

# Journal of Proceedings

## Missoula City Council

July 11, 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, Jordan Hess, Gwen Jones, Kristen Jordan, Mike Nugent, Amber Sherrill, Sandra Vasecka, Heidi West

Members Absent: John P. Contos, Jennifer Savage

Administration Present: Marty Rehbein, Jim Nugent, City Attorney

Administration Absent: Mayor John Engen

### 1. CALL TO ORDER AND ROLL CALL

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

### 2. APPROVAL OF THE MINUTES

Minutes will be approved at a later date.

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

President Jones Thank you. We will take public comment on items that are not on the agenda. If you want to come give public comment, just step up to the podium. Please tell us your name and we try and keep people to 3 minutes. Good evening.

Liam Seymour Good evening everyone. My name is Liam Seymour, I'm a resident of Ward 3. So, on Wednesday of this week in a committee meeting, there's going to be a discussion and a vote on an easement for a property on Front Street. This is the last step in a process that has been going on for a while, but at the moment will displace about a dozen renters from their housing and what is really truly one of the only housing opportunities in that price range in the city. The project is not time sensitive or critical to any city planning that I know and so I'm hoping and asking that members of that committee consider tabling this easement for at least a few months to give the tenants the time to find alternative in this truly terrible housing market, whether that's of a few months or until maybe the vacancy rate goes up to a more acceptable level in our community. I'm hoping that the members of that committee will at least consider this. Thank you.

President Jones Thank you. Anyone else? Public comment on items not on the agenda. Let me check those attending virtually and see if there are any raised hands. Okay, seeing no other public comment on items not on the agenda, we'll go forward with the next item on the agenda which is to announce the committee meetings.

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

Budget and Finance Committee, July 13, 9:00 – 11:15 a.m.

Climate, Conservation and Parks Committee, July 13, 11:30 a.m. – 12:00 p.m.

Public Safety, Health and Operations Committee, July 13, 12:30 – 12:50 p.m.

Housing, Redevelopment, and Community Programs Committee, July 13, 1:05 – 1:20 p.m.

Land Use and Planning Committee, July 13, 1:35 – 2:35 p.m.

## 5. **CONSENT AGENDA**

President Jones Thank you. Any comment from the public on the consent agenda? And if you're attending virtually, please raise your hand if you'd like to comment on the consent agenda. Seeing none, any Councilor want to divide the question or anything like? Ms. Jordan.

Aldersperson Jordan Thank you. I'm just wondering if we could pull the south, I just need to double check and make sure I'm asking the right part, if we could pull the 5.3 out and vote it on it separately please?

President Jones Separate out item 5.3? Of course.

Aldersperson Jordan Thank you.

President Jones Any other comments from Council? Seeing none, Marty if you could do a roll call vote and we're dividing the question on item 5.3.

Marty Rehbein Okay, let's do the vote on the full consent agenda minus 5.3 first.

Marty Rehbein And now, let's move to item number three. Okay that's on that variance request at Perry Park. Would any of you like to change your vote? That is nine ayes and one nay and that passes.

President Jones Thank you.

AYES: (10): Aldersperson Anderson, Aldersperson Becerra, Aldersperson Carlino, Aldersperson Hess, Aldersperson Jones, Aldersperson Jordan, Aldersperson Nugent, Aldersperson Sherrill, Aldersperson Vasecka, and Aldersperson West

ABSENT: (2): Aldersperson Contos, and Aldersperson Savage

**Vote result: Approved (10 to 0)**

### 5.1 **Accounts Payable (claims) for checks dated July 5, 2022**

Ratify accounts payable in the amount of \$1,557,079.48 for checks dated July 5, 2022.

**Vote result: Approved**

### 5.2 **Accounts Payable (claims) for checks dated July 12, 2022**

Approve accounts payable in the amount of \$623,932.53 for checks dated July 12, 2022.

**Vote result: Approved**

### 5.4 **Resolution Relating to \$[6,897,000] Water System Revenue Bonds, Series 2022B; Authorizing the Issuance and Fixing the Terms and Conditions Thereof**

Adopt the Resolution Relating to \$[6,897,000] Water System Revenue Bonds, Series 2022B; Authorizing the Issuance and Fixing the Terms and Conditions Thereof

**Vote result: Approved**

**5.5 Memorandum of Agreement with SPARK1, LLC for Concrete Way Water Main Extension Project**

Approve and authorize the Mayor to sign a Memorandum of Agreement with Spark1, LLC for the Concrete Way Water Main Extension Project at a cost not to exceed \$4,000.00.

**Vote result: Approved**

**5.3 2415 South Hills Encroachment Permit Application – Encroachment into Peery Park**

Issue a variance to Resolution #8024 and subsequent Parks encroachment permit to Brian Weston for the approximately 1,300 sq ft encroachment from 2415 South Hills Drive into Peery Park, in exchange for a permit fee of \$3,140.63 with fund to be used explicitly for the improvement of Peery Park.

AYES: (9): Alderperson Anderson, Alderperson Becerra, Alderperson Carlino, Alderperson Hess, Alderperson Jones, Alderperson Nugent, Alderperson Sherrill, Alderperson Vasecka, and Alderperson West

NAYS: (1): Alderperson Jordan

ABSENT: (2): Alderperson Contos, and Alderperson Savage

**Vote result: Approved (9 to 1)**

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

None

**7. SPECIAL PRESENTATIONS AND PROCLAMATIONS**

**7.1 Proclamation - Wildfire Smoke Ready Week**

President Jones We do have a special presentation a proclamation tonight and it's perfect timing because it's going to be 97 degrees tomorrow. So, this is a proclamation regarding Wildfire Smoke Ready Week.

WHEREAS, Missoula County and the City of Missoula, Montana, WHEREAS, wildfire smoke is a serious and growing public health threat and the more scientists learn about the dangers of smoke exposure, the more we need to act; and WHEREAS, wildfire smoke causes worsened asthma attacks, decreased lung function, worsened COPD symptoms, increased susceptibility to infectious disease, increased risk of heart attack and stroke, and increased hospitalizations and deaths; and WHEREAS, the National Interagency Fire Center is predicting significant wildfire potential throughout much of the western United States in 2022, including in regions that send smoke to our area; and WHEREAS, our adopted Climate Ready Missoula plan finds that our summers are becoming hotter and drier, wildfire season is getting longer, wildfire smoke is an increasing risk, and we need to enact strategies to mitigate harm; and WHEREAS, wildfire smoke can come indoors creating unhealthy conditions, both outside and inside; and WHEREAS, it is possible to decrease the risk this smoke poses by creating cleaner indoor air spaces and reducing outdoor activities; and WHEREAS, public messaging focused on the dangers of wildfire smoke and how individuals can protect themselves plays an important role in individual preparedness during wildfire season. Therefore, be it resolved we Missoula County and the City of Missoula do hereby proclaim July 9th through the 16th as Wildfire Smoke Ready Week to inform and educate Missoula County and city residents of the hazard that wildfire smoke presents and how to mitigate it.

President Jones Dated the seventh day of July signed by Mayor, John Engen, and County Commissioner, Juanita Vero, and I believe we have some people who wanted to speak to this. Ms. Sherrill, did you want to go first?

Alderpersion Sherrill Sure, I'll go first. I, I wanted to first thank Climate Smart Missoula for their work on this and you know I, I, I don't think I need to talk about how we live with wildfire smoke to, to Missoula but wildfire smoke is something that we kind of dread and then live with every summer and you know we, we need to learn to deal with it to some degree and adaptation to climate change is an area of study and a, an important piece to you know how, how we survive and how we thrive and how we keep a healthy community. So, I think Amy is in the audience and I'll let her say more but I'm happy to see this resolution come forward and I hope that everyone in Missoula will kind of be aware of the work of Climate Smart. There are filters and there you know we have the awareness we can all let Amy speak to kind of some of the other pieces of that but I'm thankful for this resolution coming forward and I hope it gets on everyone's radar.

President Jones Thank you Ms. Sherrill. And I've got Amy Cilimburg with her hand raised. Good evening Amy.

Amy Cilimburg Hello thank you Council. I assume you can hear me?

President Jones Yes we can.

Amy Cilimburg Great, thank you. Yeah, thank you amber and thanks to all of you for entertaining this proclamation. I'm glad that the Mayor was able to sign it and the Board of County Commissioners. Just to add to what Amber just mentioned, Climate Smart Missoula is part of bringing this work forward but it's truly collaborative with you folks at the City of Missoula, Missoula County, Missoula City-County Health Department, United Way of Missoula County, and the Missoula County Fire Protection Association are all behind this Wildfire Smoke Ready Week. So, the week is really an opportunity to like fill the airways and the newspapers and have, be out and about in the community, helping people understand that there are ways to prepare for wildfire smoke, particularly with some easy to adapt practice. You know, there's easy to get clean indoor air when it's smoky outside with some of these HEPA portable air filters, air purifiers. And so, so we're basically out in the community trying to help show folks that yeah there's, there's things we can do. Over the years, we've learned a lot about the dangers of wildfire smoke, as the proclamation mentions, and we've also learned that there are ways we can stay healthy. So, a lot of our work is really getting the word out in this next week, and then it's ongoing beyond that, not everybody's going to hear our message, not everybody's going to be able to afford to get a HEPA air purifier for their home but we're out with our partners in the community seeing what we can do to help those without the resources and just kind of work on this year to year making it a little bit better every year because we will see wildfire smoke, maybe not from fires right around here but that you know we get smoke from, from all over. I was just looking at the smoke maps and a lot of the us is getting smoke from Alaska right now, so, so, we get it from around. So, there are ways to stay healthy. That's this collaborative a partner groups effort and we can, we'll be at out to lunch tomorrow. There's a wildfire smoke trivia night at Imagination Brewing tomorrow evening if any of you folks want to join or anybody that's listening, and we'll be at the farmers markets over the weekends, in addition to just kind of our general get out, get the word out. So, yeah thank you and I don't need to keep you any longer. I appreciate your support.

President Jones Thanks Amy. Thanks so much for all the great information and yes we're hoping it's a smoke-free summer, but fingers crossed. Okay moving on.

## **8. FINAL CONSIDERATION**

**8.1 A resolution to annex and zone of Fairway View Addition Planned Unit Development, for 8,517 sq ft of land located at 3946 Fox Den Court.**

President Jones We have one item under final consideration for tonight. 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 and action by the City Council. The chairperson of the standing City Council committee will make a motion. We invite community comment on each item. Final consideration tonight we have a resolution to annex and zone Fairway View Addition Planned Unit Development. So, first of all with the planner, Spencer are you here and did you have anything additional to add beyond the presentation from last week?

Spencer Starke No, nothing additional to add.

President Jones Okay, thank you. Were there any questions from Council? I saw a hand go up and then it went down. Oh, Mr. Carlino.

Alderperson Carlino Yeah, I was just curious if you all could explain a little bit more how we got to the zoning for this parcel that we're annexing in.

Spencer Starke Yeah, so the parcel is located, so the parcel that we're annexing or proposing to annex this evening is located within the county adjacent to the existing parcel. This is resulting from boundary line relocation, which is exempt from subdivision process. It's the relocation of common boundaries to expand the existing city parcel. The city parcel is zoned within this PUD and this cert currently has been developed for a single family detached home or a single unit detached home. The annexation will be for 0.2 acres or approximately 8,000 square feet. We arrived at the zoning designation because this is the zoning that the existing city parcel is currently zoned for, and the location is served by a single access driveway, a single sewer line, and is mainly encumbered by a, by a no access easement on the western side and like no build zone for the majority of it or a large portion of it. So, in addition the annexation area that this is in proposes low density residential and this site is most suitable for that, just given its location. I can bring up the parcel to demonstrate more what I am explaining here. Sorry, so this is the parcel.

President Jones So, we're not seeing a map yet. We're just seeing the City Council meeting agenda link. There we go. Okay.

Spencer Starke So, the, this here we go okay. So, the, this is the county parcel, and this is the existing city parcel currently served by driveway with a no access easement on this side and.... apologies for that. Okay, here we go. And this would be the section to be annexed. So, it, there's the, the parcel is not highly suitable for more development and would not meet the criteria to be zoned otherwise. So, this is aligned with the Growth Policy recommendations with our Annexation Policy and overall, with the existing site suitability.

President Jones Thank you Mr. Starke. Any other questions from Council? Sure, go ahead Mr. Carlino.

Alderperson Carlino So, is it correct to say that? I'm 100% in favor of annexing this end, but is it correct to say that the proposed zoning would only allow for single-family homes there and I suppose Airbnb, bed and breakfast as well?

Spencer Starke So, the PUD doesn't, I'm not aware of the allowance for a tourist home at this location, but in my experience and I can pull up the regulations for this particular PUD, but our general approach to PUDs as, unless they're otherwise specified for bed and breakfast use or tourist home use, they're not allowed in the majority of PUDs because the majority of PUDs were drafted at a time where tourist homes were not a regular use and the bed and breakfast classification was, what you'd see most often. So,

I can't speak to details, but I would venture, if I were to give it you know an educated guess, tourist homes would not be allowed here. I can follow up on that as well. Yeah, so the, the use would be controlled by the density, which I believe for this parcel would only allow for one unit which is already existing on site.

President Jones Thank you. Mr. Hess.

Alderson Hess Thanks. So, it looks like slide 12, Spencer is the criteria for zoning upon annexation and can you? I mean, my recollection of these is that we, we have criteria that we have to follow under state law about what, what zone we bring something in under when we annex it. Is that, is that correct and would it be, that, that, that's correct?

Spencer Starke Yes, these are the, the three criteria we use to measure whether a, a parcel is suitable for annexation and then what land use designation would be applied based upon the Growth Policy.

Alderson Hess So as a follow-up to that? It would be inconsistent with these criteria and inconsistent with state law to bring it in under a different zone that didn't, that didn't comply with the Growth Policy essentially?

Spencer Starke Staff's analysis is that the, the recommended zone district is in conformance with Growth Policy for. So, staff's recommendation is yes this, this PUD zoning district because that's from our, our review is the most consistent zoning district.

Alderson Hess Thanks.

President Jones Okay, seeing no other questions. Mr. Hess, we would need a motion.

Alderson Hess Thanks I would move that we adopt a resolution to annex and incorporate within the boundaries of the City of Missoula one certain parcel of land described as Portion 'A' of Lot A-1, Fairway View Addition, Lot A-1, Lot A-2, Fairway View Addition, located in Section 1, Township 12 North, Range 20 West, P.M.M., as shown on Exhibit A and Exhibit B, and zone the property Fairway View Addition Planned Unit Development, based on the findings of fact in the staff report, subject to the recommended conditions of annexation approval and subject to an effective date for the annexation and zoning to occur at the time the amended plat for 2020-MSS-SEA-00021 is filed with the County Clerk and Recorder. And may I speak to the motion?

President Jones Let me call for public comment first and then we'll return back to you. Is there any public comment on this motion? And if you are an attendee, if you raise your hand....if you're virtual. Seeing no public comment, back to you Mr. Hess.

Alderson Hess Thanks. This is straightforward. This is consistent with our Annexation Policy and our Growth Policy, and as at the risk of being a broken record, I say that all the time that we, we adopt plans and policies so that we can follow them and so we have plans and policies adopted here, and we are following them. It would be inconsistent with the Growth Policy and inconsistent with state law to, to zone this differently than is proposed or more densely than is proposed and our Growth Policy was, contemplates that housing is important, diversity of housing types is important, and climate is important and having density that is removed from the urban core creates a climate impact by creating additional vehicle trips that we then have to support with, with infrastructure that's far from our urban core. So, it's, it's not the right place for density. There's a, there's, it wasn't contemplated in the application, and it wasn't, it wasn't, it's not contemplated in the Growth Policy, so this is the correct zoning for this parcel.

President Jones Thank you. Any other comments from Council? Mr. Carlino.

Alderson Carlino I'm happy to support this motion, but I do think like, as we're going through our code reform, we need to look at all areas of land that are residential no

matter how small and re-legalize two, three, four plexes. If the owner of this land wanted to build it a duplex and open up another unit, they, it would be illegal under the proposed zoning. So, I just want to point that out. Thanks.

President Jones Any other comments from Council? And anyone attending virtually? I'm not seeing any raised hands. All right, we will have a roll call vote.

President Jones Thank you Marty.

**Moved by:** Alderperson Hess

Adopt a resolution to annex and incorporate within the boundaries of the City of Missoula one certain parcel of land described as Portion 'A' of Lot A-1, Fairway View Addition, Lot A-1, Lot A-2, Fairway View Addition, located in Section 1, Township 12 North, Range 20 West, P.M.M., as shown on Exhibit A and Exhibit B, and zone the property Fairway View Addition Planned Unit Development, based on the findings of fact in the staff report, subject to the recommended conditions of annexation approval and subject to an effective date for the annexation and zoning to occur at the time the amended plat for 2020-MSS-SEA-00021 is filed with the County Clerk and Recorder.

AYES: (10): Alderperson Anderson, Alderperson Becerra, Alderperson Carlino, Alderperson Hess, Alderperson Jones, Alderperson Jordan, Alderperson Nugent, Alderperson Sherrill, Alderperson Vasecka, and Alderperson West

ABSENT: (2): Alderperson Contos, and Alderperson Savage

**Vote result: Approved (10 to 0)**

## **9. PUBLIC HEARINGS**

### **9.1 City Subdivision Regulations: State Law Changes (Jen Gress, Senior Planner, City of Missoula)**

President Jones Next item, under public hearings, we do have one 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 week, unless there is a requirement for final action on the night of the public hearing. With the public hearing that we are opening tonight, we will take this up under final consideration on July 18, 2022, a week from tonight. So, on this item, I believe we have Jen Gress to present. Good evening Jen.

Jen Gress Good evening.

President Jones And this is on city subdivision regulations state law changes.

Jen Gress I am going to find the screen for you. How's that?

President Jones Great, we can see it.

Jen Gress Thank you. So again, just for the record, I am Jen Gress of Community Planning and Development, and Innovation. And tonight, we're holding a hearing on required updates to the city subdivision regulations with state law changes. I'll provide some background for you, explain the goal of this project, provide a brief overview of the relevant state bills along with other proposed amendments, I'll review the amendments, and then close with comments that we've received. You have a list of amendments as part of the background information for this project; the document is called subdivision regulation state law changes planning board and this is the same document the planning

board reviewed and referenced. I'll be referencing item numbers from that document throughout the presentation. I'm not planning to go through every amendment in specific detail; however, I will be available for questions after the presentation. Montana State Law establishes the minimum rules of review and submittal for subdivision projects as well as the criteria they are reviewed by. These minimums must be administered by local agencies as soon as they are in effect. Our office has been implementing state law changes since their adoption even if they haven't been formally adopted into our local regulations. Montana State Legislature meets every 2 years to discuss possible amendments to state law for various topics including subdivision review, and since the last update to the city subdivision regulations following the 2013 Montana Legislative Session there have been several changes to subdivision related state laws in three of the four subsequent sessions between 2015 and 2021. Missoula's current regulations do not reflect these updates and staff have been implementing these changes using language taken directly from state law. We also looked at the bills from the 2015 session and determined that none of them applied to the subdivision regulations. So, the goal of this project is to update the subdivision regulations in a targeted manner. Because the upcoming code comprehensive code reform process will focus on regulation alignment, process auditing, modernization and innovation between all the city's land use regulations, these amendments will have a narrow scope. Amendments are limited to integrating legislative changes from the past three sessions. Changes will also correct obvious mistakes and update the document in department names. This scope will avoid duplicating efforts that will take place during the code reform process. We'll provide a clean starting point for the code reform process to build them, and we'll put our regulations in a more transparent place representing current review practices. The code reform process will result in a uniform development code or UDC, and that process typically, typically takes about 2 years to complete and will coordinate multiple agency regulations such as subdivision zoning, road standards, parkland, and stormwater standards. Currently, the consultant has been contracted and the process is in its beginning stages with the consultants having visited Missoula for a formal introduction during the week of June 27, 2022. So, this is a list of relevant bills by legislative year, even though the regulations have not been included again in the local regulations, each one has been followed in practice as they have become effective at the state level. A couple of the more complex bills in 2017 included House Bill 245, having to do with timelines of final plats and House Bill 445, which created a process for phased development projects approved after 2017. The 2019 bills were pretty straightforward and resulted in minor amendments and we looked at 7 bills from 2021, but found that two of them pertain to other land use review acts, the sanitation and unit ownership acts. So, 5 of the 7 bills have been integrated into the regulations, 2021 included a couple of bills requiring more complex amendments again. Those were Senate Bill 161 regarding expedited subdivision review and Senate Bill 174 regarding conditions of subdivision approval. So, in addition to the legislative changes, staff has identified a number of amendments not specifically related to recent state land use legislation, but are necessary to include in this update. Some of these proposed changes will not be specifically addressed in this update in this presentation, but are shown in your reference materials. Changes not included in this presentation include cross-referencing the recently adopted Missoula city public works standards and specifications, update of the planning office and department names were appropriate, correcting the name of the Growth Policy to the City Growth Policy, change the name and number of reference documents called exhibits, and removal of the word the that was inadvertently left behind throughout the document when the office name was changed from the office of planning and grants. Other items will be shown later in the presentation, one being proposed language to update requirements surrounding the amount of water runoff allowed for a parcel. These changes are in response to updates made by the Montana Department of Environmental Quality and to circular eight. There, the others are in response to comments received. We're proposing to remove outdated language found in article 8 and update the submittal format for final plat filing in article 5. The relevant bills and



housekeeping items affect every article of the subdivision except for, excuse me the subdivision regulations except for article 9 public and private improvements. Tonight, I plan to go through the amendments by bill, rather than the usual numerical order found in your reference materials and this should help you to follow the concept for each bill more easily. I'll also be providing amendment numbers for your reference. With each bill, I'll provide a brief overview and will show the amendments quickly and in some cases only partially; we can come back at the end of the presentation. Because of formatting and authorship, amendments are shown in underlying strikeout as well as various colors, mostly red and purple. The first bill is House Bill 245, which revises a governing body's responsibilities concerning the submission, evaluation, and approval of a final plat, amendments provide for time limits and notification procedures. Within 20 business days of accepting the final plat, staff must determine if it meets sufficiency requirements. Once it does, City Council has 20 more days to make a final decision. The bulk of the amendments for House Bill 245 occur in article 4 subsection 070 in preliminary and final plats determination of compliance beginning with amendment 33. This section clarifies our office has 20 days after accepting a final plat to determine if it needs all necessary criteria and notify the subdivider of that determination in writing. These amendments provide process direction if the application doesn't have the required information. The missing items must be identified for the applicant and no further action can be taken until the missing items are submitted. Review of subsequent submissions can only be made for items that were missing and time limits apply to each submission until a determination is made that the plat contains what is required. An extension can be granted when the developer and the city agree to apply one, and the acceptance date section was clarified to state that the date and application is formally accepted by the office will be the date the final plat with all required materials and fees is received by the office. The last amendment for House Bill 245 clarifies City Council has 20 working days to act on the final plat; this is amendment 34. House Bill 416 required only one amendment and it clarified that the findings of fact used in making a decision to approve, deny, or condition the subdivision must be based on the record as a whole and this will be found in amendment 28. In 2017, the legislature adopted House Bill 445, which primarily revised the regulations for phase development for projects approved after 2017 by requiring a phased development application to include information on all proposed phases and the schedule for review of each phase. All phases of a phase development must be submitted for review and acted on within 20 years of the date the preliminary plat is approved. A public hearing for the review of each phase must be held by the City Council to consider changed primary criteria impacts or new information for each phase and allows the City Council to impose additional necessary conditions of approval on each phase. Changes in response to House Bill 445 were made in articles 1, 2, 4 and 5. The first was an addition to the intent statement in article 1, amendment number 2. This amendment will include phase development in our local purpose statement. Amendment 6 in article 2 will now have a definition of phase development. This amendment adds that that definition to our local regulations and is slightly modified to make it easier to read in response to a comment we received. The addition of subsection 4 to the pre-application meeting requirements in the general provisions section will codify current practice for submittal contact and require specific information to be provided at the time of a pre-application meeting, and that's amendment 21. The bulk of amendments addressing House Bill 445 are made here in section 4-070 preliminary and final plats where it has a lot to do with preliminary and final plat review procedures and how they're handled. Amendments reorganize and clarify existing language, as well as remove language no longer relevant. The section has been expanded from the single existing section addressing phasing to three categories, including direction for non-phased development and the newly created subsections addressing phased development on and after May 8, 2017, and those prior to May 8, 2017. The regulations clarify pre-application requirements, effective periods, plat approval extensions, applicability, deadlines and when a public hearing will be required. The rest of the specific language changes won't be shown here but can be found in your reference document at number 32. If you have

questions or want to discuss anything, you can come back later. With the addition of the new phase development regulations in article 4 clarifying amendments have been included in article 5 with amendment 41. These submittal requirements apply to subdivisions requested after 2017 and include a cross-reference to the review procedures that apply to phase development post 2017. Senate Bill 219 revised laws related to exemptions for parcels used as security for mortgages, liens, and indentures. The word construction was removed and a cross-reference to state law was added. The amendment in section 8-040 was added during the comment period addressing a comment received and removed the word construction as well. These amendments are numbers 53 and 57. The next set of bills were adopted in 2019. The first, House Bill 55, specifically addressed sanitation laws for subdivisions. In response, an amendment is included in section 5-020 making it clear the section applies to the subdivision if the development is not proposed using a municipal facility, see amendment 40 for that one. House Bill 124 addressed the change of use for existing agricultural covenants. In general, it requires a parcel with an agricultural covenant proposing to change use from agricultural to a non-agricultural use to go through subdivision review. The amendment also allows the governing body to remove an agricultural covenant in specific situations. Amendment 54 is made in section 8-030, the section for parcels exempt from plat filing and review. This amendment clarifies that a change in use on a parcel with an agricultural covenant to anything other than agricultural purposes subjects the division of land that received that specific exemption to subdivision review. Languages also included allowing the City Council to revoke exemptions under certain guidelines and conditions. If City Council chooses to remove an agricultural covenant, a public hearing must be held, and a written decision must be reported with the Clerk and Recorder. Clarifying amendments to address House Bill 124 were also made in section 8-040 shown in amendment 56. The language makes it clear if a parcel with an ag exemption is used for something other than agricultural purposes, the parcel must go through subdivision review. Senate Bill 276 revised condominium and townhouse laws by exempting from subdivision review, the conversion of an existing condominium development through a townhouse development. The project still needs to comply with zoning, and this is amendment 30. House Bill 292 included a change of terminology from an abstract of title to a subdivision guarantee and clarifying language of who a subdivision guarantee is issued by. Amendment 47 will clarify those items in the final plat supplement section of our regulations. House Bill 450 amended state law by exempting a five lot court ordered subdivision from subdivision review. The change will occur in section 8-020 divisions exempt from review, survey and plat filing, amendment 53. Senate Bill 161 is one of the more complex bills. It clarifies requirements for appeals of City Council decisions, does not require a neighborhood meeting for expedited projects, and creates regulations and review procedures for the expedited review, plus divisions that meet certain requirements including a prohibition to request a variance or deviation from any adopted regulation. Amendment number 3 clarifies an application for appeal of an expedited subdivision review, must specify the grounds to challenge the decision, and any challenge must be submitted within 30 days from the date of written decision, and amendment 22 will make it clear that expedited review is exempt from neighborhood meetings. Amendment 31 creates an entirely new section in response to Senate Bill 161. Again, this bill allows an expedited review for proposed subdivisions meeting specific criteria, including a requirement that the proposal is within the city limits, is in compliance with zoning, design standards, and other subdivision regulations without the need for variants of any kind. In addition, the project must include plans for on-site development up or extension to the public infrastructure. Projects that meet these criteria are exempt from specific review requirements like an environmental assessment and consideration of the primary review criteria. If a proposed development is meeting all the regulations and is appropriately planning for public infrastructure, the consideration of a proposed subdivision should be very straightforward. A public hearing is still required, whether a project is a minor or a major subdivision and notice of the proposed subdivision will be a legal ad and information on the Engage Missoula website. The decision on an expedited

review is accomplished within 35 business days from the time the proposed subdivision is considered sufficient to the final decision by the City Council, and the language in section .1A has been amended slightly from the agency draft in response to a comment received. The rest of this section will not be shown during the presentation, but again if you have questions we can come back to it. Provisions for when a governing body requires mitigation during subdivision review were amended in state law in 2021 with Senate Bill 174. Proposed language modifies the criteria of local governing bodies must consider when making a decision and are requiring mitigation of impacts. It prohibits the governing body from approving development covenants unless they directly impact the condition of approval to the subdivision and requires any condition applied to a subdivision to identify a documentable and defined purpose for objective in the primary review criteria to support it. Amendments are made in article 4 beginning with amendment 25 and mitigation of impacts. The amendment for Senate Bill 174 is shown in green and it refers a user to subsection .14, City Council decision and documentation. The purple is an amendment prompted by Senate Bill 211, which will be the next bill I discuss. There are three more slides with proposed changes to the regulations affecting general provisions for all major and minor subdivisions, and they occur in the City Council decision and documentation section. This first clarifies the governing body can review development covenants but cannot amend them unless they directly impact the condition of subdivision approval, and this is amendment 26. The second clarifies the condition of a conditionally approved subdivision need to be specific, documentable, and clearly defined, and is amendment 27. The third amendment for Senate Bill 174 is amendment number 28 and is shown here in blue. The language clarifies Council's approval of a proposed subdivision, is approval of the preliminary plaque packet as amended by conditions, reiterates findings must be based on the record as a whole, and conditions must be specific documentable, and clearly defined, and changes to subsection B and D further clarify the process of providing background regarding the City Council decision of the condition's subdivision. Senate Bill 211 prohibits a governing body from considering the loss of ag soils in their decision. It also prohibits requiring a set aside of land or monetary contribution for the loss of agricultural soils as a form of mitigation. These amendments take us back to the mitigation section of article 4 with amendment 25. Language changes prohibit the set-aside of land or monetary contribution for the loss of agricultural soils. Amendments also allow the City Council to decide which factors to weigh more heavily when making a decision concerning mitigation. Changes addressing Senate Bill 211 in City Council decision and documentation appear in red and clarify again the prohibition of considering the loss of ag soils; this is amendment 27. Amendments shown in purple were made in response to Senate Bill 174, as previously explained. Amendment 38 is the last amendment for Senate Bill 211 with changes in article 5. Again, clarifying mitigation of impacts cannot be based on the loss of agricultural soils. The City of Missoula is subject to various regulations administered by the Department of Environmental Quality including circular eight, Montana standards for subdivision stormwater drainage. In 2017, circular eight was amended regarding the amount of water runoff that must be addressed in various storm events. These DEQ changes require local regulations to be updated as well. Changes in the subdivision regulations will occur in article 3 under grading, drainage, and erosion control. Amendment 14 will address rainfall intensities in a 24 hour period, as well as peak runoff for 10 and 100 year storm events. Changes will also occur in article 5 in grading and drainage with amendment 39. No comments were received from the general public; however, comments were received from four agencies. The Public Works and Mobility office said they had no comment. The Missoula Urban Transportation District expressed their support in establishing a process for phase subdivision review. They stated that requiring phasing information as part of the preliminary plat review will help ensure all phases of a subdivision meet the same conditions for approval. Missoula Parks and Recreation proposed language changes to help clarify specific proposed amendments and staff incorporated those changes in instances we felt it didn't change the intent of the law. And the Missoula County Clerk and Treasurer provided comments on the proposed

state law changes, as well as the entire subdivision regulations document. So, as I just said the County Clerk and Treasurer not only commented on the proposed amendment package, but also commented on the existing subdivision regulations document as a whole. All of their comments have been reviewed and evaluated with many suggested changes for the entire document, noting outdated reporting practices, amendments to address future changes in process, and suggested changes to standardized language. A majority of the comments have been incorporated and the remaining comments will be added to a list of proposed amendments for the code reform project and will be reviewed during that process. Suggested changes that will be incorporated into these amendments include language that will help move the subdivision approval process from a paper system to an electronic system by reducing the number of paper copies submitted and requiring a digital copy be provided. The recording office no longer requires plats to be submitted to them on pieces of mylar, so that requirement is being removed and outdated terminology will be removed and replaced by the term plating report, and these are amendments 23, 36, and 46. Section 8-030.6, parcels of land 160 acres in size or larger, will be removed from the regulations with amendment 55 because the state changed the definition of a subdivision, and the regulations are no longer relevant. State law no longer allows an exemption called a remainder parcel, said option will be removed with amendment 59 and existing language will be amended making it clear a security interest exemption can only be used by the security interest holder; this is also found in amendment 59. Slides for these amendments haven't been included in the presentation, but if you have questions, I'm happy to address them. The planning board held a public hearing on June 21, 2022 and voted unanimously to recommend City Council adopt the amendments as presented by staff and this slide is showing you where we are in the timeline of the project. After tonight, the project will go to the Land Use and Planning Committee for review this coming Wednesday and we'll return to the City Council on July 18, 2022 for final consideration and a suggested motion will be provided then. And that ends my presentation. If anybody has any questions, I'm happy to answer them.

President Jones Thank you so much Jen. First, we will call for public comment, if there's any comment on this item. And I do see one raised hand, Mr. Larson.

Matt Larson Yeah, there seems to be an issue with the website. There's no ability for the public to comment on agendas, agenda items. I tried to comment on the, the budget earlier and I emailed Carlino about that, the, the accounts payable and there's no way to comment on the, the budgets, the, the accounts payable.....

President Jones Thank you for the input. We're actually taking comment on the .....

Matt Larson Yeah, I know. You can't comment on this item either.

President Jones Thank you for your comment. Okay, any other public comment? Seeing none, are there any questions from Council for Ms. Gress? Seeing none, we will keep this item held open. We will be hearing it in committee on Wednesday and then final consideration on July 9, on July 18, 2022. Okay, we are done with our public hearing.

The City Council will hold this public hearing open until they take up the item for final consideration on July 18, 2022.

## **10. COMMITTEE REPORTS**

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

#### **10.1.1 Minutes from the June 29, 2022 Meeting**

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

#### **10.2.1 Minutes from the June 29, 2022 Meeting**

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

**10.3.1 Minutes from the June 29, 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 June 29, 2022 Meeting**

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

**10.6.1 Minutes from the June 29, 2022 Meeting**

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

**10.7.1 Minutes from the June 29, 2022 Meeting**

**11. NEW BUSINESS**

President Jones Any new business from any Councilor to bring forth? Seeing none.

**12. COMMUNICATIONS FROM THE MAYOR**

President Jones I will pass on communications from the Mayor.

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

President Jones We'll go to general comments of City Council members, and we'll start with Mr. West.

Alderson West I've got nothing.

President Jones Mr. Carlino.

Alderson Carlino Yeah, yes I just wanted to speak to the one public commenter during general comments today, Mr. Seymour's comment about the easement on Wednesday and I just I want to point out that part of the housing policy for the city is to help preserve currently affordable rentals and, or currently affordable housing and I just would be curious to first all to look more into how this might apply to our housing policy here.

President Jones Mr. Nugent.

Alderson Nugent Pass.

President Jones Ms. Anderson.

Alderson Anderson I will also pass.

President Jones Ms. Vasecka.

Alderson Vasecka I will pass as well. Thanks.

President Jones Ms. Jordan.

Alderson Kristen Jordan Passing. Thank you.

President Jones Okay and going to our virtual attendees, Ms. Becerra.

Alderson Becerra Pass, thank you.

President Jones Mr. Jordan. I'm sorry, Mr. Hess. [laughing] It's the double name, I'm sorry. Mr. Hess.

Aldersperson Hess You know, I'm looking at the agenda and the leave comment button is available to me on all the agenda items. So, I'm unclear what the previous comment was about but I just wanted to note that for the record and maybe Marty could scrutinize that a little more closely and make sure that that's the case, but it shows up on my agenda, as it always.

President Jones Ms. Sherrill.

Aldersperson Sherrill I'm gonna pass thank you.

President Jones I think I got everyone that is virtually attending, yes. Okay, thank you everyone.

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

**14.1 Administratively approved agreement report**

**15. ADJOURNMENT**

President Jones We will be adjourned.

The meeting adjourned at 6:59 p.m.

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

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John Engen, Mayor