

Variance Request #1 –Lots and Blocks Design Standards

A variance from Sections 3-030.1.C(3) proposing each lot must abut on and have access to a public or private street or road.

Rule (s):

3-030 Lots and Blocks

.1 Lots

C. The design of lots must meet the following standards:

(3) Each lot must abut on and have access to a public or private street or road

Request (s):

Approval of a proposed design standard which has lots fronting the proposed Open Spaces #2 and #3.

Reason (s):

Design standards within the Traditional Neighborhood Development Form-Based Code for the Sxwtpqyen Master Planned Area (FBC) prioritize pedestrian connectivity and aesthetic neighborhood design without sacrificing density and affordability. Those standards are not always congruous with the City subdivision regulations. Proposed lots 155 through 161 and 207 through 219 within the West End Homes Major Subdivision highlight areas where such a conflict exists. Proposed lots 155 through 161 and 207 through 219 are directly adjacent to the North of proposed Open Spaces #2 and #3, respectively, and are a mix of side yard homes and townhomes. These lots front the proposed Open Spaces and align with the intent of the FBC by prioritizing pedestrian access and aesthetically pleasing design. However, requiring a typical street or road to bisect the proposed open spaces in an effort to comply with 3-030.1.C(3) contradicts the objectives of the FBC. Proposed Open Spaces #2 and #3 include a 30' Utility Easement and will be designed to provide adequate, safe, non-motorized transportation options to residents in the area. Additionally, addresses will be easily visible on the back of homes along Sumac Lane to ensure emergency services have ample identification and room to serve the homes fronting the Open Spaces. Lastly, Division 5 of the FBC promotes designs that have the fronts of buildings facing green spaces.

The following points address the six criteria for requesting a variance in accordance with *Missoula City Subdivision Regulations 6-010*:

- 1.) The granting of this variance does not result in a threat to public safety, health or welfare, nor is it injurious to other persons or property.*

The proposed lots are designed to be accessed via the proposed Open Spaces #2 and #3. Additionally, Sumac Lane, the alley running from East to West behind proposed Lots 155 through 161 and 207 through 219 will provide adequate traffic circulation and safe access to all proposed lots within the subdivision. The granting of this variance does not result in a threat to public safety, health or welfare, nor is it injurious to other persons or property. It is worth noting that the alley running behind these lots is wide enough for fire truck access, and as stated in our reasoning above, the assigned street name combined with visible signs for address identification will ensure public safety, health, and welfare is maintained.

- 2.) *The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.*

The conditions upon which this variance is based are unique in that the entire project must adhere to the Traditional Neighborhood Development Form-Based Code for the Sxwtpqyen Master Planned Area (FBC) which focuses on the “form” of proposals to ensure pedestrian-centric neighborhoods with aesthetically pleasing design are prioritized. This is accomplished by outlining specific design elements for each allowed building and road type with the allotted transect zones. In this case, the intent of the FBC is at odds with the regulation in the City of Missoula’s Subdivision Regulations. This contradiction is unique to the proposed subdivision as the FBC is not applicable outside of the Sxwtpqyen Master Planned Area.

- 3.) *Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, undue hardship to the owner would result if the strict letter of these regulations are enforced.*

Undue hardship to the property owner would result if the strict letter of the City of Missoula’s Subdivision Regulations were to be enforced as the intent of development within the Sxwtpqyen Master Planned Area is to follow the priorities outlined in the FBC.

- 4.) *The variances will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or the Missoula County Growth Policy.*

This variance request will not violate the provisions outlined by Title 21, the Form Based Code, the Our Missoula 2035 Comprehensive Plan, or the Sxwtpqyen Master Plan established by the City of Missoula.

- 5.) *The variance will not cause any increase in public costs.*

There will not be an increase to public costs by granting this variance.

- 6.) *The hardship has not been created by the applicant, or the applicant’s agent or assigns.*

As mentioned in Criteria 2 above, some of the intentions behind the design elements of the Form-Based Code don't directly contradict but are at odds with subdivision regulations. Even though the Form-Based Code doesn't directly create the requirement for lots to front open spaces it does promote inclusion of small green spaces, fronted by lots and buildings, with pedestrian oriented design. We believe the proposed design aligns with the intentions of the Form-Based Code and that the hardship has not directly been created by the applicant.



Variance Request #2 –Parkland Dedication Standards

A variance from Sections 3-080.8.B(3) proposing a public park must be adjacent to public streets on at least 50% of the park's perimeter.

Request (s):

Approval of a proposed design standard which includes less than 50% of Flynn Square Park's perimeter be adjacent to public streets.

Reason (s):

Design standards within the Traditional Neighborhood Development Form-Based Code for the Sxwtpqyen Master Planned Area (FBC) prioritize pedestrian connectivity and aesthetic neighborhood design without sacrificing density and affordability. Those standards are not always congruous with the City subdivision regulations. In this case, the City of Missoula is working with the developer and Design Workshop to create a beautiful public park that will benefit this, and future, development. Flynn Square Park is currently being designed via collaboration between the City of Missoula and Design Workshop. The developer is including the additional 23 acres of parkland in the West End Homes development in an effort to facilitate the creation of the park as soon as possible. Per the 04/05/2022 DRT Update included in Section E of this submittal, this variance will be supported by the City contingent upon a development agreement that the future subdivision of Tract F-1 of COS 6889 will be responsible for building a road along the southern property boundary of Flynn Square Park. A draft version of the development agreement has been included in Section C of this submittal for reference.

If you were to include the Alley (Rear Lane) as street frontage, Flynn Square Park has streets fronting 42% of its total perimeter. Alleys (Rear Lanes) don't historically count as Right of Way frontage per the subdivision regulations, however they are included in the Form-Base Code street hierarchy list and have a minimum dedicated Right-of-Way width. This means we are requesting the variance in an effort to account for the remaining 8% of uncovered perimeter for the proposed Flynn Square Park. Lastly, an important component included in the City's planning for the Sxwtpqyen Neighborhoods Area was the inclusion of the EADA zone which is unique constraint for properties in the area. The EADA zone is slotted for low density development, and the creation of the proposed park not only helps realize that low density goal but is also the best possible solution given the unique constraints placed on the property.

The following points address the six criteria for requesting a variance in accordance with *Missoula City Subdivision Regulations 6-010*:



- 1.) *The granting of this variance does not result in a threat to public safety, health or welfare, nor is it injurious to other persons or property.*

The proposed variance will only serve to benefit public safety, health, and welfare as it is not injurious to other persons or property and promotes non-motorized travel through natural landscapes.

- 2.) *The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.*

The conditions upon which this variance is based are unique in that the developer is providing 24 acres over the required parkland dedication to facilitate additional open space and recreation opportunities for current and future residents. The ability to include such a large swath of parkland in the Sxwtpqyen Neighborhoods is not applicable to other property in the area as the majority of the property is either already developed or under contract.

- 3.) *Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, undue hardship to the owner would result if the strict letter of these regulations are enforced.*

The intent behind the creation of Flynn Square Park is to help the City facilitate the neighborhood character outlined in the Form- Based Code. As mentioned above, the EADA designation impacts the particular layouts that could possible occur on the property and thus undue hardship would fall on the developer if the strict letter of the regulations were enforced.

- 4.) *The variances will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or the Missoula County Growth Policy.*

This variance request will not violate the provisions outlined by Title 21, the Form Based Code, the Our Missoula 2035 Comprehensive Plan, or the Sxwtpqyen Master Plan established by the City of Missoula.

- 5.) *The variance will not cause any increase in public costs.*

There will not be an increase to public costs by granting this variance.

- 6.) *The hardship has not been created by the applicant, or the applicant's agent or assigns.*

The hardship has not been created by the applicant. The property is within the Sxwtpqyen Master Planned Area and must comply with the FBC.

