



Missoula City Council

June 21, 2022

Re: Subdivision Review vs. Ad Hoc Development Agreement (Grant Creek Village)

Dear Council Members:

FOGC has consistently, in meetings with the Mayor and with Mr. Ault's team, in letters and in public statements, strongly urged that development of the old gravel pit be planned using a well-established subdivision review process. Review of the latest iteration of KJA's development agreement illustrates why our suggestion is meritorious.

In an approved subdivision: trails, streets and utilities must meet well-known standards (including easement widths, for example) and the easements are permanently dedicated, essentially becoming assets owned and maintained by the City. Here, there are no easements and the agreement provides that the property owner (KJA) can revoke public use of trails, sidewalks, etc., at its discretion. Here, the City runs the risks of (1) needing to bring an enforcement action and (2) paying for such actions with taxpayer funds. Dedicated easements do not create such enforcement risks.

In the subdivision process, the public is encouraged to participate. Here, City staff is proposing to try to solve all of the traffic safety issues in the building permit review process, which is not open to the public. City staff is already tremendously over-burdened; when will they have time to re-invent this development every time a problem is encountered? Traffic issues are resolved in the subdivision review process, not postponed as they are in the development agreement. (I am informed that City staff has not had time to take remediation measures with regard to the development agreement used for the Mullan Road development.)

Here, no effort was made to involve the public in the revision of the agreement. Indeed, it appears that the sole motive for revision was to eliminate all references to "inducement to approve rezoning" in a pretense that the agreement is no longer linked to the rezoning decision. No notice was provided to any of the homeowners' associations, the Grant Creek Trails Association or FOGC until June 20. This is symptomatic of making up a procedure as you go along instead of utilizing standard procedures.

When FOGC and Mr. Ault's team met with the Mayor, the idea of a PUD was discussed as a means to achieve certainty and specificity. Later it was discussed that the start of construction on the south parcel disqualified it from a PUD, and a development agreement concept was provided by Alan McCormick. FOGC sent a list of suggestions to KJA, including, again, a request that the subdivision

review process be followed. There is no reason that a PUD could not be used for the north parcel, other than the fact that Mr. Ault has a definite agenda which excludes that option.

Quoting Dave DeGrandpre from an email message March 1, 2021:

I have reviewed a number of recent development agreements. They all seem to be proposed by the developer to assure the city leaders of certain parameters for development in exchange for certain assurances of plan approval or other discretionary items such as timing of infrastructure improvements, expansion of use of easements, and the like. The term development agreement is not defined in Title 20, the City's zoning ordinance.

I agree, the use of overlays and special districts including planned unit developments has and can provide more certainty regarding types of uses and other items related to a particular development. These are typically proposed by the developer.

I am attaching some suggestions for facilities and features which could be included in a PUD. If the Council again denies the rezoning request, FOGC would certainly be willing to (again) discuss a PUD with Mr. Ault's team. Lest anyone thinks we are sandbagging, a similar (longer) list was sent by FOGC to Mr. Ault's team on April 7, 2021. Mr. McCormick and I cordially discussed the list two days later, but discussions ceased soon thereafter.

On behalf of the FOGC Board,

R T Cox, President

Items which could be included in a PUD:

Provide permanent protection for all hillsides over 10% slope.

Create a public park. Either the hillside area, or the 115' setback under the powerlines, or both, could be dedicated to the city.

Address Stonebridge Road by making it a through street, as required by law. (The conceptual drawing submitted with the new DA still shows it becoming a parking lane.) A through street would be best. Driving cars and trucks through a shopping-center-like parking lot is frustrating and sometimes unsafe.

Provide a public shared-use path - built to Park and Rec standards and at least equivalent to the Grant Creek Trail - connecting GCT to Expo Parkway. Upgrade the "5' wide concrete sidewalk" to a 10' paved trail on a permanent 14' wide public easement.

Preserve/provide trail connections to the RMEF spur of the Grant Creek Trail in consultation with RMEF.

Preserve/provide drive-able connection to the 40' Prospect cut-through easement, for emergency egress use. (May require coordination with RMEF.)

Pay for new TIS by an INDEPENDENT traffic consultant, not Abelin. If TIS shows a need for a controlled intersection at Expo Parkway, developer must contribute.

Developer needs to install crosswalk on Grant Creek Road at Expo Parkway. (City is planning a crosswalk at Stonebridge Rd crossing to Bluebird TH.)

Developer must waive right to protest inclusion in an SID for improvements to Grant Creek Road. (Many recent subdivisions in Grant Creek have had this language.)

Consider how to incorporate neighborhood commercial (i.e. a small grocery store) into the GCV area. Maybe one of the commercial lots S of Expo Parkway could be repurposed for Neighborhood Commercial instead of yet another hotel. (On N Reserve between Broadway and I-90 there are at least 12 hotels now plus two being redeveloped, in addition to the 4 north of I-90 + three unbuilt hotel pads).

Change timing of amenities to address dogs up front. Dog park is needed long before full build-out. If mutt mitt stations aren't already available, make them available now, not later.

Park and Ride needs to be serviced by Mountain Line. Bus connections for bikers from city to Grant Creek Trail, for hikers to Bluebird TH and GCT, connections for skiers from U and town to Snowbowl's skier shuttle, connections from town to RMEF visitor center, and traditional park and ride allowing fewer single-occupancy vehicle trips from all of Grant Creek.

City needs to start a Master Plan for Missoula's Western Gateway, the Hwy 93 / I-90 interchange. The projected traffic increases - and known accident cluster - make this a necessity.

Regarding the DA, make legal costs of enforcement of the DA the developer's burden rather than the City's. (Current language is a powerful incentive NOT to enforce agreement.)

Developer responsible for continual maintenance of the chain link fence on the east and north sides of the property.

Developer to install new chain link fence from the west end of the existing north chain link fence to the private property boundary on the west side of the development. (Blocks access to the entire Prospect

HOA).

Developer maintains a wildfire protection fuel buffer of X (TBD) feet on the hillside adjacent to Prospect subdivision/Prospect HOA lands and private property to the west.

Hillsides/Trails within the development will have fire information signs that are posted regularly during fire season. Access to hillsides will be closed to use during times of high fire danger.

Any emergency access route between Expo Parkway and Old Quarry Road (across RMEF) to remain closed and locked at Expo property line at all times except when unlocked by city officials due to an emergency (flood/fire. etc.)

Residents of Expo Parkway will be notified that Prospect Park is privately owned and not open to public use.
