



MISSOULA CONSOLIDATED PLANNING BOARD MINUTES
City Council Chambers, 140 W. Pine
August 15, 2017,
At 7:00 PM

Members present: Dick Ainsworth, Neva Hassanein, Michael Houlihan, Helen Jenkins, John Newman, Jason Rice, Josh Slotnick, Jamie Hoffmann, Dudley Improta

Alternates present: Andy Mefford

Alternates absent: Vince Caristo

Staff present: Christine Dascenzo, Tim Worley, Jenn Gress, Laval Means

Others present: Dale McCormick, Kevin Wetherell

I. Call to Order

Mr. Newman called the meeting to order at 7:00 p.m.

II. Roll Call

Ms. Peters called the roll. There were 9 regular members and 1 alternate present. The alternate will not be a voting member.

III. Approval of Minutes

A. August 1, 2017 Meeting Minutes--

[History](#)

MOTION: Dick Ainsworth moved, seconded by Jason Rice, to approve the August 1, 2017 meeting minutes.

Ms. Hassanein said to correct two grammatical errors on page 5 and add more detail to sentence talking about the three work groups.

The motion passed with said amendments with a unanimous voice vote of 'aye'.

IV. Public Comment

There were no public comments.

V. Staff Comments

There were no staff comments.

VI. Public Hearings

A. Alpine Trails Subdivision - 30 Lots, County--

[History](#)

Christine Dascenzo, Planner with Community and Planning Services, introduced the Alpine Trails Subdivision request. It is a major subdivision creating 28 residential lots and two commercial or mixed use lots on 52.68 acres. The parcel is owned by Kakwa River Partners, LLC and represented by Dale McCormick, with Professional Consultants, Inc.

Ms. Dascenzo reviewed the process timeline for the project and said Staff is recommending approval of Variance Request #1, denial of Variance Request #2, and approval of the subdivision with conditions.

The parcel is located at the northern end of Seeley Lake. It is east of Highway 83 and the Veterans Memorial and north of Seeley Lake Elementary. There are two cabins on site. Cedar Lane, which is 20-24' wide, has a 20-60' easement. The eastern portion has slopes of 25% or greater and there is a social trail near Highway 83. The formal Highway 83 trail ends 200 feet south of the site. On-site, the trail runs along the 256' western edge of the property.

Surrounding conditions include Forest Service land to the north; residential, forest service, and Powell County to the east. To the south is residential and Clearwater Park and to the west is Veterans' Memorial Park, Highway 83, vacant land, and the motor lodge/RV park.

Ms. Dascenzo said the subdivision proposed is 52.68 acres with five new roads, 30 lots, and a recreation trail. The site is not zoned, but is guided by the 2010 Seeley Lake Regional Plan, which is an amendment to the 2016 County Growth Policy. The two land use designations for this site are Town Residential II and Town Commercial I. Both zones have a density of 4 dwellings per acre.

The recommendation for 4 dwellings per acre, assumes a sewer connection which does not exist and is also informed by the proximity to schools, stores, offices, and main roads. Development Guidelines from the plan include appropriate infrastructure, including sidewalks and non-motorized transportation connections, new development and road rights-of-way that shall be designed to accommodate future transit, and parks should be located at the center within 0.25 miles of new housing.

Action strategies to implement the regional plan include connecting neighborhoods, businesses, schools, and open spaces for a variety of users, encouraging new developments to provide connections to existing trail systems, and ensuring new development pays its share of infrastructure needed by the development. It was determined that the subdivision would comply with the Growth Policy as conditioned.

No soils of farmland importance are on-site or in the surrounding area. Place Project data identifies this parcel as "Other Timber Lands" but it is not taxed as such and does not have a history of timber production. There are no water user facilities on-site and no impacts to agriculture or agriculture water user facilities are expected to take place. There are five new proposed roads. Ms. Dascenzo reviewed the characteristics for the two road categories proposed.

Alpine Trail is the proposed road off Highway 83 and the approach is supported by MDT. It would bisect the Veterans and Families of Seeley Lake Memorial site, managed by County Parks and a local community group. Current access is from an informal loop off Highway 83. The applicant presented to the Parks and Trails Advisory Board twice and in May they voted to recommend the BCC approve the easement request. This would shift entry into the Veterans Memorial south. The BCC action is slated for the same day as action on this subdivision.

The proposed road heading north will also access two on-site cabins. One condition requires this road to be 18' wide. The subdivision plans to extend SOS Road south with a new road called Wilderness Ridge. The first 101 feet of SOS Road off Morrell Creek Road was dedicated to Missoula County from the Forest Service in 1974 and is a public access easement. In 2006, the applicant granted a non-exclusive private access easement on SOS Road, with the intent of using it as access for the subdivision. Use of SOS Road for the subdivision was confirmed by the Deputy County Attorney in 2013.

Staff has concluded that access meets the standards as conditioned and grading and drainage meet the standards as proposed.

Pedestrian access includes the social trail to be placed within a public easement. Variance #2 requests to vary from Subdivision Regulation 3.4.9.2.B.1 which requires a 5 – 8 foot wide paved trail on one side of the road. They are requesting this in light of the proposed recreation trail system. Staff recommends denial of the trail variance. Staff recommends a 5' wide trail along one side as a condition and that the portion between parks be open to the public. Pedestrian access will meet the standards as conditioned.

Ms. Dascenzo reviewed details of how the water and sewer system will meet the standards and that there will be no adverse impacts as conditioned. The subdivision is 0.5 miles from Seeley Rural Fire and scored as a Moderate Fire Hazard on the self-assessment. There are three existing hydrants, two on Cedar Lane and one on SOS Road, and two proposed on Wilderness Ridge and Seclusion Point. Temporary turn-arounds where roads extend into future phases are conditions as well as Class A Fire Rated roofing. Given these conditions, no adverse impacts are predicted as conditioned.

Law enforcement will be consistent with capacity, distance, and ease of access with resident deputies in Seeley Lake and the Sheriff's Department 53 miles away in Missoula. The natural environment and public health and safety will see no adverse impacts. There was a comment received from a neighbor requesting installation of a 6' tall privacy fence between the subdivision and the commenter's property.

Ms. Dascenzo reviewed the phasing plans and schedule for each of the four phases. The variances were then reviewed. Variance #1 addresses the requirement that Cedar Lane be widened to 24' and be within a 60' easement. Staff supports Variance Request #1. Variance #2 addresses the requirement that a rural major subdivision include a 5-8' wide trail on at least one side of all roads. Staff does not support this request as it would not cause undue hardship. The proposed recreation trail does not duplicate transportation infrastructure provided by a roadside trail, as claimed by the applicant and the proposed recreation trail do not meet the standards for a non-motorized trail nor the surface standard for a recreation trail. It would also cause a threat to public safety as eight lots would have to use the road to gain access to the recreation trail, which could then be used to access commercial lots, adjacent parks, and nearby schools. Staff recommends denial of Variance Request #2 and two conditions are recommended in lieu of approval, listed as #17 and #18.

Condition #17 requires that plans for and installation of a 5' wide paved trail along one side of the 24' wide roads internal to the subdivision be reviewed and approved by County Public Works and CAPS prior to final plat approval.

Condition #18 requires that plans for the 5' wide paved trail include public non-motorized access easements along the three portions of trail that 1) enters the subdivision from Cedar Lane, 2) extends along Seclusion Point, 3) and continues west along Wilderness Ridge and Alpine Trail, subject to review and approval by County Public Works and CAPS prior to final plat approval. The trail may be included within an appropriate private access easement for all other areas within the subdivision.

Staff concluded that the subdivision review criteria are mitigated as proposed and/or as conditioned, and recommended the variance from road widening requirements on Cedar Lane be recommended for approval, the variance from non-motorized trail requirements be recommended for denial, and that Alpine Trails Subdivision be recommended for approval as conditioned.

Staff Recommended Motions

1. That the request to vary from road widening requirements in Subdivision Regulations Section 3.4.4 be recommended to the Board of County

Commissioners for approval based on the findings of fact in the staff report and public testimony.

2. That the request to vary from trail requirements in Subdivision Regulations Section 3.4.9.2.B.1 be recommended to the Board of County Commissioners for denial based on the findings of fact in the staff report and public testimony.
3. That the Alpine Trails Subdivision be recommended to the Board of County Commissioners for approval based on the findings of fact in the staff report and public testimony, subject to the conditions of approval.

Dale McCormick with Professional Consultants, Inc. said this has been a lengthy and unique subdivision with several recreational trails similar to a subdivision in Steamboat Colorado. A Nordic ski trails feasibility study was done in 2011 for this area by Morton Trails. Mr. McCormick showed the current Nordic trails in relation to the subdivision and how Morton Trails helped define the trail alignment to match the current development. They propose 1.5 miles of trail and staff proposes another mile of paved trail. They feel this would be costly, redundant, and out of character for this neighborhood.

Mr. McCormick said the developers do not agree with all of Staff's recommend motions and conditions and their preference would be to strike both condition #17 and condition #18 and to approve variance request #2. If they do approve #17 they would like to have the language "or a comparable surface that is durable, maintainable and usable in year round weather conditions" added to condition #17 so that it does not require paving.

He stated that Parks, Trails, and Open Lands supported variance #2 in 2016 and said they could support it in its entirety with certain recommendations to enhancement neighborhood and trail connectivity for public use, while meeting the design intent. It was noted that there were some lots that did not have direct access to the trails and thus PTOL suggested two sections of roadside trails that would provide all the lots direct access to the trail. Mr. McCormick said the Staff report does not acknowledge that letter and they hope the board will take this letter into consideration.

Mr. McCormick requests on behalf of the developers to strike conditions #17 and #18 and approve Variance Request #2, perhaps conditionally. All other conditions are acceptable to the developers. He said Kevin Weatherell with Kakwa Partners was there to answer questions as well.

Mr. Slotnick asked about sewer and how some of the lots were proposed for connection and what that means. Ms. Dascenzo said the water rights, not the sewer were proposed for connection, which means they have secured water connection for lots 2 - 25. The sewer district was voted down in 2016, so lots will have private septic and public water.

Mr. Improta asked about SOS Road and if the County was exercising its access through SOS Road. Ms. Dascenzo said a maintenance agreement for the subdivision's use of the road is a condition adding that currently the County does not currently maintain the road. The first 100 feet of the road is within a public right of way, but the other portion would remain private.

Mr. Rice asked about finding of fact #5 in Variance Request #2, that public cost may increase with approval of the variance. Ms. Dascenzo said there could be costs related to emergency response to accidents occurring from pedestrians using the road instead of a trail, possibly increasing public costs.

Ms. Hassanein said in conditions #17 and #18 the applicant would prefer to have flexibly to not have the trail paved and wondered why staff is recommending paving those trails. Ms. Dascenzo said the language is based on abbreviated language from the Subdivision Regulations. The text proposed by the applicant tonight includes the complete text and staff would support that change. Ms. Hassanein said it would be odd to pave a trail next to a gravel road.

Mr. Ainsworth agreed it doesn't make sense to pave a trail along a gravel road and would like the wording changed. He would also support the PTOL recommendation for portions of trail alongside the road. Mr. Rice agrees and supports the variance as is, but a compromise would be best. Mr. Newman said the trail could be modified to hold double duty and PTOL's recommended modification could be a good option.

Ms. Dascenzo said that at a meeting with Public Works, PTOL, and Facilities Management during the governing body review, Public Works and Facilities staff supported the recommendation that a trail being installed along the entire roadway.

Ms. Hassanein wanted to thank the developers for incorporating these trails as they will be a benefit to Seeley Lake. She asked about the winter trail maintenance plan and if they would be incorporated into the current Nordic Club's system. Mr. McCormick said yes the trails would be used for hiking and biking in the summer and maintenance would be maintained in the winter time with grooming. A natural surface trail is best for winter Nordic trails and it would hopefully be designed that way. Ms. Hassanein asked if they have talked with the Nordic Club and the Seeley Trails Committee. Mr. McCormick said they have been a part of this process and they hope to connect to the existing trail system.

Ms. Hassanein asked if the text could be changed to natural surface trail. Mr. McCormick said yes that is what we have proposed for this trail, adding that if there is a roadside trail they would like it to be natural surface, as well. Morton trails has looked at the area and the trails that cross the 25% grade do not go with the grade, it may get above 10%, but that is the max. Mr. Newman asked how the max grade for the trails compared to the max limit for ADA. Mr. McCormick said it is not clear if all the trails need to meet ADA requirements as some may be exempt because they are on private roads. Mr. Rice agrees with the variance in the first place and the roads meet the requirements for ADA.

Mr. Hoffmann said an ADA accessible pathway cannot be above 5% and if it is it requires handrails and landings. Mr. Rice said if it is parallel to a road that is greater than 5% it is not required to meet that standard. Mr. Slotnick said Parks recommendation was to have direct access from all lots. Mr. McCormick said that is not our preference, as using a road to easily access a trail for two houses would fit in with the Seeley area.

Tim Worley said ADA issue is a tough one, but a reasonable accommodation can be determined along the lower portion of the trails as was discussed between PTOL, CAPS, and Facilities Management.

Ms. Jenkins said there are some great things about this development. The cluster development, the parkland, different lot sizes, connection to commercial, and trails are all great. She had three concerns. The first is regarding water and the fact that the subdivision will be serviced by the Seeley Lake County Water District. Comment from the District said they are happy to set aside 24 connections for this subdivision. She asked if this subdivision would take up all the developable water connections for this district. Mr. McCormick said that is a question for the water district, which he could inquire about.

Ms. Jenkins asked about the source for the fire hydrants and maintenance agreement. Mr. McCormick said it would be the same as other fire hydrants, the Fire Chief was happy with the added hydrants and that Parks noted the trails create a fire break. There will also be a forest stewardship plan as part of the Covenants. Ms. Jenkins asked why the fire review was self-assessed as moderate. Mr. McCormick said it is based off a questionnaire from the Subdivision Regulations. Ms. Jenkins was concerned with that rating as there is a large fire very close to this subdivision and hopes there are enough regulations regarding defensible space. Before we approve the subdivision she wants to make sure it won't burn down in 30 years. Mr. McCormick said the covenants include requirements to protect it from fire, including access to hydrants and thinning guidelines. They haven't had concern from the agencies. CAPS has recommended conditions to ensure sufficient fire

suppression has and will occur when they file the plat. A condition of approval is a defensible space fire agreement and roofing material requirements, which are included in the covenants. The self-assessment tool is based on number of roads, access, roofing materials, and similar factors.

Ms. Jenkins said a sewer bond failed in 2016 and it may be irresponsible to approve this subdivision without a plan for a sewer system and growth in Seeley. Mr. McCormick said this subdivision has gone through the DEQ sanitation review to ensure the sanitation will be up to standard. Studies have been done to show that it will not adversely impact the lake and they are trying to use specific systems that reduce nitrates. It is not realistic from a developer's standpoint to wait for sewer connection but they are doing all they can to ensure an acceptable system which they have achieved.

Mr. Rice said there is nothing in the trail section that says the trail needs to meet ADA. Ms. Dascenzo said there is a reference to ADA standards in the general design standards for trails. Mr. Newman said he would really like to know if ADA applies to private property. Ms. Dascenzo said there is nothing they have seen that exempts private property. Mr. Rice said ADA recognizes the difficulty when next to a road. Mr. Hoffmann said that fair housing act does not apply to the subdivision, but if it did there is an equation that can calculate the requirement when dealing with steeper grades. Mr. Rice says we are not in violation of federal laws by approving the variance, but we aren't following the subdivision regulations which tie us to a federal act. The ADA requirements on a private road are still not clear. Mr. McCormick said according to his perspective and the other engineers he has talked to they are complying with ADA because it is exempt as a private road. As soon as it becomes public, like the portion on Veteran's Road, it will be triggered to comply with ADA. Mr. Rice said the main reason for the roadside trail is non-motorized access and it will be connecting to non-ADA trails.

8:30 MOTION: A motion was made by Jason Rice, seconded by Neva Hassanein to recommend approval of the request to vary from Subdivision Regulations Section 3.4.4, requiring the widening of Cedar Lane.

Upon a voice vote, the motion carried with a vote of all "ayes".

8:31 MOTION: A motion was made by Jason Rice, seconded by Josh Slotnick, to approve the variance request to Subdivision Regulations Section 3.4.9.2.B.1, requiring trails along subdivision roads based on findings of fact in the Staff report and testimony and as amended to include a trail along the portions of the road that were shown in the Parks, Trails, and Open Lands exhibit dated May 2, 2016 from Garrick Swanson shown as Exhibit 1 presented by the developer's agent.

The map showing the portions of roadside trail was reviewed by the Board and was provided in the agency comment section of the proposal.

Mr. Newman said he was happy to see this suggestion as he hoped these trails could serve double duty and he personally is going to support this motion. Mr. Rice said if we were to deny the variance the applicant could easily pull all the other trails, which will not benefit this community and we are accentuating the growth policy by passing this motion.

Upon a roll call vote, the motion passed with a vote of all "ayes".

8:40 MOTION: A motion was made by Neva Hassanein, seconded by Josh Slotnick that the Alpine Trails Subdivision be recommended to the Board of County Commissioners for approval based on the findings of fact in the staff report and public testimony, subject to the conditions of approval.

The Board discussed changing the wording for Condition #17 from paved to natural. Mr. McCormick said natural surface trail is what was proposed and natural surface trails are

listed in the subdivision regulations. The regulations specific to roadside trails say paved or “a comparable surface that is durable, maintainable, and usable in year round weather conditions.” A natural trail would be similar to Pattee Canyon with compacted ground and rocks and trees removed. Mr. Rice said the problem he has is the width of the different trails. They are not all going to be 5 foot wide walking trails and they are not all going to be 12-16 foot wide groomed trails, thus the change of wording is to add flexibility for the connector trails.

8:49 MOTION: Mr. Rice moved, Mr. Improtta seconded, to amend Condition #17 to require plans for and installation of a 5 foot wide trail, in accordance with the Subdivision Regulations along the sections of road as approved in the variance.

Upon a voice vote, the motion carried with a vote of all “ayes”.

8:50 MOTION: A motion was made by Dick Ainsworth, seconded by Jason Rice, to approve that Condition #18 to be eliminated.

Upon a voice vote, the motion carried with a vote of all “ayes”.

Ms. Jenkins is still concerned and while it is not the developer’s responsibility they have vested interest in the growth of Seeley Lake and hopes they push for a sewer bond next time it is available. Sewer is paramount to sustainable growth in this community and she is uncomfortable voting yes given that fact. Mr. Improtta said she brought up really good points about fire and water, but how do you penalize the developers because the community did not pass the sewer bond. Mr. Ainsworth said the problem with Seeley Lake is they cannot afford to pay for sewer on their own and will continue to vote no as long as the situation stays the same.

Mr. Slotnick said Seeley Lake relies on the lake to survive and if the lake is damaged there will be no more of these subdivisions. Protecting the ground water and the lake is paramount for future prosperity. While Seeley Lake is not very affluent, Missoula County should look at ways to help. Ms. Hassanein said the reality is the old septic tanks are what cause water quality problems and this has updated systems which she feels better about. Mr. Rice said Public Works did a great job of finding public funding to make the sewer bond happen.

8:58 MOTION: A motion was made by Neva Hassanein, seconded by Josh Slotnick that the Alpine Trails Subdivision be recommended to the Board of County Commissioners for approval based on the findings of fact in the staff report and public testimony, subject to the conditions of approval.

Upon a roll call vote, the motion carried with a vote of all “ayes”.

B. An Ordinance to amend Chapters 20.75 Signs and 20.100 Terminology, Title 20 City Zoning-- [History](#)

Jen Gress with City Development Services introduced the amendments to Chapters 20.75 Signs and 20.100 Terminology in the Title 20 City Zoning Regulations.

Ms. Gress said in June of 2015 the US Supreme Court reviewed a sign issue commonly known today as the Reed Case. The Reed case was brought by Clyde Reed, Pastor of Good News Community Church, against the Town of Gilbert Arizona regarding a temporary sign the church used to advertise its various meeting locations.

The town of Gilbert’s sign code prohibited the display of outdoor signs anywhere within the Town without a permit, but exempted 23 categories of signs from that requirement including Temporary Directional Signs Relating to a Qualifying Event.

The Town cited the Church with exceeding the time limits for displaying its temporary