

Date: April 21, 2022

To: Parks and Recreation Board

From: David Selvage, Park Systems & Services

Subj. McCauley request for easement at Kiwanis Park to satisfy emergency egress standards for adjacent proposed new multifamily development.

The developer and owner of property adjoining Kiwanis Park has requested an easement from Kiwanis Park to meet adopted City building/fire code requirements for a proposed new multi-family project. The developer is proposing an emergency egress gate that would open into Kiwanis Park. The request requires the city grant an easement for this area and that the easement preserve the area free and clear of substantive above grade obstructions for the resident's emergency use of the gate.

The portion of the Kiwanis Park property involved is subject to deed restrictions - one from the original Kiwanis Club land gift, the other a federal deed restriction from the Land and Water Conservation Fund program. Both deeds restrict the parkland to be used and available for public outdoor recreation in perpetuity. It appears none of the requested easement options or requirements conflict with the park's deed restrictions or the adopted park master plan. Staff's main concern with the easement request is for the very long-term future regards use and redevelopment of the parklands; and, for not setting a poor precedence for Kiwanis and other City parks. The easement must be extinguishable and moveable for these reasons.

Background Information

In general, single-family homes may take pedestrian and bike access to City parks and trails from their property without specific City approval or improvements. The Department regularly reviews and conditions Fencing Permits for single-family residences proposing gated access to parks and trails. Standard conditions require the gate be bike/pedestrian access only and that it not open into the park or trail. Townhomes are reviewed through the subdivision process, where it is specified that one nonmotorized access to an adjoining trail or park is allowed per residence. Proposed multi-family and commercial projects that abut a park or trail are reviewed and conditioned to specify the location(s) approved for access. These projects may be required to pave and connect their proposed private access trail across parkland to connect to the/a trail or walk to limit resource damage and maintain trail safety.

The developer's project will have primary pedestrian and bike access to Kiwanis Park from the Front Street sidewalk. The adopted park master plan and site conditions do not support establishment of a dedicated separate path to serve the +/-20-unit project; nor does the developer wish to provide improvements for an off-site trail for emergency egress. It is expected that a 20-unit apartment building that had regular access to the park through a single gate would result in park resource damage – definitely a worn path would be likely. To address that, staff recommend conditions on how the gate is set up and used.

Benefits of the request are that the redevelopment of the property provides more housing options; meets City goals for infill and growing inward, particularly near the downtown core; and maximizes use of City infrastructure. Also, the project will pay park and street impact fees when permitted. Impact fees help fund planned upgrades to add to the City's public parks and trail system capacity.

It is noted the taxable value of near downtown properties is on order of \$18 to \$20 a square foot. Taxable value is nearly always lower than market value. That puts the lower end value of the Kiwanis parkland easement request at between \$15K to \$63K, depending on what option is approved, if any.

Park trees exist at and near the common property line. These will be negatively impacted by project grading. The trees provide shade, screening, and aesthetic values for the park and adjoining properties. The City Forester recommends the developer be required to provide for tree removals along the common property boundary at time they excavate. The Forester recommends the developer replace the lost tree value by paying \$2,100 to the Community Forestry Memorial account for purchase of seven, 2-inch caliper trees to be selected and planted by the City in the park after the apartment project is completed. The count represents one new tree for every 30' of common property line shared by the project and park. Community Forestry will determine species, planting locations and timing within Kiwanis Park after completion of the apartment project. These new trees are not required to be planted near the apartment project but for best effect for the park.

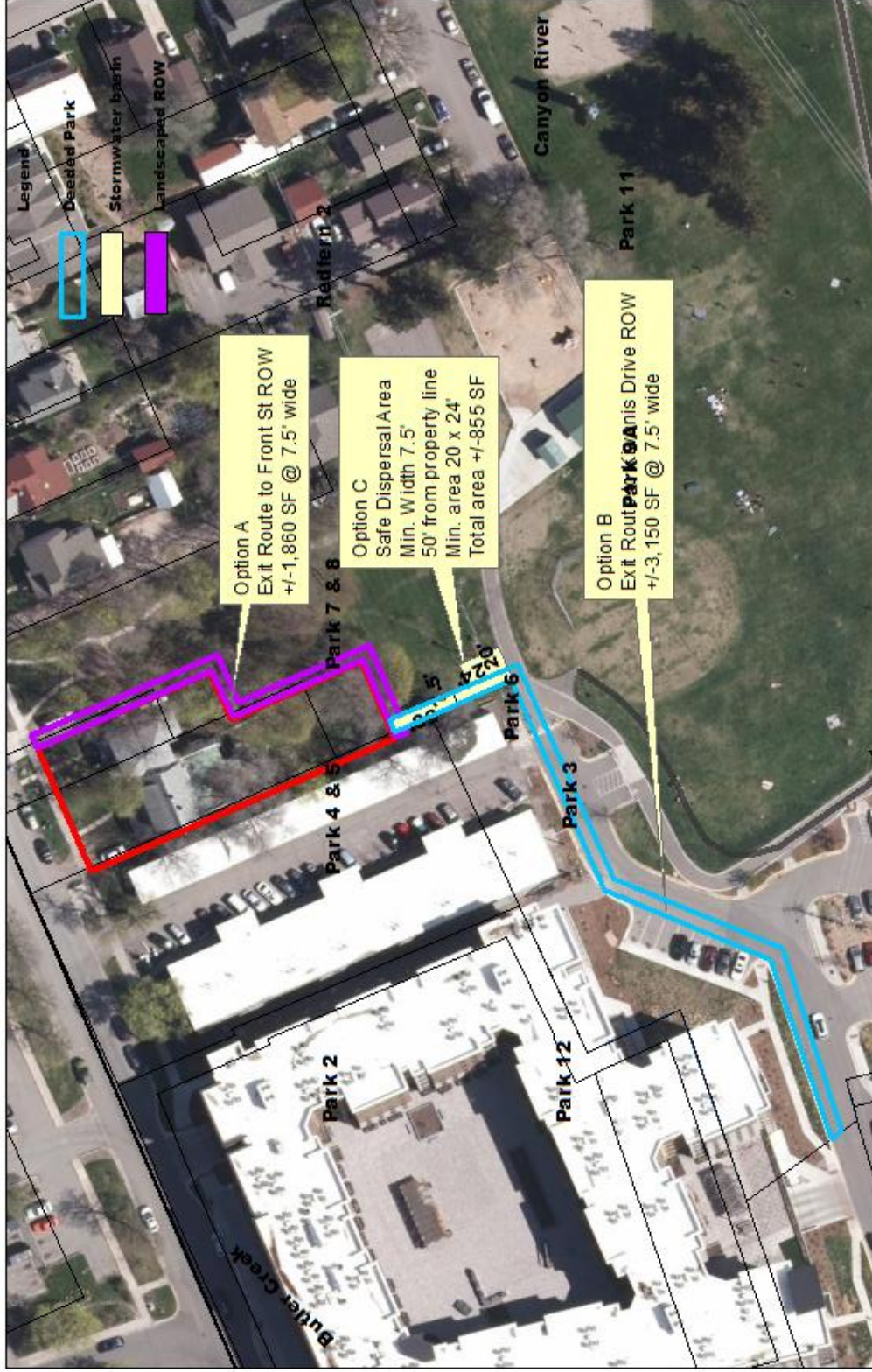
It is P&R staff's opinion that the easement request can be approved but needs conditioned to protect park and recreation values, promote public safety, limit City liability; ensure compliance with deed restrictions, comply with the adopted park master plan; provide for ability to move the location of the easement; and ensure the easement can be extinguished/vacated should the building be demolished or Building/Fire code no longer requires the easement.

Staff recommend option C be approved – the safe dispersal area is least consumptive of parkland and presents fewest constraints on park use and future redevelopment. Recommended easement conditions and/or conditions related to building permits (where appropriate) are:

- 1) Purpose of the easement is specified as ensuring the location and area of the park are not improved in a manner that would impede emergency egress from the building by its residents.
- 2) Easement shall contain provisions to be extinguished in event:
 - Use of the building is changed from multi-family residential, or
 - the building is demolished, or
 - City adopted building/fire code no longer requires the easement.
- 3) Easement location may be relocated at discretion of the City (a floating easement).
- 4) Emergency egress gate shall be signed as a private emergency exit only (oriented to residents)
- 5) Emergency egress gate shall have an alarm that activates/sounds when opened. The gate shall be signed both sides. The gate alarm shall be maintained in good working order at all times.
- 6) A safety/security light shall be installed and maintained by the developer at the emergency egress gate on the developer's property.
- 7) The developer shall install a fence along the common boundary; it shall be designed to be visually open to the park and meet Crime Prevention through Environmental Design guidelines. The design shall be subject to the City Parks and Recreation Director's review and approval prior to developer submitting an application for a Fence permit.

- 8) Developer shall provide for removal of adjacent park trees. The work shall be coordinated with Community Forester and Park Maintenance to protect the existing irrigation system and minimize impacts on park turf areas.
- 9) Developer shall provide for the cost of replacement park trees. Developer shall present a check in the amount of \$2,100 made out to the City of Missoula-Community Forestry fund. The check shall be delivered after the easement is formally approved by council and prior to submitting for Mayor's signature and recording.

Subsequent to Park Board action and direction, staff will draft the easement to include conditions and schedule formal review and action with Mayor and Council.



McCauley Request for Emergency Egress/Safe Dispersal Area in Kiwanis Park



Prepared by Missoula Parks and Recreation Department
 Property boundaries are for reference only. This map does not constitute a legal representation of land ownership.
 Projection: Lambert Conformal Conic. Coordinate System: NAD 1983 StatePlane Montana FIPS 2500 Feet



Proposed Development info

View to North



View to West



