

Variance Request #1 – Dead-End Streets, Cul-de-Sacs, and Circle and Loop Streets

A variance from Sections 3-020.5.A, B (3), and B (4) proposing subdivisions are prohibited to construct cul-de-sacs, loop and circle streets, and turnarounds. They may not represent more than 15% of the total roadway miles unless City Planning and Engineering determines it practical, and the maximum length may not exceed 600 feet. This includes dead-end streets.

Rule(s):

Sections 3-020.5. Dead-End Streets, Cul-de-Sacs, and Circle and Loop Streets

A. Cul-de-sacs, loop and circle streets, and turnarounds, are prohibited. Dead-end streets are prohibited.

Section 3-020.5. Dead-End Streets, Cul-de-Sacs, and Circle and Loop Streets

B. If approved by variance, the following standards apply:

(3) Permanent cul-de-sac streets may not represent more than 15% of the total roadway miles in a subdivision unless the Director of CPDI, and the City Engineer determines that a practical difficulty exists due to the presence of streams, steep slopes, other natural resources or significant physical constraints. Connections must be made with existing roads or streets or planned roads or streets.

Section 3-020.5. Dead-End Streets, Cul-de-Sacs, and Circle and Loop Streets

B. If approved by variance, the following standards apply:

(4) The maximum length of a cul-de-sac street must not be more than 600 feet.

Section 3-020.3. Access, Rights-of-Ways, and Easements

G. All major subdivisions within areas of WUI must have more than one improved access route unless it is not feasible because of topographic or other constraints.

Request(s):

Approval of a cul-de-sac which accounts for more than 15% of the total roadway miles in a subdivision and exceeds 600 feet in length. Further, this request includes one access route where two are required because the property is within the WUI.

Reason(s):

The proposed subdivision property is accessed via Landon's Way which runs east/west from the property to its first intersection with another residential street, Woodbine Place. Landon's Way is classified as a Low Density Urban Local Street which requires 70' of minimum right-of-way dedication. The existing conditions on Landon's Way prevent the minimum right-of-way from being achieved. However, the proposed subdivision can adhere to all the minimum street requirements including right-of-way dedication, street width, parking, and sidewalk/boulevard requirements. However, the steep slopes present on the property make connecting to Simon's Drive and/or including two separate ingress/egress zones impossible. The proposed cul-de-sac, and length make up more than 15% of total roadway miles, thus it is the only feasible design which still provides adequate, safe, access to future residents and public alike while also adhering to subdivision road standards. Lastly, the location of the proposed cul-de-sac is dictated by the existing terminus of Landon's Way. Technically, the entire distance from the end of the proposed cul-de-sac to the intersection of Woodbine Place exceeds 600' in length. As each of these variances relate to the existing conditions imposed on the subject property, they have been included in a single variance request.

Mitigation for this variance request generally includes two pedestrian access improvements to the site. The first being an improved hiker trail within the eastern terminus of the Landon's Way cul-de-sac allowing connectivity to the existing nature trail coming from Simons Drive. A 32' wide Pedestrian Access Easement and Utility Easement is proposed between Lots 6 & 7 allowing pedestrian access from Simons Drive into Landon's Way providing additional walkability opportunities for residents and visitors to the area. The proposed hiker trail within this easement will be constructed of gravel materials with a trailhead marker as provided by Parks and Recreation. The second mitigation effort proposed includes a Pedestrian Access Easement, to encompass the entire Common Area Lot, offering future trail connection from High Park to the

city's water tower lot. This has been discussed several times with city staff and the easement is supported to accommodate any further widening and switch-backing locations due to grade changes on the site. These additional non-motorized facilities offer mitigation for the limitations of the site due to topography as Landon's Way is not proposed as a through street.

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 road design is the only feasible design which would not result in a threat to public health or safety as the topography on the site dictates a cul-de-sac in this location. Because a cul-de-sac is the only feasible design to provide safe, adequate, access to future users, it also means the proposed design will exceed 15% of total roadway miles as no other roadways are feasible. The length of the cul-de-sac street (from the nearest cross street, Woodbine Place) is designed to ensure 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 and to take advantage of the opportunities and limitations of the specific property.

- 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 particular shape and topography offer limited legal and physical access points. The development cannot be achieved without constructing the road design proposed. The proposed development has been designed to minimize impacts on the site containing steep slopes and work with the natural features that are not generally applicable to other properties.

The proposed development is generally surrounded by similar road infrastructure as many streets would be classified as Low Density Urban Local Streets, similarly to Landon's Way. These streets include but are not limited to; Black Pine Trail Woodbine Place which forks into Landon's Way, Macie Way which contain cul-de-sac street type access. Surrounding public roadway infrastructure is like the proposed cul-de-sac within this residential development but this property is unique in that it is adjacent to a public park, contains steep slopes, and is adjacent to a man-made pond which consists of riparian vegetation. Thus, if this request is granted the development would contain a similar character of surrounding neighborhoods while reducing grading or additional impervious surfaces adjacent to these open lands.

Thus, by utilizing the increased length of the cul-de-sac street for this subdivision, the subdivision will be able to be accessed by residents without the need for new roads to be developed on adjacent properties where visibility is more limited due to the topography.

- 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 property is constrained by unique conditions related to physical limitations, steep topography, and takes into consideration open spaces that contain riparian vegetation and public trails. The subject property consists of areas that contain approximately 40 feet of topographical slope downward toward Simons Drive. Therefore, only a portion of the property is proposed to be developed, which is relatively flat, and can be described as the upper portion of the hillside towards the southern end of the subject property. The property is within the WUI which typically requires more than one improved access route unless it is not feasible because of topographic or other constraints.

This project is within city limits; therefore, urban infrastructure is already in place and limits the possibility for additional road connections. As a result, proposing an infill

development around existing development can be difficult, if not impossible to bring existing infrastructure up to current standards and still have a viable project. Implementing a through connection would result in additional clearing and grading, impervious surface and add construction costs if the strict letter of these regulations were enforced on the applicant. Preservation of the riparian area, mature trees along the eastern property boundary, and existing trail network to High Park would be better preserved along the proposed parkland area if a cul-de-sac design were to be approved.

These physical constraints make construction of the full improvements required the subdivision regulations referenced herein impractical, difficult, and could result in an undesirable land division. Enforcing the strict letter of the regulations would result in a hardship to the owner because no other proposed road design for access is feasible due to topographical conditions. This is due to limited possibilities to provide connection into existing road infrastructure, the topographical slope downward toward Simons Drive, the extensive cost of additional site grading, and infill that would result in increased impervious surface near the proposed parkland dedication.

- 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 of the City of Missoula Title 20 Zoning Ordinance or the Our Missoula 2035 Comprehensive Plan.
- 5.) *The variance will not cause any increase in public costs.*
There will not be an increase in 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 or the applicant's agent. Areas of the site contain approximately 40 feet of topographical slope downward toward Simons Drive. Therefore, only a portion of the property is proposed to be developed, which is relatively flat, and can be described as the upper portion of the hillside towards the southern end of the subject property. There is no other reasonable alternative pertaining to road design while still providing safe access for motorized and non-motorized transportation to future residents. The hardship is a result of the property dimensions, particular shape, and topographical conditions.

Variance Request #2 – Street Design and Improvements

A variance from Sections 3-020.4 (D) stating that street connections must be provided to any existing or approved public street.

Rule (s):

.4 Street Design and Improvements

D. Connectivity. Street connections must be provided to any existing or approved public street, road or right-of-way extension abutting the subdivision. Subdividers must incorporate connections to nearby designations such as schools, parks, employment centers, and commercial areas as well as collector and arterial transportation corridors, non-motorized transportation corridors, and future phases of development.

Request (s):

Approval of a single access in the form of a cul-de-sac which does not connect through to Simon's Drive.

Reason (s):

Access for the proposed project is controlled by two primary existing conditions on the subject property: 1) Landon's Way currently terminates in the safest location for access, and 2) the existing slopes make alternate roadway locations and connections impossible. The public safety concerns associated with connecting the proposed internal subdivision road to Simon's Drive outweighed the potential benefits and as such were not deemed necessary when discussing this project with City Engineering during the pre-application meeting. However, a variance from the regulation is still required.

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 road design is the only feasible design which would not result in a threat to public health or safety as the topography on the site dictates a cul-de-sac in this location.

- 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 steep slopes, existing access to Landon's Way, and stipulated preferred density (as outlined by the Our Missoula Growth Policy) for the subject property mandate a single internal road location to provide safe, adequate, access to future residents.

- 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 property is constrained by unique conditions related to physical limitations, steep topography, and takes into consideration open spaces that contain riparian vegetation and public trails. Access to Simons Drive is limited due to relatively steep slopes which restrict the opportunity to construct a through street. Constructing a through street with steep slope topographical conditions would require an extensive amount of fill, a large amount of grading, and could pose public health and safety concerns during winter. The proposed road for accessing the lots is a simple continuation of the existing road, Landon's Way which currently dead-ends on the subject property. The required sight distance cannot be achieved from any other access point on the property frontage. The proposed road cannot be moved far enough to the north to achieve improved sight distances while taking into account grades of the property and existing neighboring developments.

If the applicant were to propose full improvements, as required within the subdivision regulations referenced herein, the result will be significantly more cut, fill, clearing, grading, vegetation removal, impervious surface, and lead to possible impacts to the adjacent open areas as well as public health and safety concerns. The applicant aims to provide safe and reasonable access to the project while meeting the intent of the subdivision standards.

These unique physical constraints present on the subject property make construction of the full improvements required the subdivision regulations referenced herein impractical, difficult, and potentially dangerous. Enforcing the strict letter of the regulations would result in a hardship to the owner because no other proposed road locations are feasible due to steep slopes and the existing Landon's Way Road.

- 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 of the City of Missoula Title 20 Zoning Ordinance or the Our Missoula 2035 Comprehensive Plan.

- 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, or the applicant's agent or assigns. Areas of the site contain approximately 40 feet of topographical slope downward toward Simons Drive, not created by the applicant. Therefore, only a portion of the property is proposed to be developed, which is relatively flat, and can be described as the upper portion of the hillside towards the southern end of the subject property. There is no possibility for any other road design while still providing safe access for motorized and non-motorized transportation to future residents.

Variance Request #3 –Lots and Blocks

A variance from Sections 3-030.2.A (2) proposing blocks may not exceed a maximum length of 480 feet in urban-suburban subdivisions.

Rule (s):

.2 Blocks

A. 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, and to take advantage of the opportunities or to mitigate the limitations of the topography. Specifically:

(2) Blocks may not exceed a maximum length of 480 feet in urban-suburban subdivisions.

Request (s):

Approval of a proposed block length exceeding 480 feet.

Reason (s):

The proposed block length is designed to assure traffic safety and ease of circulation, to accommodate safe, unimpeded, access to pedestrians, bicyclists, and transit users as well as motor vehicles and to take advantage of the opportunities and limitations of the specific property. The existing conditions of the property, topography changes and limited legal access connections, dictate the longer block length to accommodate the proposed number of lots for the subdivision. Ultimately, the goal for the subdivision is to help fill the much-needed demand for housing within Missoula, and the proposed 13 lots serve to accomplish that goal while adhering to the City of Missoula Subdivision Regulations except for the total block length of 480 feet. When evaluating a regulatory control over land development it is paramount that the “intent” be considered with as much weight as the regulation itself. In this case, the intent of the block length regulation is to prevent monotonous residential viewsheds with no avenues for pedestrian transit. The proposed development provides non-motorized access to the public park to the south, common area to the north, and sidewalks on both sides of the internal subdivision road. These features serve as mitigation to the “letter” of the regulation and align with the intent without sacrificing density potential for the proposed project.

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 block length is designed to ensure traffic safety and ease of circulation, to accommodate pedestrians, bicyclists, and transit users as well as motor vehicles and to take advantage of the opportunities and limitations of the specific property. The granting of the increased block length does not result in a threat to public safety, health or welfare, nor is it injurious to other persons or property.

- 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 steep slopes, existing access to Landon’s Way and stipulated preferred density (as outlined by the Our Missoula Growth Policy) for the subject property mandate a single internal road location to provide safe, adequate, access to future residents. By utilizing the longer block length for this subdivision, the subdivision will be able to be accessed by residents without the need for new roads to be developed on adjacent properties.

- 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.*
Enforcing the strict letter of the regulations would result in hardship to the owner because no other proposed block lengths are feasible if the design and character of the subdivision is to be maintained.
- 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 of the City of Missoula Title 20 Zoning Ordinance or the Our Missoula 2035 Comprehensive Plan.
- 5.) *The variance will not cause any increase in public costs.*
There will not be an increase in 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, or the applicant's agent or assigns. There is no possibility for any other block length while still providing safe access for motorized and non-motorized transportation to future residents. This is the result of existing site conditions occurring during the approval and construction of adjacent subdivisions and the prior conveyance or transfers of this property.




Variance Request #4 – Simons Drive

A variance from Sections 3-020 Table .2A as shown in the table below and the Standards for Geometric Design of Roads and Streets and 3-020.15.D.1 stating that sidewalks and boulevards must be provided in all subdivisions and adjacent to all streets in accordance with Table .2A. Further, deviation includes Article 3, Section 3-020.15.D.2.a stating, “If the City Council approves a variance to allow sidewalks combined with the curb, the minimum clear space for the sidewalk must be 7 feet on local streets and 9 feet on collectors and arterial streets, exclusive of the curb”. This request proposes to combine the sidewalk with curb and gutter along the shared property line of the subdivision abutting Simons Drive.

Rule(s):

3-020 Streets, Sidewalks, and Trails

Table .2 A (Low Density Urban Local Street)

Table .2 A Standards for Geometric Design of Roads and Streets			
Roadway Designation - City Functional Classification Map link	Urban Local Street Commercial/Industrial	Urban Local Street	Low Density Urban Local Street (less than 12 dwelling units /acre or greater than 80 feet average frontage)
Functional Classification	Local Street	Local Street	Local Street
Purpose	Access	Access	Access
Daily Traffic Volumes	0 - 3,500	0 - 2,500	0 - 2,500
Roadway			
Right-of-way (Minimum)	80'	80'	70'
Street Width (Back of Curb to Back of Curb) (minimum)	37'	47' with turn lane 37' without turn lane	35'
Number of Travel Lanes (typical)	2	2+optional left turn lane	2
Lane Width (minimum)	10'	10'	10'
Parking Lane Width (parallel)	8'	8'	7'
Street Side			
Sidewalk Width (minimum)	5'	5'	5'
Boulevard Width (minimum)	7'	7'	7'
Bike Lanes	-	-	-
Trails	Trails are considered alternatives to sidewalks in common areas and connectors between cul-de-sacs and may be located outside the established street and road right of way corridor if they satisfy the Parks and Open Space trails criteria in 3-080.		
Buses	When development is adjacent to or within 1/4 mile of an established public transit or school bus route, subdivider may be required by the City Engineer to construct bus stop facilities along with accessible routes, meeting ADA standards, to those facilities. Subdividers are encouraged to consult with the Missoula Urban Transportation District and Missoula County Public Schools early in the planning and design process.		
Landscaping	Streetside landscaping may include shrubs, ground cover, mulch, and irrigation and should incorporate xeriscape methods in accordance with Title 12, Chapter 12.32 Comprehensive Tree and Shrub Planting, Pruning, and Maintenance Regulations.		
Streetside Accessories	The City Engineer and subdivider will determine specific streetside accessory locations, types, and numbers during the design and permitting process.		
Utilities			
Refer to Article 3, Section 3-050 for utility placement within right-of-way and easements.			
Illustration (not to scale)			

3-020.15.D.1. Active Transportation Facilities, Sidewalks, and boulevards must be provided in all subdivisions and adjacent to all streets in accordance with Table 2 A.

3-020.15.D.2.a If the City Council approves a variance to allow sidewalks combined with the curb, the minimum clear space for the sidewalk must be 7 feet on local streets and 9 feet on collectors and arterial streets, exclusive of the curb.

Request (s):

Due to the insufficient width of the existing roadway this request includes deviation from the elements of 3-020 Table .2A pertaining to Simons Drive (right-of-way, sidewalk and boulevard requirements). This variance includes a 7-foot curb-side sidewalk per section 3-020.15.D.2.A to align with the Department of Public Works & Mobility's recommended improvements for Simons Drive.

Reason (s):

The property contains a steeply inclined hillside, along its eastern property line and south side of Simons Drive, limiting the ability to complete the required improvements. Some of these areas consist of approximately 40 feet of topographical slope downward toward Simons Drive. Given the topography surrounding Simons Drive, City Public Works and Mobility had originally provided a "postponement" of the required improvements as the solution. However, the requirements listed above are stipulated in the subdivision regulations and not individual lot requirements, so a variance request has been provided instead of the originally contemplated "postponement".

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 deviation from Missoula City Subdivision Regulations Section 3-020 Table .2A is due to the existing conditions of Simon's Drive as the current ROW width does not align with Low Density Urban Local Street minimum right of way. Further the proposed deviations are due to the existing topography along Simon's Drive and on the subject property makes dedication of the right of way and inclusion of the required improvements impossible. A Geotechnical Analysis is included in the subdivision packet within Section D. This analysis provides exhibits and explanations pertaining to Simons Drive which limits the capability for excavation using ordinary and reasonable construction techniques due to slope stability. Thus, mandating these improvements to be completed could be a threat to public health and safety given the topographic concerns along Simons Drive.

The requested deviations from Section 3-020 Table .2A and the curbside sidewalk deviation per 3-020.15.D.2.a, align with the Department of Public Works & Mobility's recommended improvements for Simons Drive. The applicant proposes mitigation for the 7-foot curb-side sidewalk and boulevard deviation as the development is proposing pedestrian connectivity throughout the development.

Therefore, the deviation from the required 70-foot right-of-way width, sidewalk and boulevard standards as provided in Table .2A does not result in a threat to public safety, health, or welfare, nor is it injurious to other persons or property.

- 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.*

This variance request is unique to the subject property due to relatively steep slopes along Simons Drive. Further, a portion of the Simons Drive that would require half-street improvements is proposed to be a parkland dedication due to

the cities interest in preservation of mature trees, the proximity to an existing riparian area, and opportunities for further pedestrian connectivity. As a result of these topographic features, public health and safety mitigation efforts have been considered throughout this project site and building sites have been limited due to the constraints of steep slopes. Therefore, portions of the proposed “No-Build Zone” exist along Simons Drive and within the proposed parkland dedication which are both unique to this property.

- 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.*

Enforcing the strict letter of the regulations would result in hardship to the owner due to the existing, varied, roadway width of Simons Drive and the inability to expand the roadway width due to topographic features. The applicant proposes a “No-Build Zone” along the shared property line of the subdivision and Simons Drive due to the constraints of steep slopes.

Other portions of the property limit the available developable area due to slopes, propose a parkland dedication along the eastern property line, and propose a common area along the northwest portion of the property.

- 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 of the City of Missoula Title 20 Zoning Ordinance or the Our Missoula 2035 Comprehensive Plan.

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

There will not be an increase in 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, or the applicant’s agent or assigns.