



MINOR SUBDIVISION STAFF REPORT

Agenda Item:	Trinity Mullan 2 Lot Minor Subdivision	
Report Date:	11/12/2020	
Case Planner:	Cassie Tripard, Associate Planner	
Report Reviewed & Approved By:	Mary McCrea, Permits and Land Use Manager	
Public Meetings & Hearing Schedule		
City Council Referral:	11/9/2020	
LUP Action Item:	11/18/2020	
City Council Consent Agenda:	11/23/2020	
Subdivider:	Trinity Apartments, LLLP 1535 Liberty Lane, STE 116A Missoula, MT 59808	
Owner:	Missoula County 200 West Broadway Missoula, MT 59802	
Agent:	WGM Group, Inc – Jamie Erbacher 1111 East Broadway Missoula, MT 59802	
Location of Request:	2340 & 2350 Mullan Road Missoula, MT 59808	
Legal description:	The property is legally described as Parcel 2A of Certificate of Survey 4878 located in the Southwest Quarter of Section 17, Township 13 North, Range 19 West, Principal Meridian Montana.	
Legal Notice:	Three subdivision posters were placed on the property on October 30th, 2020. Adjacent Property owners were notified on October 19, 2020.	
Growth policy:	The Our Missoula 2035 City Growth Policy recommends a land use designation of Regional Commercial and Services.	
Zoning:	M1R-2 Limited Industrial – Residential	
Surrounding Land Uses		Surrounding Zoning
North:	Office, Light Equipment Sales / Rentals	M1-2 Limited Industrial / DE-C Design Excellence Overlay Corridor Typology 3
South:	Single Dwelling Residential, Office, Medical Office, College, Retail	C2-4 Community Commercial
East:	Light Equipment Sales / Rentals, Retail	C2-4 Community Commercial / DE-C Design Excellence Overlay Corridor Typology 3 and; M1-2 Limited Industrial
West:	Medical Office	M1R-2 Limited Industrial – Residential

PROPOSAL	RECOMMENDED MOTIONS
1. Request to vary from Article 3, Section 3-020, 3-020.3.C, 3-020.15.D(1) and Table .2A which requires 100 feet of right-of-way, 6-foot-wide sidewalks, and 10-foot-wide boulevards for Minor Arterial streets.	1. Approval of the variance request to allow a 66-foot-wide public access easement, 5-foot-wide sidewalks, and no boulevards for Mullan Road adjacent to the subject property.
2. Request to vary from Article 3, Section 3-020, 3-020.3.C, 3-020.15.D(1) and Table .2A which requires 80 feet of right-of-way, 37-foot paved street width, parking lanes on both sides of the street, and boulevards on both sides of the street for Urban Local Commercial and Industrial streets.	2. Approval of the variance request to allow 47.5 feet of right-of-way, 29.5-foot paved street width, curb and gutter, curbside sidewalk and parking lane on the south side of the street, 5-foot wide sidewalk and landscaped boulevard on the north side of Maple Street between West Broadway and the subject property, subject to the conditions of approval.
3. Request to vary from Article 3, Section 3-020, 3-020.3.C, 3-020.15.D(1) and Table .2A which requires 6-foot-wide sidewalks, 6-foot-wide bike lanes, and 10-foot-wide boulevards for Principal Arterial streets.	3. Approval of the variance request to allow a 5-foot-wide sidewalk and no bike lane on the southwest side of West Broadway adjacent to the subject property.
4. Request to vary from Article 3, Sections 3-020.15.F(6)(b), 3-020.15.G, and Table .14A which requires 12 feet of right-of-way and 6-foot-wide improved surface for Neighborhood Connector trails.	4. Approval of the variance request to allow a 6-foot-wide public access easement and 5-foot-wide improved surface for the pedestrian trail between Maple Street and Mullan Road.
5. Trinity Mullan 2 Lot Minor Subdivision	5. Approval of the Trinity Mullan 2 Lot Minor Subdivision, based on the findings of fact and subject to the conditions of approval in the staff report.

I. RECOMMENDED CONDITIONS
1. The following statement shall be included on the face of the plat and in the Declaration of Covenants, Conditions, Restrictions, and Easements for Trinity Mullan Subdivision under the “Easements” section, subject to review and approval of Development Services, prior to final plat approval: “Structures and the planting of vegetation other than grass within the irrigation ditch easement is prohibited without written permission of the ditch owner.” This covenant shall not be amended or deleted without prior written approval of the governing body.
2. The Irrigation Ditch Agreement, included as 6.11 of the application packet, must be executed and filed with the County Clerk and Recorder, subject to review and approval of Development Services, prior to final plat approval.
3. Plans for and installation of the ditch crossing shall be reviewed and approved by the Hellgate Valley Irrigation Company, City Fire, and City Engineering prior to final plat approval.
4. The following statement shall be included on the face of the plat and in the Declaration of Covenants, Conditions, Restrictions and Easements for Trinity Mullan Subdivision, subject to review and approval of Development Services, prior to final plat approval: “Water Rights are not available to lots within the Trinity Mullan Subdivision. The land may be classified and taxed as irrigated land, even though the water from the irrigation ditch is not deliverable to lots within the subdivision.” This covenant shall not be amended or deleted without prior written approval of the governing body.
5. The applicant shall execute a Development Agreement and be responsible for a portion of the cost of half street improvements for the portion of Maple Street between West Broadway and the subject property including 29.5 feet of paving, curb and gutter, 5-foot wide sidewalk, and 7-foot-wide boulevard on the north side of the street, and ADA facilities at West Broadway and Maple Street intersection, prior to final plat approval. The applicant shall prepare plans for the improvements subject to review and approval of City Engineering and City Public Works, prior to final plat approval. Installation of the improvements shall be with a City project per the terms of the Development Agreement.
6. The applicant shall submit a boulevard landscaping and maintenance plan for Maple Street and West Broadway, subject to review and approval by City Parks and Recreation, prior to final plat approval. Boulevard landscaping shall be installed prior to final plat approval or included in an Improvements Agreement guaranteed by a security, subject to review and approval of City Parks and Recreation, prior to final plat approval. The Boulevard Maintenance Plan

shall be included in the Declaration of Covenants, Conditions, Restrictions and Easements for Trinity Mullan Subdivision and this covenant shall not be amended or deleted without prior written approval of the governing body.

7. The Perpetual Public Trail and Utility Easement Agreement, included in Section 6.13 of the application packet, shall be executed and filed with the County Clerk and Recorder, subject to review and approval of Development Services, prior to final plat approval. Plans for and installation of the 6-foot-wide trail within the easement shall be reviewed and approved by City Engineering, prior to final plat approval.

8. All construction on Lot 1 shall follow recommendations in the Geotechnical Investigation prepared by Tetra Tech dated July 2, 2020, subject to review and approval by City Engineering and Building Permit examiners prior to building permit approval.

9. The applicant shall provide address signage and fire hydrant plans, subject to review and approval by the City Fire Department, prior to final plat approval. The address signage plan shall be included in the Declaration of Covenants, Conditions, Restrictions and Easements for Trinity Mullan Subdivision and this covenant shall not be amended or deleted without prior written approval of the governing body.

II. BACKGROUND

Trinity Mullan Subdivision is a two (2) lot minor subdivision of a 22.39 acre parcel at 2340 and 2350 Mullan Road. The parcel is in the Westside Neighborhood Council and part of City Council Ward 6. The parcel is legally described as Parcel 2A of C.O.S. 4878 located in the Southwest quarter of Section 17, Township 13 North, Range 19 West P.M.M. (*Missoula County Property Information System; Application Packet Sections 2.1 Preliminary Plat; 3 Subdivision Application*).

The subject property is zoned M1R-2 Limited Industrial-Residential. The minimum parcel area for single-purpose residential and mixed-use buildings is 3,000 square feet. Otherwise, the minimum parcel area is 5,000 square feet. Lot 1 is 5.28 acres and Lot 2 is 17.11 acres. Both lots meet the minimum parcel size requirement. The M1R-2 zoning district allows one dwelling unit per 1,000 square feet of parcel area. There are no setbacks in the M1R-2 zoning district for parcels that do not abut residential zoned parcels. There are no residential zoned parcels abutting the subject property. The Our Missoula 2035 Growth Policy recommends a land use designation of Regional Commercial and Services for the subject property (*Title 20 Zoning Ordinance; Our Missoula 2035 Growth Policy; Application Packet Section 2.1 Preliminary Plat*).

The parcel is currently owned by Missoula County and contains the Missoula County Detention Facility. The County Detention Facility and all related activities and structures will be located on Lot 2 following the subdivision. Lot 1 will be used for the development of one-hundred and thirty (130) units of affordable housing and a navigation center. Thirty (30) units will be reserved as permanent affordable housing. One-hundred (100) units will be dedicated as work force housing. The uses within the navigation center are currently unknown, but will serve both residents and the broader community. The proposed development on Lot 1 of the Trinity Mullan Subdivision complies with the density requirements of the M1R-2 zoning district and the Regional Commercial and Services land use designation (*Application Packet Sections 1 Project Summary; 3 Subdivision Application*).

Access to the subdivision will be provided from Mullan Road, West Broadway, and Maple Street. The subdivider is requesting variances to the City Subdivision Regulations road standards for all three streets. Improvements to Mullan Road and West Broadway are not proposed. Improvements to the north side of Maple Street are proposed. The City of Missoula has a project planned to improve the Maple Street right-of-way and the City will contribute to the cost of improvements to the north side of Maple Street. The future owner of Lot 1 and the City of Missoula will execute a Development Agreement to share the costs of constructing the required Maple Street right-of-way improvements (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 3 Subdivision Application; 4 Variances; 5.5 Maples Street Improvements*).

III. SUBDIVISION FINDINGS OF FACT

A. ZONING AND COMPREHENSIVE PLAN COMPLIANCE

Findings of Fact:

1. The subject property is located at 2340 and 2350 Mullan Road (*Missoula County Property Information System; Application Packet Section 3 Subdivision Application*).

2. The property is legally described as Parcel 2A of Certificate of Survey 4878 located in the Southwest Quarter of Section 17, Township 13 North, Range 19 West, Principal Meridian Montana (*Missoula County Property Information System, Application Packet Section 3 Subdivision Application*).
3. Upon further investigation with the Missoula County Surveyor's Office, the agent determined that Missoula County owns 30 feet of the 66-foot public access easement for Mullan Road and Dollar Rent-a-Car owns an additional strip of property measuring 10,378 square feet. The actual legal description with these corrections is Parcel 2A of Certificate of Survey No. 4878, less and excepting that tract of land described in Book 217 Deeds, Page 587 and surveyed per Deed Exhibit No. 935, all on file and of public record in Missoula County, Montana; and that certain 30 feet of the 66-foot wide Mullan Road Public Road Easement lying northerly of, and adjoining, the centerline of said Mullan Road, all located in the South One-Half of Section 17, Township 13 North, Range 19 West, Principal Meridian Montana (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; and 6.8 Mullan Rd 66 Wide*).
4. Surrounding land uses are commercial and industrial. Surrounding uses include office, light equipment sales/rentals, single dwelling residential, medical office, college, and retail (*Application Packet Section 3 Subdivision Application*).
5. Section 3-010.1.B of the City Subdivision Regulations states that subdivision plats must comply with the Missoula City Zoning Ordinance. The current Missoula City Zoning Ordinance is Title 20.
6. The subject property is zoned M1R-2 Limited Industrial – Residential which permits a wide range of commercial, industrial, and residential uses. The M1R-2 zoning district requires a minimum parcel area of 5,000 square feet. The minimum parcel area is 3,000 square feet for single purpose residential and mixed-use developments. Lot 1 will be 5.28 acres which is approximately 229,996.8 square feet. Lot 2 will be 17.11 acres which is approximately 745,311.6 square feet. Both lots comply with the minimum parcel area requirement (*Title 20 Zoning Ordinance; Missoula County Property Information System; Application Packet Sections 2.1 Preliminary Plat; 2.4 Zoning Map; 6.1 Zoning District Standards*).
7. The subdivision would create two (2) lots. Lot 2 contains the Missoula County Detention Center, Pre-Release Center, and evidence warehouse. These uses will remain on Lot 2 following the subdivision. No residential uses are proposed for Lot 2. Lot 1 is currently vacant. The minimum parcel area per unit in the M1R-2 zoning district is 1,000 square feet per unit for single purpose residential and mixed-use buildings. Lot 1 is 5.28 acres which would allow 229 dwelling units, at a density of 43 dwelling units per acre. All residential building types are permitted in the M1R-2 zoning district (*Title 20 Zoning Ordinance; Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 2.3 Existing Conditions Map; 3 Subdivision Application; 6.1 Zoning District Standards*).
8. There are no setback requirements for parcels that do not abutting residential zoned parcels in the M1R-2 Limited Industrial – Residential zoning district. The subject property does not abut residential zoned parcels so there are no setback requirements for lots in this subdivision. The maximum height in the M1R-2 zoning district is 50 feet (*Title 20 City Zoning Ordinance; Missoula County Property Information System; Application Packet Sections 2.4 Zoning Map; 6.1 Zoning District Standards*).
9. Title 20 Zoning Ordinance does not have use classifications for the detention center and pre-release center. However, these existing uses and structures were legally permitted in 1998. The subdivision will not interfere with the continuance of these uses (*Title 20 City Zoning Ordinance; City of Missoula Accela Permit Database*).
10. Twenty-six (26) parking spaces serving the Missoula County Detention Center and Pre-Release Center will be located on Lot 1 following the subdivision. The uses on Lot 2 must meet the parking requirement following the subdivision in order to comply with Title 20 Zoning Code (*Application Packet Sections 1 Project Summary; 2.3 Existing Conditions Map; 3 Subdivision Application; 6.7 Missoula County Parking Memo*).
11. Title 20 Zoning Code does not have parking requirements for the Detention and Pre-release Center. Title 20, Section 20.60.020.D.E states a minimum parking requirement for unlisted uses can be established through a parking study using data from comparable uses.
12. The applicant provided a parking study for Missoula County Detention Center, Pre-Release Center, and evidence warehouse using parking requirements from comparable uses in Cincinnati, Ohio and West Valley City, Utah. Development Services Permits and Land Use Staff deemed the parking study sufficient for establishing parking ratios for the detention center and pre-release center. One-hundred and forty-four (144) parking spaces are

required for all combined uses on Lot 2. One-hundred and eighty-seven (187) parking spaces will remain on Lot 2 following the subdivision (*Application Packet Sections 1 Project Summary; 6.7 Missoula County Parking Memo*).

13. Uses on Lot 2 will meet Title 20 parking requirements following the subdivision. Lot 1 will be vacant at the time of subdivision. Parking requirements for development on Lot 1 will be evaluated at building permit (*Application Packet Sections 1 Project Summary; 6.7 Missoula County Parking Memo*).
14. Subdivision Regulations Section 3-010.1.I. requires that the subdivision be reviewed for compliance with the Missoula City Growth Policy and its amendments.
15. The Our Missoula 2035 City Growth Policy is the applicable regional plan and recommends a land use designation of Regional Commercial and Services for the subject property. Areas designated as Regional Commercial and Services are for commercial uses that serve the needs of the broader region and often require larger land areas. High density residential development (up to 43 dwelling units per acre) is also permitted in most zoning districts corresponding to this land use designation (*Our Missoula 2035 City Growth Policy Land Use Map; "What's My Zoning?"; Application Packet Sections 1 Project Summary; 2.5 Land Use Map; 3 Subdivision Application*).
16. According to the Our Missoula 2035 City Growth Policy, current relatable zoning districts in the Regional Commercial and Services land use designation include M1R-2 Limited Industrial – Residential.
17. No residential development is proposed on Lot 2. The proposed density of 24 dwelling units per acre for Lot 1 is allowed by the M1R-2 zoning district and the Our Missoula 2035 City Growth Policy (*Title 20 City Zoning Ordinance; Our Missoula 2035 City Growth Policy; Application Packet Sections 1 Project Summary; 3 Subdivision Application*).

Conclusions of Law:

1. The subdivision complies with both the Our Missoula 2035 City Growth Policy land use designation of Regional Commercial and Services, and the standards of the M1R-2 Limited Industrial-Residential zoning district.
2. Per State Law MCA 76-1-605(2)(b) no land use proposal shall be conditioned or denied based solely upon the lack of compliance with the Growth Policy.

B. PRIMARY CRITERIA COMPLIANCE

CRITERION A: IMPACT ON AGRICULTURE

Findings of Fact:

1. Section 5-020.6.A of the City Subdivision Regulations states the applicant must demonstrate the subdivision proposal will have no adverse impacts on agriculture.
2. The application packet states the subject property is currently occupied by the Missoula County Detention Center. Lot 1 is currently vacant and is not used for agriculture (*Application Packet Sections 1 Project Summary; 3 Subdivision Application; 2.3 Existing Conditions Map*).
3. The application packet states the property does not contain any active agricultural land and the property is zoned for residential, commercial, and industrial development (*Title 20 City Zoning Ordinance; Application Packet Sections 1 Project Summary; 2.4 Zoning Map; 3 Subdivision Application; 6.1 Zoning District Standards*).
4. The application packet states adjacent properties are not used for agriculture. All adjacent properties contain commercial uses (*Application Packet Sections 1 Project Summary; 3 Subdivision Application; 2.6 Adjacent Properties Map*).
5. The Natural Resources Conservation Service (NRCS) Soil Survey for Missoula County shows 73 – Orthents soil type covering the majority of the subject property. Orthents soils are not classified as Prime Farmland per the NRCS Soil Survey. All of Lot 1 consists of Orthents soil. The northwest and northeast corners of Lot 2 are covered by 72 – Moise Gravelly Loam Soil which is classified as Farmland of Local Importance per the NRCS Soil Survey. The total acreage of Moise Gravelly Loam Soil is 1.5 acres and has limited agricultural potential due to current development with the detention center (*Soil Survey of Missoula County Area, Montana, Detailed Soil Map, Sheet Number 77; Application Packet Sections 1 Project Summary; 3 Subdivision Application; 6.2 NRCS Soil Survey*).

Conclusions of Law:

1. The application packet demonstrates the subdivision proposal will have no adverse impacts on agriculture.
2. There will be no impact to agriculturally important soils as a result of this subdivision.

CRITERION B: IMPACT ON AGRICULTURAL WATER USER FACILITIES

Findings of Fact:

1. Section 5-020.6.B of the City Subdivision Regulations states in areas where agricultural water user facilities exist on the subject property or adjoin the property, the application packet must identify the agricultural water user, describe any proposed changes to the agricultural water use and describe alterations to the availability of water.
2. The application packet states the Flynn Lowney irrigation ditch, maintained by the Hellgate Valley Irrigation Company, is located on the subject property along the southern property line (*Application Packet Sections 1 Project Summary; 3 Subdivision Application; 2.1 Preliminary Plat; 2.3 Existing Conditions Map*).
3. The irrigation ditch will not be abandoned or removed with this subdivision (*Application Packet Section 3 Subdivision Application*).
4. Current and future owners of the subject property will not have access to the irrigation ditch or water rights. Water rights are through Hellgate Valley Irrigation Company shares and are not associated with the subject property. A condition of approval requires a statement be placed on the final plat and within the Development Covenants stating that there are no water rights to lots within the subdivision, however the land may be classified as irrigated land and taxed accordingly even though water is not deliverable to the subdivision lots. (*Application Packet Section 3 Subdivision Application*).
5. Section 3-060.4 of the City Subdivision Regulations states the subdivider must show on the preliminary plat and dedicate on the final plat, ditch easements for the unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights.
6. The application packet states there are existing private irrigation ditch easements of widths between 20 and 35 feet encompassing the ditch. The existing 20-foot-wide ditch easement located along the southern boundary line of Lot 1 will be expanded to 35-foot-wide as requested by the Hellgate Valley Irrigation Company and shown on the Preliminary Plat. The ditch company indicated that an expansion of the 20-foot-wide ditch easement on Lot 2 is not necessary because future development is not proposed on Lot 2 (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 2.3 Existing Conditions Map; 6.11 Ditch Easement Draft*).
7. A box culvert or corrugated metal arch bridge crossing will be installed across the irrigation ditch in order to construct a driveway from Mullan Road to the proposed development on Lot 1. A preliminary design for the ditch crossing is included in the application packet. A sewer main extension will be installed under the ditch. Installation of the ditch crossing will occur when the ditch has been turned off between November and April. Following installation of the crossing, the ditch will be repaired to its original condition. A 31-foot-wide private access easement is shown in the ditch crossing location on the preliminary plat for the use and benefit of Lot 2 (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 3 Subdivision Application; 5.6 Flynn Lowney Ditch Crossing; 6.11 Ditch Easement Draft*).
8. Section 3-020.4.K of the City Subdivision Regulations states bridges and drainage structures must be approved by the City Engineer and the Fire Chief.
9. In order to comply with Section 3-060.4 and 3-020.4.K of the City Subdivision Regulations, staff recommends a condition of approval that plans and installation of the ditch crossing be approved by the Hellgate Valley Irrigation Company, City Engineering, and City Fire, prior to final plat approval.
10. The application packet states that the subdivision and associated improvements will not alter the movement or availability of water in the irrigation ditch (*Application Packet Section 3 Subdivision Application*).
11. Section 3-060.2.C of the City Subdivision Regulations states the subdivider must establish an irrigation ditch easement that prohibits the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.

12. An Irrigation Ditch Agreement will be entered into with the Hellgate Valley Irrigation Company Ditch Company and the future owners of Lot 1, Trinity Apartments, LLLP. The Irrigation Ditch Agreement includes provisions for maintenance and prohibits planting of vegetation without review and approval of the Hellgate Valley Ditch Company. The ditch company will not require a maintenance agreement with Missoula County considering the property along the ditch is already built out (*Application Packet Sections 1 Project Summary, 3 Subdivision Application; 6.11 Ditch Easement Draft*).
13. The Irrigation Ditch Agreement only covers the irrigation ditch easement on Lot 1. The Irrigation Ditch Agreement does not apply to the irrigation ditch on Lot 2 (*Application Packet Sections 1 Project Summary; 6.11 Ditch Easement Draft*).
14. In order to bring the irrigation ditch easement on Lot 2 into compliance with Section 3-060.2.C of the City Subdivision Regulations, staff recommends a condition of approval requiring a statement prohibiting structures and the planting of vegetation in the irrigation ditch easement without written consent of the ditch owner to be placed on the final plat and in the covenants.
15. In order to comply with Section 3-060.4 of the City Subdivision Regulations, staff recommends a condition of approval that states the Irrigation Ditch Agreement, included as Section 6.11 of the Application Packet, must be executed and filed with the County Clerk and Recorder prior to final plat approval.

Conclusions of Law:

1. Through provision of required easements this subdivision meets the requirements regarding irrigated lands as specified in the City Subdivision Regulations, if the recommended conditions of approval are imposed.
2. No impacts to agricultural water users or water user facilities are foreseen as a result of this subdivision, if the recommended conditions of approval are imposed.

CRITERION C: IMPACT ON LOCAL SERVICES

1. Section 5-020.6.C of the City Subdivision Regulations states the application packet must identify the services and evaluate the impacts on those services including transportation elements, utilities, water supply, sewage disposal, solid waste disposal, schools, emergency services, and information pertaining to residential units and taxation.
2. Section 3-101.5 of the City Subdivision Regulations states the subdivision must be served by adequate public facilities and services such as transportation systems (including non-motorized), parking, police and fire protection, drainage structures, solid waste disposal, water supply, and sanitary sewage disposal; or the subdivider will provide adequately for such services.

ROADS, DRIVEWAYS, AND NON-MOTORIZED FACILITIES

Findings of Fact:

3. The subdivision proposes access to subdivision lots via Maple Street, Mullan Road, and West Broadway (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 2.3 Existing Conditions Map; 3 Subdivision Application*).
4. Street plan design and road sections are included on the Preliminary Plat in Section 2.1 of the application packet.
5. Section 3-020.3(A)(1) of the City Subdivision regulations requires each public road to provide for construction and perpetual maintenance of the road. Section 5-050.4(M & N) of the City Subdivision regulations requires the Special Improvement District (SID) statement to be provided on the plat and on each instrument of conveyance.
6. An SID statement is placed on the preliminary plat and in the Development Covenants for future improvements and maintenance to Mullan Road, West Broadway, and Maple Street (*Application Packet Sections 2.1 Preliminary Plat; 7.1 Covenants*).

Mullan Road

7. Mullan Road is located within a 66-foot-wide public road easement, 30 feet of which are located on the south side of the subject property. Mullan Road is functionally classified as a Minor Arterial street. Lots 1 and 2 will have access from this frontage. There is currently one access from Mullan Road to the subject property. This existing access will be located on Lot 2. A bridge across the irrigation ditch is proposed to provide access to Lot 1 from

Mullan Road (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 3 Subdivision Application; 5.4 Trinity Apartments Mullan Site Plan; 5.6 Flynn Lowney Ditch Crossing; 6.8 Mullan Rd 66 Wide*).

8. Section 3-020.4.K of the City Subdivision Regulations states bridges and drainage structures must be approved by the City Engineer and the Fire Chief.
9. In order to comply with Section 3-020.4.K of the City Subdivision Regulations, staff recommends a condition of approval that plans for and installation of the ditch crossing shall be approved by the Hellgate Valley Irrigation Company, City Engineering, and City Fire prior to final plat approval.
10. Subdivision Regulations Sections 3-020.2.B and 3-020.3.C require improvements to existing roads within or adjacent to a subdivision meeting the standards prescribed in Table .2A.
11. Subdivision regulations for Minor Arterial streets require a minimum 100-foot wide right-of-way, 10-foot wide boulevards, and 6-foot-wide sidewalks (*Subdivision Regulations, Article 3 Table .2A*)
12. The applicant requests to vary from Article 3-020 Sections 3-020.3.C, 3-020.15.D(1), and Table .2A of the City Subdivision Regulations for Minor Arterial Streets. The variance request is to retain the current road configuration and provide 5-foot-wide sidewalks and no boulevards within a 66-foot public road easement for the length of Mullan Road adjacent to the subject property (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 3 Subdivision Application; 4 Variances*).
13. The applicant has addressed the variance criteria in Section 6-010.1-.6 of the City Subdivision Regulations and lists the following reasons for the variance request: there is an irrigation ditch running along the northern side of Mullan Road. Due to the irrigation ditch location, expanding the road width to the north is not possible. Expanding the road to the south is not possible because Missoula County does not own parcels south of Mullan Road and therefore cannot dedicate additional right-of-way or easement width. The requirements for a minor arterial road listed in Table .2A of the City Subdivision Regulations cannot be met without additional road width (*Application Packet Sections 1 Project Summary; 2.3 Existing Conditions Map; 4 Variances*).
14. Staff recommends approval of the variance request based on the inability of the subdivider to expand Mullan Road due to the irrigation ditch location. Additional right-of-way is needed to meet the road standards required in Table .2A of the City Subdivision Regulations.

West Broadway

15. West Broadway is functionally classified a Principal Arterial Street. Lot 2 will have approximately 98 feet of lineal frontage on West Broadway. West Broadway falls under Montana Department of Transportation's jurisdiction. No vehicular access from West Broadway to the subject property is proposed for this subdivision (*Application Packet Sections 2.1 Preliminary Plat; 3 Subdivision Application; 4 Variances*).
16. Subdivision Regulations Sections 3-020.2.B and 3-020.3.C require improvements to existing roads within or adjacent to a subdivision meeting the standards prescribed in Table .2A.
17. Subdivision regulations for Principal Arterial streets require 6-foot bike lanes and 6-foot sidewalks (*Subdivision Regulations, Article 3 Table .2A*)
18. The applicant requests to vary from Article 3-020 Sections 3-020.3.C, 3-020.15.D(1), 3-020.15.D and Table .2A of the City Subdivision Regulations for Principal Arterial Streets. The variance request is to provide no bike lanes and 5-foot sidewalks on West Broadway. This is the current configuration of West Broadway (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 3 Subdivision Application; 4 Variances*).
19. West Broadway contains two (2) shoulders measuring 13 feet and 12 feet in width which can be used as parking lanes or bike lanes (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 3 Subdivision Application; 4 Variances*).
20. The applicant has addressed the variance criteria in Section 6-010.1-.6 of the City Subdivision Regulations and lists the following reasons for the variance request: the subject property has approximately 98 feet of lineal frontage on West Broadway. Surrounding properties have between 200 and 500 feet of linear frontage on West Broadway. The current configuration of West Broadway provides vehicular and pedestrian infrastructure. The shoulders can be used by bicyclists. Improvements to 98 feet of West Broadway adjacent to the subject property

will not increase public safety. A statement has been placed on the preliminary plat constituting the assent of all owners to any future SID/RSID for the benefit of future improvements to West Broadway (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 2.3 Existing Conditions Map; 4 Variances*).

21. Staff recommends approval of the variance request based on the finding of fact that improving the limited street frontage adjacent to the subject property will not increase public safety (*Application Packet Section 2.1 Preliminary Plat*).

Maple Street

22. Maple Street is functionally classified an Urban Local Commercial Industrial Street. Maple Street dead ends at the eastern side of the subject property and will provide access to Lot 1 from West Broadway (*Application Packet Sections 2.1 Preliminary Plat; 3 Subdivision Application; 4 Variances*).
23. Subdivision Regulations Sections 3-020.2.B and 3-020.3.C require improvements to existing roads within or adjacent to a subdivision meeting the standards prescribed in Table .2A.
24. Subdivision regulations for Urban Local Commercial Industrial Streets require 80 feet of right-of-way, 37-foot paved street width, parking lanes on both sides of the street, and 7-foot-wide boulevards on both sides of the street (*Subdivision Regulations, Article 3 Table .2A*).
25. The applicant requests to vary from Article 3-020 Sections 3-020.3.C, 3-020.15.D(1), 3-020.15.D and Table .2A of the City Subdivision Regulations for Urban Local Commercial Industrial Streets. The variance request is to provide 29.5-foot paved road width, a parking lane on one side of the street, and a 7-foot-wide boulevard on one side of the street within the existing 47.5-foot-wide right-of-way (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 3 Subdivision Application; 4 Variances*).
26. The applicant has addressed the variance criteria in Section 6-010.1-.6 of the City Subdivision Regulations and lists the following reasons for the variance request: Missoula County does not own the properties to the north or south of Maple Street and is therefore unable to dedicate additional right-of-way. There is not enough right-of-way width to install improvements meeting the requirements of the City Subdivision Regulations (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 2.3 Existing Conditions Map; 4 Variances*).
27. The City has a project planned for improvements to Maple Street within the available right-of-way. The future owner of Lot 1 will participate in the cost of improvements to Maple Street which will include 29.5-foot paved road width with two (2) drive lanes, one (1) parking lane, a 5-foot sidewalk and 7-foot boulevard on the north side of Maple Street, and ADA improvements at the intersection of W Broadway and Maple Street. The existing curbside sidewalk along the south side of Maple Street will remain. (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 3 Subdivision Application; 4 Variances; 5.5 Maple Street Improvements; 9.7 Notes from City In-House 7-14-2020*).
28. Staff recommends approval of the variance request based on the inability of the subject property owner to dedicate additional right-of-way for Maple Street. Additional right-of-way is needed to meet the road standards required in Table .2A of the City Subdivision Regulations.
29. Staff recommends a condition of approval stating the applicant must design and participate in the cost of improvements to Maple Street.

Non-Motorized Facilities

30. There is existing pedestrian infrastructure providing access from the public sidewalk on Mullan Road to the detention center and all associated uses on Lot 2. Mullan Road contains bike lanes, making Lot 2 accessible to bicyclists as well (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 2.3 Existing Conditions Map; 3 Subdivision Application*).
31. Pedestrian infrastructure providing access from the public sidewalk on Mullan Road to future development on Lot 1 will be installed with the bridge crossing the irrigation ditch. Bicyclists using the bike lanes on Mullan Road will also

access Lot 1 using the bridge (*Application Packet Sections 5.4 Trinity Apartments Mullan Site Plan; 5.6 Flynn Lowney Ditch Crossing*).

32. Maple Street will contain a boulevard sidewalk on the north side and a curbside sidewalk on the south side following the City project to improve Maple Street. On-site 5-foot-wide sidewalks will connect the public sidewalks on Maple Street to future development on Lot 1. The City Subdivision Regulations do not require bike lanes for Urban Local Commercial Industrial Streets. Bicyclists will use the driving lanes to access Lot 1 from Maple Street (*City Subdivision Regulations 3-020 Table .2A; Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 3 Subdivision Application; 5.4 Trinity Apartments Mullan Site Plan*).
33. A system of on-site sidewalks are proposed on Lot 1 connecting public sidewalks to on-site parking, structures, and open spaces. Pedestrians are likely to cut through Lot 1 to access Mullan Road from Maple Street and vice versa. A 6-foot-wide non-motorized public access easement is shown on the preliminary plat connecting the public sidewalk on Maple Street to the public sidewalk on Mullan Road (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 3 Subdivision Application; 5.4 Trinity Apartments Mullan Site Plan*).
34. A trail is defined in Section 2-020.125 of the City Subdivision Regulations as a path designed for non-motorized travel. The standards for trails are provided in Section 3-020 Table .14A of the City Subdivision Regulations. The pedestrian path located in a non-motorized public access easement is functionally classified as a Neighborhood Connector Trail (*City Subdivision Regulations; Application Packet Section 4 Variances*).
35. Section 3-020 Table .14A of the City Subdivision Regulations requires Neighborhood Connector Trails be placed in a 12-foot-wide right-of-way or public access easement. Neighborhood Connector Trails require a 6-foot-wide paved or accessible natural surface.
36. The applicant requests to vary from Article 3, Sections 3-020.15.F(6)(b), 3-020.15.G, and Table .14A of the City Subdivision Regulations for Neighborhood Connector Trails. The variance request is to provide a 5-foot-wide asphalt trail within a 6-foot-wide non-motorized public access easement (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 3 Subdivision Application; 4 Variances*).
37. The applicant has addressed the variance criteria in Section 6-010.1-.6 of the City Subdivision Regulations and lists the following reasons for the variance request: the trail is proposed by the applicant as a public benefit but 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. Increasing the easement width would result in less space for parking and open space on Lot 1. The trail will be maintained by the future owners of Lot 1. Lot 1 borders the trail easement on both sides so additional easement width is not necessary for maintenance. No mitigation is necessary to protect public health and safety (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 4 Variances*).
38. Staff recommends approval of the variance request based on the finding of fact that the trail is not required by local, state, or federal regulations. Additional easement width would reduce developable space on Lot 1 and is not necessary for maintenance of the trail (*Application Packet Section 4 Variances*).
39. A 12-foot non-motorized public access easement containing a 6-foot-wide trail will be provided over and across the adjacent property to the east, addressed 1906 West Broadway. This parcel contains Dollar Rent-A-Car. The non-motorized public access easement will provide pedestrian access from West Broadway to proposed development on Lot 1. The trail is functionally classified as a Neighborhood Connector Trail. The proposed trail meets the requirements for a Neighborhood Connector Trail provided in Section 3-020 Table .14A of the City Subdivision Regulations (*Application Packet Sections 1 Project Summary; 5.4 Trinity Apartments Mullan Site Plan; 6.13 Dollar Rent-A-Car Easement*).
40. Staff recommends a condition of approval stating the applicant must execute and file The Perpetual Public Trail and Utility Easement Agreement, included as Section 6.13 of the application packet, with the County Clerk and Recorder. The applicant shall design and install a 6-foot-wide trail within the easement.

Conclusion of Law:

1. The subdivision will meet the road improvement and non-motorized facility standards in the Missoula City Subdivision Regulations if variance requests numbers 1, 2, 3, and 4 are approved by City Council and the conditions of approval are imposed.

TRANSIT

Findings of Fact:

1. Per Section 3-020.16.B(1)(b) of the City Subdivision Regulations, the subdivider must provide active transportation facilities that provide safe routes to schools, playgrounds, bus stops, and public parks and common areas.
2. The nearest Mountain Line bus stops are located on West Broadway within 0.2 miles of the subject property (*Application Packet Sections 3 Subdivision Application; 2.11 Bus Stops Map*).
3. The bus stops on West Broadway can be safely accessed by pedestrians and bicyclists via Mullan Road, Maple Street, and the trail across the Dollar Rent-A-Car lot (*Application Packet Sections 2.1 Preliminary Plat; 3 Subdivision Application; 2.11 Bus Stops Map*).
4. During an in-house review of the subdivision, City Staff noted that two additional public transit bus stops are planned along West Broadway near the north end of the subject property. A pedestrian crossing on West Broadway is also planned. The trail across the Dollar Rent-A-Car lot will provide direct pedestrian access from the development on Lot 1 to the future bus stops and crossing (*Application Packet Sections 3 Subdivision Application; 9.7 Notes from City In-House 7-14-2020*).
5. School bus stops are located at the intersection of Great Northern Avenue and Santa Fe Court and the intersection of Maple Street and Russell Street. The school bus stops at the intersection of Russell and Maple Street are approximately 1,330 feet from the subject property. Students will need to cross West Broadway at the intersection of Mullan Road and West Broadway to access the bus stops. The school bus stops at the intersection of Great Northern Avenue and Santa Fe Court are approximately 1,950 feet from the western side of the subject property but are further from the proposed residential development on Lot 1 (*Application Packet Sections 3 Subdivision Application; 2.11 Bus Stops Map*).
6. Section 3-020.4.G of the City Subdivision Regulations states when development is adjacent to or within ¼ 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 should consult with the Missoula Urban Transportation District and Missoula County Public Schools early in the planning and design process.
7. City Engineering will not be requiring the installation of bus stop facilities for this subdivision. The applicant requested agency comment from the Missoula Urban Transportation District and Missoula County Public Schools. No comment was received from either agency at the time of this report. The installation of bus stop facilities will not be required for this subdivision (*Application Packet Sections 3 Subdivision Application; 11 Request for Agency Comment 9.17.20*).
8. Accessible routes to bus stops meeting ADA standards will be provided from the subject property via Mullan Road, Maple Street, and the trail across the Dollar Rent-A-Car site (*Application Packet Sections 3 Subdivision Application; 2.1 Preliminary Plat; 5.4 Trinity Apartments Mullan Site Plan*).

Conclusion of Law:

1. The subdivision provides active transportation facilities that provide safe routes to bus stops in compliance with Section 3-020.16.B(1)(b) of the City Subdivision Regulations.

DRAINAGE

Findings of Fact:

1. Section 3-040 of the City Subdivision Regulations provides minimum standards for site grading and control of storm water runoff.
2. Section 3-040.2.E of the City Subdivision Regulations states all drainage systems must meet the minimum standards of the Montana Department of Environmental Quality (DEQ), as required by MCA Title 76, Chapter 4 and 5, Part 1, as amended, and all applicable state and local regulations.

3. The submittal packet contains storm water calculations and statements that the post development storm water runoff will meet City of Missoula storm water requirements. The Storm Water Report was prepared in accordance with the City Subdivision Regulations and Department of Environmental Quality standards (*Application Packet Sections 1 Project Summary; 6.9 Stormwater Report*).
4. Lot 2 is already built out and is currently served by onsite drywell injection sumps. Lot 2 has adequate storm water infrastructure to service the existing development (*Application Packet Section 6.9 Stormwater Report*).
5. The stormwater management plan for Lot 1 consists of a vegetated swale, closed conduits roof drains, inlets, and dry well sumps (*Application Packet Section 6.9 Stormwater Report*).
6. Shallow groundwater was encountered at depths of 17.0 to 18.3 feet below ground surface during exploratory boring. Clay deposits in this area of the Missoula Valley can create perched, shallow groundwater lenses. Well logs from a nearby property describe shallow groundwater. The shallow groundwater is separated from the deeper Missoula aquifer by numerous clay layers. Based on well logs for the area, the water table of the Missoula aquifer is approximately 50 feet below ground surface (*Application Packet Section 6.3 TNR MLN Geotechnical Report*).
7. The Stormwater Division of Public Works identified issues with the Stormwater Report on October 1, 2020. The applicant revised the Stormwater Report prior to Governing Body Review. The Stormwater Report included in the application packet for Governing Body Review meets the requirements of the City Subdivision Regulations and DEQ (*Application Packet Section 11 Agency Comment – Stormwater Andy Shultz 10.1.2020*).
8. Staff recommends a condition of approval stating all construction on Lot 1 shall follow recommendations in the Geotechnical Investigation prepared by Tetra Tech dated July 2, 2020

Conclusions of Law:

1. The subdivision will meet the grading and drainage standards in the Missoula City Subdivision Regulations if the recommended condition of approval is imposed.
2. Final grading, drainage and stormwater plans will be reviewed and approved by City Engineer prior to final plat approval.

WATER SYSTEM AND SEWER SYSTEM

Findings of Fact:

1. Section 3-070 of the City Subdivision Regulations provides requirements for water supply and sewage disposal.
2. All water mains are placed within public right-of-way or utility easements in compliance with Section 3-070.6 of the City Subdivision Regulations (*Application Packet Section 2.1 Preliminary Plat*).
3. The property is within the Missoula Wastewater and Water Facilities Service Area boundaries. City Engineering issued an intent to serve letter stating that the City of Missoula will provide public sanitary sewer and water to the subject property (*Application Packet Section 6.10 Intent to Serve Sewer and Water 2019-052*).
4. Existing development on Lot 2 is connected to City water and sewer. The required water supply for Lot 2 will not change with the subdivision (*Application Packet Sections 2.1 Preliminary Plat; 3 Subdivision Application; 5.2 Existing Utilities Map*).
5. There is an existing water main bisecting Lot 1 which will be relocated to better serve future development on Lot 1 (*Application Packet Sections 2.1 Preliminary Plat; 3 Subdivision Application; 5.2 Existing Utilities Map*).
6. New development on Lot 1 will connect to the existing sewer main located in Mullan Road. There is a sewer forced main located east of the subject property in West Broadway as well (*Application Packet Sections 2.1 Preliminary Plat; 3 Subdivision Application; 5.2 Existing Utilities Map*).
7. Logan McInnis of City Public Works reviewed the application packet and had no comments regarding the sewer and water information presented (*Application Packet Section 11 Agency Comment – Public Works Utilities Logan McInnis 10.2.2020*).

Conclusions of Law:

<ol style="list-style-type: none"> Public sewer and water are available to the subdivision. Each lot will be served by municipal sewer and water facilities in compliance with the Subdivision Regulations. Review of water and sewer systems is under the jurisdiction of state and local health authorities under the Montana Sanitation in Subdivision Act.
SOLID WASTE
<u>Findings of Fact:</u> <ol style="list-style-type: none"> Republic Services will provide disposal service to the subdivision (<i>Application Packet Section 9.9 Republic Services 7.20.20</i>).
<u>Conclusions of Law:</u> <ol style="list-style-type: none"> Solid waste disposal service will be available to the subdivision and will be in compliance with Subdivision Regulations. Review of solid waste disposal is under the jurisdiction of state and local health authorities under the Montana Sanitation in Subdivision Act.
PARKS AND RECREATION
<u>Findings of Fact:</u> <ol style="list-style-type: none"> Section 3-080.2.C of the City Subdivision Regulations states that parkland dedication is not required for a subdivision in which only one additional lot is created. Only one additional lot is being created in the Trinity Mullan Subdivision (<i>Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 3 Subdivision Application</i>). No parkland dedication is proposed for this subdivision (<i>City Subdivision Regulations Article 3, Section 3-080.2.C; Application Packet Sections 1 Project Summary; 3 Subdivision Application</i>).
<u>Conclusion of Law:</u> <ol style="list-style-type: none"> The Trinity Mullan Subdivision is exempt from the requirement to dedicate parkland per Section 3-080.2.C of the City Subdivision Regulations.
SCHOOLS
<u>Findings of Fact:</u> <ol style="list-style-type: none"> Lot 1 of the Trinity Mullan Subdivision will be used for one-hundred and thirty (130) units of affordable housing. The agent estimates households on Lot 1 will have between 0.2 and 0.5 children each. Potentially twenty-six (26) to sixty-five (65) children may live in the proposed development on Lot 1. The additional children are not expected to create significant impacts on the schools (<i>Application Packet Sections 1 Project Summary; 3 Subdivision Application</i>). No residential development is proposed on Lot 2 (<i>Application Packet Sections 1 Project Summary; 3 Subdivision Application</i>). Students will attend Hellgate Elementary and Middle School and Big Sky High School (<i>Application Packet Sections 1 Project Summary; 3 Subdivision Application</i>). An agency comment request was sent to Hellgate Elementary School District and Missoula County Public Schools on September 17th, 2020. Hellgate Elementary School District and Missoula County Public Schools did not submit comment at the time of this report (<i>Application Packet Section 11 Request for Agency Comment 9.17.20</i>).
<u>Conclusion of Law:</u> <ol style="list-style-type: none"> No adverse impacts to schools requiring mitigation have been identified.
FIRE DEPARTMENT
<u>Findings of Fact:</u>

1. The Missoula City Fire Department will serve the subdivision. The nearest station is located approximately 2.5 miles away on Pine Street (*Application Packet Sections 1 Project Summary; 3 Subdivision Application*).
2. Section 3-070.1 of the City Subdivision Regulations requires that water supply for fire protection be provided via a public or community water system with 1,000 gallons per minute minimum flow, or via residential sprinkler systems.
3. Existing fire hydrants are located on and near the property. There are existing hydrants on West Broadway adjacent to the subject property, on the south side of Mullan Road, and near the drive access from Mullan Road to Lot 2 (*Application Packet Sections 1 Project Summary; 2.3 Existing Conditions Map; 3 Subdivision Application*).
4. City Fire requests that one (1) new fire hydrant be installed on Maple Street near the eastern boundary of Lot 1 (*Application Packet Sections 1 Project Summary; 3 Subdivision Application; 9.3 City Fire 7.31.20*).
5. Staff recommends a condition of approval stating a fire hydrant plan must be reviewed and approved by City Fire, prior to final plat approval. Fire hydrants shall be installed prior to combustible construction as required by the City Fire Department approved hydrant plan.
6. Fire apparatus access requirements for development on Lot 1 will be evaluated at building permit.
7. City Fire regularly requires an addressing system to be developed that conforms to the addressing requirements of the city in order to facilitate access by emergency personnel . All new buildings are assigned an address at the time of building permit approval, and are required to meet City standards for address signage. Staff recommends a condition of approval that requires the applicant to develop an address signage plan approved by City Fire and include the address signage requirements in the Declaration of Covenants, Conditions, Restrictions and Easements (*City Subdivision Regulations Section 3-010.1.F*).

Conclusion of Law:

1. Fire service is available to the subdivision if the recommended conditions of approval are imposed.

LAW ENFORCEMENT

Findings of Facts:

1. The subdivision is located within the jurisdiction of the Missoula Police Department (*Application Packet Sections 1 Project Summary; 3 Subdivision Application*).
2. The City of Missoula Police Department is located less than two miles from the Trinity Mullan subdivision (*Application Packet Sections 1 Project Summary; 3 Subdivision Application*).
3. The Missoula Police Department had no comments regarding the subdivision application (*Application Packet Section 11 Agency Comment – Police Chris Odlin 10.5.20*).

Conclusions of Law:

1. Law enforcement services are available to the Trinity Mullan Subdivision.

CRITERIA D, E, AND F: IMPACT ON THE NATURAL ENVIRONMENT, WILDLIFE, AND WILDLIFE HABITAT

Findings of Fact:

1. Section 5-020.6.D states the application packet must identify natural environmental resources and evaluate the impacts on those resources including adjacent public lands, cultural resources, hydrological characteristics, soil characteristics and vegetative cover types.
2. The subject property is not adjacent to public lands (*Application Packet Sections 3 Subdivision Application; 2.2 Vicinity Map; 2.6 Adjacent Properties Map*).
3. No riparian resources exist on the property (*Application Packet Sections 1 Project Summary; 3 Subdivision Application*).
4. The applicant states that no wildlife habitat will be disturbed as a result of this subdivision and there are no impacts to mitigate (*Application Packet Sections 1 Project Summary; 2.14 Wildlife Map; 3 Subdivision Application; 6.4 MTNHP Species of Concern*).

5. The Montana State Historic Preservation Office provided comment stating that as long as there will be no disturbance or alteration of structures over fifty years of age, it is unlikely cultural properties will be impacted by the project. The Montana State Historic Preservation Office concluded that a cultural resource inventory is unwarranted at this time. However, if cultural materials are inadvertently discovered, the Montana Historic Preservation Office should be contacted, and the site investigated (*Application Packet Sections 1 Project Summary; 3 Subdivision Application; 6.6 SHPO Correspondence*).

Weeds

6. Subdivision Regulations Section 3-010.1F requires the subdivision to comply with other regulations applicable to the land proposed for subdivision.
7. The Missoula County Noxious Weed Management Plan adopted by Resolution 2012-063 requires a weed management plan as part of subdivision plans.
8. The portion of Lot 2 containing the detention center and pre-release center is currently landscaped with turf grass and trees (*Application Packet Sections 1 Project Summary; 2.3 Existing Conditions Map; 3 Subdivision Application*).
9. Lot 1 is sparsely vegetated. Lot 1 will be landscaped once developed in compliance with the Title 20 Zoning Ordinance (*Application Packet Sections 1 Project Summary; 2.3 Existing Conditions Map; 3 Subdivision Application*).
10. The application packet includes a weed management and revegetation plan. The weed management plan states weeds will be managed by mowing. Herbicide application may be necessary to reduce spotted knapweed on the undeveloped portion of Lot 2. Areas disturbed during construction should be reseeded as soon as possible to prevent weed establishment (*Application Packet Section 7.2 Weed Management Revegetation Plan*).
11. The following section and statement is included in the development covenants: "Weed Management: All weed management conducted on the Property shall conform to the Weed Management and Revegetation Plan as outlined in Exhibit "B", attached hereto. Ground disturbances caused by construction or maintenance shall be revegetated with beneficial species at the first opportunity after disturbance occurs and in accordance with the Montana Weed Control Act and the Missoula County Noxious Weed Management Control Program" (*Application Packet Section 7.1 Covenants*).

Conclusion of Law:

1. No impacts to the natural environment and wildlife habitat are foreseen as a result of this subdivision.

CRITERION G: EFFECTS ON PUBLIC HEALTH AND SAFETY

Findings of Fact:

1. Section 5-020.6.G of the City Subdivision Regulations states the applicant must demonstrate that the subdivision will have no adverse impact on conditions that relate to the public health and safety including disease control and prevention, emergency services, environmental health, flooding, fire or wildfire hazards, rock falls or landslides, unstable soils, steep slopes, and other natural hazards, high voltage lines or high pressure gas lines, on-site or nearby off-site land uses that create a nuisance (e.g. noise, dust, smoke, unpleasant odors), and air or vehicular traffic safety hazards.

Hazardous Land

2. Subdivision Regulations Section 3-010.2 requires the mitigation of hazards to subdivision development, including but not limited to flooding and slopes of 25% or more.
3. The subject property is outside of the FEMA-identified 1% annual chance flood hazard areas and floodplain (*Application Packet Section 2.12 Floodplain Map*).
4. There are no areas with slopes of 25% or greater within Lot 1 where development is proposed. Lot 2 does contain zones with slopes of 25% or greater, located primarily in areas that are already developed by the Missoula County Detention Center and along the irrigation ditch (*Application Packet Sections 3 Subdivision Application; 2.15 Slope Map*).

5. No adverse impacts related to soil instability or high ground water were identified. Exploratory boring beneath the topsoil horizon and paved areas of the subject property determined that the soil profile generally consists of varying thicknesses of fine-grained silty or clayey deposits, extending to depths of 9 feet or less. Below the fine-grained soil, or in some cases beneath the topsoil, discontinuous seams of sand were encountered. Medium dense to very dense alluvial gravel was encountered below the silty, clayey, or sandy soils, and extended beyond the maximum depth explored in all of the boreholes in which it was encountered (*Application Packet Sections 3 Subdivision Application; 6.3 TRN MLN Geotechnical Report*).
6. The Report of Geotechnical Investigation prepared by Tetra Tech provides recommendations for construction on Lot 1 in relation to soil types (*Application Packet Sections 1 Project Summary; 3 Subdivision Application; 6.3 TRN MLN Geotechnical Report*).
7. Staff recommends a condition of approval stating all construction on Lot 1 shall follow recommendations in the Geotechnical Investigation prepared by Tetra Tech dated July 2, 2020.

Conclusion of Law:

1. No adverse impacts to public health and safety are foreseen as a result of this subdivision if the recommended conditions of approval are imposed.

IV. PRIMARY CRITERIA COMPLIANCE

This subdivision complies with:

1. SURVEY REQUIREMENTS

Findings of Fact:

1. The Seal of a Professional Land Surveyor or Engineer is required on all final plats, which states that the subdivision complies with part 4 of M.C.A. 76-3.

Conclusion of Law:

1. This proposal meets the survey requirements.

2. SUBDIVISION REGULATIONS

Findings of Fact:

1. Subdivisions are required to comply with the local subdivision regulations provided for in part 5 of M.C.A. 76-3.

Conclusion of Law:

1. The plat will be brought into compliance with the local subdivision regulations if the conditions of approval are imposed.

3. REVIEW PROCEDURE

Findings of Fact:

1. Subdivisions are required to comply with the local subdivision review procedure provided for in Article 4 of the Missoula City Subdivision Regulations.
2. Notice of a public hearing for this subdivision was posted on the property on October 30, 2020 and letters were mailed to adjacent property owners on October 19, 2020.
3. The public meeting before the Land Use and Planning Committee of the City Council is scheduled for November 18, 2020.
4. A decision of the governing body rejecting or approving a proposed subdivision may be appealed to the district court within thirty days of such decision. The application shall specify the grounds upon which the appeal is made. An appeal may be made by the subdivider, a contiguous landowner, an owner of land within the City of Missoula who can establish a likelihood of material injury to property or its material value, or the City Council. In order to file an appeal, the plaintiff must be aggrieved by the decision, demonstrating that a specific personal and legal interest, as opposed to a general interest, has been or is likely to be specifically and injuriously affected by the decision.

Conclusion of Law:

1. This subdivision proposal has followed the necessary application procedure and has been reviewed within the procedures provided in Article 4 of the Missoula City Subdivision Regulations.

V. PROVISION OF EASEMENTS FOR UTILITIES

Findings of Fact:

1. Access to utilities is provided to the subdivision via the Mullan Road public access easement, private utility easements, public water main easements, and public sanitary sewer main easements (*Application Packet Sections 2.1 Preliminary Plat; 5.2 Existing Utilities Exhibit*).
2. The subdivision will be served by city water and sewer (*Application Packet Sections 1 Project Summary; 3 Subdivision Application; 6.10 Intent to Serve Sewer Water 2019-052*).
3. A 20-foot-wide public water main easement runs east-west across the subject property. A 15-foot by 20-foot public sanitary sewer main easement is located on Lot 1 adjacent to Maple Street (*Application Packet Section 2.1 Preliminary Plat*).
4. A 20-foot-wide private utility easement is located along the irrigation ditch on the south side of the property. A 34-foot-wide private utility easement runs north-south along the eastern side of the subject property (*Application Packet Section 2.1 Preliminary Plat*).
5. There will be perpetual public trail and utility easement from West Broadway to the subject property, across the parcel to the east of the subject property (*Application Packet Section 6.13 Dollar Rent-A-Car Easement*).
6. Lot 2 is currently developed with the detention center, pre-release center, and evidence storage warehouse which are served by utilities (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 5.2 Existing Utilities Exhibit*).
7. The subdivision will be served by Northwestern Energy for electricity and gas (*Application Packet Section 3 Subdivision Application; 9.8 NorthWestern Energy 7.30.20*).
8. Blackfoot Communications and Spectrum will provide cable TV and phone service to the subdivision (*Application Packet Section 3 Subdivision Application; 9.1 Blackfoot 7.23.20; 9.10 Spectrum 7.17.20*).
9. Subdivision Regulations Section 3-060.1 states that easements must be reviewed and approved by City Engineering.

Conclusion of Law:

1. Utility services are available to this subdivision and the subdivision will be in compliance with the Subdivision Regulations.

VI. PROVISION OF LEGAL AND PHYSICAL ACCESS

Finding of Fact:

1. Legal and physical access will be provided to the subdivision via three (3) public rights-of-way: Mullan Road, West Broadway, and Maple Street (*Application Packet Section 2.1 Preliminary Plat*).

Conclusion of Law:

1. The subdivision proposal meets the physical and legal access requirements of the City Subdivision Regulations.

VII. VARIANCE REQUEST

VARIANCE REQUEST #1

A variance is requested from Article 3, Sections 3-020 Table .2A, 3-020.3.C and 3-020.15.D(1) of the City Subdivision Regulations which prescribe road design standards. Mullan Road is functionally classified as a Minor Arterial Road which requires 100 feet of right-of-way, 6-foot-wide sidewalks, and 10-foot-wide boulevards.

The applicant requests to vary from the requirements for a Minor Arterial Road and retain the current design of Mullan Road within an existing 66-foot-wide public access easement with 5-foot-wide sidewalks and no boulevards (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 4 Variances*).

RECOMMENDATION:

Development Services recommends **APPROVAL** of the variance request to allow a 66-foot-wide public access easement, 5-foot-wide sidewalks, and no boulevards for Mullan Road adjacent to the subject property.

FINDINGS:

A. The granting of this variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.

Granting of the variance as submitted does not pose a threat to public safety, health, or welfare. Mullan Road currently contains two (2) driving lanes, bike lanes, and sidewalks. Current infrastructure safely accommodates all modes of transportation (*Application Packet Sections 2.1 Preliminary Plat; 4 Variances*).

B. The conditions upon which the request for variance are based are unique to the property for which the variance is sought and are not applicable generally to other property.

The Flynn Lowney irrigation ditch runs along the north side of Mullan Road. The Flynn Lowney Ditch Easement was established in 1906 according to Book 37, Page 84. The subdivider does not own parcels to the south of Mullan Road. The subdivider is unable to expand Mullan Road to the north or to the south. Due to the ditch location and ditch easement, an expanded road width is not possible. Without the ability to obtain additional road width, it is not possible to install 10-foot-wide boulevards or increase the sidewalk width. The irrigation ditch location is unique to the subject property (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 2.3 Existing Conditions Map; 4 Variances*).

C. Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, a hardship to the owner will result if the strict letter of the regulations is enforced.

Expanding Mullan Road is unfeasible due to the Flynn Lowney irrigation ditch abutting the north side of the road. The Flynn Lowney Ditch Company has told WGM Group that they are not interested in further encumbering the ditch with additional City road width. The irrigation ditch is a topographical condition of the subject property which imposes a hardship on the subdivider if the road design requirements of Section 3-020 Table .2A are enforced (*Application Packet Sections 2.1 Preliminary Plat; 2.3 Existing Conditions Map; 4 Variances*).

D. 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 Missoula City Zoning Ordinance or Our Missoula 2035 City Growth Policy. Mullan Road currently provides for all modes of transportation, meeting the Our Missoula 2035 City Growth Policy which promotes the development of a system of connected active transportation and transit routes in the community (*Our Missoula 2035 City Growth Policy; Application Packet Section 4 Variances*).

E. The variance will not cause an increase in public costs.

Approval of the variance will not cause an increase in public costs. Mullan Road will likely not be expanded due to the location of the irrigation ditch. An SID waiver assenting the owner to any future improvements to Mullan Road has been placed on the face of the plat and in the covenants to offset potential increases in public costs (*Application Packet Section 2.1 Preliminary Plat; 4 Variances; 7 Covenants*).

F. 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 the location of the irrigation ditch (*Application Packet Sections 2.3 Existing Conditions Map; 4 Variances*).

VARIANCE REQUEST #2 – MAPLE STREET

A variance is requested from Article 3, Sections 3-020 Table .2A, 3-020.3.C and 3-020.15.D(1) of the City Subdivision Regulations which prescribe road design standards. Maple Street is functionally classified as an Urban Local Commercial Industrial Road which requires 80 feet of right-of-way, 37 feet of paved roadway (back of curb to back of curb), parking lanes on both sides of the street, and 7-foot-wide boulevards on both sides of the street.

The applicant requests to vary from the requirements for an Urban Local Commercial Industrial Road. The variance request is to provide 29.5-foot paved road width, a parking lane on one side of the street, and a 7-foot-wide boulevard on one side of the street within the existing 47.5-foot-wide right-of-way (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 3 Subdivision Application 4 Variances; 5.5 Maple Street Improvements*).

Maple Street is an off-site road. Maple Street dead ends at the subject property but will provide access to Lot 1. The City has a project planned for improvements to Maple Street within the available right-of-way. The future owner of Lot 1 will participate in the cost of improvements to Maple Street which will include 29.5-foot paved road width with two (2) drive lanes, one (1) parking lane, a 5-foot-wide sidewalk, 7-foot-wide boulevard and curb and gutter on the north side of Maple Street. The curb ramp on the north side of the intersection of Maple Street and West Broadway will be improved to meet current standards. The curbside sidewalk along the south side of Maple Street will remain (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 3 Subdivision Application; 4 Variances; 5.5 Maple Street Improvements; 9.7 Notes from City In-House 7-14-2020*).

Staff recommends a condition of approval stating the applicant must prepare plans for the Maple Street improvements and execute a Development Agreement that requires the applicant to participate in the cost of improvements to Maple Street.

RECOMMENDATION:

Development Services recommends **APPROVAL** of the variance request to allow 47.5 feet of right-of-way, 29.5-foot paved street width, a parking lane on one side of the street, and a boulevard on one side of the street for Maple Street between West Broadway and the subject property, subject to the condition of approval requiring the applicant to prepare plans for the Maple Street improvements and execute a Development Agreement that requires the applicant to be responsible for a portion of the cost of half street improvements for the portion of Maple Street between West Broadway and the subject property, prior to final plat approval.

FINDINGS:

A. The granting of this variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.

Granting of the variance as submitted does not pose a threat to public safety, health, or welfare. Once improvements are made to Maple Street, all modes of transportation will be safely accommodated.

Both vehicular and non-vehicular traffic will increase as a result of proposed development on Lot 1. Sidewalk and boulevard improvements to the north side of Maple Street will better accommodate non-vehicular traffic created by the proposed 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 provide additional pedestrian access (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 4 Variances; 5.5 Maple Street Improvements; 6.13 Dollar Rent-A-Car Easement*).

B. The conditions upon which the request for variance are 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 is unable to dedicate right-of-way to meet the standards prescribed in Section 3-020 Table .2A of the City Subdivision Regulations. 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. Installing a 5-foot-wide sidewalk and 7-foot-wide boulevard on the north side of Maple Street will bring the street closer to compliance with the design standards (*Application Packet Sections 2.7 Adjacent Ownership Map; 4 Variances; 5.5 Maple Street Improvements*).

C. Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, a hardship to the owner will result if the strict letter of the regulations is enforced.

Maple Street dead ends at the subject property and the applicant does not own the property to the north or to the south of the Maple Street right-of-way. The applicant is unable to dedicate additional right-of-way in order to meet the standards for a Urban Local Commercial Industrial Street as prescribed in Section 3-020 Table .2A of the City Subdivision Regulations. Due to the physical surroundings of Maple Street, a hardship to the owner will result if the road standards are enforced (*Application Packet Sections 2.7 Adjacent Ownership Map; 4 Variances*).

D. 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 Missoula City Zoning Ordinance or Our Missoula 2035 City Growth Policy. Maple Street will provide pedestrian and vehicular infrastructure as well as a boulevard, meeting the Our Missoula 2035 City Growth Policy which promotes the development of a system of connected active transportation and transit routes in the community (*Our Missoula 2035 City Growth Policy; Application Packet Section 4 Variances; 5.5 Maple Street Improvements*).

E. The variance will not cause an increase in public costs.

The City of Missoula has a project planned to improve Maple Street. 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. The variance will not cause an increase in public costs (*Application Packet Sections 1 Project Summary; 4 Variances; 9.7 Notes from City In-House 7-14-2020*).

F. 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 created by the applicant's inability to dedicate additional right-of-way for Maple Street (*Application Packet Section 4 Variances*).

VARIANCE REQUEST #3 – WEST BROADWAY

A variance is requested from Article 3, Sections 3-020 Table .2A, 3-020.3.C and 3-020.15.D(1) of the City Subdivision Regulations which prescribe road design standards. West Broadway is functionally classified as a Principal Arterial Road which requires 6-foot-wide bike lanes, 10-foot-wide boulevards, and 6-foot-wide sidewalks.

The applicant requests to vary from the requirements for a Principal Arterial Road and retain the current design of West Broadway. The variance request is to provide no bike lanes, 5-foot sidewalks, and a 7.5-foot boulevard on the northeast side of West Broadway. The boulevard on the southwest side of West Broadway does meet the 10-foot width standard (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 3 Subdivision Application; 4 Variances*).

Though no bike lanes are proposed, West Broadway contains two (2) shoulders measuring 13 feet and 12 feet in width which can be used as parking lanes or bike lanes (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 3 Subdivision Application; 4 Variances*).

RECOMMENDATION:

Development Services recommends **APPROVAL** of the variance request to allow a 7.5-foot-wide boulevard on the north side of the street, 5-foot-wide sidewalks, and no bike lanes for West Broadway adjacent to the subject property.

FINDINGS:

A. The granting of this variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.

Granting of the variance as submitted does not pose a threat to public safety, health, or welfare. West Broadway currently contains boulevard sidewalks, vehicular lanes, and an oversized shoulder which can be used by bicyclists. All modes of transportation are accommodated. Installing improvements to the 98 lineal feet of West Broadway adjacent to the subject property would not result in a safer street. A trail within a non-motorized public access easement will provide safe pedestrian and bike access from West Broadway to the

proposed development on Lot 1 (*Application Packet Sections 2.1 Preliminary Plat; 4 Variances; 6.13 Dollar Rent-A-Car Easement*).

B. The conditions upon which the request for variance are based are unique to the property for which the variance is sought and are not applicable generally to other property.

The subject property has 98 feet of lineal frontage on West Broadway. Surrounding properties have between 200 and 500 feet of linear frontage on West Broadway. Improving the limited frontage adjacent to the subject property to create wider sidewalks, a wider boulevard, and designated bike lanes would not improve pedestrian, vehicular, or bicycle circulation and would not align with current infrastructure to the north and south which is in good condition. The conditions upon which the request for variance are based are unique to the subject property because the subject property has limited frontage on West Broadway in comparison with surrounding properties (*Application Packet Sections 2.1 Preliminary Plat; 4 Variances*).

C. Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, a hardship to the owner will result if the strict letter of the regulations is enforced.

The subject property has limited frontage on West Broadway in comparison with surrounding properties which have between 200 and 500 feet of lineal frontage on West Broadway. Improving the limited frontage adjacent to the subject property to create wider sidewalks, a wider boulevard, and designated bike lanes would not align with current infrastructure to the north and south which is in good condition. The affordable housing development proposed for Lot 1 relies on time sensitive funding. West Broadway is under Montana Department of Transportation (MDT) jurisdiction. Obtaining MDT permits for right-of-way improvements could potentially cause project delays, jeopardizing funding for the affordable housing project. In addition, improvements to the limited portion of West Broadway adjacent to the subject property would provide little public benefit. Installing improvements to West Broadway would impose a hardship on the subdivider if the road design requirements of Section 3-020 Table .2A are enforced (*Application Packet Sections 2.1 Preliminary Plat; 4 Variances*).

D. 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 Missoula City Zoning Ordinance or Our Missoula 2035 City Growth Policy. West Broadway currently provides pedestrian and vehicular infrastructure as well as wide shoulders for bicyclists, meeting the Our Missoula 2035 City Growth Policy which promotes the development of a system of connected active transportation and transit routes in the community (*Our Missoula 2035 City Growth Policy; Application Packet Sections 2.1 Preliminary Plat; 4 Variances*);).

E. The variance will not cause an increase in public costs.

This variance request may cause an increase in public costs at the time West Broadway Street is improved. An SID waiver is placed on the face of the plat and in the covenants assenting owners to participate in the cost of future improvements to West Broadway, offsetting the potential increase in public costs (*Application Packet Sections 2.1 Preliminary Plat; 4 Variances; 7 Covenants*).

F. 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 (*Application Packet Section 4 Variances*).

VARIANCE REQUEST #4 – NEIGHBORHOOD CONNECTOR TRAIL

A variance is requested from Article 3, Sections 3-020.15.F(6)(b), 3-020.15.G, and Table .14A of the City Subdivision Regulations which prescribe trail design standards. The applicant is proposing to install a trail within a non-motorized public access easement from Maple Street to Mullan Road, across Lot 1. The trail is functionally classified as a Neighborhood Connector Trail which requires a minimum 6-foot-wide paved or accessible natural surface within a 12-foot-wide right-of-way or public access easement.

The applicant requests to vary from the requirements for a Neighborhood Connector Trail and install a 5-foot-wide trail within a 6-foot-wide non-motorized public access easement (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 3 Subdivision Application; 4 Variances*).

RECOMMENDATION:

Development Services recommends **APPROVAL** of the variance request to allow a 6-foot-wide public access easement and 5-foot-wide improved surface for the pedestrian trail between Maple Street and Mullan Road.

FINDINGS:

A. The granting of this variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.

Granting of the variance as submitted does not pose a threat to public safety, health, or welfare. The trail was proposed by the applicant as a public benefit to enhance pedestrian connectivity from Maple Street to Mullan Road. The trail will be a safe distance from the top of the ditch bank and the planned parking lot. The trail will be maintained by the future owners of Lot 1. The owners of Lot 1 will own the property on both sides of the easement. A 12-foot-wide easement is not necessary for the owners of Lot 1 to maintain the trail to a safe and accessible standard. No mitigation is necessary to protect public health and safety (*Application Packet Sections 2.1 Preliminary Plat; 4 Variances*).

B. The conditions upon which the request for variance are based are unique to the property for which the variance is sought and are not applicable generally to other property.

The trail is proposed by the applicant as a public benefit but 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. The applicant would like to provide legal means for non-motorized cut-through traffic from Maple Street to Mullan Road. The position of Lot 1 between the end of Maple Street and Mullan Road is unique to the property and warrants a legal mechanism for providing non-motorized public access through the site. Increasing the easement width would result in less space for parking and open space on Lot 1. The applicant would like to provide a public trail without losing the ability to accommodate parking and landscaping required by the Title 20 Zoning Ordinance (*Application Packet Sections 2.1 Preliminary Plat; 4 Variances*).

C. Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, a hardship to the owner will result if the strict letter of the regulations is enforced.

Limited space is available between the property boundary, irrigation ditch, and parking area for the proposed affordable housing development on Lot 1. The non-motorized public access easement cannot overlap with the ditch easement. If the requirement for a 12-foot-wide non-motorized public access easement is enforced, on-site parking for Lot 1 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. The need to legally accommodate cut-through non-motorized traffic between Maple Street and Mullan Road, irrigation ditch location, and Title 20 Zoning Ordinance Parking Requirements impose a hardship on the subdivider if the trail design requirements of Section 3-020 Table .14A are enforced (*Application Packet Sections 2.1 Preliminary Plat; 2.3 Existing Conditions; 4 Variances; 5.4 Trinity Apartments Mullan Site Plan*)

D. 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 Missoula City Zoning Ordinance or Our Missoula 2035 City Growth Policy. The trail is not required by zoning or the Our Missoula 2035 City Growth Policy. The trail is proposed by the applicant to enhance pedestrian connectivity meeting the Our Missoula 2035 City Growth Policy which promotes the development of a system of connected active transportation routes in the community (*Our Missoula 2035 City Growth Policy; Application Packet; 4 Variances*);

E. The variance will not cause an increase in public costs.

This variance request will not cause an increase in public costs. Maintenance will be the responsibility of the future owner of Lot 1 (*Application Packet Section 4 Variances*).

F. 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 (*Application Packet Section 4 Variances*).

X. REFERENCES CITED

The following materials are referenced throughout this document. For ease of reading, short versions of the citations are used in-text, and full citations are included here.

Plans and Regulations

2035 Our Missoula City Growth Policy: <http://www.ci.missoula.mt.us/1748/Our-Missoula>

Missoula Municipal Code, Title 20: Zoning, adopted by the City Council and amended December 16, 2019
https://library.municode.com/mt/missoula/codes/code_of_ordinances?nodeId=TIT20ZO

Subdivision Regulations: *City of Missoula Subdivision Regulations, adopted by the Missoula City Council and amended April 28, 2014* <http://www.ci.missoula.mt.us/DocumentCenter/View/22394>

Elements of the Application Packet for Trinity Mullan, final version submitted October 13, 2020

Section 1 Project Summary

Section 2.1 Preliminary Plat

Section 2.2 Vicinity Map

Section 2.3 Existing Conditions Map

Section 2.4 Zoning Map

Section 2.5 Land Use Map

Section 2.6 Adjacent Properties Map

Section 2.7 Adjacent Ownership Map

Section 2.11 Bus Stops Map

Section 2.12 Floodplain Map

Section 2.14 Wildlife Map

Section 2.15 Slop Map

Section 3 Subdivision Application

Section 4 Variances

Section 5.2 Existing Utilities Exhibit

Section 5.4 Trinity Apartments Mullan Site Plan

Section 5.5 Maple Street Improvements

Section 5.6 Flynn Lowney Ditch Crossing

Section 6.2 NRCS Soil Survey

Section 6.3 TRN MLN Geotechnical Report

Section 6.4 MTNHP Species of Concern

Section 6.6 SHPO Correspondence

Section 6.7 Missoula County Parking Memo

Section 6.8 Mullan Rd 66 Wide

Section 6.9 Stormwater Report
Section 6.10 Intent to Serve Sewer Water
Section 6.11 Ditch Easement Draft
Section 6.13 Dollar Rent A Car Easement
Section 7.1 Covenants
Section 7.2 Weed Management Revegetation Plan
Section 9.1 Blackfoot 7.23.20
Section 9.3 City Fire 7.31.20
Section 9.7 Notes from City In-House 7.14.2020
Section 9.8 NorthWestern Energy 7.30.20
Section 9.9 Republic Services
Section 9.10 Spectrum 7.17.20

Agency Comments Cited: Section 11 of the Application Packet

City Police, Chris Odlin, 10.5.20
City Public Works, Storm Water, Andy Shultz, 10.1.20
City Public Works, Utilities, Logan McInnis, 10.2.20
Request for Agency Comment 9.17.20

Other Resources

Missoula County Noxious Weed Management Plan: Adopted by the Missoula Board of County Commissioners in Resolution 2012-063

<http://missoulaeduplace.org/images/weeds/noxiousweedmanagementplan/2012weedplan.pdf>

Missoula County Property Information System <https://gis.missoulacounty.us/propertyinformation/>

Soil Survey of Missoula County Area, Montana: Detailed Soil Map, Sheet Number 77

“What’s My Zoning?”

<https://cityofmissoula.maps.arcgis.com/apps/webappviewer/index.html?id=a3cec60304e74d568665d754a34e4b94>

XI. ATTACHMENTS

- A. Project History page
- B. Trinity Mullan Final Plat Requirements

ATTACHMENT A
SUBDIVISION PROJECT HISTORY

Project: Trinity Mullan Subdivision
Owner: Missoula County
Representative: WGM Group, Inc – Jamie Erbacher

	Dates	
Pre-application Meeting	7/8/2020	
Element	<u>Submitted</u> First: 8/14/2020 Second: 9/3/2020	<u>Complete</u> 9/11/2020
Sufficiency	Submitted 9/15/2020	Sufficient 10/16/2020
Governing Body Review	<u>Submitted</u> 10/9/2020	<u>35-day Deadline</u> 12/2/2020
Extension Granted	No	
LUP	11/18/2020 (action item)	
Public Notice	<u>Posted</u> 10/30/2020	<u>APOs Sent</u> 10/19/2020
Plat Approval Expiration Date	11/23/2023	

ATTACHMENT B
TRINITY MULLAN SUBDIVISION
FINAL PLAT REQUIREMENTS

If City Council preliminarily approves the proposed subdivision, the preliminary approval applies to the subdivision as proposed on the preliminary plat and in the application packet, as amended by any conditions of approval. Development Services and other applicable agencies will review for the following items, in addition to conditions of approval, Subdivision Regulations Section 5-060, and the final plat checklist, prior to final plat approval in order to ensure compliance with the subdivision regulations, other applicable regulations, and the proposed preliminary plat and submittal packet:

1. The subdivider has placed an SID statement on the preliminary plat and in the Development Covenants that states “acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future SID/RSID, based on benefit, for the upgrading of Mullan Road, West Broadway, and Maple Street, including but not limited to paving, curbs and gutters, non-motorized facilities, street widening and drainage facilities, and may be used in lieu of their signatures on an SID/RSID petition”. This statement must be included on the final plat and in the Development Covenants, subject to review and approval of Development Services.
2. As per Section 5-050 of the City Subdivision Regulations, the applicant shall submit a complete grading and drainage plan that meets Montana DEQ standards prior to final plat approval, subject to review and approval of the City Engineer.