



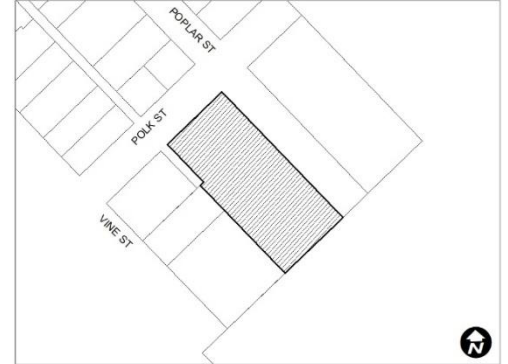
COMMUNITY PLANNING, DEVELOPMENT & INNOVATION

Development Services Division

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SUBDIVISION EXEMPTION STAFF REPORT & REFERRAL

Agenda item:	Subdivision Exemption for Family Transfer – Tract 1 of Certificate of Survey 6397
Report Date(s):	6/17/2021
Case Planner:	Emily Gluckin, Associate Planner
Report Reviewed & Approved By:	Mary McCrea, Permits and Land Use Manager
Public Meetings & Hearings:	City Council Public hearing: 6/21/2021 Land Use & Planning (LUP) post hearing: 6/23/2021 Final Consideration: 6/28/2021
Applicant:	Steven M. Inabnit PO Box 16462 Missoula, MT, 59808
Representative:	Same as Applicant
Location of request:	The subject property is located at the corner of Polk and Poplar Street in the Lower Rattlesnake Neighborhood Council and Ward 1.
Legal description:	Tract 1 of Certificate of Survey 6397 in Section 23, Township 13 North, Range 19 West, P.M.M.
Legal ad:	The legal ad was published in the <i>Missoulian</i> on 6/6/2021 and 6/13/2021.
Zoning:	R5.4 Residential / Woody PUD
Growth Policy:	The applicable regional plan is Our Missoula: City Growth Policy 2035 which recommends a land use designation of Parks and Open Lands.



RECOMMENDED MOTIONS

CC p/h: 6/21/2021	No motion – public hearing, presentation, and City Council discussion. No motion until final consideration.
LUP: 6/23/2021	No motion – City Council discussion and informational meeting only.
CC final consideration: 6/28/2021	Approve the entitlement request for a family transfer subdivision exemption, in accordance with MCA 76-3-207(b) for a division made outside a platted subdivision, and Missoula City Subdivision Regulations, Article 8, Section 8-040.4(E)(1)(e)iii, based on the materials submitted in the application packet, and subject to the conditions of approval.

CONDITIONS OF APPROVAL

1. Per the requirements of the Woody PUD, the applicant shall provide bearings and distances of areas located above the 3,260-foot ground elevation line and shall designate this area as a no-build zone on the amended certificate of survey, subject to the review and approval of Development Services.
2. The applicant shall install right-of-way improvements on Polk Street including asphalt road surface with a 10-foot travel lane and 7-foot parking lane, concrete curb and gutter, a 6-foot minimum curbside sidewalk, a landscape boulevard between the sidewalk and the property lines of proposed Tracts 1 and 2, and a 5-foot curb

laydown at the adjacent trailhead, prior to the filing of the amended certificate of survey or secured with an Improvement Agreement and a financial security, subject to the review and approval of City Public Works and City Parks and Recreation.

3. The applicant shall file a 7.5-foot private access and utility easement, across proposed Tract 2, on the northwest side of the proposed sewer service to proposed Tract 3, as shown on the proposed site plan, for the use and benefit of proposed Tract 3 to be shown on the amended certificate of survey, subject to the review and approval of Development Services and City Public Works.
4. The applicant shall file a 15-foot water service utility easement across proposed Tract 1 and Tract 2, as shown on the proposed site plan, for the use and benefit of proposed Tract 3 to be shown on the amended certificate of survey, subject to the review and approval of Development Services and City Public Works.
5. The applicant shall install a fire hydrant, as shown on the proposed site plan, prior to building permit approval of the first residential structure on Tract 1, 2, or 3, subject to review and approval by City Fire and City Public Works.
6. The applicant shall include a note on the amended certificate of survey that installation of residential fire sprinklers in the future residential in accordance with International Fire Code is required, prior to filing the amended certificate of survey, subject to review and approval by the City Fire Marshal. The residential fire sprinklers shall be installed prior to certificate of occupancy for each building.
7. The applicant shall install fire sprinklers in the future residential buildings in accordance with International Fire Code, in addition to the proposed fire hydrant, prior to certificate of occupancy for each building.

I. INTRODUCTION:

1. Development Services received a request from Steven M. Inabnit, the property owner and representative, for the entitlement to divide a parcel through a subdivision exemption for family transfer for property located at the corner of Polk and Poplar Streets, legally described as Tract 1 of COS 6397, located in Section 23, Township 13 North, Range 19 West, P.M.M.

II. EXEMPTION:

1. MCA 76-3-207(1)(b) for a division made outside a platted subdivision, for the purpose of a single gift or sale in each county to each member of the landowner's immediate family.

III. REGULATORY REQUIREMENTS:

1. Article 8, Section 8-040.4.E(1)(e)iii of the City of Missoula Subdivision Regulations states that a public hearing and approval by City Council is required for a family transfer that would permit a use of the land that is not in compliance with the Growth Policy.
2. The property is designated as a Parks and Open Lands in the *Our Missoula 2035 City Growth Policy*. Areas with this designation are open in nature and intended for use as a public park, a common area for a group of residents, or for conservation purposes.
3. The proposed family transfer includes residential development on each tract.

IV. FINDINGS OF FACT:

General

1. The subject property is within the Missoula Urban Transportation District, the Urban Growth Area, the Wastewater Facilities Service Area, and Air Stagnation Zone. Future buildings will be connected to City Water and Sewer.
2. The subject property is within an established service area for Missoula hospitals and the City Fire and Police Departments.
3. The subject property has frontage on Polk Street and is bordered by the Poplar Street right-of-way.
4. Currently, existing Tract 1 of Certificate of Survey #6397 is 40,652 square feet and is vacant land with a steep slope on the eastern portion of the property.
5. As a result of this family transfer, the applicant proposed to split Tract 1 into three tracts to gift two of the tracts to his son and daughter respectively.
6. Proposed Tract 1 will be 5,857 square feet with frontage on Polk Street and the Poplar Street right-of-way and is proposed to be developed for single dwelling residential uses

7. Proposed Tract 2 will be 5,857 square feet with frontage on Polk Street and a 16-foot wide alley and is proposed to be developed for residential uses.
8. Proposed Tract 3 will be 28,939 square feet and will abut the Poplar Street right-of-way and the Pierce Street right-of-way. This tract is proposed to be developed for single family residential uses and contains steep slopes.

Growth Policy & Zoning:

9. The applicable regional plan is the *Our Missoula: City Growth Policy 2035*, which recommends a land use designation of Parks and Open Lands. Areas with this designation are open in nature and intended for use as a public park, a common area for a group of residents, or for conservation purposes.
10. The subject property has a base zoning of R5.4 Residential and is located in the Woody Planned Unit Development (PUD).
11. The R5.4 Residential zone allows single detached homes or lot line houses. Duplex residential building types are not permitted in the R5.4 zoning district. The minimum parcel area is 5,400 square feet and the minimum parcel area per dwelling unit required is also 5,400 square feet. The minimum required setbacks include 20-foot front setback, a 10-foot street-side setback, a 20-foot rear setback, and an interior side setback of 7.5 feet or a third of the building height, whichever is larger. The maximum height allowed is 30 feet or 35 feet if the roof pitch is greater than
12. The Woody PUD requires that no building footprint for a primary or accessory structure shall be built above the 3,260-foot ground elevation line. Staff recommends a condition of approval requiring the applicant to designate with bearings and distances areas of proposed Tract 3 above the 3,260-foot elevation line as a no-build zone on the amended certificate of survey.
13. The family transfer exemption complies with R5.4 zoning by creating tracts that exceed the minimum parcel area of the zoning district. The family transfer complies with the Woody PUD if the condition of approval is imposed to allow development on Tract 3 below the 3,260-foot elevation.
14. The family transfer exemption complies with the Housing goal in the Growth Policy that recommends providing for diverse housing needs through compatible residential development. In addition, the family transfer exemption complies with the Open Space recommendations in the Growth Policy by clustering the development on the lower portion of the parcel adjacent to the street and through the condition of approval prohibiting development above the 3,260-foot elevation.
15. New development on proposed Tracts 1-3 will be required to meet all applicable zoning and municipal regulations at the time of building permit.

Rights-of-Way and Access

16. Tract 3 is accessed from Polk Street via an alley, however Tract 3 only has 8 feet of frontage width along the alley. A private access easement across Tract 2 to benefit Tract 3 will be required in order to provide legal access to Tract 3 from Polk Street via the alley.
17. Per comments from City Engineering, a 7.5-foot wide utility easement is required on the northwest side of the proposed sewer service to proposed Tract 3.
18. Staff recommends a condition of approval requiring the applicant to file a private access and utility easement across proposed Tract 2 for the use and benefit of proposed Tract 3 prior to filing the amended certificate of survey, and that the easement be shown on the amended certificate of survey subject to the review and approval of Development Services and City Public Works.
19. A 15-foot water service utility easement is proposed across proposed Tract 1 and Tract 2 for the use and benefit of proposed Tract 3. Staff recommends a condition of approval that this easement be filed and shown on the amended certificate of survey.
20. The property is adjacent to a neighborhood trail access for Mount Jumbo. The primary trailhead is located on Cherry Street and is a priority for improvements. Improvements to the trailhead on Polk Street are not required except for the provision of a 5-foot curb laydown for bicycle and pedestrian access to the trail.
21. Due to the steep slopes of the property and the existence of a stormwater drainage culvert, City Public Works has determined that curbside sidewalk is appropriate in this location. Staff recommends a condition of approval

requiring the installation of right-of-way improvements on Polk Street, including curb, gutter, curbside sidewalk, and boulevard landscaping between the sidewalk and the property line.

22. City Fire commented that the subject property is not close enough to a fire hydrant and installation of a fire hydrant is required. Staff recommends a condition of approval requiring approval of a fire hydrant plan prior to building permit approval of the first structure on the subject property.
23. City fire commented that the gallon per minute volume at the hydrant will be short of the International Fire Code requirements, therefore residential fire sprinklers will be required for structures on Tracts 1, 2, and 3 in addition to the installation of the fire hydrant. Staff recommends a condition of approval that the applicant include a note on the amended certificate of survey stating installation of residential sprinklers is required for structures on the subject property. Installation of residential fire sprinklers in the future residential buildings in compliance with International Fire Code is required prior to Certificate of Occupancy for each building.

II. COMPLIANCE DETERMINATION:

1. This family transfer will comply with Title 20 Missoula City Zoning regulations and the Missoula City Subdivision regulations as proposed in the application materials provided, subject to the conditions of approval.

III. AGENCY COMMENT

City Fire Department: The International Fire Code® (IFC®) regulates emergency access to and community fire protection for residential developments containing such dwelling structures. This proposed site plan appears in compliance with the provisions of the IFC® and its specific appendices providing fire apparatus access (existing) and water supply for firefighting (new on-site fire hydrant). The proximity to hydrant and volume of water at this site is insufficient. The applicant will have to install fire sprinklers in addition to a fire hydrant to build on the property.

V. EXHIBITS:

1. Subdivision Exemption Application for Family Transfer.

