



Livingston Zoning Commission Agenda

A meeting of the Livingston Zoning Commission has been scheduled for October 10, 2023 at 5:30 PM in the Community Room of the City/County Building at 414 E. Callender Street. This meeting will be facilitated by Chair Jim Baerg.

A virtual option will also be available:

Join Zoom Meeting

<https://us02web.zoom.us/j/84377957541?pwd=TkI3TVlYaUNBZjBwbzVyenZsOHFXUT09>

Meeting ID: 843 7795 7541

Passcode: 671820

Call in: (669) 900-9128

1. Call to Order

2. Roll Call

3. Approval of Minutes

- A. Approve June 13, 2023 minutes (no July, August or September 2023 meetings held)

4. General Public Comments

5. New Business

- A. Ordinance 3043 for Sec 30.47 Planned Unit Development (PUD) as approved during a First Reading at the October 3, 2023 City Commission meeting, and revisions after June 13, 2023 approval

- B. Gateway Overlay Zones - Sec 30.46 Design Review Overlay Zone regulations, Growth Policy guidance, and Examples of Gateway Zones in other communities

6. Old Business

7. Board Comments

8. Adjournment

File Attachments for Item:

B. June 13, 2023 Minutes



Livingston Zoning Commission Minutes

A meeting of the Livingston Zoning Commission was held June 13, 2023 at 5:30 PM in the Community Room of the City/County Building at 414 E. Callender Street. This meeting was facilitated by Vice-Chair Deborah Monaghan.

1. Call to Order (5:40 pm)

2. Roll Call (0:15 mins on recording)

In Attendance: Commissioners Deb Monaghan, Wendy Weaver, Michael DeChellis, and Mike Wojdylak. Staff: Jennifer Severson

3. Approval of April 11, 2023 Minutes (no May 2023 meeting) (0:40 mins)

- Motion to approve by DeChellis; second by Wojdylak (Monaghan abstained, absent at 4/11/23 meeting)
- Motion passes 3-0

4. General Public Comments (none)

5. New Business

A. Review and Recommendation of Chapter 30 PUD Ordinance (3:14 mins)

- Severson clarified code format and specific citations will be finalized after LZC review and before City Commission 1st reading on July 18, 2023.
- Severson presented draft PUD Ordinance
 - Ordinance intent includes preserve natural resources, provide additional open space, promote efficient land use beyond base zoning district (encourage cluster development), reduce vehicular trip generation, promote affordable/ workforce housing, support Growth Policy. Minimum 1 acre size. Developer Incentives (additional density, height increase, impact fee reduction) and Public Benefits (affordable housing, reduced traffic, additional open space) formula table. Affordable housing must be similar to market rate; min. 2 affordable units to get density bonus; max. 25% additional residential density over base zoning; height bonus RII zoning only- max = 40 ft.
 - Application 'highlights'- before application submittal applicant must notify landowners within 300' of PUD and allow comments- comments must be included with application; detailed submittal requirements will be included in application form instead of PUD ordinance; additional info may be required by LZC, Planning Board, City Commission to fully evaluate PUD and conclusively demonstrate how review criteria met.
 - Variance will be separate but concurrent process if PUD is a subdivision; if not a subdivision, variance will be approved as part of PUD process.

Livingston Zoning Commission Minutes

- Public Comments (1:11:25 mins)
 - Stacy Jovick (Chair Planning Board) -requested clarification about how deviations from base zoning district will be identified; also questioned how extension of PUD approval will work
- Continued discussion by Commission and staff (1:18:20 mins)
 - Severson agreed to bring PUD application form to Planning Board and LZC for review at a future meeting before finalizing
 - For non-subdivision projects that are not phased, developer must provide construction timing details; developer must follow a completion schedule included in PUD approval; Zoning Administrator (Planning Director) will be responsible for ensuring approved schedule is met;
- Proposed Revisions to Ordinance proposed by LZC includes:
 1. Add language that explains can mix/ match bonus and benefits, but height and impact fee redux limited to 1 time only
 2. For Phased PUDs, required a performance bond for Public Benefits to be constructed in future PUD phases (beyond initial phase)
 3. Add to Application Process- Work Session required after application submitted but at least 2 weeks before 1st public hearing; listening session only for Planning Board, LZC, City Commission but public can ask questions.
 4. Add to Planning Board Review Criteria “The proposed PUD supports the adopted Growth Policy with respect to applicable goals, objectives and/or strategies identified in the Growth Policy”.
 5. Developer bonuses other than increased height must be developed proportionally with corresponding public benefit

Motion by Wojdylak to recommend approval of Staff Recommendation with the proposed revisions discussed above; Second by DeChellis. Vote 4-0, passed unanimously (1:42:15 mins)

6. Old Business

- Questioned status of developing Gateway Overlay District ordinance

7. Board Comments

8. Adjournment (7:28 pm)

File Attachments for Item:

A. PUD Ordinance

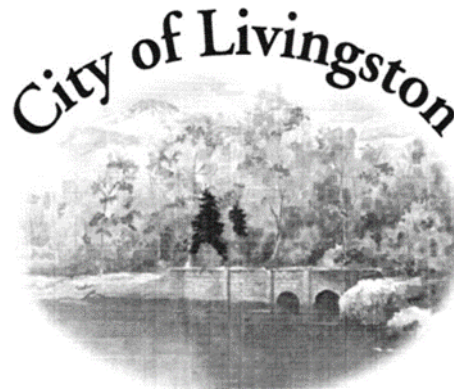
**August 1, 2023 Staff Report to City
Commission**

**Includes June 13, 2023 LZO Staff Report
and Draft PUD Ordinance as approved by
LZO**

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Melissa Nootz

Vice Chair
Karrie Kahle

Commissioners
Mel Friedman
Quentin Schwarz
Torrey Lyons

Date: August 1, 2023
To: Chair Nootz and City Commissioners
From: Jennifer Severson, Planning Director

Staff Report to Introduce a Planned Unit Development (PUD) Zoning Ordinance to Chapter 30 of the Livingston Municipal Code

Recommendation and Summary

Staff recommends the Commission approve the creation of a PUD Ordinance to be added to the City of Livingston Zoning Code Chapter 30 by adopting the following motion:

“I move to approve Ordinance 3043 to create a Planned Unit Development Ordinance for addition to the Livingston Zoning Code as Section 30.47 and to authorize the Chair to sign Ordinance 3043.”

The reasons for the recommendation are as follows:

- The 2021 Growth Policy recommended the creation of a Planned Unit Development (PUD) zoning district.
- The purpose of a PUD Ordinance is to allow flexibility from design standards and density requirements from the existing zoning in a defined area of development.
- PUDs encourage more efficient use of land and public services than is typically attainable under standard zoning application.

Introduction

The PUD Ordinance creation was initiated in response to the recommendation in Chapter 11’s Land Use Recommendations in the 2021 Growth Policy as a means to provide flexibility from design standards and existing zoning. By allowing for context sensitive design that conforms to topography and minimizes site impacts, PUD zoning encourages clustered development, diverse housing types, mixed land uses, and natural resource preservation. Staff reviewed and evaluated several PUD Ordinances from around the state in similarly-sized communities that are experiencing comparable growth pressures as is Livingston. Staff presented findings and recommendation to the Zoning Commission at its June 13, 2023 meeting and the Zoning Commission voted unanimously to recommend the City Commission approve the proposed PUD Ordinance.

Analysis

The citizens of Livingston are increasingly looking for ways to effectively address challenges associated with growth. The 2021 Growth Policy promotes infill development over annexation to address continued growth and development within the City; however, the current zoning ordinance does not fully support the Growth Policy. As less raw land is available to develop, the vacant land that is available often can have physical

constraints that limit site development opportunities. Furthermore, housing costs continue to rise and, for many Livingston residents, these costs are becoming increasingly unaffordable.

PUDs can provide the flexibility needed to make new development financially feasible for developers by providing bonuses- or incentives- to increase density, height and/or have impact fees waived. In return, developers must provide public benefits that have been identified in the Growth Policy as being desirable to increase quality of life for the City’s residents- those are: affordable housing, reduced vehicular trips (i.e. less traffic) and open space preservation.

The Planned Unit Development is a zoning district intended to encourage more efficient use of land and public services than is generally attainable under standard zoning application. Conventional area and density requirements are replaced by application of the PUD district to lands upon which an approved plan becomes the basis for control of land development. To achieve the stated intent, a PUD shall further the following objectives:

1. Preserve natural and cultural resources
2. Provide open space and recreational areas beyond the minimum subdivision requirements
3. Promote a more efficient use of land than the base zoning district would allow, resulting in clustered development and a smaller network of utilities and streets
4. Promote mixed uses in residential zoning districts as a means to improve convenience and access to daily necessities by area residents
5. Reduce vehicular trip generation through mixed use development and enhanced multi-modal connectivity
6. Promote affordable/ workforce housing
7. Support the adopted City of Livingston Growth Policy

Rather than requiring strict adherence to zoning requirements and design standards, PUDs allow for a more flexible, holistic and site-based approach to development that integrates constraints and opportunities into the process and encourages individual projects to be evaluated on their own specific merits and drawbacks.

Because the establishment of a PUD involves rezoning and site evaluation, both the Zoning Commission and the Planning Board will be involved in the recommendation process to advise the City Commission on its decision. Additionally, because each PUD application involves a request to deviate from existing zoning and/or design standards, staff is recommending a public work session be included at the beginning of the review process the work session will allow residents who may potentially be impacted by the proposed development to weigh in and, hopefully, will encourage developers to address community concerns early in the planning and review process.

The uniqueness of each PUD application will require additional review time by staff and advisory boards; consequently, staff is recommending a minimum 1-acre size for all proposed PUDs. Because the City’s existing commercial zoning is fairly permissive, and to encourage mixed uses, PUDs will only be allowed in the R-I, R-II, RII-MH, R-III and RMO zoning districts, where the base zoning and allowed uses are primarily residential. To further promote mixed use development, all PUDs must include a commercial component appropriately scaled and compatible with the proposed development and with respect to the surrounding neighborhood. Commercial uses must be located, designed and operated to serve primarily the needs of residents within the PUD and, secondarily, those residing outside the PUD. Staff is also recommending that Light Industrial uses be allowed in PUDs, provided they are appropriately scaled and compatible with the

proposed development and with respect to the surrounding neighborhood. Because PUDs will only be allowed in areas where the base zoning is residential, Heavy Industrial uses are not allowed.

Fiscal Impact

The proposed PUD Ordinance is not anticipated to have adverse fiscal impacts to the City. Review fees will be assessed for PUD applications for review to compensate for staff review time.

Strategic Alignment

The creation of a PUD Ordinance directly supports the recommendation to create a Planned Unit Development Overlay District stated in Chapter 11 of the 2021 Growth Policy and aligns with a number of Strategies identified in the Growth Policy by encouraging public benefits in exchange for awarding developer incentives. Incentivizing deed restricted affordable housing aligns with *Strategy 5.1.5.5 Explore existing local, state, and federal funding mechanisms to aid in the creation of affordable housing*. Incentivizing additional open space in new developments aligns with *Strategy 4.3.1.1: Develop a strategy for the protection and preservation of natural resources and open spaces commensurate with growth in Livingston*. Finally, incentivizing the reduction of vehicular trips aligns with *Strategy 4.1.3.3 Reduce climate disruption through compact growth and increased transportation choices that reduce the need for driving*.

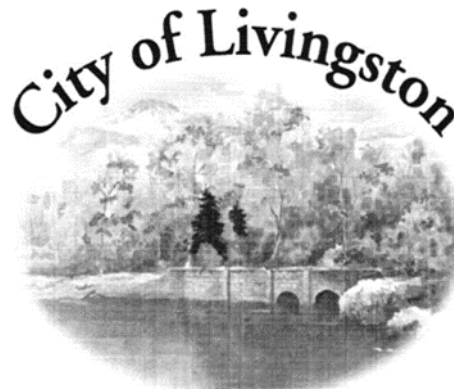
Attachments

- A. Livingston Zoning Committee June 13, 2023 Staff Report
- B. Draft Ordinance 3043

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June 13, 2023

ZONING COMMISSION STAFF REPORT
CHAPTER 30 ZONING CODE – PLANNED UNIT DEVELOPMENT ORDINANCE

Background

Planning staff has drafted a Planned Unit Development (PUD) Ordinance to be included in Chapter 30 of the City’s Zoning Code. The purpose of a PUD Ordinance is to allow flexibility from design standards and density requirements from the existing zoning in a defined area of development. The Ordinance will be added to the Code as a new standalone section of Chapter 30.

The Planned Unit Development is a zoning district intended to encourage more efficient use of land and public services than is generally attainable under standard zoning application. Conventional area and density requirements are replaced by application of the PUD zoning district to lands upon which an approved plan becomes the basis for control of land development. By allowing for context sensitive design that conforms to topography and minimizes site impacts, PUD zoning encourages clustered development, diverse housing types, mixed land uses, and natural resource preservation.

To achieve the stated intent, a project approved as a PUD must further the following objectives:

1. Preserve natural and cultural resources
2. Provide open space and recreational areas beyond the minimum subdivision requirements
3. Promote a more efficient use of land than the base zoning district would allow, resulting in clustered development and a smaller network of utilities and streets
4. Reduce vehicular trip generation through mixed use development and enhanced multi-modal connectivity
5. Promote affordable/ workforce housing
6. Support the adopted City of Livingston Growth Policy

The PUD Ordinance is being introduced into the City’s zoning code as recommended by the 2021 Growth Policy.

Proposed Findings of Fact

The proposed PUD Ordinance is attached (Attachment A). As this ordinance will create a standalone section of code rather than update an existing part of the Code, there is no redlined version of existing code provided for review.

Criteria and Guidelines for Zoning Regulations (MCA 76-2-304):

(1) Zoning regulations must be:

(a) made in accordance with a growth policy:

Staff Comments:

- The proposed text amendment supports the recommendation in the Growth Policy to create a PUD Ordinance and, therefore, directly supports the goals and strategies of the Growth Policy.

(b) designed to:

(i) secure safety from fire and other dangers;

Staff Comments:

- Staff does not anticipate the proposed PUD Ordinance will impact the threat of fire or other danger to the public.

(ii) promote public health, public safety, and the general welfare; and

Staff Comments:

- By allowing for context sensitive design that conforms to topography and minimizes site impacts, PUD zoning encourages clustered development, diverse housing types, mixed land uses, and natural resource preservation. Under the new ordinance, developers may receive incentives based on the provision of certain public benefits. Staff finds that with careful consideration of each unique PUD application by the Zoning Commission, Planning Board and the City Commission, the proposed text amendment will not adversely impact the health, safety or general welfare of the public.

(iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

Staff Comments:

- A project reviewed as a PUD is required to provide a public benefit, such as reducing traffic, clustering development to concentrate public infrastructure connections within the development, and/or provide additional parkland over the minimum required by Subdivision regulations. Therefore, it is not anticipated the proposed text amendment will impact the adequate provision of transportation, water, sewerage, schools, parks or other public requirements.

(2) In the adoption of zoning regulations, the municipal governing body shall consider:

(a) reasonable provision of adequate light and air;

Staff Comments:

- Although the ordinance allows for a moderate height bonus as an incentive to developers in the R-II (Medium Density Residential) District, staff does not anticipate this will impact the reasonable provision of adequate light or air in the new development.

(b) the effect on motorized and nonmotorized transportation systems;

Staff Comments:

- A stated objective of the PUD Ordinance is to reduce vehicular trip generation through mixed use development and enhanced multi-modal connectivity. Reduced vehicular trips is anticipated to have a beneficial impact on the transportation network.

(c) promotion of compatible urban growth;

Staff Comments:

- Although developer incentives are possible, density and height bonuses are tied to the existing (base) zoning district requirements and are awarded as a percentage increase from what is allowed the base zoning district. The PUD Ordinance will promote a more efficient use of land than the base zoning district would allow, resulting in clustered development and a smaller network of utilities and streets, which is compatible with the type of urban development recommended in the Growth Policy.

(d) the character of the district and its peculiar suitability for particular uses;

Staff Comments:

- The increased flexibility of design allowed by the PUD Ordinance will help ensure approved uses in the new development are uniquely suited for the area where the PUD is located. Because each PUD proposal will be site specific and context sensitive, it is not anticipated that the proposed text amendment will adversely impact the character of any zoning district nor its suitability for particular uses.

(e) conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

Staff Comments:

- The proposed PUD Ordinance will encourage the most appropriate use of land in the City of Livingston as each proposed PUD will be unique and tailored for the site where the PUD is located. Staff does not anticipate development approved as a PUD will adversely impact building values in the City.

Staff Recommendation

Staff believes the proposed PUD Ordinance complies with the requirements of State Statute and it directly supports the goals, objectives and strategies identified in the Growth Policy. Staff recommends that the Commission adopt the PUD Ordinance as proposed.

Attachments

- A. Draft PUD Ordinance

ORDINANCE NO. 3044

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 30, OF THE LIVINGSTON MUNICIPAL CODE ENTITLED ZONING BY ADDING NEW SECTION 30.47 ENTITLED PLANNED UNIT DEVELOPMENT AND PROVIDING A REPEALER, SAVINGS, SEVERABILITY AND EFFECTIVE DATE.

Purpose

The purpose of this Ordinance is to promote public health, safety and general welfare of the City by regulating the subdivision of land and specifically allowing for the creation of planned unit developments.

WHEREAS, the City Commission of the City of Livingston, Montana seeks to allow planned unit developments as an alternate form of large lot subdivisions; and,

WHEREAS, the City Commission has adopted the A Growth Policy that recommends the adoption of such a policy; and,

WHEREAS, The City’s Planning Board and Zoning Commission have previously held public hearings on the draft ordinance.

NOW THEREFORE, BE IT ORDAINED by the Livingston City Commission that Chapter 30, of the Livingston Municipal Code entitled Zoning is hereby amended as follows:

SECTION 1

(NEW) Sec. 30.47. Planned Unit Development.

A. **Intent.** The Planned Unit Development is a zoning district intended to encourage more efficient use of land and public services than is generally attainable under standard zoning application. Conventional area and density requirements are replaced by application of the PUD district to lands upon which an approved plan becomes the basis for control of land development. By allowing for context sensitive design that conforms to topography and minimizes site impacts, PUD zoning encourages clustered development, diverse housing types, mixed land uses, and natural resource preservation.

B. **To achieve the stated intent, a PUD shall further the following objectives:**

1. Preserve natural and cultural resources
2. Provide open space and recreational areas beyond the minimum subdivision requirements
3. Promote a more efficient use of land than the base zoning district would allow, resulting in clustered development and a smaller network of utilities and streets
4. Promote mixed uses in residential zoning districts as a means to improve convenience and access to daily necessities by area residents
5. Reduce vehicular trip generation through mixed use development and enhanced multi-modal connectivity
6. Promote affordable/ workforce housing
7. Support the adopted City of Livingston Growth Policy

C. **PUD Minimum Size and Allowed Uses**

1. The proposed PUD must be a minimum of 1 acre in size and all land must be under a single ownership/ entity at time of application submittal.
2. Residential Uses: PUDs are only allowed in areas where the base zoning district is primarily residential; those are: R-I, R-II, RII-MH, R-III and RMO.
3. Commercial Uses: All PUDs must include a commercial component appropriately scaled and compatible with the proposed development and with respect to the surrounding neighborhood. Commercial uses should be located, designed and operated to serve primarily the needs of residents within the PUD and secondarily persons residing outside the PUD. Commercial development within the PUD may require Site Plan Review prior to issuance of a building permit for structures related to the Commercial Use.
4. Industrial Uses: Light Industrial uses may be allowed in the PUD district, provided they are appropriately scaled and compatible with the proposed development and with respect to the surrounding neighborhood. Light Industrial development within the PUD may require Site Plan Review prior to issuance of a building permit for structures related to the Light Industrial Use. Heavy Industrial uses are not allowed in a PUD.

D. **Developer Incentives and Public Benefits**

1. **Guidelines.** The table below outlines desirable Public Benefits the City wishes to encourage for inclusion in PUDs, and Bonuses that may be obtained by Developers for providing one or more of the listed Public Benefits.

DEVELOPER INCENTIVES	PUBLIC BENEFITS
1. Residential Density Bonus	A. 10% deed restricted Affordable/ Workforce housing (min. 2 units)
2. Height Increase	B. Deed restricted Low-Income Affordable housing units
3. Waived Impact Fees	C. 10% reduction in vehicular trips to be generated by the PUD
	D. Increase open space to 20% of PUD area

a. Developer Incentives

- i. Increased Residential Density- 10% increased density over allowable in base zoning district for each public benefit provided by developer; maximum 25% overall increase allowed
- ii. Increased Height- only allowed where R-II or R-II:MH are base zoning districts; up to 40 feet maximum height allowed
- iii. Waived Impact Fees- fees will be waived on 1:1 basis for each deed-restricted Low-Income Affordable housing unit at or below 60% AMI

b. Public Benefits- each of the below benefits counts as a single benefit; developers may provide any of the below benefits to obtain developer bonuses as detailed in Section D.1.c below.

- i. Affordable/ Workforce Housing- must be deed restricted dwelling units to qualify for developer incentives (minimum 2 affordable/ workforce units per project)
 - 1. Moderately Affordable/Workforce Housing is defined here as being at or below 100% Area Median Income (AMI).
 - 2. The AMI set annually for Park County by the U.S. Department of Housing and Urban Development will be used to determine housing affordability.
 - 3. Low-Income Affordable Housing is defined her as being at or below 60% AMI
 - 4. All Affordable/ Workforce units must be substantially similar in design, location and amenities as market rate units
- ii. Reduced vehicular trips- 10% reduction of vehicular trips generated by the PUD resulting from design, uses, multi-modal transportation facilities, etc.

iii. Increased Open Space- 20% or more of total PUD area must be dedicated as open space; no more than half of total open space may be Type 1.a as classified in LMC Sec 28-VI-A-16.b

c. Formula for Incentives and Public Benefit Allocation:

i. Residential Density Bonus – a Developer may provide one of the below public benefits to obtain a 10% residential density increase over what the base zoning district allows; maximum density increase allowed is 25% over the base zoning district

- 1. Affordable (Moderate or Low-Income)/ Workforce Housing
- 2. Reduced Vehicular Trips
- 3. Increased Open Space

ii. Height Increase- one-time only bonus; may be obtained by providing any of the below benefits

- 1. Affordable (Moderate or Low-Income)/ Workforce Housing
- 2. Reduced Vehicular Trips
- 3. Increased Open Space

iii. Waived Impact Fees- Awarded on a 1:1 basis for each deed-restricted Low-Income Affordable Housing unit at or below 60% AMI

NOTE: Low-Income Affordable Housing Units (those at or below 60% AMI) will also count toward the number of Moderately Affordable/ Workforce Housing units (those at or below 100% AMI) to achieve a Density Bonus

2. Limitations on Developer Incentives.

- a. The bonus for increased height is limited to a one-time award; height bonus is only allowed in RII or RII:MH zoning districts; maximum 40’ total height allowed.
- b. Increased residential density bonus may be awarded more than one time; however, the maximum increased residential density bonus allowed is 25% total over the base zoning district’s residential density.

3. Multi-Phased Development.

- a. For affordable/ workforce housing:
The maximum allowed price of a dwelling unit will be determined by the AMI levels at the time of phase commencement.

The phased subdivision commencement hearing shall be considered the date of commencement of the phase, if required

At least 5% of total affordable/ workforce housing units must be included in the first phase

- b. Developer bonus(es) must be implemented concurrently with the public benefit associated with that bonus (i.e. the public benefit provided to achieve the bonus).
- c. A financial guarantee, satisfactory to the City, may be provided for the future public benefit in lieu of concurrent development.

E. Application Procedures

- 1. A Pre-Application meeting is required with city staff at least 30 days prior to submittal of the PUD application.
- 2. Prior to submittal of the application, the applicant must notify landowners of the proposed PUD zoning within 300 feet of the PUD external boundary and provide a method by which surrounding landowners may offer comments on the proposal. All comments received must be included in the PUD application.
- 3. Application Submittal requirements- each application for PUD zoning shall contain the following material:
 - a. Completed City of Livingston PUD Application form; see application form for detailed submittal requirements. Where a PUD also involves a subdivision of land, it shall also meet the application requirements of the Livingston Subdivision Regulations.
 - b. All applicable fees.
 - c. A listing of each deviation or class of deviation from the base zoning district and a justification for the deviation.
 - d. A listing of each deviation or class of deviation from the City’s Subdivision Regulations (if a subdivision is proposed), the City’s Public Works Design Standards and Specifications, and a justification for the deviation.
 - e. Project Narrative or other convincing and persuasive demonstration that the proposed PUD will implement goals and strategies of the adopted Livingston Growth Policy.
 - f. The PUD plan shall identify the existing zoning of the area within the proposed PUD district and the zoning of all parcels surrounding or immediately adjacent to the proposed PUD.
 - g. Operation and Maintenance for private facilities for common use of PUD residents as well as for facilities that will be available for use by the general public (if applicable).
 - h. For multi-phase projects where components are proposed which may not be built for many years, future phases may show conceptual street designs, proposed park and open space areas, trail concepts, proposed residential density, housing types and commercial areas. Where a multi-phased PUD involves a subdivision of

land, the applicant shall submit an overall phased development preliminary plat per MCA 76-3-617.

- i. Other information, plans and details that the city staff, Zoning Commission, Planning Board and/or City Commission may request to fully evaluate the development proposal and its impacts and conclusively demonstrate how the review criteria listed below will be met.

F. Public Review Process

1. **Work Session.** A public work session is required to be held on a proposed PUD plan prior to any public hearing. The work session is intended for informational purposes only to inform both the public, the Zoning Commission, the Planning Board, and the City Commission about the various aspects of the project. It is not intended to be a public hearing and the Zoning Commission, Planning Board and City Commissioners shall not ask questions, provide comments or take formal action on the PUD application. All owners of property within 300 feet of the proposed PUD shall be invited to this work session. An invitation to the work session may be included within the formal public hearing notice or it may be sent separately.
2. **Zoning Commission.** The Zoning Commission will review the application, hold a public hearing and make a recommendation to the City Commission to approve, approve with conditions, or deny the application. The review procedure for PUD zoning will follow LMC Sec 30.71 for amendments to city zoning ordinance and zone change. Review of the proposed PUD will be based on the statutory provisions of MCA 76-2-304 and the following evaluation criteria:
 - a. The proposed PUD supports the adopted Growth Policy with respect to applicable density and use goals, objectives and/or strategies identified in the Growth Policy.
 - b. The proposed deviations from the underlying zoning requirements will not adversely affect the public and/ or the surrounding neighborhood.
 - c. Uses with varying intensities are effectively buffered, both within the PUD and between the PUD and the surrounds.
 - d. Action by the Zoning Commission.
 - i. The Zoning Commission shall hold a public hearing on the application pursuant to LMC Section 30.71.
 - ii. The Commission shall submit its recommendations to the City Commission regarding the PUD rezoning request based on the review criteria under 2.a-c in this section.
 - iii. The Zoning Commission may recommend the City Commission approve, approve with conditions, or deny the application.
3. **Planning Board.** The Planning Board will review the application, hold a public hearing and make a recommendation to the City Commission to approve, approve with conditions, or deny the application. Where a PUD also involves a subdivision of land, it shall follow the process called out in the Livingston

Subdivision regulations (Chapter 28). Review of the proposed PUD will be based on the following evaluation criteria:

- a. The proposed PUD supports the adopted Growth Policy with respect to applicable density and use goals, objectives and/or strategies identified in the Growth Policy.
- b. The proposed departures from the adopted the City of Livingston Public Works Design Standards and Specifications and/ or subdivision regulations (if applicable) will not adversely affect the public and/or surrounding neighborhood.
- c. The PUD will establish effective connections within the PUD and to the surrounding transportation network.
- d. The size and type of parkland and open space and demonstration of its adequacy for the land use, densities and dwelling types proposed in the PUD, as well as the proposal for maintenance and conservation of these areas.
- e. The PUD will not adversely impact the natural environment, critical wildlife and habitat, agriculture, public health and safety, and local services.
- f. Action by the Planning Board
 - i. The Planning Board shall hold a public hearing on the application and submit its recommendations to the City Commission regarding the PUD based on the review criteria under 3.a-e in this section.
 - ii. The Planning Board will review the PUD Plan and, after holding a public hearing, make a recommendation to the City Commission to approve, conditionally approve or deny the PUD.
 - iii. Where a PUD involves a subdivision of land, Subdivision review will be as directed by Chapter 28 of Livingston Municipal Code. Any deviations from the Subdivision Regulations or the City of Livingston Public Works Design Standards and Specifications will only be allowed through the variance process contained in Chapter 28 of the Livingston Municipal Code.
- 4. **Action by the City Commission.** Upon receiving recommendations from the Zoning Commission and Planning Board, the City Commission will review and approve, approve with conditions, or deny the PUD application and any applicable Preliminary Plat. The City Commission may conduct the first reading of the zoning ordinance amendment required for a PUD at the same meeting during which the preliminary PUD plan is approved.

G. Preparation and Filing of Final PUD.

- 1. Upon approval of the PUD by the City Commission, the property owner(s) shall proceed with the preparation of the Final PUD plan.
- 2. The owner shall prepare a Statement of Standards for review and approval by the Zoning Administrator that describes the specific uses, development standards, deviations from the underlying zoning standards and conditions of approval. This Statement of Standards shall be approved as to form by the City Attorney, and upon approval by the Zoning Administrator recorded in the land records of Park County.

- a. The Final PUD plan shall incorporate all the conditions imposed by the City Commission at the time of approval of the preliminary plan.
- b. The applicant shall submit three signed copies of a Final PUD Plan and other documents as required by the conditions of approval to the Planning Department. The applicant must also submit a draft PUD agreement between the City and the developer(s) for review by the City Attorney. The agreement must bind the developer, his or her successors, heirs and assigns to the terms and conditions of the PUD. Upon approval by the Zoning Administrator, a signed copy of the plan shall be returned to the applicant, a signed copy shall be retained on file in the County Clerk and Recorder's office and a signed copy shall be kept on file with the Planning Department.
- c. All PUD documents required under the conditions of approval shall be submitted to the Planning Department in a timely fashion following approval by the Commission but in no case shall a building permit be issued until the final PUD plan has been submitted and approved and the PUD agreement has been executed. For PUDs where a subdivision is required, the final plat shall be filed once construction is completed in accordance with LMC Chapter 28 Subdivision Regulations.

H. Amending an Approved PUD.

- 1. Once approved, a PUD may be amended by the developer(s). Proposed amendments shall be submitted to the Zoning Administrator to make one of the following findings:
 - a. The change(s) is deemed minor in scope and may be granted or denied administratively by staff with or without conditions; or
 - b. The change(s) is deemed substantial, in which case the amendment(s) is forwarded to the City Commission for consideration and final action.
- 2. Any determination made administratively by the Zoning Administrator is appealable to the City Commission.
- 3. The City shall not initiate any amendment to the PUD before the completion of the approved PUD as long as development is in substantial conformity with the approved PUD and proceeding in accordance with the time requirements imposed therein by the completion schedule.

I. Abandonment or Expiration of PUD.

- 1. The Zoning Administrator shall monitor the PUD for compliance with the completion schedule set forth in the approved development plan and to assure that all improvements have been made in accordance with the approved development plan.
- 2. The following procedures are to be following when the PUD fails to comply with the completion schedule:
 - a. PUDs which do not involve or require a subdivision:
 - i. If a PUD project falls out of compliance with its approved completion schedule, or the landowner and/or developer does not submit annual progress updates to the Zoning Administrator, a notice of noncompliance with the completion schedule shall be delivered in writing by certified mail to the landowner and/or developer.

- ii. No later than 30 days after the notice of noncompliance is delivered, the landowner and/or developer may submit a written request for time extension from the City Commission. Said request shall set forth a proposed completion schedule and/or new timetable for installation of the improvements. The Commission may grant one or more extension(s) but each extension is a matter of grace which, if approved, may be subject to additional conditions imposed by the Commission which may be deemed necessary to address issues that have arisen due to the lapse in time.
 - iii. Abandonment shall be deemed by the City Commission to have occurred when the landowner/developer is deemed to be out of compliance with the approved completion schedule and has failed to secure an extension as provided for in 2.a.ii in this section.
 - iv. Upon the abandonment of a development authorized under this section, the City Commission shall direct the Zoning Administrator to do the following:
 - (a) If a portion of the PUD site was developed in accordance with the PUD, the PUD approval conditions and any associated PUD Plan shall stay in force for that portion already developed; and
 - (b) For that portion of the PUD which was not developed under the approved terms, the provisions of the PUD shall lapse and the site shall revert back to the base zoning district in place prior to approval of the PUD District.
- b. PUDs which include a subdivision of land:
- i. The process for abandonment or expiration cited in LMC Chapter 28 for Subdivision Regulations shall be followed.

SECTION 2

Statutory Interpretation and Repealer:

Any and all resolutions, ordinances and sections of the Livingston Municipal Code and parts thereof in conflict herewith are hereby repealed.

SECTION 3

Severability:

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid by a court having competent jurisdiction, such invalidity shall not affect the other

provisions of this ordinance which may be given effect without the invalid provisions or application, and to this end, the provisions of this ordinance are declared to be severable.

SECTION 4

Savings provision:

This ordinance does not affect the rights or duties that mature, penalties and assessments that were incurred or proceedings that begun before the effective date of this ordinance.

SECTION 5

Effective date:

This ordinance will become effective 30 days after the second reading and final adoption.

PASSED by the City Commission of the City of Livingston, Montana, on first reading at a regular session thereof held on the _____ day of August, 2023.

MELISSA NOOTZ – Chair

ATTEST:

EMILY HUTCHINSON
City Clerk

PASSED ADOPTED, AND APPROVED by the City Commission of the City of Livingston, Montana, on second reading at a regular session thereof held on the _____ day of September, 2023.

MELISSA NOOTZ – Chair

ATTEST:

APPROVED AS TO FORM:

EMILY HUTCHINSON
City Clerk

JON HESSE
City Attorney

**Ordinance 3043 approved by City Commission
October 3, 2023**

**Revisions made by Commission during meeting
highlighted in yellow**

ORDINANCE NO. 3043

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 30, OF THE LIVINGSTON MUNICIPAL CODE ENTITLED ZONING BY ADDING NEW SECTION 30.47 ENTITLED PLANNED UNIT DEVELOPMENT AND PROVIDING A REPEALER, SAVINGS, SEVERABILITY AND EFFECTIVE DATE.

Purpose

The purpose of this Ordinance is to promote public health, safety and general welfare of the City by regulating the subdivision of land and specifically allowing for the creation of planned unit developments.

WHEREAS, the City Commission of the City of Livingston, Montana seeks to allow planned unit developments as an alternate form of large lot subdivisions; and,

WHEREAS, the City Commission has adopted the A Growth Policy that recommends the adoption of such a policy; and,

WHEREAS, The City’s Planning Board and Zoning Commission have previously held public hearings on the draft ordinance.

NOW THEREFORE, BE IT ORDAINED by the Livingston City Commission that Chapter 30, of the Livingston Municipal Code entitled Zoning is hereby amended as follows:

SECTION 1

(NEW) Sec. 30.47. Planned Unit Development.

- A. **Intent.** The Planned Unit Development is a zoning district intended to encourage more efficient use of land and public services than is generally attainable under standard zoning application. Conventional area and density requirements are replaced by application of the PUD district to lands upon which an approved plan becomes the basis for control of land development. By allowing for context sensitive design that conforms to topography and minimizes site impacts, PUD zoning encourages clustered development, diverse housing types, mixed land uses, and natural resource preservation.

- B. **To achieve the stated intent, a PUD shall further a majority of the following objectives:**
 - 1. Protect natural and cultural resources
 - 2. Encourage open space and recreational areas beyond the minimum subdivision requirements
 - 3. Promote a more effective use of land than the base zoning district would allow, resulting in clustered development and a more condensed network of utilities and streets
 - 4. Encourage mixed uses in new developments as a means to improve convenience and access to daily necessities by area residents
 - 5. Reduce vehicular trip generation through mixed use development and enhanced multi-modal connectivity
 - 6. Encourage affordable/ workforce housing development
 - 7. Support the adopted City of Livingston Growth Policy

- C. **PUD Minimum Size and Allowed Uses**
 - 1. The proposed PUD must be a minimum of 0.5 acres in size and all land must be under a single ownership/ entity at time of application submittal.
 - 2. PUDs are only allowed in the following zoning districts: , R-II, RII-MH, R-III, RMO, MU, CBD and HC. **PUDs shall include residential uses.**
 - 3. Commercial Uses: Commercial uses in PUDs that are not allowed by-right in the base zoning district must be appropriately scaled and compatible with other uses in proposed development and with respect to the existing surrounding neighborhood. Commercial uses should be located, designed and operated to serve primarily the needs of residents within the PUD and secondarily persons residing outside the PUD. Commercial development within the PUD may require Site Plan Review prior to issuance of a building permit for commercial use structures.
 - 4. Industrial Uses: Light Industrial uses may be allowed in the PUD district, provided they are appropriately scaled and compatible with the proposed development and with respect to the surrounding neighborhood. Light Industrial development within the PUD may require Site Plan Review prior to issuance of a building permit for structures related to the Light Industrial Use. Heavy Industrial uses are not allowed in a PUD.

- D. **Developer Incentives and Public Benefits**
 - 1. **Guidelines.** The table below outlines desirable Public Benefits the City wishes to encourage for inclusion in PUDs, and Bonuses that may be obtained by Developers for providing one or more of the listed Public Benefits.

DEVELOPER INCENTIVES	PUBLIC BENEFITS
1. Residential Density Bonus	A. 10% deed restricted Affordable Housing units (min. 2 units)
2. Height Increase	B. Deed restricted Affordable Housing units at or below 60% AMI
3. Waived Impact Fees	C. 10% reduction in vehicular trips to be generated by the PUD
	D. Open Space area is at least 20% of PUD
	E. Commercial Uses in at least 5% of total building floor area

a. Developer Incentives

- i. Increased Residential Density- 10% increased density over base zoning district for each public benefit provided by developer; maximum 25% overall density increase allowed
- ii. Increased Height- only allowed in R-II or R-II:MH zoning districts; maximum height allowed is 40 feet
- iii. Waived Impact Fees- fees will be waived on 1:1 basis for each deed-restricted Affordable Housing unit at or below 60% AMI. Waived Impact Fees will only be awarded for Affordable Housing at or below 60% AMI; this incentive does not apply to other public benefits.

b. Public Benefits- each of the below benefits counts as a single benefit

- i. Affordable Housing- must be deed restricted to qualify for developer incentives (minimum 2 affordable units per project)
 - 1. Affordable Housing is based on the Area Median Income (AMI) for Park County.
 - 2. The AMI is set annually for Park County by the U.S. Department of Housing and Urban Development.
 - 3. Affordability for Renter-Occupied vs. Owner-Occupied housing units will be determined based on the AMI in place at the time the PUD is approved at a public hearing. Affordability thresholds will be listed on the PUD application form.
 - 4. All Affordable housing units must be substantially similar in design, location and amenities as market rate units
- ii. Reduced vehicular trips- 10% reduction of vehicular trips generated by the PUD resulting from design, uses, multi-modal transportation facilities, etc.

iii. Increased Open Space - 20% or more of PUD area must be dedicated public open space- ~~no more than half of dedicated open space may for passive use as defined in LMC Sec 28 VI A 16.b.1.a~~

iv. Commercial Uses- A minimum of 5% of total building floor area in the PUD must be dedicated to commercial uses.

c. Formula for Incentives and Public Benefit Allocation:

i. Residential Density Bonus – a Developer may provide one of the below public benefits to obtain a 10% residential density increase over what the base zoning district allows; maximum total density increase allowed is 25% above the base zoning district

- 1. Affordable Housing
- 2. Reduced Vehicular Trips
- 3. Increased Open Space
- 4. Commercial Uses

ii. Height Increase- one-time only bonus; may be obtained by providing any of the below benefits

- 1. Affordable Housing
- 2. Reduced Vehicular Trips
- 3. Increased Open Space
- 4. Commercial Uses

iii. Waived Impact Fees- Awarded on a 1:1 basis

- 1. Affordable Housing unit at or below 60% AMI

NOTE: Affordable Housing units at or below 60% AMI will qualify for the Waived Impact Fees as well as count toward the total number of Affordable Housing Units needed to obtain Residential Density Bonus

2. Limitations on Developer Incentives.

- a. A height bonus is only allowed in RII or RII:MH zoning districts. A height bonus may only be awarded once for a maximum height of 40 feet in the PUD.
- b. The increased residential density bonus may be awarded more than one time; however, the total increased residential density bonus shall not exceed 25% above the residential density allowed in the base zoning district.
- c. The incentive received for Commercial Use Floor Area public benefit is limited to a one-time award. Live/ Work units shall not comprise more than half of total commercial floor area.

3. Multi-Phased Development.

- a. For affordable/ workforce housing:

The maximum allowed price of a dwelling unit will be determined by the AMI levels at the time of phase commencement.

- b. Developer bonus(es) must be implemented concurrently with the corresponding public benefit (i.e. the public benefit provided to achieve the bonus).

4. Cash-in-Lieu and Financial Guarantees of Public Benefits

- a. For Phased PUDs: At the City’s discretion, a financial guarantee may be accepted for provision of a public benefit in a future phase in lieu of concurrent implementation of the benefit with the corresponding developer bonus.
- b. For the Increased Open Space public benefit: At the City’s discretion, cash-in-lieu may be accepted for the fair market value of some or all of the required open space to allow the City to fund open space or recreational amenities in an alternate location. If the open space includes multi-modal transportation infrastructure that is being used to demonstrate a Trip Reduction public benefit, cash-in-lieu is not allowed.

E. Application Procedures

- 1. A Pre-Application meeting is required with city staff at least 30 days prior to submittal of the PUD application.
- 2. Prior to submittal of the application, the applicant must notify landowners of the proposed PUD zoning within 300 feet of the PUD external boundary and provide a method by which surrounding landowners may offer comments on the proposal. All comments received must be included in the PUD application.
- 3. Application Submittal requirements- each application for PUD zoning shall contain the following material:
 - a. Completed City of Livingston PUD Application form; see application form for detailed submittal requirements. Where a PUD also involves a subdivision of land, it shall also meet the application requirements of the Livingston Subdivision Regulations.
 - b. All applicable fees.
 - c. A listing of each deviation or class of deviation from the base zoning district and a justification for the deviation.
 - d. A listing of each deviation or class of deviation from the City’s Subdivision Regulations (if a subdivision is proposed), the City’s Public Works Design Standards and Specifications, and a justification for the deviation.
 - e. Project Narrative or other convincing and persuasive demonstration that the proposed PUD will implement goals and strategies of the adopted Livingston Growth Policy.
 - f. The PUD plan shall identify the existing zoning of the area within the proposed PUD district and the zoning of all parcels surrounding or immediately adjacent to the proposed PUD.
 - g. Operation and Maintenance for private facilities for common use of PUD residents as well as for facilities that will be available for use by the general public (if applicable).
 - h. For multi-phase projects where components are proposed which may not be built for many years, future phases may show conceptual street designs, proposed park and open space areas, trail concepts, proposed residential density, housing types and commercial areas. Where a multi-phased PUD involves a subdivision of land, the applicant shall submit an overall phased development preliminary plat per MCA 76-3-617.

- i. Other information, plans and details that the city staff, Zoning Commission, Planning Board and/or City Commission may request to fully evaluate the development proposal and its impacts and conclusively demonstrate how the review criteria listed below will be met.

F. Public Review Process

- 1. **Work Session.** A public work session is required to be held on a proposed PUD plan prior to any public hearing. The work session is intended for informational purposes only to inform both the public, the Zoning Commission, the Planning Board, and the City Commission about the various aspects of the project. It is not intended to be a public hearing and the Zoning Commission, Planning Board and City Commissioners shall not ask questions, provide comments or take formal action on the PUD application. All owners of property within 300 feet of the proposed PUD shall be invited to this work session. An invitation to the work session may be included within the formal public hearing notice or it may be sent separately.
- 2. **Zoning Commission.** The Zoning Commission will review the application, hold a public hearing and make a recommendation to the City Commission to approve, approve with conditions, or deny the application. The review procedure for PUD zoning will follow LMC Sec 30.71 for amendments to city zoning ordinance and zone change. Review of the proposed PUD will be based on the statutory provisions of MCA 76-2-304 and the following evaluation criteria:
 - a. The proposed PUD supports the adopted Growth Policy with respect to applicable density and use goals, objectives and/or strategies identified in the Growth Policy.
 - b. The proposed deviations from the underlying zoning requirements will not adversely affect the public and/ or the surrounding neighborhood.
 - c. Uses with varying intensities are effectively buffered, both within the PUD and between the PUD and the surrounds.
 - d. Action by the Zoning Commission.
 - i. The Zoning Commission shall hold a public hearing on the application pursuant to LMC Section 30.71.
 - ii. The Commission shall submit its recommendations to the City Commission regarding the PUD rezoning request based on the review criteria under 2.a-c in this section.
 - iii. The Zoning Commission may recommend the City Commission approve, approve with conditions, or deny the application.
- 3. **Planning Board.** The Planning Board will review the application, hold a public hearing and make a recommendation to the City Commission to approve, approve with conditions, or deny the application. Where a PUD also involves a subdivision of land, it shall follow the process called out in the Livingston Subdivision regulations (Chapter 28). Review of the proposed PUD will be based on the following evaluation criteria:
 - a. The proposed PUD supports the adopted Growth Policy with respect to applicable density and use goals, objectives and/or strategies identified in the Growth Policy.
 - b. The proposed departures from the adopted the City of Livingston Public Works Design Standards and Specifications and/ or subdivision regulations (if applicable) will not adversely affect the public and/or surrounding neighborhood.
 - c. The PUD will establish effective connections within the PUD and to the surrounding transportation network.

- d. The size and type of parkland and open space and demonstration of its adequacy for the land use, densities and dwelling types proposed in the PUD, as well as the proposal for maintenance and conservation of these areas.
- e. The PUD will not adversely impact the natural environment, critical wildlife and habitat, agriculture, public health and safety, and local services.
- f. Action by the Planning Board
 - i. The Planning Board shall hold a public hearing on the application and submit its recommendations to the City Commission regarding the PUD based on the review criteria under 3.a-e in this section.
 - ii. The Planning Board will review the PUD Plan and, after holding a public hearing, make a recommendation to the City Commission to approve, conditionally approve or deny the PUD.
 - iii. Where a PUD involves a subdivision of land, Subdivision review will be as directed by Chapter 28 of Livingston Municipal Code. Any deviations from the Subdivision Regulations or the City of Livingston Public Works Design Standards and Specifications will only be allowed through the variance process contained in Chapter 28 of the Livingston Municipal Code.
- 4. **Action by the City Commission.** Upon receiving recommendations from the Zoning Commission and Planning Board, the City Commission will review and approve, approve with conditions, or deny the PUD application and any applicable Preliminary Plat. The City Commission may conduct the first reading of the zoning ordinance amendment required for a PUD at the same meeting during which the preliminary PUD plan is approved.

G. Preparation and Filing of Final PUD.

- 1. Upon approval of the PUD by the City Commission, the property owner(s) shall proceed with the preparation of the Final PUD plan.
- 2. The owner shall prepare a Statement of Standards for review and approval by the Zoning Administrator that describes the specific uses, development standards, deviations from the underlying zoning standards and conditions of approval. This Statement of Standards shall be approved as to form by the City Attorney, and upon approval by the Zoning Administrator recorded in the land records of Park County.
 - a. The Final PUD plan shall incorporate all the conditions imposed by the City Commission at the time of approval of the preliminary plan.
 - b. The applicant shall submit three signed copies of a Final PUD Plan and other documents as required by the conditions of approval to the Planning Department. The applicant must also submit a draft PUD agreement between the City and the developer(s) for review by the City Attorney. The agreement must bind the developer, his or her successors, heirs and assigns to the terms and conditions of the PUD. Upon approval by the Zoning Administrator, a signed copy of the plan shall be returned to the applicant, a signed copy shall be retained on file in the County Clerk and Recorder's office and a signed copy shall be kept on file with the Planning Department.
 - c. All PUD documents required under the conditions of approval shall be submitted to the Planning Department in a timely fashion following approval by the Commission but in no case shall a building permit be issued until the final PUD plan has been submitted and approved and the PUD agreement has been executed. For PUDs where a subdivision is required, the final plat shall be filed once construction is completed in accordance with LMC Chapter 28 Subdivision Regulations.

H. Amending an Approved PUD.

1. Once approved, a PUD may be amended by the developer(s). Proposed amendments shall be submitted to the Zoning Administrator to make one of the following findings:
 - a. The change(s) is deemed minor in scope and may be granted or denied administratively by staff with or without conditions; or
 - b. The change(s) is deemed substantial, in which case the amendment(s) is forwarded to the City Commission for consideration and final action.
2. Any determination made administratively by the Zoning Administrator is appealable to the City Commission.
3. The City shall not initiate any amendment to the PUD before the completion of the approved PUD as long as development is in substantial conformity with the approved PUD and proceeding in accordance with the time requirements imposed therein by the completion schedule.

I. Abandonment or Expiration of PUD.

1. The Zoning Administrator shall monitor the PUD for compliance with the completion schedule set forth in the approved development plan and to assure that all improvements have been made in accordance with the approved development plan.
2. The following procedures apply if the PUD fails to comply with the approved completion schedule:
 - a. For PUDs that do not include a subdivision of land:
 - i. If a PUD project falls out of compliance with its approved completion schedule, or the landowner and/or developer does not submit annual progress updates to the Zoning Administrator, a notice of noncompliance with the completion schedule shall be delivered in writing by certified mail to the landowner and/or developer.
 - ii. No later than 30 days after the notice of noncompliance is delivered, the landowner and/or developer may submit a written request for time extension from the City Commission. Said request shall set forth a proposed completion schedule and/or new timetable for installation of the improvements. The Commission may grant one or more extension(s) but each extension is a matter of grace which, if approved, may be subject to additional conditions imposed by the Commission which may be deemed necessary to address issues that have arisen due to the lapse in time.
 - iii. Abandonment shall be deemed by the City Commission to have occurred when the landowner/developer is deemed to be out of compliance with the approved completion schedule and has failed to secure an extension as provided for in 2.a.ii in this section.
 - iv. Upon the abandonment of a development authorized under this section, the City Commission shall direct the Zoning Administrator to do the following:
 - (a) If a portion of the PUD site was developed in accordance with the PUD, the PUD approval conditions and any associated PUD Plan shall stay in force for that portion already developed; and
 - (b) For that portion of the PUD which was not developed under the approved terms, the provisions of the PUD shall lapse and the site shall revert back to the base zoning district in place prior to approval of the PUD District.
 - b. PUDs which include a subdivision of land:
 - i. The process for abandonment or expiration cited in LMC Chapter 28 for Subdivision Regulations shall be followed.

SECTION 2

Statutory Interpretation and Repealer:

Any and all resolutions, ordinances and sections of the Livingston Municipal Code and parts thereof in conflict herewith are hereby repealed.

SECTION 3

Severability:

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid by a court having competent jurisdiction, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and to this end, the provisions of this ordinance are declared to be severable.

SECTION 4

Savings provision:

This ordinance does not affect the rights or duties that mature, penalties and assessments that were incurred or proceedings that begun before the effective date of this ordinance.

SECTION 5

Effective date:

This ordinance will become effective 30 days after the second reading and final adoption.

PASSED by the City Commission of the City of Livingston, Montana, on first reading at a regular session thereof held on the _____ day of October, 2023.

MELISSA NOOTZ – Chair

ATTEST:

EMILY HUTCHINSON
City Clerk

PASSED ADOPTED, AND APPROVED by the City Commission of the City of
Livingston, Montana, on second reading at a regular session thereof held on the _____ day of
October, 2023.

MELISSA NOOTZ – Chair

ATTEST:

APPROVED AS TO FORM:

EMILY HUTCHINSON
City Clerk

JON HESSE

GP that supports additional active recreation- not just passive open space

Objective 2.2.2: Establish Livingston as a community recognized for its diverse recreational opportunities, and parks and trails system.

Goal 9.2: Ensure adequate public parks, trails, and recreation system to support the community now and in the future.

Objective 9.2.1: Actively promote and develop, as well as maintain current, parks, trails, and outdoor recreational areas that promote Livingston’s historic, natural, and cultural attributes, as outlined in the City of Livingston’s Parks and Trails Master Plan.

Parks & Open Space

Natural Area/Open Space – Natural Area/Open Space land use designation includes undeveloped lands, trails, water areas and environmentally sensitive areas. Land designated as natural area/open space is intended to remain undeveloped in the future.

Parks and Recreation – Parks and Recreation land use designation includes active or passive parks such as playing fields, playgrounds, community centers, and other appropriate recreational uses.

Pastoral/Open Space – Pastoral/Open Space land use designation includes generally undeveloped agricultural lands used primarily for grazing, crop production, and the production of agricultural products. Land designated as Pastoral/Open Space is intended to remain agricultural in nature in the future.

File Attachments for Item:

B. Gateway Overlay Zones

GATEWAY OVERLAY ZONES

In Livingston’s Code and Growth Policy

Livingston’s Zoning Code currently regulates Building Design Standards in [Section 30.46](#) for the Design Review Overlay Zoning District.

Under Sec 30.46.J, the code states Design Standards Administration. *The building design standards and review procedures contained herein shall apply to all large-scale retail uses and all nonresidential property annexed into the City and falling within the Gateway Overlay Zoning District.*

Mentions of Gateway Overlay Zones in the [2021 Growth Policy](#) include:

Situated at the junction of the National Pacific Railroad’s main line and the Yellowstone Park Branch Line, Livingston in 1883 became the Gateway City to America’s First National Park. Livingston’s close proximity to world-class fly fishing, breathtaking scenic horseback rides, adventurous hiking trails, and spectacular wild game hunting bestowed another nuance to this postcard term as the town also became known as the Gateway City of Recreation (Source: Livingston COC, 2020). As part of its future land use planning efforts, the City has identified key gateway areas. The City created a Design Review Gateway Overlay Zone as part of the 2017 Growth Policy, but its implementation has been limited. This overlay zoning would provide for some additional regulation over nonresidential buildings in order to maintain aesthetically pleasing entrances into our community.

Objective 2.1.1: Establish community gateways to indicate entrances into Livingston and celebrate its character.

Strategy 2.1.1.1: Identify key roadway and non-motorized entry points – or Gateways – into Livingston.

Strategy 2.1.1.2: Review, update, and enforce the policies, procedures, and building design guidelines in Livingston’s gateways.

Strategy 2.1.1.3: Explore adopting design overlay zones in gateways.

Strategy 2.1.1.4: Develop effective wayfinding signage for locals and tourists to easily find destinations, trails and parks, and parking within and nearby gateways.

Strategy 4.3.5.3: Consider adding requirements for trees into Gateway overlay zoning.

Gateways: We recommend that developing a Gateway Overlay Ordinance become a priority of the Zoning Commission. The Gateway areas should be integrated with a Design Overlay for Park Street and Highway 10 West to develop a coherent, efficient and attractive experience driving through town.

Recommend that the Gateway Overlays have individual themes and associated uses to bring coherency to those areas. Gateways and Park Street need substantial landscaping improvements

1. East: Medical, retiree housing,
2. West: Hi tech and associated housing
3. 89 South: Gateway to YNP

Examples of Goals/ Vision/ Features in Gateways in other communities

<https://townofthompson.com/wp-content/uploads/2019/06/FINAL-GTG-Design-Guidelines.pdf>

Public Art. Public art should be encouraged in gateway areas to help create a sense of “arrival” into a unique place. Examples may include painted sidewalks or utility poles, sculptures, or other elements

Unique lighting. Gateway area lighting should feature high quality lamp postfixtures affixed with banners.

<https://2020.twincounties.org/wp-content/uploads/2020/10/Corridors-and-Gateways-Board.pdf>

Description: Community Gateways are key access and entry points into the city. These gateways create a sense of arrival to a distinct community entry point (i.e. not all gateways will look the same). Ideally, these areas create a sense of place and unique character as one enters Livingston from I-90, Paradise Valley, etc. As such, Community Gateways should be carefully designed to be welcoming, attractive, and inviting. This is achieved through careful site and building design which conveys quality along with careful sign control. These methods may be accompanied by public amenities such as landmark features or wayfinding systems.

- Parks, rest areas, historic markers, recreational trailheads, cultural points of interest, landscaping, bike/ ped amenities where appropriate

<https://globaldesigningcities.org/publication/global-street-design-guide/designing-streets-people/designing-for-motorists/traffic-calming-strategies/>

Treatments alert drivers that they are entering a slower area. This treatment may include signage, entry portals, speed tables, raised crossings, and curb extensions.

Raised center medians and pedestrian refuge islands can be used to reduce lane width for vehicles, even on relatively narrow streets. They can also be used to organize traffic at intersections or to block access at strategic points. See: *[Pedestrian Refuges](#)*.

Pavement appearance can be altered through unique treatments that add visual interest, such as colored or pattern-stamped asphalt, concrete, or concrete pavers, which can be used to make other traffic calming techniques more noticeable to drivers. Pedestrian crossings and intersections can be painted to highlight crossing areas.

Lane narrowing

https://www.oregon.gov/odot/Programs/ResearchDocuments/Rural_to_Urban.pdf

1.2.1.1.2 Gateway The traffic calming strategy referred to as a gateway is defined by Burden (2000) as “a physical or geometric landmark on an arterial street, which indicates a change in environment from a major road to a lower speed residential or commercial district.” Burden goes on to suggest that gateways can be a combination of narrowed streets, medians, signs, arches, roundabouts, or other unique features. The objective of a gateway treatment is to make it clear to a motorist that he or she is entering a different road environment that requires a reduction in speed

street trees • upgraded pavement treatments • median • lighting • signage and graphics • sculptures or public art

<http://www2.hamilton.ca/NR/rdonlyres/03E00007-6E2E-4669-A093-610D307F76DE/0/BinbrookVillageUrbanDesignGuidelines.pdf#page=71>

Gateway features to be constructed at the boundary of a City/Town in designated locations. The primary functions of these major gateway features are to:

- serve as landmarks highlighting the arrival into the city
- provide a transition from a rural setting into a City/Town or its downtown
- reflect the character of the City/Town

In addition to these aesthetic functions, gateway features may also serve as traffic calming features. As traffic calming features they perform two primary functions. The first is to slow traffic down to an acceptable speed within the city core and secondly increase the motorists level of awareness that they are entering an area with a greater level of pedestrian activity.

The design of a major gateway is subject to the function of the road and the width of the right-of-way.

Street trees, shrubs and groundcover plantings to create visual interest

Plants selected for a gateway feature must be hardy, salt tolerant and low maintenance. Irrigation and general maintenance must be considered when designing planting areas associated with gateways

Where plantings or architectural features are incorporated they should consider sightline requirements for vehicular and pedestrian traffic

Upgraded pavement treatments to provide a contrast in colour from the asphalt road surface. These pavement treatments may consist of precast concrete unit pavers, coloured concrete or a combination of either of these materials

Medians as part of gateways should be designed to be accessible as refuges for pedestrians crossing the roadway

Materials such as masonry, natural stone, or steel may be used to construct an architectural component of the gateway. These materials should be selected to emphasize the overall design of the gateway and reflect the distinctive character of the Community Core

Lighting may be used to create special effects and to accentuate the feature. Careful attention must be given to the selection and placement of the lights in order to prevent interference with motorists vision

Signage and graphics may be used to identify the name of the community or to incorporate a community logo. The materials and colours selected for any graphics must be compatible with the overall character of the gateway and in keeping with the character of the core area

Sculpture or public art may be used to display a theme or something of significant cultural importance.