

Memo

To: Laval Means
From: Michelle Hutchins
Date: December 11, 2009
Re: Water Quality District comments
on City of Missoula proposed
subdivision regulation changes
pertaining to riparian areas

We appreciate the opportunity to comment on the proposed regulation changes, and request that you consider the following points.

3-130 Riparian Resource Areas

General comments

Some subdivisions have been platted and designed such that the Riparian Resource Areas (RRAs) are designated as common areas or open spaces, with management of the area controlled by a homeowners' association (HOA) or similar entity. WQD believes that this is preferable to having RRAs under private ownership, and makes management of these areas much more likely to comply with the approved Management Plans and the intent of these regulations. An individual owner might decide to ignore (or not be aware of) the intended restrictions, and could pasture horses or build an outbuilding in an RRA, for example. An HOA would be unlikely to allow these activities in a common area. In addition, if deficiencies are identified in the implementation of Management Plans, it would generally be easier to work with one entity to resolve deficiencies rather than potentially having to work with multiple individuals. In fact, WQD has worked effectively with HOAs to restore riparian vegetation and minimize bank erosion in common areas along rivers and streams. Having a riverfront common area would be a valuable amenity for the entire subdivision, and could serve to make these development restrictions more palatable, and better achieve the educational and recreational enhancement goals of the sections quoted above. Consequently, WQD recommends that RRAs be designated as common areas or open spaces whenever possible.

Using a functional definition of RRAs makes sense, but WQD is concerned that the definition is not clearly explained and readily accessible. Exhibit 5 – Riparian/Wetland Habitat and Community Types provides vegetation criteria for defining an RRA, but does not provide soils criteria, and does not adequately protect areas that have had the vegetation cleared before subdivision submittal. In fact, using existing vegetation alone as a criterion could provide an incentive to clear before submittal, and that is clearly NOT consistent with the intent of these regulations. If soil type is included in the functional definition, it should be clearly explained and made readily accessible, beyond referring, generally, to the UM classification document at the end of the appendix. A minimum buffer width, perhaps varying with stream order and corresponding to floodplains where they are established, in addition to the functional definition would better ensure

protection. Or perhaps a buffer width could be used to prescribe further site-specific analysis of all of the criteria.

These general comments may be beyond the scope of the current revisions, but WQD believes that these issues are critical to adequately protecting RRAs in the subdivision process, and should be addressed as soon as possible.

.5 (B) Subdivision Prohibition

To ensure that development takes place outside the RRA, as required by this section, we recommend that the subdivision designate a building envelope, enforceable at the time of building permit review. This would provide a workable mechanism for enforcement of the prohibition.

.7 Trails

The proposed prohibition on construction of new trails in Riparian Resource Areas, outside of the buffer, should be amended to allow limited construction of trails, in a way that preserves the riparian resource to the greatest extent possible.

WQD believes that focusing access along limited trails and access points will preserve the resource more effectively than providing no organized access. Our experience has shown that having no structured access leads to general trampling and degradation of riparian vegetation as people try to make their way to the river or stream, and impacts a much larger area of the resource. People are drawn to the water and will find a way to get there, and in an urban setting, the traffic could be considerable. We would recommend allowing trails of the minimum width appropriate to the use, that wind through existing vegetation in a way that preserves as much of it as possible, and that allow focused access to the water at appropriate spot(s). Any trails planned as part of initial subdivision development should be included in the Riparian Management Plan and approved by City Council.

Section .1 A. of the regulations states “Educational opportunities in Missoula’s riparian areas may lead to a greater understanding, and thus, greater protection and enhancement of these valuable resources.”

In addition, .1 C. (10) emphasizes the importance of “ample recreational opportunities in proximity to and within the City of Missoula.”

Allowing limited and structured access to the water would also better support educational and recreational opportunities and their associated benefits as described above. Providing access can make these areas a positive feature, rather than a hindrance to the subdivision, and would encourage compliance with the regulations.

Thank you!