

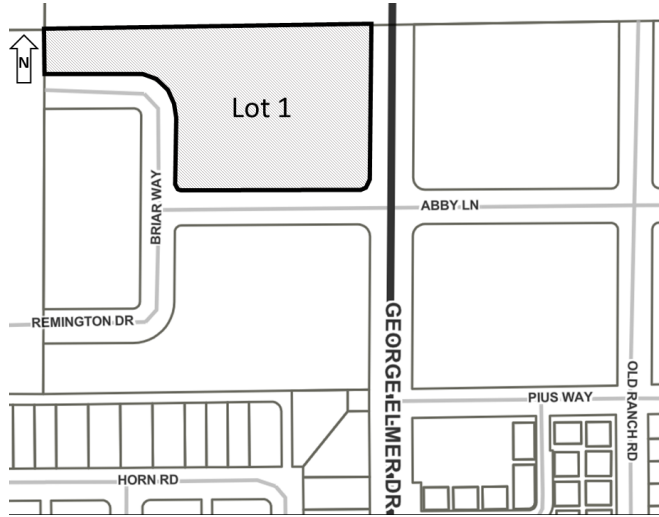


MISSOULA

COMMUNITY PLANNING, DEVELOPMENT & INNOVATION

435 RYMAN | MISSOULA, MT 59802-4297 | 406.552.6630 | FAX 406.552.6053

MCNETT FLATS SUBDIVISION PLAT ADJUSTMENT STAFF REPORT

Agenda item:	Plat Adjustment Request for the relocation of a 10' public access easement on Lot 1 of the Mcnett Flats Subdivision	
Report Date(s):	3/24/2022	
Case Planner:	Lauren Stevens, Associate Planner	
Report Reviewed & Approved By:	Dave DeGrandpre, Planning Supervisor	
Public Meetings & Hearings:	City Council hearing: 4/4/2022 Land Use & Planning (LUP) post-hearing: 4/6/2022 Final Consideration: 4/11/2022	
Applicant & Owner:	Applicant: Kody Swartz, Woith Engineering, Inc. 3860 O'Leary Street, Suite A Missoula, MT 59808 Owner: Tollefson Properties, LLC 15311 Tyson Way Frenchtown, MT 59834	
Representative:	Kody Swartz, Woith Engineering, Inc. 3860 O'Leary Street, Suite A Missoula, MT 59808	
Location of request:	The subject property is addressed as 5220 Winchester Drive, 2755 George Elmer Drive, 2745 George Elmer Drive, 2765 George Elmer Drive, 2780 Briar Way, 5130 Abby Lane & 5170 Abby Lane Neighborhood Council: Capt. John Mullan Ward: Ward 2	
Legal description:	The property is legally described as Lot 1 of Mcnett Flats Subdivision in Section 12, Township 13 North, Range 20 West, P.M.M.	
Legal ad:	The legal ad was published in the <i>Missoulian</i> on 3/13/2022 and 3/20/2022. The site was posted on 3/21/2022. Adjacent property owners within 150 feet of the site were notified by certified mail on 3/11/2022.	
Growth Policy:	The applicable regional plan is the Our Missoula: City Growth Policy 2035 which recommends a land use designation of Neighborhood Mixed Use. The Neighborhood Mixed Use land use classification is characterized as a mix of neighborhood-serving commercial uses and medium-high residential density.	
Zoning:	B2-2 Community Business	
	Surrounding Land Uses	Surrounding Zoning
North:	Undeveloped Agricultural Land	Community Center Neighborhood Unit; No transect zone applied
South:	Detached House Residential	SD/44 Ranch Special District RM1-45 Multi-Dwelling PUD/Flynn Ranch Lot 1

East:	Undeveloped Agricultural Land	Crossroads Center Neighborhood Unit; No transect zone applied
West:	Remington Flats Phased Subdivision (preliminary approval for 152 lots and homes)	RT5.4/NC-RF Residential 5.4 One/Two Unit Overlay: Neighborhood Character-Remington Flats

I. RECOMMENDED MOTION

City Council Consent Agenda 3/28/2022:

Set a public hearing on April 4, 2022 to approve the Mcnett Flats Plat Adjustment request for relocation of a 10-foot wide pedestrian access easement on Lot 1 of the Mcnett Flats Subdivision, as shown on the submitted Affidavit of Correction, in accordance with the City of Missoula Subdivision Regulations, Article 7, Section 7-040 and based on the findings of fact in the staff report, subject to one (1) condition of approval and refer this item to the Land Use and Planning Committee for presentation and discussion on April 6, 2022.

City Council Final Consideration on 4/11/2022:

Approval of the Mcnett Flats Plat Adjustment request for relocation of a 10-foot wide pedestrian access easement on Lot 1 of the Mcnett Flats Subdivision, as shown on the submitted Affidavit of Correction, in accordance with the City of Missoula Subdivision Regulations, Article 7, Section 7-040 and based on the findings of fact in the staff report, subject to one (1) condition of approval.

II. CONDITION(S) OF APPROVAL

1. The plat adjustment showing the relocated 10-foot wide public access easement shall be filed with the County Clerk and Recorder's office prior to the issuance of building permits for the adjacent proposed multi-dwelling residential buildings, subject to review and approval by Development Services.

III. INTRODUCTION

The City of Missoula Development Services has received a plat adjustment request from Kody Swartz of Woith Engineering, Inc. on behalf of Tollefson Properties, LLC for the relocation of a 10-foot wide public access easement on Lot 1 of the Mcnett Flats Subdivision, addressed as 5220 Winchester Drive, 2755 George Elmer Drive, 2745 George Elmer Drive, 2765 George Elmer Drive, 2780 Briar Way, 5130 Abby Lane & 5170 Abby Lane. The applicant would like to relocate the existing 10-foot public access easement approximately 24 feet to the west to better accommodate the placement of proposed multi-dwelling residential buildings.

With the subdivision application, a variance was requested from Article 3, Section 3-030.2.A(2) of the City Subdivision Regulations, which states that blocks may not exceed 480 feet in urban-suburban subdivisions. The applicant requested to vary from the required maximum block length to allow Lot 1 to be approximately 609 feet wide (*City Subdivision Regulations; Mcnett Flats Subdivision Packet, Section 1: Project Summary, Section 5: Variance Requests, Preliminary Plat*).

The public access easement on Lot 1 was included as a mitigation action for the extended block length to allow for pedestrian access through the parcel. The variance was approved with the major subdivision by City Council on March 8, 2021. Condition #9 of the approval states, "All proposed easements, except as modified by these conditions, shall be shown on the face of the final plat and identified for their width and purpose, including easements for vehicular and pedestrian access, utilities, and irrigation ditches."

IV. Plat Adjustment Review Criteria

Findings of fact:

General

1. The subject property is legally described as Lot 1 of the Mcnett Flats Subdivision in the South ½ of Section 12, Township 13 North, Range 20 West, P.M.M. The Mcnett Flats Subdivision was filed with the Missoula County Clerk and Recorder on July 22, 2021.
2. The subject property is Lot 1, addressed as 5220 Winchester Drive, 2755 George Elmer Drive, 2745 George Elmer Drive, 2765 George Elmer Drive, 2780 Briar Way, 5130 Abby Lane & 5170 Abby Lane at the northwest corner of the Mcnett Flats Subdivision.

3. The subject property is located within the Missoula Urban Transportation District, the Urban Growth Area, the Wastewater Facilities Service Area, and the Air Stagnation Zone. The proposed multi-dwelling buildings will be connected to City Water and Sewer.
4. The subject property is within an established service area for Missoula hospitals and the City Fire and Police Departments.

Growth Policy and Zoning:

1. The 2035 Our Missoula City Growth Policy is the applicable regional plan and recommends a land use designation of Neighborhood Mixed Use. Neighborhood Mixed Use designations include a broad range of functions including retail, education, financial institutions, professional and personal services, offices, residences, and general service activities. The corresponding zoning districts for lands designated as Neighborhood Mixed Use are: B1-1, B2-1, B2-2, and M1R-2.
2. The subject property is zoned B2-2 Community Business. The property is proposed to contain seven (7) multi-dwelling residential buildings. Title 20.40.090.C Pedestrian Access states, "Multi-dwelling developments must provide a system of walkways connecting each multi-dwelling building to the following: adjacent public sidewalks, on-site parking lots or parking structures, other on-site multi-dwelling buildings, garages, disposal and recycling containers, mail boxes, recreation areas and bicycle storage areas." The access easement will be part of this system of walkways to connect elements of the site together.
3. Title 20.60.120.B Cross Access Requirements states, "Vehicular and/or pedestrian access between abutting parcels may be required in accordance with Municipal Code requirements and City Engineering Division standards and specifications." The existing easement is intended to provide pedestrian access to the adjoining property to the north, which is undeveloped at present and located within the Sxwtpqyn Master Plan and Form Based Code Area. The Sxwtpqyn Master Plan and Form Based Code Area is intended to "provide a compact, pedestrian oriented development" that includes "an interconnected trail system that provides connectivity between natural areas, open space parks, civic spaces, and neighborhood and workplace areas."

Non-Motorized Access

1. City of Missoula Subdivision Regulations, Article 3, Section 3-010.5 requires that a subdivision be served by adequate public facilities, including non-motorized transportation systems, as determined by state and local regulations or at the discretion of the City Council based on the findings of fact. The proposed relocation of the public access easement will have no effect on the level of service for non-motorized transportation.
2. City of Missoula Subdivision Regulations, Article 3, Section 3-010.6 requires that a subdivision within the Urban Growth Area shows details for the "orderly extension or preservation of adjacent streets, sidewalks and non-motorized travel corridors." The public access easement connects to the adjacent undeveloped property to the north, and provides for the opportunity to connect to other publicly accessible travel corridors with future development of that property. The proposed relocation of the public access easement will have no effect on the ability to connect to future development.
3. City of Missoula Subdivision Regulations, Article 3, Section 3-010.7 states, "The subdivision design must provide access to open space, other neighborhoods, parks, common areas, playgrounds, schools, transportation, bus stops, shopping and community facilities." The public access easement will provide connectivity from a public street to the adjacent undeveloped property to the north. The proposed relocation of the public access easement will have no effect on the access provided.
4. City of Missoula Subdivision Regulations, Article 3, Section 3-020.15.C.(1) states, "Active transportation facilities must be placed within public rights-of-ways or public access easements." The proposed relocated public access easement will contain active transportation facilities and will comply with this regulation.
5. City of Missoula Subdivision Regulations, Article 3, Section 3-030.2.A. states, "Blocks must be designed to assure traffic safety and ease of circulation, to accommodate the special needs of the use contemplated to accommodate pedestrians, bicyclists and transit users as well as motor vehicles." Article 3, Section 3-030.2.A(3) states, "Pedestrian access easements that create a break within a block are required where

there is a special need to provide convenient pedestrian access to bus stops, schools, playgrounds, shopping, transportation, parks, common areas or open space, other lots, adjoining neighborhoods and community facilities.” The existing public access easement was not a required element of the subdivision. The proposed relocation of the public access easement will not impact the accommodation of pedestrians and bicyclists on the block, nor will it have an effect on the break created within the existing block.

6. City of Missoula Subdivision Regulations, Article 3, Section 3-060.1 requires that easements be provided for pedestrian access and that any easements be reviewed and approved by the City Engineering Division. The proposed relocation of the public access easement is not expected to effect building permit approval from the City Engineering (now Public Works & Mobility) Division.

Plat Adjustment Review

1. City of Missoula Subdivision Regulations, Article 7, Section 7-010 states, “From time to time, errors may be discovered on the face of a recorded plat. It is the intent of the City of Missoula to establish reasonable standards and procedures to correct such errors in order to protect the interests of affected property owners. The City of Missoula recognizes two classifications of errors and sets forth the following procedures to correct them.”
2. City of Missoula Subdivision Regulations, Article 7, Section 7-040.1 outlines criteria for the review of plat adjustments as follows: “Plat adjustments are those changes that, in the opinion of the City Council, may affect the precise dimensions of lots or buildings and the siting of buildings but that do not affect the basic character or arrangement of buildings, lots, or blocks, the density of the development, the open space requirement, or street design.”
3. City of Missoula Subdivision Regulations, Article 7, Section 7-040.2 outlines the procedure for review of plat adjustments, stating, “Plat adjustments must be reviewed by the City Council. An Affidavit of Correction must be prepared and signed by a professional engineer or registered land surveyor on forms approved by the city engineer or an amended plat is required and must be recorded with the County Clerk and Recorder.”
4. City of Missoula Subdivision Regulations, Article 7, Section 7-040.3 states, “The property owners petitioning for the amendment or correction of a filed subdivision plat must pay all related direct costs incurred by the City Council, including filing fees according the final plat filing fee schedule (see Exhibit 1).”

Conclusions of Law:

Plat adjustments may be approved by the City Council only when Council determines that the applicable review criteria, in bold below, have been satisfied:

1. **Whether the proposed change may affect the precise dimensions of lots or buildings and the siting of buildings but that do not affect the basic character or arrangement of buildings, lots, or blocks, the density of the development, the open space requirement, or street design;**
 1. *The proposed relocation of the 10-foot wide public access easement on Lot 1 of the Mcnett Flats Subdivision will have an insignificant effect on the siting of buildings on the parcel.*
 2. *The proposed relocation of the 10-foot wide public access easement on Lot 1 of the Mcnett Flats Subdivision will not affect the basic character or arrangement of buildings, lots, or blocks, the density of the development, the open space requirement, or street design of the approved final plat.*
 3. *The proposed relocation of the public access easement will not impact the original approved subdivision in a way that would be contrary to the findings, conclusions, and decisions made by City Council at the time of approval.*

VI. AGENCY COMMENT

Health Department - Air Quality Division: “The Air Program at the Missoula City County Health Department has no concerns or comments with the proposed McNett Flats Plat Adjustment.” -Benjamin Schmidt

Missoula County – Environmental Health: “No comment” -Kyle Crapster

Public Works & Mobility - Utilities: “I don’t have any comments.” -Andy Schultz

City Parks & Recreation: “Parks has no comment regarding the McNett Flats Plat Adjustment.” -Nathan McLeod

City Attorney: No comment was received at the time of Staff Report submittal.

Missoula Redevelopment Agency: No comment was received at the time of Staff Report submittal.

City Police: No comment was received at the time of Staff Report submittal.

City Fire: No comment was received at the time of Staff Report submittal.

City Stormwater Division: No comment was received at the time of Staff Report submittal.

Missoula Redevelopment Agency: No comment was received at the time of Staff Report submittal.

Office of Housing & Community Development: “No Comment’ on the proposed plat adjustment from the Community Planning Division.” -Ben Brewer

Neighborhood Council: No comment was received at the time of Staff Report submittal.