



MISSOULA COUNTY ZONING BOARD OF ADJUSTMENT

Meeting Minutes

Missoula County
Planning, Development & Sustainability
(406) 258-4657

Date: June 18, 2025, 6:00 pm
Location: Missoula County Courthouse, Sophie Moiese Room (in person) or TEAMS (virtually)
Members in Attendance: Babak Rastgoufard, Richard (Rick) Hall, Jennifer Schultz,
Members Absent: Andy Mefford, Benjamin (Ben) Yawakie

I. CALL TO ORDER [Time stamp – 00:30]

Chair, Babak Rastgoufard (Babak) called the meeting to order at 6:02 p.m.

II. ROLL CALL [Time stamp – 00:44]

Jill Johnson called the roll. Three regular members were present. A quorum was met.

III. APPROVAL OF MINUTES [Time stamp – 01:23]

The Minutes for the July 17, 2024 meeting were approved by the vote of two members, namely, Babak Rastgoufard and Jennifer Schultz, with one abstention by member, Rick Hall.

Following the meeting, staff noted that pursuant to Article VII, Section D.2 of the Bylaws of the Missoula County Zoning Board of Adjustment dated December 13, 2018: *“all action of the Board shall be authorized by a concurring vote of three (3) members...”* Accordingly, the Minutes for the July 17, 2024, meeting will be placed on the agenda for vote at the next regularly scheduled meeting.

IV. PUBLIC COMMENT ON NON-AGENDA ITEMS [Time stamp – 03:31]

There were no public comments on non-agenda items.

V. STAFF ANNOUNCEMENTS [Time stamp – 04:11]

There were no staff announcements.

VI. PUBLIC HEARINGS [Time stamp – 04:20]

A. Katy Reeder, Planner I, Missoula County - Spanish Skies Variance to Riparian Resource Buffer

STAFF PRESENTATION

Katy Reeder (Katy), Planner I with Missoula County Planning, Development & Sustainability presented a variance request from Spanish Skies, LLC (Applicant) represented by Tony Hilliard (Tony) of Woith Engineering, Inc. The request seeks to deviate from Section 7.4.F.2.g of the Missoula County Zoning Regulations to allow commercial development within a designated Riparian Resource Buffer area.

The Applicant was recently authorized, by the Missoula Board of County Commissioners (County Commissioners), to develop the Spanish Skies Subdivision (Project) on a parcel of real property located at the intersection of US Highway 93

South and Blue Mountain Road in Missoula, Montana (Subject Property). The subject property is zoned Commercial Center and lies within a 450-foot Riparian Resource Buffer area, associated with the length of Bitterroot River, where new construction is prohibited pursuant to Section 7.4.F.2.g of the Missoula County Zoning Regulations.

The project requires upgrades to the US Highway 93 South approach, the installation of a new well, wastewater system, stormwater retention pond, and parking. Due to limited buildable area, this infrastructure must be located within the 450-foot Riparian Resource Buffer area. Katy explained that this Riparian Resource Buffer area is already significantly impacted by existing development, which includes US Highway 93 South, a paved pedestrian path, a former railroad corridor, a residence and a commercial lumber operation, all of which diminish the functional value of the Riparian Resource Buffer area.

Katy outlined the key criteria considered in evaluating the variance request:

- **Site Constraints.** The location of the subject property within the 450-foot Riparian Resource Buffer area significantly limits the buildable area. The variance would allow for the placement of essential infrastructure without increasing density or violating site design and landscaping requirements.
- **Separation from the Bitterroot River.** The existing development, including US Highway 93 South and the residential and commercial uses, separate the connection to the Riparian Resource Buffer area from the Bitterroot River, both visually and physically.
- **Hardship of Enforcement.** Strict enforcement of the Riparian Resource Buffer regulations would create unnecessary hardship as the subject property is one of the few remaining undeveloped parcels in a mostly built-out commercial corridor. Enforcement would offer minimal added environmental benefit.
- **Non-Monetary Factors.** The variance request is not financially driven but aimed at achieving a safe, functional site layout within existing constraints and regulations and for the purpose of ensuring safe access and usability.

Katy recommended approval of the variance request, with the condition that all required permits from agencies in addition to Missoula County Planning, Development & Sustainability be obtained, including but not limited to building, zoning compliance and sanitation permits.

Tony Hilliard, with Woith Engineering, Inc. was available to provide clarification on any items and agreed with staff on the requested variance.

See PowerPoint presentation slides.

PUBLIC COMMENT

There was no public comment.

BOARD DISCUSSION

The board members did not have questions about the requested variance.

RECOMMENDED MOTION

Rick Hall made the following motion to approve the variance request, subject to the recommended conditions as presented, and Jennifer Schultz seconded the motion:

THAT the Board of Adjustment **approve** the Variance Request to install multiple components of commercial infrastructure within the designated 450-foot Riparian Resource Buffer. This approval is based on the findings of facts and conclusions of law found in the staff report and public testimony and is subject to the recommended conditions of approval.

VOTE

With no discussion, the Board voted unanimously to approve the variance request.

AYES: (3): Babak Rastgoufard, Rick Hall, Jennifer Schultz

NAYS: (0): None

VII. COMMITTEE REPORTS [Time stamp –0:15:24]

There were no committee reports.

VIII. OLD BUSINESS [Time stamp – 0:15:28]

As this was the first meeting of the calendar year, Babak noted that officer elections were due to occur. With only three (3) members present, the Board agreed to elect a Chair and Vice Chair at the next regularly scheduled meeting.

IX. COMMUNICATIONS & SPECIAL PRESENTATIONS, NEW BUSINESS [Time stamp – 17:19]

A. Karen Hughes, Planning, Development & Sustainability Director, Missoula County - Special Presentation and Board of Adjustment Feedback on Possible Consolidated Land Use Board

STAFF PRESENTATION

Karen Hughes (Karen), Planning, Development & Sustainability Director for Missoula County explained that Missoula County (County) currently operates with a Missoula Consolidated Planning Board (Planning Board) and the Missoula County Zoning Board of Adjustment (BOA). Under the current structure, the Planning Board serves both the County and the City of Missoula (City); the BOA serves only the County.

Under the new Montana Land Use and Planning Act, the City will transition to a city planning commission and will no longer participate in the consolidated planning board. As a result, the County has two options:

- i. Establish a new county planning board and retain the Missoula County BOA.
- ii. Establish a county consolidated land use board, authorized by state statute, merging the functions of a county planning board and county BOA.

Staff are recommending the formation of a consolidated land use board. Karen explained that a consolidated land use board would consider items such as subdivision regulation updates, zoning requests, growth policies, land use plans, special exceptions, variances and appeals.

Karen recognized that the planning board mostly serves in a quasi-legislative capacity while the BOA serves in a quasi-judicial capacity. A consolidated land use board would be able to make recommendations on legislative matters and decisions on quasi-judicial actions, so long as the mode in which they are operating is made clear during each action before the board.

Membership of a consolidated land use board would be structured similar to that of the existing boards. Staff would recommend a large enough membership to try to get representation from various geographic regions as well as backgrounds and experience. Staff also recommends retaining Conservation District appointment of one member. Membership terms would be established by resolution of the county commissioners.

The rationale for a consolidated land use board is to streamline board management and logistics, provide the public with better access by having only one board dealing with all land use matters, increase potential for retaining board members and create a more consistent and reasonable workload.

Potential drawbacks of a consolidated land use board include board members navigating the process for making advisory recommendations versus quasi-judicial decisions. It would also mean having a board that reviews extremely site-specific issues as well as broad policy and regulatory considerations. Karen shared feedback from the Missoula Consolidated Planning Board that was generally positive as well as some concerns expressed by a BOA member.

Karen outlined the transition process, noting that forming a consolidated land use board is contingent upon the City completing its code update, with an expected timeline of this fall or winter. The process requires a County Commission resolution, drafting bylaws and operating documents, amending the Interlocal Agreement, and dissolving the current Planning Board.

See PowerPoint presentation slides.

BOARD DISCUSSION

Jennifer Schultz (Jennifer) asked about her potential role on a consolidated land use board. She recalled having been deemed unqualified for a planning advisory board. Karen clarified that it shouldn't be a problem. Jennifer was likely talking about the Planning and Zoning Commission, which handles matters in Citizen Initiated Zoning Districts (Part I Zoning), and its citizen members must reside within one those districts.

Rick served on a combined board in Canyon County, Idaho and shared examples of how that board successfully separated advisory and decision-making roles.

The group discussed the current workloads of the planning board and BOA, noting that a change in the real estate market may be impacting new project submissions.

Babak expressed tentative high-level support for a consolidated land use board, but wanted input from absent Board members.

Karen confirmed that the final decision rests with the County Commissioners and recommended revisiting the topic at the next meeting. The Board agreed.

X. COMMENTS FROM BOARD MEMBERS [Time stamp – 0:39:00]

There we no additional comments from Board members.

XI. ADJOURNMENT [Time stamp – 0:39:33]

The meeting was adjourned at 6:41 p.m.

Missoula County Zoning Board of Adjustment June 18, 2025 – Transcription

This transcription was produced by transcription software. There may be discrepancies between this transcription and meeting dialogue. You can view the recording of the meeting at this link: <https://missoulacomt.portal.civicclerk.com/event/9743/media>

Missoula County Zoning Board of Adjustment June 18, 2025 – Meeting Recording

Jill Johnson 35:58

JJ

OK.

I have 602. I'm gonna call this meeting to order.

It is Wednesday, June 18th, 2025 and this is the Missoula County Board of Adjustment meeting.

And can we have a roll call please?

Roll call.

Jennifer Schultz.

Ben yuwaki.

Ben is absent.

Rick Hall.

Andy mefford.

Andy is absent.

Babek raskefard here. Mr. Chair, there are three Members present and quorum has been met.

Thank you. And Joanne, are all the members present regular members?

I apologize.

It's been a while since we've met.

It's three regular members. Wonderful.

OK.

Well, the next item on the agenda is the approval of minutes from the July 17th, 2024 Board of Zoning Adjustment meeting.

Does anyone have any? I was not at that meeting so I really can't.

Comment on its contents or accuracies, but if any of the other Members here today were here about a year ago and have any comments or corrections or wish to move that we adopt the Minutes.

RH Richard Hall 37:21

And I I wasn't there either.
So I can't vote on it really so.

JS Jennifer Schultz 37:26

Oh, I think that was the IT was the meeting I did in for you, Babek. And I read through the minutes and they looked good to me.
I would.
I would motion to approve them as written if we are able to do so without either of you guys being there.

JJ Jill Johnson 37:53

I if there's a second I won't oppose adopting the Minutes, but I'm I probably wouldn't vote to adopt them either.
I would just abstain from voting because I wasn't here so.
Given the passage of time, maybe that's the best course of action.
I think we might be meeting next month, but I think the longer we wait the staler, the more stale people's memories will become. So.
If someone wants to make a motion that we adopt the Minutes, that's fine by me.

JS Jennifer Schultz 38:25

I'll make a motion to adopt the Minutes as presented.
I forget the date July of 2024.

JJ Jill Johnson 38:35

17th is there a second?

JS Jennifer Schultz 38:36

Thank you.

JJ Jill Johnson 38:42

I'll second the motion.
Is there anyone opposed to adopting any of the board members opposed to adopting the Minutes as submitted?

JS Jennifer Schultz 38:51

No.

JJ Jill Johnson 38:53

OK.

Well, then the Minutes are approved as as submitted. The next item on the agenda is public comment on any non agenda items. So if there's any member of the public here today, either in the room or virtually and wish to comment or speak about anything other than the.

Item that's on the agenda.

This is the time for you to do so.

I don't see anyone in the room wishing to speak. Is there anyone online attending virtually member of the public who wishes to speak to anything other than the topic that's on the agenda today?

OK, doesn't look like it.

Next item on the agenda is staff announcements.

Do we have any staff announcements today?

All right.

Well, then we'll move to public hearing and I'll let Katie. I think your staff, who's gonna be presenting today can tell us what it is. Thank you.

Yeah.

Good evening. And for the record, my name is Katie Reeder, planner with planning, development and sustainability.

This is the Spanish skies variance request located at 511550555005 Highway 93 S and five 001 Blue Mountain Rd.

Here is our subject property. We are at the intersection of Hwy. 93 S and Blue Mountain Rd.

Here is the property outlined in blue that we will be talking about.

Some background of the project.

The property is zoned commercial center and it is surrounded by commercial center with Zde 18 to the north.

This subdivision was recently approved by the board of County Commissioners on October 10th, 2024.

You also approved a variance to allow a driveway access to Hwy. 93 for the subdivision development on July 17th to 2024.

Missoula County zoning regulations 7F2G.

Prohibits disturbance within the riparian resource buffer.

Required because the only available space for essential infrastructure such as the on site, well, wastewater treatment center and stormwater detention facilities fall within the 400 foot riparian resource buffer.

Due to the site's unique constraints, constraints including limited buildable area, and required access, avoiding the buffer entirely is not feasible.

It is also important to note that much of the buffer area in this location is already impacted.

Has already impacted.

By existing development, including US Highway 93 S.

A paved pedestrian path.

A former railroad corridor, a residence and a commercial lumber operation.

These uses lie between the subject property and the Bitterroot River, reducing the functional riparian value of this specific portion of the buffer.

Going through some of the variance criteria, I'm just gonna hit on a couple highlights.

The first one is the special conditions exist that are unique to the property.

Mainly its location within the 450 foot riparian resource buffer significantly limit limits the buildable area.

The variance does not increase density, but allows for adjustment for adjusted placement of the infrastructure.

While the site is near the Bitterroot River, its connection to the riparian area is visually and physically separated.

By existing development, including the highway, the Pedestrian Trail, a residence, the railroad, and a commercial lumber yard, all site design and landscaping requirements will still be met.

Here are the existing conditions of the property outlined in blue.

As you can see, the site is bordered by Highway 93 S with previously mentioned development such as the residential and commercial uses clearly visible along here.

This illustrates how the property is already visually and physically separated from the Bitterroot River, despite being within the riparian buffer.

Here is a graphic showing the extent of the 450 foot riparian resource buffer over the site.

As you can see, much of the buffer area has already been impacted by the existing development.

This further illustrates how the riparian connection on this specific site has already been interrupted, limiting the functional value.

#4 literal enforcement of the riparian resource buffer regulations would create an unnecessary hardship.

This is one of the last undeveloped parcels in a largely built out commercial corridor where neighboring properties have already developed within the buffer and are not held to the same standards.

Enforcing the buffer here would offer minimal added benefit to the riparian function, as the area is already heavily interrupted by existing infrastructure like the highway, the railroad, and the trail.

The request for variance is not based on monetary factors or potential economic gain.

The variance request is not financially motivated.

It's driven by the need to create a functional site layout that ensures safe access and usability. The design works within both the physical constraints of the parcel and the regulatory framework. Rather than seeking economic gain.

Staff is recommending approval of the variance based on the findings of fact and conclusions of law. I do have one standard condition recommended that the applicant obtains any other necessary permits such as building or sanitation permits prior to the development.

And with that, I have a recommended motion on the screen before you and the applicant is here. If you have any questions.

Thank you. Do members of the board have any question for staff?

Any questions for staff at this point?

JS Jennifer Schultz 45:45
Thank you.

JJ Jill Johnson 45:45
Otherwise oh sorry.

RH **Richard Hall** 45:49

None for me.

JS **Jennifer Schultz** 45:54

No thanks.

JJ **Jill Johnson** 45:59

The proponent or proponents representative is here.

We can hear from them.

Thank you.

Thank you, Katie, and thank you Commissioners.

Yeah, I'm just here to answer any questions you may have or.

Assist on any clarifications regarding the variance request.

I assume you agree with everything in the report from staff. Yeah, OK.

Does anyone have any questions for either the proponent OK.

Oh, sorry. I'm. I'm Tony Hilliard with engineering representing on behalf of Spanish Guys, LLC.

Richard.

RH **Richard Hall** 46:50

I'm new to the board so I have a question.

Do you normally make your motion 1st and then discuss it later or?

Discuss first motion later.

JJ **Jill Johnson** 47:01

Done it both ways. Normally at this juncture I would.

I would hold off and do we have a discussion until?

We present any questions board members might have.

To staff or the proponent and then hear if there's any public comments. And then sometimes we just the board moves into discussion right after public comments or remake the motion and then then discuss. But.

RH **Richard Hall** 47:26

Sounds good.

JJ **Jill Johnson** 47:27

OK.

RH **Richard Hall** 47:28

I have no questions so.

JJ **Jill Johnson** 47:31

Jennifer, any questions for the proponents representative or for staff?

JS **Jennifer Schultz** 47:36

Thank you, Mr. Chairman.

JJ **Jill Johnson** 47:39

Any members of the public here who wish to comment on the proposal?

Any online?

I guess at this point.

I'll open it up to other members of the board for any thoughts or discussions.

I'll just start off by saying this seems like a pretty straightforward request, and I think the forget the exact language and staff's report, but referencing the heavily impacted riparian zone is.

Is is pretty clear here, and it's probably an understatement given the amount of infrastructure between.

The subject property.

Property in the river.

But I'll let others comment or speak to the request.

But I I don't, at least with the information before us right now, I don't see any issues with this request.

RH **Richard Hall** 48:44

I'll speak up.

Or Jennifer, you have your hand up.

Go ahead.

JS Jennifer Schultz 48:50
Go ahead, ****. You can, you may.

RH Richard Hall 48:53
Yeah, I've been in planning and zoning for almost 30 years, and this is the first time I've seen a riparian buffer with both a railroad and a highway through it.
So I agree.
It's pretty extraordinary in that respect and it's certainly heavily impacted and I don't see any issue with the application before us, so.

JJ Jill Johnson 49:16
And you forgot the lumber yard.
But Jennifer?

RH Richard Hall 49:19
Columbia Yard too, so.

JS Jennifer Schultz 49:24
Sentiment. I think that it looks pretty straightforward and I would feel comfortable moving forward.
With this variance request.

JJ Jill Johnson 49:33
Would someone on the board like to make a motion?

JS Jennifer Schultz 49:39
Sure, I.

RH Richard Hall 49:39
I can make them cool.

JS Jennifer Schultz 49:41
Go ahead, ****.

RH **Richard Hall** 49:43
We online people.
It's Rick by the way, Rick.

JS **Jennifer Schultz** 49:45
Oh, Rick, I'm so sorry.

RH **Richard Hall** 49:47
It's OK.
OK.
I move the Board of adjustment to approve the variance request to deviate from Section 7 dot F .2 dot G of the Missoula County Zoning regulations as presented in the proposed application, subject to the recommended conditions as presented.

JJ **Jill Johnson** 50:06
And do we need to read the condition?
Are we just as presented?

RH **Richard Hall** 50:14
I'd be happy to read them if you want.

JJ **Jill Johnson** 50:20
OK, you don't have to read the condition.
I don't know if you heard that. Is there a second?

JS **Jennifer Schultz** 50:24
I'll second this.

JJ **Jill Johnson** 50:26
OK.
All those in favor of the variance request say aye. Aye, any any opposed.

RH **Richard Hall** 50:33
Hi.

JS Jennifer Schultz 50:34

Aye.

JJ Jill Johnson 50:39

OK.

You have your variance.

At this point, we'll close out the public hearing portion of the meeting and move to the committee reports.

We don't have any committees, so we don't have any reports. I think one item of old business is that typically at the beginning of the calendar year this this board will elect a chair. And I think a vice chair is the title.

It is.

We are literally halfway through the year and having our first meeting.

And.

We don't have.

You just barely have a quorum today, so I don't. I will defer to others if we wanna use tonight to.

I like to chair and vice chair, or just hold off and and punt until the next meeting when we potentially might have more Members in attendance.

RH Richard Hall 51:32

I had a special presentation on my agenda.

JJ Jill Johnson 51:39

Yeah, I think we'll, we'll get to that.

RH Richard Hall 51:41

OK.

Yeah, I'm. I'm fine with booting it to the next one.

JJ Jill Johnson 51:48

Jennifer.

JS Jennifer Schultz 51:50

Yes. Thank you, Mr. Chairman.

I was just going to ask, is there we're missing 3?

Is that correct?

We're missing 2.

JJ Jill Johnson 52:06

Please.

We're missing too.

Andy Mefford is absent and Benyuaki is also absent.

JS Jennifer Schultz 52:16

Yeah, I would.

I would also say we kick this down the road a little bit just to give the opportunity for everyone to weigh in. So I think Babak does a great job just to put that out there.

JJ Jill Johnson 52:27

Thanks.

OK, do members of the board have any other old business that they wish to to raise at this time?

All right then I guess.

It doesn't say on my agenda, but I know Karen's got a special presentation on if that's all business or new business, but I'm going to call it new business and turn it over to Karen.

I'm Karen Hughes, director of planning, development and sustainability for Missoula County.

And Rick has already seen this as a member of the Planning Board, so.

So he gets to weigh in twice.

So right now.

The Mozilla Consolidated Planning Board serves as a board. The Planning Board for both the city and the county, and under the new law, the Montana Land Use Planning Act, Missoula will be transitioning to having a Missoula Planning Commission for the city and will pull out of the cons.

Land use board and so the county is kind of left deciding.

Whether we want to continue and have a planning board and a zoning board of adjustment or State Statute now allows us the opportunity to consolidate boards. So in this case it would be consolidating the planning board and the Board of adjustment to have.

A consolidated land use board that would hear both those things that planning boards deal with.

So, subdivisions, zoning requests, growth policies, land use plans and board of adjustment business.

Special exceptions, variances, and appeals.

I guess I've already started this, so the the you know, the these boards serve a little bit different function.

Those the the work that the planning Board mostly does is mostly quasi legislative. The land use plans, zoning, code updates, subdivision regulation updates and then the quasi Judicial Functions Subdivision review probably falls within that to some extent zoning requests.

For individual properties, zoning variances and zoning code appeals.

And special exceptions are more of those quasi judicial function.

And.

If you know if the boards were combined, they could do both of those. You know, the one board could do both of those things.

We would just kind of make sure that the board was aware of what, what their, what mode they're acting in.

And set that up at the beginning of each land use action.

And what what a consolidated board?

But we may also need out of a board is to have a Planning Commission under the Montana Land Use Planning Act. The county doesn't has not opted into that.

That's something that the city has to do, the county has.

It has the option to do it, and the way we're going to approach the new land use plan county wide land use plan is to meet the requirements of both the Growth Policy Act and the Montana Land Use Planning Act so that we can decide which path we.

Go down.

So we're trying to think ahead to.

Cover all our options.

So what I'm gonna do is I'm gonna talk about the options chair share our recommendation, provide a little bit of feedback that we've already heard. And give a little bit of an overview of the process, what a shift might look like a transition, and then ask the board for a little bit of feedback. So the options like I said are replacing them as a little consolidated planning board with a county planning board and keep the existing zoning board of adjustment or.

Replace as I said before, replace both the consolidated land use or consolidated Planning Board and the Board of adjustment with one consolidated land use board. In terms of the difference between the two, they're actually kind of similar. They they both have Phi a minimum of five members two year terms. As I said before, you have the planning boards serves in that more advisory role. And has more quasi legislative role. The Board of Adjustment is more of a decision making body in the in, in our case they are a decision making body. We don't.

You don't send your recommendations to the Commissioners.

And they serve and you serve in a quasi judicial capacity.

So if we shifted it, we would have a minimum of five Members.

We're actually looking at a larger board than that, so that because we have a large geographic area and we'd like to provide some opportunity for both some different kinds of experience, but also some different geographic representation.

The terms under the consolidated Land use board statute.

They don't set terms, so unlike other board statutes, which do, they don't.

So we would just address it in the resolution.

We can determine whether their advisory or both advisory and governing.

Have it act as both the planning Board and the Board of Adjustment, and have the full roles of both of those.

Just to compare to what's required for a Planning Commission, should we go down that path?

It it overlaps fairly well, you need at least three members and all the rest of it kind of falls the same as the consolidated land use board.

So we're recommending that we create a consolidated board.

With membership of five to seven members with two alternate seats, so a little larger than the minimum of five.

And in part because we, like I said, we'd like some good representation, both in terms of experience but also geographic area. And our goal would be to start the board by filling the seats with members from the existing county members, from the Consolidated Planning Board and from the.

Board of adjustment for those who are interested.

And we would also seek to keep a unique item from the Planning board as to have a conservation district appointed member.

Which has been a benefit for that group.

So that's what we're recommending.

The reason for that?

Your comment on not having met is part of the reason for that.

There we, you know, when we tallied up the number of items, county items for both the Planning Board and the Board of Adjustment.

For over the course, since we adopted the zoning.

We had on average less than two items per month and so it seems like even if you even if there was a major project going on like a comprehensive plan update or substantial regulatory revision project, there would be, it seems like meeting once a month on average maybe.

The occasional special meeting, if you really needed it, it seems like one board could probably do.

Most of the work.

It would make that work a lot easier for the public to access if they only have to look for one board that deals with all the land, use matters of the jurisdiction.

It streamlines the board, management and logistics.

We only have one board to deal with publishing agendas and minutes and meeting logistics.

You know, we'd hope that it's always a little bit of a struggle. The Board of Adjustment struggled to have full membership.

Including the alternates and sometimes we have that problem with the planning board too. It seems like there might be an opportunity to with one board to really get a robust membership and then if the county does opt into the Montana Land Use Planning Act, the board trans.

Would be relatively easy with this approach.

Potential drawbacks.

The the difference between being more of an Advisory Board and and more of the policy and legislative work versus the decision making role and the quasi judicial work some have mentioned that that might be challenging. And but I think Rick is here.

He has served in a different jurisdiction on a joint board and he can share his experience.

He seemed to think that it was relatively easy to deal with.

I've heard that the different roles.

Could be confusing than the different types of review might be challenging the Board of Adjustment Review tends to be hyper site specific, whereas planning board reviews, subdivisions are fairly specific in zoning projects.

Can be fairly specific, but then land use plans and code updates are much broader in scale, so those are some of the things that we've heard as potential drawbacks. And Andy Meffer had shared that he he preferred to keep it.

He served on both.

Boards within Missoula and he preferred keeping them separate, in part because I think he shared that he thought that the different types of review and the different roles he thought that they should be kept separate, and that that was a better option.

So in terms of what the transition process would look like and then I'll give you the opportunity to give any feedback you'd like.

The a lot of this is contingent on the city getting through their code update project and I don't know if folks have been tracking that, but.

Originally, they had hoped to have it adopted early this summer.

Right now, they haven't gotten a draft out yet, so my hunch is.

That.

Earliest we would probably move this into effect would be this fall.

More than likely we'll get it through the calendar year would be my guess.

So we would first make a recommendation to the BCC to the Commissioners about a path forward.

Part of what we had talked to them about early on was making sure we had an opportunity to touch base with Board of adjustment and with Planning board to get feedback and share that with the Commissioners.

Then we'll go through the process of creating and updating board documents. The resolution bylaws we have to change the city, county planning interlocal and go through the membership process with a little bit of luck. Maybe that can be, you know, kind of towards the calendar year change when they go through board recruitments anyway. And then eventually we'll if we go this route, we would dissolve the planning board and Board of adjustment and shift to the new board structure. There might have to be.

For planning board, there might have to be some overlap. If there are projects or and board of adjustment too. If there are projects already in the works, we might have like a couple months start up where there's kind of two things happening at once. But the new board would wait till the you know, until they had projects assigned to it essentially. So really this is an opportunity to share and ask questions if there's potential benefits, you see potential drawbacks, alternative ideas, questions, concerns. Happy to field any of those.

JS Jennifer Schultz 1:04:17

I have one.

Kieran, I believe that.

I believe when I stepped off the Llo Community Council or when I was looking at other boards, I applied for the Planning Board and I believe that was the one that I was ineligible for because I live in Lelo.

Is are you saying that that this would?

Be reconsidered and that's why I went with the zoning Board of adjustment, which I've actually really liked, but.

Is that?

Good.

JJ Jill Johnson 1:04:54

Let me I think that what you had applied for was the planning and zoning Commission, which is there's a third land use board which we can't consolidate yet, although I hope at some point we might be able to planning and zoning Commission is a board that only de.

JS Jennifer Schultz 1:05:00

Oh, I think you're right.

OK.

OK.

JJ Jill Johnson 1:05:11

With those citizen districts as an initiated districts, we've got like 30 or 40 of them across the county.

That been done by petition.

It's called part one zoning because it's part one in the zoning statutes.

And you have to to be eligible. You have to live in one of those districts to be a citizen representative on them.

So that might get is my guess. You would have qualified for the planning board.

So there must not have been openings.

JS Jennifer Schultz 1:05:37

OK. OK. Perfect. Thank you.

JJ Jill Johnson 1:05:38

Yeah.

Good question.

Go ahead.

RH Richard Hall 1:05:51

I think I must have applied for one of those too, because I got turned down initially but.

Yeah, I served in Canyon County, Idaho on a combined county board and.

Canyon County is a county of 260,000 people, so it's pretty large. About 170 thousand are in cities that have their own planning boards. So we met a couple times a month, but I can tell you that.

It isn't that difficult to keep them straight because one when you're one, you're making a recommendation to the board of County Commissioners. The other one, your decision is final.

So unconditional use permits and variances are our decision was was final and subject to review by courts and on.

Zoning changes, subdivisions.

Plants, those all went to.

With the board of County Commissioners, and they made the final decision.

As someone that's on the consolidated Planning Board, I can tell you that it's been a while since we've even had an application from a developer.

So we're not even busy.

Almost. I I maybe Karen would know more, but I think Annalisha would certainly know more.

But almost all of our meetings have been presentations rather than us actually making a decision.

And I would think that if you take the city component out of the consolidated Planning Board, there would be very, very few applications within the county and that's what you certainly hope that most of the development happens in the city rather than in the unincorporated county, so that.

My two cents.

So I have experience of anyone had questions about that? I'm happy to help.



Jill Johnson 1:07:54

Karen, do you?

Richard's comments in terms of the frequency of the planning boards, or at least the current one, the joint city, county, how often.

How busy are they?

I know how busy we are.

Yeah, he's right.

It's been pretty, pretty sparse agenda items and a lot of presentations on projects like Stat, you know, plans and and codes and things like that. Instead of development projects.

My hunch is that part of that.

Is that the real estate market's been changing?

Little bit and so I think that that's.

Changing some of the traffic going through, we're seeing a lot of small subdivisions in the county that don't make it to planning board. I think in the city.

Part of what's happening is that people are kind of stuck in a little bit of a hole. You know, some people are moving some projects through. They're still seeing some rezoning requests, but I think a lot of people are kind of in a holding pattern waiting for this new code. And so I think that's disrupting their traffic a little. I know they have some things in the lineup and I think we have. A few things in our lineup too. So they are gonna see some project work coming through, but it is I it is. There's a couple things I think kind of affecting it. It's hard for me to opine on the proposal, not. Knowing exactly what the planning board looks at, I mean I know you, you, you explained at a high level and Richard did as well. So with, you know, with that caveat, how do you know? I'd want to know a little bit more, but I I I do agree with some of the benefits in terms of the streamlining for the public and probably for staff as well and also. Certainly. After the city annexed some of the property. Out by the airport and then after the. Revised zoning. I mean this the workload of this board has substantially decreased and so. I could see benefits to consolidating some of this work I I. I would like to hear from Andy 'cause. He's got a lot of experience in this arena and so. But I guess my my initial response is it it makes sense, but I'd probably have to dig into the details a little bit more to to see if there's any pitfalls that I'm overlooking. One thing we could do is if he's at the next meeting, maybe the board could just take that up under old business or something like that to check in again. It's not like this is moving very fast, so if you wanted to hold off on final comments until maybe he's at the next meeting can weigh in, that might be good. Sure, that works for me. And do you need? Do you or the board of County Commissioners need a formal? Position or statement from the board, or you're just looking for this discussion that we're having?

Right now and that type, we're just, we're just looking for a discussion and some and some general feedback.

And and suggestions?

Considerations that we should be thinking about, so this is good.

RH **Richard Hall** 1:11:06

Mr. Chairman, I'm sorry.

JJ **Jill Johnson** 1:11:06

Given that good, no good, please.

RH **Richard Hall** 1:11:11

Karen, under M Lupa under the the new.

Planning act.

Doesn't a lot of the review that would normally be done.

Just isn't that bypassed if it meets its zoning.

I mean the way the law is written is if you're using the land for what it's zoned for, it essentially takes the review of a planning board out of it.

That's at least how I read it is.

Is that the case?

JJ **Jill Johnson** 1:11:41

Yeah, that's my understanding of it as well.

By and large, I think there are some things that you can move through your Planning Commission.

But boy, I probably should have looked it up before I came in.

I always have to kind of go back and dig into it again.

There are some things.

It's possible that certain kinds of zoning changes if there is a provision that if there are impacts that weren't considered in the zoning that it's possible to trigger.

Additional review.

Which might push it to the Planning Commission. By and large, you you end up in more of the the Planning Commission serves more of that appeals and.

More of an appeals.

Process and then they also advise on the creation of the land use plans and the zoning codes that go with it, and then much more limited review of individual project proposals.

But I think there are a few cases where jurisdiction can use their Planning Commission.

On on certain ones.

RH Richard Hall 1:12:51

I mean, you always be needed for variances and and non standard subdivisions.

I suppose so.

Thank you, Mr. Chairman.

JJ Jill Johnson 1:13:05

Of course, Jennifer, did you have any other comments, thoughts, questions. And then I guess I'll ask both Jennifer and Richard.

What are you the idea of kind of, you know, at least for me, you know, kind of sitting on this and picking it up next month, especially since it sounds like we'll meet again next month. That maybe, you know, we can kind of wrap things up then, but.

I'm happy to pivot if that's what folks would prefer.

JS Jennifer Schultz 1:13:33

Yeah. I I I would definitely be interested in in a little bit further discussion. And I I really would love to hear what Andy has to say about it.

I just.

I definitely trust his experience with this as well, so.

I think that sounds reasonable.

Pick it up next month.

JJ Jill Johnson 1:13:58

All right.

Well, that sounds good.

Thanks, Karen for the presentation.

Is there any other new business?

RH **Richard Hall** 1:14:05

Mr. Chairman, I just have one question for Karen.

Karen, who makes the decision? I mean, who will ultimately decide the county commissioners?

JJ **Jill Johnson** 1:14:27

Any other comments on this or anything else?

Any other topic from board members?

Any other comments or questions?

All right, hearing none, we can adjourn.

6:40 PM thanks everyone.

Oh, actually, before we adjourn, just to confirm with staff, sounds like we will be.

JS **Jennifer Schultz** 1:14:45

Thank you.

JJ **Jill Johnson** 1:14:50

Or looking at Tim or Jill, do we?

Sounds like Tim's nodding his head.

So I've alluded to this several times already, but it sounds like we'll have at least one or two items next month, OK.

Now we can adjourn 641, thanks.

□ **Jill Johnson** stopped transcription



Spanish Skies, LLC Riparian Resource Area Setback Variance Request

Date: June 18, 2025, BOA Hearing

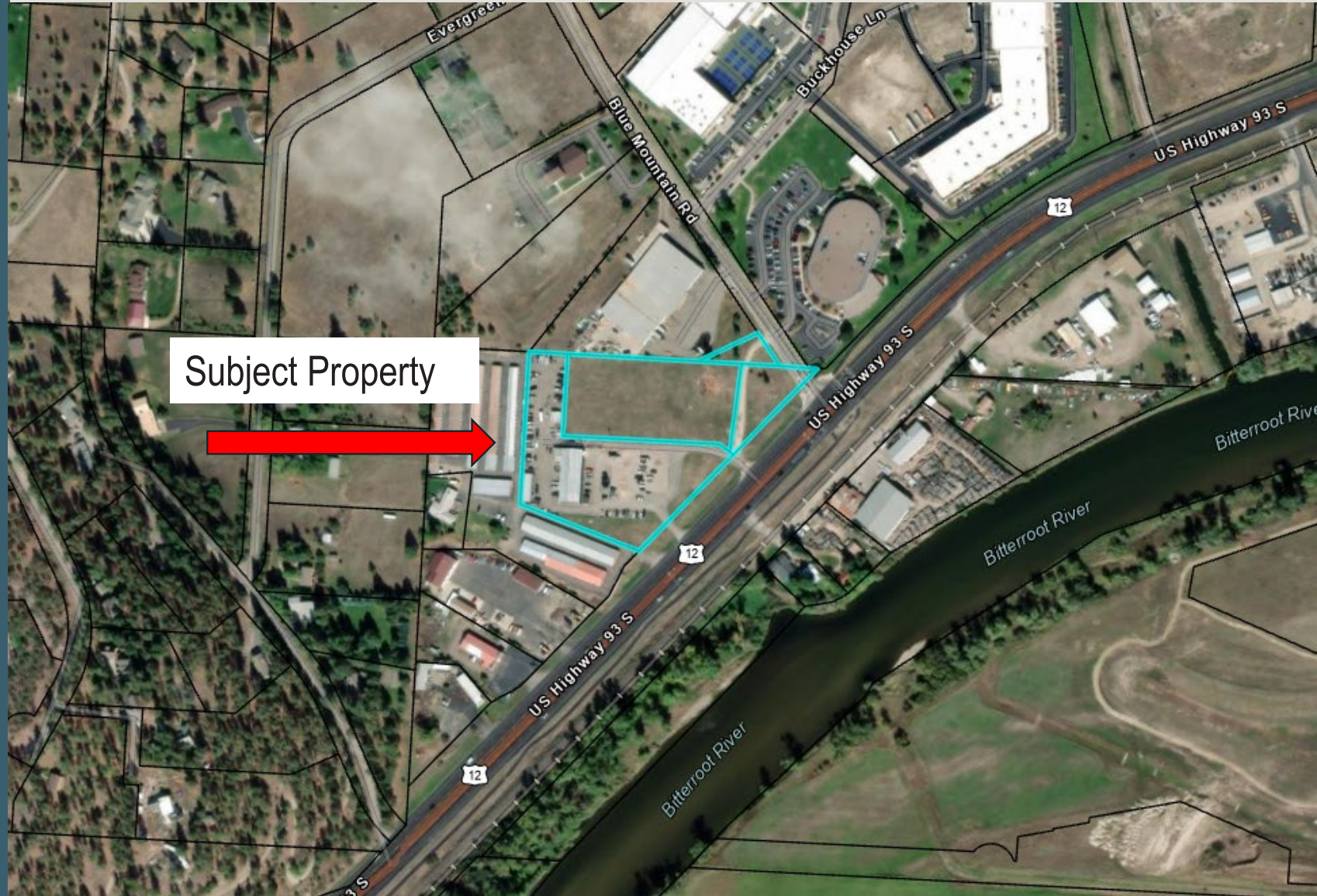
Property Location: 5115, 5055, 5005 Hwy 93 S and
5001 Blue Mountain Road

Applicant/Owner: Spanish Skies, LLC

Technical Representative: Woith Engineering

Planner: Katy Reeder

Vicinity Map



Background

- ✓ Property is zoned Commercial Center, surrounded by Commercial Center (CC) and CZD 18
- ✓ This subdivision was recently approved by BCC on 10/10/24
 - Driveway variance approved by BOA 7/17/24
- ✓ Missoula County Zoning Regulations section 7.F.2.g – Riparian Resource Buffer
- ✓ Variance required for infrastructure

Variance Criteria

- #3 Special conditions exist that are unique to the property
 - The property's proximity to the Bitterroot River places it within the 450-foot Riparian Resource Buffer, significantly limiting buildable area. The variance seeks only to adjust placement of infrastructure, not increase density, and all landscaping standards will still be met.
 - Though near the river, the property's connection to the riparian corridor is interrupted by existing development—including Highway 93 S, the pedestrian trail, a residence, railroad, and a commercial lumber yard—separating it visually and physically from the river.
 - The variance does not increase density; it allows adjusted placement of infrastructure while still meeting site design and landscaping requirements.

Existing Conditions



Riparian Resource Buffer Area



Variance Criteria (cont.)

- #4 Literal enforcement of the provisions of the regulations will result in unnecessary hardship that is not of the applicant's own making.
 - Literal enforcement of the buffer regulations would create a hardship, as this is one of the last undeveloped parcels in a mostly built-out corridor where neighboring sites were not subject to the same constraints.
 - Strict enforcement of the buffer would offer minimal added riparian protection, as the site is already separated from the Bitterroot River by Highway 93, a rail line, and the Bitterroot Trail.

Variance Criteria (cont.)

- #6 The request for the variance is not based on monetary factors or potential economic gain
 - The applicants indicate that the variance request is not financially motivated but is instead driven by the need for a functional site layout. The proposed design aims to optimize safety, access, and overall usability within the physical and regulatory constraints of the parcel.

Staff Recommendation & Condition

- Staff recommends **Approval** of the requested variance based on the Findings of Fact and Conclusions of Law presented in the staff report, subject to one condition of approval
- Recommended Condition:
 - All other necessary permits administered by agencies other than the Department of Planning, Development, and Sustainability shall be obtained by the property owner or designated representative. These permits may include, but are not limited to, building, zoning compliance, electrical, mechanical, approach, and sanitation permits.

Recommended Motions

I move the Board of Adjustment to **approve** the Variance Request to deviate from Section 7.F.2.g of the Missoula County Zoning Regulations, as presented in the proposed application, subject to the recommended condition as presented.



Missoula County Consolidated Land Use Board Proposal

Karen Hughes, PDS Director

June 2025

Why are we here?

- City shift to Municipal Planning Commission under Montana Land Use Planning Act – anticipated late summer 2025
- County still needs one or more advisory boards related to land use
 - Quasi-legislative – growth policy/land use plans, zoning code updates, subdivision regulation updates
 - Quasi-judicial functions – subdivision review, rezoning requests, zoning variances, zoning code appeals
 - Potential to serve as a planning commission

Why are we here?



EXPLAIN THE OPTIONS



SHARE PDS
RECOMMENDATION



PROVIDE AN OVERVIEW
OF THE PROCESS FOR A
MID 2025 SHIFT



SEEK FEEDBACK AND
INPUT

What are the options?



Replace MCPB with a
County Planning Board
(new) and keep the
County Zoning BOA
(existing)

or

Replace both MCPB
and the County Zoning
BOA with a
Consolidated Land Use
Board (new)

Planning Board and Board of Adjustment option

Planning Board ([76-1-101](#))

- 5 members (minimum) from jurisdictional area, one from conservation district or grazing district
- 2-year terms
- Advisory
- Quasi legislative – growth policies and land use plans, zoning regulations, subdivision regulations
- Quasi judicial – subdivision review, rezoning requests

Board of Adjustment ([76-2-222](#))

- 5 members
- 2-year terms
- Can be governing (decision-making) board or advisory (current board is a decision-making board)
- Quasi judicial – special exceptions, zoning variances, appeals of administrative decisions

Consolidated Land Use Board Option

(76-1-114)

- 5 members (minimum) from jurisdictional area
- Terms addressed in resolution
- Advisory or both advisory and governing (BOA function)
- Acts as both Planning Board and Board of Adjustment
- Quasi legislative – growth policies/land use plans, zoning code, subdivision regulations
- Quasi judicial – subdivision review, rezoning requests, zoning variances, special exceptions, variances

Planning Commission (needed in either case) ([76-25-104](#))

- 3 members minimum (must be odd number)
- Terms addressed in resolution
- Can be a new board or an existing board or consolidated land use board
- Quasi legislative – land use plan, zoning regulations and map, subdivision regulations
- Quasi judicial – recommends rezoning requests, decides appeals of planning administrator (can be appealed to governing body)

PDS recommendation

- **Create the Missoula County Consolidated Land Use Board (MCCLUB)**
 - Membership: 7-9 members with 2 alternate seats
 - Seek initial membership from interested members of BOA and MCPB to help fill seats
 - Membership from jurisdictional area – unincorporated county
 - Continue to seek a Conservation District-appointed member

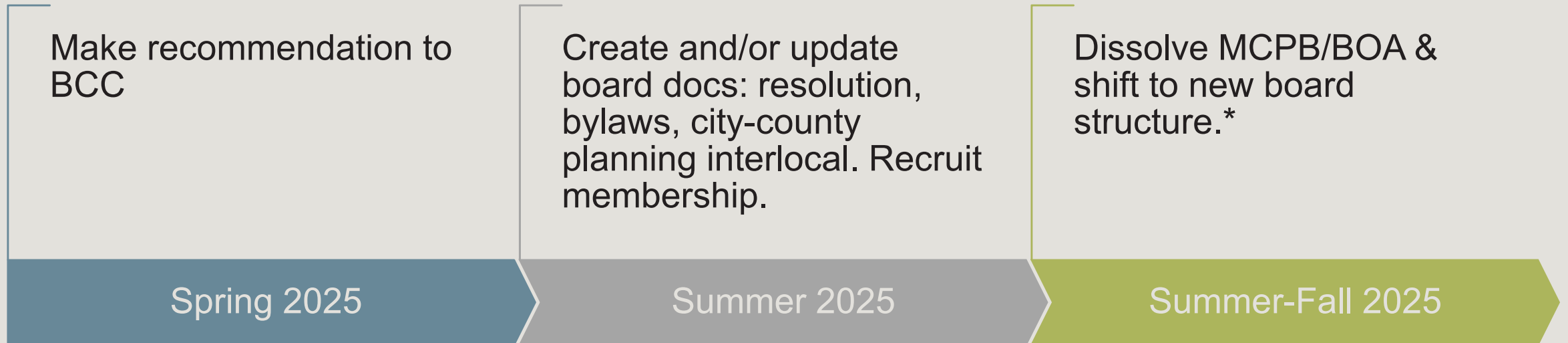
Why the MCCLUB?

- Reasonable workload for one meeting a month averaging about 2-3 agenda items
- Ease of public access to land use matters
- Streamlined board management and logistics
- Increased potential for successful recruitment for geographic representation and expertise/background/interests
- Quasi legislative work of board could benefit from quasi judicial function
- If the County opts into MLUPA – board transition will be easy

Potential drawbacks?

- Advisory and decision-making role on the same board, instead of separated
- Different roles could be confusing
- Different types of review might be challenging
 - BOA tends to be hyper site specific
 - PB reviews are typically broader in scale
- Other?

What would the transition process look like?



What do you think?



POTENTIAL
BENEFITS?



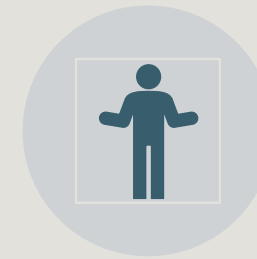
POTENTIAL
DRAWBACKS?



ALTERNATIVE
IDEAS?



QUESTIONS?



CONCERNS?



Missoula
C O U N T Y

