

City of Missoula Recommendations Report

Subdivision and TED Regulations

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EXECUTIVE SUMMARY

This evaluation report for the City of Missoula Subdivision and TED Regulations provides key findings, recommendations and suggests next steps for the City's processes. The assessment focuses on existing city regulations and review processes, and identifies opportunities to simplify the process, reduce review times and temper expenses, while ensuring Missoula's high standards are upheld.

The City's regulations, state enabling legislation, national best practices, and local case studies were assessed over the course of six months in 2020. Points of input included engagement with a variety of stakeholders, including a community survey, stakeholder interviews with a focus on the development community, work with a Technical Team comprised of city staff involved in the subdivision and TED review processes, a Working Group of members from the community, Planning Board, and Land Use Policy Committee including City Council Members. The engagement revealed areas of alignment related to improvements to the city's process, some of which are relatively easy to implement – such as creating new checklists and process flow charts – while others are more difficult to implement – such as adjustments to state law.

Based on analysis and community feedback, the Design Workshop consultant team has provided recommendations and identified next steps to improving Missoula's Subdivision and TED process. This evaluation recommends the following key priorities

Key Priorities:

- **Consistency in process** (note-taking, reviewing entities at all meetings ,etc.)
- **Clarity in code interpretations**
- **Balance in city values** (such as between parkland/agriculture requirements and community need for affordable housing)
- **Communication and educational** materials to increase developer knowledge of process and applications
- **Policy alignment** to reduce conflicts between reviewing entity input

The document is organized according to the issues identified through the analysis, followed by a series of recommendations. The recommendations are identified based on the timeframe for implementation and topical area and will be used by the City to develop a scope of work for future revisions to development regulations.

Additionally, the following appendices provide significant detail on the process, engagement, and research used to reach this final recommendation report. These documents can be used to dive deeper into a specific issue or part of the process.

Appendix 1: Community Survey Results

Appendix 2: Current Code Analysis

Appendix 3: State Law Analysis

Appendix 4: Best Practices Analysis

Appendix 5: Case Study Analysis

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I. INTRODUCTION

Background

Regulatory Context

The City of Missoula offers two development tools for home ownership that is the subject of this recommendations report. The two tools include the subdivision process (both minor and major) and Townhome Exempt Development (TED). The Missoula Subdivision Regulations have not been reviewed or revised in the past 10 years. However, the recent history of TED has some milestones to note.

The TED tool has a relatively short history in the State of Montana as it was approved by the Montana State Legislature in 2011 as a way to address the changes to financing for condominiums that occurred after the Great Recession, and resulted in broadening the type of projects that were considered exempt from subdivision to include townhomes and townhouses. Ultimately, the exemption allowed for a streamlined review process for qualifying development projects located on already subdivided lots or in areas with municipal zoning. So far, the City of Missoula is the main community in Montana to offer the TED tool for housing development.

Shortly after the State Law took effect, the TED tool was employed by many local housing developers for mainly two to six unit infill projects, although the very first TED project was one of the larger to date (Cottages at Flynn Ranch). As projects using TED began to expand in scale, they were reviewed administratively under the same set of standards as multi-dwelling buildings.

In 2016, City Council approved some development standards and expanded the review process for larger TED projects to require conditional use approval by City Council. Additional language for compliance with all local and state regulations, parks, and street standards were added to Title 20 specifically for TED projects.

As a result of larger and more complex TED projects being proposed, the City Zoning Officer issued Opinion #19-01 to summarize this issue on April 18, 2019. The larger projects often included challenges including more private roads resulting from locations on greenfield sites, complicated environmental issues, the need for more common areas, and the need for more infrastructure to be provided to the locations. There was uncertainty if Title 20 addresses the required process information and regulations in order for the projects to be developed in a way that supports health, safety and welfare, as would be the case for traditional subdivision review. An Interim Ordinance to address TED projects was adopted in May 2019 that was set to expire in November 2019.

As a result, on July 25, 2019, Development Services issued a proposal for amendments to the Title 20 City Zoning Ordinance to take effect after the Interim Ordinance. The newest amendments were meant to clarify that the city allows of the use of TED as a streamlined, administrative review process in cases where a project will lead to infill housing in walkable areas already served by infrastructure, and brought on line in a timely manner in the interest of

adding to much needed housing. Key components from this proposal included removing the conditional use approval requirement, limiting TED to residential uses, permitting TED only on existing Title 20 zoning districts and limiting the unit counts for TEDs depending on the zoning district, among a few other revisions. Under these new regulations, the City has processed a handful of TED applications through zoning review.

Study Purpose

Three categories of perspectives frame the purpose of this study of opportunities and issues within their Subdivision and TED process. Past experiences of the community included expression of concerns or frustrations about development projects. Another perspective was from developers, with frustrations regarding the review process. Also, city staff and officials desired to ensure regulations aligned with the adopted policy documents, including the Growth Policy and the Housing Policy. Given everyone’s concern for increasing housing costs in Missoula, examination was also needed to understand how process and regulations may be limiting development of attainable housing. A group of interested stakeholders were gathered by the Mayor to identify how to move forward, which resulted in creation of this project and hiring of a consultant to create this report that can help direct the city to potential code amendments and process changes.

Project Foundation

Project principles to establish shared values were crafted at the project onset by gaining consensus between the Working Group, Technical Team and various focus groups. These principles are intended to convey a universal starting point and a value-system and was shared with all involved with the project.

Process

The project process included numerous stakeholder groups and a series of analysis work. Stakeholders provided a diverse cross-section of the community, and shaped the policies reviewed and the recommendations included here.

Involved stakeholders include:

Project Principles

- Regulations and rules are necessary, but not sacrosanct, and can be changed to address community needs;
- We only control what we control, so we’ll work primarily within existing statutory constraints;
- Some of what we’re doing is working well, so we don’t need to reinvent everything;
- We will maintain good design, planning, infrastructure needs or necessary public and private investment while striving for expedience and cost efficiency;
- As we grow as a community we must develop thoughtfully, in a way that is sustainable and equitable, while maintaining community quality;
- We will be conscientious of the costs and time it takes to do development, including consideration of review processes, in an effort to reduce barriers to new development supply;
- We can learn from other places and each other;
- We may discover other issues that need review and resolution, but we’ll remain focused on our mission and use the process to inform future steps;
- We’ll try to work quickly, but getting the work done correctly is more important than getting it done fast; and
- We will commit to being present and actively participate in the work.

- **City of Missoula Development Services Department:** project management team;
- **Technical Team:** staff members from various departments in the City of Missoula government who participate in reviewing subdivision and TED applications;
- **Working Group:** City staff, community members, and members of the development and real estate community;
- **Environment Expertise outreach:** members of the community with expertise and/or interest in local environmental issues as it relates to development;
- **Land Use and Planning Committee:** City Council members;
- **Planning Board:** Consolidated Planning Board that makes recommendations to the City and County governing bodies; and
- **City of Missoula community:** the community at-large was invited to participate in an online questionnaire that was posted on the City’s Engagement HQ platform (120 community members participated).

The consultant team’s analysis work evaluates a variety of topics and exploratory research including:

- **Best Practices:** this report evaluates development tools and processes in the State of Montana and across the Country. Best practices are evaluated for applicability to the Missoula community.
- **Case Studies:** four case studies, two subdivision projects and two TED projects, provide insight into the development process from the perspective of the developer community.
- **Code Analysis:** the Missoula development code is evaluated for process-related findings.
- **Montana State Law Analysis:** this analysis evaluates the City of Missoula development code against the Montana State Law.

Based on the various forms of feedback, a number of common themes emerged, which assisted in the development of best practices analysis. The Working Group and Technical Team provided guidance on the types of policies to review for best practices. Based on conversations with these groups, as well with the Planning Commission and the LUP, the best practices analysis focused on code and policy alignment, consistency in the review process, review timeframes, community engagement, and housing opportunities.

The community questionnaire showed strong support for updated subdivision and townhome regulations that are aligned with community values and established guiding documents such as the growth policy, housing policy and transportation plans. Given the value of outdoor assets such as hillsides and waterways, participants also supported requirements being responsive to unique natural features found in Missoula. Finally, participants indicated a preference for subdivision and townhome regulations

Community Survey Question:
What level of oversight do you prefer for the city review process?

- Staff should review and approve projects, 22.5%
- Some projects should be reviewed and approved by staff and other projects should be reviewed and approved by City Council, 51.7%
- City Council should review and approve projects, 22.5%
- I’m not sure / No opinion, 3.3%

that will result in housing that is affordable to the community. These findings are all based on “very important” or “somewhat important” responses by at least 80 percent of participants.

The next tier of preferences for this question contribute additional ideas for improving the regulations. Almost 70 percent of participants prefer unique requirements for specific neighborhoods and also an improved public input and neighborhood comment process. The same number of participants want to see the subdivision regulations align with all other City regulations, which supports another response for increased overall predictability in the subdivision process.

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II. ISSUES AND CHALLENGES ANALYSIS

Recommendations are most meaningful when started from a basis of problem identification with a focus on underlying challenges. Issues with Missoula's development process are evaluated from the standpoint of the resulting challenges for developers, the City and the community.

While Missoula's development process issues are numerous and diverse, the scope of the project is focused on identifying the issues related to the process and regulations for subdivision and TEDs. Future work can build off of this report, but where possible the report addresses issues and opportunities more broadly. The issues are identified in two categories:

1. Administrative-related development issues definition

Administrative-related development issues focus on the items associated with developing and processing subdivision requests through the local government review process. These are issues that are not a result of development standards, but rather from the administrative requirements and review process itself, which can result in unintended consequences for the development, the City and ultimately the community, as residents and homebuyers.

2. Regulations-related development issues definition

Regulations-related issues focus on the costs and complications resulting from the Subdivision regulations and the regulations that guide TED projects in Title 20 City Zoning Regulations. These regulations represent a major tool by which Missoula can shape and control the housing development process by establishing requirements to support new residential development. However, since development regulations are located in multiple sections of the land use code, it can cause challenges for the city and developers to understand clear guidance about how to accommodate orderly development while protecting health, safety and welfare.

In order to provide context for Missoula's development process issues, the team worked with City Staff, key stakeholders and the community to categorize impacts by major entities involved in the development process and its outcomes. This recommendations report intends to address the burden of the issues and, thus, prevent or mitigate the resulting challenges. The summary of challenges includes:

Community Challenges

Community challenges are important to prevent or mitigate because the impacts could result in less affordable housing supply available, or community members unable to engage in the development process at the right time.

- Barriers to new housing supply and reduced equitable access to affordable homes (Note: this results from development costs being passed to home owners)

- City policies are not fully realized; city policies that the community helped shape
- Balance the need for the community to know about changes in the community with the rights of property owners to pursue development.
- Ensuring the short term and long term benefits and impacts of development regulation changes are balanced.

City Challenges

City challenges are important to prevent or mitigate because they can create inefficiencies that can potentially extend the development process and overburden staff.

- City staff incur additional review time and/or responsibilities
- City staff has to answer repetitive questions
- City staff has a larger workload than is necessary

Developer Challenges

Developer challenges are important to prevent or mitigate because costs can potentially be passed to future home owners.

- Developer incurred additional holding costs
- Developer incurred additional re-work expenses (soft costs)
- Developer is limited in ability to offer creative solutions

The relationship between issues and challenges is not proportional meaning that a single issue can have multiple impacts across the three entities. Additionally, impacts to a single entity may be the result of multiple issues.

ADMINISTRATIVE-RELATED DEVELOPMENT ISSUES

The development process in Missoula is often described by developers as unclear, unpredictable and complicated. Development applications sometimes miss critical information or are incomplete. City staff are burdened with answering questions that could be made readily and consistently available to customers. This uncertainty causes developers to incur increased holding costs that ultimately results in costs passed to the end-buyer and inefficiency for city staff.

Issue 1.01: Development process clarity

Clarity in the development process is key to providing developers with the ability to accurately forecast the cost and timeline of a project. An easily understandable process also helps avoid repetitive and redundant questions that would add to the City's already large workload. Additionally, with the various regulations development is subject to, the layering of these requirements can result in lack of clarity. While not a regulatory barrier, the lack of clarity in the development process represents a significant constraint to the development of affordable housing.

Case Studies

Case study analyses indicated that the subdivision projects in particular are negatively impacted by a lack of clarity, as evidenced by multiple element reviews being required. The fact that subdivision applications were not deemed complete upon first element review may indicate overly complicated application requirements as well as the development community's failure to prepare quality applications. In either case, more clarity in the subdivision process and its requirements may temper the costs and times overall. TED projects may also be negatively impacted by a lack of clarity regarding regulations and code requirements, particularly regarding code requirements prior to TED Declarations. Applicant teams were also frustrated with the difficulty of getting the necessary entities to attend review meetings early in the process. The lack of regular attendance and group discussion with other reviewing entities exacerbated the lack of clarity and required teams to communicate with entities individually outside of scheduled meetings to clarify the process and requirements.

Code Analysis and State Law

The City's code includes a number of sections that outline requirements for applications, meetings, and review criteria. There are also different city requirements found in other adopted regulations. This can lead to confusion about which regulation a development might be subject to, or which might supersede another. The state law outlines requirements for subdivisions, which are generally incorporated into the code.

Best Practices

As identified in the best practices analysis, the use of flow charts, handouts, and checklists are utilized in communities throughout the country to explain complex review requirements. These types of documents could be incorporated into the Missoula process to explain the city's requirements.

Issue 1.02: City and agency review team consistency

The City and applicants can benefit from a dedicated City staff team and a City case manager throughout the review process. The current process in the City is that a clear case manager is not established early in an application process. This results in timeline and clarity issues when staff, at times, may communicate conflicting messages to an applicant.

There has been significant discussion around the differing interpretations of code and requirements among reviewing entities. While predictability is a benefit to everyone engaged in the development process, it is particularly critical to the development community which is exposed to significant risk in bringing additional supply of affordable housing to the market. Developers must consider total cost from concept to completion when deciding whether or not pursue a project. The profit margins on affordable housing developments are already smaller than those of other projects and any added costs resulting from unforeseen issues can create a burden for a project. Beyond that, a development environment that is unpredictable will reduce the number of developers who pursue projects.

Development in any community is risky – the review and approval of many development proposals is subject to a political process, which can result in significant changes to a project or even a denial. While this is known, it highlights the importance of addressing opportunities to improve application processing and the administrative process.

Case Studies

All four development teams interviewed for the case studies cited inconsistency throughout the review process to be a major issue that resulted in added costs which would ultimately be passed along to homebuyers. Inconsistencies included differing interpretations of the code and regulations from reviewing entities as well as shifting requirements during the review process. Some of the ideas from these case studies included implementing a note taking system to track conversations and decisions in the staff review process, coordination between departments to address regulations that might be in conflict or interpreted differently, and creating some consistency within departments reviewing an application. These ideas can be scaled for different projects – for instance, a robust note taking system may not be necessary for a simple setback variance request but could be appropriate for a significant subdivision creating multiple lots.

Additionally, the level of information needed at a planning level review versus a permit review was raised, and opportunities to reduce information required in early phases of a project could help streamline the process.

Code Analysis and State Law

There is no requirement in state law related to reviewers for a project, though there are requirements that ensure review entities are included in the process. These referrals are included in the process in Missoula, and any required timelines are incorporated. This issue is less related to specific language in the Missoula code, and more about how those requirements are addressed and tracked by staff, which may change throughout the process.

Best Practices

The best practice analysis revealed that the information and agencies included in code language are similar throughout the state. No specific best practice related to how municipalities and counties internally complete their reviews and address changes in staff were identified, however the creation of checklists, manuals, and a Unified Development Code could be ways to improve consistency between reviewers and in the process overall

1.03 City staff capacity

Applicant teams felt that many administrative-related issues were related to the limited capacity of City Development Services, largely due to understaffing. The development community recognizes the difficult task that the City has and appreciates support from Development Services but feels that the process overall will benefit from increased capacity. More staff will increase the City's capacity to assist the community and be responsive to inquiries and applications. Additionally, strategies to reduce staff turnover will result in more City staff with institutional knowledge of the Missoula municipal code and valuable first-hand experience processing development applications that could build efficiency over time.

Issue 1.04: Timelines for the development process

Housing affordability can be significantly impacted by the passage of time, which includes the time taken by the city to provide input and make decisions on housing projects once a developer has already made a financial commitment. The viability of a housing development project is often evaluated based on discounted cash flows which assumes that the costs of a project vary relative to the amount of time it takes to be completed. Because developers often make financial commitments and incur holding costs before a project yields returns, the costs of a project increase the longer it takes to come to fruition. While there are many forms of holding costs incurred by developers, any delays that occur during the interactive process between developers and reviewing entities add project costs that are inevitably passed along to homebuyers. The City is also negatively impacted by longer development process timelines when it causes more effort on behalf of City staff and officials to review, provide comment and make decisions. The development and review process is necessary to ensure that development meets community standards but any additional time spent in the development process beyond what is necessary to meet community standards can negatively impact new housing supply, costs and staff availability to work on other city priorities or projects.

Some timeline requirements are dictated by State Law and the Missoula regulations. However, examples of some potentially avoidable timeline issues include:

- When City requests for Element Review and Sufficiency Review are not completely compiled in one round,
- When essential parties are not present during the pre-application meeting to indicate project challenges early in the application process, or
- When litigation is initiated due to misunderstandings between the City and the developer about the regulations.

Case Studies

The case study analyses evaluated the length of time that each Missoula based project spent in the development and review process. Because the process is necessary to ensuring that new development meets community standards, that analyses worked to identify seemingly avoidable issues that added holding costs to the projects.

The amount of time the case study projects were in the development review process ranged from 6 months to 21 months. It should be noted that the subdivision and TED processes do not recognize the time that developers spend in the due-diligence, conceptualization, and planning steps before beginning the formal process.

	Cowboy Flats	Orchard Home Estates	Hellgate Gardens	Marshall Street
Duration	8 months, 24 days	21 months, 17 days	11 months, 15 days	6 months, 6 days
Duration Start	Pre-application meeting	Early TED Submittal	TED CUP Request	ZCP Submission

Duration End	City Council Approval	Project Withdrawn	TED Declarations	TED Declarations
Issues that added time	Irrigation ditch agreements	Switch from TED to subdivision process and application requirements		Retroactive changes to meet code requirements

Code Analysis and State Law

State law includes timeline requirements for all subdivision reviews, which have been incorporated into Missoula’s code. There are additional steps that have been incorporated into Missoula’s process, including the neighborhood meeting, as well as the need for significant detail early in the application process. There are some opportunities to reduce the time in the process within the confines of state law.

Best Practices

The best practices analysis revealed that other communities in Montana have shorter development review processes, which is a result of more detailed and aligned information in their codes, as well as a lower amount of neighborhood outreach required for subdivision processes.

Alternatives to the existing Missoula neighborhood meeting could be considered as this step is not required in state law. Ideas were evaluated for adapting the process to be an informational mailing instead of a meeting, adjusting the timing of the neighborhood meeting or eliminating the neighborhood meeting for certain types of development projects. Although, the current process with a neighborhood meeting needs some adjustments, it has been confirmed that the neighborhood meeting is a favorable element of the development process according to most project stakeholders.

REGULATIONS-RELATED DEVELOPMENT ISSUES

Missoula’s development regulations often offer conflicting guidance. Policy documents also include conflicting information and, without a hierarchy, developers and City staff are uncertain what policies to prioritize when evaluating development options. These regulations are intended to ensure that proposed housing developments are cost-effective, meet health and safety requirements, are properly designed, and have a favorable impact on the community. However, there is concern about the impact of regulations on housing costs, and whether certain regulations are too complex or have excessive standards. Regulations that are overly prescriptive in directing the type and design of development that may be built in a community has been identified as a major contributor in raising the cost of housing and limiting the supply of affordable housing in communities. This does not mean that design standards are not important, just that they cannot be so prescriptive as to be prohibitive. Regulations that accomplish meeting expected community qualities and supporting sustainability practices and equitable development can pay off in long term investment into community public health.

Issue 2.01: Limited flexibility/options with regulations

Considering the severity of the existing affordable housing crisis in Missoula, it is critical that viable projects are able to maximize density as much as possible. There are numerous requirements within municipal code that require compliance from developers (height, setbacks, parking, road widths, density calculations, etc). While this is no surprise, in some cases these requirements come at the expense of added density which in turn, negatively impacts the affordability of new supply. The limited flexibility and options within the current regulations has resulted in new projects proposing densities that are consistently below allowable density.

Case Studies

Case Study analyses showed that the lack of flexibility and options with existing regulations limits developers in achieving maximum density. All proposed densities were less than what was allowed by zoning or growth policy. Some of the case studies would have required rezoning, which is a more discretionary processes than a subdivision review. Others included parking and road requirements that the development teams felt reduced the feasibility of more density on their projects. These examples illustrate the interrelationship between the regulations.

	Cowboy Flats	Orchard Home Estates	Hellgate Gardens	Marshall Street
Allowable Density (Growth Policy)	11 du/ac	24 du/ac	11 du/ac	41.6 du/ac
Allowable Density (Zoning)	8 du/ac	16 du/ac	8 du/ac	41.6 du/ac
Actual/Proposed Density	6.4 du/ac	8.62 du/ac	5.5 du/ac	20.8 du/ac

Code Analysis and State Law

Montana state law requires communities to adopt a Growth Policy, which Missoula has completed. The Missoula Growth Policy outlines desired areas for development and residential densities. The Housing Policy outlines goals related to increasing housing stock and affordability. There are opportunities within the city’s regulations and zoning to increase alignment with these policy documents.

Best Practices

There are a number of best practices that can assist in achieving additional density on projects, ranging from Cottage Home and ADU allowances, to adjustments to dimensional requirements. The analysis surfaced ideas related to density and parking. By increasing density, more housing units can be accommodated in Missoula and density can be increased through housing type diversity, cluster subdivisions, Accessory Dwelling Units (ADUs) and re-evaluating the calculation for allowable density. Adjusting parking requirements can also assist in adding density if less lot area is dedicated to providing parking.

Missoula has adopted best practices related to the calculation of lot area, though they should be extended to all calculations. Today, steep slopes and hillside areas are taken out of the calculation for the density calculation. These could be removed, allowing more density on a parcel while also continuing to limit development on these sensitive lands.

Issue 2.02: Conflicts between regulations and policies

A growth policy is a public policy document that covers a breadth of topics that contribute to shaping a community according to distinct local goals and objectives. The document typically includes policy for natural resources/environment, housing, land use, economic development, transportation and public infrastructure and services. The growth policy also provides implementation guidance.

A growth policy is required by Montana State Law. It provides a foundation for regulations in Montana communities. A growth policy is required to process land development regulations such as rezoning and permitting. The zoning code is regularly updated and has incorporated some new zoning districts to reflect new land use opportunity through the growth policy. But the zoning code has not undergone a comprehensive evaluation since the rewrite in 2009. Additionally, the city's policy has been to consider most rezoning requests as coming from the developers. The limited times when the city proactively plans rezoning of areas to fit with the growth policy is when there is an associated focused planning project to provide more detailed direction. The subdivision code has not been regularly updated in conjunction with the adoption of the growth policy, which can create conflicts between what is allowed in the code and what is encouraged by the growth policy.

Because of the many sections in the Missoula municipal code, and the many agencies involved in the process, sometimes with differing or competing code requirements, the Missoula code and regulation can be confusing and inconsistent. These inconsistencies negatively impact the predictability of project outcomes and make administration of the code unnecessarily cumbersome.

Case Studies

The Case Study analyses showed that conflicting regulations and policies resulted in confusion and rework for developers. Conflicting regulations were particularly apparent in requirement discrepancies between City Engineering and the Parks and Recreation Department which led to added costs for developers. In one instance, a developer sought to meet transportation goals around complete streets, but was unable to do so because of strict street requirements within regulation sections.

Code Analysis and State Law

State law does not provide direction for the hierarchy of different regulations, and provides discretion to communities to address their requirements. The state law is prescriptive in certain areas, particularly in the amount of parks land that is required.

Best Practices

Streamlining the development process surfaced in the case study review. Three topics emerged under this topic including increasing clarity about the parks dedication requirement, transitioning to a Unified Development Code (UDO) and creating a series of handouts, checklists and manuals that can support the developer community as they navigate the development process in Missoula.

Issue 2.03: Policies and regulations are not prioritized and/or geographically prioritized

Generally, the Missoula code creates a single set of standards and requirements for subdivisions throughout the city. An exception is the TED process, which was amended in late 2019 to allow for different limits on dwelling units depending on the zoning districts where the project is located. The allowable residential building types remains the same including detached houses, two-unit townhouses and 3+ unit townhouses, however, the number of units allowed is dependent on the zoning district. Up to 10 units are allowed in RT5.4, RT10, and all R districts except R3. Additionally, up to 20 units are allowed in RT2.7, R3, all RM, B, C and M1R.

Case Studies

The Case Study analyses illuminated instances where additional infill density was desired either as part of the growth plan or through zoning, but regulations or the developer's desired building types did not allow the additional density. On larger projects, open space and parkland dedication impacted both density and affordability while smaller projects were most impacted by parking and access requirements. These overarching policies were developed with significant community input, but related regulations have been identified as impacting housing densities and affordability. While the community's desires should continue to be the driving guidance of policies and regulations, there is concern that the short term and long term cost and implications to housing development practices have not been fully vetted and integrated as the community addresses the ever-growing issue of housing development and affordability in Missoula.

Code Analysis and State Law

Generally, the Missoula code creates a single set of standards and requirements for subdivisions throughout the city. An exception is the TED process, which was amended in late 2019 to allow different densities to use the process depending on the zone district. There are opportunities to further expand this approach to the subdivision process, potentially in the Mullan Area with the ongoing master plan, and through additional adjustments to how many units can be constructed through a TED process.

State law provides an option for developing a streamlined review process in areas that have detailed infrastructure planning and commensurate zoning. The option hasn't been utilized throughout the state. This is an area worth revisiting at the state level to provide additional streamlining, while also acknowledging the consideration of subdivision primary review criteria.

Best Practices

The best practice analysis revealed opportunities to create additional nuance in the regulations to respond to unique site constraints and geography. Three topics surfaced under this theme as considerations for Missoula including code hierarchy, infill incentives and agricultural lands. The idea of code hierarchy requires code language to explicitly state what regulation supersedes

others when conflicting information is provided. Infill incentives could be provided through an alternative compliance approach where developers can propose a new idea that is aligned with the code intent. And, finally, agriculture land that is cherished by the Missoula community could be better supported through agri-tourism development strategies that can be supported through regulation and code language.

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III. RECOMMENDATIONS

The recommendations are divided into three categories – Administrative, Code, and Policy. Strategies are identified as either Short, Medium, or Long Term. Most recommendations can be completed by the City of Missoula, while some would require work with strategic partners. For recommendations that amend the code or standing city policy, we recommend that process include engagement through neighborhood meetings, a working group, or community surveys.

ADMINISTRATIVE RECOMMENDATIONS

Administrative recommendations are intended to provide clarity in the review process, providing the community, staff, and developers with information on how to navigate the Subdivision and TED process. Some recommendations focus on tools that can be used within the current process, while others suggest adjustments to how city staff process applications. In the case of changes to city processes, these recommendations could require a shift in overall culture related to development review that requires less information and more flexibility on the front end of a review, and requires more detailed information at the zoning review or permit review.

Recommendation A1: Create updated checklists and process flow charts to provide more clarity on process

We recommend the City of Missoula’s Development Services Department create documents that provide clear information about the timelines established in the code and the ordering of the various steps. The documents should be succinct, graphically simple, reasonable to print in terms of paper size and colors and easy to update as changes are made to the process and regulations. Additionally, some of the information could be integrated into the City’s online permitting software to ensure a seamless experience for applicants. This best practice is identified as a Short Term strategy to create a baseline of understanding within the community. On-going work to ensure the information is up to date is required.

Best Practice Example

Bozeman provides a simple hand out that assists property owners, planners, and the community, in understanding the Subdivision process, including exemptions. The brochure describes where subdivisions apply and articulates the differences between a Major and a Minor Subdivision, and includes a flow chart that clearly shows the steps involved.

Short Term: We recommend the following specific documents be created:

1. **Application Requirements Checklists.** This would be a standardized checklist that can be used by all Subdivision and TED Applicants to understand what information is required at each step of the process.
2. **Subdivision Process Flow Chart.** This should cover Minor Subdivisions, Major Subdivisions, TEDs, and Exemptions. The flow chart should track a project from Preliminary Plat to Final Plat as well. Information related to parallel process, like annexation and rezoning could also be included.

3. **Subdivision Fact Sheet.** This should cover how an applicant can determine if their project can be processed as an Exemption, a Minor Subdivision, a Major Subdivision, or a TED. It could also include key information that needs to be addressed in the initial planning phases, such as ensuring adequate park space.
4. **Community Fact Sheet.** This should identify when and how community members can be engaged in the development review process. It could address policy planning efforts, as well as development review.
5. **Top 10 list.** This sheet would cover the top ten reasons a subdivision application is not able to be deemed sufficient. This could be accompanied by an education session with developers to ensure they understand all requirements.

Recommendation A2: Establish City project review team with a project champion

We recommend the City establish project review team and delegate decision-making review to a project champion or staff planner. This recommendation is a shift in how different city agencies process an application and requires them to agree to empowering a project team and champion to be *the* staff-level decision-making authority on a land use case. This change would create a single point person for decision-making regarding any conflicts between code sections as well as ensuring consistency of information to the applicant, potentially reducing multiple information requests to different people in the city. This could also create some increased capacity for in-house review meetings. Applicants would benefit from having a main point of contact that reduces conflicting responses and have increased clarity and predictability throughout the process. The city would benefit from an established system to resolve code and interpretation conflicts in a given application. Additionally, this system could reduce instances of different staff answering the same question, or an applicant feeling the need to request the same information from different reviewers.

This recommendation is identified as both a Short Term and a Long Term strategy. Given current staffing levels, additional hiring is needed to fully implement this process. However, initial steps can be made strategically to create a baseline of understanding within the community.

Short Term: Establish a schedule for review meetings with goals, criteria and project components to be reviewed at different stages of the development process. This would be agreed to by each department in the review process, to create consistency in attendance and comments in the review process.

Information should be shared with applicants so they can track the process and understand what areas of their application may be deficient. Applicants should be included in meetings as possible to enable dialogue on a project. We recommend the staff planner be responsible for this at this time, and that the team members from all city agencies be consistent in a review.

Long Term: Establish a formal City project review team including a project champion to be assigned to each project. While this could be the staff planner, including senior staff members in this team to ensure consistency with precedent and other ongoing applications is recommended.

Recommendation A3: Implement a formal documentation process for established decisions/milestones

We recommend a formalized process for notetaking in land use cases. This would not require changes to the current code and could be implemented immediately. The case study analysis revealed an opportunity for Development Services and other agencies reviewing subdivision and TED applications to establish a methodical note taking system that documents conversations with the applicant and resulting outcomes and decisions. By establishing a documentation system within the City, the developer will benefit from the clarity determined through various correspondence. The developer will feel confident about moving forward with decisive action. The City will benefit from this because the note taking system will streamline the review process and reduce instances of resurfacing previously discussed topics.

This recommendation is identified as a Short Term strategy that can be implemented in conjunction with the changes in Recommendation A2.

Short Term: Establish a documentation process for established decisions and milestones that can be included in application materials for future reference. The note taking platform could be integrated with the online software currently used to track development applications. While this system could be implemented for the entire review process, it is best if scaled to the level of decisions being made. For instance, scoping meetings prior to an application submission may not be appropriate for detailed formal notes, but decision making meetings for complex projects, such as Major Subdivisions, is appropriate.

Recommendation A4: Require key agencies to be present at the scoping or pre-application meeting

In an effort to create consistent baseline information for city staff, we recommend a larger group of staff members participate in the scope and/or pre-application meetings Development Services has with applicants. While individual departments are invited to participate in some cases, creating a standardized process would increase predictability for all involved in the development review process.

The case studies and development community interviews revealed an opportunity for improving the clarity and predictability of the process by requiring key agencies to be present at early review meetings. The creation of City project review teams outlined in Recommendation A3 will complement this recommendation but requiring key agencies to be present at scoping/pre-application meetings will aid in City staff coordination from the outset and provide more

documented clarity/predictability for the development community. This recommendation is identified as a Short Term strategy.

Short Term: Establish a requirement that all key agencies and reviewing entities attend the scoping/pre-application meeting. If they are not able to attend, a requirement should be in place that the reviewing entities coordinate with the City project review team to establish a baseline for project regulations and requirements going forward.

Recommendation A5: Create a development process manual

The City of Missoula is currently completing a Public Works Manual that will provide additional clarity about public facility and engineering requirements for all development in Missoula. This recommendation would be a next step in that project, creating a manual that covers additional items in the development process, such as landscaping or irrigation, and would apply broadly to the development process. This is identified as a Medium Term strategy, as the completed Public Works Manual should be used to determine how that

Best Practice Example

In Albuquerque, a Development Process Manual provides clear guidance to developers. A “Development Process Manual Committee” including representatives from the public and private sector oversees and directs changes to the manual.

documents works and what specific adjustments need to be made. In the longer term, Missoula could consider creating a committee like Albuquerque to oversee amendments to the manual. In all future scenarios, the content of the manuals should be aligned with the current regulations.

Short Term: Complete the Public Works Manual. Since the effort to produce the Public Works Manual is already underway, it is recommended that the City complete this effort in the short term

Medium Term: Evaluate the effectiveness of the Public Works manual and identify next steps to expand it to an overall Development Process Manual. It should be noted that if a Unified Development Ordinance is adopted, this recommendation may not be necessary as a medium term strategy.

Recommendation A6: Increase staff capacity for development project review

Throughout this project, it has become clear that the staff capacity in the Development Services Department is an issue that needs to be addressed in the long term. Hiring processes can take time, and the economic uncertainty created by the COVID-19 pandemic has added challenges in the ability of the city to hire. Additional focus on retention and training for existing staff is critical to ensuring their capacity remains and even increases in the development review functions. When funding is available, we strongly recommend the city evaluate staffing needs and seek to hire both entry level and experienced staff to assist in development review. Training and retention is identified as a Short Term strategy, and hiring is identified as a Medium Term to Long Term strategy, though we recommend the city move forward with hiring as soon as is feasible. More specifically we recommend the following strategies for this recommendation:

Short Term: Evaluate what skill or experience gaps might exist in current staff and focus training efforts to support their growth and development in these areas.

Medium Term: Evaluate the skill needs in the department relative to applications received and the current development process and update job descriptions accordingly. This way when funding is available, there is an opportunity to post a job description quickly.

Long Term: Actively recruit and hire staff to fill positions that are currently vacant.

Code and State Law Recommendations

Code and State Law recommendations focus on changes that would require amendments to Missoula's development code, or to state law.

Recommendation CP1: Implement administrative review processes

State law allows certain subdivision reviews to be completed administratively. Specifically, portions of the minor subdivision review may be completed administratively without a public hearing. We recommend this best practice be implemented in Missoula, with a written public comment period replacing the public hearing. We believe this is a best practice that could be implemented in the Short Term.

Best Practice Example

In Bozeman, the Planning Commission has delegated the review of all minor subdivisions to the Planning Director. A written public comment period is included, but no public hearing is required for these reviews. (pursuant to MCA 76-1-107, and Bozeman section 38.240.130.A.3)

Recommendation CP2: Establish an expedited review process based on criteria

Expedited review is allowed under current state law but Missoula does not explicitly have this option available to developers. Adding this option will offer another tool for developers to provide fee-simple housing for Missoula residents. This process would not eliminate public hearings required by state law, but would enable a faster review process for subdivisions that have infrastructure in place and are relatively small. This recommendation should be reviewed in tandem with other changes to the regulations and code and is recommended as a Medium Term action.

Best Practice Example

Billings, Montana offers an Expedited Review for certain plat applications under Code Section 23-305. The criteria for applicability includes the project only contains one or two parcels, meets the definition for first minor subdivision, provides legal and physical access to the lots, does not require land dedicated for parks, provides access to existing buried infrastructure and no public improvements are required.

Medium Term: Add an expediated review process to the development tools.

Recommendation CP3: Adjust neighborhood meeting requirements and process

Community input is important to Missoula as evidenced by the required neighborhood meeting for subdivision developments. However, these meeting represent additional scope requirements for developers and do not seem to be significantly beneficial to any parties engaged in public meetings. Community members express frustration that they are not able to influence the proposed development, and the development community has indicated it is difficult to make adjustments at that point given the level of application detail required to get to that stage of the development process. There are a number of ways to implement this recommendation.

Best Practice Example

In Ft. Collins, CO and Boise, ID, neighborhood meets are an important part of the process. They are required for any project that will be reviewed by City Council, and are held earlier in a developer's overall process, leading to more opportunities for an application to be adjusted in response to the neighborhood's comments. Additionally, each community includes a list of "best practices" they suggest or require for the neighborhood meeting, creating some consistency in the process.

We have divided these into changes that can be implemented in the Short Term with no code change, and those that could be implemented through code amendments in the Medium Term or Long Term.

Short Term: Certain improvements to the process do not require a code amendment and could be implemented in the short term, including:

1. **Establish best practices and handouts.** The city could create these documents so the development community and neighborhood councils can set expectations more clearly about the current process. Alternatively, the city could provide an educational session to neighborhood councils explaining the role of the neighborhood meeting and how they can best provide comments.
2. **Implement staff attendance at neighborhood meetings.** Sometimes having a staff person available to answer questions about the process can assist community members in understanding why a development might be proposed in a certain way. The staff member can also clarify any comments or questions that occur between the developer and the community. This process is used in Ft. Collins, CO.

Medium Term: Amend the code to respond to different project types. This could be implemented by:

1. **Adjust neighborhood meeting requirements based on project type.** The city could adjust requirements to suggest, but not require, a neighborhood meeting for certain applications. Applications for minor subdivisions, for instance, could be encouraged to hold a meeting or provide an informational mailer, but not required to do so. Similarly, this adjustment could apply to areas with an adopted master plan

should the city move forward with detailed master plans such as the Mullan Area Plan.

- 2. **Allow other neighborhood information and comment methods.** The neighborhood meeting requirements could be changed to an informational mailer to nearby property owners with key information such as the conceptual site plan and relevant polices, adjacent property owners will understand the proposed development and the ways in which it is aligning with policies that the public contributed in establishing. The neighbors can then be well-informed before participating in the public hearing during governing body review. The same type of mailer could be used as part of the minor subdivision review process if Missoula were to delegate those reviews to staff. A mailer could direct community members to provide comments or learn about projects on the Engage Missoula platform (www.engagemissoula.com). We recommend this for smaller scale subdivisions.
- 3. **Allow the neighborhood meeting to occur prior to the Pre-application Meeting.** While most communities require the neighborhood meeting after a pre-application process, because Missoula requires such detail at the pre-application phase, it is more difficult to respond to neighborhood comments. If the neighborhood meeting occurred prior to the completion of the level of detail at the pre-application phase, the developer would better understand neighborhood values and concerns, and would be more able to respond to overall neighborhood comments related to density, anticipated street layouts, open space provision, etc.

Long Term: Amend the code to help the neighborhood meeting become more meaningful in the overall process. This could be implemented by:

- 1. **Reduce requirements at the Pre-application Meeting.** Because the required documents are so detailed at this phase, applicants are reluctant to make major changes to the application after they have begun the process. If the pre-application documents were reduced, applicants might be more willing to make changes based on neighborhood feedback. If adopted, this change would still allow the city to request information at later phases in the review.

Recommendation CP4: Align regulations to policy documents

The City of Missoula engaged the community in a robust process to develop the growth policy document called *Our Missoula*. This long-range planning document provides the strategic framework for how Missoula will grow over time. Missoula has also adopted policy documents related to housing, parks and open space, transportation, and climate, and has plans to work on an equity policy. These documents effectively articulate the goals of the community. Regulation updates must occur in tandem with these larger planning efforts if development is

Policies to be Implemented

[insert list of policies from Growth Policy that could be implemented in code]

going to implement them. When regulations take time to be addressed after a growth policy adoption, then it is difficult for the City to enforce the policies that the community assisted in shaping. We recommend the city focus on completing the equity policy to ensure it provides a basis for equitable planning policies, then moving forward with informed changes to the growth policy and zoning.

For this reason, we recommend the following:

Short Term: Growth policies can be implemented now in the form of pre-approved deviations from subdivision requirements. It could be valuable for Development Services to document a series of pre-approved code deviations or case studies for applicants to consider in their projects, identifying specific requirements or circumstances that need to exist in order to qualify for these deviations. This recommendation suggests that the pre-approved subdivision deviations are able to be approved administratively. The pre-approval or case studies could alleviate some of the risk that is traditionally associated with applying for variances.

Medium Term: For the current Growth Policy, update all zone districts to reflect the policies related to allowed densities.

Medium Term: Establish a growth policy user guide that articulates how it should be used in the development process. For instance, this guide could identify if the future land use map supersedes other goals and objectives.

Long Term: After a future Growth Policy update, update zone districts and rezone areas that are identified for more or less density. This will align zoning with the adopted growth policy.

Recommendation CP5: Update the TED process to prioritize clarity and establish clear criteria for its use

The City of Missoula is the only community in Montana that uses the exemption process for townhomes. The law, shown at right, provides very limited direction to communities seeking to implement the exemption. It specifically references residential types of development, and does not extend to other types of land uses. The city has effectively implemented this exemption into the code as the Townhome Exemption Development (TED) process. Amendments have been made over the years to respond to issues that have arisen, and many of the regulations applicable to larger subdivisions are applied to TEDs. Additionally, because state law provided little direction on the process, Missoula has established a framework to establish units that could be rethought. The current process allows 10 to 20 units to be created through the TED process, based on the zone district, but these could be increased.

We recommend the city continue using the TED process, as it provides a path for housing units to be built more quickly than through a traditional subdivision. However, changes to the process would increase the viability of the process to deliver housing units. This includes reducing the level of information required at early phases in the review, evaluating the need for “TED Ownership units,” and increasing the number of units that are eligible for a TED. These range from Short Term to Long Term as described below.

Short Term: There are some basic TED framework items that should be addressed in the short term:

1. **Re-evaluate the need for “TED Ownership unit.”** Based on the state law analysis, it does not appear that an “ownership unit” to address who holds title to land is required. The law does not expressly state the solution Missoula has created is needed. This current process could be duplicative and not needed. We recommend the City explore the option to remove the “TED Ownership unit” and instead use more traditional methods to land ownership, like condominiumization, and work with the City Attorney’s office to determine if another method could be used.

State Law

76-3-203. Exemption for certain condominiums and townhouses.

Condominiums, townhomes, townhouses, or conversions, as those terms are defined in 70-23-102, constructed on land subdivided in compliance with parts 5 and 6 of this chapter or on lots within incorporated cities and towns are exempt from the provisions of this chapter if:

(1) *the approval of the original subdivision of land expressly contemplated the construction of the condominiums, townhomes, or townhouses and any applicable park dedication requirements in 76-3-621 are complied with; or*

(2) *the condominium, townhome, or townhouse proposal is in conformance with applicable local zoning regulations when local zoning regulations are in effect.*

2. **Clarify what additional information the City can request.** The TED code language allows the Zoning Officer to request any additional materials in their review of an application. Some flexibility to ensure clear understanding is important, however the code language as written is very broad. The city should create a standard checklist of information needed in the review, and consider a formal policy that defines what can be requested. Alternatively, updated code language could be added.
3. **Review requirements needed at TED review versus at building permit.** The City has sought to balance the level of detail needed for the review, and because the intent of TED in Missoula is to result in housing stock that is built relatively quickly, the project is assumed to be detailed enough in an applicant's mind to move forward. A review of these application requirements, versus what could be taken at building permit, may be worthwhile. This could be based off of the number of units proposed or the geography of the proposal.

Long Term:

1. **Allow broader TED use in areas with a Master Plan.** Amend code to allow TEDs for any land located in an area with a Master Plan, regardless of the number of units proposed. For instance, in the Mullan Area there is ongoing work on a Master Plan. Once completed, it could be a candidate for an administrative TED review for parcels identified for residential development.
2. **Re-evaluate the number of units allowed for a TED.** Depending on geography, increasing the number of units allowed for TEDs could help increase the use of the process and the number of housing units available for the community. TED is an effective tool to create new housing stock, so increasing units could support the City's other housing goals.
3. **State law change.** State law currently outlines TEDs as a tool for residential development. It could be beneficial for the law to expand applicability to commercial development, or mixed-use development. We recommend this be reviewed with the City Attorney and then coordinated with strategic partners, such as other municipalities, and the league of cities.

Recommendation CP6: Embed flexibility into regulations with options that reward innovation

Both the developer community and the City of Missoula can benefit from embedding some flexibility into regulations. The reward for pursuing flexibility is that increased innovation and creative solutions can enable additional housing options. Developers appreciate flexible regulations because it allows some latitude to explore options as the regulation is not so prescriptive and limiting. Development Services and reviewing agencies can be empowered with clear parameters for evaluation of options presented to them.

We recommend a process for “alternative compliance” for certain subdivision standards be adopted in the Medium Term. The “alternative compliance” can be assessed against the intent of the current code as well as policy documents that may not be codified yet.

Medium Term: The City of Missoula should evaluate the context and parameters about when flexibility would benefit both the developer and the city review agencies and update the code to incorporate this process. We recommend this be established for Transportation and Connectivity, Parks and Open Space, and Streets and Block design.

Best Practice Example

Carbondale, Colorado allows “Alternative Compliance” for certain land use review when an applicant can demonstrate that a different design better meets the intent of the code (Sec 5.1.3). This review is limited to specific design requirements. Importantly, the Carbondale code states that this alternative compliance is reviewed by the decision-making body responsible for the overall development review, and does not require an additional or heightened review.

Recommendation CP7: Update code to allow or encourage accessory dwelling units and cottage homes

ADUs and cottage homes provide an additional housing type that could support Missoula’s goals around housing diversity and affordability. The concept of ADUs being allowed in a variety of scenarios is one way to address diversity of housing types.

Another housing tool to consider is cottage homes. These are homes that could be developed on unique lots that can accommodate some infill and provide housing opportunities for different household types.

Best Practice Example

In Santa Cruz, CA Accessory Dwelling Units (ADUs) are allowed on any property zoned for residential or mixed-use, including single-family homes and parcels developed with multi-family housing. Importantly, to ensure these new units are used as housing, they are not permitted to be used as short-term rentals.

We recommend these ideas be implemented in the Short or Medium Term and incorporated into Missoula’s code related to allowed uses and dimensions, as well as expanding allowances in the TED process.

Short Term: Allow ADUs in a TED development. In the ADU regulations, there is a prohibition of ADUs as part of TED Ownership Units. This limitation could be reconsidered as a way to enable additional housing stock in certain areas. However, additional legal review would be needed for this option to ensure it complies with state law relative to primary and secondary units in TEDs, and provided TED ownership units could be recognized as lots.

Best Practice Example

In Bend, OR, there are development options for infill on lots that are “overlooked by traditional development patterns,” because the lot has unique characteristics. Bend also includes a section allowing Cottage Housing (Sec 4.5.500), which is intended to provide housing that responds to different household sizes and ages (retirees, small families, and single-person households). This is a form of subdivision that creates special land division to enable smaller homes and is only available in certain Residential Zone Districts.

Medium Term:

1. **Establish a cottage housing development program.** Cottage housing developments could increase the feasibility of developing affordable housing on infill sites with its smaller footprint and reduced impacts on adjacent residents. There may be opportunities to incorporate these ideas in the subdivision process, or in the cluster regulations.
2. **Remove minimum lot size requirements for ADUs and cottage homes.** This regulation could provide opportunities on lots that were previously undevelopable because of their size. The reduction of lot size requirements for subdivision exemptions could also be a way to implement this idea.

Recommendation CP8: Update code density calculations

We recommend that Missoula fully move to a gross lot area for density calculations for all projects to enable the largest amount of housing density on a parcel. Generally, Missoula uses a gross density calculation method, but there is an opportunity to more fully implement this related to hillside and floodplains. We recommend this code change as a Short Term implementation step:

Best Practice Example

In Bend, OR, the city uses Gross Lot Area for all density calculations. The areas that will be future streets and areas of land that are environmentally sensitive are included in the calculation, even though development would not be located in those areas.

Short Term: Amend the code to include an entirely gross lot area density calculation. Remove the lot reductions for hillsides and floodplains, while prohibiting development on these sensitive lands.

Recommendation CP9: Update code to allow parking reductions in certain areas

Reduced parking requirements could result in more housing units in Missoula. By dedicating less lot area to surface parking, parcels will have more capacity for additional housing units, especially in Missoula’s more dense neighborhoods that are serviced by reliable transit operations.

Parking reductions for desirable land uses would also allow Missoula to encourage private creation of community needs—such as affordable housing—while offering a desirable concession to the developer. Finally, parking reductions for a localized, contextual calculation of actual parking needs are a great way to avoid overbuilding or underbuilding parking in the community.

Reductions for parking requirements in mixed-use buildings would also assist in reducing the need to dedicate land to parking and instead free that land for housing.

We recommend this as a Short Term and Medium Term implementation item.

Short Term: Missoula is currently pursuing changes to eliminate parking requirements for ADUs, which would help reduce one barrier to the creation of different housing types. We recommend this adjustment be adopted.

Medium Term: Missoula should consider extending the reductions allowed in the Design Excellence Overlay or expand the approach for the Central Business District that does not have any parking requirements.

Best Practice Example

In Salida, CO, there are parking reduction options for projects that provide desirable community assets. For example, multifamily developments wherein at least 12.5% of the units provided are affordable can use a parking ratio of 1 space per unit for all units in the development. Existing developments within the Central Business District that are densifying or changing use without increasing the building footprint are wholly exempt from off-street parking requirements. Salida also offers parking reductions for developments wherein applications can prove a reduced parking demand through shared parking principles or localized parking ratios and other factors.

Recommendation CP10: Update code provisions related to Parks Dedication requirements

The State of Montana has very prescriptive requirements for the development of parks in a subdivision process. Missoula has generally adopted regulations that align with these requirements and allowances. Through this project it became clear that confusion about the requirements has led to application delays or the city finding parks requirements are not always met. This is an area where we recommend a number of changes.

Short Term:

1. ***Amend the dedication standard when density is not known.*** The state allows a parks dedication calculation of up to 0.03 acres per unit when the density of a project is not known at the time of preliminary plat. Missoula's rate of 0.02 acres per unit should be increased to the state allowance. Additionally, this calculation could be updated to allow a final calculation when the final plat is filed to ensure there was not an under or over count included in the project.
2. ***Clarify cash-in-lieu payment options.*** We recommend Missoula adopt language that clarifies how the appraisal method for cash-in-lieu payments are made. There is confusion about how an appraisal can be done, potentially creating inconsistencies between projects who select different comparable and appraisal methodologies. We recommend a city-approved appraiser or licensed real estate professional be used, and creation of a clear set of standards for what property comparable can be used. An additional option would be to establish standardized appraised or assessed values for different city neighborhoods that can be used instead of a new appraisal.

Best Practice Example

In Adams County, CO, the requirements for parks dedications are divided into different categories - a neighborhood park or a regional open spaces. For projects that generate a parks requirement of less than 2 acres, the applicant may chose a cash-in-lieu payment by right, but real land dedications are required for projects that have requirements larger than 2 acres.

In Billings, MT, Parks and Open Space requirements include more detailed language about how a cash-in-lieu amount is determined in the review process. There are 3 options the applicant can use to determine the fair market value of the land being subdivided - a Comparative Market Analysis for a licensed realtor (using 3 comparable parcels of land that have sold within the last year and located within 2 miles of the proposed subdivision); a raw land appraisal; or the sale price of the property if purchased within the last year.

Medium Term:

1. ***Update code language related to exemptions from park land dedications.*** While the City of Missoula has adopted language from state law related to when the dedication requirement is waived, additional criteria or a linkage in the code to what constitutes critical wildlife areas, natural areas, and important agricultural land could improve clarity for this exemption.

2. **Allow by right cash-in-lieu payment for small dedications.** We recommend the city allow cash-in-lieu payments for parks land as a by right decision for a developer when the dedication amount is small. This could vary based on different areas of town, and the amount of acres that would allow this option needs to be evaluated. A determination on what “small” means for different parts of town would be needed to implement this recommendation.

Long Term:

1. **Advocate for state law changes to tie parks requirements to a parks master plan.** The City of Missoula currently has a parks system master plan, and it could be updated to remove the park dedication requirements from the subdivision process and replace with an impact fee approach that funds the parks system master plan implementation. Alternatively, the master plan could be used to enable more equitable distribution of parks lands throughout the community. For instance, allowing a development to provide a fee-in-lieu or an off-site improvement in an area identified by the master plan as in need of more parks infrastructure.

Recommendation CP11: Adopt the subdivision infrastructure and growth policy exemption

State law allows a subdivision exemption for instances when there is detailed infrastructure planning and an adopted growth policy. The subdivision is required to demonstrate compliance with zoning and the growth policy, as well as the ability for adequate public facilities. These projects are exempt from the public hearing process, and preparation of an environmental assessment.

While this exemption has been available within the state since 2007, it’s been noted that no jurisdiction appears to have utilized it. The requirements to comply with the detailed infrastructure plan seem to be extensive, and potentially difficult for the city to detail. It appears that the concept is to acknowledge areas where the majority of detailed planning and the assessment of environmental impacts including consideration of the primary review criteria are conducted in advance, requiring potentially less reporting, evaluation, time and debate at the point of a project development proposal.

We recommend Missoula explore this option in the Short Term and seek to implement it in the Medium Term.

Short Term: Explore the requirements for the infrastructure exemption. This could be completed in conjunction with recommendation P4.

Medium Term: Update city documents as needed to enable this exemption, and adopt it in the code.

Recommendation CP12: Update the Cluster subdivision exemption

Montana State Law includes a provision for Cluster Development in communities that have an adopted growth policy. The regulations must establish minimum parcel sizes, as well as the minimum size for areas to be preserved as open space. Regulations under this section can establish a shorter review period, incentivize the use of the regulations over other forms of subdivision. Additionally, the local regulations may exempt requirements related to an environmental assessment, certain review criteria, and certain park dedication requirements.

We recommend Missoula update the cluster regulations to provide an option that allows a subdivision that preserves agriculture land, important natural features, or environmentally sensitive areas, from certain portions of the subdivision process.

Short Term: Hold a policy conversation about what types of cluster developments should qualify for a reduced public hearing process. Developments that implement stated community goals, such as preservation of agricultural lands, could be a starting point.

State Law

76-3-509. Local option cluster development regulations and exemptions authorized.

- (1) If the governing body has adopted a growth policy that meets the requirements of 76-1-601, the governing body may adopt regulations to promote cluster development and preserve open space under this section.
- (2) Regulations adopted under this section must:
 - (a) establish a maximum size for each parcel in a cluster development;
 - (b) subject to subsection (3)(d), establish a maximum number of parcels in a cluster development; and
 - (c) establish requirements, including a minimum size for the area to be preserved, for preservation of open space as a condition of approval of a cluster development subdivision under regulations adopted pursuant to this section. Land protected as open space on a long-term basis must be identified on the final subdivision plat, and the plat must include a copy of or a recording reference to the irrevocable covenant prohibiting further subdivision, division, or development of the open space lots or parcels, as provided in Title 70, chapter 17, part 2.
- (3) Regulations adopted under this section may:
 - (a) establish a shorter timeframe for review of proposed cluster developments;
 - (b) establish procedures and requirements that provide an incentive for cluster development subdivisions that are consistent with the provisions of this chapter;
 - (c) authorize the review of a division of land that involves more than one existing parcel as one subdivision proposal for the purposes of creating a cluster development;
 - (d) authorize the creation of one clustered parcel for each existing parcel that is reviewed as provided in subsection (3)(c); and
 - (e) establish exemptions from the following:
 - (i) the requirements of an environmental assessment pursuant to 76-3-603;
 - (ii) review of the criteria in 76-3-608(3)(a); and
 - (iii) park dedication requirements pursuant to 76-3-621.
- (4) Except as provided in this section, the provisions of this chapter apply to cluster development subdivisions.

Medium Term: Update the code to enable reduced review timelines, consistent with state law. Additionally, there is an opportunity to simplify the Cluster subdivision regulations by instead referring to the Cluster requirements included in Chapter 20-55.

Recommendation CP13: Adopt a Unified Development Ordinance

A Unified Development Ordinance (UDO, also sometimes known as a UDC), is an approach to organizing code language including all zoning, development standards, and subdivision requirements in one chapter of the municipal code. The information is generally clearly cross-referenced. The UDO is an effective way to ensure the rules for development work in tandem, do not include redundancies, and are consistently applied.

We recommend Missoula move to a UDO as a way to consolidate requirements as a medium term implementation step, with some set up in the Short Term.

Short Term: Complete updates to standards now, incorporating considerations related to climate adaptation and mitigation, equity, and incorporation of state-permitted exemptions. A focus of this effort should be on simplifying regulations and reducing redundancies.

Medium Term: Adopt a Unified Development Ordinance. This would move all topical requirements into a single section. For instance, all requirements for parks would be in one section rather than duplicate requirements in TED and Subdivision.

Best Practice Example

Both Bozeman, MT and Carbondale, CO use a Unified Development Ordinance. A UDO creates additional predictability and clarity for anyone involved in the process. Additionally, because design standards and dedication standards, as well as application processes and contents requirements are included in individual sections of the code, the total length can be much more brief compared to the structure where each standard is its own document. The result is that, generally speaking, all development applications have similar requirements and there is not duplication in the documents required when an application triggers multiple reviews.

Programs and Policy Recommendations

The Subdivision and TED processes are tools to create affordable housing and to enable development that meets community expectations and policies. In addition to changes to the specific code sections and processes, there are additional programs and policies the city could consider to encourage development consistent with the existing policy documents.

Recommendation P1: Establish incentive for affordable housing

As part of updates to the Subdivision and TED process, there are opportunities to encourage affordable housing within developments. This is also in line with items included in the Housing Policy. This could include sub-recommendations for cost share for infrastructure, waive parks

fees, flexibility about parking requirements/setback standards for projects meeting criteria to serve as workforce housing. Criteria TBD.

Short Term: We recommend Missoula explore an incentives based approach to affordable housing. A coordinated set of affordable housing development incentives could be used to leverage affordable housing production or increase the natural affordability of new homes. The incentives could be tied to homeprice and targets, and could include:

- Deferral or subsidization of impact fees
- Targeted Partial Financing of Infrastructure for Affordable Homes
- Waiver of development review and permit fees
- Reduction of land set asides
- Density bonus
- Reduced street/sidewalk infrastructure
- Expedited review for projects that build affordable housing
- Reduced minimum setbacks
- Reduced parking requirements

Recommendation P2: Prepare city research materials for habitat, slopes, geotechnical, etc

The City has an opportunity to partner with the subdivision and TED applicants by providing some of the required materials for the application contents. The City could generate a library of city-scale reports and maps that the applicant can utilize and reference. Some initial ideas of reports that the City could initiate and distribute include: agriculture, agriculture water user facilities, natural environment, wildlife and wildlife habitat, slopes and geotechnical information. This system would be mutually beneficial for the developer applicants and the City staff. Developer applicants would be able to reference materials that they would have previously been required to rely on consultants to generate. This not only saves development costs with reduced consultant fees but it also saves time since the information would be readily available. The City would benefit from this approach because the report materials would be standardized according to the City standards, thus reducing the need for Elemental Review for the required reports.

Long Term: Given the potential extensive nature of this recommendation, a feasibility analysis is advised for a first step since the up-front costs to the City must be balanced with the value that is created.

Long Term: Map geographically constrained lands to understand where those exist, and create a zoning overlay or other designation to incentivize or streamline development located outside of those areas.

Recommendation P3: Establish hierarchy for policies based on geography

The City currently has some land area that is zoned at densities encouraging the development of housing at affordable price points, but additional changes could be made for additional lands. While rezoning to densities that support affordable housing is a long-term recommendation and outside of the scope of this work, the City could provide a short-term solution by establishing a hierarchy of policies based on geography, building off of the “Our Missoula Development Guide.” If the City can identify areas that are well-suited for affordable housing development, the City could allow development in the areas to be guided by “special policies” that make it easier to provide new housing supply at an affordable price point. This work would need to include work with the community to consider equitable development in all areas of the community. This could include:

<p>Policies to be Implemented [insert list of policies that could be implemented in code]</p>
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- Coordinated annexation policy and/or regulatory alignment
- Trade-offs for development standards that provide equitable development
- Affordability incentives

We recommend Short, Medium, and Long Term implementation items:

Short Term: Analyze city land and community assets for targeted growth areas that could be suitable for “special policy guidance” in the development of affordable housing and other development priorities.

Medium Term: Create plan for targeted policy guidance with a coordinated zoning policy.

Long Term: Advocate for updates to state-level policies that impact affordable housing based on geography.