

## MEMORANDUM

**DATE:** April 13, 2021

**TO:** Grant Carlton, Open Space Program Manager Missoula Parks and Recreation

**FROM:** **Jamie Erbacher, Nick Kaufman, WGM Group**

**RE:** City of Missoula Parkland Dedication Amendment

---

### **As A Prelude to This Conversation About Park Cash-in-Lieu**

Just a word on listening and working together. Last Thursday, MBIA, MOR and the Chamber met with Dale Bickell, Eran Pehan and Jeremy Keene to discuss how the newly created Community Planning, Development & Innovation (CDPI), are addressing backlogs in permitting and development applications.

- Over the past year, they listened to our concerns.
- They identified the root issues.
- They developed a strategy to address the issues.
- They developed a funding mechanism to implement the strategy.
- They brought their plan to the development community for discussion.
- Outcome, a quote from Wade Hoyt to Eran Pehan: "As I said this morning, your review of changes being implemented was welcomed by all of us and encouraging that we can work together. And you are right, we may not always agree but a discussion is always welcome. If you in need of something from us for the City Council, then let me know."

Another part of that discussion focused on the cost, to the homeowner of upfront fees such as impact, fees, sewer connection fees, review fees and cash-in-lieu fees. These costs are all included in the price of a home. The homeowner pays for them in paying back the principal and interest on the home loan. At today's interest rates, a homeowner over thirty years pays back about 65% of the principle in interest. For the homeowner to give the city \$1 toward parks, or impact fees or review fees means they are financing that \$1 over thirty years at a cost of \$1.64 for each dollar of fee paid.

The city was interested in working with us to find a way to assess the upfront costs over a period of five or more years instead of upfront so the homeowner would pay \$1 not a \$1.64 for each one dollar of assessed fee.

### **Proposed Amendment to Article 3, Section 080.7 of the City of Missoula's Subdivision Regulations.**

Thank you for the opportunity to comment on the proposed amendment to Article 3, Section 080.7 of the City of Missoula's subdivision regulations. These comments have been compiled from various community members and WGM Group Staff.

- We recognize the great work that Parks and Recreation accomplishes for our community.
- We also understand that Parks and Recreation must purchase land for parks at contemporary prices which have increased dramatically over the last year.
- The Missoula community also recognized the need for housing in our community and has adopted the city-wide housing policy “A Place to Call Home.
- We can provide rental homes and homeownership. Homeownership happens through condominium, TED, or the subdivision review process.
- The subdivision review process requires dedication of parkland or cash-in-lieu of parkland.

Here are a few questions we have regarding the proposal:

**Is it making the cash-in-lieu process easier or more complicated?** The primary concerns we heard raised from builders and attorneys is the proposed requirement to have Parks and Recreation choose the appraiser.

- How will the appraiser be chosen? Will appraisers need to apply and then be approved by the city to be considered? After a list of appraisers is created, will they be chosen at random or a “next in line” order?
- Concerns are that the city gets to choose the appraiser and there is not an agreement on the fees the appraiser charges. In theory, this should not be an issue, but it could be abused by an appraiser. It would make me feel better if the city had a set fee for appraisals.
- We do not like the procedure for the City to hire the appraiser and pass the costs on to the subdivider. We find licensed appraiser to be trustworthy.
- This creates a problem for the City in controlling the timing of the appraisal. Not hiring the appraiser until the final plat application has been submitted could muck up the timing for processing the final plat application.
- My recommendation is to keep the retention of the appraiser (and payment) with the developer. I think it could easily be argued with a follow up appraisal if someone did not agree with their assessment. But as time goes on, assessed values tend to increase as subsequent properties are offered and bought. I think appraisers are bound by rules to use a sale no more than 6 months old. This is a specific appraisal product, governed by USPAP standards.

**Is it cost neutral to housing?** Another of the concerns raised from builders and attorneys is this proposal can increase the cost of housing beyond the current language in the regulations.

- The language “fair market value of the unsubdivided, unimproved land” was intended to mean the cash in lieu payment is determined prior to obtaining subdivision entitlements and installing infrastructure. Thus, it stands to reason it was not intended to apply to increased valuation from obtaining zoning entitlements.
- State law assumes vacant bare land. It does not assume improvements based on zoning.
- Just as with impact fees, review fees and each upfront assessment by local government, the homeowner will pay \$1.65 in principal and interest for every dollar it that goes to Parks and Recreation for cash-in-lieu of parkland.

**Are there Administrative Issues to Resolve?** Another of the concerns raised from builders and attorneys is this proposal has some issues to clarify.

- The proposed text does not take into consideration development agreements that may be applied to a project that further limit density.
- What if I am gifted a parcel of land? Is there discretion in the selection of Option A or Option B?

### **Conclusion**

Just as the recent conversation with Eran, Jeremy and Dale regarding review fees, this proposal would benefit from more conversation with the development community to reach an equitable solution.

The conversation on this proposal for cash-in-lieu of parkland should happen in the context of other existing fees imposed by the city such as impact fees and review fees to see if there is a more equitable way to assess the fees over time so the homeowner is not paying interest on the money is it paying the city. While this may not be possible for the cash-in-lieu, it may be possible for some of the other fees.

Thank You.