



## COMMUNITY PLANNING, DEVELOPMENT & INNOVATION

Development Services Division

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### PUBLIC FORUM

**Agenda Item:** Public Forum for Missoula County regarding their intent to provide temporary and emergency amenities for dwelling, storage, and sanitation at 2340 Mullan Road.

**Report Date:** August 31, 2022

**Case Number:** 2022-MSS-BRD-00007

**Case Planner:** Madson Matthias, Associate Planner, CPDI

**Report Reviewed & Approved By:** Cassie Tripard, Land Use Supervisor, CPDI

**Public Meetings & Hearings:**

**Land Use and Planning Committee Preview:** September 7, 2022

**City Council Public Hearing:** September 12, 2022

**Applicant:**

Missoula County

200 W Broadway St

Missoula, MT 59802-4216

**Agent:**

Kate Dinsmore, WGM Group

1111 East Broadway St

Missoula, MT 59802-4909

**Location of Request:**

**Address:** 2340 Mullan Road, Missoula, MT 59808. **Legal:** Lot 2 of Trinity Mullan Subdivision, located in Section 17, Township 13 North, Range 19 West, P.M.M.

**Geocode:** 04-2200-17-2-14-03-0000

**Legal Notification:**

The legal ad for the September 12, 2022, public hearing was published in the *Missoulian* on August 28 and September 4, 2022. Development Services sent mailings to property owners within 150 feet of the subject property on August 24, 2022. Notification was posted on the property on August 25, 2022.

**Zoning:** M1R-2 Limited Industrial – Residential

**Surrounding Land Uses:**

**North:** Light Equipment Vehicle Sales/Rentals, Parking Lot, Medical Office, General Office

**South:** General Office, University, Retail

**East:** Multi-Dwelling, Light Equipment Vehicle Sales/Rentals

West: Medical Office, Vacant Lot

**Surrounding Zoning:**

North: M1-2 Limited Industrial

South: C2-4 Community Commercial

East: M1R-2 Limited Industrial – Residential

West: M1R-2 Limited Industrial – Residential

**STAFF RECOMMENDATION:** None.

**RECOMMENDED MOTION:** Not applicable. Title 20, Section 20.85.095.E indicates City Council has no power to deny the proposal but shall act only to allow a public forum for comment.

## I. INTRODUCTION

Community Planning, Development, and Innovation has received notice from WGM Group on behalf of Missoula County of their intent to provide temporary and emergency amenities for dwelling, storage, and sanitation through the Temporary Use, Emergency Homeless Shelter, and Group Living land-use types. The site is located at 2340 Mullan Road and currently contains the Missoula County Detention Facility.

The County's strategy with this project is to provide a temporary safe outdoor space (TSOS) with prefabricated bathroom and shower units, modular shelters providing upwards of 120 beds, communal kitchen and dining facilities, and additional areas for storage and administration of the shelter. This project does not align with one use classification within Title 20 Zoning Code but rather comprises a mix of the following use classifications:

Temporary Uses (Title 20, Section 20.40.130)

*"the use of property conducted from an area or structure that does not require a building permit and that may or may not comply with the use or parcel and building standards of the zoning district in which the temporary use is located, and*

*occasional, temporary uses and activities, consistent with the overall purposes of this zoning ordinance, that will not be detrimental to the public health, safety, or general welfare."*

Residential Use, Group Living (Title 20, Section 20.105.020.B)

*"Residential occupancy of a dwelling by other than a 'household' typically providing communal kitchen/dining facilities."*

Public and Civic Use, Emergency Homeless Shelter (Title 20, Section 20.105.030.N)

*"Uses providing temporary shelter for homeless persons provided at no cost, the primary purpose of which is to provide shelter to individuals on a day-by-day basis."*

Given the unique nature of the proposal, all requirements for each use classification are not met. Furthermore, the bike parking design and landscaping requirements, applicable to new development, are also not met by this project proposal.

## II. APPLICABLE REGULATIONS

Part 4 of Title 76, MONTANA CODE ANNOTATED 2021, Planning and Zoning, Section 76-2-402 reads as follows:

Local zoning regulations - Application to agencies. (1) Whenever an agency proposes to use public land contrary to local zoning regulations, a public hearing must be held and the agency shall attend the public hearing.

(2) The local governing body shall hold a hearing within 30 days of the date the agency gives notice to the local governing body of its intent to develop land contrary to local zoning regulations.

"Agency" is defined as a board, bureau, commission, department, an authority, or other entity of state or local government.

Missoula City Zoning Code, Title 20, Section 20.85.095 - Public Forum reads as follows:

For the purposes of this section, an "agency" means a board, bureau, commission, department, district, an authority, or other entity of state or local government.

A. Applicability; Authorized Public Forum - The City Council must hold a public hearing when an agency proposes to develop or use public land contrary to these zoning regulations.

E. Hearing - The City Council shall hold a public hearing within 30 days of the date the agency gives notice to Development Services of its intent to develop or use land contrary to these zoning regulations. The City Council shall hold the public hearing as a public forum and shall have no power to deny or condition the proposed use, but shall act only to allow a public forum for comment on the proposed use. The agency shall attend the public hearing (See 76-2-402, MCA.)

## III. DISCUSSION

The location of the shelter will be northeast of the Missoula County Detention Center in what is currently a vacant part of the subject parcel. The shelter will front West Broadway.

Access to the site will primarily be from West Broadway. The only vehicle access will be from a service road/driveway connected to West Broadway. The vehicular use area on site provides for twenty-four parking spaces and will be paved with asphalt. Pedestrians may access the site from the West Broadway entrance or from the pedestrian connection (and gate) in the

southeastern corner of the site. The pedestrian connections will be constructed of concrete and gravel.

The shelter's structures consist of 30 short-term living units, one office building (Building A), and two restroom buildings (Buildings B & C). Each short-term living unit is 100 square feet in area, 9 feet 3 inches in height, and contains a lockable door, storage shelves, four windows, and up to four sleeping bunks. Each restroom building is 120 square feet in area and contains three bathroom stations outfitted with a sink, toilet, and shower per station. One bathroom station will include a urinal while another will be ADA compliant. Building A contains four offices, two kitchens, two bedrooms with four beds each, three bathrooms, air conditioning, laundry facilities, and a dining room. A container for general storage will also be located on site.

The proposal considers buffering, design, and landscaping requirements. The site plan proposed includes general-site landscaping nearly three-times more than what is required by the Title 20 Zoning Code. Along the northern edge of the site, the service road/driveway and existing chain-link fence will provide a structural and spatial buffer from the abutting Light Equipment Vehicle Sales/Rentals Use. Future Detention Center improvements will include a chain-link fence with privacy slats along the border between the shelter and service road/driveway, further protecting both the shelter and the abutting, adjacent properties. Along the western edge of the site, internal to the subject parcel, the existing trees and chain link fence will remain and be reinforced with over twenty shrubs. The southern edge of the site, also internal to the subject parcel, will be lined by a chain-link fence and consist mainly of a fescue-blend turf seed and deciduous trees closer to West Broadway. The eastern edge of the site, largely bordering West Broadway, will be bordered by a vinyl fence with shrubs on the public-facing-side and trees and turf seed along the temporary-shelter-side.

The proposal was reviewed by CPDI staff in Spring 2022 and was found to mostly comply with Title 20 Zoning Code, apart from the following ten standards:

1. Title 20, Section 20.40.045.C.1 requires that storage lockers for Emergency Homeless Shelters are a minimum of 9 square feet and have one locker per bed. The proposal includes approximately 100 square feet of interior space per temporary housing shelter wherein storage may be located for the four to six residents of each unit. This complies with the area requirements but does not provide for the same level of protection and security of personal property.
2. Title 20, Section 20.40.130.G.2 requires temporary uses in nonresidential zoning districts to be limited to 90 days per calendar year per parcel. The proposal does not intend to be permanent but does intend to operate in excess of the 90-day limit, likely surpassing 12 months.
3. Title 20, Section 20.40.130.G.3 requires that proposals for temporary uses submit a written explanation of the length of time needed for a proposed temporary use. The proposal does not include a timeline for the project as the necessary duration of the shelters is currently unknown.

4. Title 20, Section 20.60.090.D requires that specific criteria be met for the design and location of long-term bicycle parking including but not limited to: protection from access by unauthorized persons, consists of bike racks or lockers, avoid interference from or to adjacent bicycles, protected or monitored by security cameras or personnel, and provide minimum dimensions of six feet in length by 2 feet in width with a minimum overhead clearance of seven feet. The proposal includes an intent to locate the long term bike parking inside of the new storage container and may not meet every design and location criterion.
5. Title 20, Section 20.65.40 requires landscape islands to be provided within parking lots, every 135 feet. The proposal does not include all required landscape islands.
6. Title 20, Section 20.65.060.B.2 requires buffers to be provided between nonresidential development and residential uses and zones. Per Title 20, Section 20.65.060.B.3, chain link fences may not be used as part of a required buffer. The parcel to the south is mixed use, but contains residential multi-dwelling uses. The proposal includes a chain link fence as a buffer between the development site and the parcel to the south.
7. Title 20, Section 20.65.070.B requires that ground-mounted, roof-mounted, and structure-mounted mechanical equipment be screened to not be visible by the public right-of-way or by residential parcels. The proposal includes mechanical equipment that will be in direct view of the public and unscreened. The proposal additionally includes an electrical transformer that will be out of direct view of the public but will remain unscreened.
8. Title 20, Section 20.65.070.B.6 requires that all storage or shipping containers be screened from a public right-of-way, park, civic use, and parcels used or zoned for residential purposes by a fence, wall, dense hedge, or combination of such features. The proposal includes a shipping container onsite to be used for storage that will remain unscreened.
9. Title 20, Section 20.65.080.E requires that a maximum of 50% of the total mulch area may be comprised of mineral mulch. The proposal includes an excess of 50% of mineral mulch in landscaped areas.
10. Title 20, Section 20.65.080.G requires that chain-link fences may not be used to satisfy any of the requirements of Section 20.60.080 Landscaping, Landscape Material and Design. The proposal includes a chain link fence as a buffer between the development site and an adjacent residential parcel to the south.

*Although* Title 20, Section 20.40.045 does not allow for variations or alterations to the design requirement for storage lockers (*Deviation 1*), and

*Although* Title 20, Section 20.40.130 does not allow for variations or alterations to the cumulative 90-day limit for temporary uses (*Deviations 2 – 3*), and

*Although* Title 20, Section 20.60.090 allows for the modification of bicycle parking design and location requirements of this Section through an administrative adjustment in accordance with the procedures of 20.85.110 (*Deviation 4*), and

*Although* Title 20, Chapter 20.65 allows for alternative compliance through approval by the Design Review Board or by submission of a landscape plan and intent statement prepared and stamped by a landscape architect licensed in the State of Montana (*Deviations 5 – 10*),

Missoula County is considered a governmental agency and as such is exempt from local zoning regulations.

Missoula County is authorized to use public forum through City Council when proposing to use land contrary to the zoning regulations. A governmental agency that proposes a development that does not meet the letter of the Zoning Ordinance is required by State statute 76-2-402 to go to Missoula City Council for a public forum. The purpose is to provide notice to the public and allow for comment. As stated in Title 20, Section 20.85.100.E City Council has no power to deny or condition the proposal but shall act only to allow a public forum for comment on the proposed use.

#### IV. NOTICE

Notices of this Public Forum have been published in the Missoulian and sent out to applicable City departments as well as to adjacent property owners within a 150-foot radius for comment. Notice has also been posted on the property.

#### V. COMMENTS FROM CITY AGENCIES

Fire Department: No comment received at time of staff report.

Police Department: No comment received at time of staff report.

Health Department: “New vehicle use areas must be paved prior to occupancy and wood stove are not allowed at this location. The Air Program at the Missoula City-County Health Department has no other comments currently.” Ben Schmidt, Air Quality Specialist

Parks and Recreation: “Parks has several comments/recommendations related to the Pallet Shelter. We feel strongly that the design as is does not do a great job of creating an equitable space for residents, does not address climate concerns (heat), and creates ongoing concerns related to CPTED [Crime Prevention through Environmental Design].

1. The design has a lot of “gravel mulch” and hardscaped pathways which is going to be HOT in the summer, and limited turf within the pallet shelter area. No shade is provided anywhere except to the south of the parking lot.
2. There is no gathering space for residents. The only area that could be used for people to gather is behind “Building A” which has poor visibility from the parking lot and pallet shelters creating CPTED concerns. If “Building A” is reoriented and shifted, a gathering space could be created closer to the residences and parking area for better visibility. Consider providing a ‘picnic shelter’ similar to what is found in a park with green space and trees around it. If you visit the Poverello Center, you will notice people sitting outside in

their enclosed yard area all the time. We feel providing this space is essential to creating an equitable place for people to live.

3. Residents must walk through the middle of the restroom area to reach the kitchen. This raises equity/privacy concerns.
4. There are no shade trees. Trees should be included throughout the development to provide shade in the summer.
5. Sheet C.4 irrigation plan is missing. Are there sprinklers included to lawn and plantings? We feel this is critical.
6. Planting areas are dense with multiple spreading plants called out. Consider reducing the planting areas adjacent to the pallet shelters and providing more usable lawn space with more limited plantings. The plantings will likely be damaged and killed with use of the space. People are likely to “cut through” the planting areas to access their home rather than walk around along the pathways.
7. Consider creating more separation between the parking lot and the shelters and adding shade trees here. Overhang of vehicles will reduce usable width of the sidewalk.
8. It appears that a parking lot light is located in the center of the sidewalk north of the parking lot.” Nathan McLeod, Senior Landscape Architect

City Public Works and Mobility – Engineering: “City of Missoula Public Works & Mobility Department has the following comments: Whereas the intent of Pallet Shelter is to provide living facilities for the unhoused, for an indeterminant but temporary timeframe, and will managed by Missoula County. PW&M agrees with the variances requested with the following:

1. Bicycle storage could be via surface bike racks and not recommended to be within a storage container.
2. The MPO may have grant funding for bike storage - reach out to Aaron Wilson.
3. The facility is operated by a government entity and therefore must meet ADAAG accessibility standards.

Additionally, we would be in support of the following changes to the proposed site plan.

1. Areas shown in concrete can be paved if able to meet ADAAG accessibility standards.
2. Pin-down curbs can be used at the ends of parking stalls.
3. Storm water must be kept on-site through use of swales and dry wells (sumps).
4. Vehicle access to Broadway must exist prior to this project or as part of this project. “

Thank you.” Troy Monroe, City Engineer for Development Review & Inspection

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City Public Works and Mobility – Storm Water: No comment received at time of staff report.

City Public Works and Mobility – Transportation: No comment received at time of staff report.

City Public Works and Mobility – Utilities: No Comment. Andy Schultz, City Engineer for Utilities

Missoula Redevelopment Agency: No comment received at time of staff report.

Montana Department of Transportation: No comment received at time of staff report.

## VI. ATTACHMENTS

- A. Application Packet
- B. Public Comment

## VII. EXHIBIT A LEGAL MAP

