will have a roll call vote on the consent agenda Claire.

AYES: (12): Alderson Anderson, Alderson Becerra, Alderson Carlino, Alderson Contos, Alderson Hess, Alderson Jones, Alderson Jordan, Alderson Nugent, Alderson Savage, Alderson Sherrill, Alderson Vasecka, and Alderson West

**Vote result: Approved (12 to 0)**

**5.1 Accounts Payable (claims) for checks dated May 10, 2022**

Approve accounts payable in the amount of \$814,054.27 for checks dated May 10, 2022.

**Vote result: Approved**

**5.2 Construction Services Agreement with Camp Well Drilling & Pump Service for the Sommer's Street Well Pump Replacement**

Approve and authorize the Mayor to sign a Construction Services Agreement with Camp Well Drilling & Pump Service for the Sommer's Street Well Pump Replacement for a cost not to exceed \$28,268.00.

**Vote result: Approved**

**5.3 Mullan BUILD Right-of-Way Agreement with Dougherty Ranch, LLC**

Approve and authorize the Mayor to sign a Right-of-Way Agreement with Dougherty Ranch, LLC for the City to construct public infrastructure for the Mullan BUILD Project.

**Vote result: Approved**

**5.4 Referral – Professional Services Agreement with DJ&A for the Grant Creek Waterway Realignment Project**

Approve and authorize the Mayor to sign a Professional Services Agreement with DJ&A for the Grant Creek Waterway Realignment Project at a cost not to exceed \$331,871.

**Vote result: Approved**

**5.5 Referral – 100 Percent Clean Electricity Consultant Contract**

Approve and authorize the Mayor to sign the 100 percent Clean Electricity Consultant Contract with Bryan von Lossberg in an amount not to exceed \$40,000.

**Vote result: Approved**

**5.6 Appointments to the Parks & Recreation Board**

Confirm the Mayor's appointment of Sam Duncan, Kelly Sellers and Charles Besancon to the Parks & Recreation Board. Sam Duncan will be filling a vacated term beginning immediately and expiring on April 30, 2023. Kelly Sellers and Charles Besancon's terms begin on May 1, 2022 and expire on April 30, 2025.

**Vote result: Approved**

**5.7 Art Wall Agreement with Northwestern Energy**

Approve and authorize the Mayor to sign a License Agreement with NorthWestern Energy allowing for Public Art on the Pattee Street Substation walls

**Vote result: Approved**

**5.8 Milwaukee, Bitterroot and Grant Creek Trail crack seal and seal coat**

Approve a contract with Pro Sweep Plus in the amount of \$68,158.53 and authorize the Mayor to sign.

**Vote result: Approved**

**5.9 Conceptual Master Plan for Currents Center for Recreation and Creativity**

Set a public hearing for May 23, 2022 for the adoption of the conceptual master plan for the Currents Center for Recreation and Creativity.

**Vote result: Approved**

**5.10 North Reserve - Scott Street Urban Renewal District Boundary Amendment**

1) Adopt a resolution of intention to amend the North Reserve-Scott Street Urban Renewal Plan, for the North Reserve-Scott Street Urban Renewal District, to include additional property in the District and calling for a public hearing on May 23, 2022. 2) First reading and preliminary adoption of an Ordinance amending the North Reserve-Scott Street Urban Renewal Plan to include additional property in the District.

**Vote result: Approved**

**5.11 Reappointment to the Downtown Business Improvement District Board**

Confirm the Mayor's reappointment of Ellen Buchanan to the Downtown Business Improvement District Board for a term beginning June 1, 2022 and expiring on May 31, 2026.

**Vote result: Approved**

**5.12 Strategies 360 Web Content Evaluation and Design**

Approve the agreement with Strategies 360 for web page content evaluation and design services in an amount not to exceed \$28,125.00

**Vote result: Approved**

**5.13 Resolution Relating to the Financing of Proposed Sewer System Improvements; Establishing Compliance with Reimbursement Bond Regulations Under the Internal Revenue Code**

Adopt a Resolution Relating to the Financing of Water System Improvements and legal settlement; Establishing Compliance with Reimbursement Bond Regulations Under the Internal Revenue Code.

**Vote result: Approved**

**5.14 Comprehensive Code Reform: Consultant Contract**

Approve and authorize the Mayor to sign a professional services agreement with Metta Urban Design for the city's Comprehensive Code Reform Project for the total amount of \$850,000 to be equally distributed between two Fiscal Year Budget cycles - \$425,000 in Fiscal year 2022 and the balance of \$425,000 in Fiscal Year 2023.

**Vote result: Approved**

**5.15 Remington Flats Phase 1 Final Plat**

Approve the Remington Flats Subdivision Phase 1 final plat.

**Vote result: Approved**

**5.16 Wavier of Noise Ordinance for the Trinity Mullan Project**

Approve an exemption to MMC Chapter 9.30, Noise Control, to permit relief in accordance with MMC Chapter 9.30.070, Permit for relief from noise level, from specified noise levels and allow for night work on May 16-20, 2022, during the Trinity Mullan Project.

**Vote result: Approved**

**6. COMMENTS FROM CITY STAFF, CITY AGENCIES, COMMUNITY FORUM, NEIGHBORHOOD COUNCILS, BOARDS, COMMISSIONS, OR AUTHORITIES**

**7. SPECIAL PRESENTATIONS AND PROCLAMATIONS**

**8. FINAL CONSIDERATION**

**8.1 Ordinance amending Residency Requirements of Emergency Public Safety Employees**

President Jones We have one item under final consideration, item number eight. The item is the ordinance.... well let me read this first.... Items listed under final consideration have had a public hearing, the hearing was held open to allow time for additional public comment before final consideration in action by the City Council. The chairperson in standing Council committee will make a motion and we invite community comment on each item. Our one item tonight is 8.1, an ordinance amending the Residency Requirements for Emergency Public Safety Employees. We had a presentation last week by both Chief Gordy Hughes and Chief Jason White, Fire and Police. I see that Chief Hughes is in attendance. Chief Hughes if you have anything extra to add to your presentation, go ahead and raise your hand. Otherwise, we'll just go to questions from Council. I'm not seeing his hand raised. Were there any questions from Council regarding this item? We're getting there..... I would just like to point out that we are following the new rules tonight that we passed about a month or two ago. So, no questions from Council from anyone? Then we will go to our Public, Safety and Operations chair for the recommended motion.

Alderperson Anderson Thank you so much madam chair. I move to adopt one second reading an ordinance Adopt an ordinance amending Chapter 2.80 of the Missoula Municipal Code entitled "Residency Requirements for Emergency Public Safety Employees to change the distance from the city that a peace officer or a firefighter may live from the 30 minute to 45-minute average and reasonable response time, including minor amendments to reflect current law and repeal the exception no longer applies to current employees. And may I speak to the motion please?

President Jones Please go ahead.

Alderperson Anderson Thank you so much. This aligns with the same sort of change we made a few weeks ago in regards to department chairs and with the increase of overall FTEs that we have both in the fire department and the police department, there hasn't been a need for you know an all-call or general alarm, as they call them for people to



come back. So, this seems to give more options for folks who want to serve our community to find affordable housing and with our inter interlocal agreements between both the sheriff's department for police as well as Missoula County rural fire department, there doesn't seem to be any concern that there won't be a lack of coverage if a major event happens. So, this seems reasonable and I'm in support.

President Jones Thank you. Let me go to public comment first.... trying to follow our new rules, I missed a beat there and then we'll come back to you Ms. Vasecka. So, I'm going to call for public comment on this item and I have one, anyone in the chambers that wants to give public comment? Seeing none, we will go to our one virtual attendee. Mr. Larson go ahead and talk.

Matt Larson Yeah, this is Matt Larson, Ward 3. I'd like to point out that there is no metric for the 45-minute designation, 45 minutes at what speed? And I think we should take into note the wear and tear on vehicles that responders may be taking home, this increases that which increases maintenance. This increases maybe hours that are compensated for commutes to and from work, and this is during a time when at least at MPD, the overtime hours are already drained, and we've switched to this 10 and a half or 10 hour and 45 minute new shift and ward layout. And I think that it further designates you know a special class of citizen amongst us, especially when we're talking about the police union which is the largest city union and one of the largest budgets, if not the largest piece of the budget for the entire city. So, if they're not subjected to this housing crisis that is by and large been exacerbated by city and county officials, then you know why, why should we regular citizens be subjected to this? Just pointing that out, you guys could ban, airbnb, Airbnb at any time. You've done studies, you've done all the research, you can put 3,000 units back on the market as long-term rentals but refused to do anything, and as a matter of fact gut the coding gut the zoning and Carlino is now advocating further gutting of the zoning when we could actually just do something....

President Jones Point of order Mr. Larson.

Matt Larson about the snap of our fingers...

President Jones Point of order. Thank you. Okay, moving on next....Any other public comment on this item? Seeing none then Ms. Vasecka.....

Matt Larson I'm sorry. I wasn't, I wasn't finished yet when you cut me off.....

President Jones Go ahead Ms. Vasecka.

Aldersperson Vasecka Okay thanks and I just wanted to speak to this very briefly. We all love our firefighters and our police department because they keep our city safe and it's really easy to forget that once they take off their uniforms that they are, are humans and do have families. So, I think that this is going to be really big on increasing a morale within the police and fire department and so I will absolutely be in support of this tonight.

President Jones Ms. West.

Aldersperson West I also wanted to add that I think we can't really dictate the type of lifestyle people choose to live and not everybody wants to live inside the city, and maybe they have partners or children who also have activities that maybe require a little bit more space and land than a city lot would allow. So, I think this is a, a great way to allow people in our police and fire department to live where they want to live and live the kind of life lifestyle that they want to have.

President Jones Thank you Ms. West. Ms. Sherrill.

Aldersperson Sherrill Yeah thanks. I'm going to be, oh this is loud....I'm going to be supporting this tonight as well. You know, we're at a time that every single industry that I can think of is struggling with staffing and we are in a city that is experiencing a housing

crisis and housing affordability that does not allow our responders to all live here. So, I think this was I'm, I think Gordy brought it forward, but I'm really happy about an innovative approach to trying to get those departments, those really important departments for our city staffed.

President Jones Great, thank you. Any other comments from Council? Thank we'll have a roll call vote Claire.

**Moved by:** Alderperson Anderson

[Second and final reading] Adopt an ordinance amending Chapter 2.80 Missoula Municipal Code entitled "Residency Requirements for Emergency Public Safety Employees to change the distance from the city that peace officers and firefighters may live from 30 minute to 45-minute average and reasonable response time, include minor amendments to reflect current law and repeal an exception that no longer applies to current employees.

AYES: (12): Alderperson Anderson, Alderperson Becerra, Alderperson Carlino, Alderperson Contos, Alderperson Hess, Alderperson Jones, Alderperson Jordan, Alderperson Nugent, Alderperson Savage, Alderperson Sherrill, Alderperson Vasecka, and Alderperson West

**Vote result: Approved (12 to 0)**

## **9. PUBLIC HEARINGS**

### **9.1 Referral and Staff Report\_Title 18 City Floodplain Hazard Management Regulations Update**

The City Council will hold this public hearing open until they take up the item for final consideration on May 16, 2022.

President Jones We have several public hearings to open tonight. State law and City Council rules set guidelines for inviting community comment in a formal way on certain issues. Following a staff report on each item, the City Council and the Mayor invite community comment. During COVID-19, the City Council is holding the public hearing open for a week and then voting the following unless there's a requirement for final action on the night of the public hearing or it is continued further. We are following our new Council rules that we approved a handful of weeks ago. So, just to clarify everyone, the order for these land use items that we're hearing tonight we'll go (1) Staff presentation; (2) Developer remarks, and then we have public comment. Public comment is limited to 3 minutes per person and then we have questions from Council. So, the first item is 9.1 a referral and staff report on Title 18 City Floodplain Hazard Management Regulations update and Alex Eidam, I believe, is here to present....

Cassie Tripard And Cassie Tripard, Planning Supervisor. I'll be starting it off and then handing it over to Alex.

President Jones Great. Thank you.

Cassie Tripard See, can you see the slides?

President Jones Yes, if you want to enlarge it though, so that we don't see the...

Cassie Tripard Yeah I can try using the actual slides; it was doing some funky things a second ago but let's try this.

President Jones Okay.

Cassie Tripard See.... Okay. Does that work? You don't see the extra notes and weird things?

President Jones Yep.

Cassie Tripard Okay, great.

Alderperson Hess Cassie, if you go to display settings, you can swap your displays....

Cassie Tripard Let's see this.... does that work? It's showing up on all my screens differently. So, a little bit strange on my end....

President Jones That looks great now. Thank you.

Cassie Tripard Great. So, I'm Cassie Tripard. I'm a Planning Supervisor in the Development Services Division of Community Planning, Development & Innovation. I'm here with Alex Eidam, a Senior Planner, who will run the second half of our two part presentation. So, we are proposing an ordinance to amend our floodplain regulations. It's a very minor update; however, considering floodplain items rarely appear before City Council, staff have decided to give a high-level educational presentation on floodplains before we dive into the proposed ordinance. So, we'll start by going over what a floodplain is and why they matter. A floodplain is an area of low-lying ground typically adjacent to a river or coast that is subject to flooding. Considering we deal with mostly riverine flooding in Missoula, I'll focus on rivers and creeks. Because floodplains continuously alter the landscape, they can change over time and later this summer, we'll begin the public process for updating our floodplain maps to show conditions today. Floodplains serve several functions, primarily they store and convey water during flood events and additionally floodplains have natural environmental benefits like maintaining water quality, recharging groundwater aquifers, and they provide crucial habitat for plants and animals. So, on the top diagram, you'll see different portions of a floodplain. The base flood elevation referred to as BFE, is the elevation of flood water for the 1% annual chance flood or in other words every year, there is a 1% chance that water will rise to this level. Flood plains are generally split into two sections, the first is the floodway which is the channel of a river and adjacent land area that must be reserved in order to discharge the base flood without increasing the water elevation more than half a foot. So, the regulations don't allow new structures in the floodway because this land is needed or needs to be reserved to carry the fastest flood waters. The flood fringe is the remaining portion of the flood plain where development is allowed as long as it meets certain standards. For example, the house in the diagram is elevated above base flood elevation, so it won't be damaged by the 1% chance annual flood and the flood fringe stores flood water but does not effectively convey that flood water. It's important to note that while humans can alter where water flows, they can't influence the volume of water during a flood, and this means that as you add development to the flood plain the water may either increase the height or increase in height or be pushed onto other properties. Okay. And so, this photo shows an example of our flood insurance rate map on the Clark Fork River near Third Street and Reserve Street. Zone AE in blue is the flood fringe where development is allowed and in the hatched portion, red and blue, is the floodway where development is quite restricted. There are additional flood designations for sheet flooding and ponding but not shown on this map and then the orange hatched portion at the bottom is zone X behind a levee. This means that that area would normally be in a flood plain but is not because it's protected by a levee. So, the reason we map floodplains and regulate development in them is because of the National Flood Insurance Program. The National Flood Insurance Program or NFIP was established in 1968 through the National Flood Insurance Act. The goals of this federal act were to reduce flood damage and to protect property owners. Since 1973, this program has been administered by FEMA. In the 60's, the federal government found that it was paying out a lot of taxpayer money to cover the damages caused by flooding and as a result they decided that development in flood plains should be constructed to withstand floods. The

insurance program offered flood insurance to property owners so that more of the cost of the damages that still occur can be covered by those who actually have structures in the floodplain, rather than being funded by the general tax base. Local governments participate in the NFIP and are responsible for managing development in the floodplain. So, Missoula adopts and enforces floodplain management ordinances that comply with federal and state laws. In the State of Montana, we have higher standards than the federal minimum offering additional protection to our residents. And additionally, Missoula participates in the community rating system which is where our citizens get discounts on flood insurance because the city goes above and beyond the minimum federal requirements. The NFIP has three related program areas known as the three-legged stool. First is hazard identification; this is done through mapping of the floodplains. We can't build structures to be safe from flooding and protect residents if we don't know where, don't know where those flood areas are so mapping, and updated data is crucial. Next is mitigation, this is done through the regulations that require structures to be elevated above base flood elevation, wet proofed or dry proofed so that they are not damaged during floods. And last is flood insurance. The US Government offers federally backed flood insurance for property owners in participating communities. Additionally, federally backed mortgages for structures and floodplains require property owners to purchase flood insurance and this is referred to as the mandatory purchase requirement. Missoula participates in the NFIP. If we didn't, our citizens wouldn't be able to get NFIP flood insurance which makes acquiring federally backed mortgages difficult for citizens in high flood risk areas. Additionally, without participation in the NFIP, locals would have to turn to private flood insurance, which is normally more expensive and can be hard to find. And lastly, we participate in the NFIP because it makes us eligible for forms of federal disaster assistance in flood hazard areas. Okay so, the overall goal of the program and our local regulations is to protect the lives of our residents, as well as their investments in their structures. The regulations require that structures be reasonably safe from flooding. In most cases residences or residents are required to elevate structures two feet above the base flood elevation, though there are different standards for things like agricultural structures and different options for flood proofing commercial structures. This is a photo from the 2018 floods here in Missoula. You can see some of the regulations in action with the brown manufactured home near the top of the photo and the new houses on the right. There is water around them, but they're elevated above the water and therefore safe from damage. If the area weren't elevated, there would of course be water damage but most importantly water can damage and crumble foundations through various forces, so it's important that the ground beneath the structure be elevated with fill. It's also crucial to reduce the amount of debris in the floodplain as well because debris can cause substantial damage. For example, you can imagine an unsecured propane tank floating down the river and the damage that could cause. We regulate things like fences in the floodplain as well because they can cause debris to build up which pushes water into places where it normally wouldn't go and when it comes to flooding, improper actions by one property owner can substantially increase damage on neighboring properties. Luckily all of this is avoidable through proper compliance with our floodplain regulations. I mentioned earlier that we regulate to the 1% chance or annual chance flood. You'll often hear people call it the 100-year floodplain, but we're trying to move away from this terminology because it's quite misleading. The 1% chance annual flood means there's 1% chance of this level of flooding in any given year. We can't predict what year that will be and though the math results in a high probability it will happen within a hundred year time frame, it doesn't mean it just happens every 100 years. It could happen two years in a row or every 200 years or three times in a hundred years; it is just a probability. So even if property owners haven't seen their property flood, the risk is still there and proven with models and they are required to develop in a way that protects their structures. So, thank you for listening to the short educational part of the presentation. You'll get a lot more information later this year when we come back to talk about the Clark Fork remapping project. So, now I'm going to hand it over to Alex who will be explaining the proposed ordinance. Thank you.

Alex Eidam Are we there? Can you see the screen and hear me okay?

President Jones Yes.

Alex Eidam Great, everything froze briefly. Here we are. Okay, great. Well thank you Cassie. Good afternoon, my name is Alex Eidam and I'm a Planner with the Permits and Land Use Division at Development Services here this evening to propose an ordinance for minor amendments to the city floodplain regulations specific to section 10.4.4 which covers agricultural structures and updates to appendix A. So, as Cassie mentioned, the City of Missoula participates in the National Flood Insurance Program, and it also participates in the Community Rating System or CRS Program. The CRS is a voluntary incentive program that recognizes and encourages community floodplain management practices that exceeds the minimum requirement for the NFIP. In CRS, communities flood insurance premium rates are actually discounted to reflect the reduced flood risk resulting from the community's efforts that address the three goals of the program, and those are firstly to reduce and avoid flood damage to insurable properties, second to strengthen and support the insurance aspect of the National Flood Insurance Program, and third to foster comprehensive floodplain management. So, in order to ensure the community is adequately enforcing its floodplain management regulations, a FEMA staff member or DNRC staff member ....very side note, all the acronyms are on the slide because floodplain loves acronyms. So, a FEMA staff member or DNRC staff member on behalf of FEMA conducts what is called a community assistance visit, otherwise known as a CAV, very fun. DNRC completed a CAV visit with city staff on July 23, 2021. Following the CAV, DNRC issued a letter addressing outdated language that needed to be updated in section 10.4.4 agricultural structures of the floodplain regulations. Additionally, two letters of map revisions were recently issued which means appendix A and the floodplain regulations also needs to be updated to reflect this information. In the letter, DNRC provided a six month deadline for completion; however, this letter was never received by the City of Missoula, so they granted an extension via email on November 17, 2021 with a six-month deadline of May 17, 2022 to adopt these changes. DNRC is requiring an update in response to a FEMA policy issued in February 2020 concerning floodplain management requirements for agricultural structures and accessory structures. The purpose of the policy was to acknowledge the unique characteristics and uses of our cultural and accessory structures within the special flood hazard area, to ensure sound development, and promote public health, safety, and welfare. The slide shows the proposed amendments. The updates to section 10.4.4 clarify the definition of agricultural structures. It eliminates vague language such as "be located on higher ground and as far from the channel as possible" and it proposes clean and enforceable language that requires the lowest floor of our cultural structures be elevated to at least the base flood elevation, as Cassie demonstrated in her slide or adequately dry floodproofed. And it also requires agricultural structures to comply with section 9.11, which is structures accessory or pertinent. The other updates to the city floodplain regulations will be related to appendix A to include two new letter of map revisions, also known as LOMRs. So, what are LOMRs? Well lowers are an official FEMA amendment to the currently effective FEMA flood insurance rate map or as we also call FIRMS based on the physical change to the floodplain or the special flood hazard area. It is issued by FEMA and changes flood zones, delineations, and elevations on the FEMA FIRMS and may amend FEMA flood insurance study. So, two LOMRs have been issued since the last Title 18 update and the associated changes to the FIRMS must be listed in appendix A. The LOMR affected April 27, 2022 was issued to revise the map in response to updated data for a portion of Grant Creek and the LOMR effective June 27, 2022 was issued to revise the map following the removal of Rattlesnake dam. Federal and statutory authority since section 1.14 of the city floodplain regulations and administrative rules of Montana section 36.15.204 provide that amendments to regulations must be found adequate and acceptable by DNRC and FEMA prior to adoption and require public notice in a newspaper of general circulation. DNRC approved the draft language on April 29th and

FEMA delegates review and approval of this amendment to DNRC. So, when DNRC determined that the amendment was adequate and acceptable, the requirement for review by FEMA was also met. Legal notice was published in *The Missoulian* on April 3rd and April 10th. The 44 code of federal regulations and state law requires communities that participate in the NFIP to adopt compliant regulations that meet or exceed these standards. The proposed amendments meet the minimum standards as well as the minimum federal standard. FEMA and DNRC require that communities must adopt regulations within six months of notification. The review deadline for this amendment is May 17, 2022. So, this item will be open until City Council final consideration next Monday, May 16, 2022. So, there's no motion this evening but for reference staff is recommending approval to adopt an ordinance amending Title 18 the city floodplain regulations to incorporate revisions to section 10.4.4 agricultural structures and appendix A in response to a FEMA policy regarding floodplain management requirements for agricultural structures and accessory structures and to include map provisions. Thank you.

President Jones Thanks. Thank you for the presentation. Is there any public comment on this item? So, if you have a public comment, if you want to come up to the podium and state your name. And I will say, we don't do a back and forth in terms of questions but if a Councilor wants to pick up the question and ask that of staff, that's how we construct it. Go ahead sir.

Glenn Slay My name is Glenn Slay and I have a question about what happens after the first flood and the federal program no longer will respond.

President Jones Thank you. Any other public comment? Just that, all right. Thank you very much. Does anyone else have public comment on this item? And anyone in the attendees? Seeing no public comment, Council any questions from Council regarding this item? Ms. Jordan.

Aldersperson Kristen Jordan Thank madame chair. I'm just wondering how we can follow up on this question for our friend here and I'm new so I would like to know if I can follow up on that question for him?

President Jones Yes, so you can ask that of staff. So, if you want to pose that question now to staff, now's the time.

Aldersperson Kristen Jordan I will propose that question to staff. Thank you.

Cassie Tripard I think I need a little bit of clarification or repeat on what the question was....

President Jones Why don't you come back up to the podium, just going to get this one right here. The best laid plans...Can you expand a little bit?

Glenn Slay Recently, within the last few years, changed the national flood program in significant ways. One of which was that they revised the program and what was considered to be the 100-year floodplain, they remapped everything, all right and they have also made it very clear that they will not pay for floods in repeat situations. If you're in a flood plain and you have a loss and you have federal insurance, federal insurance program protection, it will not respond after the first claim. And what my question is, what happens and what does this mean to the people who are living here and buying flood insurance?

President Jones Okay and thank you. And I assume that you will forward that question on to staff?

Aldersperson Kristen Jordan Yes, please.

President Jones And this item, if you're able to answer it now great otherwise this item will also be in land use and planning this coming Wednesday. So, we could have an answer by then, but staff is that something that you're able to answer now?

Cassie Tripard I'll probably need to go do some research prior to LUP and could get an answer together. I need to look into the remapping. While we did adopt new maps in 2015, it was using the same data that we had had prior and then I believe you're referring to what's called a repetitive loss, which means if your structure is repeatedly damaged, generally they will stop paying it out. They would, you know, hope that you would actually elevate it so that it's not repeatedly damaged due to its location and elevation, but I will get a more refined answer put together by Wednesday. I can also give my email out if you'd like to contact me and I can send you a more specific answer.

Glenn Slay Okay. Thank you.

President Jones Great, thank you. We had some questions....Sandra, I'll go to you.

Alderson Vasecka Yeah, so that was a really good presentation that Cassie put on. I was wondering if there's any way that we could get a copy of that presentation, to look at the maps in more detail because a lot of it's in my Ward. So, I assume that I'm going to get a lot of questions this summer for it.

Cassie Tripard Yep.

Alderson Vasecka And then also kind of following up on that gentleman's question. With most insurance companies, yeah they can deny claims if there are repetitive losses but with this being a federally insured program, I'm curious to know that answer. If that's legally allowed as well? So, I can get that answer on Monday or on Wednesday. Thanks.

President Jones Great thank you. We had a question from Ms. Becerra online. So, we'll go to Councilwoman Becerra.

Alderson Becerra Thank you. I was just going to comment that in my years reviewing subdivisions that one you know talking about the 100 year flood claim was always a little bit misleading. So, I'm really happy to see that change and be more a more intuitive designation for, for that part of the floodplain. I guess one question I had is what is considered an accessory structure for agriculture? Is it a barn or a shed or what are some of the accessory structures?

Cassie Tripard Alex would you mind sharing that slide again with the definition of an agricultural structure? It's a pretty long definition. There we go. It's a little bit messy, but they are not intended to be insurable. They're used solely for agricultural purposes, having low flood damage potential, used for production harvesting, storage, drying or raising of agricultural commodities, including livestock and animal confinement but they are not meant to be inhabited by humans. So, that wouldn't be say you're shed on a regular residential lot but if you actually had an agricultural use happening on your land, your accessory structures related to these actions would fall into this.

Alderson Becerra Yeah, yeah, I, I knew it wasn't for residential but yeah I appreciate your help. Thanks.

President Jones Thank you. Ms. West.

Alderson West I was wondering if for the Wednesday presentation maybe we could get a visual associated with the, the second letter of revision that's mentioned here which is the, the I guess the map the new map after the removal of Rattlesnake Dam. I, I think that is a huge accomplishment for a community and I would really like to actually see the visual impact and how that's affected the I guess a more natural flood pattern in that drainage.

Cassie Tripard Yeah, we can show the LOMR. So, it doesn't actually update the maps that you'll see on the FEMA website or what's my zoning, but it does come with a letter from FEMA that includes generally a little map excerpt, or we have the application that will have that. So, we should be able to dig that up.

President Jones Okay, are there any other questions from Council on this matter? This will be heard in LUP this Wednesday. So, if you have follow-up questions, that's the time, and then this coming week, it should be final consideration. All right, thank you Cassie and Alex, appreciate it.

## **9.2 Referral and Staff Report – Phased Development Review for Phase W2 and E1 of Heron's Landing Subdivision**

President Jones The next item on our agenda is 9.2 Phased Development review for Phase W2 and E1 of Heron's Landing Subdivision and we will be hearing this item tonight, opening and closing it with a final consideration vote. So, please keep that in mind. So, Alex we will go to you for a staff presentation.

Alex Eidam Thank you. One moment here. Okay I think we're up and running. We can see and hear okay?

President Jones Look great.

Alex Eidam Okay, just give me one second here. All right, perfect. Well, hello again, Alex Eidam. Now here to present the Phased Development Review for Heron's Landing Subdivision Phase W2 and E1. Preliminary plot approval was granted on September 21, 2020 by City Council in 10 Phases, subject to 25 conditions of approval. The subdivision will contain 347 lots on 72.11 acres and is within the RT5.4, two unit townhouse residential zoning district with a Heron's Landing neighborhood character overlay. The Heron's Landing subdivision is located in the Sxwtpqyen area north of Mullan Road, south of the 44 Ranch subdivision with George Elmer Drive splitting the area into a west and east side. Here is the full subdivision plan showing all 10 Phases. The final plot for Phase W1 shown in the dark blue color was filed September 21, 2021 and consisted of 45 lots. This development review is for Phase W2 shown in the purple color and Phase E1 shown in the yellow color. No changes are proposed to the phasing plan or the final plots and middle deadlines, as outlined below on the image. Here's the proposed plot for Phase W2 which is located to the west of George Elmer Drive and will contain 31 lots on 10.70 acres. And here we have the proposed plot for Phase E1, which is located to the east of George Ulmer Drive and will contain 45 lots on 9.49 acres. So phased development review is mandated through state law and requires the governing body to hold a public hearing and conduct a review prior to the applicant's ability to submit for final plot review. In this review, the goal is to determine if there are any change subdivision primary review criteria impacts or new information that exists which would result in significant adverse impacts with the phase or phases under review that was not known at the time of preliminary plot approval. For example, there could be updated regulations and codes or new floodplain data that has been made available. If these circumstances do exist, the governing body is able to apply new conditions of approval or amend existing ones. Staff is recommending several amendments to the original findings of fact and conditions of approval and Council may choose to either approve the phased development review with some or all of the recommendations, add new conditions, or choose to approve the phased development review with the original findings of fact and conditions of approval of preliminary plot approval. Phased development review is not a, is not, excuse me, phased development review is not able to be denied. Any approved amendments to findings of fact are then used for the review of subsequent phases. After phased development review, the applicant may submit for final plot review approval which ensures their submittal meets the conditions that results from the phased development review process. Oops, sorry....The city's subdivision regulations include review of the following impacts from the proposed subdivision derived from state law.



These are the categories you will find within the staff report. Please note that there are various minor changes to findings of fact, conclusions of law, and conditions of approval outlined in the staff report. Further, there are minor clarification changes to the staff report that will be outlined in a memo dated May 6, 2022. In this presentation, I will be covering the major changes that happen specific to agricultural water user facilities and local services as it relates to non-motorized transportation. We will start by looking at agricultural water user facility criteria. Following the preliminary plot approval in September 2020, the City of Missoula obtained all right, title, and interest and water rights held by Hellgate Valley Irrigation Company on November 1, 2021 along with ditch easements and related infrastructure and pertinence is necessary to divert and convey the entirety of Hellgate Valley Irrigation Company's water rates. This includes the portion of Flynn-Lowney irrigation ditch that crosses Heron's Landing subdivision. The City intends to retain ownership of the ditch easements it acquired from the Hellgate Valley Irrigation Company through the Heron's Landing subdivision for the purpose of conveying water, either through an open ditch or a piped conveyance. Staff recommends the added findings of fact number 6 and modified finding a fact number 7, as demonstrated on the side to reflect these changes. The second criteria with major changes is non-motorized transportation. This includes a circulation plan which shows a five-foot sidewalk connection, as we can see in red, and also shows the original 10-foot wide secondary commuter trail indicated in blue. This trail extends from Roundup Drive near the southwest corner of the property along Flynn-Lowney irrigation ditch then continues along Nesting Lane and onto Heron's Landing Drive, where it crosses at the intersection of Heron's Landing and George Ulmer then heads north and turns on the south side of Bell Tower Road and runs adjacent to Bell Tower Road, within common area 19 and 22 and the irrigation ditch easement. The changes to this commuter trail are now shown in green. So, instead of crossing George Elmer Drive at the intersection of Heron's Landing, the trail will continue along the west side of George Elmer Drive then crosses George Ulmer north of the intersection of Heron's Landing Drive and continues north along the east side of George Elmer Drive and eventually connects with Pius Way, roughly 0.22 miles north of the subdivision. The secondary commuter trail will no longer be adjacent to Bell Tower Road within common area 19 and 22 and the irrigation ditches easement. The subdivider is responsible for construction of the secondary commuter trail within the Heron's Landing subdivision. Staff recommends the following changes to condition of approval number 20 to reflect the relocated secondary commuter trail, most specifically is that the subdivider shall provide a 10 foot secondary commuter trail in the locations, dimensions, and within the rights of way and easements proposed in the preliminary plat face subdivision submittal and approved by City Council, most importantly accepted as amended along George Ulmer Drive and deleted from the subdivision frontage along Bell Tower Road as shown in exhibit number 1. So, now that we know the City has obtained the Hellgate Valley Irrigation Company, which includes portions of the Flynn-Lowney ditch irrigation and that crosses the Heron's Landing subdivision, and we know the city intends to maintain the easement and the secondary commuter trail that runs no longer along Bell Tower Road. The City authorizes and requires the subdivider to fill the open air ditch and install curb gutter seven foot landscape boulevard and side five foot sidewalk on the Bell Tower Road frontage in Phase E1 and Phase E3. Beyond this activity that will be required by the City no actions authorized within the irrigation ditch easement prior to executing the ditch use agreement, which is intended to establish the terms and conditions regarding access and use of the ditch easement in areas where an open ditch is likely to be converted to a piped ditch. Based on this new information, staff recommends added condition of approval number 26, as amended by memorandum number one dated May 6, 2022 which states the subdivider shall maintain the 20-foot irrigation ditch easements or I'm sorry excuse me deleted the subdivider shall maintain the 20 foot. So, just read the red, don't focus on the green, but kind of focus on the green, it got a little complicated. The irrigation dish easements as shown on the preliminary plot through the Heron's Landing subdivision shall be shown on the final plots and will remain. The subdivider shall fill a portion of the

open air ditch and install curb gutter seven foot boulevard and five foot sidewalks along the Bell Tower Road frontage in Phase E1 and in E3 subject to the review and approval of the city engineer prior to final plot approval of Phase E1 and Phase E3, and execute the just ditch use agreement prior to any action being taken within the ditches and it beyond what has been directed by the city within this condition. And so, this evening, we're here for public hearing and then this is also going to be final consideration. And so, staff is recommending approval of the Phased Development Review of Heron's Landing Subdivision Phase W2 and E1 based on the amended findings of fact and conclusions of law and amended conditions of approval in the staff report as amended and memorandum number one dated May 6, 2022. Thank you.

President Jones Thank you. Is there any presentation from the developer on this item? So, we've got Ryan Salisbury. I'm going to allow you to talk, are you able to unmute yourself Ryan? There you go.

Ryan Salisbury Can you hear me now?

President Jones Yes.

Ryan Salisbury Okay great. Feels like it's just a little bit different. I don't have much of a presentation, Alex did a great job, but I figured I'd at least do an introduction in case there's questions from Council. And then I'll go ahead and share my screen. Is it gonna allow me to share my screen here? I'm not seeing that option....

President Jones Sorry, I'm not help with this....

Alderperson Hess Could, could I request that we get Mr. Salisbury promoted as into the meeting as a meeting panelist?

Claire Trimble Yes, we can do that.

President Jones All right, can you try now Ryan?

Ryan Salisbury Okay, I think we've got it figured out now.

President Jones Great, we can see that. It looks good, we can see your screen. So, go ahead.

Ryan Salisbury Okay and you can see the full screen then? Not the....okay great. All right, thank you. As I said for the record, my name is Ryan Salisbury, I'm a Principal Engineer here at WGM Group and on the call with me today is Dustin Hover who is the Design Engineer and Project Manager for Heron's Landing. And it's not letting me change slides, so I just wanted to update. I've got a picture coming up here for those of you who are not at the LUP meeting, just to show you what the development looks like today, what Phase W1 looks like. We have curved gutter sidewalk and the, the project is Phase W1 was, is completely built out and building permits are in review, are under review and residential construction will start soon, and we'll be moving, depending on Council's vote this evening on W2. This, we've already submitted infrastructure plans and we could be under construction on W2 as soon as the end of May of this year, pending a DEQ approval and a final release for construction approval from City Council. And E1, we would look to start construction, we won't get all of E1 done in 2022, but we hope to start the underground utilities and complete E1 in 2023. A picture of the project site this spring after it was paved and I covered that we would be starting construction on Phase W2 in May of 2022, just to show you the great progress that we're making out there and hoping to alleviate some of this housing crisis that we're experiencing. And wanted to say thank you to Alex and the city staff that helped us navigate this on very short order. Within a week, these Phased development reviews come with statutory time frames of how, how the city has to how much time the city has to process an application and I know everyone at the city is very busy. So, thank you for your efforts to meet that

statutory requirement and we had conversations with city staff about the ditch use agreement and understand that better and that it does not apply to Phase W2 or E1. And as Alex showed on her screen, we had some coordination with the city in regards to the final condition language and finding a fact language, and clarified that the shared use path that the Heron's Landing developer is responsible for only lies within the Heron's Landing development boundaries and does not extend offsite of Heron's Landing. And that's all I had. So, thank you and I'm available for any questions.

President Jones Great, thank you. So, first, following our format, are there, is there any public comment on this item? If son, come up to the podium. I'm not seeing any raised hands. Are there any questions from Council on this item? Mr. Hess.

Alderpersion Hess I just wanted to confirm from Alex and Ryan that the questions that were raised in LUP on, I guess it was on whatever it was last week on the fourth were adequately addressed and, and resolved to mutual satisfaction?

Alex Eidam I believe so. Yes, the memo that was sent out last Friday on May 6, 2022, should have covered all, all pieces that both parties wanted to discuss.

Ryan Salisbury Yes and if I might weigh in, yeah that memo does address our concerns and has condition language that we can, we can work with. Thank you.

President Jones Okay, Ms. Anderson did you have your hand raised?

Alderpersion Anderson I did madam chair. Thanks so much. I guess mine, in reading through the memo dated May 6, 2022, in the second criteria in regards to the secondary commuter trail, Mr. Salisbury, did note that it's only within the Heron's Landing that they're responsible for, it does seem like that there's some language crossing out that, where it interconnects with so I just want to make sure that this is a, their portion of a more contiguous trail within the larger subdivision, but that this just clarifies who who's responsible for what portion of the actual building of it, but that it does actually connect within the larger trail within the larger subdivision? So, is that my understanding correctly on that?

President Jones Staff will you be able to address that?

Alex Eidam I believe, let me know if I don't answer this correctly for you....So a part of it derived from in actual finding a fact of the staff report we used descriptions specifically the 0.22 north to Pius Way, as merely just to kind of help paint a picture of where it was going and how it was all interconnecting. So, we've just added clarifying language in the finding effect in the condition so that it's clear that the developer is only responsible for what's happening in Heron's Landing and that those, that description to Pius Way was merely just to point out like where the commuter trail was changing and how it was changing. Does that answer your question?

President Jones Ms. Anderson.

Alderpersion Anderson Yeah, it does. I just, knowing that this is a small piece of a larger puzzle, wanting to make sure it all interconnects. So that was just my only clarifying question. So, thank you.

President Jones Okay. Ms. Becerra.

Alderpersion Becerra Thank you and I want to thank staff. Alex, thanks for all the details, for the detailed staff report. One of the, as you might recall, one of the agency comments from our stormwater division had to do with phasing of mass grading and how in other subdivisions in the area, this has caused you know a significant issues of air quality and pollution and dust due to the composition of the soils in this area. And I see that in the staff report that was addressed as finding a fact number 21, which you know includes a sentence about the Health Department working with the subdivider on finding best

practices to avoid the situation in the future, but I'm wondering why that didn't result in a condition of approval? Is it because this is not considered new information or can you explain a little bit why we couldn't turn this language into a condition, where we only say that something like the subdivider will work or shall work or will work with Health Department staff to be appraised of the of the best practices to avoid that situation in the future? Just, just wondering if you can clarify why we couldn't turn that into a condition of approval?

Alex Eidam Yes, thank you there's a couple components to that. Firstly, I think it kind of came out there's that this phased development happening for Heron's Landing and Remington Flats, which you all saw a couple weeks ago was also happening at the same time and so the comments from Tracy Chapman with the Stormwater Department was about mass grading where they have received complaints and so for the Remington Flats.... maybe Dave has more info, I'm not too familiar with that project, but I think that there were issues with mass grading at that location that may or may not have resulted in a violation. I'm not sure and that's why it was addressed a little bit differently in that one. Whereas this one, the Heron's Landing subdivision didn't have mass grading, there weren't complaints specific to this subdivision. So, we didn't have it any further expanded on for the Heron's Landing like we did the Remington. So, I added the finding of fact in there, so that's kind of the one piece of it. And then secondly, after we received the comment from Tracy Chapman about kind of the issues in that area, we looked it over with the city attorney and it's not necessarily that that's per se new information, they have their normal regulations that I don't know again what it looks like or the detail, but the Stormwater has that their plan and their regulations and that tied into air quality with Missoula County, as well that they can just in fact actually actively implement that it doesn't need to be tied to as a condition of approval for this because the new information has to be like maybe, for example, the Air Quality Department has new regulations in their code that is further requiring higher standards or however that looks again, not air quality specialist, but there wasn't any new information in this case. So, there wasn't a way for us to add a condition of approval tying it to that. It's more that they need to implement their code and it should be covered.

President Jones Ms. Becerra do you need to follow up or was that...

Alderperson Becerra Yeah, perhaps I mean, I just want to better understand, is the new information, does the new information have to be specific to the subdivision in question or, or does it, can it include environmental issues that affect the area in general? And the reason I ask is because while this subdivision hasn't been the, the source of complaints, I think as a preventative measure in the future knowing what we know now that when you have a significant amount of development taking place, if we're not careful with how mass grading takes place, that will very likely result in air quality issues and complaints to both the City Health Department and City Council. And so, as a preventative way, since we have that finding a fact in this staff report, it would seem logical to me to tie it to a condition of approval that doesn't require anything more than what that finding of fact is stating, which is collaboration or if you know passing of information from the Health Department to, to the subdivider, just a way to tie the two finding a fact to a condition of approval. It doesn't require anything that would financially be burdensome to the subdivider, I don't think but I'm happy to be corrected and educated on it. I just, I just think it's important for us to think about being preventative when we know that this is a likely condition to happen in this area. So, while not happening with the subdivision per se, we now have new information about this being an issue in this area.

Alex Eidam Maybe Dave can possibly explain it better, but I think that the, the difference is we do have this new information but it's if maybe in two to three years for example we have this information, they've updated their codes and it's now part of the regulations and we can that would be maybe new information where we could tie it to a condition but from the time that the phased development was approved to now, in that realm of new

information, nothing has changed but perhaps I'm not explaining that very well. Dave, do you have any additional information?

Dave DeGrandpre Sure, thanks Alex. Dave DeGrandpre with Development Services. I just would add. I think it's possible that we could have inserted a condition because there are you know there are some impacts that have been noted on a nearby subdivision, not this one, but another one. However, you know it also brought to light I think we were in coordination with our stormwater and air quality partners at the city and the county, and they indicated to us that actually we do have the tools in place to protect air quality and also to protect water quality through stormwater controls and that we probably just needed to be doing a better job of actually coordinating with developers and enforcing those things. So, to me that was the biggest issue, the reason it didn't result in an additional condition is because again we do have the, the tools, the enforcement mechanisms, and now it's on everyone's radar because of potential infractions nearby and so we felt like that was a sufficient approach at this time.

President Jones Thank you. Anything else Ms. Becerra?

Aldersperson Becerra Just one final comment and that is that I, I agree with you, I think we do have the tools but they haven't, it puts the responsibility completely on our staff and health department to be tracking when the grading is happening and being able to enforce it and as we know we don't have the capacity to be, to be so vigilant on when the, the grading is happening and so a condition in my opinion would put the responsibility on both the subdivider and our subdivision because it would have to be in communication more consistently and, and it would allow time for staff to, to be able to go and enforce the regulations that we do have in place, but I, I don't want to bring anything at the 11th hour. I just would ask ....Ryan, thank you so much for being available to answer questions and just would ask the developer to really communicate with our staff on this issue, so that we avoid any potential violations but also a neighborhood complaint. This is an area that's getting hammered with construction and development, and so anything that we can do to alleviate it and, and keep their air quality as, as healthy as possible is a concern of mine. Thank you.

President Jones Great thanks. Any other questions from Council? Seeing none, I'm looking for a motion. Mr. Hess.

Aldersperson Hess Thank you. I would move approval of the phased development review of Heron's Landing subdivision Phase W2 and E1 for the property legally described as Parcel 1 and 2 of Certificate of Survey number 5963, located in Section 13, Township 13 North, Range 20 West, P.M.M. based on the findings of fact and conclusions of law, and subject to the amended conditions of approval in the staff report and as amended in memorandum number 1 dated May 6, 2022. I would like to speak to the motion.

President Jones One moment, let me call for public comment first and then we will come back to you. Is there any public comment on the motion that is now in order, that is on the floor? And I'll check for virtual attendants. If you want to speak to this motion and give public comment, please raise your hand. I'm not seeing any, so back to you now Mr. Hess for comments on the motion from Council.

Aldersperson Hess Thanks and I appreciate the thorough staff report and, and the comments from the applicant team. This is straightforward. This is a new requirement that the legislature added to subdivision review, this, this phased development review and it's kind of inserts a step in the process but, but I think that based on the staff report there's, I see no reason not to move forward with this approval and appreciate all the work that went into this. Thanks.

President Jones Thank you. Any other comments from Council? Seeing none, I will just add that Council has received quite a few emails with pictures from the original

construction when the first, first section was started. So, I completely understand Ms. Becerra raising the comment of how can we control the dust because it, with the first phase, it, it was an issue and we heard from a lot of constituents who live right in that area. So, I think we are definitely asking for some help with this. Mr. Nugent.

Aldersperson Mike Nugent Yeah madam president, I think that those complaints actually came from a subdivision on the other side of the 44 Ranch subdivision, not the first phase of this one....

President Jones Is that correct?

Aldersperson Hess That's my impression.

President Jones Okay then, we'll retract that, but I do think the issue of dust is, is huge out there and, especially as we probably head into a very dry summer. So, I appreciate the comments made by Ms. Becerra to see what tools are out there, but the best that they're able to work with staff and keep the dust down would be very helpful. Any other comments from Council? Seeing none, we will have a roll call vote on this item.

**Moved by:** Aldersperson Hess

Approval of the phased development review of Heron's Landing Subdivision, Phase W2 and E1 for the property legally described as Parcel 1 and 2 of Certificate of Survey number 5963, located in Section 13, Township 13 North, Range 20 West, P.M.M. based on the findings of fact and conclusions of law, and subject to the amended conditions of approval in the staff report.

AYES: (12): Aldersperson Anderson, Aldersperson Becerra, Aldersperson Carlino, Aldersperson Contos, Aldersperson Hess, Aldersperson Jones, Aldersperson Jordan, Aldersperson Nugent, Aldersperson Savage, Aldersperson Sherrill, Aldersperson Vasecka, and Aldersperson West

**Vote result: Approved (12 to 0)**

**9.3 An ordinance rezoning 2900, 2920 and 2990 Expo Parkway – Grant Creek Village (2 parcels, 44 acres) from R5.4Residential, RM1-35 Residential (multi-dwelling), B2-2 Community Business, and C1-4Neighborhood Commercial to RM1-45 (multi-dwelling)**

The City Council will hold this public hearing open until they take up the item for final consideration on June 6, 2022.

President Jones We have one last item tonight. It is the opening the hearing on the Expo Parkway rezone . I think it would be good to just take a 5-6 minute break; we've been going for a long time. How about we take 10 minutes? Everyone hit the restroom and we will reconvene at 7:50 p.m. and hear Expo Parkway.

President Jones We have one last item tonight. It is the opening the hearing on the Expo Parkway rezone . I think it would be good to just take a 5-6 minute break; we've been going for a long time. How about we take 10 minutes? Everyone hit the restroom and we will reconvene at 7:50 p.m. and hear Expo Parkway. I'm going to call our meeting back to order. Thanks Claire. If you guys can all turn your screens on. Okay, thank you everyone. It's a long meeting tonight. I appreciate your patience. The last item is to open the public hearing on the Expo Parkway rezone. So, we will start off with....I'll just, to let everyone know, we'll have staff presentation and then the developer can have comments and then we will take public comment. And public comment will be limited to 3 minutes per person, and we'll be pretty strict about that and then if there's any questions

from Council, we'll do that. However, I will say this will be back in Land Use and Planning Committee and Mr. Hess, you had an update on scheduling regarding.....

Alderperson Hess Yeah, I have a scheduling issue that became aware of. So, we'll, I don't know exactly when we'll schedule this yet, but it'll be, it'll likely be in late May or early June, and we'll just make sure that we work with all the, work with the applicant team and with staff and interested parties, and make sure that it's well noticed. And I'll, I should be able to announce that at the meeting next week, as well but, so it'll be it'll be kicked off a little bit farther than, than the 18th.

President Jones All righty. Thank you for that. So, yes, we will, we'll start it tonight. If you are going to give public comment tonight, that is greatly appreciated. I would ask that people try to keep in mind when they give their public comment, give us their public comments, say it, it would be good to not repeat the same public comment for the several times that Council hears this item, to not be repetitive. So, just keep that in mind for when you do want to provide that. All right, so we will go to staff for presentation.

Dave DeGrandpre All right, thanks Councilor Jones. I'm Dave DeGrandpre with City of Missoula Development Services, and I'm pulling up the slide show right now. How's that?

President Jones If you can, you know, we can see your side....

Dave DeGrandpre Oh I see.

President Jones Yep, you can make it bigger.

Dave DeGrandpre How about now?

President Jones That looks excellent. Thanks Dave.

Dave DeGrandpre All right, thanks for your patience. Again, Dave DeGrandpre with Development Services, and this is a request to rezone property at 2900, 2920 and 2990 at Expo Parkway to RM1-45. And so, to set the stage a little bit, I would like to provide a little bit of context. So, zoning amendments are based on state law and Missoula Title 20; that's our city zoning ordinance. Unlike subdivisions and annexations, there are no conditions of approval. It's either a thumbs up or a thumbs down vote and also please keep in mind that approval of a rezoning is not the same thing as approval of a site plan. It would simply change the zoning map to a different zoning district than the zoning district or districts that are currently in effect. The subject property is located just north of I-90 near the intersection with I-90 and Grant Creek Road. There are two parcels, both a north parcel and south parcel that are a total of 44 acres in size. The property is a former gravel pit with steep slope and an irrigation ditch on the west side of the property and the property is accessed from two city streets, Stone Bridge Drive and also Expo Parkway. This slide is meant to show you where the property is located within city limits. So, city limits are shaded in red, and you can see address points that are pointed out in red and also undeveloped ones in green, and then with the star, there is the subject property. There are several hundred homes north of Grant Creek, I think it's over 600 address points at least north of north of this property in the Grant Creek drainage. The property is served by city water and city sewer. Surrounding residential development includes several different types, to the south is highway oriented commercial, so there are three hotels, a restaurant, a couple of lots, farther down that are zone C1-4, that's a commercial zoning district, a higher intensity commercial zoning district. So, it's highway oriented commercial really along interstate 90 or just north of interstate 90. On the property, there are two multi-dwelling buildings that have been built so far, four have been permitted total, total units I believe that have constructed are 141 total, total units that have been permitted are 146. To the east of the property are smaller scale condominiums, the Cottonwood Condominium Complex. To the southeast restaurants, hotels, we have a convenience store across Grant Creek Road, city open space and

trails. Immediately to the east of the property, there's a four-story rocky mountain elk foundation warehouse and then the elk foundation headquarters and then to the north are single-family residential, residential homes. So, in my view, the, you have highway oriented more commercial or more heavy commercial along the interstate and then multi-dwelling to the east and single to the north. The current zoning is a mix. It's an interesting situation where the property itself has several different zoning designations. On the north property, there are three in fact. There's an R5.4 to the north and that's a single family type residential district. The bulk of the property located in the light brown or shown in the light brown is RM1-35, that's a residential multi-family district. So, a higher, higher density residential district and to the south, C1-4. This is a highway-oriented commercial type zoning and then there's also B2, that's a neighborhood type business on the property. So, several different zoning districts on the parcels, which creates an interesting situation because under, under Title 20, that's our zoning ordinance, when a parcel is zoned with more than one designation, what happens is the most restrictive zoning effectively applies. So, in what that means in this situation is the north property, although the vast majority of it again has a has a zoning designation of RM1-35, again that's multi-family, under Title 20, the most conservative or most restrictive zoning is R5.4. So, that applies to the majority of the property, again that's a single-family residential district and I'll give you the specifications for that here in just a second. And then the southern parcel the effective zoning is not one of the commercial zoning designations that apply but the multi-family, the RM1-35. So, this is kind of a unique attribute of Title 20 is that when you have a split zoned parcel as we call it or a parcel with more than one zoning designation, the stricter applies. And so, I'd like to just provide some information on the current development potential of the property under the existing zoning. So, in the north parcel I mentioned the R5.4 is the predominant or effective zoning and so this is a single family type residential district with a minimum parcel area and minimum area per dwelling unit of 5,400 square feet, maximum height of 35 feet, and ultimately after the gross development that can be permitted on the property under the current rules is 156; it would be single family, typically dwelling units on the north parcel. The south parcel is again the multifamily zoning the RM1-35 that permits a variety of different housing types, so single-family dwellings, duplexes, apartment buildings or multi-family dwellings, mixed use, etc. A minimum parcel area is 3,000 square feet, minimum area per unit or per dwelling unit is a 1,000 square feet. This also has a 35 foot maximum height, just like the R5.4, and after all the math is done what it boils down to is about 339 dwelling units that could possibly, gross dwelling units I'll say that could be developed on, on that southern parcel and so you add those together and it's about 495 dwelling units under the current zoning that could be permitted, but there I have a big caveat with that number and that is, it doesn't take into account those are those are gross numbers, which don't take into account things like the area needed for roads, parking, landscaping things like that. So, I think that's a high number but let's just use 495 under the current zoning as a baseline and we can compare that with what's proposed under the zoning. So, again proposed is RM1-45, that's also a residential district multi-family. Just like the RM1-35, it allows single dwellings, duplexes, multi-family dwellings and, and mixed-use type development. It has the same minimum parcel area and minimum area per unit as the RM1-35, really the only difference is the maximum height. The previous or the current zoning allows buildings up to 35 feet. The RM1-45 allows them up to 45 feet. So, when you do all the math, what it boils down to is again gross dwelling units of just under 1,200 but again I would very much like to emphasize that that figure is gross. It doesn't take into account parking, circulation, landscaping, activity area or you know kind of park land on site things like that. And I know it feels a little silly to be talking about these gross figures, I feel a little bit silly talking about them but in order to really understand what can be developed on the site, you'd have to develop a very detailed site plan meeting all the codes and we just we don't have that capability and that's not our practice here at the city, that's the developer's realm. And so, now there's a little bit of history to this as, as I'm sure at this point you all know. So KJA Development, the current applicant, applied to rezone this property to RM1-45 in 2000, the year 2000 and that was



not approved. That zoning change was not approved by Council. At that time, Council raised concerns and voiced concerns about several different items some question about Growth Policy compliance. There was concern about only one ingress and egress from the Grant Creek drainage, in the event of an emergency like a wildfire, lack of safe non-motorized transportation facilities in the area, existing traffic issues, and the potential, there was just uncertainty about the developer mitigating those transportation impacts and then also discussion and concern about some of the city's Growth Policy or long-range planning goals related to climate change. In particular, things like single occupancy vehicle trips, auto emissions, and things along those lines. So, the developer again is applying for the same designation today; the RM1-45. So, what's changed? I guess you know in my view housing demand has continued to outpace the supply. Now there are dwellings that are, that have been built and permitted on the south parcel and I think that's relevant or important because you can see the type of development, you can see the architectural design, and kind of how it how it looks and feels I can imagine something like that continuing northward. So, at least you get a sense of it but maybe more importantly, the transportation facilities are a little bit better. Back in 2000, there were only two southbound lanes toward the I-90 interchange when you're headed south on Grant Creek, now there are three. There's also a bike lane that's been added. The developer has petitioned into the urban transportation district, which is the first step toward providing transit. Transit is not available today at this location, but the first step of course is to get into the tax district, so the taxes be, can be collected and I know that Mountain Line is currently undergoing a strategic planning process, although we don't know that this development will be brought in so. And then a couple other items, there are the city is developing a trail system to the east on in the Bluebird recreation area, which is just across Grant Creek Road and the developer has, has done some additional work in the meantime. You know there was concerns cited regarding public safety, evacuation, things like wildfire, things like that. So, the developer commissioned a risk analysis and fire protection and emergency plan, that's included with the application materials, and also the developer has provided more refined and modified plans to address some of the issues that were brought up during the public hearing process back in 2020. One of the things the developer has submitted is a development agreement. And so, a development agreement has been used by the city in the past but is not something that we commonly see. It is a contract between a city and an applicant that, that runs with the land. In this case, the developer has provided a detailed site plan and along with this development agreement that proposes a maximum of 700 dwelling units, in a four-story type apartment buildings, and also lower density condominium type units. So, again under the zoning, the gross number that could be permitted, the RM1-45 is 1,185 roughly and the developer is proposing to limit that here to 700. The site plan and the development agreement also include things like a community center, recreation areas, hiking trails, community garden, and other kind of facilities for...hiking trails actually could be used by the public under this agreement but most of the facilities would be internal to the residents of the development, but one what I would really like to emphasize to you, when you're considering this, is the rezoning that's on the table really must be decided, must be decided based on whether the request meets the review criteria under state law and our local rules. So, I guess what I'm saying is the development agreement is nice, it's nice to see what the developer is actually proposing, but in making this decision, it's important to review the request on its merits. Does it comply sufficiently with the review criteria that you have or does it not? Regardless of the development agreement, and it did not weigh into staff's assessment and our recommendation. So, I'd like to go into a few of the review criteria. Again, under state law and local regulations, we have review criteria for judging whether a rezone is appropriate, it should be approved, things like compliance with our Growth Policy, effects on public services and transportation, whether the growth allowed under the zoning would be compatible, whether the zoning would promote public health and safety, etc. And so, I'm going to just discuss a few of those right now. The staff report evaluates those in detail and provides more information and if you'd like me to go in to staff's impression of compliance with the

review criteria, I'd be happy to later but in the interest of, of time and to allow the public to comment, I'll move through more quickly, but, I don't really want to focus on compliance with the Growth Policy because I think this is certainly one of the most important. And so, the Growth Policy is a guide for where development and what types of development are appropriate. And it includes a whole lot of goals, of objectives, of policies, of things that that the community would like to become. It's an aspirational document but also provides some, some real guidance and in particular, in my view the most important element of the Growth Policy when thinking about development review, particularly something like a rezone, is the future land use map. And this is a snippet from the future land use map and so the text surrounding the future land use map and the Growth Policy says something I think is very interesting. And it says the future land use map is a visual representation of the culmination of goals, policies, and objectives of the Growth Policy. And so, to me, what that means is you take all these policy statements, all these aspirational statements, and then boil it down to a map to show where certain types of development are appropriate and warranted. And so, this map shows the property in a red outline or two different properties, and the vast majority of it is residential. It has a designation of residential high, which means residential high density development greater than 24 dwelling units per acre is what's recommended on, it's 87% of the property and then the remainder of the property about 5.6 acres is recommended as regional commercial and services. And so, residential high, as you can imagine, just like it sounds, it's where things like apartments. You know, high density development is deemed appropriate under the Growth Policy, regional commercial and services is more like highway-oriented commercial things like auto dealers or manufacturing or hotels or restaurants, things like that. So, that's, that was the vision laid out in the Growth Policy when it was adopted in 2015. And so, under those Growth Policy designations, those are big picture type designations, umbrella type designations and underneath those there are zoning districts that are deemed appropriate or relatable as the Growth Policy calls them. And so, under the residential high, greater than 24 dwelling units per acre, the Growth Policy cites four different zoning designations that are appropriate RM1-35, RM1-45 which is what the developer is proposing here RM1.5 and RM0.5. And then over to the regional commercial and services that was pink on that map, it has three different commercial and industrial designations and also in public lands and institutional, institutional sorry. One thing I'd like to point out to you about the regional commercial services designation and the three commercial industrial zoning districts that are deemed appropriate in the Growth Policy is those three with the red asterisks, permit residential development up to 43 dwelling units per acre. So, although they recommend, the overall recommendation is for some sort of commercial type of development, the implementing zoning districts also allow higher density residential development, just like, just like the, the left column and those four different zoning designations. So, in the staff report, we go through, quite extensively, compliance with the Growth Policy, looking at that criteria and we believe that the RM1-45 substantially complies with the Growth Policy future land use map for several reasons. One is that 87% of the property is designated as residential high density, greater than 24 dwelling units per acre. RM1-45 is an implementing district is a zoning district that's deemed appropriate for this residential high Growth Policy designation. The allowed residential density is the same density also allowed in the regional commercial and services future land use map designation that was the pink designation. So, overall, this, this proposal seems to comply quite well with the Growth Policy future land use map. The Growth Policy is not only the future land use map, of course, there are also several other goals objectives and policy statements, but the main theme of the Growth Policy is a focus inward approach and that's one of the reasons that I, I showed one of the first maps I showed was where city limits are. So, this property clearly is not within the urban core, but is served by city services, already the development served by city water, city sewer, police, fire, road maintenance. This project, or sorry, this zone change would support many of the city's housing goals. It's true though that some services don't currently exist, again, there's no transit. Developed public parks in the area are lacking, neighborhood commercial. It's not as though there's

a, a grocery store you know within a quarter mile or something like that. So, some things currently, some services and facilities currently are not available and, but the developer can be required.... I guess a couple of things. So, one on those services, you know there's a question of if there's a greater demand will those services emerge? Will, will private business, if, if there are enough residents there will private business come to provide those services? Will trails be developed? Will parks be developed, if there's demand? And then with regard to public safety, the developer can be required to provide transportation improvements, safety improvements during the building permit process. So, when considering all these things, staff found that the, that this rezoning proposal substantially complies with the Growth Policy, and which is our recommendation ....or leads to our recommendation for approval in the staff report. Again, there are other criteria for rezoning not only compliance with the Growth Policy and the staff report, details those thoroughly, I think. And so, I guess I'd refer you to that and would I have a few more slides, so I'd like to get to those, although if you'd like me to address our view on compliance with these other criteria, I'd be happy to. But ultimately, staff is recommending approval of adoption of an ordinance to rezone the property to RM1-45 based on the findings effect and conclusions of law in the staff report, that decision won't be made tonight, of course. The planning board heard this back in April, considered this request, and did not approve a motion to rezone the property. It was a really interesting discussion; it was thorough also subtle. You know, there are a lot of a lot of pros and cons to rezoning this property and I'd like to commend your planning board, it's a City-County Planning Board but commend them for, for the thought and effort they put into it. You know, again, there were varying views and so you can, you can find that in the minutes and also the planning board summary but ultimately the board did not vote to approve the rezoning. Rezoning has an interesting protest provision under state law and so this is for municipal zoning, not county zoning, but in municipal zoning law, if protest petitions are signed or received by owners of 25% or more of the lots or condominium type units within 150 feet of the property, then at least 2/3 of the present and voting members of Council are needed to approve a zone change. So, in this case, we've counted 58 property owners within 150 feet of the subject property, 23 valid protests have been submitted, so that's just under 40%. Actually, we received one more protest today. I haven't had the chance to, to verify it according to our list, but in any event, the threshold is met. So, more than 25% of the of landowners protested, so that means a super majority, or 2/3 majority would be required to approve this zone change. And so that concludes my presentation for now, but I'm available to answer any questions you might have.

President Jones Thank you Dave. So, next in the queue, we have comments by the developer. So, why don't you come on up and state your name for the record and have the floor.

Spencer Woith Yeah I'm not sure who to look at, you're all there, and you're all right here. So, so I'll just keep my head down and read.

President Jones Whatever works for you.

Spencer Woith All right. Spencer Woith with Woith Engineering at 3860 O'Leary. Thank you Councilors for the opportunity to present this project tonight. Dave did a good job, and we'll touch on a few things. The team on this project is comprised of Woith Engineering, Hoffman Morgan, and Ken Ault, or KJA as the developer. Ken has developed a number of projects in Missoula and is currently the builder of the existing multi-family projects that you'll see in our presentation. We're here this evening to request the property be resented to RM1-45 and Mr. Ault is voluntarily entering into a development agreement, which will place restrictions on his property and help to address the community concerns. We will quickly reiterate the merits of Mr. Ault's request to RM1-45. As Dave said, Grant Creek Village encompasses two parcels at the mouth of Grant Creek drainage adjacent to I-90 and a former gravel pit. Our Missoula 2035,

approved by the Missoula City Council on November 23, 2015 uses the criteria discussed at depth within the documents to recommend the land use of residential high density for both parcels. Residential high density, as Dave said, 24 to 43 dwelling units per acre and the relatable zoning districts are RM1-35, RM1-45, RM1.5, and RM0.5. One key that I wanna talk about, RM1-35 and RM1-45 both have the same density calculations of 43 dwelling units per acre. So, the difference between RM1-45 and RM1-35 does not give the developer any ability to go any more dense. The only thing it allows is to go to 45 feet. We specifically want the 45 foot, again so no more unit counts, but we get the opportunity to create open space and create a good development by adding that four story. It is important to reiterate also this future land map is a graphical representation of the goals and objectives of the Growth Policy. The map was created through a public process of focus groups, steering committees, neighborhood Council, planning board, and ultimately adopted by the City Council. Mr. Ault's parcel also falls within the boundary of the 1980 Grant Creek area plan. In Montana, neighborhood plans are approved by local governments as an extension of the Growth Policy document, so it's very important to consider the 1980 area plan. Grant Creek Village was split into two recommended land uses in that 1980 plan high, density single family on the north and medium density multi-family. If you look at the overlay of the Title 20 compared to the 1980 area plan, it provides an important context to the existing zoning and additionally, this has been in place for 42 years and has been planned for high density development. You can see how Title 20 district boundaries are closely related to the 1980 with the R5.4 and the RM1-35. The majority of the property being zoned multi-family, as envisioned by 1980 plan and the Growth Policy, the property was zoning, as it was approved by Council would allow for 1,100 units to be constructed. However, we're 1,185 based on Dave's calculations; however, as Dave mentioned the quirk in Title 20 creates a split zoning and essentially down zooms the parcel entirely to R5.4 and that creates a direct conflict with Our Missoula 2035. We can compare the extent of the proposed development to the existing zoning districts to understand why the request to rezone to RM1-45. You can see the smaller buildings on the northern region, the development as envisioned by 1980 and the R5.4 designation that is the current zoning on the northern parcel. However, as previously stated again, that prohibits the parcel with two zoning districts. So, the northern portion parcel would be entirely zoned R5.4, bringing it out of compliance with 1980 plan and the Our Missoula plan. Our proposed development would comply with the existing zoning districts without a split zoning provision, so that is why we're requesting RM1-45. To show our commitment to the development agreement, we have executed a copy of the development agreement. It's been signed and notarized by the developer, and I can give it to someone.....In response to the community concerns, we're voluntarily entering into this development agreement with the city and placing restrictions on both parcels. The development agreement will restrict Grant Creek Village to 700 dwelling units. This will limit the density to 15.89 dwelling units per acre, which actually falls below the Our Missoula 2035 recommendation but is very much in line with the original 1980 plan. Next door, Cottonwood Condominiums have a similar density in the medium density multi-family category. Next, we want to highlight a few of the provisions in the development agreement, as provided. The development agreement was created in response to community concerns voiced at both prior rezone hearings and several meetings with Mr. Ault and Friends of Grant Creek. I will go through these quickly. A limit of 700 maximum dwelling units, the intent to build a pool, a no build zone in open space and hiking trails on the hillside, construct a playground on the parcel, and dedicate a large contiguous open space in the center of the development. And that again comes back to our RM1-45 zoning allows us to create this large parcel in the middle and still maintain the density. You can see the scale when compared to a football field. There was concerns about pet controls, so committed to building a fence dog run for pet exercise and dog waste stations throughout the development. Another community concern was the lack of public transit in the air, and this is a tough one; it's the chicken or the egg. No one's gonna drive, the bus is not gonna come to a vacant gravel pit. So, we've got to find a way to create the density and to create the ability and the desire for

Mountain Line to go there. I understand their lack of funding doesn't allow them to go everywhere we want them to go. So, we came up with a different option. We reached out to the Missoula Urban Transportation District or I'm sorry, we reached out to, or David said we did petition, so that we're paying taxes in for this. So, in addition, we, we reached out to the Missoula Ravalli Transportation Management Association or MRTMA, and to come up with an idea to try and reduce the single occupancy vehicle trips as much as we possibly can, we've committed with them and there is a letter that was provided that they are dedicated, we're dedicating some spaces and they will commit bans for a ride share program. With the idea that if there's enough ridership on there, we can prove that there is capacity for Mountain Line to serve this area. The development will provide co-working space in the central clubhouse and will allow these remote jobs to work somewhere other than their home without needing to drive to the library, coffee shop, or other co-working space. There's been some questions about neighborhood character and one of the things we want to make sure is to touch on, we're providing increased setbacks as part of our development agreement to mitigate some of these concerns. The development agreement will require 115 feet of a setback from prospect from the single-family development to the north, a 30-foot setback from the Cottonwood condos, and the Rocky Mountain Elk Foundation on the east. Due to a utility easement along the east boundary, the Cottonwood condos are actually set 40 feet back from the property line. So, in the end, these buildings will have a separation of 70 feet which already includes mature trees and landscaping. Finally, we are committed to improving crosswalks in the area to mitigate connectivity issues in the existing infrastructure and as Dave mentioned, deficient infrastructure can also be addressed and required at building permit. A traffic study has been provided as part of our submittal and we will continue to work with city and their staff to address all of their concerns and their questions, but we can break this down very simplistically and based on different build-out scenarios. As shown on the screen, you will see the daily traffic counts based on our proposed development agreement criteria, 700 multi-family units create 3,808 daily trips. Based on the institute of transportation engineers' analysis, single-family residences produce 9.52 average daily trips where a low-rise apartment unit produces 6.59 daily trips. Because of this, under the existing zoning, accounting for the split zoning provision, which effectively down zones the property, a development built under existing zoning would produce 3,320 daily trips. These 3,300 can be built out, as the zoning stands today. So, we're proposing an increase of 42% in overall residential unit counts at an increase of only 14.7% of daily traffic counts. I think there's another point that we need, that has not been brought up when it comes to road infrastructure in the area. Grant Creek Road was constructed from Stone Bridge south to have one lane, Grant Creek was constructed south of Stone Bridge to have one lane going north, a turn lane, and one lane going south. This allows, in an emergency situation, the ability for two lanes of egress, while still maintaining one lane for emergency personnel to enter into the canyon and this only is from our two access points to the interstate and when you go further north, it turns back into a two-lane road. Another thing we haven't touched on is that all developments in the city of Missoula are required to pay impact fees. Based on our build out, the proposed bill that would contribute slightly over one million dollars to the city with roughly \$630,000.00 going to address transportation related issues. So, the city can request us to improve things at building permit and we would be required to do that, and also they would still get \$630,000.00 to address other traffic related issues in the area. As you can see, on the next few slides, there have been two buildings already built just off of Expo Parkway and these buildings are the model for what we hope to continue the rest of the development. These renderings show the vision for the development and what will be formalized through our development agreement. With that, I would like to introduce Bruce Suenram, President of Fire Logistics. Bruce served as the Montana State Fire Marshal from 1992 to 1997 and the Chief of the Missoula Rural Fire district from 1980 to 1992, prior to starting his safety business. Thank you.

President Jones Great, thanks, just come up and state your name. And Ms. Jordan, just make sure that that document gets to the clerk eventually....when we're....just make sure it gets to the clerk so it can be submitted on the record. Okay thanks.

Bruce Suenram Madam chair, members of the Council, my name is Bruce Suenram, s-u-e-n-r-a-m. I'm the President of Fire Logistics and was contracted to do the fire protection analysis and emergency management plan for Grant Creek Village. The slide that you're looking at is based on the Missoula County Community Wildfire Protection Plan and it indicates in the project area that the hazard is wildland urban interface. And I'd just like to point out that that hazard is very similar to other areas in the community, such as the University of Montana, Walmart on Brooks, Walmart on Mullan Road, and the Missoula County Airport. And so, this plan is a broad brush of the of the wildland urban interface hazard that is associated with this project. The next slide is a closer view of the area, and you can see that it is split slightly by low and wildland urban interface classification and a wild and urban intermix classification, which is again similar to lots of areas around the community. The next slide is based on a national product that we looked at for classification of wildland urban interface and it's the wildland fire risk to communities site developed by the Forest Service. Again, that shows that it is a low to moderate hazard, again similar to areas like Lower Rattlesnake, again the Walmart on Brooks and the Missoula County Airport. So, I mean, this is just an indication of the areas that are around the Missoula Calley that are classified in a very broad way by the models that were developed to classify the interface hazard. Again, a low to moderate hazard for this project area. Next slide. So, I had the opportunity to meet with your staff, Chief Gordy Hughes and his staff at the at the Fire Department. I had the opportunity to work with Adrian Beck at Missoula County Emergency Management and we met with the sheriff's office and the police department to talk about how we could approach this project, met with the fire department guys, and got their requirements for the project, and we with the sheriff's office and, and emergency management and the police department to discuss the, the emergency management strategies for how we would conduct an evacuation in upper Grant Creek and how this project would impact those evacuation routes. And the general consensus was that if there was an evacuation in upper Grant Creek, this would be the last area to be evacuated and would not impact the evacuation during a fire in upper Grant Creek. Some of the strategies that are referenced in the, for evacuation are highlighted in the fire and risk emergency plan that's in the document. Just some key points that you keep in mind from a fire protection perspective, the wildland urban interface designation is comparable to much of the urbanized area of the City of Missoula. The wildfire hazard assessment risk is also comparable to much of the City of Missoula. Within the Grant Creek Village Development itself, once that area is developed, there's going to be very little risk within the project area itself. Higher risk areas up the Grant Creek will need to be evacuated first certainly, but there is a very low likelihood that the Grant Creek Village would ever need to be evacuated. All buildings in the in the Grant Creek Village are going to be equipped with automatic fire sprinklers. So, some of the issues raised from a fire protection perspective are, are immediately mitigated by having automatic fire sprinklers. So, the, the developer's request for 200 additional units, as he's proposing in the development agreement, is not going to increase the risk from a wildfire perspective to the community. The proposed zone change is not going to change the risk at all. And I'd be glad to answer any questions, and now I'd like to introduce Alan McCormick legal counsel for the project.

President Jones Thank you. Good evening Mr. McCormick.

Alan McCormick Good evening, my name is Alan McCormick. I'm an attorney with Garlington, Lohn & Robinson, a I represent KJ&A Development. You've heard a lot about the quirk tonight, about zoning and it's a real thing. Those of you who are in Missoula many most of you were in Missoula when we did Title 20, converting it from title 19 to Title 20. You'll recall the consistent mantra; we're not changing anybody's zoning. It didn't turn out to be quite correct because of this quirk. This quirk effectively down

zones this property without providing due process to the property owner, to allow the property owner to know that was going to happen and then say something about it. And so, that's part of what this request is today, is to fix that quirk, restore the zoning back to what it was prior to that enactment of Title 20. When you're talking about code reform, pay, watch out for this so that we don't repeat the mistake with the next code reform. State law says your Growth Policy is not regulatory but that's a bit of a legal fiction. In and of itself, the document is not regulatory, but your zoning must substantially comply with the Growth Policy. And because of this quirk in Title 20, it actually down zoned the property and took it out of compliance, substantial compliance with the Growth Policy and this request would restore that. Here's something else to watch out for in your code reform, PUDs. When we talk about this development agreement and the genesis of it, you might be thinking, and you've seen public comments that this would have better been done as a PUD because PUDs do allow you to put conditions on the ultimate approval of the PUD. Here's why we couldn't do it; your current code only allows PUDs on a project involving one parcel of land. So, although this has two parcels of land and they're owned by the exact same person who is already building the style of units on the lower parcel that are going to be built on the northern parcel couldn't use the PUD process because your regulations don't allow it on a project involving more than one parcel. So, watch out for that on your code, that'd be a really good thing to fix because you'll increase the ability to conduct projects using a PUD type process. So, where'd the development agreement come from? We heard the community very loud and clear back in 2020 who said sure your project, well the project wasn't this defined, but at the time, Mr. Ault was suggesting he was only going to build 950-ish units, not the 1,185 that would be allowed. The community said well how do we guarantee that? Well, we couldn't do it through a PUD, so we looked at another opportunity and, and reached out to the city attorney's office and said could we do a development agreement. We received positive feedback, so we spent the last year and a half working on the development agreement, only to find out now that maybe that's not jiving quite right with the zoning approval process. You like to know what projects are going to be built. You like to know that the project you approved is going to be built the way you prove it, that's why this voluntary development agreement is being offered to you and the city as a as a voluntary agreement to be basically a land use covenant. And if the city can't hold it, maybe we can find someone else who can. We met with Rocky Mountain Elk Foundation multiple times. We met with Friends of Grant Creek multiple times, trying to find some common ground, didn't find it, but found some elements that could be incorporated into a development scheme and you're seeing some of those in the development agreement. You're seeing them in the plans that Mr. Ault is developing for the project. Again, to be clear, the development agreement is not required; it's a voluntary measure to help ensure that the project is a what you see is what you get kind of a kind of a thing. We're aware there's concerns about legal issues with it, Friends of Grant Creek has suggested it's contract zoning, it's not. Contract zoning is illegal zoning because you are guaranteeing an outcome by issuing, by enacting or executing a contract in advance of the public process. So, you're cutting the public out of the ability to affect the outcome of the zoning and that's, that's illegal for those reasons. It's not happening here because we're not asking you to execute it in a promise of granting the zoning. It's important to note the impacts that are actually being considered with this proposal. You are not being asked to decide is there going to be zero units on the property or 700 units on the property. You're being asked to decide whether it can go from 495 units to 700 units; that's the increment we're talking about. So, what is so significant about that increment that makes this turns this project into something that's already allowed under current zoning into something that is so impactful that it shouldn't happen? And the analysis shows that it has not. Dave DeGrandpre's analysis does not take into consideration a cap of 700 units. It takes into consideration that there's a theoretical maximum of 1,185. He notes and it's absolutely correct, you can never build 1,185 units on this product this property. You need parking lots, you need activity areas, your zoning code requires activity areas, you need the infrastructure, you need the roads to get in and out of the project, you could never fit 1,185. So, even if

you put, if you don't accept a development agreement, if there's no control like that, the actual number of units that could actually be built would be somewhere closer to the 700 units being planned. More importantly, Dave DeGrandpre's analysis, which determines, results in a recommendation of approval has assumed and done the calculation the data analysis based on 1,185 and nothing less. I'll add my own personal story. You know, you already have all this data. We've lost staff members at our firm whose rental housing got sold out from under them to people who wanted to convert it into owner-occupied housing because they couldn't find housing. We've had multiple staff members who we've offered jobs, accept, and then turn us down because they couldn't find housing. You know this, you're being told frequently, and your staff is telling you frequently and you're, you're, you're faced with this and making difficult decisions every day for this housing crunch. It's having a real world impact, so I'm adding my personal story to it. Again, I ask what is so impactful about 200 additional units that takes this project from being acceptable under the current zoning? Not acceptable under fixing the quirk. That analysis has been run; it shows that it's not. It's not so significant that it does, and it helps with the housing crisis that we have now, and it helps meet your housing goal. I'm happy to answer any questions as are the rest of the team members and thank you for your time.

President Jones Thank you. Are there any other team members to, to comment? Okay, given that, next we will go to public comment on this item. We'll entertain public comment, 3 minutes per person. Please state your name on the record. If, let's do the people who are physically here, present in chambers first before we go to virtual commenters. So, if you want to come on up and state your name, and 3 minutes.

John Langstaff Good evening Council persons, and my name is John Langstaff. I'm a Grant Creek resident and I'm a former captain on the Missoula Fire Department and I wanted to speak tonight about the mission statement of the Fire Department. And our mission statement is, save lives and protect property. That's our goal. That's our promise. I'm recommending staffing a three-person ladder company at Station 4. Fire impact fees for additional three-person crew are going to be expensive outpayment for the City. So, I'm, I'm guessing that probably the impact fees indicated for this development are way low. Anyway, ground ladders such as the 25 footers carried on our type 1 first response pumpers lose 1/3 of their vertical reach due to the angle that must be provided for safe access and rescue of people from window locations. Each Missoula Fire Station is staffed by three firefighters, trained in incident command, fire attack, emergency medical skills, vertical and contained space rescue, heavy rescue, and safety awareness. These are universally recognized skills that are critical to any emergency, hence the type 1 engines are always the first dispatched from any station. I wonder how many of you are aware how many fire stations we have in Missoula? Five, there's five zones. I don't have any high tech videos to show you, but I would like to show you a picture of the zones. I was wondering if you could enlarge the Council chamber screen there and I would put this up as an example of what the zone 4, where this development is located looks like?

President Jones I'm not sure if we're able to technically do that, but if you want to submit a.... you can try and hold it up and see if that works. Okay, thank you, great.

John Langstaff [inaudible for a period of time]. It's also the zone where most of our multi-story apartments are located and some of these are over 25 feet off the ground, such as the 35, that the zoning is allowed for, but not the 45 feet that they are requesting in this submission. Missoula has two elevated platform trucks 148 at station 4 on Latimer and West Broadway and the other located at station 3, which is at South Russell and 39th Street, which is clear across town from where this development is. So, hence those response from the ladder truck would have to come from, from station 3 and the, the ladder truck would require a delayed time of arrival for that platform truck into zone 4 of an extended period. These delayed response times could put lives in jeopardy and



property in danger. The proliferation of multi-story apartment complexes in both zones 3 and 4 should require the staffing of two three-man truck companies at these stations. This would supply critical rescue manpower at the scene and a water tower for fire attack. It would also supply extra manpower on the fire ground and capability to man a type 6 vehicle from each of those stations.

President Jones Mr. Langstaff, we're over five minutes, so I don't know if you can wrap it up quickly but there will be future, future possibilities for public comment also.

John Langstaff I'm sorry, I'll wrap it up here. Emergency rescue is a critical facet of local services infrastructure that should be provided prior to approval of any apartment complex greater than two stories. Council and developers requesting greater than two-story apartments by zoning are putting human lives in peril. Thank you.

President Jones Thank you and you can submit written comments and there will be future possibility of public comment also.

John Langstaff Yes, I'm aware of that and wasn't Gordy Hughes, the Fire Chief, going to speak tonight?

President Jones Not tonight. He will be present at a future Land Use and Planning meeting.

John Langstaff Okay, okay. Thank you.

President Jones Is there anyone else here in chambers that wants to speak on this matter? Okay, great. Come on up, state your name. Thank you.

Maggie Bornstein Awesome, thanks so much. My name is Maggie Bornstein, and I am not a Grant Creek resident and so you're probably like why do you care so much about what's happening in Grant Creek? I live in Ward 1. I look this way to Ward 1 because I really care about housing as safety infrastructure in our community. I was so gleaned to see when the city staff recognized that this project hits the checkbox, we're promoting public health and safety and supporting our housing goals. I know, I'll say it a million times, I have so much respect and admiration for all of you for working under the circumstances that you do because we are so limited by our state and I'm so excited for this to be an opportunity to say yes as more housing. I am really passionate about domestic and sexual violence, which is something that I think we don't often hear about as a public safety issue, nor a housing issue but the reality is that it's both. I myself have been stalked and I, when looking for an opportunity to move, I looked to Daniel. We looked at maybe a one 200 square foot apartment that was more than what I was paying at the time. In 2020, law enforcement in Montana responded to a domestic violence related call every 1.75 hours and I can't even imagine how those numbers have continued to grow and change and show up in this community. That very small 200 square foot apartment was all I could really find on the market and I know there are a lot of people here who are very passionate tonight, but I think we need to recognize that a lot of people don't get to be in this room because they work construction and they have a big job in the morning or they don't have good access to child care or they're a single parent, and I think that just the opportunity for surplus. I hear you say all the time, we don't, we don't zone based on project, we zone based on opportunity and how it fits in our Growth Plan. I've started getting really nerdy about this because I care so much about this community and I think everyone here too does, but I just really see this is such an awesome opportunity to create a really high impact, to promote public safety, and to make Missoula, you know, livable for all people, for all the working families that make this community such a special place. Thanks so much.

President Jones Thank you. Come on up and state your name for the record. Thanks.

Glenn Slay My name is Glenn Slay and I live in Grant Creek, and I'd be very interested in knowing, how many of you live in Grant Creek?

President Jones So, we don't, we don't respond to questions, but go ahead and give your public comment.

Glenn Slay Okay in order to get out of Grant Creek, right now, the cycle on the light at the base means that you sit there for 2 minutes and 40 seconds between green lights. The idea of evacuating into a situation like this where we're already slow, can only get worse with the number of cars and people that we're talking about now. If you put in two, 700 units, it's going to average between one and a half and two cars per unit, and those cannot get out of there is in the situation that we're looking at now. The fire protection plan does not include anything north of the Elk Foundation. You've got 700 residents up Grant Creek and that, that doesn't, that doesn't give them much of a chance to get out. All right. The 3 lanes that were discussed by the, the gentleman here, go only as high as the Elk Foundation. Once you get past there, it's 2 lanes, it's crooked, and there is no way to get around it, and you won't get a fire truck up there. This is class 10 protection, National Fire Bureau, which means that the closest fire truck is 7 miles from my house. It's 8 miles from the gentleman who spoke to you before. So, once you get past the Elk Foundation, it's two lanes and the evacuation plan calls for 2 lanes coming out. So, there's no way to get fire equipment up. I think it's something that we should be spending a lot more time looking at before we decide that it's going to be okay to turn loose that many more people, more cars, more congestion in an area that can't, can't contain it. Thank you.

President Jones Thank you for your comments. Just come on up. Thank you. State your name for the record.

Matthew Harris-Shears Hi, my name is Matthew Harris-Shears and to start I just want to thank my very patient 7-year-old for making it this long and thanks for letting me cut in front of some other folks who are interested in comment. I'll keep it quick. I'm a resident of Ward 5, that's Miller Creek and I live in an area that you know has some similar concerns that some of the residents here have shared about the Grant Creek area and that includes access and especially like you know traffic management, in general, plus access during an emergency. I do mention all of this just to share that I have a similar situation; however, Missoula is currently you know, Missoula's housing market continues to be punishingly crushing for those looking for or in need of stable housing. Rarely does a week go by without hearing about the difficulty our friends and neighbors experience in finding safe, affordable, and available housing. Vacancy rates in the city, according to the City's own impact assessment are unsustainable, last year dropping to a historically low 0.38%, which is far below that of a healthy housing market's 5-6%. What this means is that renters and potential homeowners can't find a place to live. We've already heard a few stories about folks who can't take jobs and have to move away. On a personal note, I volunteer with families and individuals experiencing homelessness, helping them try to find resources and access to housing, and I won't share any specific stories, but I can tell you that I've met with multiple families, including those with very small kids who came here job in hand and have just exhausted their resources while just waiting to find a house that they can rent. A major issue in the city is the housing stock does not keep up with demands of our growing city. Approval of this proposal meets Missoula's stated growth policies, creating opportunities for diverse housing needs through the addition of sorely needed housing units. I mentioned that I live in Miller Creek, a neighborhood with similar concerns, that I already talked about and this project, like some others that have been discussed in my neighborhood, helped meet the demands of our growing burgeoning city, allowing you know multiple people to really come into enjoy and experience the city the way that I do. So, I just hope that you all take in consideration that there are a lot of impacts, while absolutely valid expressed by my neighbors in Grant Creek, I feel them having similar concerns living in Miller Creek. However, I don't think

that we should sacrifice the needs of every neighbor in this city when there's so much evidence that this meets the overwhelming supply issue that we have here for housing. Thank you.

President Jones Thank you for your comments. Next, just come on up and state your name. Thanks.

Peggy Walker Good evening, my name is Peggy Walker. I'm a resident of Grant Creek and a Board Director of the Prospect Meadows Homeowners Association in Grant Creek and also a member of the Friends of Grant Creek. I'm here this evening because I oppose the proposed rezoning of the properties at 2920 Expo Parkway which would allow the developer KJA to build up to 1,100 plus dwelling units on land that is current, currently zoned for less than half of that number. I do not oppose the current zoning, even though it would double the population of Grant Creek and pose in and of itself serious traffic and wildfire evacuation risks to Grant Creek Canyon, which unlike any other canyon in the Missoula area has only one egress and one ingress. We have already seen the effects; we are seeing the effects of the increased traffic resulting from the 102 recently completed and occupied rental units at Grant Creek. Namely, we're seeing more accidents and near accidents. I personally have witnessed many of those incidences in my travels down from my home to the city or below. There are many reasons to oppose this rezoning application but the one that I want to emphasize this evening is that the proposed rezoning and the developers' plans do not address Missoula's most pressing housing needs, namely affordable rental units and single residents for sale, single-family residences for sale. There will be no affordable apartments in the Grant Creek Village. Mr. Ault has made abundantly clear that he has no interest in developing affordable housing and the rents at Grant Creek Village where the least expensive one-bedroom apartment rents for \$1,450.00 a month reflect that, nor do his plans include any single family homes for purchase. No houses, no town homes, no condominiums that would add to the city's tax base and address an extreme desire for single-family homes to purchase. A project that simultaneously creates serious safety problems, especially with regard to evacuation under a fire incident, while not addressing our city's most pressing housing needs, does not make sense. Thank you for your attention and I urge you to deny the rezoning application.

President Jones Thank you ma'am. Anyone else? Great, come on up and state your name.

Riley Jacobsen Good evening ladies and gentlemen of the Council. My name is Riley Jacobsen, and I am a member of the Missoula community. I hope everyone's having a good night; I'm very excited to be here. So, let me begin by saying that in my day-to-day affairs of this community, I work for a housing nonprofit. I also serve on a board that's dedicated to affordable housing. So, anytime that I hear of a development that is talking about 700 units of housing, my inner child gets very excited. It's no secret that within this community, housing is a dilemma. We have a lack of units, we have a lack of stock, we have a lack of affordability, but overall, we all share this desire to live within Missoula. It ranges from people who are living on the streets to people who are going to college, to people who are looking at this community from out of states, from other cities within Montana, and within my heart, I know that the only way we can begin to address this issue is by creating more units. Commonly, in my work, I've seen a not in my neighborhood attitude. I've seen various differences in opinion to housing people, whether they live on the streets, where they live, how to say where they live in different communities, and so for 700 units to come into existence, I think it's a great opportunity for us to not only have more people engage in the Missoula lifestyle, but also have the opportunity to go to school here, to have the opportunity to raise families here, to have the opportunity to experience what we all love about our community, to see the mountains, to see the sun rise, to get jobs, to contribute to the betterment of our society and anything that takes away from that, to me, it would be a slight against our personal

responsibility that we all share as community members, to help others feel included to help them have access to our resources, whether they live on the streets or they go to college, or they live out of town. And so, I ask that you take that into consideration, that you help work with the various sectors of our community with various boards, the various trust in helping to create more housing in our community, so that eventually, we can start to look at things like affordability, so we can start to look at things like job infrastructure, but it really does begin with housing stock. Thank you.

President Jones Thank you for your comments. Anyone else in the room that wants to comment tonight? Okay then we're going to go to virtual attendees and first up, we have Will Seaborn. You should be able to unmute yourself and speak. Go ahead Will.

Will Seaborn Hi there. Can you hear me?

President Jones Yes, go ahead.

Will Seaborn My name is Will Seaborn. I'm a homeowner in Ward 4. For identification purposes only, I'm also a member of the Affordable Housing Resident Oversight Committee nominated by the City Council. I just want to be clear my statements are my own and not an official comment from that committee. And I want to start out by saying that no housing development, development worth doing amidst our housing crisis is ever going to satisfy all of our concerns in all of the stakeholders. And the best we can do is to prioritize and balance the various competing interests and I would submit that there is no greater need to prioritize than solving our communities housing crisis and that's why I'm speaking in support of the Grant Creek Village rezone request for three principal reasons. One, it will meet the demand that we need in our housing crisis. Two, it conforms with our Growth Policy and three, it conforms to the place to call home, this to be the Missoula approved housing policy. With respect to a housing crisis another speaker mentioned earlier just the fact that, particularly in the rental market, our vacancy rates are hazardously low and in fact that healthy measurement we talked about before about five percent vacancy rate being a healthy market, we actually haven't experienced that as a community according, according to the Missoula Organization of Realtors since 2018. So, this is a systemic issue that we have in this community without about not having enough supply in the market and I know we're hearing a lot of voices tonight, both for and against the development, but what I want to point out is that the 700 households that will benefit from this development are not going to be able to speak here because they haven't had the chance to actually be a part of that and I think that's an important point to take into consideration. I'm not going to belabor the points about the Growth Policy since I think that's been mentioned a lot already but the one thing I would just say is I believe a Growth Policy should be administered consistently across similarly situated developments and so I would have a concern as a community if we made a decision about this development that maybe we wouldn't apply to other developments based on the amount of neighborhood support or lack thereof. And finally, I just wanted to close with a lot my probably favorite line from a place to call home our comprehensive citywide housing policy that the Council adopted on June 24, 2019 and it reads this the strategy recognizes that neighborhoods have unique needs and that as we grow as a community, we must develop thoughtfully, in a way that is sustainable and equitable while maintaining community quality. Throughout this growth, no neighborhood should be asked to experience radical change and consequently no neighborhood should be exempt from change either. I would encourage the Council to consider that when making your final determination the importance of this equitable distribution of housing that we committed to as a community in 2019 and we have an opportunity to step up to that commitment and live up to that commitment today through this decision. Thank you.

Dodie Moquin Can you hear me?

President Jones Yes we can. Go ahead.

Dodie Moquin Okay. My name is Dodie Moquin and I live in upper Grant Creek, about a half a mile north of Snowball Road and the gentleman who just spoke, I think his name was Will Seaborn. He said that no development should be asked to submit to radical change, but I say 700 units, more than doubles the entire population of Grant Creek. To me, that's radical change and we shouldn't be asked to do that, 495 units almost doubles the population of Grant Creek. The, we had a community, a community meeting at Grant Creek in, in late March and overwhelmingly, the attendees voted to stick with the existing zoning which is Grant Creek doing their fair share. Overwhelmingly, we support the existing zoning, which really contributes to our community. And I would like that to be acknowledged that 495 units, which almost doubles the entire population of Grant Creek is really doing our fair share. I want to emphasize this is not affordable housing. This is not going to help your typical person who is looking for an apartment to get housing in Missoula, when one bedroom one bath goes for \$1,450.00, that's not going to happen. And Ault is not going to lower the rent of his condos. This is not affordable housing. The biggest concern of the people in Grant Creek is one egress, one, one ingress, one egress and it's, it's just very frightening, terrifying. I've been up here since 1987. We, my husband and I raised four daughters, up here and actually from the get-go, there were two fire years where we put so much of our belongings in storage, in Missoula because we were terrified we would not get out of here. So, to continue to build 700 units and to me it's like okay so what's more important the safety of people's lives or more housing? I used to be the transitional housing coordinator at the YWCA for 5 years, I'm very committed to building and very committed to housing people that need housing. It just doesn't work. We are the only area in Grant Creek and surrounding areas with one egress and one ingress, and yeah so I would really, really, really like you to consider to deny the rezone for the safety of all of us here in Grant Creek. Thank you.

President Jones Thank you for your comments. Next we had Mike Cole. Mike, if you can unmute yourself....There you go. Go ahead.

Mike Cole Yeah, I'm going to go a little a, little different tack here because of some issues that came up the other day. So, my name is Mike Cole. I'm the project leader for the Grant Creek wildfire risk task force. We're a volunteer group of Grant Creek residents working the under the direction of the Friends of Grant Creek. Based on our discussion at the LUP meeting on May 4, I'm concerned the City Council members will meet with different city and county emergency response departments and an LUP meeting later in May without having the full knowledge of what was in the wildfire presentation made at last week's LUP meeting or the ability to even review it. Most of the wildfire presentation was not recorded, while all of the developer's presentation was. I believe that was just an error, so I don't have a problem with that. Some Councilors were not in attendance, so they have absolutely no information from the wildfire presentation. For those that were present, there is no way to review the presentation, but they do have the option with all the rest of the land use planning meeting information that was presented in order to inform them in making a final decision on this rezone. So, for instance, new information by the developer concerning wildfire risk during that meeting was countered in the wildfire presentation as misleading but that discussion was not recorded and none of that information is even available to anyone. Although, the slide portion of presentation was provided to the LUP committee ahead of time, the slides alone had no context. So, luckily a similar wildfire presentation using the same slides was made at the planning board meeting on April 19, 2022. So, I would request that, that presentation which I believe was recorded be placed in the public record for the May 4, 2022, LUP meeting to replace the missing one and used for reference by City Council members in helping them form their decision on this rezone proposal. Since the rezone proposal has an enormous amount of documentation to read, I have no idea how many Councilors have actually read the three wildfire letters totaling 23 pages of research we produced over the past three years, none of which, which was considered in the staff report for this project, even though a good deal was based on City, County, State, and Federal documents specific to

wildfire issues in Grant Creek and Missoula. So, the way we looked at the staff report was obviously pro-development and didn't take any of that into consideration. So, you had new Council members since the 2020 rezone proposal. So, this issue of development in the wildland urban interface in Grant Creek, specifically may be totally new to them. Without that background information, both the proponents and the opponents, how will you determine what questions to ask these departments to assure that your questions are answered? So, in trying to answer that question myself today, I prepared a two-page list of questions that I would ask members of those departments if I was going to conduct an interview on those issues, such as wildfire and evacuation in Grant Creek. So, I'm going to send those to Council member Hess and at his discretion, he can provide those to you, that you can look at as a starting point to form your questions, use all of them, use some of them, or none of them at all. That's your choice. I would also suggest that you ask the developer if they would also like to submit questions for you to consider asking when you interview the emergency response departments, so it is fair all the way around. Also, if you have your emergency response agencies meeting with you to provide you with a more thorough understanding concerning evacuation wildfire issues from their point of view, they also should see both opposing viewpoints, the pros and the cons. In a similar situation, I'm sure that the city engineer is going to read both of the traffic reports one prepared by the developer and one of by the opponents informing his opinion about traffic issues and feed that information to you. So, what I'm asking for here would be no different. I would encourage you to provide the 23 pages of research we prepared as well as the fire logistics report from the developer and the recorded wildfire presentation from the May 4, 2022, planning board meeting to the emergency responders you plan to question. They should have plenty of time to read through this material before the future land use planning meeting since it was postponed from this coming Wednesday, and they should be able to look through all that before they meet with you. Otherwise, some of the agencies will have the benefit of meeting with the developer's fire expert last year and providing input on the fire logistics report, especially on evacuation. So, they're all listed by the agency in the fire logistics report and the developer specialist mentioned the names of those agencies tonight in his presentation. So, if you don't do something like that, that could lead to the appearance of a conflict of interest at the expense of Grant Creek Residents. So, thank you for your time tonight.

President Jones Thank you for your comments and we said it earlier on the record, but I want to reiterate, anything that you can submit, I would recommend you email it to Jordan, Councilor, Jordan Hess and we will make sure that that is attached to the record, all Councilors have access to that, and it is all public records. So, Jordan, did you want to address that also?

Alderperson Hess Yeah and I just wanted to clarify that there was a technical glitch at the last LUP meeting where our ZOOM system crashed. We should be able to recover video from MCAT or from somewhere and we'll, I'll make sure that I work with staff to do that, and to the extent that we can't we'll, we'll make sure that there's an opportunity for, for folks to submit material to the record. And I'll just leave that at that, I guess. Thanks.

Mike Cole Thank you.

President Jones Thank you. Okay. I believe we have one more person with their hand raised to provide public comment. Hannah, I don't see a last name, but Hannah are you able to unmute yourself?

Hannah Kosel Yes, thank you.

President Jones There you go. Go ahead.

Hannah Kosel Hi, my name is Hannah Kosel, k-o-s-e-l. Yeah, I am calling in tonight in support of this rezone, yeah as an avid housing advocate in Missoula. I believe this is

really important. Will this be affordable housing? No, it might not be. Will this address everything that we need within our housing in Missoula? No, and like yeah folks have said before, I think we need to make this a realistic vision for housing in our community and of course we want to keep working towards our ideal solutions but right now we really, really need more, more spaces. We need more vacancy in our town. I work with a Montana emergency rent assistance program. This is a program that was designed with folks who had past dues, on their rent through COVID, but has also been really useful for folks whose rents have been raised through these past few years as well and due to the skyrocketing prices of rent and home ownership through our, our city and our state. We are able to provide folks with a full coverage of deposit and the first 3 months of rent, if they are able to find a spot. This is if they've been evicted from a foreign place, if they have been chronically unhoused for a while, if right like rates went up and they needed to move somewhere else and we are able to give this over to folks as long as landlords approve and we have had so many people who just have not been able to find a space within our city to be able to use these funds. Yeah, it's just defeating every single day to work with tenants who, who have families and who are working and have been lifelong Missoulians, and who care so much and give so much to our community and don't have space to stay and to rest and to call a place home and don't have that stability in consistent and open places. Even if this wouldn't be affordable housing, this would still help folks who need affordable housing and that for vacancy rates will continue to increase and that landlords won't be able to charge such outrageous fees for folks knowing that that is the only option for those tenants to move into. I also just want to highlight the comparison that this plan and kind of the conversations and discussion has to one that happened really similarly in Whitefish, Montana in February just of this year 2022. There's proposed plan for Mountain Gateway which was yeah a very similar area. A lot of conversations talked about the character of the neighborhood or traffic issues and yeah reasonable concerns for climate change and wildfire but that were also addressed by experts in their fields too to make sure that and ensure the safety of community members. And I don't want to see Missoula take the same path that the Whitefish City Council took in denying that request for an increase in housing in their community. I want to see you all take the lead as leaders in our in our city to yeah be a lead in western Montana for addressing housing issues, to be able to recognize the folks who are not in this room tonight who are not able to stay up past nine or have kids to tuck in or have dinners to make right and to that are able to hire lawyers or organize as neighborhood Councils to be able to deny more access and folks to come into their neighborhood. It's also an interesting view when you look at these neighborhoods comparably, in that they're both also keeping access to ski resort roads. And so, how can we just really focus on? How do we want our neighborhoods to look? How can we create them in more diverse ways? How can we invite more people into our space and into our community instead of continuing to ask people to stay further away from us? I look forward to the upcoming vote and grateful for my chance to share my support.

President Jones Great, thank you for your comments. I have one more person queued up to provide public comment. Diane Stensland Bickers, you should be able to unmute yourself. There you go.

Diane Stensland Bickers All I need to do is agree with what the former person said because she said everything I was going to say.

President Jones Okay, that's short. All righty, thank you very much. I'm not seeing any other public comment. So, at this point, we have questions from Council. Are there any questions from Council? We will be hearing this again in LUP, but let's start with Ms. Jordan.

Aldersperson Kristen Jordan Thank you. I just wanted to ask the folks, the developers, and the proponents of this project, is this going to be set up like an HOA where they're

going to be additional fees for maintaining the pool and the, and the grounds, and whatnot?

President Jones Why don't you come on up and put it on the record?

Spencer Woith Sorry, no, to answer your question, it will all be contained in your rent.

President Jones Sandra.

Alderson Vasecka Thanks. So, I know with the rezone we can't really dictate what's, what we specify but I was just wondering I'm sorry if I missed this but, so will the entrance be on Stone Bridge Road and then as well on Expo, or is there only going to be one? One way, what are you planning on that?

Spencer Woith Do I have to keep saying my name every time?

President Jones Just, no, just stay up there, but ....

Spencer Woith I'll just stay here. Spencer Woith. There are 2 entrances, both on Expo Parkway and Stone Bridge...Or 3, two main roads going. There will be 2 entrances on Expo and then Stone Bridge will run directly into the belt.

President Jones Ms. Anderson....oh wait.

Alderson Anderson I was looking through the attached files and I did not see, and this might be for Mr. Hess or the staff, the referenced 27 page document in regards to fire mitigation. So, I wanted to make sure that that was on the record...there's only a 7 page one and to look for it, so wanted to make that got on the record.

President Jones Okay, thanks for clarifying that. Ms. Sherrill.

Alderson Sherrill Yeah thanks. I don't actually have a question for you, although you probably should stay. I'm, we're going to hear from Adrian Beck and Gordy Hughes on Wednesday, is that correct? Emergency services and fire at the committee meeting? I just want to confirm that, that was something we discussed last week.

President Jones Mr. Hess, do you want to clarify the timing on the hearing.

Alderson Hess Yeah, at the Wednesday, to be announced, it'll, what I intend to do is hold about, well probably about a three to four hour meeting to really get through all the content and I, we'll structure that by subject matter area. So, we can have a period of time to talk about traffic counts and traffic related impacts and then we have time to talk about emergency access and egress and fire safety and Adrian Beck, can of course, would be there along with... I shouldn't speak for Adrian, Adrian will be invited to be there and Chief Hughes and, and others that have been, that were requested last week at LUP. And then I think that there's, Mr. McCormick raised some, some questions about the development agreement that I've asked the City Attorney's office to weigh in on, so I think we'll have an opportunity to, to discuss that additionally but I'll, I'll try to set the meeting up a little bit thematically. So, that we can keep it moving and get through all those topics and if there's other requests of course you know send them this way.

Alderson Sherrill That's great. Thanks, I just wanted to confirm and have it on the public record that we're going to be discussing those things in the future.

President Jones Yes, but it's, it's 2-3 weeks out. We're not quite sure what the date is, that it will be set for but....

Spencer Woith Hess Yeah, I apologize. We had everything set up for the 11th and understanding, we need the timeframe. It's created some scheduling conflicts on our end. So, it may be a few weeks longer.



President Jones Okay great. Ms. Jordan, you had a follow-up?

Alderson Kristen Jordan Yeah, thank you. My next question, and I think I already know the answer, but just to double check, are any of the units ever going to be able to be purchased by the, the occupants or are they going to be permanently rentals?

Spencer Woith At this point, the intention of the development is to be rentals. We are setting up our plan and it's, it's an internal plan that we are setting up provisions for the duplexes that would be set up and constructed as townhomes. So, there is a possibility in the future, but at this point, the plan is for all rentals.

President Jones I'm going to go to Ms. Becerra and then we'll come back to people in the horseshoe. Ms. Becerra.

Alderson Becerra Thank you. How many units have been constructed already on the allowed for zoning because we have already welcomed new residents to the Grant Creek neighborhood?

Spencer Woith 105 have already been constructed.

Alderson Becerra And do you know, proportional, like what what's the breakdown of one bedroom, two bedrooms, and I'm just asking to know what the diversity of family or family sizes could be in, in this part of the neighborhood?

Spencer Woith I don't have the exact unit count, but the demand has been for two and three bedroom, and the next units are going to be more two and three bedroom. We're one of the few newer developments that offer three bedroom apartment units.

Alderson Becerra Great, thanks. Do you have any idea what the three bedrooms are gonna rent for?

Spencer Woith Fifteen or sixteen hundred is what he said.....

Alderson Becerra But the two bedroom runs for \$2,000.00 currently, so it's going to be cheaper?

Spencer Woith No, oh yeah. I don't know what the exact....The information is actually I believe available on your website....yeah it is on, it's on and I can provide the website here in a minute.

Alderson Becerra Okay.

Spencer Woith Grantcreekvillage.com. There you go.

Alderson Becerra Yeah, that's, that's where I got the current numbers, but I was just curious as to what you're proposing for the for the units that you're seeking the rezone for...Whether they're gonna be two bedroom, three bedrooms, and how much are they gonna be renting for because it'll be interesting to know, if we're meeting the demands in terms of the renting, their rent price.....

President Jones Is that a question?

Alderson Becerra Yes.

Spencer Woith Oh....

Alderson Becerra If you can provide us with that, as some point, I think it would be really helpful....

Spencer Woith Yeah, we can work on providing you some information. I think one key factor we need to consider when it comes to what is the ultimate cost of this is, we don't know what the cost of this is going to be yet. It is the same conversation everybody has

about every industry in the world. There's supply chain issues and no one will even give you a price quote that's longer than a week and it's very difficult at this point, it's thrown our financial models kind of into a tailspin. So, we can give you a range but it's a difficult question to answer at this point...

Alderperson Becerra Sure. And may I have a follow-up, but actually, it's for our staff?

President Jones Yes.

Alderperson Becerra Thank you. Dave, Mr. McCormick mentioned that you cannot do a PUD based on the fact that we currently, that the property currently has, it's a, it's, two lots and you can only do it on one, but presumably you could do a boundary line relocation, create one lot, and then do a PUD. Would that have been a possible outcome?

Dave DeGrandpre Unfortunately, I don't think it would and the reason is, we can't create new split zone parcels under Title 20.

Alderperson Becerra Okay. And then one last question?

President Jones Okay, go ahead.

Alderperson Becerra The development agreement that's in place essentially has also been referred to as a land use covenant but the city doesn't regulate or enforce covenants. Is that correct?

Dave DeGrandpre Well I'm not an attorney but I do believe that there are different types of covenants. So, no the city does not typically does not regulate private covenants. The way I understand it, a covenant is a type of an agreement, so maybe that's better, that question is better answered by our city legal office.

Alderperson Becerra Great, okay. Thank you.

President Jones Alright, let's get a queue going here. Daniel let's start with this side for a change.

Alderperson Carlino I know that we vote on rezones and not developments in cases like this, and I know in the past I've been cut off from commenting asking for the price of what the proposed homes or apartments might be, and I just wanted to ask the staff is that criteria that the Council is able to consider? Because in the past, we've told me that we can't consider the possible price of developments on rezones. So, I just don't see why it's different here. Could staff speak to that?

Dave DeGrandpre Sure, you know that's definitely not one of the criteria under state law or local regulations. You know, but you might be able to finesse it a little bit. I mean does that impact public health and safety? I'm not sure. Is it compatible urban growth? I guess I'd look at the look at the rezoning review criteria and see if you think it fits, but no it's definitely not one of the statutory review criteria, is price. So, I guess I would be careful.

President Jones Thanks Dave. Raise your hand if you want to ask a question. I've got some of the names down.... okay next I had Mike Nugent.

Alderperson Mike Nugent First, thanks Daniel, I was going to ask that question too. I appreciate it. Jordan, I think I want to just get this question on our list for, for Adrian, maybe your emergency services, but one of the public commenters timed the, the stop lights at Grant Creek and then suggested that if we were evacuating Grant Creek that they would be stopping at red lights, and I assume that we would emergency services would overrule that but I want to make sure that somebody answers that on the record. Thank you.

President Jones Got it, thank you. Sandra.

Alderson Vasecka Thanks. I have two questions. The first one is for the applicant. The sheet that came around on the back of it, sorry it's late I can't remember what those are called, it was like a diagram of what it was going to potentially look like, it was like a mock-up map....

Spencer Woith Like a site plan...

Alderson Vasecka Site plan. Thank you. It's been a long day. Is that on, on the attachments already or will that be on there? I want to study it a little bit....

Spencer Woith On the development agreement or in the slides?

Alderson Vasecka Anywhere that's attached to the.....

Spencer Woith Yes, they're available in the slides.

Alderson Vasecka Okay.

Spencer Woith I we've sent those to you Dave. If not, we will.

Alderson Vasecka Okay. And then my second question is for staff. Dave, I was wondering, so right now, the only... I know we're going to go in more on this on Wednesday. So, you can go from Expo, Expo Parkway to Old Indian Trail, but then that goes to the Harry Potterville over there and that's besides Grant Creek, that's the only way in and out of this area is that accurate?

Dave DeGrandpre Currently, there no public right-of-way down that Old Indian Trail. I mean someday, it's possible it could lead to... there is a little underpass, under the interstate. I haven't been on it myself, so I don't know how functional it is, but I know that there is one. However, at this point, I do not believe that there is a public right-of-way to make that happen, although it's, you know at some point in the future, it may connect into the city, but, but it's not there today.

Alderson Vasecka Okay, good to know. I'm done with the questions. Thank you.

President Jones Ms. Anderson.

Alderson Anderson Thanks so much and I, I do appreciate the fact that we cannot take the price of the units into consideration when as a rezoned, but it's a whole entire package and I just want to clarify it because this is on the record meeting, and it will be transcribed. I'm looking at the Grant Creek Village website right now and its listing, and I just want to confirm this. Is one bedrooms for \$1,450.00, two bedrooms for \$2,500.00, and three bedrooms for \$2,325.000, and that is on the Grantcreekvillage.com website/floorplans. So, just curious on some confusion back and forth on that and I'd like it clarified for the record.

Ken Ault Sure. Ken Ault, developer. So, these prices....we're 100% full right now and once, when they come renew, we are asking for what we can get, and this is what happens when there's such a demand. Our current two bedrooms are not \$2,000.00. We are asking for that because we know we can get it, not that, not that just because we know we get it, is that rates are going up, every point rate goes up our loan goes up \$26,000.00. We have to get it. We're already 1 1/2 years behind on this project that we could have saved a point and a half. So, we're, these costs are real. The construction costs are going up. Bringing these, this fine team in here, is expensive and the more we waste time on this, the more we have to, to cover it and while these rates go up, construction costs are an all-time high, labor's all-time high. The only thing we had in our favor was interest rates and now they're, they're going up. Affordable means green light. I mean, we can't stop in in today's time and, and, and dance around with this stuff. I

mean it's day to day. We can't quote lumber for more than 24 hours. So, yeah, right now, because we're doing that.... I want to give you another story on what the other complexes are doing. When you walk into their office and you ask for how much is a two bedroom unit, you pay your \$40.00 to get approved and it goes into a lottery, based on how many units are available in Missoula. And it can, it can be, if there's 10 that day, it goes down. It's automatic. The management doesn't make the decision, the computer does and if there's no units out there, you start asking for those two thousand numbers. You know, we thought we'd never see \$2,000.00, the computers are telling us it's \$2,000.00 because there's nothing out there. So, right now, no our... I can give you a copy of our rent roll, we're not at \$2,000.00, we're not even close. We're about three to four hundred dollars under market in all of our units right now. We can provide you with a, a rent roll, what we're sitting at today, but that's how fast the rents have gone up since we opened the door last summer because right now, we can get another three to four hundred dollars.

Alderson Anderson May I have follow-up?

President Jones Sure.

Alderson Anderson Thank you for that and we are all familiar with the price of everything going up. In regards to the trip counts that you guys are looking at in terms of the generated amount of traffic, how are you basing that on in regards to deciding what size of you know obviously a one-bedroom unit will have less generated trips to versus a three-bedroom unit. So, I'm assuming you have some sort of estimates on what the new, the new developments will be in terms of the size of units?

Spencer Woith Yeah yes and no. We do have our traffic engineer available online here and he can answer some of those questions but it's more of a generality of, of what apartments compared to single family are when you go and do the analysis. Not knowing what we're going to build, it kind of does skew that and you go with what the national average is and that's what traditional traffic engineering is based on, and I know it's kind of a vague answer to the question because I'm not the traffic engineer, but he is available for.... I think he's still online....

Alderson Anderson That's okay, we can discuss it more....

Spencer Woith Okay and we can, I can follow up with you on that one on Wednesday. Okay.

Alderson Anderson A Wednesday to be determined...

Spencer Woith A Wednesday to be determined, yes...

President Jones Yes, Wednesday, TBD. Okay. Any other questions? I did have a question actually, whoever can answer it. I was curious when Mr. Ault purchased this, the parcel that is split zoned?

Ken Ault 2020....

President Jones Okay so it was recently, then? Okay, thank you, that helps. Any other questions from Council? Mr. Hess.

Alderson Hess Yeah, that's actually brings up a point, maybe fore Mr. McCormic, but if there's a, if there's a due process question on the split zone piece, wouldn't that due process concern reside with the former owner? I mean it appears as though this owner bought the parcel knowing what the zoning conditions were. If that hypothetical due process concern exists, that appears that it would be on the owner at the time of the Title 20 adoption.

Alan McCormick Alan McCormick. It's a question that comes up frequently in situations like these that was answered by the United States Supreme Court in a case called Palazzolo . Basically, the fundamental question is can you buy yourself into a restriction and are you giving up your rights to challenge that restriction by buying a piece of property already subject to it? And the United States Supreme Court says that you do not give up your right to challenge the validity of a restriction just because you bought the parcel after the restriction was imposed.

Alderson Hess Thanks for that.

President Jones Mr. McCormick, could you send us that site so that we can have that? I'd appreciate it.

Alan McCormick Certainly...

President Jones Or spell it because I can't understand what you're saying either?

Alan McCormick Spelling is not my strong suit.....

President Jones Send us an email...

Alan McCormick I'll send you an email.

President Jones All right, thank you. Okay. Any other questions from Council on this matter tonight? Oh, Mirtha, there you are...One last one...Ms. Becerra

Alderson Becerra I'm here.

President Jones Sorry.

Alderson Becerra I just, I just wanted to clarify my question regarding rents. I was, by no means, trying to suggest that we need to base our decision.... I'm very clear on what our rezoning regulations say in terms of how we base our vote. I simply wanted to point out that, what I'm trying to say is, that no I, I perfectly know that we cannot base our, our vote on, on the price of rent, neither can we base it on what amenities the community is going to have, if it's going to have a pool or a community area. So, I just, just wanted to be clear on that.

President Jones Thank you. Okay. Any other questions? Then this public hearing will be kept open, and we will be hearing this back in LUP, to be decided, and Mr. Hess.

Alderson Hess I'm sorry. I do have one more question and maybe...it doesn't have to be answered now, but I'll just get it on the on the record about the development agreement. There's, you know, you you'd suggested Alan that there could be a someone else that's party to that. Can you speak more to what you, who that might be or what you? If the city is ultimately not party to that?

Alan McCormick It's not a preferred option. It raises questions. It's late, so I'm not going to bore you with a difference between easements of pertinence and growth, but it raises questions about what's attached to land, that's attached to other land and so if you really want to do covenants well, you need two landowners with both parcels being both burdened and benefited by the covenant. And that's why the development agreement is a better option here because it's, I've referred to it as a type of covenant, but it's really an agreement between the city and the development developer that would agree that they're sufficient and presumed to be sufficient consideration for that agreement that would be then enforceable out of the rules of contract and not under the rules of, of this dominant versus servient tenement versus easement gross, easement [inaudible] .....covenants running with the land. I know you guys are just dying to have a two-hour session on those, which you can actually have because I'm presenting on that topic on May 19, 2022 in Helena.

President Jones Well now, we've triggered another question.

Alderson Anderson Okay, yeah do go far Alan. Okay, so that does bring up the question though in from a standpoint of you are presenting the development agreement to us just as something to take under consideration, but we cannot base our decision on a rezone because we're not legally allowed to take into factors, development agreements as a part of rezones, but if the development agreement is, is executed, be in, the rezone is gone through, and the parcel is sold. How can you guarantee that the development agreement stays with the land? When there's really no you, you voluntarily entered into it, and we are not a party of it as part of the rezone?

Alan McCormick Let me unpack that.

Alderson Anderson Okay.

Alan McCormick Again, knowing it's late....

Alderson Anderson Yes, yes..

Alan McCormick I don't happen to share the city attorney's concern as much with whether or not the development agreement can be considered as a package with the zone. You can't attach conditions to zoning....

Alderson Anderson Right.

Alan McCormick But, but this isn't a condition to the zoning, it's a voluntary condition outside of zoning. The zoning remains the same; the zoning would be R1-45, and it would be impacted by a separate agreement entered into between the developer and the city, and so it's not a condition on zoning, it's not a contract zoning. It's just a, it's a different mechanism. We did this with, you'll recall the 50-some acres that's at the corner of Mullan and Flynn, that now has O'Leary and Mary Jane Boulevard running through it. The city adopted a development agreement, this basically said the zoning gives you a little too much, so we want to ratchet that back by entering into a development agreement with the developers. So, there is precedence for this, and it's been done, and I think there's some new thinking on it at the city attorney's office that's raised some concern. The other issue, can it, can it run with the land? Is a case, it's the Donna Metcalf Trust case, Montana Supreme Court, that's not an easement and gross. This was a deed restriction where the woman put a deed restriction on the parcel, sold it to someone, and the deed restriction said you're never going to subdivide the property. That person sells it to someone else; she gives what... she doesn't own property. She's not a next door neighbor. She just put a deed restriction on it... Can a subsequent assignee enforce the, the deed restriction? And the Supreme Court said yes because the document said, this covenant runs with the land. So, it was the intent of the parties that it would run with the land and had they not put that language in there, it would have been of questionable enforceability. So, I think some of that question has been answered, as well.

Alderson Anderson Thank you for that brief education.

Alan McCormick Two hours on that subject for the 19th. I can get you a discount code.

President Jones We've got, Dave DeGrandpre, is raising his hand. Staff, did you want to add to this only?

Dave DeGrandpre Only one, one short item and that is the planning board public hearing is available through escribe and that includes Mr. Cole's presentation on, on fire and all the slides. So, he, he mentioned that this presentation wasn't recorded at the LUP, but it is fully available if you go to April 19th agendas meeting minutes, you can, you can watch that entire show.

President Jones Great, thank you. And Ms. Becerra, did you have your hand raised again? Or did you just lower it?

Aldersperson Becerra I think...No, good.

President Jones It must have been an old one. Okay, any other questions on this item? Then, we will keep the public hearing open. We will hear it in LUP in several weeks, with lots of notice given to everyone, and we appreciate your patience for a long meeting tonight. Okay that...we will be done with that agenda item.

## **10. COMMITTEE REPORTS**

### **10.1 Budget and Finance (BF) committee report**

#### **10.1.1 Minutes from the May 4, 2022 Meeting**

### **10.2 Climate, Conservation and Parks (CCP) committee report**

#### **10.2.1 Minutes from the May 4, 2022 Meeting**

### **10.3 Committee of the Whole (COW) committee report**

#### **10.3.1 Minutes from the May 4, 2022 Meeting**

### **10.4 Housing, Redevelopment, and Community Programs (HRCP) committee report**

### **10.5 Land Use and Planning (LUP) committee report**

#### **10.5.1 Minutes from the May 4, 2022 Meetings**

### **10.6 Public Safety, Health and Operations (PSO) committee report**

### **10.7 Public Works and Mobility (PWM) committee report**

#### **10.7.1 Minutes from the May 4, 2022 Meeting**

## **11. NEW BUSINESS**

## **12. COMMUNICATIONS FROM THE MAYOR**

President Jones I will take that slot. I will just note that Legislator, Mark Sweeney, died a few days ago. I got to know Mark when he was running for the PSC and he was, he was a good person to discuss our water acquisition with. He had some interesting thoughts on that when I was a new Councilor and gave me some good advice. I appreciated his him as a resource, but he was just a wonderful human being also who firmly believed in public service and gave a lot to the State of California, to the State of Montana, sorry, and he had deep roots in eastern Montana, which I, I really liked that he brought that to the table, especially Miles City, one of my favorite towns that my dad grew up in. So, I just wanted to say that he was he was a really good person who gave a lot to the state of Montana, and we will miss Mark. So, rest in peace.

## **13. GENERAL COMMENTS OF CITY COUNCIL MEMBERS**

President Jones We will go to Council comment now and Ms. Becerra, we'll start with you.

Aldersperson Becerra Thank you. Just a couple of things. One is, last Thursday was Murder and Missing Indigenous Women and People Awareness Day, and I bring this up now, after the fact, only because I think that while May 5, might have been the day, a day of awareness, we should be aware that this continues to be an issue every day and we need to reinforce and continue to strengthen our collaboration with tribal jurisdictions to, to better tackle this issue that is so important in, in Missoula. Many of you might remember Jermain Charlo and she has been missing for almost 4 years now. You know, that happened in Missoula, Montana. So, this is an issue that I think it's important for us to keep in conversations with our police department and see

how we can further collaborate with, with tribal jurisdictions. On a separate note, I also want to say thank you to the many, many volunteers who went and cleaned up the area under the Reserve Street bridge. That is an issue that is top of mind for city, county, and state, and we will continue to work as legally allowed by all the jurisdictions to resolve the issue with expediency. I know that some of our staff has already gone to work on city-owned land and are ready to help once this issue is resolved legally between the other jurisdictions, but I know the work that the volunteers did for several weekends now. It is greatly appreciated. I think many of us don't want to see any of that stuff on the river and I truly appreciate all the efforts that went into coordinating those volunteer efforts. So, my gratitude. Thank you.

President Jones Thank you. Ms. Jordan.

Alderson Kristen Jordan Yeah, thank you. I just wanted to remind everybody about the screening of the Bears of Durango that's happening on May 11, 2022 at 7:30 p.m., where is it Zootown? Yeah Zootown Arts community, thank you. And this is a movie about what folks in Durango, Colorado did to coexist with their bear population, which is something that we are definitely paralleling, and I would like to invite folks to come to that screening and to talk about how we can be more bear smart in Missoula. Thank you.

President Jones Ms. Vasecka.

Alderson Vasecka Thanks. I know that we just had an election but there is another election coming up. The federal primary election is going to be held on June 7, 2022 and if you are an active voter, you will be mailed a ballot on May 13, 2022. So, be sure to get it into the election's office on, it's on Russell and Wyoming streets by 8:00 p.m. on June 7, 2022. If you have any questions, please contact the elections office. And then also, I wanted to say happy belated Mother's Day to all the mothers out there. No matter how old you are, you always need your mom. So, happy Mother's Day.

President Jones Thank you. Mr. Contos.

Alderson Contos I'll pass, thanks.

President Jones Ms. Anderson.

Alderson Anderson Thank you madam chair for recognizing the public service of Senator Sweeney, and my condolences go out to him, and his family and friends and it was a sudden loss to our community and our state, and I know that they are grieving, and our hearts are with them. On a second note, I want to say thank you so much to Missoula and the greater Missoula community for being amazing. Once again, Missoula Gives just wrapped up it's, oh gosh I forgot how many years in a row it's been doing it but it's an opportunity for people to give big and small donations to have impact on community or organizations based right here in Missoula and this year our community came together to raise over 1.2 million dollars and that was comprised of over 3,000 individual donors and it went to 186 organizations. So, I have always said that Missoula is a pretty amazing community and once again the evidence of that is given and shown through its generosity and so thank you to everybody who took a little bit of time to give to one of those organizations. And thank you to all those organizations who do amazing work and I'm glad that you are being recognized. Thanks so much.

President Jones Thank you. Ms. Sherrill.

Alderson Sherrill I'm going to pass, thanks.

President Jones Mr. Nugent.

Alderson Mike Nugent I'll be quick. I was at a housing conference last week and I, I came across an interesting analysis, which then I saw one of our local representatives share on social media this past weekend and given that there are 20 plus subdivisions working their way through development services right now and housing is on top of everyone's mind. The analysis was on Minneapolis, Minnesota and they did a study in 2018 that determined they needed to build 4,000



housing units a year to help cover backlog and meet demand. And since 2018, they've averaged 3,740 units a year, but last year, they 5,077 units on, and now rents are decreasing, which is not the national trend. So, I just think that we think about a lot of things, but supply and demand really does matter.

President Jones Thanks Mike. Mr. Carlino.

Aldersperson Carlino I can pass tonight.

President Jones Mr. Hess.

Aldersperson Hess Thanks. I want to speak briefly about that the tragic death that several commenters tonight came in to talk about on, on Orange Street, and I want to express my condolences to the to the family of the deceased. And I want to just say that we need to continue to work to make our roadways safe for all users. We have, as, as a city and as a state, we have vision zero goals for zero highway or zero roadway fatalities and those unfortunately, we haven't been able to achieve those, and this is a stark and painful reminder in our community, and we need to continue to work on our transportation goals. We have visionary planning documents I think around, around transportation. We have a visionary or aspirational perhaps long-range transportation plan for how we allocate our federal transportation dollars, which are in short supply, and we just need to keep working toward those goals of safety and road split, and all of the things that are that are listed in those plans. There's, the League of American Bicyclists have six criteria that they encourage the use of and those are engineering, education, equity, encouragement, evaluation and enforcement, and those all come into play here. And this is a road that's controlled by the state, that is engineered to move traffic at a rate of speed that is greater than the posted speed limit, and that's not how we should design roads. And so, there's an engineering fix. There's an evaluation. This is it; this is an evaluation, or an inflection point where we can, we can think about how we've designed roads and we can assess that, and we can do it better and I hope we do.

President Jones Thank you. Ms. Savage.

Aldersperson Savage I'll pass tonight.

President Jones Ms. West.

Aldersperson West I just also really wanted to thank the Missoula Community Foundation for giving us this amazing 26 hours of giving that you know giving us this the infrastructure for non-profits that don't have maybe a lot of capacity to really do some really effective community outreach and fundraising. And I also just want to thank all of the Northside and Westside businesses that really supported the Lowell School PTA in providing incentives or matching funds for their Missoula Gives campaign. We had 258 donors this year, which is amazing, and we've raised over \$34,000.00 and with an organization that is entirely volunteer run, that is a game-changing amount of money that can be invested in our families and our kiddos and it's my last year as a Lowell mom. So yeah, I'm really excited and just so grateful to have been a part of this community for the last eight years and we're really lucky to have such an amazing institution full of just amazing people and it's what makes Missoula special. Thank you.

#### **14. MISCELLANEOUS COMMUNICATIONS, REPORTS AND ANNOUNCEMENTS**

##### **14.1 Administratively approved agreement report**

#### **15. ADJOURNMENT**

President Jones - We will be adjourned.

The meeting adjourned at 9:56 p.m.

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Martha L. Rehbein, CMC, Legislative  
Service Director/City Clerk

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John Engen, Mayor