



# Unified Development Code Affordable Housing Assessment

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CLARION





## Contents

<b>Executive Summary</b> .....	<b>1</b>
<b>Introduction</b> .....	<b>2</b>
Implementing the Bozeman Community Plan 2020.....	2
Scope of this Affordable Housing Assessment.....	3
Understanding Local Housing Demand.....	3
Equity and Community.....	4
Organization of this Code Assessment .....	4
Public Outreach.....	4
Bozeman’s Growth Policy and Planning Documents .....	5
Bozeman’s Current Zoning.....	10
Zoning District Distribution.....	12
<b>Outcome 1: Create More Housing</b> .....	<b>14</b>
Overview .....	14
Changes to Allow More Housing in Existing Districts .....	16
Changes to Form and Intensity Standards.....	23
Update Use-Specific Standards to Reduce Barriers to Innovative Housing.....	30
Revise Project Design Standards.....	36
Covenants and Homeowners Associations.....	42
<b>Outcome 2: Preserve Existing Affordable Housing</b> .....	<b>43</b>
Discourage Redevelopment of Naturally Occurring Affordable Housing .....	43
<b>Outcome 3: Make Development Standards More Predictable</b> .....	<b>46</b>
Provide More User-Friendly Explanations .....	46
General Provisions (Art. 1).....	47
Zoning Districts and Land Uses (Art. 3).....	47
Community Design (Art. 4).....	49
Project Design (Art. 5).....	51
Natural Resource Protection (Art. 6) .....	51
Definitions, Terms, and Measurements (Art. 7) .....	51
<b>Outcome 4: Rethink the Housing Review Process</b> .....	<b>53</b>
Reconsider Required Detail of Housing Application Requirements .....	53
Clarify Uncertainty in the Application of Subjective Standards.....	55
Creating an Expedited Zoning Review Process for Housing Projects.....	55

Managing What Is Measured ..... 56

**Outcome 5: Revise the Zoning Map ..... 58**

Overview ..... 58

Growth Policy and CHAP Guidance..... 58

Housing-Supportive Rezoning Locational Criteria ..... 59

Create New Zoning Districts to Reflect Range of Bozeman Neighborhoods ..... 60

**Next Steps ..... 61**



## EXECUTIVE SUMMARY

The purpose of this Bozeman Affordable Housing Assessment is to identify changes that the City could make to the Unified Development Code (UDC), zoning map, and development review processes to remove regulatory barriers to the creation of affordable housing.

The recommendations in this Assessment are intended to support the implementation of the Bozeman Community Plan 2020 and the Bozeman Community Housing Action Plan. Prior to creating an initial draft of this Assessment, Bozeman's Planning Department and the project consultant team participated in a series of public outreach events with City boards, the professional development community, and the general public. A second round of community-based outreach will be undertaken to gather more feedback about the specific recommendations provided in this Assessment.

The UDC Affordable Housing Assessment is focused around five sets of recommendations:

### **Create More Housing**

There are regulations included in the current use tables, form and intensity standards, and project design standards that create barriers to the creation of more housing. Adjustments to the types of housing permitted in zoning districts, combined with adjustments to required lot areas and maximum building heights, would open up opportunities for the creation of a moderate amount of increased housing in existing neighborhoods and allow the construction of more housing at different densities in new development areas.

### **Preserve Existing Affordable Housing**

It is not possible for Bozeman to try to "build" itself out of the current affordable housing problem through new construction alone. Instead, the City needs to also consider preserving its existing stock of affordable housing, much of which may continue to be available at lower sales prices and rents than the new "affordable" housing that might replace it.

### **Make Development Standards More Predictable**

The UDC is a complex legal document that includes numerous standards intended for application across various different project types. Some of these standards are subjective and repetitive, and can be revised and updated for clarity and predictability, particularly as they apply to new development, redevelopment, and infill housing projects.

### **Rethink the Housing Review Process**

Bozeman can also revise the UDC to reduce the time, expense, and unpredictability of the housing development application and review process by reducing the amount of detail required for initial or preliminary applications, expanding the use of administrative review, expediting of code interpretations, and using a "maximum extent practicable" standard for development approval.

### **Revise the Zoning Map**

Finally, there are rezoning actions the City can take that would implement the Community Plan and the Community Housing Action Plan and encourage the creation of more housing in Bozeman.

The dates and details about opportunities to participate in the next round of community outreach process to comment on this Affordable Housing Assessment are described at the end of this document.

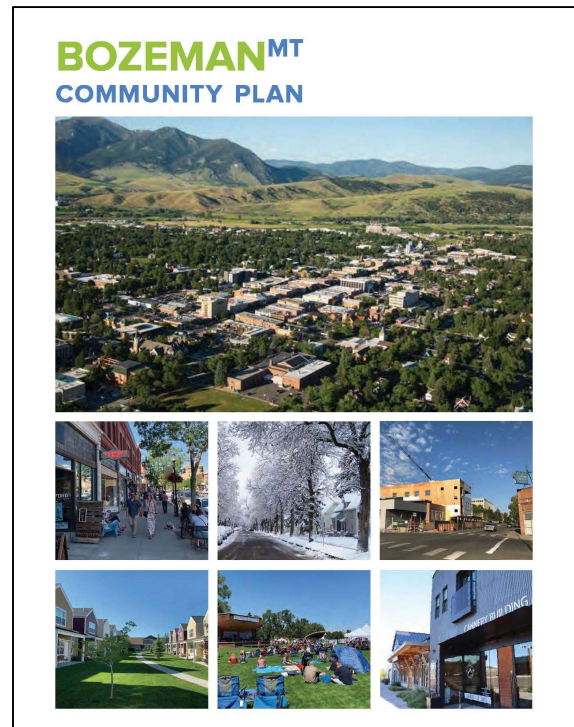
## INTRODUCTION

### Implementing the Bozeman Community Plan 2020

The purpose of this Bozeman Unified Development Code Affordable Housing Assessment is to identify potential changes that can be made in the City’s regulatory standards and processes to enhance opportunities to provide and protect affordable housing.

This report explores how policy is interpreted into standards and processes in the Unified Development Code (UDC). One of the roles of the UDC is to implement relevant plans with affordable housing objectives, including the Bozeman Community Plan 2020 (BCP2020) and the Bozeman Community Housing Action Plan (CHAP). This is done through: (1) the creation or amendment of development standards (e.g., lot dimensions, permitted uses, required design elements), and (2) the application of housing policies in the review of site and structure design during the application process. These two regulatory roles frequently work hand-in-hand, and this Assessment recommends changes to both. The UDC is also influenced by factors such as community preferences, existing neighborhood character, infrastructure design, applicable life safety code requirements in the building code and fire code, and climate (particularly the impact of Montana winters and summer drought and fires).

Bozeman has been focused on encouraging the creation of more housing for some years. Many code edits that would be considered preliminary changes in other communities have already been made in Bozeman. These revisions are reflected in the current UDC, specifically in Section 38.380, Affordable Housing, and, perhaps more importantly, across the body of the text. Those changes include past reductions in minimum lot sizes and setbacks, allowing Accessory Dwelling Units (ADUs) in all zoning districts, and making many types of development applications subject to administrative approval, rather than requiring a public hearing before an appointed or elected body. If basic zoning provisions are considered to be Version 1.0, Bozeman’s past efforts to promote affordable housing through code changes can be thought of as Version 2.0.



If basic zoning provisions are considered to be Version 1.0, Bozeman’s past efforts to promote affordable housing through code changes can be thought of as Version 2.0.

The intent of this Assessment is to help Bozeman identify the next set of updates -- Affordable Housing Amendments Version 3.0. The AH 3.0 edits will reflect an additional round of more nuanced changes that can further promote construction and preservation of affordable housing opportunities over time. Often, different aspects of these regulations and processes will need to be combined for specific projects, and applied with flexibility and creativity to accommodate the types of housing developments that the community is ready to see. This report focuses on the UDC as one of the multiple considerations that impact the overall affordability of housing. Removing regulatory barriers does not ensure that more affordable housing will be created, or that more permanently affordable housing will be created, but can represent a set of incremental changes that, cumulatively, can improve both housing availability and affordability.

## Scope of this Affordable Housing Assessment

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It is important to acknowledge that there are myriad issues outside of the UDC that have both direct and indirect impacts on cost of housing, including conditions or requirements attached to development approvals, fees, cost of land, cost of materials, COVID-impacted supply chains, and the current labor market. These challenges and impediments, along with the City’s strategies to address them, are discussed in greater detail in the Bozeman Community Housing Action Plan (CHAP, available on the City’s website).

The full Affordable Housing Code Audit project has been divided into four parts, each of which takes a different look at how Bozeman regulates for housing. It is intended to work in conjunction with: (1) suggested edits to the current Planned Unit Development regulations, (2) proposed revisions to the Affordable Housing Ordinance (AHO) in light of recent statutory changes approved by the Montana State Legislature, and (3) a proposed list of new Departures for Affordability to be added to Title 38. Those three sets of recommendations for changes to the Unified Development Code will be made available on the [Bozeman City website](#) and are not repeated in this Assessment.

This document focuses specifically on UDC changes that would promote housing affordability. There are many other improvements that could be made to the UDC that would improve user-friendliness, predictability, efficiency, and implementation of Community Plan goals. Unless those changes would impact housing affordability, they have not been mentioned in this Assessment.

## Understanding Local Housing Demand

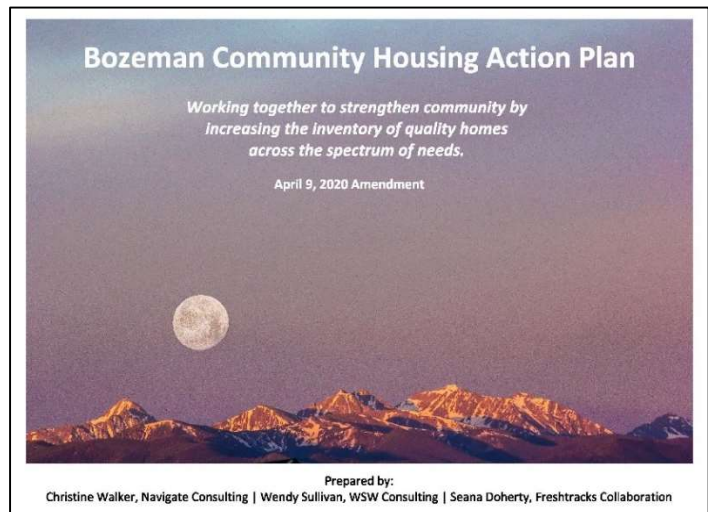
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The Bozeman Community Housing Action Plan (CHAP) was approved by the City Commission in 2019 and updated in early 2020. The CHAP includes this definition of community housing:

*Homes that those who live and/or work in Bozeman can afford to purchase or rent. This includes apartments, townhomes, condominiums, emergency shelters, accessory dwelling units, mobile homes and single-family homes – all dwelling types – serving the entire spectrum of housing needs*

The 2019 City of Bozeman Community Housing Needs Assessment, referenced in the CHAP, identified a need for between 5,400 and 6,340 housing units over the next five years to address the City’s current housing shortfall. Within this shortfall, there is significant demand for units priced below market rate. While increasing the supply of housing will not, by itself, guarantee that housing becomes more affordable, it is very unlikely affordability can be improved without an increase in housing supply. Increased supply allows Bozeman residents more opportunities to move to different units that better suit their needs in both existing neighborhoods and new development.

This Assessment makes use of Bozeman’s distinction between **small “a” affordable housing**, generally defined as housing at price points that are within range to many in the community but are not restricted for sale or rental by households below a defined income level, and **capital “A”**



**Affordable housing**, defined as housing that is restricted for sale or rental by households below defined income levels.

## Equity and Community

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The Bozeman Community Plan 2020 makes clear that although Bozeman is very focused on improving the affordability of housing, it remains thoroughly committed to the quality of buildings, neighborhoods, and life for all of its residents. Additionally, in the Bozeman Strategic Plan (2018), Section 4.2, “High Quality Urban Approach,” for example, clarifies that the City will “[c]ontinue to support high-quality planning, ranging from building to neighborhood layouts, while pursuing urban approaches to issues such as multimodal transportation, infill, density, connected parks and trails, and walkable neighborhoods.” These plans reflect Bozeman’s desire that all citizens be able to experience the benefits of these good planning practices. There should be no visible distinction between the quality of planning, connectivity, open space, or building design between the approved development plans for more and less affordable parts of the city.

This commitment to equity is both laudable and important. Across the U.S., households with fewer choices are often denied full integration into a community’s quality of life, and that denial often has disproportionate impacts on households that are lower income and/or headed by persons of color, women, and those experiencing disability. As a practical matter, one of the most effective ways to ensure equitable access to the City’s enviable quality of life is to ensure that new opportunities for more affordable housing are not geographically isolated or focused in a particular area, but are instead spread throughout Bozeman and served by the same types of public spaces and services provided to other Bozeman residents. In the pages that follow, we have focused our recommendations on those changes that could promote the production and preservation of both capital “A” and small “a” affordable housing in ways that do not result in lower levels of design, open space, livability, or neighborhood quality for those many Bozeman residents who will be occupying that additional affordable housing.

## Organization of this Code Assessment

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Land development codes cover myriad topics, and there are many possible ways to organize recommendations for change. Because the structure of the current Bozeman Unified Development Code reflects the many layers of land development regulation in the City, and because many scattered regulations may contribute to a single housing barrier, we have not organized these recommendations to correspond to individual sections of the UDC. Instead, we have organized them into the following five “outcomes” reflecting major strategies to promote housing affordability:

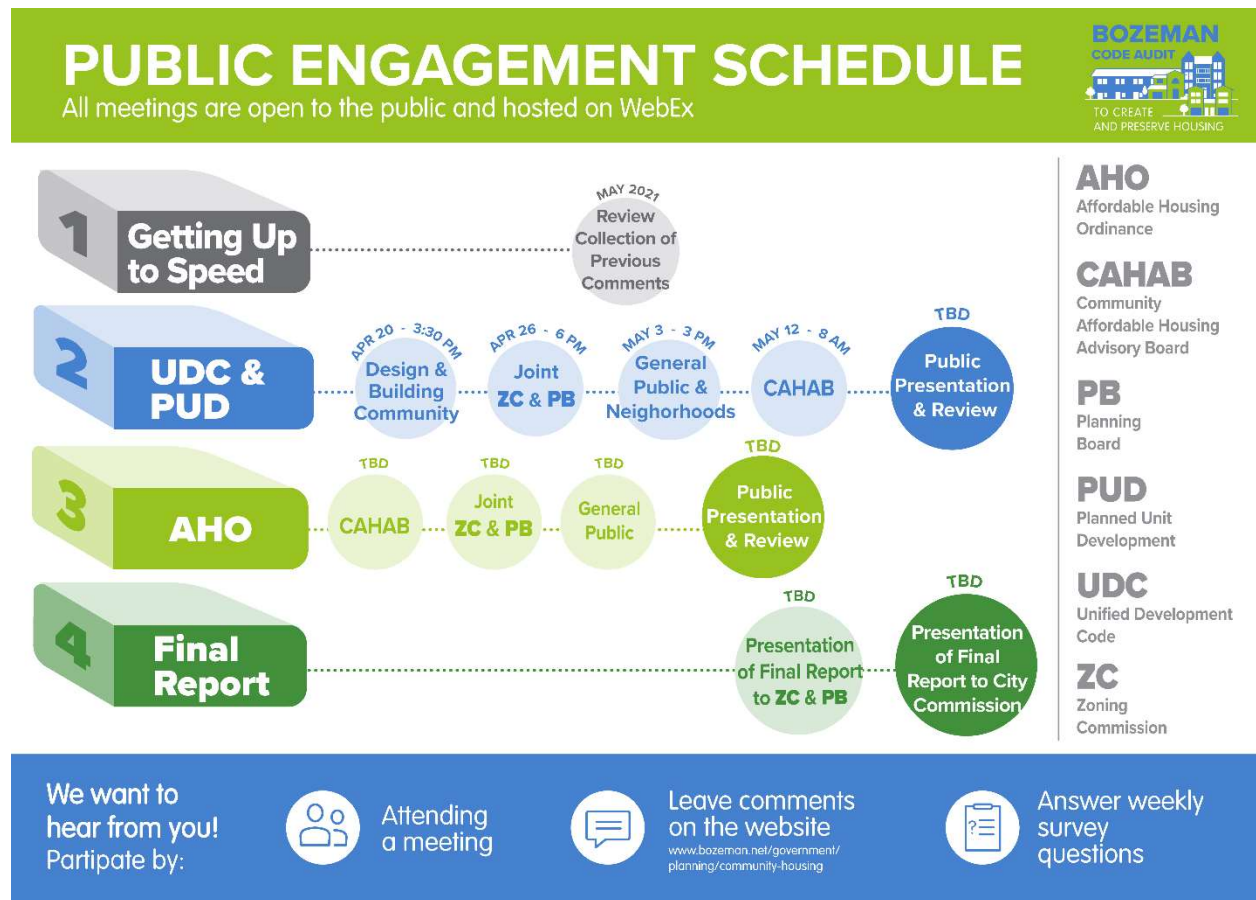
- Create More Housing
- Preserve Existing Affordable Housing
- Make Development Standards More Predictable
- Rethink the Housing Review Process
- Revise the Zoning Map

## Public Outreach

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This project started with an initial round of public and stakeholder engagement, conducted between April 28 and May 12, 2021. City staff and the consultant team held a series of virtual (due to the COVID-19 pandemic) meetings with representatives of the Bozeman Community Affordable Housing Advisory Board (CAHAB), the building and design community, the Zoning Commission, and the Planning Board. On May 3,

2021, the City staff and consultant team also held a virtual meeting to introduce the project and solicit questions and opinions from the general public and neighborhoods. Two of those four meetings involved online survey questions that were designed to help understand the participants' priorities and preferences among the difficult choices involved in promoting affordable housing. Not surprisingly, this initial round of meetings resulted in a very wide variety of opinions about what types of housing should be prioritized, where they should be encouraged, and what potential impacts of affordable housing might need to be mitigated. Before and during these outreach efforts, the consultant team also referenced a detailed survey of public opinion on housing concerns and preferences that was conducted as part of the Community Plan drafting and review process.



There will be additional outreach and engagement to review draft recommendations in Tasks 2 and 3, and the final Code Audit report recommendations in Task 4.

## Bozeman's Growth Policy and Planning Documents

### Community Plan Housing Goals

The Bozeman Community Plan 2020 identifies the City's preferred land use and community-building themes, goals, and objectives that will be applicable to public and private development decisions over the next 20 years. The BCP2020 is relevant to this Affordable Housing Assessment because: (1) zoning and subdivision regulations must be consistent with the Plan, and (2) the Plan's Themes, Goals, and Objectives provide policy guidance leading to the development of the future vision of Bozeman identified by the

community during that recent planning effort. In a regulatory assessment, the policy information in the Community Plan is used three ways:

- a. To guide recommendations for specific edits and updates to the Unified Development Code and Zoning Map,
- b. To fill in regulatory gaps and omissions where the current regulations do not adequately address a topic, and
- c. As part of the review of the permits and procedures section, by checking to ensure that the application review processes implement key City development priorities.

The Community Plan is organized around five topics: 1. Basics, 2. Themes, 3. Future Land Use, 4. Implementation, and 5. Amendments + Review. Housing affordability is addressed across all aspects of the Plan, starting in Section 1. Basics, where housing affordability is identified as a basic planning precept:

**HOUSING AFFORDABILITY (Bozeman Community Plan 2020 pg. 21)**

Housing affordability is a critical issue for the community and has been an ongoing concern since it was identified as an issue in the 1972 community master plan. Housing instability and homelessness are public health issues and are exacerbated by the rapid rise in housing prices. The positive attributes that make Bozeman a desirable place to live contributed to ever-increasing housing demand. Comparatively low wages have not increased at the same rate as housing costs. Home price increase exceeding wage increase is a national trend. The sale price of homes has more than fully recovered from the 2008 recession for all housing types. The median sale price of homes, including single-households, townhomes, and condominiums, has increased 90% since 2012. This is an average increase of almost 12% per year.

According to the most recent Bozeman Housing Needs Assessment, an estimated 5,405 to 6,340 housing units for residents and employees are needed by 2025, or an average of about 770 to 905 units per year. This figure includes housing for employees, units needed to open up the current tight rental and ownership markets, provides choice to households, housing for employees filling jobs vacated by retirees, workers filling new jobs, plus related non-employee citizen housing needs.

Bozeman has taken the issue of housing seriously. It developed a housing needs assessment in 2019, hired a Community Housing Program Manager, and released the Community Housing Action Plan (CHAP) in October 2019. The CHAP was updated in April 2020.

The availability of affordable housing, whether for rent or for purchase, is one of Bozeman’s most serious problems, as demonstrated by both the 2018 EPS Study and the CHAP. Mitigating this shortage is a top priority of the Bozeman City Commission, the Planning Board, and the Community Development Department, in conjunction with local and regional authorities. The three top action items in the Community Affordable Housing Action Plan are:



- Ensuring community housing serves the full range of incomes without losing sight of safety net programs for extremely low income and homeless families. This includes safety net rentals below 30% AMI (about \$20,000 per year), additional resident and employee rentals up to 80% AMI (about \$55,000 per year), and ownership housing up to 150% AMI (about \$104,000 per year).
- Producing community housing at a rate that exceeds, or at least matches, job growth so that new employees can find homes.
- Striving to produce community housing at a rate that matches the spectrum of community housing needs, while also preserving what we have through a target of no net loss of existing community housing stock below 80% AMI.

Together, these three priorities reinforce that Bozeman is focused on both production and preservation of affordable housing, and on both capital “A” (income restricted) and small “a” forms of affordable housing. To address these goals, the CHAP identifies 19 priority action strategies to be evaluated implemented over the next five years.

Zoning and land use regulations are among those local regulations that directly influence the cost of housing and the achievement of the CHAP goals. This Plan supports housing regulations that allow for a range of housing types intermixed with one another, denser development, and efficiencies of various types that can help reduce housing costs while not jeopardizing public safety and other community priorities. More housing, in a variety of type, size, and cost, is needed at prices that residents can afford. This will provide choices, the ability to move as life circumstances change, allows employers to fill jobs, recruit, and retain employees, supports businesses, and supports citizen and student growth.

Bozeman Community Plan 2020 **Section 2, Themes** identifies the City’s desired outcomes, organized by Theme, Goal, and Objectives. The provision of affordable housing is woven into four of the Community Plan’s seven Themes as specific objectives and actions, including the following:

## **THEME 2 | A CITY OF UNIQUE NEIGHBORHOODS**

### **Goal N-1: Support well-planned, walkable neighborhoods.**

- N-1.1 Promote housing diversity, including missing-middle housing.
- N-1.2 Increase required minimum densities in residential neighborhoods.
- N-1.3 Revise the zoning map to lessen areas exclusively zoned for a single-housing type.
- N-1.4 Promote development of accessory dwelling units (ADUs).
- N-1.11 Enable a gradual and predictable increase in density in developed areas over time.

### **Goal N-2: Pursue simultaneous emergence of commercial nodes and residential development through diverse mechanisms in appropriate locations.**

- N-2.2 Revise the zoning map to support higher intensity residential districts near schools, services, and transportation.

### **Goal N-3: Promote a diverse supply of quality housing units.**

- N-3.1 Establish standards for provisions of diversity of housing types in a given area.
- N-3.2 Review zoning districts to assess the range of housing types in each district.
- N-3.3 Encourage distribution of affordable housing units throughout the City with priority given to locations near commercial, recreational, and transit assets.

N-3.4 Require development of affordable housing through coordination of funding for affordable housing and infrastructure.

N-3.5 Strongly discourage private covenants that restrict housing diversity or are contrary to City land development policies or climate action plan goals.

N-3.6 Include adequate residentially-designated areas for anticipated future housing in the future land use map.

N-3.7 Support compact neighborhoods, small lot sizes, and small floor plans, especially through mechanisms such as density bonuses.

N-3.8 Promote the development of "Missing Middle" housing (side by side or stacked duplex, triplex, live-work, cottage housing, group living, rowhouses/ townhouses, etc.) as one of the most critical components of affordable housing.

N-3.9 Ensure an adequate supply of appropriately designated land to accommodate Low Income Housing Tax Credit development in qualifying census tracts.

**Goal N-4: Continue to encourage Bozeman's sense of place.**

N-4.3 Revise Design Guidelines within the Conservation Overlay District to distinguish Downtown from the residential neighborhoods, to encourage neighborhoods and neighborhoods near transition areas, both north and south of Downtown.

**THEME 3 | A CITY BOLSTERED BY DOWNTOWN AND COMPLEMENTARY DISTRICTS**

**Goal DCD-1: Support urban development within the City.**

DCD-1.1 Evaluate alternatives for more intensive development in proximity to high visibility corners, services, and parks.

DCD-1.2 Remove regulatory barriers to infill.

DCD-1.4 Update the Unified Development Code (UDC) to reflect density increases or minimums within key districts.

**Goal DCD-2: Encourage growth throughout the City, while enhancing the pattern of community development oriented on centers of employment and activity. Support an increase in development intensity within developed areas.**

DCD-2.1 Coordinate infrastructure development, land use development, and other City actions and priorities through community planning.

DCD-2.2 Support higher density development along main corridors and at high visibility street corners to accommodate population growth and support businesses.

DCD-2.3 Review and update minimum development intensity requirements in residential and nonresidential zoning districts.

DCD-2.4 Evaluate revisions to maximum building height limits in all zoning districts to account for contemporary building methods and building code changes.

DCD-2.7 Encourage the location of higher density housing and public transit routes in proximity to one another.

DCD-2.8 Revise the zoning ordinance, reducing the number of zoning districts to be more consistent with the designated land use classifications, to simplify the development process, and support affordability objectives of the plan.

DCD-2.9 Evaluate increasing the number of stories allowed in centers of employment and activity while also directing height transitions down to adjacent neighborhoods.

**Goal DCD-3: Ensure multimodal connectivity within the City.**

DCD-3.5 Encourage increased development intensity in commercial centers and near major employers.

DCD-3.6 Evaluate parking requirements and methods of providing parking as part of the overall transportation system for and between districts.

**Goal DCD-4: Implement a regulatory environment that supports the Community Plan goals.**

DCD-4.4 Differentiate between development and redevelopment. Allow relaxations of code provisions for developed parcels to allow redevelopment to the full potential of their zoning district.

**THEME 5 | A CITY THAT PRIORITIZES ACCESSIBILITY AND MOBILITY CHOICES**

**Goal M-1: Ensure multimodal accessibility.**

M-1.1 Prioritize mixed-use land use patterns. Encourage and enable the development of housing, jobs, and services in close proximity to one another.

M-1.12 Eliminate parking minimum requirements in commercial districts and affordable housing areas and reduce parking minimums elsewhere, acknowledging that demand for parking will still result in new supply being built.

**THEME 6 | A CITY POWERED BY ITS CREATIVE, INNOVATIVE, AND ENTREPRENEURIAL ECONOMY**

**Goal EE-1: Promote the continued development of Bozeman as an innovative and thriving economic center.**

EE-1.4 Support employee retention and attraction efforts by encouraging continued development of affordable housing in close proximity to large employers.

Additional plans, reports, and City website information relevant to this UDC Affordable Housing Assessment are available on the City of Bozeman website.

## Bozeman's Current Zoning

Bozeman currently has 19 zoning districts, grouped and distributed generally as follows:

Primary Use	Zoning Districts	Total Current Acreage	Percent of Zoned Property
Residential	R-S Residential Suburban	957.8	7.1
	R-1 Residential Low Density	1852.8	13.8
	R-2 Residential Moderate Density	816.2	6.1
	R-3 Residential Medium Density	2077.7	15.5
	R-4 Residential High Density	884.9	6.6
	RMH Residential Manufactured Home	123.1	0.0
Residential-Emphasis Mixed-Use	R-5 Residential Mixed-Use High Density	116.2	0.9
	R-O Residential Office	488.3	3.6
	REMU Residential Emphasis Mixed-Use	386.1	2.9
Commercial-Emphasis Mixed-Use	NEHMU Northeast Historic Mixed-Use	962.2	7.2
	B-1 Neighborhood Business	72.6	0.5
	B-2 Community Business	1345.8	10.0
	B-2M Community Business Mixed	185.9	1.4
	B-3 Downtown Business	151.2	1.1
	UMU Urban Mixed-Use	38.1	0.3
Industrial	M-1 Light Manufacturing	572.8	4.3
	M-2 Manufacturing and Industrial	39.9	0.3
	B-P Business Park	240.1	1.8
Public/Institutional (MSU)	Public Lands and Institutional	2090.1	15.6

These zoning districts have been created over time to reflect community needs and development preferences. However, they can be changed as needed through a public process established by Montana statute. State law grants local governments broad authority to create the number and type of zoning districts the community finds appropriate to achieve its planning goals. Montana statutes do not mandate the creation of specific types of districts, including districts restricted to single household detached dwellings.

### Residential Districts (Sec. 38.300.100)

This description of the current zoning districts is provided for general informational purposes only. More information about the purposes and standards for each zoning district is available in the UDC.

#### a. Residential Only

Bozeman's six residential districts allow the development of a range of housing types at densities based on the purpose of the district. Residential low density (R-1), for example is intended to provide single-household residential development and development is limited (generally) to single-household dwellings. The Residential High Density (R-4) district allows the most dense development, including three- and four-household dwellings, townhouses, and apartments (as well as some associated offices). These districts account for almost 50% of the City's current zoning.

## **b. Residential Mixed-Use**

Bozeman has three districts that are primarily residential but allow some mixed-use development, meaning some non-residential development is allowed to be included a neighborhood: Residential Mixed-Use High Density (R-5), Residential Office (R-O), and Residential Emphasis Mixed-Use (REMU). The development of higher density residential housing, such as townhouses and apartments, is permitted in all of these districts.

## **Commercial/Mixed-Use Districts (Sec. 38.300.110)**

Bozeman's role as the regional employment center for southwestern Montana is reflected in the current range of commercial and mixed-use districts and the distribution of use of these districts across the city. All of the UDC's commercial districts (Neighborhood Business (B-1), Community Business (B-2), Community Business Mixed (B2-M), Downtown Business (B-3), Urban Mixed-Use (UMU), and Northeast Historic Mixed-Use (NEHMU)) allow a mix of housing in addition to commercial uses. In the present zoning district line-up, the UDC does not have any commercial-only districts, which is helpful when considering housing development options.

## **Industrial Districts (Sec. 38.300.120)**

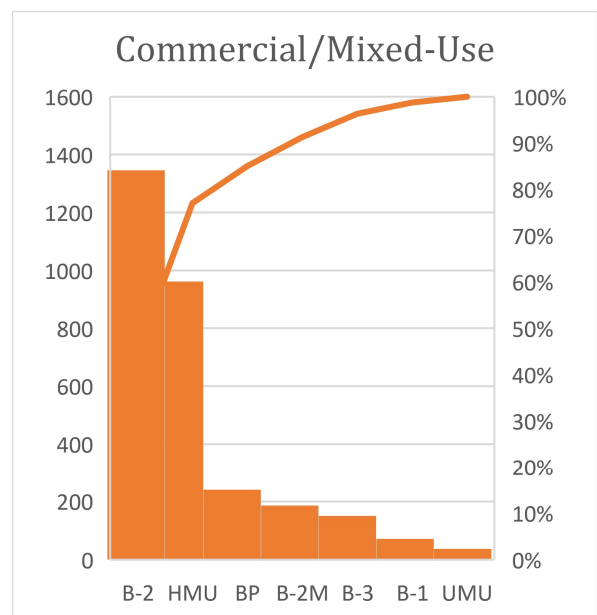
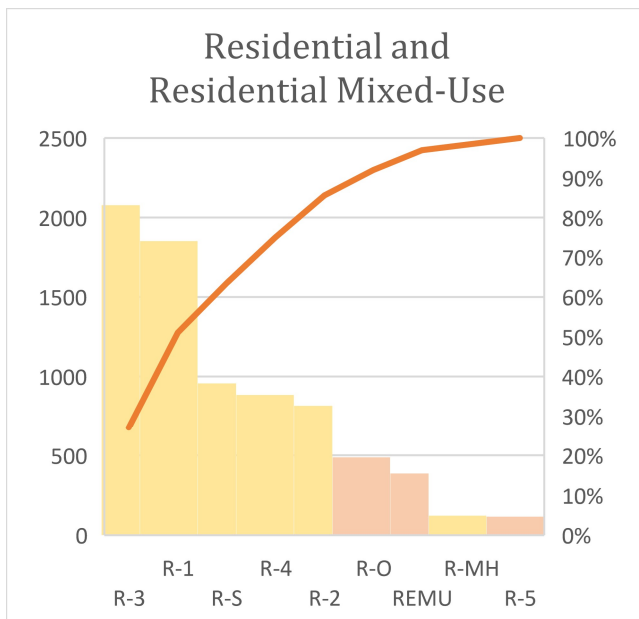
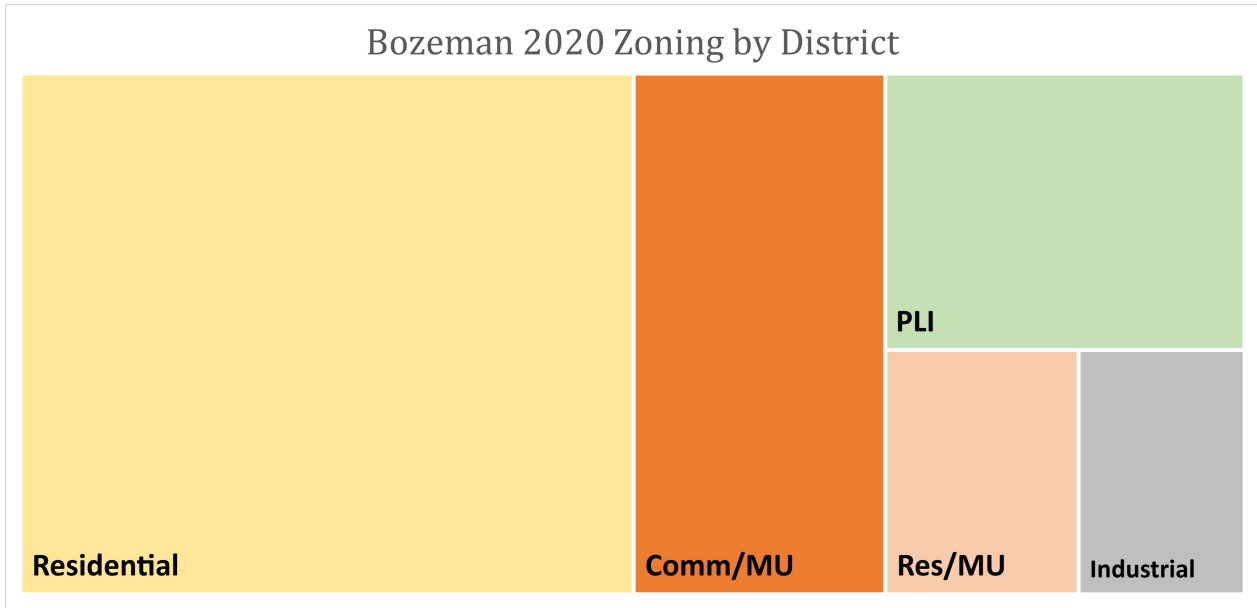
Typically, industrial zoning districts would not be the subject of much analysis in an affordable housing assessment. In Bozeman, however, accessory residential apartments are permitted as an upper floor use in the Light Manufacturing (M-1) and Manufacturing and Industrial (M-2) districts.

## **Public Lands and Institutional District (38.300.130)**

The Montana State University campus is zoned Public and Institutional Lands (PLI), and so are the schools that serve Bozeman residents and students from surrounding areas. This district does not figure prominently in the housing-related analysis of this assessment, but the City could consider steps to encourage the adaptive reuse of vacant or obsolete school structures as housing.

## Zoning District Distribution

The City is currently zoned predominately residential, as shown in gold in the Bozeman 2020 Zoning by District table. The distribution of residential and residential/mixed-use districts by acreage is shown on the bottom left and the commercial/mixed-use distribution is shown on the bottom right. The type, mix, and location of the current zoning districts all play a role in determining whether and how housing projects are designed and approved.



The zoning map on the next page reflects how these districts are distributed across the City.



## OUTCOME 1: CREATE MORE HOUSING

### Overview

The 2019 Community Housing Needs Assessment report estimates that Bozeman needs an additional 4,000 housing units over the next 3-4 years to start closing the gap between demand and availability and the related gap between availability and price. This estimate may have changed when considering the increased demand for housing seen in 2020 and associated with the onset of the COVID-19 pandemic. While additional housing supply is not the only change needed to improve affordability, it is very difficult to see how affordability can improve without additional supply being part of the solution. One important strategy to open the door to new housing starts is to lower existing barriers to the type and number of units that can be built across all price points, allowing for homeowner and renter movement across a wider range of new and existing homes.

#### Urban Neighborhood

R-S, R-1, R-2, R-3, R-4, R-5, R-O, REMU

RMH, B-1, PLI



#### Residential Mixed Use

R-3, R-4, R-5, R-O, REMU, B-1, PLI



*Housing by Zoning District, 2020 Community Plan*

New housing can be built on vacant land (typically referred to as **new development**); individual vacant lots (typically referred to as **infill development**), and on lots that already have older or vacant structures or improvements (typically referred to as **redevelopment**). There is often an initial assumption that changes to residential densities will take place with when new lands are annexed and zoned for development, new annexations into the City within the past 10 years have indeed typically been zoned for higher density development (often equivalent to the R-3 zoning district or higher). One critical constraint on the construction of new units in Bozeman, however, is the limited availability of vacant land within the City for new and infill development. Currently, 57 percent of all land area within city limits is zoned for either residential use or residential mixed-use districts, such as R-O and REMU. “More than 50% zoned residential!” sounds like significant opportunity for more housing development, but the reality is that there is very little development-ready vacant land remaining. The 2020 Land Development Inventory Report identifies only 5% percent of land within Bozeman that is undeveloped and zoned to accommodate residential development. This low number is further reduced when the current owners of vacant land are uninterested in developing that land, because the City cannot force unwilling property owners to develop.



*Residential infill development, Louisville, CO  
(kgarch.com)*

While annexation is one option to increase the amount of vacant land in Bozeman, as discussed in the BCP2020, Montana law requires the property owner to initiate the annexation process. The City can no

more force annexation of new lands than it can force development of existing vacant lands. In addition, relying on new annexations to fill the gap in affordable housing supply is problematic because new construction is often more expensive than reusing or modifying the existing housing stock and related infrastructure, and because focusing affordable housing production on annexed lands is in tension with the Community Plan and CHAP policies of making affordable options available throughout the City.

With so little developable land available, any effort to increase the quantity of housing available while decreasing cost will have to allow increased residential density in the existing zoning districts through infill and redevelopment.

The consultant team has identified five categories of issues in the current UDC where regulations can impact the overall number of new housing units constructed in Bozeman. Changes to these regulations are intended to encourage “gentle density” through the addition of an accessory dwelling unit, a second attached single-household unit, or well-designed townhomes. Regulations for these types of housing can be adjusted to encourage the development of more housing that is still scaled to reflect the general character of the neighborhood or zoning district.

In addition to changing the list of different housing types permitted in each zoning district and changing the current standards on lot and building size to allow more housing, the UDC could further promote both capital “A” and small “a” affordable housing by reducing ambiguity and subjectivity in the standards applied by the City in reviewing applications for housing development. Often, regulatory changes recommended in one section (such as permitted uses) will need to be matched with changes in another section (such as lot and building dimensional standards). For example, making significant headway in permitting larger-scale townhouse development in the Residential Medium Density (R-3) district may also require changes to required minimum lot sizes and setbacks. The set of recommendations provided in this section should be considered as a suite of changes to be undertaken together.

As noted earlier, there are several other changes the UDC that would improve user-friendliness, predictability, and effectiveness. For example, some of the current zoning districts are very close in both permitted uses and required lot and building dimensions. This section of the report only targets recommendations related to increasing housing supply recommendations and does not include recommended changes at a zoning district level. As part of a general code revision process, however, Bozeman should consider revising the current zoning district line-up to better differentiate the role and function of the zoning districts. This may include district consolidations among some of the residential districts; creation of new districts, such as character-based district for existing neighborhoods and greenfield design-based districts for new development; and dividing districts that may be too broad to implement key planning goals, such as PLI and B-P.



Allowing a wide diversity of housing is a hurdle that the community has already jumped. This section identifies a series of steps that Bozeman can take to expand the areas in which these types of housing are allowed. As noted above, the Bozeman Community Plan 2020 includes multiple actions to increase the

supply of affordable housing that should be implemented through changes to the UDC use tables. Examples include:

**Goal N-1: Support well-planned, walkable neighborhoods.**

- N-1.1 Promote housing diversity, including missing-middle housing.
- N-1.2 Increase required minimum densities in residential neighborhoods.
- N-1.4 Promote development of accessory dwelling units (ADUs).
- N-1.11 Enable a gradual and predictable increase in density in developed areas over time.

**Goal N-3: Promote a diverse supply of quality housing units.**

- N-3.1 Establish standards for provisions of diversity of housing types in a given area.
- N-3.2 Review zoning districts to assess the range of housing types in each district.

Read together, the Community Plan goals include two concepts: (1) creating more housing diversity in more areas of the city, and (2) increasing housing densities, which is a calculation of the number of units permitted on a lot. In the UDC, these two concepts are addressed in the use tables and through the minimum density and minimum lot size requirements, each of which is addressed in the following two sections.

## Changes to Allow More Housing in Existing Districts

The following distribution of residential housing types are currently allowed in Bozeman’s zoning districts:

**Current Available Uses in Residential Zoning Districts**

	RS	R-1	R-2	R-3	R-4	R-5	R-O	B-1	B-2	B2-M	B-3	UMU	REMU	NEHMU
Key: P=Permitted C=Conditional Use Permit Required X=Not Allowed AHO=Thru Affordable Housing Ordinance Only N=Not Specified (UDC is silent)														
<b>Detached Homes</b>														
Single-household (1 unit)	P	P	P	P	P	P	P	X	X	X	X	X	P	P
ADU (1 unit)[1]	P	P	P	P	P	P	P	X	X	X	X	X	P	P
Cottage Housing	P	P	P	P	P	P	P						P	
Manufactured Home	P	P	P	P	P	P	P						P	P
<b>Attached Homes</b>														
ADU (1 unit)	P	P	P	P	P	P	P	X	X	X	X	X	P	P
Two-Household (2 units)	X	X	P	P	P	P	P	X	X	X	X	X	P	P
Three/Four Household (3 or 4 units)	X	X	X	P	P	P	P	X	X	X	X	X	P	X
Townhouse / Rowhouse (2 units)	AHO	AHO	P	P	P	P	P	N	N	N	N	N	N	N
(up to 5 units)	X	X	X	P	P	P	P	X	N	N	N	X	P	P
(more than 5 units)	X	X	X	X	P	P	P	X	C	P	P	X		P
Live-Work Unit	N	N	N	N	N	N	N	P	P	P	P	P	P	P

**Current Available Uses in Residential Zoning Districts**

	RS	R-1	R-2	R-3	R-4	R-5	R-O	B-1	B-2	B2-M	B-3	UMU	REMU	NEHMU
Key: P=Permitted C=Conditional Use Permit Required X=Not Allowed														
AHO=Thru Affordable Housing Ordinance Only N=Not Specified (UDC is silent)														
<b>Multi-Unit Household</b>														
Apartment Building (5 or more units)	X	X	X	X	P	P	P	X	C	P	P	P	P	X
Apartment Building Ltd. (between 5 and 8 units)	X	X	X	P	P	P	P	N	N	N	N	N	N	N
Group Living	P	P	P	P	P	P	P	P	P	P	P	X	P	P

NOTES: [1] These districts do not distinguish between permissions for attached versus detached ADUs.

In order to grow the supply of housing, the City should consider changing the amount and types of housing allowed in each zoning district, as described below.

**Changes to Density Measurement and Use Classification**

Before addressing the bigger picture changes to how much housing should be allowed by zoning district, there are two “functional” UDC changes that can have positive impacts on housing supply: (1) revising how density is measured, and (2) reclassifying multi-unit dwellings.

**1. Density Measurement**

Bozeman currently measures residential density in all of the current zoning districts except R-5 using a “net” acreage denominator; the part of the lot that will be allocated to infrastructure and sensitive lands (e.g., wetlands) protection is removed from the total acreage calculation before dividing the parcel size by the minimum lot size to establish density. For example, 10,000 square foot parcel A is reduced by 3,000 square feet to account for infrastructure, resulting in a net area of 7,000 square feet, and then divided into lots depending on the applicable zone district. If that parcel is in a zoning district with a minimum lot size of 5,000 square feet, one lot (Lot A1), can be created. The net calculation can vary from parcel to parcel based on site conditions. As an example, 30 percent of parcel A may also be wetlands, which would further reduce the net lot area to 4,000 square feet and potentially impact the ability to create even one lot. This approach can be changed for new development in the residential districts to use a “gross” acreage approach, where the infrastructure and non-buildable percentage of the lot is removed AFTER the density calculation to allow the creation of more lots on a parcel. In the example above, two buildable lots could be created, although they would still have to be located to avoid sensitive lands and planned infrastructure. Applying gross density to calculate the total number of lots in a new development will not impact the provision of infrastructure, only how the City and developers make their early calculations about lot layout and structure siting. In making a change to gross density measurement, the City will need to also consider: (1) whether to extend gross density to mixed-use development or refine the calculation to reflect the combination of residential and non-residential uses on a site, and (2) whether to apply gross density to infill and redevelopment projects, where this change could result in the creation of more lots (although likely on a very limited basis) in built-out neighborhoods.

## 2. Changes to Multi-Unit Household Classifications

The current UDC is actually quite permissive in the types of housing allowed across the City, but not as clear as it could be in describing the range and types of housing permitted in each zoning district. While code drafting usually benefits from simplicity, there are categories in the regulations where providing more detail and eliminating uncertainty can be helpful to applicants as they conceptualize what the code allows. One revision, for example, that could make a difference in better matching multi-household structures to surrounding community character is to establish a more detailed menu of multi-household building classifications, such as small (up to 6 units), medium (6-18 units), and large (18 units and over). Establishing these specific classifications can then be linked to the density descriptions in the City's various planning documents – for example, aligning the large multi-household classification with references to “high density development” and identifying those zoning districts where that scale of multi-household use is appropriate. Changes like this allow the UDC to educate the infrequent users and create more accurate expectations about the types of development that can take place across the City.

## Changes to Allowed Residential Land Uses and Permitted Densities

The following sections identify recommended change to residential use types and densities by zoning district.

### 1. Residential and Residential Emphasis Mixed-Use Districts

#### a. Suburban (R-S) and Residential Low Density (R-1)

The R-S and R-1 districts are intended for single-household residential development. Together, the R-S and R-1 districts account for approximately one third of the City's residential land. The minimum required density in R-S districts is 2 DU/net acre<sup>1</sup> (or 2.5 DU/gross acre, creating net lot sizes around 15,000 to 17,000 square feet), and is 5 DU/net acre (or about 7 DU/gross acre) in the R-1 districts, creating net lot sizes around 6,000-7,000 square feet). Additionally, the R-S district has served as a designation for environmental protection, with R-S zoning including acres of protected wetlands, open spaces, trails, and acres otherwise not available for development or redevelopment. Finally, R-S zoning has also functioned as a “holding zone,” until a property owner determines the specific form of development they wish to pursue on a parcel, at which time there is a rezoning request for the property. The R-S district is only applicable to existing neighborhoods and, as of 2018, can no longer be used for new development.

Opportunities for redevelopment in the R-S (and R-1) district with larger lot sizes can include the creation of new lots through lot splits or resubdivision, as well as the creation of additional units through building conversions (such as converting existing single-household units to two or more household units). Accessory dwelling units should continue to be permitted, with changes to those regulations as recommended in this Assessment. R-1 zoning continues to be available for new development and should be updated to require increased minimum density by 1 to 2 units/acre, which would be 6 DU/net acre or 8 DU/gross acre to create lot sizes around 5,000-5,500 square feet.

Cities like Minneapolis and states like Oregon that are on the leading edge of promoting gentle density in previously single-household neighborhoods are making changes to these types of districts to permit two-household dwellings by right. This allows owners of single-household dwellings to convert a portion of their dwelling into a second unit without requiring additional lot area or compliance with the restrictions imposed by the ADU regulations. This kind of “internal conversion” is already

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<sup>1</sup> For these examples, net density was calculated at gross density minus 20% to 30% of the lot area.

permitted in Bozeman, subject to adequate lot size; however, the UDC would better promote conversions of existing housing to accommodate an additional unit if it did not require additional lot area for that second unit.

This type of internal conversion of an existing dwelling unit is an important in allowing a homeowner to generate additional income from the rental of the second unit or provide generational housing for a family member. In many cases, these conversions are accomplished with no change to the exterior footprint of the existing dwelling, maintaining the physical character of the neighborhood. Consistent with practice in many U.S. cities, the creation of a second primary dwelling unit on a lot should be counted towards the maximum density allowed in the zoning district, but the creation of a smaller and subsidiary ADU, as an accessory use, should not be counted as an additional dwelling unit for purposes of calculating residential density.

#### **b. Residential Moderate Density (R-2)**

The R-2 district is intended for one- and two-household development and accounts for about 6% of residentially zoned land in the City; the majority of it located around Downtown Bozeman or adjacent to higher density development. Currently, R-2 allows up to two units (two-household dwelling or townhouse) per building and has a minimum density requirement of 5 DU/net acre (about 7 DU/gross acre, creating lot sizes of around 6,000 to 7,000 square feet). We recommend increasing the allowance up to five units per lot, whether in the form of townhouses or small apartment buildings and revising the minimum density from 5 to 8 DU/net acre (about 7 to 9 du/gross acre), allowing minimum lot sizes around between 4,000 and 4,500 square feet. This increase can be achieved with the current list of allowed uses in the R-2 district. Given the central location of much of the R-2 zoning, this change could make a positive contribution to creating a dense, walkable center in the community.

#### **c. Residential Medium Density District (R-3)**

R-3 is the most widely applied zoning district designation, covering about 16% of residentially zoned land. R-3 is both reflective of the development patterns in many of Bozeman's "second-ring" suburban neighborhoods and serves as a "transitional" district that bridges the low development densities of R-1 and higher density residential and mixed-use development. Currently, the R-3 district allows one to five dwelling units in the full range of structure types, from single-household detached to townhomes to apartments, at a minimum density of 5 DU/net acre. We recommend increasing the R-3 minimum density to 10 units per net acre (about 13 du/gross acre), allowing minimum lot sizes around 3,100 to 3,500 square feet.

#### **d. Residential High Density District (R-4) and Residential Mixed-Use High Density District (R-5)**

The R-4 and R-5 districts together account for just under 8% of residential zoning in Bozeman. Both are intended for high-density development, with some mixed-use development allowed in R-5. Though the two districts have identical regulations for the type of housing allowed, R-5 has more permissive lot requirements, with no minimum lot sizes for some types of structures. Both districts have a minimum density of 8 DU/acre, with R-4 calculated in net density and R-5 calculated in gross density. To promote the higher-density development this district allows, we recommend eliminating the availability of new single-household dwellings in these zones in the future. To accommodate this change, both the zoning districts and nonconformities sections of the UDC can be revised to ensure that existing single-family units remain classified as legal, conforming uses unless they are abandoned or replaced. We also recommend increasing the minimum density to 14 DU/net acre (about 17

DU/gross acre, for structure types where minimum lot sizes are calculated, this will allow lots of about 2,200 to 2,500 square feet).

**e. Residential Office (R-O)**

The R-O district encompasses slightly less than 4% of zoned land in Bozeman, and is intended to allow the development of multi-household and apartment uses in conjunction with office uses, at a minimum density of 6 DU/net acre. R-O should be located in areas with similar development, along arterial corridors, and as transitional development between lower density residential and commercial development. Currently, R-O standards limit the extent (i.e., percentage) of residential development permitted in a structure when it lies within a non-residential land use designation. This could be changed to require non-residential uses on the first floor without limiting the amount of residential development permitted in the structure above the first floor. This would allow the development of more residential dwelling units in the R-O district, while still respecting the district intent for a mix of residential and office uses.

**f. Residential Emphasis Mixed-Use (REMU)**

This district is a more flexible version of the UMU district that limits non-residential uses to 30 percent of gross floor area as shown in a site plan, master site plan, or PUD. It represents 2.9% of the zoned land in the city, and the non-residential limit does not apply to schools, parks, community centers, City services, or structured parking. Because this district encourages but does not require mixed-use (i.e., it allows single-purpose residential buildings), we do not have recommendations for change at this time. However, because much of the REMU-zoned land is located near the university, the City may want to consider incentivizing the construction of student-oriented housing (such as the emerging development of 3-4 bedroom/3-4 bath units with shared living rooms and kitchens) in order to relieve pressure that the student housing demand currently disperses over much of Bozeman. While this type of student housing is permitted as a form of “group living” in the current UDC, that use could be further incentivized for this purpose.

**g. Residential Manufactured Home Community District (RMH)**

The intent statement for the RMH zoning district indicates the zoning is appropriate for “existing mobile home parks and areas adjacent to commercial or mixed-use districts and/or served by transit.” Although this text suggests that the RMH district could be used to create a new manufactured home park, this could be clarified by rephrasing as “existing or new.”

One benefit of this approach is that this district can be tailored to allow the creation of Tiny House communities, an approach to affordable housing was recently adopted by Aurora, Colorado. The existing regulations may need to be revised to match the requirements for these smaller structures (typically 400 or 500 square feet versus 800 feet for a traditional single-wide manufactured home). While the availability of the RMH district to accommodate new manufactured home and Tiny Home parks is consistent with the affordability goals articulated in both the Community Plan and the CHAP, it is unlikely that the continued availability of this tool will produce a very significant amount of new small “a” affordable housing, simply because high land prices often make it more profitable to produce other types of housing.

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**Note: Mixed-Use Districts.** Historically, many “commercial” zoning districts also allowed residential uses. This practice has continued and expanded, although most newer codes rename commercial districts as “mixed-use” districts to reflect the inclusion of residential uses. This is the case in Bozeman’s UDC, where residential uses are permitted to some extent in all of the commercial districts.

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## 2. Commercial and Industrial Districts

### a. Neighborhood Business (B-1)

Only 72 acres of land are zoned B-1, which accounts for less than 1% of the 2020 zoning district distribution. This district is intended to be used to provide pedestrian-oriented, neighborhood-serving commercial uses and can be mixed with residential development. Currently, only apartments are permitted in the B-1 district, but this can be expanded to include the limited addition of three- and four-household units, townhomes, and mixed-use structures, all of which can be designed to function well in a neighborhood commercial area. Care should be taken to limit the overall amount of residential development in the district so that the local-scale non-residential function of the district is not lost.

### b. Community Business (B-2) and Community Business District-Mixed (B-2M)

The B-2 commercial business district is intended for the development of commercial centers that serve multiple neighborhoods, while the B-2M district does the same for a larger trade area. B-2 zoning accounts for about 10% of the City's current zoning and is widely distributed along Main Street outside of Downtown, around the I-90/Median interchange, along N 19<sup>th</sup> Street, and in smaller segments in all quadrants of the city.

In contrast, the B-2M zoning district created in 2018 only covers 1.5% of the land in the City, and is located primarily around midtown and along Huffine Lane on the western edge of the city. The primary difference between the B-2 and B-2M districts in the use table is that those residential uses that permitted by conditional use review in B-2 are often permitted by right in B-2M. Historically, there may have been a reason for requiring residential uses to obtain a conditional use permit, but that may reflect a time when communities separated commercial and residential uses because they made "bad neighbors." This view of planning has been gradually replaced with a more place-based approach and allowing a wider range of residential uses-by-right in most commercial districts. In Bozeman, the residential uses by right available in the B-2M district could be added to the B-2 district.

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**Note: Ground Floor Uses.** Some of the current UDC districts, such as B-2, B-2M, B-3, UMU, and REMU have limitations on when residential uses can be placed on the ground floor. In the B-2 district, for example, ground floor residential is a conditional use. In B-2M and B-3 ground floor residential must be located a minimum depth of 20 feet behind the front façade (i.e., there must be a different use at the front entrance and the residential space is located "behind" that use). This concept may have migrated into many codes from form-based code practice, where it is typically used more selectively (rather than applying to all land in a zoning district regardless of location). Bozeman has already started to narrow its requirement for ground floor non-residential uses through the use of different frontage types. We recommend that the City review the frontage type maps to ensure that non-residential frontage types (such as storefront) are limited to areas where there is no added benefit to allowing ground floor housing uses, and where the market will support non-residential ground floor uses. Many cities are concluding that there are some areas where demand for leasing and occupancy of ground floor non-residential uses is so weak that allowing ground floor residential uses would be of more value to the community. If that is true in Bozeman, we recommend that the UDC be amended to allow single use residential buildings without ground floor non-residential uses in areas of low demand.

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**c. Downtown (B-3)**

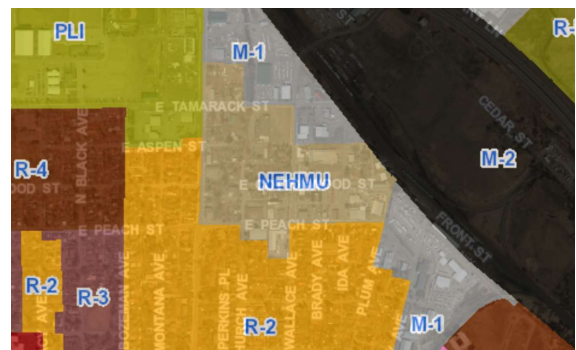
The Downtown B-3 district is fairly small at approximately 150 acres and just a little over 1% of Bozeman’s current zoning. A wide range of non-single-household residential uses is permitted by right in the Downtown and we do not recommend use changes for this district.

**d. Urban Mixed-Use (UMU)**

The UMU district only accounts for 38 acres or 0.3% of the current zoning. This district has a required use mix, limiting the primary use to 70 percent of the gross square footage developed on each site. UMU also has a ground-floor commercial use requirement for 70 percent of the ground floor block frontages to a depth of 20 feet from the street unless the ground floor use is parking. To better accommodate housing demand in Bozeman, we recommend that the ground floor commercial requirement be further limited and that structures outside of the core of a UMU development area be allowed to contain first floor residential uses.

**e. Northeast Historic Mixed-Use (NEHMU)**

The Northeast Historic Mixed-Use district is unique because it is designed to accommodate a specific mixed residential/light-industrial neighborhood. It combines uses permitted in the R-2 and M-1 zoning districts and allows case-by-case determination of the most appropriate use of land within a broad range of both non-residential and residential uses. The NEHMU district (combined with the R2 district to the south) represents a portion of what was historically Bozeman’s working-class, mixed-use neighborhood.



*NEHMU district on the Bozeman zoning map*

Public comments have indicated that in the past few years many of these smaller homes are being replaced with larger incompatible homes, sometimes by combining several smaller lots into one larger single household property. While the current zoning reflects a past desire to accommodate the older existing non-residential uses, the Community Plan suggests that the area should transition towards residential use. In light of this policy change and the significant need for additional housing supply, the City should consider adding additional types of multi-household housing uses to this district, removing heavy commercial and industrial uses from the lists of available uses, and/or replacing the NEHMU district with a more traditional residential zoning district, which could be done either through the application of a current commercial district that allows the proposed development density, or a new residential district that accomplishes the same goal in a way that is consistent with the Community Plan goal of having residential densities at 14 to 22 du/net acre supporting the intersection-oriented commercial uses.

**3. Industrial Zoning Districts**

**a. Light Manufacturing (M-1)**

The M-1 district currently allows buildings to contain up to 50% of their area in residential uses. Since many contemporary light industrial uses no longer produce the kinds of impacts that would require separation from residential developments (light, noise, odor, emissions), the City should consider allowing the creation of additional housing above or on the same site as these low-impact uses by allowing the 50% residential threshold to be applied on a site-wide basis (rather than a per-building basis). Alternately, many cities are re-evaluating their inventory of industrially-zoned land in light of changing economic and market forces, and are concluding that some smaller, older, areas without

good access to highways, air, or rail facilities are unlikely to attract employment-creating development in the future, and are remapping those lands into mixed-use zones that would allow for a wider range of residential development. While Bozeman’s M1 lands appear to be fairly well located and suited to modern light industrial demands, we suggest that Bozeman conduct an analysis of whether any of the current 572 acres of M-1 land is unlikely to attract or retain the intended employment uses in the future.

#### b. Business Park (B-P)

Many cities are also revising their business park zoning districts to allow the introduction of multi-household residential uses. In some cases, this is driven by a desire to promote walkable mixed-use development, while in other cases it is motivated by the difficulty of attracting non-residential investment to the remaining parcels in existing business parks. Regardless of the motivation, some cities are allowing new residential uses with limitations on the percentage of land in a defined business park that can be occupied by residential uses, or allowing residential uses to be developed only after a stated percentage of the land area has been occupied by non-residential uses, in order to ensure that an intended employment zone does not become a predominantly residential area. Bozeman currently has 240 acres of land zoned B-P, 27 acres of which were vacant in 2020, and we recommend that the City explore whether multi-household housing types should be permitted in this zoning district.

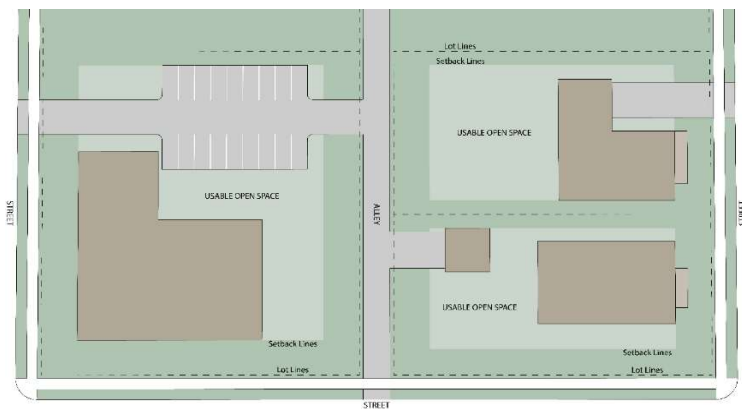
#### 4. Overlay District

There is one overlay district in Bozeman – the Neighborhood Conservation Overlay District (NCOD), which was created in 1991. Because this district regulates the form and dimension of permitted development – rather than permitted uses – and because it can be used to better preserve existing housing, it is discussed as part of Outcome 2: Preserve Existing Affordable Housing, below.

### Changes to Form and Intensity Standards

Form and Intensity standards are those regulations in each zoning district that address the minimum or maximum sizes of a lot or structure or that require additional lot area for specific housing types (such as multi-household units and ADUs) in specific zoning districts.

While most development codes regulate these issues in some way, Bozeman’s dimensional and bulk standards are more extensive and complex than most. On most lots, the development potential for new housing is subject to minimum lot sizes, lot area per dwelling unit, minimum building setbacks, maximum height limitations, floor area ratio (FAR) limitations, minimum open space standards, maximum lot coverage, and maximum rear lot coverage. There are also relevant standards “hidden” in table footnotes and located in different section of the UDC. Applying specific building frontage requirements adds another layer of complexity that may impact how the lot can be used for housing development. We recommend simplifying or eliminating some form and intensity standards and making others more flexible to reduce



*Form and intensity standards establish required measurements for lots and structures*

this complexity and enable the creation of additional small “a” affordable housing in Bozeman. The City may want to consider reorganizing the location and format of the form and intensity standards as part of a larger code update.

The relative complexity of Bozeman’s form and intensity is shown in the comparison table below, and our recommendations for simplifying these standards appear in the sections following the table:

**Dimensional Standards Comparison Communities**

	Lot Area	Lot Width	Max. Height	Lot Area/Unit	FAR	Min. Open Space	Max. Lot Cov.	Max. Rear Lot Cov.
<b>Bozeman</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Missoula	Yes	No	Yes	Yes	No	No	No	Yes
Billings	No	Yes	Yes	No	No	Yes [2]	Yes	No
Helena <sup>[1]</sup>			Yes [3]				Yes	
Laramie, Wyoming	Yes	Yes	Yes	Yes	No	No	No	No
Spokane, Washington	Yes	Yes	Yes	No	Some	Yes	Yes	No
Bend, Oregon	Yes	Yes	Yes	Yes	Yes	No	Yes	No

[1] N/A for downtown residential development.  
 [2] Multi-unit/mixed-use development only  
 [3] Rural districts only

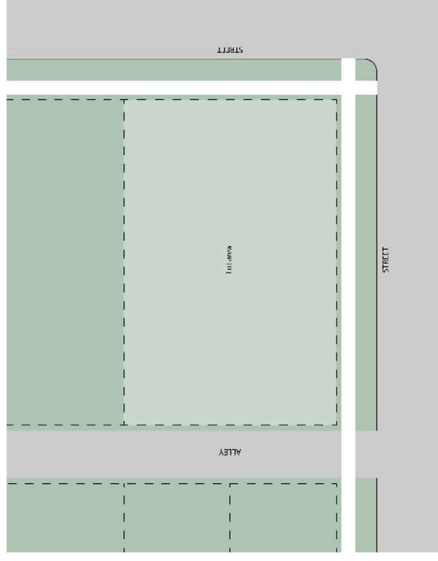
Of the communities reviewed, all measure at least two fewer dimensions than Bozeman. That may seem to be a simplistic comparison, but each measurement represents a specific requirement on the lot or for the structure, so eliminating two could have a noticeable impact on how the lot is used or structure designed. Floor area ratio and minimum open space are the two types of measurements that most of the comparison communities do not use, and both are discussed in more detail below.

**Lot Standards**

**1. Reduce Required Minimum Lot Sizes for Non-Single-Household Development**

Bozeman has been steadily reducing minimum lot sizes since the 1990s, down to the current single-household minimum lot sizes of between 3,000 and 4,000 square feet, depending on the building type. Single-household detached dwelling lots for income-restricted affordable housing can be as small as 2,700 square feet, and the Residential Mixed-Use High-Density (R-5) and REMU districts allow even smaller “small-lot single-household” development on a 2,500 square foot lot. These figures are much more reasonable than those used by many medium sized cities for single-household dwellings.

Attached and multi-household dwelling types, such as two-to-four household dwellings and apartments, generally require additional lot area over the standard minimum. This requirement generally reflects an older approach to zoning grounded in



*Lot area is the total horizontal area within the boundary lines of a lot*

suburban standards with embedded assumptions that uses that differ even slightly from single-household dwellings should be separated from them by more lot area. When combined with the UDC requirements for on-site open space and low FAR limits, this approach requires large (and expensive) lots for non-single-household building types, as shown in the table below.

**Minimum Lot Size by Dwelling Type**

	Lot area per unit	Total square footage required	Multi Unit "Penalty" per Structure
<b>Single-household dwelling</b>	R-5 + RMH: 3,000 Other: 4,000		
<b>Two-household dwelling</b>	All but R-O: 2,500 R-O: 3,000	5,000 per 2-HHD DU R-O: 6,000 per 2-HHD DU	2,000 to 3,000 sq. ft.
<b>Three- and four-household dwelling</b>	R-3, R-4, R-O: 3,000 R-5: None	9,000 per 3-HHD dwelling 12,000 per 4-HHD dwelling	5,000 to 8,000 sq. ft.
<b>Townhouse/ Rowhouse</b>	R-3, R-4, R-O: 3,000 R-5: None	Dependent on number of units	2,000 sq. ft. and up, depending on number of units
<b>Apartments and Apartment Building, Limited.</b>	R-4, R-O: First DU 5,000 + 1,200 per DU R-3: 3,000 per unit R-5: None	5 units in R-4, R-O: 9,800 5 units in R-3: 15,000	

The additional-lot-area-per-unit standards are a significant contributor to high housing prices for non-single-household development and tends to spread out lots containing even two-, three-, or four- unit housing in ways that undermine the City’s goals for walkability. The Bozeman Community Plan 2020 encourages developers to “think small” by recommending that the UDC:

N-3.7 Support compact neighborhoods, small lot sizes, and small floor plans, especially through mechanisms such as density bonuses.

N-3.8 Promote the development of "Missing Middle" housing (side by side or stacked duplex, triplex, live-work, cottage housing, group living, rowhouses/ townhouses, etc.) as one of the most critical components of affordable housing.

Other communities in Montana and the region, in comparison, already think small. **Helena** only requires minimum lot sizes for large lot residential (Open Space Residential) and residential uses in the Neighborhood Business district. In its recent zoning code update, **Billings** moved from a minimum lot size requirement to a minimum lot width requirement in most residential and mixed-use districts. **Great Falls** employs a combination of minimum lot size and dwelling unit density that is not a one-to-one correlation. The Multi-Family Residential Medium Density (R-5) district, for example, has minimum NEW lot size of 7,500 square feet, and allow 4 units on a lot of that size.

In all six of their multi-family districts, **Missoula** allows 3,000 square foot minimum lot areas and, depending on the intensity of the district, the required lot area per unit ranges from 500 to 2,700 square feet. These dimensions are for conventional development; permanently income-restricted development does not have a minimum lot size but requires between 400 and 2,160 square feet per unit. **Laramie**, Wyoming, establishes a minimum lot area for a principal building and a smaller per unit lot size for additional units; in the R-3 district the minimum lot area for a principal townhouse structure is 6,000 square feet and the additional per unit minimum is 1,000 square feet. Finally, **Spokane**, Washington, takes a minimum lot area-based approach like Bozeman’s UDC, but requires

much smaller lots. In the Residential Multifamily District, minimum lot sizes for detached houses are 1,800 square feet, attached houses are 1,450 square feet, and duplexes/multi-dwelling structures are 2,900 square feet.

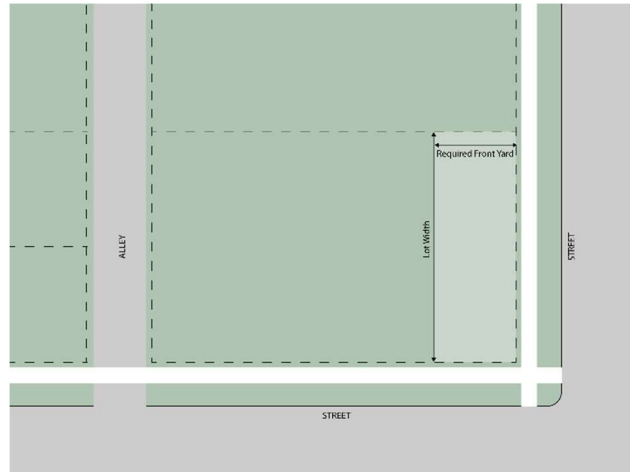
We recommend that Bozeman move to eliminate the lot-area-per-dwelling-unit regulations for single-household attached and multi-unit (e.g., apartment) housing. This can be done in a targeted manner based on zoning district, location, dwelling type, and/or whether the neighborhood is new or already developed. While the additional lot-area-per-dwelling standard might be removed altogether for new development on vacant land, it could instead be subject to contextual or averaging standards in established neighborhoods. For example, in established neighborhoods minimum lot sizes for redevelopment of older properties for two-, three-, or four-family structures or townhouses could require that the new lots be generally similar (for example, between 75% and 125% of the size of existing lots on the same block) in order to allow the redevelopment to fit into the established fabric of the neighborhood without requiring a fixed amount of land per dwelling unit. In addition, we recommend that the elimination or reduction of lot-area-per-dwelling-unit apply to conversions of existing single-unit to multi-unit structures where that conversion takes place within roughly the same building footprint.



*Two-unit dwelling on a single-unit footprint*

## 2. Reduce Minimum Lot Width

Minimum lot widths determine how wide a lot has to be at the front building line, and impact how many linear feet of street frontage are required to serve a neighborhood for access and utilities. Lot widths in residential neighborhoods can have a significant impact on housing cost, because wider lots need to have longer pipes, wires, and pavement on fronting streets. Lot widths also determine how new lots “fit into existing neighborhood character. Nationally, many cities are re-thinking minimum lot widths, particularly for infill and mixed-use development, in order to reduce some of the costs associated with a wider lot frontage. As context for this discussion, substantial portions of older neighborhoods in many western U.S. cities were platted as 25-foot-wide lots, were developed with correspondingly small houses, and these neighborhoods remain among the more affordable and walkable neighborhoods in these cities.



*Lot width is the distance as measured in a straight line, between side lot lines at the points of intersection with the required front building line.*

Minimum lot widths currently range from 30 to 60 feet wide in the City’s residential districts, varying primarily based on the housing type. Lot width requirements have many exceptions. Interior townhome lots, for example, are permitted to be narrower than end lots due to additional side setbacks on the end lots, and currently have no minimum standard. Reduced minimum lot widths are

permitted for lots on alleys where lot access is taken from the alley, and also for income-restricted affordable housing on smaller lots. The current market rate required minimums are generally consistent with the associated requirement to provide extra lot area for multi-household units.

We recommend eliminating minimum lot width requirements for new development on vacant land, and reducing those minimums for redevelopment in existing neighborhoods to allow for “gentle density” and market development of more housing that is generally in character with the existing neighborhood fabric. Reducing minimum lot widths will not prohibit wider, street-facing development because the developer can choose to provide widths beyond the minimum. It will, however, allow the creation of narrower lots and may encourage the development of new alley systems. If the intent of current minimum lot widths is to preserve “light and air” between buildings, that can be done through adjusting setbacks or maximum lot coverage rather than requiring wider lots.

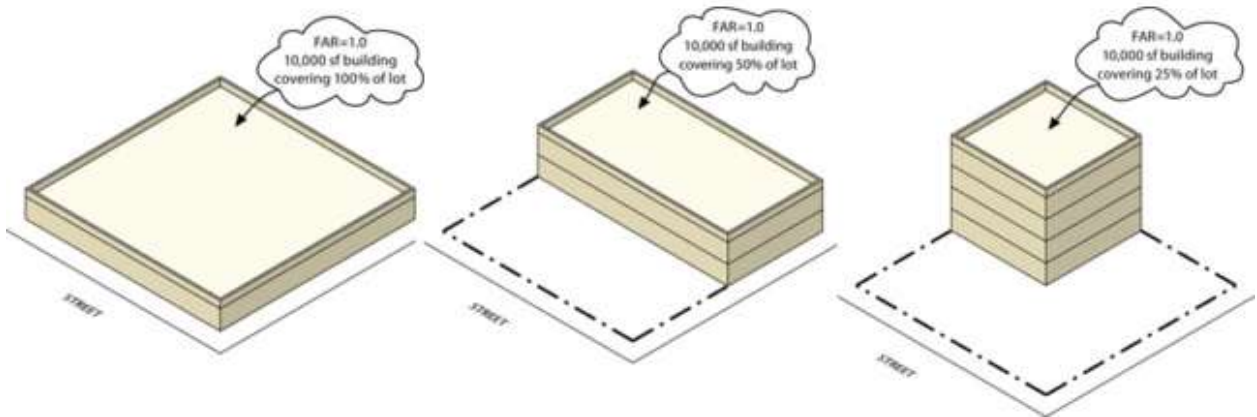
Many newer development codes are eliminating minimum lot width standards altogether in Commercial, Mixed-use, and Industrial zoning districts. We recommend that the City remove the current minimum 100-foot lot width requirement in the Neighborhood Commercial (B-1) district, and the 100-foot minimum lot width in the Community Business (B-2) district, to enable creative infill housing development. Cities that have taken this step in recent years include Bloomington, Indiana; Albuquerque, New Mexico; and Rochester, Minnesota, among others.

Neither **Helena** or **Missoula** regulate lot width and depth. **Billings** regulates lot width only, using standards that depend on neighborhood context. Older, close-in neighborhoods have a minimum/maximum lot width range of 20 feet to 80 feet, and more suburban development has a minimum/maximum lot width range of 50 feet to 120 feet. **Laramie, Wyoming** has regulations most similar to Bozeman’s, where their single-household district requires a lot width of 50 feet. Multi-dwelling districts allow lot widths between 40 and 60 feet. Of note in Laramie’s most intensive multi-dwelling district is the allowance for townhouse unit lots to be only 16 feet wide. In **Spokane, Washington**, as previously mentioned, lot sizes are generally smaller, and so are lot dimensions. The largest lot width and depth in the city is 40 feet by 80 feet – and this applies equally to single dwellings in the city’s more suburban districts (comparable to Bozeman’s R-S, R-1, and R-2) and to attached housing such as a duplex. In more urbanized areas, both single dwellings and duplexes are permitted on lots with a width of 25 feet. Lot widths also affect other City operations and standards beyond zoning, including utility installations and maintenance, which may place some limitations on individual site flexibility.

### 3. Floor Area Ratio Requirements

Floor area ratio (FAR) requirements have been around for decades and have increased in use and popularity during two different eras of zoning – in the sixties and seventies with the increased popularity of performance zoning focused on flexible lot development that was fully mitigated and screened from adjacent development, and early in adoption of form-based regulations to try to provide a more flexible way to tailor form-based controls to reflect more nuanced neighborhood character (to the consternation of many form-based code advocates). Both times, the renewed use of FAR standards declined over time, primarily because this standard does not lead to predictable design outcomes, and because FARs tend to be both difficult for citizens to understand and a poor proxy for how well new development will “fit into” the surrounding context. The use of FAR measurement in the UDC appears to have migrated originally from the newer mixed-use districts into other districts. The UDC contains more than enough standards to regulate the scale, intensity, height, and “openness” of new development without the added artificial density limits created by FARs, and

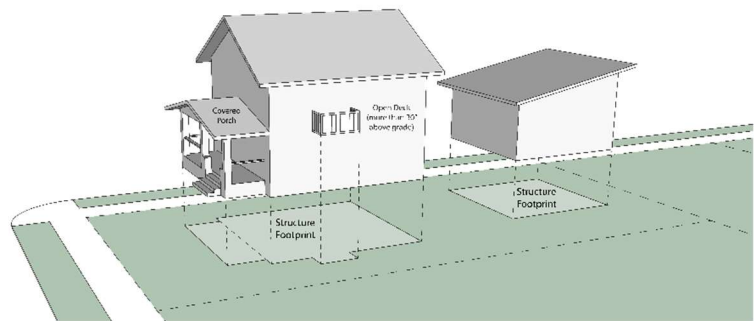
we recommend that they be eliminated – at least for residential development and mixed-use development with a housing component.



*This graphic from New York City shows how FAR impacts building bulk but not necessarily building design.*

#### 4. Lot Coverage Requirements

Maximum lot coverage requirements are part of the historic trifecta of lot size, lot width, and lot coverage standards that have typically been employed by communities to support large lot, separated structure residential development. As with some older codes, Bozeman compounds the complexity of these controls by regulating both maximum lot coverage and maximum rear yard coverage. The City may have more success with encouraging development on smaller lots by concurrently reducing (or eliminating) minimum lot widths and increasing (or eliminating) maximum lot coverage requirements. Although maximum lot coverage limits can serve an important purpose in promoting on-site stormwater management, that goal can also be accomplished through shared or communal open spaces designed for stormwater management without forcing each lot to contain individual open space that drives up housing costs. These types of changes must be coordinated with the City’s stormwater operations and regulations applied to the City by state and federal agencies. At a minimum, we recommend that Bozeman adjust the maximum lot coverages so that they reflect on-site open space needed for effective stormwater management, rather than serving as third way to require housing to occupy more land than it would otherwise need to occupy.



*Lot coverage is the ratio of horizontal area, measured from the exterior surface of the exterior walls of the ground floor, of all principal and accessory buildings on a lot to the total lot area.*

### Building Dimensional Standards

#### 1. Permitted Heights

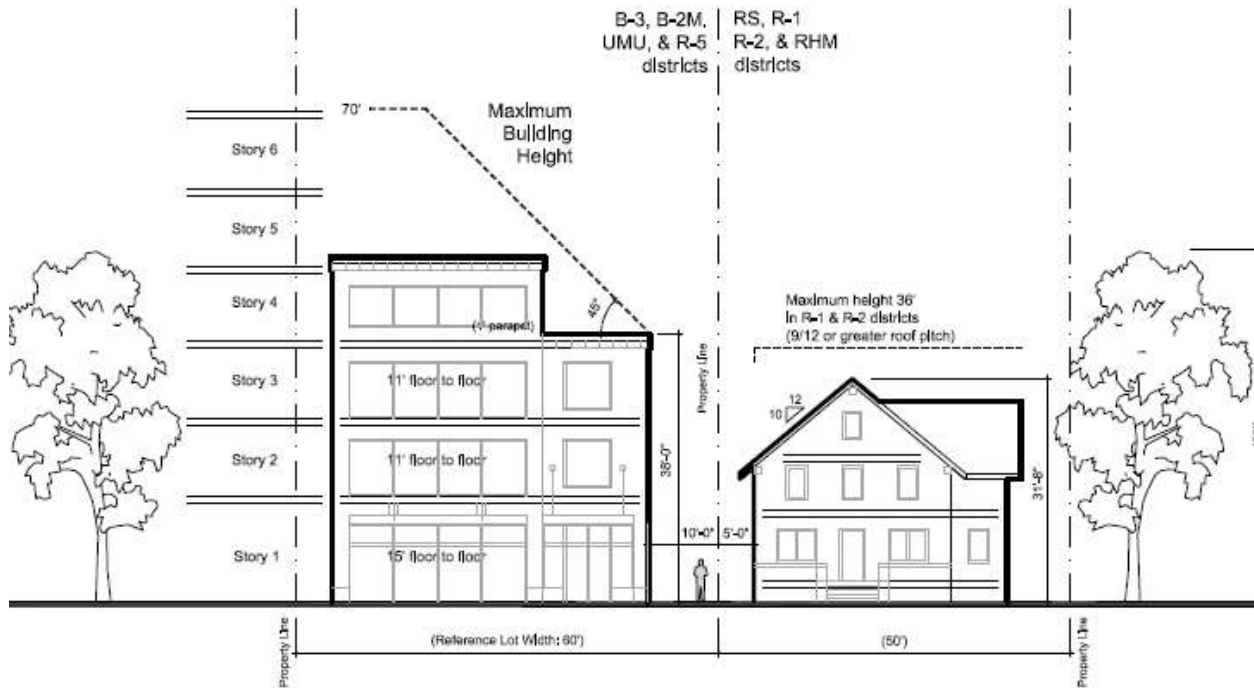
In built-out communities with little remaining vacant land, allowing taller structures is an important way to encourage increased housing production on existing land. The Bozeman Community Plan 2020 agrees, recommending that:

DCD-2.4 Evaluate revisions to maximum building height limits in all zoning districts to account for contemporary building methods and building code changes.

The City’s recent changes to height limits in residential zones demonstrate that Bozeman is aware of this issue, and has already taken steps to address it. The increased height allowed in residential districts and simplification of the standard as related to roof pitch have brought Bozeman more in line with best practices in this area of regulation. We recommend that as the City implements the revised standards, they also engage in a continuing conversation about whether additional increases in maximum height would be of benefit.

Concerns raised by allowing taller buildings near existing low-density residential areas can be addressed through neighborhood adjacency standards, setbacks, and screening, and, for taller structures, building stepback requirements. Standards similar to the current non-residential stepback standards in Section 38.320.060 can be established to apply to both residential adjacency and residential/non-residential adjacency.

Similar changes should be considered in the commercial/mixed-use districts. The Downtown (B-3), the B-2, B2-M, and UMU district, all have fairly low maximum height limits that could be reviewed and potentially increased. The 2019 Downtown Bozeman Improvement Plan includes this illustration of how the current UDC requirements work together with typical building design to result in a five-story building:



*Regulations and building construction requirements typically limit Downtown development to five stories*

The Downtown Improvement Plan then goes on to recommends allowing structures to be built to seven stories outside of the historic core:

"Downtown's height limits should be adjusted to enable buildings of seven stories outside of the historic core, rather than specifying 70 feet which more usually results in five-story buildings. For buildings with seven stories, urban design guidelines could be put in place to shape and break down the massing while still enabling the density needed for a vibrant, inclusive Downtown.

For example, the floor plates on levels five through seven can be designed to step back from the building edge to break down the form. A height increase to seven stories could also be an opportunity to address long-term affordability by incentivizing smaller units through height bonuses."

We support these recommendations as a further way for Bozeman to enable the production of more small "a" affordable housing without the need for discretionary hearings or approvals.

## **2. Establish Minimum Heights**

To encourage increased development of moderate density multi-household dwellings, the City could consider establishing minimum building heights in the higher intensity commercial districts. Requiring at least two stories in the B-2M and B-3 zoning districts, for instance, could prevent lots from being used for the development of single-story commercial structures. There is precedent for minimum heights in Bozeman; UMU currently has a minimum building height of 22 feet, and REMU has a two-story minimum requirement when for mixed-use development.

## **Update Use-Specific Standards to Reduce Barriers to Innovative Housing**

The size and layout of future development and redevelopment is regulated through both lot and building-related dimensional standards and use-specific standards. There are two specific housing types in the UDC with current use standards that could be revised and simplified in ways to encourage more production of market-based affordable housing.

## **Simplify Currently Allowed Housing Types**

### **1. ADUs**

Accessory Dwelling Units (ADUs) are a secondary and subordinate dwelling unit on the same lot as a single-household or multi-household uses. They can be "attached" (located in the attic, basement, or converted garage space of a primary house) or "detached" (in a carriage house, over a detached garage, or on the ground floor of a converted garage). ADUs have proven to be a popular, less controversial way of adding housing to existing single-household neighborhoods in many communities across the United States – in part because many older neighborhoods already contain a scattering of these types of secondary units (some of which predate zoning).

Bozeman has already endorsed ADUs and allows them in all residential zoning districts. However, the current standards for creating an ADU in these districts are very strict, and significantly decrease the chances that many ADUs will be created. Like many other "first generation" ADU ordinances, the current standards appear to reflect a fear of unintended consequences when allowing a new land use. Across the U.S. many "second generation" ADU ordinances are being created with revisions similar to the following, and we recommend that Bozeman consider these types of changes:

- Raising occupancy limit from the current two-persons to four persons, which aligns with the International Building Code allowance for apartments. In Bozeman, this approach may require

further study, because keeping the occupancy of an ADU subordinate to that of the primary unit is very important to allow utilities to be extended from the primary dwelling unit to any detached ADU without requiring construction of new utility mains or payment of related fees.

- Increasing the permitted size of an ADU to 800 square feet.
- Removing the requirement for additional lot area to construct an ADU.
- Removing the requirements for ground floor ADUs to have alley access.
- Deleting the requirement to provide an additional parking space for an ADU, or amending the requirement to state that if two spaces exist on a lot where an ADU is proposed, provision of an additional parking is not required.
- Eliminating discretionary review for compatibility and consistency and instead applying objective standards related to shadowing, privacy, and other impacts.

These changes reflect a growing body of experience showing that ADUs are an important form of gentle density and that many of the feared negative impacts of ADUs have not occurred.

Additionally, any overlap between the accessory building (Sec. 38.360.030) and accessory dwelling unit (Sec. 38.360.040) standards should be eliminated so that ADUs are only regulated by the ADU standards.

## **2. Cottage Housing**

Many communities have found that cottage housing developments, which generally include a group of smaller size-limited freestanding homes on a single lot, to be a useful way of providing small “a” affordable housing at lower cost to both younger and older households for which a smaller house is more than adequate. Although Bozeman already allows this type of housing, the City’s current regulations are more extensive and complex than those used by many other cities. As with ADUs, the number and level of detail in these regulations deter the creation of a type of housing that Bozeman has already decided is desirable. Other communities that want to promote cottage development have limited their use-specific regulations to the following elements:

- Maximum project size (size of lot and number of units),
- Minimum common open space and orientation of units around this space,
- Minimum setbacks and buffering of homes from the project boundaries,
- Minimum separation between individual structures (often tied to the building code),
- Maximum permitted house size,
- Minimum parking standards, and
- Location of required parking (often in a shared parking area).

The following standards in the City’s current cottage housing regulations should be considered for elimination: (1) additional private open space for each cottage, (2) requirement for additional entrance for units facing public right-of-way; and (3) architectural requirements for a “unified theme” or specific design features.

## Consider Additional Forms of Innovative Housing

The UDC should be revised to include definitions and to identify in which zoning district the following new types of housing uses are permitted, and to establish use-specific standards to ensure that they “fit into” the surrounding context that any negative impacts are mitigated:

### 1. Tiny Houses

Despite the popularity of discussions about tiny houses, there is often a great lack of clarity as to what type of housing is being proposed and how that housing is regulated. All forms of housing are regulated as both structures and uses. From a structure perspective, tiny houses can first be categorized based on whether they are constructed for use as long-term or short-term housing. Tiny houses intended for long-term housing are regulated similarly to residential structures, and those intended for mobile, short-term housing are regulated similarly to recreational vehicles (RVs). Bozeman (like almost all other U.S. cities) requires that any tiny houses intended for more than occasional occupancy that meet applicable building and safety. This can be the standard building code for units like Bozeman’s Housing First Village homes (which that were custom designed by MSU architecture), or the Manufactured Home Code (HUD Code) for units that were factory-built and have at least 400 square feet of living space. Tiny houses that do not meet the City’s current residential building code or the HUD code can only be used for occasional occupancy (usually less than 30 days) regardless of whether they are approved as primary or accessory dwellings.

Once the structure-related issues are addressed, the UDC also needs to specify how the house will be regulated as a use, and this is where Bozeman’s UDC can be improved. Tiny houses can be regulated as: (1) an ADU (accessory use), (2) a primary single-household dwelling on an individual platted lot (primary use), (3) a primary single-household dwelling a subdivision of individual lots with tiny homes (primary use), (4) a group of homes on a single platted lot intended for long-term rental (primary use similar to a manufactured home park), or (5) a group of homes on a single lot intended as short-term or transient housing for the currently homeless (a primary use with tailored specialty use standards).

While the current UDC technically allows the use of tiny houses that comply with building and safety standards for all of these purposes, each of these types of tiny house development are subject to different use standards. For example, tiny houses proposed as ADUs must meet all applicable ADU standards. Groups of tiny homes on a single lot intended as primary dwelling units can often be addressed as a type of manufactured home community use. Aurora, Colorado, recently adopted regulations to allow these types of communities. The City should consider clarifying what standards apply to each of these uses of tiny houses, and revising those standards if necessary to allow broader use of these structures.

### 2. Congregate/Group Living

While the federal Fair Housing Act requires that American communities treat group living facilities for the physically or mentally disabled (including recovering substance abusers) the same as housing facilities of the same size and scale available to the general public, there are many forms of group or communal living that are not covered by the Fair Housing Act. This can include housing cooperatives, groups of the elderly or young that agree to share a housing structure, co-housing facilities, single-room occupancy (SRO) facilities, and intentional communities focused on a specific belief system or set of values. Generally, the current UDC treats housing subject to Fair Housing Act requirements related to disabilities as congregate care uses, while those forms of housing not subject to the Act are categorized as group living or cooperative household uses.

The frequency and variety of these alternative group living choices will likely continue to expand, especially as costs rise, and Bozeman’s UDC is well positioned to accommodate the various permutations because it allows group living in all residential zoning districts. Cooperative households are permitted by right in the R-3, R-4, R-5, and R-O districts and requires special use permission in the R-S, R-1, R-2, and RMH districts. To improve user-friendliness, however, the UDC could be more explicit about the range of non-FHA group housing options that are allowed, through adding them to the use table, providing definitions, and as needed, establishing use-specific standards for the various kinds of living arrangements that are permitted in the group living category. If subject to such use-specific standards, cooperative household could be permitted by right in all residential districts, as group living is now.

While the City’s current “Apartment, Limited” standards were apparently drafted to allow a specific co-housing development, that use is better categorized as part of this broad category of group living. If that reclassification occurs, the current “Apartment, Limited” use should be retired or merged into the general “Apartment Building” use.

### **3. Rooming and Boarding**

The UDC should also specify more clearly that extra rooms in dwelling units of all types may be rented out to persons other than the primary tenants of the dwelling unit for either short-term (where short-term rentals are permitted) or for long-term use, subject to a limit of 8 residents, unless further limited by occupancy standards on the building code. New roommate finding systems like Circle, Diggz, SpareRoom, and Roomimatch have vastly expanded the scope and potential of rooming arrangements to provide an important (and legal) additional source of housing, and the UDC should take a flexible approach to these arrangements in most or all zoning districts.

### **4. Stacked Flats**

Stacked flats are, essentially, a duplex housing use in a structure that looks like a single-household attached townhouse/rowhouse structure. Instead of leading into a single two- or three-floor townhouse, the street-level entry to the structure leads into an entry serving both a 1- or 2 story ground floor and a 1- or 2-story upper floor unit (both of which may be individually owned through a cooperative or condominium arrangement). This form of housing has emerged on both the west and east coasts as a new approach to promote affordability in neighborhoods that allow townhouses/rowhouses by allowing each of the attached structures to contain two dwelling units. Though we understand that there is nothing in Bozeman’s code that precludes this kind of structure, the allowance for it could be more clearly and explicitly defined.

## **Create Complete and Consistent Definitions and Use-Specific Standards**

The current UDC contains a common definition/standard triple step: (1) there are incomplete or missing definitions for different types of housing, (2) some of the current definitions include substantive regulations, and (3) some of the use-specific regulations include definitions. Establishing a complete and consistent set of definitions and use standards for each type of housing allows the City to ensure shared expectations with applicants and neighbors. From a best-practices perspective, the definitions and standards should be organized consistently with definitions in Article 7, use-specific rules in Div. 38.350, and zoning district-specific regulations in Div. 38.330.

## 1. Update Current Housing Definitions

This section identifies the current UDC housing-related terms that should be either defined or redefined, along with suggested changes that would improve their consistent and effective use in implementing the Future Land Use Map of the BCP2020.

### Complete and Consistent Housing Definitions

Term	Current Definition or Standards	Suggested Changes
<b>General Terms</b>		
<b>Household</b>	A person living alone, or any of the following groups living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking and eating facilities: 1.Any number of people related by blood, marriage, adoption, guardianship or other duly-authorized custodial relationship; 2.Not more than four unrelated people; or 3.Two unrelated people and any children related to either of them; 4.Persons or groups granted a request for a reasonable accommodation to reside as a single housekeeping unit pursuant to section 38.35.090.5. "Household" does not include: [paraphrased] a. Any social organization; b. Any group that is temporary or seasonal in nature; c. Prison/post-incarceration housing; or d. transitional or emergency housing	This definition is fairly close to current best practices, but could be improved by clarifying that any group of individuals whose right to live together is protected by the federal Fair Housing Act is considered a household (without having to apply for a reasonable accommodation under that Act).
<b>Dwelling</b>	A building, or portion thereof, meeting the requirements of the City's adopted International Building Code and used by one household, as defined by this article, for residential purposes. Dwellings may exist in many configurations, including single-household, two-household, multiple-household dwellings and group homes. Dwellings do not include hotels, motels, Type-3 short term rentals as defined in section 38.360.260.	The list of examples should be expanded to include the new types of housing (including Tiny Houses, cottage housing, and co-housing) listed above.
<b>Housing Type Terms</b>		
<b>Accessory Dwelling Units, Attached and Detached</b>	Not defined in Art. 7, Definitions; 38.360.040 ADU Use Table describes: (1) ADUs above an accessory building, (2) ADUs on the ground floor of an accessory building, (3) detached ADUs including second story additions on detached garages, and (4) ADUs that are part of the principal dwelling unit.	Add definition in Article 7. The use standards could be simplified to distinguish only between attached and detached ADUs, rather than the four categories currently described.
<b>Apartment Building, Limited</b>	Not defined in Art. 7, Definitions; 38.360.070 use standards describe this as: 5-8 units in a single building, 120 ft max building dimension, 10,000 sf max floor area	Add definition in Article 7; consider renaming this use as co-housing.

### Complete and Consistent Housing Definitions

Term	Current Definition or Standards	Suggested Changes
<b>Apartment Building</b>	A building other than a hotel, motel, townhouse, or rowhouse containing five or more dwelling units.	Merge with the definition of apartment. Relocate the scale, size, and layout standards in the form and intensity standards rather than here in the definition.
<b>Cottage Housing</b>	Not defined in Art. 7, Definitions; 38.360.120 use standards describe this as: the subdivision of a parcel of land, referred to herein as the primary lot, into: a) dependent lots for individual dwellings, and b) private common areas for the common use of the owners of dependent lots.	Add definition in Article 7.
<b>Rowhouse</b>	A dwelling unit that shares one or more common or abutting walls with one or more dwelling units. A rowhouse does not share common floors/ceilings with other dwelling units.	To clarify the distinction between a Rowhouse and a Townhouse, this definition should state that the attached units are typically located on a single lot. If helpful to UDC users, alternatively layouts can be illustrated in the use-specific standards.
<b>Rowhouse Cluster</b>	A building consisting of three or more rowhouses.	Merge with the definition of Rowhouse above. If the purpose of this definition is to establish a minimum or maximum number of attached rowhouse units, that should be done through use-specific standards applicable to specific zoning districts.
<b>Single-Household Dwelling</b>	Not defined in Art. 7, Definitions	Add definition.
<b>Small-lot single-household</b>	Not defined in Art. 7, Definitions	Add definition.
<b>Three-Household Dwelling or Four-Household Dwelling</b>	Not defined in Art. 7, Definitions	Add definition. These uses are generally excluded from the definitions of Rowhouse and Townhouse if they are located in a single structure on a single lot.
<b>Two-Household Dwelling</b>	Not defined in Art. 7, Definitions	Add definition.
<b>Townhouse</b>	A dwelling unit, located on its own lot, which shares one or more common or abutting walls	The second sentence of this definition contains substantive

**Complete and Consistent Housing Definitions**

Term	Current Definition or Standards	Suggested Changes
	with each wall having no doors, windows or other provisions for human passage or visibility with any other dwelling units, each located on its own lot. A townhouse does not share common floors/ceilings with other dwelling units. Each of the attached dwelling units must have: 1.Independent water and sewer service lines and metering pursuant to the applicable plumbing code and all other City regulations; 2.Individual services for all private utilities; and 3.A two-hour fire separation separating the dwelling unit from any adjoining dwelling units.	regulations that should appear in townhouse use-specific regulations (38.360.250) instead of the definition.
<b>Townhouse Cluster</b>	A building consisting of three or more dwelling units, each meeting the definition of a townhouse, placed side-by-side and/or back-to-back.	This is an unusual definition that should either be merged with the definition of Town house above or addressed in use-specific standards applicable to specific zoning districts.

The current UDC also addresses temporary forms of housing, like transitional and emergency shelters. These types of facilities, which generally provide related services for their occupants and provide only temporary housing. While important to the City’s comprehensive approach to housing, these housing types do not increase the overall amount of capital “A” affordable or small “a” affordable long-term housing and are not addressed in this report.

**Revise Project Design Standards**

Project design standards (also referred to as “development standards”) are groups of regulations that apply to a lot or development in in each zoning district. Typical development standards include parking, landscaping, screening, parks and open space dedications, and building design. Bozeman has project design standards for all of these categories, as well as standards for privacy, pedestrian circulation, vehicular circulation, and on-site open space.

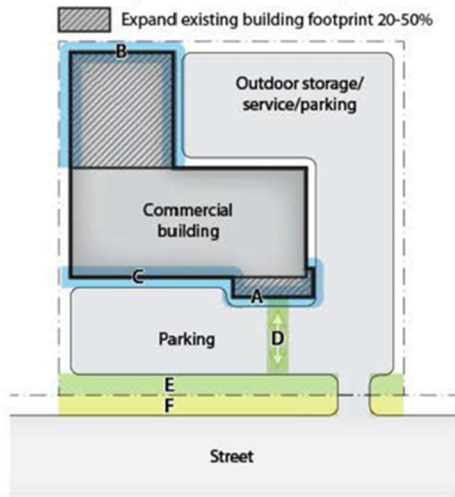
While each of these topics contribute to the enviable quality of life enjoyed by Bozeman residents, the number of standards and criteria related to each of these topics is unnecessarily long. In our experience, very lengthy and detailed lists of project design standards often reflect a desire to avoid all possible unintended consequences of a proposed development, but they can also add significant costs to the proposed development and increase the time and expense of preparing and reviewing applications for new housing developments. In general, we believe that “more words do not necessarily make for better development;” in some cases they increase development costs far beyond the public benefits created by compliance with the standard.

This section includes recommendations for changes to these standards to encourage the development of more affordable housing without eroding the quality of life in Bozeman’s neighborhoods.

## Applicability and Compliance (Sec. 38.500.020)

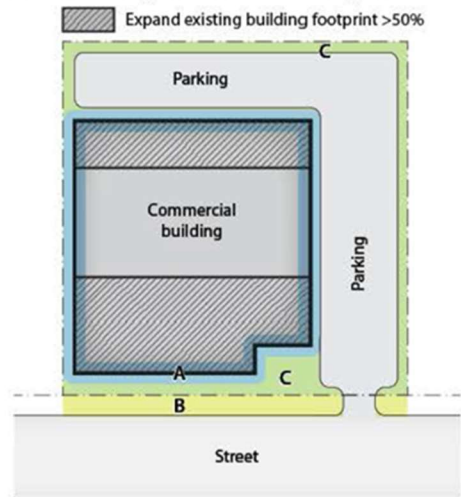
Applicability and compliance standards describe when redevelopment of an existing site or structure will be required to come into compliance with new regulations adopted after the initial development of the property. The current applicability and compliance standards are clear and understandable and establish three different thresholds at which the current project design standards are applied. Level I standards are applied to minimal improvements, Level II standards to a middle range of improvements (increases in building area by 20-50%) that do not involve relocating a structure, and Level III standards are applied to extensive improvements (an increase in building area larger than 50% or the relocation of a structure).

### Level II Improvement Example



- A. Entry addition meets facade and building design/materials standards (38.530)
- B. Rear addition meets applicable building design/materials standards (38.530)
- C. Facade upgraded to meet applicable facade, building design/materials standards (38.530)
- D. Pedestrian access improvements per 38.520.040
- E. Parking lot landscaping improvements per 38.550.050
- F. Landscaping improvements are encouraged but not required.

### Level III Improvement Example



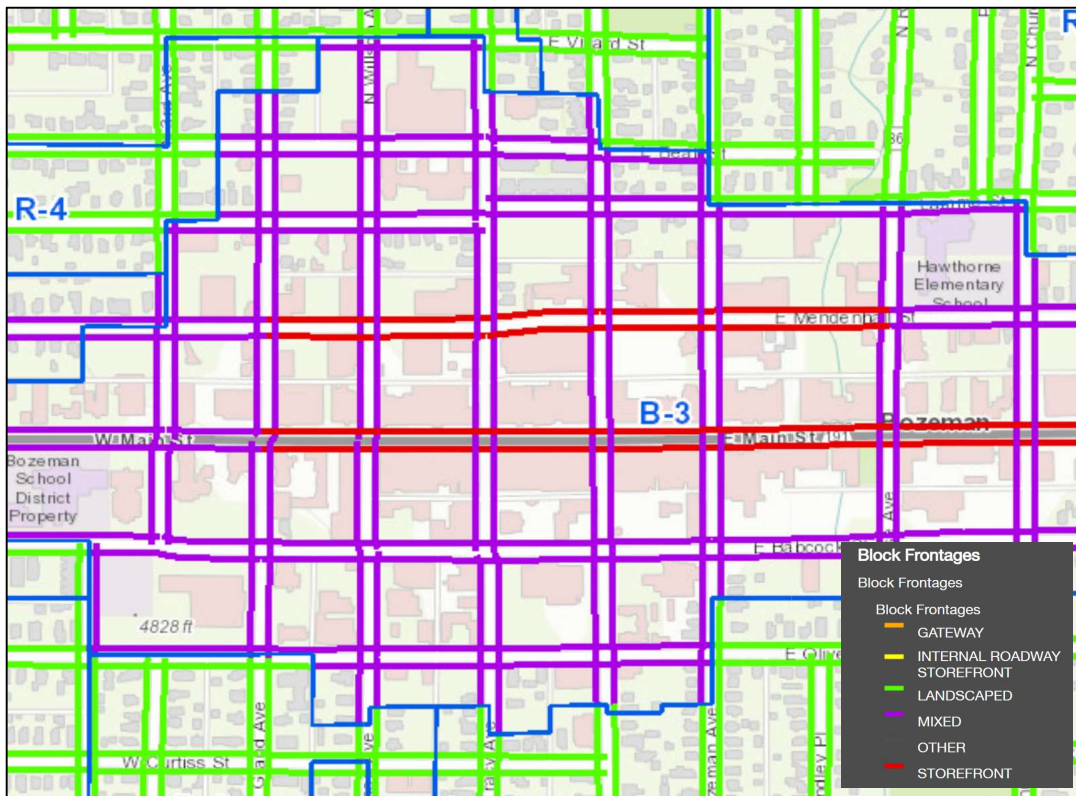
- A. Entire building meets applicable facade and building design standards (38.530)
- B. Landscaping improvements are encouraged but not required.
- C. Site design conforms with Division 38.520 provisions (site planning and design elements).

At each threshold, a specific level of compliance with any new or changed regulations is established. The Level I and II requirements for improvements or compliance are consistent with similar approaches in other communities, but Level III thresholds and compliance standards should be reviewed and revised to promote affordability. A project that triggers Level III standards will be required to fully comply with all applicable development standards. Depending on the structure and site, this can be an expensive change that effectively discourages any redevelopment of the site. To avoid this result, some communities set the Level III threshold at a 75-80% increase in building area, which can allow the property owner to allocate more project funding to interior improvements, including the creation of additional housing. Alternatively, the UDC could be revised to raise the Level III threshold just for those projects that include a significant number of new residential units, or to exempt those projects from compliance with some of the facade, site design, or parking requirements.

## Block Frontages (Div. 38.510)

The UDC is currently a mix of traditional and form-based code controls and an overall code analysis should include a look at whether these regulations work together or at cross-purposes. Of particular note is the citywide applicability of form-based regulations such as block frontages, which in many hybrid codes would only be applicable to those areas where form regulations have been specifically created to reflect local character.

The block frontage standards establish the range of street-facing elements, such as building location, parking lot location, and landscaping, for which consistency of design and application are important to maintain a consistent or compatible design character in different areas of the City. This map provides a sample of downtown block frontage designations:



Section from Bozeman Block Frontages Map ([bozeman.maps.arcgis.com](http://bozeman.maps.arcgis.com))

From an affordable housing perspective, the concern about broadly applied block frontages is that they may inadvertently combine a limited list of available ground floor uses with a requirement that the ground floor be designed for commercial occupancy (through minimum commercial use depth requirements and minimum floor-to-ceiling height) in locations where there is inadequate market to support non-residential ground floor uses. The block frontage standards could be clarified and adjusted to encourage the creation of additional housing as follows:

## **1. Storefront Frontage**

This frontage is intended for use in “vibrant and active shopping and dining areas;” the Frontages Map should be reviewed to ensure that Storefront Frontage is carefully applied to those current or future locations where that description is accurate and economically viable. The City could clarify in Table 38.510.030.B that the ground floor non-residential use requirement is only applicable to the minimum non-residential space depth. It could also reduce the required minimum non-residential space depth from 20 feet to a floating standard that accounts for different structures sizes, such as the lesser of 20 feet or the front 1/3 of the ground floor. In Section B.3.d, the UDC could provide examples to clarify what “an acceptable tradeoff” might include. In areas where the changes discussed above would allow ground floor residential occupancy, reduce or waive the minimum ground floor height requirement (or remove those frontages from the frontage segment maps).

## **2. Mixed Block Frontage**

Mixed Block Frontages can be used “to accommodate a mix of ground floor uses and allow a diversity of development frontages.” Mixed block frontages are likely intended to provide design flexibility to property owners, but that may not result in effective plan or code implementation. To avoid overuse of the Storefront frontage and its limits on ground floor residential use, the City could limit the use of Storefront Frontage in the Mixed Block Frontage to match the specific intent of where Storefront should be located. The UDC could also include standards for a “general building” where the Mixed Block Frontage applies, reflecting that not all mixed-use buildings need to have a Storefront design. The City has recently removed an impediment to single-use residential building along mixed block frontages by eliminating the requirement for a 13-foot minimum ground floor-to-ceiling height on the ground floor.

## **3. Landscaped Block Frontage**

The Landscaped Block Frontage intent indicates that this frontage is applied to “all new and existing streets in applicable residential districts, plus . . . residential based streets and other streets in commercial/mixed-use zoned areas where special landscape frontages are desired.” This is a very broad applicability statement. Many communities with form-based code provisions apply these standards to commercial and mixed-used areas, but not to residential multi-household or lower intensity residential areas. Applying this frontage type in a residential setting may simply increase the complexity of the design and the time it takes to review the project.

## **4. Interior Street Frontage**

This frontage applies to “some existing commercial storefront areas that are located on internal roadways. The interior street frontage requires a 12-foot minimum sidewalk “walking surface”, which could be replaced with a more contextual requirement that takes into account existing development on the street as well as adjacent non-storefront areas, and a narrower width allowed in existing areas where significant future pedestrian activity is not foreseen.

## **5. Structured Parking Facility Frontage**

The standards for this frontage specify that “parking structures should be located behind buildings in the interior of blocks or below grade. Parking garages that front streets must line the parking garage at street level with an active use.” Where parking garages have a street frontage, on the street level only, they must be “wrapped” with a commercial or residential use. In areas where this requirement applies, the standards could be revised to allow the upper floor of the structure to be designed for

future conversion to residential uses as an alternative to wrapping structure with commercial or residential uses. In many cases, designing the structure for future conversion to housing uses may be more cost-effective than requiring relatively narrow “wrap” structure (for which there is often limited market demand).



*The Shelby in Alexandria, Virginia, wraps 240 dwelling units around 384 parking spaces (KTY Arch. + Planning)*

## **On-Site Residential and Commercial Open Space (Sec. 38.520.060)**

We understand that Bozeman is in the enviable position of having a well-supported parks and recreation system with enough dedicated land to provide a high level of park services to the entire City. To match the need for more housing with the availability of parks and open spaces, we recommend reducing and redesigning the usable residential on-site open space requirement for development located within a reasonable and safe walking distance from a park. Current planning practice estimates that most people will walk about five minutes to reach a park, which typically equals about .25 mile or 1,320 feet of distance. In consideration of the more local outdoor needs of children and pets, smaller on-site open spaces with amenities such as tot lots and pet friendly green spaces can be required instead.

## **Parking (Div. 38.540)**

During the early outreach efforts for this Assessment, minimum parking requirements were cited more frequently than any other element as increasing housing development costs. There are two primary ways that parking requirements drive up project costs. First, parking typically must be provided on-site (on the same lot as the housing development), increasing the amount of land a project requires and driving up land cost per dwelling unit. Second, although enclosed parking is not required in Bozeman, many developers choose to construct garages to meet minimum parking requirements which further increases construction costs.

While some newer development codes have eliminated parking requirements altogether, most communities still require some minimum level of parking for most residential uses. On-site parking minimums are established in an effort to prevent traffic congestion caused by residents parking on streets and overflow on-street parking in adjacent residential neighborhoods. In looking at the significant costs to development and the community created by parking, there has been a great deal of academic and practitioner discussion about the amount of “overparking” that has resulted from standards based 1960s assumptions about parking demand. Many communities are now moving to reduce the amount of on-site parking required.

Historically, it was not uncommon for development codes to set parking requirements for multi-household development based on number of bedrooms; newer codes increasingly drop that approach. The correlation between bedrooms and car ownership is not very strong and this approach tends to drive up the cost of housing for larger families. It is also unusual for a per-bedroom parking requirement to apply to single-household, townhouse, and two-household structures. We recommend that per-bedroom parking requirements be replaced by per dwelling unit (DU) standards shown as shown in the table below.

### Recommended Changes to Residential Parking Requirements

Dwelling Type	Current Requirement	Proposed Minimum Req.
Up to four-household dwelling	One-bedroom: 1.5 spaces/unit (R-5 = 1.25) Two-bedroom: 2 spaces/unit (R-5 = 1.75) Three-bedroom: 3 spaces/unit (R-5 = 2.5) More than 3 bedrooms: 4 spaces/unit (R-5 = 3)	1 space/DU
Townhouse/ Rowhouse	One-bedroom: 1.5 spaces/unit (R-5 = 1.25) Two-bedroom: 2 spaces/unit (R-5 = 1.75) Three-bedroom: 3 spaces/unit (R-5 = 2.5) More than 3 bedrooms: 4 spaces/unit (R-5 = 3)	1 space/DU
ADU	1 space per ADU	No additional parking space required.
Manufactured home	2 spaces per unit	1 space/DU
Cottage housing, or tiny house development	Not listed	1 space/DU
Apartments		
Efficiency and one- bedroom	Efficiency: 1.25 spaces/unit (R-5 = 1) One-bedroom: 1.5 spaces/unit (R-5 = 1.25)	1 space/DU
Two-bedroom and larger	Two-bedroom: 2 spaces/unit (R-5 = 1.75) Three-bedroom: 3 spaces/unit (R-5 = 2.5) More than 3 bedrooms: 4 spaces/unit (R-5 = 3)	1 space/DU

#### 1. Changes to General Provisions (38.540.010)

In addition to reducing the minimum required parking, some changes to the general provisions in the UDC parking chapter could allow for additional flexibility in site design and more affordable housing development.

- Flexibility in parking requirements can facilitate adaptive reuse of structures, such as conversion from non-residential to residential, that might not otherwise be possible with strict adherence to parking standards. Some newer codes provide that the existing amount of parking on site cannot be reduced but additional parking will not be required, and we recommend that change to Bozeman.
- While the UDC already permits off-site parking within 1,000 feet of a use in the B-2M zoning district, the City should consider permitting off-site parking within a stated distance of any use. This could be helpful in facilitating the development of new housing types such as cottage housing and tiny home communities, which can be good candidates for small scale infill development but may not be able to meet on-site parking requirements.
- In the commercial and mixed-use districts, we recommend that the City adopt a system of shared parking conversion factors that account for use of a single parking space by different users at different times of the day, rather than requiring the preparation of a parking study to support a shared parking adjustment. This saves the time and expense of preparing a study and recognizes that tenant turn-over makes most the usefulness of site-specific studies very limited. Most newer codes do not require the submittal of parking studies except for very large and complex projects or those applications requesting significant deviations from other code requirements.

## 2. Update and Expand Parking Reduction Allowances

The current UDC contains several provisions that allow for a reduction in the number of required on-site parking spaces in specific circumstances. These types of reduction factors are common in newer development codes and can be a significant factor in promoting small “a” affordability.

Based on practices in other medium-sized cities, we recommend the City consider the following changes to the current parking allowances.

- The reduction of minimum parking requirements in the R-5 zoning district could be expanded to the R-4 district, and to other relatively dense mixed-use nodes in Bozeman. The definition of dense mixed-use node or center can be defined and included in the regulations to ensure consistent applicability.

Bozeman should also consider adding a new reduction for senior housing.

- Age-restricted housing developments are often permitted to provide parking at a rate up to 50% lower than the rates required for similar housing structures that are not age-restricted. While Bozeman already has a provision allowing group homes and community residential facilities to request an adjustment if the operator can demonstrate that the residents are not permitted to operate motor vehicles, this proposed change would be more broadly applicable, and would be available simply based on documentation of the age-restriction (rather than requiring discretionary approval of a request to the City).

## Covenants and Homeowners Associations

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The changes recommended in this section can have important positive impacts on the cost and construction of housing in Bozeman by reducing the amount of lot area required and increasing the amount of structure permitted. However, these improvements can be undercut by property-owner-imposed deed restrictions (“covenants”) that mandate specific lot sizes or structure sizes or that limit housing structures or uses. Covenants are private contracts between the property seller and the buyer and can be more restrictive than the UDC. The City is currently working to educate developers about the impacts of covenants on long-term affordability in Bozeman and needs to continue in this effort. In addition, the City may want to consider discouraging the future creation or adoption of new covenants inconsistent with Bozeman’s desire to promote affordable housing.

## **OUTCOME 2: PRESERVE EXISTING AFFORDABLE HOUSING**

While most discussions of affordable housing focus on vacant land development and redevelopment, it is equally important to identify ways in which the Unified Development Code can be used to preserve existing housing, and to reduce speculative pressures to expand or replace that existing housing with more expensive housing over time. Some of the proposals explored in this section are designed to limit both the net loss in the number of small “a” affordable dwellings if and when some of those older structures are replaced with larger numbers of units.

### **Discourage Redevelopment of Naturally Occurring Affordable Housing**

#### **Neighborhood Conservation Overlay District (NCOD) (Section (38.340.010))**

The NCOD overlay district was created in 1991 to stimulate the restoration and rehabilitation of buildings that contribute to the character and fabric of specific established neighborhoods. This district covers three distinct areas: (1) Downtown, (2) neighborhoods north of Downtown, and (3) neighborhoods south of Downtown.

Specific designated historic structures and areas are interwoven into the NCOD and are described in the “Guidelines for Historic Preservation and the Neighborhood Conservation Overlay District.” Construction in this district must be in compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings and must meet specific architectural appearance design guidelines related to height, scale, massing, and materials. A “Certificate of Appropriateness” is required for all work in this district with a few exceptions (e.g., egress windows, fences). Deviations from dimensional and development standards are allowed within the Conservation Overlay District, but an applicant must demonstrate that proposed deviations are more historically appropriate to the building and/or site than the underlying standard. Deviations are not available for uses.

The 2015 NCOD Audit recommended removal of the NCOD by 2020 and replacement with smaller more specific overlay areas for the Historic Districts and general design guidelines to promote compatible development outside the districts. In 2019, the Bendon Adams Report instead recommended keeping the overall NCOD boundaries intact (with minor adjustments) but breaking the NCOD program into two programs – one to preserve historic buildings and another to protect neighborhood character and context for the three specific areas listed above. Following that report, further conversation in Bozeman is now focused on eliminating the NCOD while maintaining both the preservation function and neighborhood character protection through the creation of new base or overlay zoning districts that are tailored to meet these two priorities. We generally support this change.

More specifically, we support the separation of the historic preservation function for individually listed structures and districts (and the continued application of the Certificate of Appropriateness system to modifications of those buildings) from simpler neighborhood conservation (but not historic) redevelopment standards. We also support a recommendation that NCOD areas not designated as historic structures or districts be placed in one or more new base or overlay districts (perhaps one for each for the north of Downtown and south of Downtown areas) with simpler neighborhood conservation standards that do not overlap with the Secretary of the Interior’s standards and that are applied administratively by City staff.

Although NCOD was designed to protect and preserve housing and character, the new neighborhood character zoning district(s) could be designed to better conserve existing housing in order to address

Bozeman's housing affordability challenge. More specifically, conservation of existing smaller housing should be a primary focus in those new zoning districts designed to replace the NCOD. The City should consider a provision that existing single-household dwellings in these the areas north and south of Downtown only be allowed to expand by a certain percentage of their existing size during any five-year period, unless the single-family use or structure is replaced by another form of housing (such as a two-household, three-household, or four- household use) that increases the housing supply. As an alternative to a percentage size control, the City could revise the current standards to establish maximum home width, depth, or volume standards that would prevent the replacement of existing homes with much larger homes. Any such standards should be based on the established scale and character of homes in the zoning district, and should be careful to define any houses that already exceed the stated maximums as legal conforming (not nonconforming) structures.

Additionally, the new neighborhood character district(s) should be designed as either strictly residential or mixed-use districts with a limited structure footprint size. While the current NCOD district applies design and development standards to the broad range of residential and non-residential development permitted in the underlying base zoning district, there is a risk that the availability of higher intensity or higher value non-residential uses in the underlying zone district could lead to the replacement of existing smaller homes with those uses. In order to discourage demolition and replacement of existing smaller homes with non-residential uses, the City could consider imposing a 5,000 square foot size limit on the gross square footage of non-residential uses (excluding civic uses required to provide public services) in the new character districts.

### **New Affordable Housing Protection Overlay District**

In light of current and foreseeable market pressures, it is likely that existing smaller, more affordable houses in many areas of Bozeman will continue to be purchased, demolished, and replaced by larger, more expensive homes. While the replacement of existing single-household structures with two-, three-, four-, or multi-family structures would add new housing supply that could help remove market pressures, the replacement of an old home with a new home does not add supply. In order to help preserve Bozeman's existing stock of smaller, older, more affordable homes, the City may also want to consider creating a housing preservation overlay zoning district that could include limits on home expansion, maximum house width, depth, or volume, or other standards designed (similar to those described for the character-based replacements for the NCOD district above) to ensure that redevelopment of existing homes results in new homes that "fit" with their neighbors while discouraging the purchase of existing homes to replace them with much larger and more expensive houses. This new overlay would be designed to apply in areas other than the areas north and south of Downtown currently covered by the NCOD and could also limit the ability to replace existing smaller homes with non-residential uses (particularly larger ones) that would otherwise be allowed in the underlying base zoning districts.

### **Residential Manufactured Home Parks (RMH) (Sec. 38.300.100.G)**

Residents of manufactured home parks rarely own the land under their homes; instead, it is often owned by a park operator who may or may not have an interest in preserving and maintaining the park. Throughout the country, communities are increasingly viewing manufactured home parks as a valuable source of already-existing affordable housing and are taking steps to prevent the removal of those parks that are viable, safe, and have been developed with proper infrastructure connections. Bozeman should consider whether those manufactured home parks already zoned RMH should be further protected in ways that do not interfere with the operation of those parks (as required by Montana law). As an exception, most newer codes do not discourage the redevelopment of parks containing homes that do not meet HUD safety standards for manufactured homes under the National Manufactured Housing Act.

The City may also want to consider allowing redevelopment of manufactured home parks in ways that add to the overall housing supply (as opposed to redevelopment for non-residential purposes), as discussed for the neighborhoods north and south of Downtown above.

Some of the existing manufactured home parks, however, are not zoned RMH. Zoning ordinances that include existing mobile home parks as one use in residential or mixed-use zoning district that allows a wide variety of alternative uses make it easier for owners of manufactured home parks to redevelop the property (and displace existing residents) in favor of a higher value residential or mixed-use development. Where manufactured home parks in Bozeman are not zoned RMH -- as is the case with the Wagon Wheel Trailer Court at 23rd Street and College Street (which is zoned R-O) or the Gallatin Valley Trailer Court north of Griffin Drive (which is zoned M-1). The City should evaluate the continued viability of those parks as sources of affordable housing in light of health, safety, and infrastructure standards, and should consider discussing with the property owners rezoning the viable parks into the RMH zoning district, if possible, in order to preserve this important source of small “a” affordable housing.

## **OUTCOME 3: MAKE DEVELOPMENT STANDARDS MORE PREDICTABLE**

Over the past several years, Bozeman has revised the UDO to allow many types of development to be approved administratively and without a public hearing. This is consistent with national trends to promote efficient, predictable development, and this fairly high level of administrative decision-making should be continued.

In order to obtain administrative approval, however, Bozeman's UDC requires compliance with an exceptionally large number of development standards and criteria, which adds time and expense to the development review and approval process. More specifically, the City's long list of standards and criteria related to specific uses, community design, project design, and natural resources are often subjective, which makes it difficult for applicants, staff, boards, and the general public to confirm that the standard has been met. In addition, some of the standards and criteria overlap in ways that make it difficult to comply with two or more standards addressing the same topic.

One example involves the City's residential lot development standards (discussed above), which currently require compliance with minimum lot width, minimum lot area, minimum building setbacks, maximum lot coverage, maximum backyard lot coverage, and in some cases maximum FAR and minimum private open space – a total of seven different parameters to regulate the relatively simple question of where a building can be located on a residential lot. Similarly, detached ADUs must meet three types of standards: the base district standards for lot area, width, setbacks, height; the ADU-specific standards related to setbacks, location, size, and height; and standards for accessory structures related to location, footprint, setbacks, and height. For all these reasons, the City should consolidate and simplify many of the current standards and criteria in order to improve the efficiency and predictability of the development review process.

In addition to the examples below, Title 38 Articles 4, Community Design; 5, Project Design; and 6 Natural Resources Protection, repeat the same standard or criteria in multiple sections. Although not directly affecting housing affordability, those repetitive standards add unnecessary time and expense to both the application process and the City application review process. In general, each substantive standard should be stated once, and only at the stage(s) in the development approval process where the information needed to confirm compliance with that standard is available and relevant.

### **Provide More User-Friendly Explanations**

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There are many existing provisions in the current Bozeman UDC that could contribute to the creation of additional or less expensive housing. However, these provisions can be difficult for the public to find, such as when they are located in footnotes to a table, or difficult to understand, such as when they included in a larger category or uses with a very general name. Listed below are some examples of zoning terms and standards concepts that are not well explained in the UDC but that are relevant to achieving more affordable housing through project design. In a broader code rewrite, these provisions should be clarified for the benefit of both professional developers and non-professional code users. In Bozeman, under the current UDC:

- There can be multiple primary structures on a lot, provided there is sufficient lot area.
- There are no minimum requirements on the size of structures as long as they conform to building code (which means that tiny houses are just houses, and micro-units are just apartments).
- An existing single-household dwelling may be internally converted to two units (either duplex or internal ADU, depending on district permissions) if it meets the lot size requirement, which are larger than that required for a single unit.

- Stacked flats, where a single entrance leads to 2 or more units in one structure, is a permitted building type, with number of units limited only by the types of housing use listed in the zoning district regulations.
- A very broad range of housing arrangements are included in “group living” and “cooperative household” categories.
- The broad definition of household allows for renting rooms within a housing structure to unrelated tenants, up to an occupancy limit of 8 people (building code permitting) and is not categorized as a rooming or boarding house.

In addition to making these changes within the UDC, the City should prepare a UDC Users’ Guide that explains development categories, such as group living, and site layout concepts, such as block frontages, in non-regulatory language and with the support of illustrations and photos. This can make the legal language of the UDC more accessible and help describe the multiple approaches that may be taken to accomplish what the code allows.

## General Provisions (Art. 1)

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Move Sec. 38.100.070, Conditions of Approval, to Permits section.

## Zoning Districts and Land Uses (Art. 3)

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### Intent and Purpose Statements (38.300.100 to .130)

The language in intent and purpose statements is policy-oriented and non-regulatory and can be used as guidance for a wide range of project and site design decisions. Because these types of statements are inherently general and subjective, the UDC should make clear that they are not to be used for regulatory purposes unless they are specifically listed as a criteria to be met for specific types of development approvals. We recommend that the current intent and purpose statements be reviewed, revised, and shortened to better link to the 2020 Community Plan, better describe the City’s housing development goals, and provide guidance about how the various zoning districts and use standards can be applied to promote preservation and production of affordable housing.

### Permitted Uses (38.310)

This section describes, through a series of use tables, which uses are permitted in which zoning districts in Bozeman. We recommend that the City consider the following improvements to promote housing affordability.

- Create a single use table that shows allowed housing types across all zoning districts – residential, commercial and mixed-use, industrial, and public -- for ease of user comparison. A single use table also reminds the City to consider amending existing housing use definitions to encourage flexibility, rather than adding new, narrowly-defined uses, each time a new type of housing is proposed. It also makes it easier to make innovative types of housing available in additional zoning districts as the City gains experience with any unanticipated impacts and how to mitigate them.
- Move substantive regulations out of use table footnotes. Regulatory drafting, as a form of legal drafting, should limit the use of footnotes to “useful but not critical” information. Many of the current table footnotes could be moved into either Div. 38.330: Zone Specific Provisions, Div. 38.320: Form and Intensity Standards, or Div.38.350: General Land Use Standards as appropriate. For example, Table 38.310.030.A: Permitted General and Group Residential Uses in Residential

Zoning Districts, has this note regarding the R-O district: “The primary use of a lot, as measured by building area, permitted in the R-O district is determined by the underlying growth policy land use designation. Where the district lies over a residential growth policy designation the primary use shall be non-office uses; where the district lies over a non-residential designation the primary use shall be office and other non-residential uses. Primary use shall be measured by percentage of building floor area.” This is significant information regarding applicable regulations for this district and (in addition to being revised as recommended earlier in this report) should not be located in a table footnote. Potential housing developers and redevelopers should be able to find substantive standards, conditions, or qualifications grouped in a location with similar information in order to accurately compare redevelopment opportunities across different zoning districts.

- Remove words like “encouraged” and “preferred” from use regulations. For example, in the REMU district: “2. Developments are encouraged to include non-residential uses, especially commercial and neighborhood support services, mixed horizontally and/or vertically, to promote compact, walkable and sustainable neighborhoods.” Words like these create ambiguity as to whether (1) the City is simply requesting something, or (2) whether it can deny an application for failure to follow the guidance, or (3) whether it can condition an approval on compliance with the guidance. Words like these create ambiguity among the applicant, citizens, and staff as to what is required by the City, and should generally be limited to non-regulatory planning documents or purpose and intent statements.

## **Form and Intensity Standards (38.320)**

In addition to our recommendations for substantive changes to Form and Intensity standards to promote housing affordability on page 38 above, there are many ways in which the wording of these standards could be improved to remove risk and unpredictability from the housing development process. The following are examples (not a complete list) of the types of standards that should be revised.

### **1. Revise General Instructions for Clarity and Consistent Application**

Current Sec. 38.320.020.A provides general information about the lot area and width standards and contain subjective terms that decrease development predictability.

- “1. All lots must have a minimum area as set forth in the form and intensity standards tables within this division and the more restrictive applies. These minimums assume a lack of development constraints. All newly created lots must have a minimum area adequate to provide for required setbacks and parking as set forth in the tables within this division. Lots less than 3,000 square feet, or less than 25 feet wide may be limited in their ability to comply with other required standards of the municipal code.
2. All lots must have a minimum width as set forth in the form and intensity standards tables within this division. These minimums assume a lack of development constraints. All lots must conform to development standards for provision of public and private utilities.
3. Lot area and width may be reduced to allow a density bonus through the PUD process. The amount of a bonus, methodology for calculating the bonus, and standards for allowing a bonus are described in section 38.430.090.E.2.b(6).”

The predictability of these standards could be improved by removing (1) the text regarding lack of development constraints, (2) the text about accommodating required setbacks and parking tables, (3) the text about smaller/narrower lots finding it difficult to comply with other UDC standards, and (4)

the text about provision of public and private utilities. Most newer codes simply establish minimum lot standards for each zoning district. While each of the UDC requirements (including parking, utilities, setbacks, and landscaping, among others) apply, each of those is checked once when development is proposed, and the ability to meet those standard requirements is general not reviewed when confirming minimum lot sizes. In addition, the text about adjustments through the PUD process is unnecessary, as that applies to all UDC standards that may be modified through the PUD process. In addition to removing repetitive or subjective language, a common understanding of UDC standards could be significantly improved by providing illustrations and drawings of what is required and how measurements are made.

## 2. Design Review

While many medium-sized cities across the country have a design review process, for relatively small projects, a requirement for additional review by the Design Review Board (DRB) can add time and uncertainty to housing development projects. Although UDC 38.230.040 clarifies which types of projects can receive administrative rather than DRB design review, the City may want to raise the upper limit for administrative design approvals for housing projects above the current limit of 45 dwelling units in order to facilitate faster approval of those projects. This recommendation is offered with the understanding that, at the time of writing, changes are underway regarding the number and duties of Boards within the City, and final changes may eliminate the need for this recommendation.

## Community Design (Art. 4)

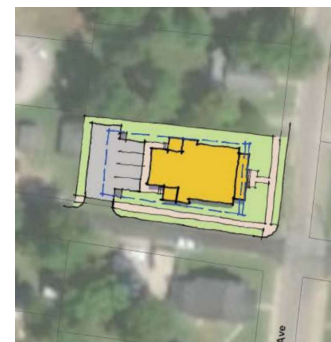
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### In General

The Community Design article focuses on important city, neighborhood, and site development elements that are required to be incorporated into many subdivisions and multi-structure development projects. As with some other sections of the UDC, the list of standards and criteria that need to be met is longer, more repetitive, and in some cases more subjective than those found in newer development codes.

In many cases, these standards and requirements are applied at the time of subdivision plat approval, while in other cases they are reviewed for compliance at the time of site plan or master site plan approval. In a third category of cases (which should be relatively rare) a specific standard is reviewed for compliance at both of these stages in the development process. Unfortunately, the current UDC does not clarify at which stage of land development some of the standards will be applied, which can lead to wasted time and effort in the application process. For example, an applicant may spend time and money to document compliance with a standard in an application for a subdivision plat approval, when the City does not in fact review that aspect of development for compliance until a specific development is proposed for a specific parcel within the approved subdivision.

In addition, many of the standards in Article 4 appear to be drafted to apply to raw land development, while others would logically apply to only small-scale infill or redevelopment projects, but the UDC text does not always make that distinction clear. Revising this article to clarify the stage of development and the types of applications to which the standard applies could significantly increase the responsiveness of applications for new housing development as well as reducing the costs of preparing a responsive application.



*Infill development has a different context than new development. (Lebanon, TN, infill overlay)*

## Transportation Facilities and Access (Div. 38.400)

This section includes many examples of subjective standards that add unpredictability to the development process, even for those applications that meet the more objective standards related to streets and access. Examples include the following:

- Uncertainty created by requiring that streets must meet right-of-way and construction standards in four different documents (one of which is a plan rather than a regulation), because those standards may not be consistent with each other. The requirements to submit a pavement design report based on specific site soil data and design-year traffic loading conditions prior to submitting plans and specifications is unusual, and many communities would only require this for larger projects or areas of known soil challenges.
- An apparent requirement that intersections with arterial and collector streets operate at minimum level of service C regardless of the size of the project, for a design year that is at least 15 years following the date of the application, is also unusual. Documenting compliance with this requirement can be onerous for a small housing project, and although exceptions are available, they require the review authority to make four separate findings, which would themselves be difficult for a small project to meet.
- Requirements for each lot to have a minimum of 25 feet of frontage on a public or private street may be dated, and some newer codes would allow a narrower frontage to encourage more efficient design without the need for a Master Site Plan or PUD approval.
- Uncertainty is also created by text stating that consolidation of access points onto public streets “is desired and must be considered during all levels of site plan review”, because compliance with most types of development standards is reviewed at a defined point in the process (in order to avoid the cost of documenting consideration more than once) and because each instance of language like “desired” or “considered” creates ambiguity as to whether the City may deny or condition an approval based on failure to meet the desired design.

## Community Design and Elements (Div. 38.410)

This section of the UDC, too, has numerous instances where standards are repeated in more than one section, as well as ambiguous language for which it would be difficult to demonstrate compliance in an administrative review process. In addition, the number of standards and criteria in each category itself adds time to both the application and the review process. Examples include the following:

- A requirement that “the lot size, width, shape, and orientation must be appropriate for the location and contemplated use of the development”, because the use of words like “appropriate” leave wide room for the applicant and City staff to disagree as to whether the standard has been met.
- A requirement that residential development contain a variety of lot sizes, regardless of the size of the proposed development. While variety in residential lot size and design is almost always favored, it may be



*General statements about lot design may cause unintended conflicts*

difficult for small infill or redevelopment projects to meet this standard, and the wording of the standard makes it unclear what level of variety will meet the standard.

## **Planned Unit Developments (Div.38.430)**

A recommended replacement for this section has been provided to the City in a separate document.

## **Project Design (Art. 5)**

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The Project Design article includes site-specific development standards that are required to be incorporated into site-specific development applications. In addition to covering topics normally included in project design, however, it also repeats many of the standards or considerations listed in Article 4 (Community Design). While this is sometimes necessary, it is often not necessary, because decisions made to comply with Community Design requirements effectively address the issue, or because the consequences of those earlier decisions are difficult to mitigate through Project Design. In other cases, it is more efficient to only apply the standard at the Project Design phase because the information required to demonstrate compliance with the standard is not available (or only available at a high cost) at the Community Design stage. Examples of standards and criteria in this section that increase cost and uncertainty in ways that raise housing costs include the following:

- A provision permitting departures from the order of priority of block frontages, if the location and orientation of the buildings “are compatible with the character of the area and enhance the character of the street” because “compatible” is a subjective term, open to differing interpretations, which creates uncertainty.
- A requirement that windows providing the only solar access to a multi-household dwelling unit be set back 15 feet from the property line, which directly increases the amount of land required for this type of development, with departures again requiring a determination of “compatibility”.
- A requirement that multi-household residential development provide a specially marked or paved sidewalk through parking areas, regardless of the size of the development or parking area, where many newer codes would apply this standard only to larger projects and parking lots.

## **Natural Resource Protection (Art. 6)**

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The Natural Resource Protection article includes Bozeman’s floodplain and wetland regulations. Because these standards, criteria, and permitting procedures are closely tied to federal and state regulations, and because they very directly impact public health and safety and protection of environmentally sensitive areas, they are usually not modified, adjusted, or waived to help achieve other community planning goals (even for small projects). We recommend that these regulations be reviewed as part of a larger UDC updating process so that the impacts of any changes can be evaluated from the perspective of multiple competing community goals, rather than just from the perspective of promoting housing affordability.

## **Definitions, Terms, and Measurements (Art. 7)**

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The UDC contains a list of terms that are subject to multiple interpretations. In addition to better defining (or eliminating the use of) terms like “compatible”, “harmonious” and “appropriate”, as discussed above, we recommend that Bozeman review and define terms and phrases like “residential character”, “consistency with established development”, “good access”, and “special significance”. Because of the inherent subjectivity of these terms and the difficulty of confirming whether they have been met, our primary recommendation is that use of these and other similar terms be discontinued and be replaced by objective development standards and approval criteria that help contribute to these goals. If that is not

possible, then the terms should at least be defined and the factors to be considered (or not considered) in determining compliance should be identified in the UDC. As an example from another community, the term “consistent architectural treatment ” is defined in one recent code as follows:

“A consistent architectural treatment is one where all building walls have defined levels of articulation and use different combinations of the same materials.”



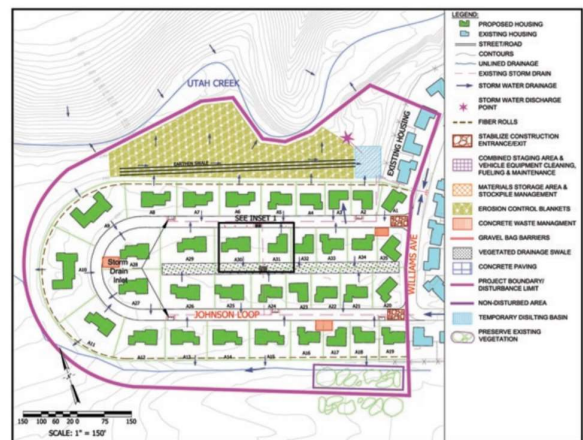
## OUTCOME 4: RETHINK THE HOUSING REVIEW PROCESS

Changes to the UDC substantive regulations to make the production and preservation of affordable housing a regulatory priority should be supported by changes to the review and approval procedure to ensure that both small “a” affordable and capital “A” affordable projects move from design to construction smoothly and predictably. This section of the report is focused primarily on changes within the UDC, but also includes some targeted suggestions regarding management of the development review process.

### Reconsider Required Detail of Housing Application Requirements

In general, the development review processes included in UDC Article 2, Permits, Legislative Actions and Procedures, appear very detailed and “front-loaded” in terms of submission requirements required for the initial stages of any review. This issue is not unique to Bozeman; many communities have tension between how much information is needed for good decision-making and what amount of development detail an applicant should be required to provide (and pay for) for initial development approvals. During the first round of public outreach for this report, we heard that this balance is currently tipped in favor of the City, with a development review process that requires significant detail about the project design in order to submit an application that will be considered complete. Requiring this level of detail at the outset can slow down the review process by setting the “complete application” hurdle too high and creating a time and expense problem for housing projects, among others.

As a result, we hear that many applications are incomplete when they are initially presented to the City, forcing applicants and staff spend time sending the application back-and-forth with comments and responses until the application can begin to be reviewed against UDC standards. Requiring a complete application (referred to as “adequate” in the UDC) before beginning to review it is a regulatory best practice that the City should continue to follow. However, the City should consider whether a lower level of detail could be required for initial applications, with more detail to be provided (and the professional expertise to prepare those additional materials to be paid for) after initial approvals have been granted. This, in turn relates to the number of Community Design and Project Design standards and criteria discussed in Outcome 3 above, because the more standards apply to each step of the approval process, the more detail needs to be provided to meet those standards (or to propose a compromise approach between two standards that are in tension with one another).



*The level of detail required for preliminary road design may be significantly less than that required for preliminary stormwater design.*  
(US EPA)

There are three procedural approaches to re-balancing the level of detail required with the level of approval being sought by the applicant, all of which may be applicable to the current processes and submission requirements:

### Adjust Initial Submission Requirements

Review the individual submission requirements for each type of application to determine the relative need for detail at the different permitting and project design stages (e.g., 30% design at site plan review, 60%

design at construction plan review, and 90% design at building permit application). This proposal sometimes faces two objections. First, that the applicant will propose one thing and build another, but that concern can be addressed through requirements that later submissions comply with the approvals of earlier submissions and that any major deviations from those earlier approvals, as defined in the UDC, will require the applicant to submit a completely new application. Even then, however, the UDC could require that only those pages or portions of the application that are being significantly altered (and other pages dependent on them) need to be a part of the re-application.

Second, this change sometimes brings concern that the applicant will not, in fact, be able to submit a later stage application that is consistent with the first approval due to unforeseen engineering, soil, unmarked infrastructure, or other constraints. The response is to clarify in the UDC that the risk of unknown site conditions is borne by the applicant, who can perform additional site or engineering analysis at their own expense in order to minimize this risk, or simply take the risk. Most newer development codes allow the applicant to make this decision in order to reduce the up-front costs of preparing earlier application documents. If the applicant chooses this option, obtains an early-stage approval, and finds it impossible to submit a consistent follow-on application, the first stage approval may expire, and that step may need to be repeated. That result, however, would be the result of applicant choice, and not because the City required more detailed approval than was really required to grant the first approval.

## **Create Major/Minor Categories**

Create Major/Minor application and amendment categories that better reflect the detail of information needed in the application process. Some communities, for example have a minor site plan process (which is what the current Sketch Plan Review process appears to be) as well as a method to process a minor change to an existing approval. UDC Sections 38.230.150 and .160 establish the criteria and processing method for current approvals and do allow for administrative approval where there are no significant changes to the original plan. The triggers for “significant” and inclusion of DRB review should be revisited to determine whether this section can be revised to allow more amendments to be processed administratively.

## **Revamp the Waiver Process**

Some communities also allow submission requirements to be adjusted through a waiver process. The UDC includes this approach in Sec. 38.230.090.D.4:

“The DRC may grant reasonable waivers from submittal of application materials required by these regulations where it is found that these regulations allow a waiver to be requested and granted. In order to be granted a waiver the applicant must include with the submission of the preliminary plan a written statement describing the requested waiver and the reasons upon which the request is based. The final approval body must then consider each waiver at the time the preliminary site plan is reviewed. All waivers must be identified not later than initial submittal of the preliminary site plan stage of review.”

Although it is a best practice to update regulations to reduce the number of needed substantive waivers, it is also a good practice to provide for procedural waivers of application materials that appear to be unnecessary or of very minor applicability to a particular application. The current procedure, though, is relatively awkward in its reliance on the DRC to approve waivers of application materials. Unless the DRC is able to respond to these requests fairly quickly, it could result in delays in preparing the application, since what needs to be included in the application is not known until the next meeting of the DRC. We recommend that the authority to grant submission waivers should be moved from the DRC to the Director

(or the Director’s designee) and an optional pre-application process used to allow applicants to quickly learn whether a waiver will be granted.

## **Clarify Uncertainty in the Application of Subjective Standards**

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Through our community outreach and work with staff, we have heard that the current development application and review process in Bozeman is both “detailed and thorough,” (discussed in the previous section) and “time consuming and uncertain.” It is not uncommon to find thoroughness and uncertainty both living in the same regulations because creating good development often requires the application of some subjective standards to site-specific projects.

Subjective standards, as discussed earlier, are typically the provisions that raise uncertainty for both applicants and staff. In the context of development review, subjective standards raise questions how differing interpretations of those standard among Bozeman staff affect the acceptance of an application as “complete”. If, and where, Bozeman staff disagree as to whether subjective standards for a complete application have been met, the City should consider requiring the potential differences in interpretation to be noted and the application deemed complete and allowed to proceed to substantive review.

## **Creating an Expedited Zoning Review Process for Housing Projects**

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To the extent possible, projects that include new housing (that is not at a luxury-level price point) should be allowed to proceed through the fastest development review process. Some options include:

### **Expand Use of Sec. 38.230.070 Sketch Plan Review**

Bozeman’s current Sketch Plan Review process allows administrative approval of certain applications that conform to applicable UDC standards. A number of housing types are already included in the sketch plan applicability list, including:

- Single-household and manufactured homes on individual sites;
- One dwelling on an infill site;
- Two-household, three-household, and four-household residential units, each on individual lots and independent of other site development;
- ADUs in residential districts; and
- Group living for eight or fewer persons on a single lot.

This list could be expanded to include “any residential development up to 12 units” or a similar threshold as determined by the City. Sketch plan review could also be used for mixed-use development below a specified footprint, such as 10,000 square feet.

### **Create a Housing-Specific Site Plan Process**

If the constraints and expectations of the current sketch plan process cannot be effectively adjusted to include smaller housing projects, the City could create a tailored site plan process that is housing-specific and that reflects Bozeman’s current housing priorities in its review and approval criteria.

### **Simplify the Review of Manufactured Homes on Individual Lots**

At a more specific level, the City should consider eliminating the current requirements for photographs and special approvals for manufactured homes to be located on individual residential lots. If the unit meets HUD code, is placed on a foundation as required, meets setbacks, and meets objective design

regulations, the unit should be reviewed and processed in the same way as any other single-household dwelling.

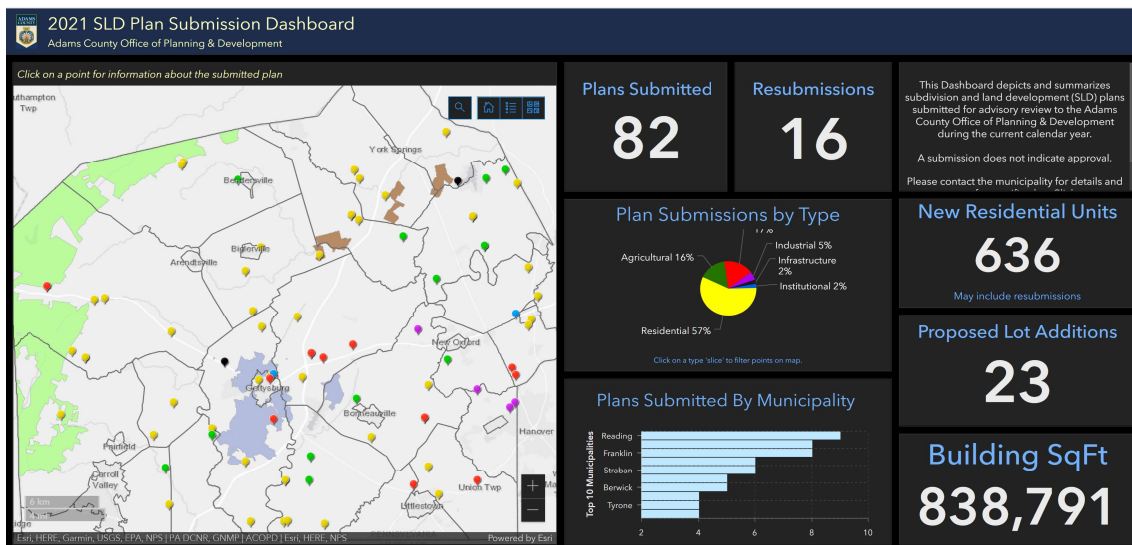
## Establish a “Maximum Extent Practicable” Standard for Housing Approval

The City’s current practice of approving reasonable departures from specific development standards is a very helpful step in navigating a complex development code. Bozeman could take this approach one step further by establishing a “maximum extent practicable” standard for housing projects. Drawn from standards used in environmental litigation and engineering design, this standard allows the Director to determine that an application is:

Accomplishing the applicable standard to the level that is achievable using applicable design measures, techniques and methods that are available and capable of being implemented based on available technology and in light of project site constraints. The cost of additional compliance can be considered, but shall not be the determining factor in whether the standard has been met to the maximum extent practicable.

## Managing What Is Measured

In Bozeman, as in most cities, development application review is a joint process that includes multiple departments. Updates and revisions to the UDC may not impact the activities of the Public Works or Parks and Recreation. To gain a better understanding of how the overall review and approval process is running, and where delays might be occurring due to the need to align and coordinate decision across departmental lines, the City should consider expanding the existing Housing Dashboard.



Sample development dashboard (Adams County, PA)

Whether as part of a permit review software system or simply on a spreadsheet, the City could start tracking housing project applications of a specific size or type (e.g., more than 10 units or 25 units or as part of mixed-use development) against relevant metrics, such as:

- How long did the application process take and how many rounds of review were required?
- What waivers or exemptions were requested?

- c. What UDC interpretations were requested, either formal or informal?
- d. How did the approved project compare to the original concept?
- e. Where did any delays in the processing flow occur, and why?

Measuring these and other parameters can help identify how the efficiency and predictability of the housing project review process can be improved and whether those improvements will require further changes to the UDC, to required application materials, or to interdepartmental management procedures.



## OUTCOME 5: REVISE THE ZONING MAP

### Overview

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The reality of the current housing challenge is that Bozeman needs to look beyond single-household residential home construction and encourage the development of more two-household, three-household, four-household, and multi-household projects. Because there is little available and undeveloped land currently zoned for higher density residential (R-4 and R-5) or mixed-use development (R-O, B-2M, Downtown B-3, UMU, or REMU) zoning districts, the first and most important step is to determine where these types of new housing can be located. The City's current approach to obtaining more medium- and higher-density housing is to rely on applicants to proposed rezoning to a higher density district. The rezoning process can be expensive in terms of time and cost to applicants, is inherently uncertain, and is often likely to attract conflict.

To remove this significant barrier to producing and preserving affordable housing, the City can use its legislative authority to revise the zoning map, which has not been comprehensively reviewed and updated for many years. Strategic legislative rezoning can make Bozeman housing-ready, while at the same time immediately removing a significant layer of uncertainty and cost.

### Growth Policy and CHAP Guidance

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The 2020 Community Plan includes both general recommendations about expanding development opportunities and specific recommendations about priority locations for higher density zoning, both of which can be undertaken through targeted rezonings in Bozeman, including:

N-1.3 Revise the zoning map to lessen areas exclusively zoned for a single-housing type.

N-1.11 Enable a gradual and predictable increase in density in developed areas over time.

N-2.2 Revise the zoning map to support higher intensity residential districts near schools, services, and transportation.

N-3.3 Encourage distribution of affordable housing units throughout the City with priority given to locations near commercial, recreational, and transit assets.

DCD-2.2 Support higher density development along main corridors and at high visibility street corners to accommodate population growth and support businesses.

DCD-2.7 Encourage the location of higher density housing and public transit routes in proximity to one another.

DCD-3.5 Encourage increased development intensity in commercial centers and near major employers.

M-1.1 Prioritize mixed-use land use patterns. Encourage and enable the development of housing, jobs, and services in close proximity to one another.

EE-1.4 Support employee retention and attraction efforts by encouraging continued development of affordable housing in close proximity to large employers.

The CHAP, at page 18, includes recommendations of similar scope:

With the goal of allowing increased density where appropriate this strategy would seek to identify areas where density could contribute to increased housing supply. The strategy is meant to create uniformity in decision making and lend some level of certainty to property owners looking to aid Community Housing efforts by adding to the housing supply beyond what current zoning would allow. Tools in this strategic area may include changes to policy as well as text within the City Code.

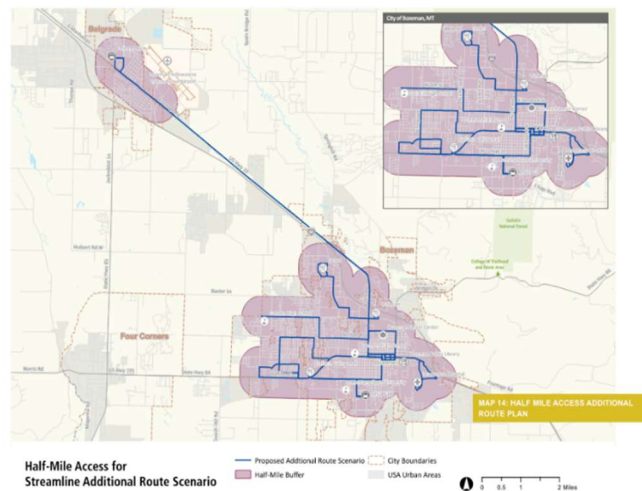
- Align growth policy recommendations with the density goals supporting upzoning.
- Develop expanded criteria to be used for evaluation of up-zoning applications.
- Develop appropriate transition standards when up-zoning existing parcels.
- Identify areas ripe for up-zoning.

In order to better protect Bozeman’s existing stock of small “a” affordable housing, this legislative rezoning approach can also include mapping the replacements for the NCOD discussed above that separates historic preservation controls from form and character controls, as described in Outcome 3. It can also include the pro-active mapping of suggested new Affordable Housing Protection Overlay District for other neighborhoods with naturally occurring affordable housing.

## Housing-Supportive Rezoning Locational Criteria

The “right” location for specific rezonings will need to be determined through a review of existing zoning, existing development, redevelopment potential, and infrastructure availability. The Bozeman Community Plan 2020 also recommends considering the following locational guides:

- Near schools and public transit (coordinate with Redesign Streamline 2020: Transit Development Plan),
- In and around commercial centers and near major employers,
- To create mixed-used development patterns (i.e., add housing in areas of concentrated commercial or office development),
- Near recreation areas, and
- Where existing residential or mixed-use areas could incorporate additional housing.



Redesign Streamline 2020: Transit Development Plan

Proactive rezoning can be either transformational or incremental in approach.

Transformational rezoning opportunities might include changing a Residential Office (R-O) district along an arterial street or adjacent to Community Business (B-2) or higher density residential development into an Urban Mixed-Use (UMU) district or rezoning a Residential Suburban (R-S) district adjacent to transit to a Residential High Density (R-4) district. Individual legislatively-initiated rezonings can also allow gradual or incremental change in areas of existing development. Making a change from a residential district that allows two-household development to a district that allows up to five-household development can allow both more housing and retention of existing neighborhood character. Changing some of the current

### *Redesign Streamline 2020: Transit Development*

Residential Medium Density (R-3) districts to Residential High Density (R-4) districts or rezoning some Residential Office (R-O) districts to Residential Emphasis Mixed-Use (REMU) may help provide some of the gradual density increases that the City needs to encourage.

## **Create New Zoning Districts to Reflect Range of Bozeman Neighborhoods**

In addition to changing the zoning map, Bozeman can also consider updating its zoning district line-up to create more specific opportunities for redevelopment. As an established and growing city, Bozeman’s zoning districts need to create new housing opportunities in both established neighborhoods and on vacant land near the edges of the city. By refining the menu of zoning districts to better reflect the types of places described in the Community Plan, and by creating new districts that more accurately reflect desired types of development that are not easily achievable under the current UDC, the City might make the rezoning and development approval processes go more smoothly and be prepared for annexation as those are proposed by local property owners. Opportunities might include:

- Zoning that allows institutions that are able or likely to provide housing, such as religious, educational, and health-care groups, to provide housing in a campus setting where the impacts of that housing will be experienced internally, rather than on surrounding neighborhoods;
- Custom-built zoning districts for existing neighborhoods that reflect neighborhood-specific design and infill standards; and
- Establishment of “greenfield” zoning districts that are used to guide the development of newly annexed areas and that ensure a mix of housing with most new developments.



## NEXT STEPS

This Affordable Housing Assessment provides a roadmap for making key updates to the UDC. It reflects community-based policies established in a range of Bozeman planning documents, including the Bozeman Community Plan 2020 and Community Housing Action Plan. This Assessment is one of four tools that Bozeman is creating to promote and preserve affordable housing. The City is also considering three possible specific amendments to the City Code that may be considered before a more extensive update of the UDC is considered. The first two of those amendments are:

1. A new list of Departures for Affordability to be added to Title 38 to allow administrative approval of small “a” affordable housing projects that cannot quite meet UDC standards for the zoning district where they are located.
2. A new Planned Unit Development Ordinance to be added to Title 38 that would simplify current regulations, re-orient them towards housing affordability, and allow negotiated approval of innovative housing projects by the City Commission after a public hearing.

Once the drafts of those two documents have been posted, the consultant team will conduct a second round of outreach to the public, stakeholders, and elected and appointed officials to get feedback on (1) this Assessment, (2) the proposed Departures for Affordability, and (3) the new Planned Unit Development Ordinance.

Based on the results of that engagement and the willingness of participants to consider some of the proposed changes, the consultant team will prepare the third proposed interim ordinance:

3. A new Affordable Housing Ordinance to replace current section 38.380 that will respond to the 2021 Montana State Legislature prohibition on mandatory inclusive zoning requirements by creating a voluntary system. This document includes substantial optional density, height, and development bonuses for capital “A” affordable housing projects – i.e., those for which the developer voluntarily agrees to income-restrict the housing units.

The consultant team will then conduct a third round of outreach to the public, stakeholders, and elected and appointed officials to get feedback on the draft Affordable Housing Ordinance. We will then revise this draft Assessment and the three draft interim ordinances to reflect public comments and to ensure that they are internally consistent. The City of Bozeman will then make a decision as to which, if any, of the proposed changes it wants to propose for adoption, and in what order. This schedule is generally reflected on the graphic to the right.

The next round of public outreach session dates will be published in mid-September.

