

## MEMORANDUM

**DATE:** August 31, 2020  
**TO:** City of Missoula  
**FROM:** WGM Group, Inc.  
**RE:** Trinity Mullan – Variance Requests

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Infill developments in the urban core of Missoula are posed with significant obstacles. Specifically, when existing urban infrastructure is already in place around new development it can be difficult, if not impossible to bring existing infrastructure up to current standards and still have a viable project. Upgrading existing infrastructure is very expensive and arterial roadways serve the entire community of Missoula. Upgrades or improvements to these streets cannot be done piecemeal as individual developments occur, rather it is, a community-wide responsibility. In this particular subdivision, Mullan Road and West Broadway are existing improved arterial roads with no future improvements proposed by the City along the remaining portions of the road. Both Mullan and West Broadway have existing sidewalks and the Trinity Mullan project would like to utilize the existing infrastructure that is in place now. A variance is requested for Mullan Road because it does not meet the current standards for a Minor Arterial street. Mullan Road cannot be expanded to meet the road standards, due to the placement of an existing ditch running along the north side of Mullan Road. A variance is requested for West Broadway, which does not meet the current standards for a Major Arterial street. Improvements to Mullan Road and West Broadway would create a significant hardship to the project's goals and objectives to provide an important housing option for the City of Missoula.

Maple Street, an Urban Local Commercial Industrial street, is an off-site road that is perpendicular to the property measuring roughly 48 feet (+/-). Acquiring additional right-of-way north or south of the existing right-of-way is not possible since those properties are held in different ownership from the subdivided property. The existing sidewalk on the south side of Maple Street is in relatively good shape and it is the desire of the Trinity Mullan project to utilize this sidewalk, as it exists today. Road improvements to the north side of Maple Street are proposed, including a 5-foot sidewalk, curb and gutter, and 7-foot landscaped boulevard. Due to the inability to obtain additional right-of-way for Maple Street, a variance is requested to vary from the standards for an Urban Local Commercial Industrial Street.

Recognizing that in most cases citizens using non-motorized transportation options

of travel will take the most direct path possible, an on-site public non-motorized access easement and trail will be provided to connect the Maple Street sidewalk on the south side of the street to the Mullan Road sidewalk. This trail is considered a neighborhood connector trail by the City Subdivision Regulations. Neighborhood connector trails must be 6 feet wide and be within a 12-foot wide easement. The proposed trail is planned to be 5 feet wide and placed within a 6-foot wide public non-motorized access easement. Due to the decreased trail width and easement width, a variance will be required. This trail is one of three connections that will connect the development on Lot 1 from Maple Street to Mullan Road. Additional private access connections include a neighborhood trail that complies with the regulations in the northeast corner of the property and the sidewalk on the north side of Maple Street. Both of these connections lead to other onsite sidewalks that then connect to Mullan Road. Due to the number of access points on the site and the fact that the trail will not be accepted by the city for maintenance, a variance is requested to place the 5-foot trail in a 6-foot non-motorized public access easement.

These variances are necessary to accommodate existing conditions and still meet the goals of the growth policy. The requests are in line with the spirit of the regulations and do not result in a threat to public safety, health or welfare, of the community. Each variance will discuss the existing condition specific to the request, along with the associated justification for the variance. We appreciate your consideration.

# VARIANCE REQUEST #1 - MULLAN ROAD

**Requirement** - We are requesting to vary from Article 3-020 Section 3-020.3.C, Section 3-020.15.D(1), and Table .2A, Standards for Geometric Design of Roads and Streets. The regulation requires Minor Arterials, without parking - in this case, Mullan Road - to meet the following standards: two travel lanes plus center turn lane or two travel lanes of minimum 10- foot width; five-foot-wide bike lanes, curb and gutter, plus 10-foot-wide boulevard and six-foot-wide sidewalk, in a right-of-way width of 100 feet. All of these improvements total 73 feet.

**Variance Request** - We are asking for a variance to retain the current configuration, width and design of Mullan Road within the existing 66-foot-wide road located in a public access easement, rather than a 100-foot right-of-way. The current configuration does not include boulevards, or six-foot-wide sidewalks, though a curbside five-foot-wide sidewalk does exist on both sides of Mullan.

Please refer to the street cross-sections attached to the Preliminary Plat in Section 2 of the subdivision application.

**Mitigation** - This variance allows the existing configuration and design to remain and not require off-site improvements to the existing road. Trees approved by the Urban Forester will be provided north of the ditch since no boulevard exists. In addition, the project will provide a public access easement for pedestrians that will create a new sidewalk connection from Broadway to Mullan Road through the proposed Trinity Mullan project.

The following points address the six criteria for requesting a variance in accordance with Missoula City Subdivision Regulations Section 6-010:  
(WGM's responses in bold)

- 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 existing street section exists from the intersection of Mullan Road and West Broadway to the intersection of Mullan Road and Reserve Street. No increased threat to public safety, health or welfare is anticipated with retaining the existing road right of way or configuration. The internal network of sidewalk and pedestrian connectivity that is being proposed with the Trinity Mullan site gives bicycles and pedestrians other options for traveling between Mullan Road and West Broadway and is an added public safety benefit of the project.**
- 2) The conditions upon which this 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 request for a variance is based are unique to the properties along the north side of Mullan Road. Due to the existing public**



road easement, previous road grid plan, ditch location, and ditch easement an expanded road width is not possible. The requirement to provide an additional 34 feet of road width where the property is already encumbered by the existing irrigation ditch is unique to this property and section of the roadway. Without the additional width, it is not possible to add boulevards or increase the sidewalk width. Mullan Road currently contains two driving lanes, two bike lanes, and a center turn lane. This road currently functions very well and traffic flows freely through this section of Mullan Road.

- 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 requirements of these regulations are enforced.

The hardship in providing the width of road specified in current regulations is not the fault of the applicant. The Legislative Assembly of the Territory of Montana established the existing Mullan Road public road easement as a Territorial Highway on January 7, 1869. In addition, the Flynn Lowney Ditch Easement that abuts the right-of-way easement on the north was originally established in 1906 according to BK 37 Deed Page 84. These constraints place an undue hardship on the applicant and require the need to request a variance. The Flynn Lowney Ditch Company has told WGM Group that they are not interested in further encumbering the ditch with additional City road width. If Mullan Road was ever expanded the irrigation ditch would need to be put in a pipe and that would be very expensive and not feasible with this project.

- 4) The variance 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 zoning ordinance or any variance granted to those regulations or conflict with the Our Missoula City Growth Policy 2035.**

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

- 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. The hardship is a result of previous development, existing easement width, ditch location, and ditch easement.**



# VARIANCE REQUEST #2 MAPLE STREET

**Requirement** - We are requesting to vary from Article 3-020 Section 3-020.3.C, Section 3-020.15.D(1), and Table .2A, Standards for Geometric Design of Roads and Streets. The regulation requires Urban Local Commercial Industrial streets with parking - in this case, Maple Street - to meet the following standards: two travel lanes of minimum 10-foot width; eight-foot width for parking lane; curb and gutter, plus seven-foot wide boulevard and five-foot-wide sidewalks, in a right-of-way width of 80 feet. All of these improvements total 61 feet.

**Variance Request** - We are asking for a variance to construct improvements within the existing 48-foot wide right-of-way, rather than the 80-foot-wide required right-of-way. Acquiring additional right-of-way north or south of the existing right-of-way is not possible since those properties are held in different ownership from the subdivided property. The 5-foot sidewalk on the south side of the road is in good condition. The existing 48-foot right-of-way allows for improvements to the north side of Maple Street including a 5-foot sidewalk, curb and gutter, and a 7-foot boulevard. The curb ramps on the north side of the intersection of Maple Street and West Broadway will be improved to meet current standards, with permission obtained from the Montana Department of Transportation. The City of Missoula will be participating in the cost of improvements to the north side of Maple Street. The City of Missoula has a project planned to improve the Maple Street right-of-way. The future owner of Lot 1 will participate in a cost improvement agreement with the City of Missoula to construct the required right-of-way improvements. Once the proposed improvements are constructed, Maple Street will contain 5-foot sidewalks on both sides of the street, 28 feet of roadway including two drive lanes and one parking lane, a seven-foot boulevard on the north side, and curb and gutter.

Please refer to the street cross-sections attached to the Preliminary Plat in Section 2.

**Mitigation** - Minimal improvements can be made to the existing road and street design of Maple Street due to the limited right-of-way provided between the properties north and south of Maple Street. The street section will be re-built to include a boulevard and sidewalk on the north side as suggested by City Engineering in their preliminary review of the subdivision on July 14, 2020. Once Maple Street is improved, pedestrian routes will be provided on both sides of Maple Street to connect the development to West Broadway. A 12-foot wide public access easement from Dollar-Rent-A-Car, owned by B&J Investments LLC, will be provided to allow for an additional pedestrian route from Lot 1 to West Broadway. An easement agreement and exhibit have been included in Section 6 of the subdivision application detailing the easement across the Dollar-Rent-A-Car property. There is also a proposed public pedestrian access easement from Maple Street to Mullan Road that will mitigate pedestrian connectivity through the proposed project between Broadway and Mullan Road.

The following points address the six criteria for requesting a variance in accordance with Section 6-010:



(WGM's responses in bold)

- 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.

**Maple Street is approximately 310 feet long from the intersection of Maple Street and West Broadway. This portion of the street will serve Lot 1 and three other properties. The three other properties have primary access points on West Broadway and Mullan Road. Vehicular traffic is proposed to increase by 688 vehicle trips per day. Specifically, the 100 workforce units are expected to generate 543 vehicle trips per day, while the 30 permanent supportive housing units are expected to generate 53 vehicle trips per day, and the 8,000 square foot navigation center will generate 92 vehicle trips per day. Non-vehicular traffic will increase with the proposed project. Improvements to the north side of Maple Street will accommodate the additional non-vehicular traffic created by this development. The existing sidewalk along Mullan Road and the future sidewalk extending from Lot 1 to West Broadway through the adjacent property to the east will be adequate to serve the increased use. The existing right-of-way width and street improvements will not result in a threat to public safety, health, or welfare nor are they injurious to other persons or property. We are constructing improvements to accommodate all modes of transportation while working with the constraints of the existing right-of-way widths. The existing and future Mountain Line bus stops along the west side of West Broadway can be accessed from the south side of Maple Street and will become more accessible with the proposed connection on the north end of Lot 1. The existing traffic signal and crosswalk are the best options for crossing West Broadway to get to the bus stops along the east side of West Broadway.**

- 2) The conditions upon which this 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 condition upon which this request for a variance is based is unique to the property due to the inability to obtain additional right-of-way for Maple Street. Maple Street dead-ends at the eastern boundary of the subject property. The properties north and south of Maple Street are not in the applicant's ownership therefore the applicant cannot increase the right-of-way width for Maple Street. Even with the proposed improvements, Maple Street will not meet the current standards for an Urban Local Commercial Industrial street due to insufficient right-of-way width. These unique circumstances require the applicant to request a variance.**

- 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 requirements of these regulations are enforced.

**The hardship in providing the width of right-of-way specified in current regulations is not the fault of the applicant. The existing Maple Street right-of-way was created and dedicated per McCormick's Addition No. 2 in 1890 per BK 1, Page 82. There is no ability to dedicate additional right of way to meet the current regulations since the subdivider does not own the property north or**



south of Maple Street.

- 4) The variance 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 zoning ordinance or any variance granted to those regulations or conflict with the Our Missoula City Growth Policy 2035.**
- 5) This variance will not cause any increase in public costs. **This variance request will not cause any increase in public costs.**
- 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. The hardship is a result of previous development and previously deeded right-of-way.**



# VARIANCE REQUEST #3 WEST BROADWAY

**Requirement** - We are requesting to vary from Article 3-020 Section 3-020.3.C, Section 3-020.15.D(1), and Table .2A, Standards for Geometric Design of Roads and Streets. The regulation requires Principal Arterial streets with parking - in this case, West Broadway - to meet the following standards: four travel lanes of minimum 10- foot width plus a turn lane or four travel lanes a minimum of 10 feet wide; eight-foot-wide parking lanes; six-foot width bike lanes; curb and gutter, plus ten-foot-wide boulevards and six-foot-wide sidewalks, in a right-of-way width of 120-140 feet. All of these improvements total 123 feet.

**Variance Request** - We are asking for a variance to retain the current configuration and design of West Broadway. Specifically allowing a reduced boulevard of 7.5 feet in width on the northeast side of Broadway, a five-foot-wide sidewalk on each side of Broadway, and a shared or oversized parking lane/bike lane of 12 feet on the east side of Broadway and 13 feet on the west side of Broadway.

Please refer to the street cross-sections attached to the Preliminary Plat in Section 2 of the subdivision application.

**Mitigation** - This variance will allow the current configuration of Broadway to be maintained. For this particular variance, we do not believe that much in the way of mitigation is necessary. West Broadway, in its existing condition, exceeds the required right-of-way width, has adequate lane widths for vehicles, provides for parking, and/or a bike lane, and has boulevard sidewalks on both sides of the road. This variance is essentially asking to vary from the boulevard width on one side of the road by 2.5 feet, the sidewalk width by 1 foot, and 1-2 feet for a bike lane on each side of the road. Existing infrastructure currently accommodates all modes of transportation.

The following points address the six criteria for requesting a variance in accordance with Section 6-010:

(WGM's responses in bold)

- 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.  
**A boulevard and wide shoulders (13 feet and 12 feet) exist between the travel lanes and the sidewalk, allowing for safe pedestrian travel. The wide shoulder allows for safe travel by bike, separated from vehicular traffic. The existing travel and turning lanes meet the standards of Article 3-020 Table .2A, promoting safe vehicular travel. The variance to maintain the existing sidewalk and boulevard widths will not result in a threat to public safety, health, or welfare nor are they injurious to other persons or property.**
- 2) The conditions upon which this request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other properties.





The conditions upon which this request for a variance is based are unique to the property due to the limited frontage on West Broadway. The request to provide improvements to 98 lineal feet of frontage along West Broadway would be out of character for the neighborhood and would not improve pedestrian safety or circulation. In general, most other properties fronting on West Broadway have between 200 and 500 feet of frontage and primary access is also provided by West Broadway. The circumstances related to the subject property are vastly different as compared to other properties in the 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 requirements of these regulations are enforced.  
**Due to the limited frontage and built environment along West Broadway, requiring the applicant to provide an increased boulevard on the east side of West Broadway and an increased sidewalk width for 98 lineal feet of frontage would create an undue hardship for the owner. Improvements within MDT right-of-way would be very expensive and the time frames to get MDT approval of plans is also a hardship to the project's overall schedule. This site has significantly less frontage on West Broadway than surrounding properties. Improvements to West Broadway adjacent to the subject property would not align with the current infrastructure to the north and to the south, all of which is in good condition.**
- 4) The variance 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 zoning ordinance or any variance granted to those regulations or conflict with the Our Missoula City Growth Policy 2035.**
- 5) This variance will not cause any increase in public costs.  
**This variance request may cause an increase in public costs at the time West Broadway Street is improved, however the owner will sign an SID waiver to assent to any future improvements to West Broadway to offset this cost. A statement to this effect has been added to the face of the Preliminary Plat and included in the covenants.**
- 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. The hardship is a result of the limited frontage and the existing infrastructure improvements.**



# VARIANCE REQUEST #4

## NEIGHBORHOOD CONNECTOR TRAIL

**Requirement** - We are requesting to vary from Article 3, Sections 3-020.15.F (6) (b), 3-020.15.G, and Table .14A, Active Transportation Facilities. The regulations require a 10-foot wide right-of-way or easement for trails adjacent to a roadway, and specifically, neighborhood connector trail easements must be 12 wide if not adjacent to a roadway. In both instances, the trail must be a minimum of 6 feet wide. All trails must be constructed to the standards of this section, ADA Accessibility Guidelines (ADAAG), and Missoula City Public Works Standards and Specifications. In this case, a 5-foot wide asphalt neighborhood connector trail will be provided in a 6-foot wide non-motorized public access easement connecting the Mullan Road sidewalk through the site to the Maple Street sidewalk.

**Variance Request** - We are asking for a variance to reduce the required 6-foot trail to 5 feet and provide a 6-foot wide non-motorized public access easement instead of the required 12-foot wide public easement.

The easement width and location are provided on the Preliminary Plat in Section 2 of the subdivision application. A site plan depicting the trail width has been provided in Section 4 of the subdivision application.

**Mitigation** - This trail is being offered to the public as a cut-through from Maple Street to Mullan Road and is a public benefit. It is not required by the Missoula County Growth Policy, the Missoula Long Range Transportation Plan, the Missoula Active Transportation Plan, Missoula Master Parks and Recreation Plan, or any adopted local or neighborhood plan. Functionally, we recognize that cut-through pedestrian traffic is likely and therefore are providing the trail for convenience. The decreased easement and trail width will allow the site configuration to proceed as planned. No additional mitigation is necessary to protect the public health, safety, or welfare of the public.

The following points address the six criteria for requesting a variance in accordance with Section 6-010:

(WGM's responses in bold)

- 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.

**This variance will allow a trail to be provided on the edge of the planned development. The trail and easement have been reviewed by City Public Works and they do not find that the trail width, location, or easement width will result in a threat to public safety, health or welfare nor are they injurious to other persons or property. The trail will be provided a safe distance from the top of the ditch bank and the planned parking lot. This improvement is a public benefit and an enhancement to the City's bike and pedestrian transportation network.**



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

The conditions upon which this request for a variance is based are unique to the property due to the frontage on Maple Street and Mullan Road, the anticipated cut-through traffic, future maintenance and responsibility of the trail, and the other planned connections from the Broadway to Mullan Road. Sidewalk connections do exist from Maple Street to West Broadway and then to Mullan Road, however the distance traveled by foot from the east side of the property to the southwest side of the property can be significantly reduced if this trail is provided. Cut-through traffic is anticipated based on the proposed use and it is the applicant's desire to be proactive and provide a legal means for public non-motorized access. This trail will be dedicated to the public; however, maintenance will be the responsibility of the future Lot 1 owners. Additional easement width is not necessary for maintenance as the party responsible for maintenance will have ownership of the land adjacent to the easement.

This trail is one of three connections that will connect West Broadway through Lot 1 to Mullan Road. Additional access points include an asphalt trail planned across the Dollar-Rent-A-Car property in the northeast corner of the property and the sidewalk along the north side of Maple Street. Both of these access points will lead to an internal sidewalk network and then to the Mullan Road sidewalk. These circumstances related to the subject property are vastly different as compared to other properties in the 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 requirements of these regulations are enforced.

Due to the frontage, built environment, and proposed development, requiring the applicant to provide an increased public access easement for the trail and increased trail width would create an undue hardship for the owner. A limited area is planned between the property boundary, ditch and proposed parking area. The access easement cannot overlap with the ditch easement. The intent of providing a limited area is to decrease loitering that may occur. As shown in the site plan, all impacts to the surrounding neighborhood are proposed to be mitigated on site. By requiring an increased easement width and trail width, on-site parking would need to be reduced. The occupants of the navigation center are not known at this time. Extra parking has been provided to ensure parking requirements are met once all uses in the navigation center are known. Reducing the amount of parking to allow for a wider easement could pose a hardship by limiting future uses in the navigation center. The extra parking is necessary to ensure the navigation center can accommodate the uses that residents of this development depend on.

- 4) The variance 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 zoning ordinance



or any variance granted to those regulations or conflict with the Our Missoula City Growth Policy 2035.

- 5) This variance will not cause any increase in public costs.  
**This variance request will not cause an increase in public costs. Maintenance will be the responsibility of the future Lot 1 owner.**
- 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. The hardship is a result of the limited area available between the proposed parking lot and the existing ditch.**

