

GALLATIN COUNTY

STAFF REPORT

TO: BRIDGER CANYON PLANNING AND ZONING COMMISSION

FROM: MEGAN K. GIBSON, PLANNER *MKG*

SUBJECT: REQUEST TO CREATE A THREE LOT PLANNED UNIT DEVELOPMENT CONDITIONAL USE PERMIT FOR SIMMONS

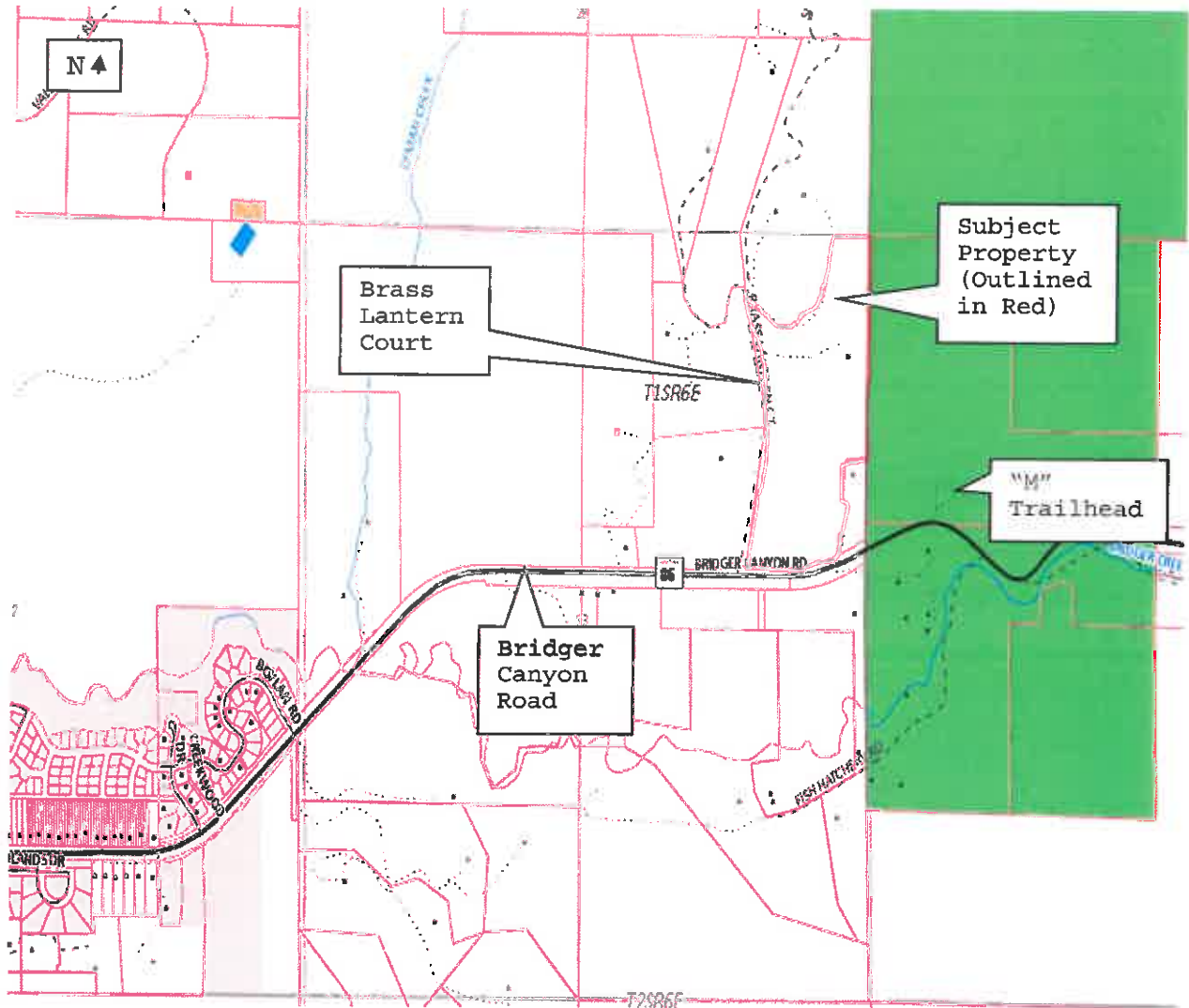
HEARING DATE: OCTOBER 13, 2016; 9:00 A.M.

LOCATION: COURTHOUSE COMMUNITY ROOM
311 W. MAIN STREET, BOZEMAN

CONDITIONAL USE PERMIT REQUEST:

William Dreyer of DOWL, representing property owners James and Janet Simmons (Applicants), have requested a Planned Unit Development (PUD) Conditional Use Permit (CUP) (Attachment 1). The Subject Property is classified as Agricultural Exclusive (AE), one dwelling unit per 40-acre parcel as a matter of right, within the Bridger Canyon Zoning District (Zoning District). The planned unit development intensity factor, is one unit per 10-acres (PD-10). The requested PUD would create three lots, each containing a building lot and privately owned open space lot. Proposed buildable lot 2A-1 would be .49 acres and contains a single-family residence, and would include 17.71 acres of open space. Proposed buildable lot 2B-1 would be 1 acre and would include 9.6 acres of open space. Proposed buildable lot 2C-1 would be 1 acre and would include 10.2 acres of open space. The proposed open space in lot 2C contains existing outbuildings. Those buildings have been subtracted from the open space calculations as noted in the Open Space Calculation on page 2 of the Addendum Summary and is discussed further within the Staff Report.

VICINITY MAP



PROPOSED FINDINGS:

1. **Location.** The Subject Property is 40-acres described as Lot 2 of Minor Subdivision 133 in Section 33, Township One South (T01S), Range Six East (R06E), P.M.M. Gallatin County, Montana. The property is generally located north of Bridger Canyon Road and east of Brass Lantern Court; addressed as 280 Brass Lantern Court, Bozeman, Montana.
2. **Background.** The Subject Property currently contains a single-family residence, and two large outbuildings as described in the Conditional Use Permit Request above. The Subject Property is not part of the Brass Lantern PUD. A trail easement has been secured with the City of Bozeman to cross the most southern portion of the Subject Property for the proposed

trail from the City of Bozeman to the “M” Trailhead to help alleviate the pedestrian, bicycle and vehicular traffic on Bridger Canyon Road. Comments were received from the City of Bozeman Department of Parks and Recreation (Exhibit A).

The Applicants purchased the 243.694-acre Subject Property in November 1988. As described on page 1 of Part 1 of the Application the original property has decreased in size several times the date of purchase via an occasional sale in December 1989 that broke off a 2.815-acre parcel leaving a 231.879-acre parcel, a Certificate of Survey to create two lots in May 1991 that created a 164.505-acre parcel that was sold leaving 76.374-acres, and minor subdivision #133 that created two lots in August 1994 leaving the Simmons 40-acres. All existing covenants and maintenance agreements shall continue to apply if the PUD is approved and shall be included in the covenants through the subdivision review process.

3. **Applicable Objectives and Goals of the Bridger Canyon General Plan and Development Guide.**

The primary objectives of this plan are to guide future physical growth within Bridger Canyon and to protect the natural beauty and agricultural open space character of the area. In order to provide the greatest opportunities for orderly growth and to retain the environmental nature, it is essential to give intelligent forethought to the design of the area.

This plan recognizes Bridger Canyon as:

- *A desirable place to live and an area with an increasing growth rate.*
- *A place of growing recreational use and demand.*
- *An area where forest lands will continue to exert influence.*
- *A place demanding protection of its environmental beauty and agricultural open space.*
- *An area with strong citizen interest favoring conservation of natural resources; preservation of open space and agricultural usage; and limited, controlled growth compatible with the natural environment.*

This plan has the majority support of the residents and property owners of Bridger Canyon. This plan is intended to be used as a guide both to government agencies and private enterprise. As the pressures of growth continue, the canyon residents will find it necessary to guide this growth in an orderly and logical manner through the planning and zoning process.

The Bridger Canyon property owners are interested in a general plan indicating future land uses, population density, major roads, public facilities, and suggested conservation measures required to maintain a balance between natural resources and population growth. The following includes the property owners' list of goals and development standards to the General Plan:

PROPERTY OWNERS' GOALS

1. *To maintain continuous coordination and cooperation between citizens and public and semi-public agencies operation in and around the Canyon.*
2. *To secure increased citizen participation in the planning process and, if necessary, to work for legislation which will offer protection from the adverse effects of urbanization.*
3. *To preserve and protect those environmental qualities that are resources of the zoned area.*
4. *To maintain high water quality standards through constant monitoring.*
5. *To encourage agricultural land preservation and the needs of the rancher.*
6. *To disseminate information on good logging practice and silviculture so that timber resources can be conserved.*
7. *To set limits on areas of high intensity recreational use based on access, sensitivity of surrounding uses, influence on water quality, traffic generation, fire hazard, and environmental effects.*
8. *To insist on attention to vegetation, sanitation, wildlife habitat, erosion, and public safety concerns for new development.*
9. *Elements of community design (roads, utilities, etc.) should be planned to include environmental factors in addition to usual safety and engineering considerations.*
10. *New residential development will be encouraged in low density tracts or clusters.*
11. *Residences, commercial facilities, public buildings, street signs, etc., shall be designed to fit the rural character of the area.*

DESIGN CONCEPTS

COMMUNITY DESIGN: *Several ideas have been developed concerning the clustering of housing developments. The advantages of such clustering are obvious. Land development costs are less with clustered site development. Cluster developments have common land which is an essential element of the development and is owned by an association of the homeowners. The liveability and visual appeal of such a development over the standard lot and block subdivision design is apparent.*

By utilizing the clustering concept open space is preserved, which contributes strongly to the general visual character of the canyon. This open space is prohibited from development through the homeowners associations. One automatically becomes a member of a homeowners association when he/she purchases property. Development will only be allowed on a particular portion of the property he/she has purchased. The remaining land is grouped with that of the other homeowners and becomes common land to all.

ENVIRONMENTAL DESIGN: Preservation of open space is viewed as an integral part of the Bridger Canyon proposal. Strong efforts must be made to keep further development from destroying the open spaces. Residential development is not expected to locate in such a way as to duplicate the typical suburban spread of housing. Instead, efforts have been taken to encourage cluster development, thus allowing similar average densities while leaving generous open space. Such open space would be included under a management program to insure its protection and appearance.

Well conceived and strongly enforced land use planning is essential. The following planning suggestions are offered as a general guide:

<u>SITE CONDITION</u>	<u>IMPLICATION</u>
1. <i>Sloping topography vegetated.</i>	<ul style="list-style-type: none"> A. <i>Better architectural expression possible on steeper topography (stepped housing).</i> B. <i>Potential exists to open small pockets in the vegetative cover with detached housing of cluster housing, thereby freeing large open meadows from development.</i> C. <i>Minor circulation routes, curvilinear to reflect the natural topography and to give a sense of containment.</i>
2. <i>Flat topography.</i>	<ul style="list-style-type: none"> A. <i>Potentially most economical site for housing development; however, "character" of site would be lost.</i> B. <i>Best site for public/commercial centers and open recreation requiring large areas.</i> C. <i>Major circulation routes--as straight connectors focusing on vistas of focal points.</i>

- 3. *Low lying wetlands and stream areas.*
 - A. *Potential for water features; unbuildable in a practical sense.*
 - B. *Greatest value lies in passive recreational uses.*
- 4. *Open areas.*
 - A. *Potential to preserve agricultural land as features of the canyon by not allowing free building in any open area.*
 - B. *Emphasize views by using low building types - stepped along hillsides, clustered in covered areas.*
 - C. *Emphasize architectural quality to new structures. Reflects character of site through use of natural building materials.*

DESIGN GUIDES: *The following is not intended to be strict limitations on the type of development permissible, but is intended to constitute standards for proposed development.*

1. *Cluster Units.*

- a. *Develop with the natural features;*
- b. *Take advantage of sloping topography;*
- c. *Preserve sound, healthy trees and natural vegetation;*
- d. *Develop interest and variety in architectural silhouettes;*
- e. *Use harmonious varieties of architectural styles;*
- f. *Orient buildings toward views, where possible;*
- g. *Supplement native plants with harmonious landscaping;*
- h. *Provide for erosion and weed control;*
- i. *Use underground utilities;*
- j. *Do not disturb natural drainage flows;*
- k. *Preserve open space.*

4. **Applicable Requirements of the Zoning Regulation.**

A. **Agricultural Exclusive District (AE) Intent Section 6.1.**

It is the intent of this Regulation to preserve agriculture as one of the primary occupational pursuits and an economic endeavor in Bridger Canyon. It is further the intent of this District to protect and preserve the existing rural character of Bridger Canyon and to preserve existing developed and undeveloped farm lands from unplanned residential, commercial and industrial development. The purpose of the Agricultural Exclusive District is, when applied to particular land, to encourage the following land use:

- a. *the cultivation of ground, including the preparation of soil, planting or seeding and raising and harvesting of crops;*
- b. *the raising, feeding and managing of livestock, poultry and other animals;*
- c. *incidental uses which are customarily and necessarily related to and included within an agricultural pursuit; and,*
- d. *incidental unrelated uses which are necessary to protect and promote the health, safety, welfare and convenience of rural residential citizens.*

B. Planned Unit Development Section 13.

Purpose Section 13.1. The planned unit development designation is intended to provide for alternative forms of development which may include a density bonus in exchange for development quality that is of significant community benefit. The purposes of this district include the following:

- a. *Enhance and preserve open space and unique natural features.*
- b. *Preserve to the maximum extent possible the natural characteristics of the land, including topography, vegetation, streams, and tree cover.*
- c. *Protect areas of important wildlife habitat.*
- d. *Prevent soil erosion by permitting development according to the nature of the terrain.*
- e. *Encourage the development of more attractive site design.*
- f. *Reduce the cost and physical impact of public and private services.*
- g. *Lessen the visual impact of development and preserve the scenic vistas and rural atmosphere.*
- h. *Preserve agricultural lands.*
- i. *Provide economies in the provision of public services.*

- *The Applicant has provided written responses to each of the purpose statements outlined above on pages 2-4 of Part 1 of the Application.*

Special Definitions Section 13.2.

- a. *Common Open Space: A parcel or parcels of land, or an area of water, or a combination of land and water within the site designated for a Planned Unit Development and designated and intended for the use or enjoyment of residents of the Planned Unit Development. Common open space may contain complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of residents of the Planned Unit Development.*

- b. *Development Rights: The potential for the improvement of a parcel of real property, measured in dwelling units, existing because of the zoning classification of the parcel.*
 - c. *Landowner: The legal or beneficial owner or owners of all of the land proposed to be included in a PUD. The holder of an option or contract to purchase, a lessee having a remaining term of not less than twenty (20) years or other persons having an enforceable proprietary interest in such land, shall be deemed to be a Landowner for the purposes of these provisions.*
 - d. *Open Space: Land subject to valid restriction against housing development, the maintenance of which in its natural or agricultural state is necessary for the enhancement of living conditions in Planned Unit Developments.*
 - e. *Plan: The provisions for development of a PUD, including a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, and general layout of water and sanitary facilities. The phrase "provisions of the plan", when used in these provisions, shall mean the written and graphic materials referred to in this definition.*
 - f. *Planned Unit Development: An area of land, controlled by a landowner to be developed as a single entity for a number of dwelling units, the Plan for which may not correspond in lot size, bulk or type of dwelling, density, lot coverage and required open space to the regulations established in the underlying zone. Multiple parcels within a PUD must be contiguous or share a common boundary.*
- The Applicants are aware of the special definitions section as stated on page 4 of Part 1 of the Application.

Uses Permitted Section 13.3. *Any use permitted in the underlying zone classification, including single family dwelling units, condominiums and townhouses.*

- The Applicants request is for two additional single-family residential lots, which is in conformance with Section 6.2 of the Zoning Regulation.

Land Use Intensity Factor Section 13.4. *The land use intensity factor for each district shall be as shown on the official Bridger Canyon Zoning Map.*

- The proposed PUD is in conformance with existing intensity factor on the Subject Property of 1 unit per 10 acres (PD 10).

Standards for Development, General Section 13.5.a. In approving an area for a planned unit development, at least one of the following conditions shall exist:

- The Planning and Zoning Commission needs to determine if this proposal meets at least one of the below conditions.
1. *The parcel is situated such that the planned unit development will allow flexibility of design for the protection of scenic vistas or will lessen the visual impact of the development.*
 - The Applicants response is on page 4 of Part 1 of the Application. The Applicants have also provided photos showing the proposed buildable lots in Appendix H of the Application.
 - The Subject Property is located northeast of the intersection of Brass Lantern Court and Bridger Canyon Road adjacent to the very popular “M” Trailhead and picnic area located on U.S. Forest Service Lands. The majority of the Subject Property is visible from the “M” Trail with the entire Subject Property being visible from the summit of the “M” Trailhead.
 - The Subject Property is located on a prominent hillside with varying topography and some forested area on the far east side, though largely exposed to the surrounding properties. The design and buildable lots are likely to be visible from Bridger Canyon Road and the “M” Trail.
 - There is an existing driveway across the proposed open space 2A-2 and a proposed 60’ access easement across open space 2B-2 into open space 2C-2 on the exposed hillside which will also require the construction of a driveway from the access easement across the open space for 2B-2 and 2C-2 to access the buildable lots.
 - Additionally, two outbuildings already exist outside of the proposed buildable lots. After discussions with the Applicants Staff has suggested that the outbuildings be encompassed by their own building envelope that matches the existing footprint so that the outbuildings could not be enlarged so that the envelope area correlates with the open space calculations, and that a note be placed

on the plat restricting the use of the buildings to agricultural uses only. (See Condition 2)

- The existing single-family residence is proposed to be located on buildable lot 2A-1 and would be .49-acres. The buildable lot is located on the far east side of the Subject Property adjacent to the hillside vegetation and while visible from Bridger Canyon Road and the “M” Trail it blends in with the natural landscape. The proposed 17.71 acres of open space is crossed by the existing driveway.
 - Proposed buildable lot 2B-1 would be 1-acre and located in approximately the upper middle of the proposed 9.6-acres of open space. A 60-foot access easement would cross the top of the open space and have a driveway off the easement to the buildable lot. The 60-foot access easement has been subtracted from the open space calculations as shown in the Open Space Calculation on page 2 of the Addendum Summary. The Applicants have located the 1-acre buildable lot behind a rise in the topography, but the location would still be visible from both the “M” Trail and Bridger Canyon Road.
 - Proposed buildable lot 2C-1 would be 1 acre and located in the lower 1/3 of the 10.2-acres of open space. The proposed open space in lot 2C-2 contains two existing outbuildings. Those buildings have been subtracted from the open space calculations as noted in the Open Space Calculation on page 2 of the Addendum Summary and this Staff Report contains further suggested conditions of approval. Additionally, a driveway would need to run from the 60-foot access easement to the buildable lot and may contain driveways from the buildable lot to the outbuildings. The 1-acre buildable lot would be visible from both the “M” Trail and Bridger Canyon Road.
 - The Applicants have provided photos showing the proposed buildable lots in Appendix H of the Application.
 - Staff has also provided photos the entire property (Exhibit B).
2. *The planned unit development will result in the preservation of agricultural land and/or open space.*
- The Applicants response is on page 4 of Part 1 of the Application.

- As discussed in various places throughout the Application the Subject Property has historically been utilized for limited grazing and haying on the lower portion. Further discussed on page 1 of Part 1 of the Application the Applicants state that the limited grazing and haying will continue as they propose to keep lot 2C while lot 2B will be retained by the Simmons' son.
 - Proposed lot 2A-1, the existing single-family dwelling unit, preserves the open space area and potential agricultural ground to the greatest extent, even though it does not appear that the area has currently been used for agricultural production.
 - Proposed lots 2B-1 and 2C-1 are splitting up the area that according to the Applicants has traditionally been the area used for agricultural production. An access easement and two driveways along with two one acre building lots are being proposed in the middle of the open space further splitting up any area to be used for agricultural production or open space.
3. *The parcel contains natural assets which will be preserved through the use of the planned unit development. Such natural assets include vegetation, habitat for wildlife, and streams.*
- The Applicants response is on page 5 of Part 1 of the Application.
 - The PUD design includes the existing single-family dwelling unit, proposed lot 2A-1, which does utilize and preserve natural assets by being located on the transitional slope on the eastern side of the Subject Property which contains a small forested area and a pond.
 - The Applicants state that *“The preservation of the natural assets of the site is the primary objective of this planned unit development.”* However, on page 4 of Part 1 of the Application it states that *“By limiting the installation of fences in the “effective” open space area, the visual impact of this development is minimized.”* Then on page 5 of Part 1 of the Application it states *“Fencing around the property perimeter will be required to allow for agricultural livestock.”* Based on further discussions with the Applicants the intent is to require fencing to keep any livestock out of the buildable lot and landscaped areas. Therefore, fencing would be located on the perimeter of the open space parcel and the buildable lot. This would increase the

linear footage of fence on the Subject Property, but it is unclear what effect the additional fencing will have on any wildlife.

- No comments were received from Montana Department of Fish, Wildlife & Parks on this proposal. Impacts on wildlife and wildlife habitat will be reviewed again through the subdivision review process in accordance with the Gallatin County Subdivision Regulations.
4. *The parcel contains topography that is suitable for minimizing the visual impact of development. The planned unit development shall prevent erosion and result in the development more suitable to the nature of the terrain.*
- The Applicants response is on page 5 of Part 1 of the Application.
 - The existing single-family residence on proposed lot 2A-1 appears to blend with the topography and existing vegetation on the Subject Property and contains a relatively small building lot of .49-acres.
 - The proposed buildable lots 2B-1 and 2C-1 are located in the middle of the proposed parcels requiring an access easement and two driveways be constructed. Additional driveways accesses may be necessary to the two outbuildings on lot 2C-2. Additionally, lots 2B-1 and 2C-1 are located in an area where there is some natural topography, but no existing vegetation to shield the visual impact, other than grassland.

Standards for Development, Specific Section 13.5.b. In approving a site for a Planned Unit Development, the following specific standards shall be met:

1. *Determination of Density.*
- The Applicants response is on page 5 of Part 1 of the Application.
 - The density available on the Subject Property is 1 unit per 10 acres under the PD 10, or four dwelling units.
 - According to the Addendum Summary page 2, the density of the current proposal is 10.69-acres per dwelling unit.
2. *Parking and Open Space. Open space shall not include areas devoted to public or private streets, parking, or areas covered by buildings. Open*

space may include natural or agricultural ground, landscaped areas, recreational areas, and water surfaces.

- The Applicants response is on page 5 of Part 1 of the Application.
- The public access easement that is proposed is accounted for in the open space calculations.
- The outbuildings have also been accounted for in the open space calculations and Staff has further suggested conditions to help mitigate the outbuildings.
- All off-street parking spaces and buildings will be located within the buildable lots on both the proposed and existing lots.
- The required amount of open space for the development is 90% based on the table in the Zoning Regulation under Parking and Open Space. The Applicants are providing 36.26-acres, or 90.65%, of open space which meets the minimum requirement.

3. *Continuous Boundaries for Multiple Parcels. The minimum continuous boundary length to be shared by multiple parcels in a PUD shall be equal to the minimum parcel width contained in 6.5(a).*

- The Applicants response is on page 5 of Part 1 of the Application.
- Parcel boundaries of the proposed PUD meet the minimum parcel width of Section 6.5(a) of the Zoning Regulation which requires a minimum width of 660 feet.

Dwelling Unit Design Section 13.5.c. Harmonious variations in materials, textures, and colors shall complement and supplement the natural beauty and pleasant environment of the site and the individual unit.

- The Applicants response is on page 2 of the Addendum Summary.

Common Area Access Section 13.5.d. Each building site shall have ready access to any common areas and facilities.

- The Applicants response is on page 6 of Part 1 of the Application.

- No common areas are proposed with this PUD. All open space is associated with the buildable lot and is held privately by each lot owner.

Car Circulation and Access Section 13.5.e. Road design should reflect the following factors:

- i. *Dwelling areas shall only have limited access to major traffic arteries. Common access roads should be used when possible.*
- ii. *Collector roads of ample width and flowing alignment shall feed traffic between the arterial streets and to a network of minor access streets on which most of the homesites are located. Streets and roads shall meet the design standards contained in the Gallatin County Subdivision Regulations.*
- iii. *Where terrain permits short loop streets and cul-de-sacs should be used for minor streets.*

- The Applicants response is on page 6 of Part 1 of the Application.
- All proposed access easements and driveways will be built to the standards located in the Gallatin County Subdivision Regulations and will be reviewed for compliance during subdivision review.
- Comments were received from the Montana Department of Transportation (Exhibit C). These comments and any other comments will be further reviewed during the subdivision review process.

Parking Section 13.5.f. Parking shall reflect the following factors:

- i. *Occupant and guest car parking should be located so homesites are conveniently served.*
- ii. *Parking areas should be designed so that not more than an average of five (5) spaces shall adjoin each other without intervening landscaped areas, except in the Base Area where snow removal necessitates alternative landscape schemes.*

- The Applicants response is on page 6 of Part 1 of the Application.
- All proposed and required parking areas have been included within the buildable lots.

Walks and Service Circulation Section 13.5.g. Walks and service circulation should reflect the following factors:

i. *Walks should be designed to provide convenient access to recreation, service, parking and other common areas.*

- The Applicants response is on page 7 of Part 1 of the Application.
- There are no common areas proposed with this single-family PUD.
- A public trail easement agreement is in place with the City of Bozeman for the future trail system to the “M.” If/when the trail is constructed the owners of the PUD lots would have pedestrian and bicycle access to the trail.

Setbacks Section 13.5.h. Front, side and rear setback requirements for structures shall be those of the district with which the Planned Unit Development is combined or as established by the approved plan.

- The Applicants response is on page 7 of Part 1 of the Application.
- Structure setbacks within the AE District are 25 feet from any property line, road right-of-way, or road easement; 100 feet from any creek; and 125 feet from the right-of-way of Bridger Canyon Road. All proposed building lots within the PUD comply with the setback requirements of the AE District.

Open Space Areas Section 13.5.i. Open space areas should be situated in such a manner as to avoid the crowding together of building uses and parking uses or to enhance visual or recreational pursuits of residents.

- The Applicants response is on page 7 of Part 1 of the Application.
- The location of the open space areas will not result in the crowding together of building and parking uses that would detract from the visual or recreational pursuits of residents.

Water and Sanitary Facilities Section 13.5.j. The general layout of sanitary and water facilities shall reflect that it is the intent of the plan to protect the environment, encourage the efficient use of land in the general area, and comply with the requirements of county subdivision and state health requirements.

- The Applicants response is on page 7 of Part 1 of the Application.
- On-site domestic water supply and sanitary sewage disposal for the PUD is proposed to be provided by individual wells and septic systems within each lot. The future subdivision review process will further review requirements

for this type of water supply and sewage disposal. Additionally, Section 18.2.6 of the Zoning Regulations provides that a land use permit shall not be issued until the builder has first obtained a sewer permit from the County Health Department. Comments were provided by the Gallatin City-County Health Department (Exhibit D).

All condominium and townhouse Planned Unit Developments shall have and use bear-proof refuse containers Section 13.5.k.

- The Applicants response is on page 7 of Part 1 of the Application.
- This is a single-family PUD proposal, but the Applicants state that they will require bear-proof refuse containers through the covenants.

Procedure Section 13.6.

- This section requires specific information to be submitted with PUD applications. Upon staff review, all applicable information has been provided. The location of the specific information is outlined in the Addendum Summary on pages 3-4.

Staged Development (Section 13.7). If the sequence of construction of various portions of the development is to occur on stages, then the open space and the recreational facilities proposed for the entire development shall be developed, or committed thereto, in proportion to the number of dwelling units constructed. At no time during the construction of the project shall the number of constructed dwelling units exceed the overall density per acre established by the Land Use Intensity Factor.

- There is no phased or staged development proposed as part of this PUD.

Procedure for Approval Section 13.8.

- The method for considering a Planned Unit Development shall be the Conditional Use Permit procedure.*
- If the Planned Unit Development is considered a subdivision according to the definitions contained in 76-3-101 et seq., MCA., the development shall also be subject to review as set forth in the Gallatin County Subdivision Regulations.*

- The request is for a new PUD development and is being processed following the CUP procedure as provided under Section 18.3 of the Zoning Regulations. The PUD is considered a subdivision and is further subject to the Gallatin County Subdivision Regulations and processes if the PUD is approved.

Transfer of Development Rights Section 13.9.

- Purpose: To provide a procedure under which land may be developed by transfer or permitted dwelling units to locations suited for such development.*
- Assignment of Development Rights. (1) Bridger Canyon, AE and RF Districts: Density rights are as officially designated on the Bridger Canyon Zoning Map, adopted February 23, 1989.*

- The Applicant's response is on page 9 of Part 1 of the Application.
- The transfer of development rights is not proposed or necessary for this PUD proposal based on the PD-10 intensity.

- C. Conditional Use Permit Section 18.3.2. *Conditional Use Permits shall be issued only by the Bridger Canyon Planning and Zoning Commission and may be issued for any of the uses as set forth in this Regulation. Such permit may be granted only if it is found that the establishment, maintenance, or operation of the use or building applied for will not under the circumstances of the particular case, be detrimental to health, safety, peace, morals, comfort and general welfare of the Bridger Canyon Zoning District.*

- The Applicant has provided their specific written responses to the above criteria on pages 1-2 of the Addendum Summary.

- D. Permits, Terms of Issuance Section 18.3.3. *A conditional use permit may be issued for a revocable, temporary, permanent or term period. It may contain such conditions as are authorized by State statute and this Regulation, including but not limited to:*

- Requiring dedication of rights-of-way.*
- Requiring improvements of rights-of-way.*
- Requirements for landscaping to protect adjoining property.*
- Regulation of placement of uses on the property.*
- Regulation of height.*
- Regulation of the nature and extent of the use.*
- Regulation of the length of time which such use or variance may be permitted.*

- This CUP would be issued permanently for the PUD and subsequent subdivision review.
 - Staff suggested conditions are listed below.
5. **Notice.** Notice of this public hearing was published in the Bozeman Daily Chronicle on September 18 & 25, 2016 and sent to property owners within 300 feet of the boundaries of the Subject Property via certified mail, return receipt requested, on September 19, 2016.
 6. **Public Comment.** No public comments have been received as of the publication of this Staff Report.

STAFF SUGGESTED CONDITIONS OF APPROVAL:

If the Planning and Zoning Commission approves the Simmons request for a new PUD, staff suggests the following conditions be required:

1. If the requested PUD is approved, this development will then be subject to subdivision review procedures and requirements of the Gallatin County Subdivision Regulations. The subdivision review procedures address the division of land into lots and all related public improvements. Subdivision review will require approval of the wastewater disposal and water systems, and stormwater management by the Montana Department of Environmental Quality (MDEQ); the availability of water by the Montana Department of Natural Resources and Conservation (DNRC); review of road design standards and required improvements, access to the lots and on-going maintenance; the creation of an owners' association; the provision of utilities; fire protection; pedestrian facilities and trails; and consideration of impacts on local services, wildlife, wildlife habitat, the natural environment, agriculture, and public health and safety.
2. No further expansion or development of the outbuildings in open space Lot 2C-2 shall occur and a note shall be placed on the site plan and final plat that restricts the use of the outbuildings to agricultural uses only. Additionally, each outbuilding shall be encompassed by a building envelope that matches the existing footprint of the outbuilding.
3. The applicant shall prepare a site plan documenting the building lots, open space lots, access easement and driveways. The site plan shall include a statement restricting the use of the open space as defined under Section 13.2.d of the Bridger Canyon Zoning Regulations.
4. The following restrictions shall apply and shall be shown on the site plan:
 - a. All open space shall be perpetual in nature.

- b. The open space shall not be further divided or subdivided.
5. The Applicant shall record a “Notice of Decision” prepared by the Planning Department with the Gallatin County Clerk and Recorder and provide evidence that it has been recorded to the Planning Department.

REQUIRED ACTIONS OF THE PLANNING AND ZONING COMMISSION:

A. **Sample Motions.** The role of the Planning and Zoning Commission is to make a final decision on the requested Conditional Use Permit. The following sample motions have been provided by Staff for consideration by the Planning and Zoning Commission:

- **Sample Motion for Approval:** Having reviewed and considered the application materials, staff report and exhibits, and public comment, in accordance with the requirements of Sections 13 and 18.3 of the Bridger Canyon Zoning Regulation, I move to approve the conditional use request by James and Janet Simmons for a Planned Unit Development Conditional Use Permit, with approval subject to all applicable laws and regulations, staff findings and staff recommended conditions (or with staff recommended conditions with the following modifications...).
- **Sample Motion for Denial:** Having reviewed and considered the application materials, staff report and exhibits, and public comment, in accordance with the requirements of Sections 13 and 18.3. of the Bridger Canyon Zoning Regulations, I move to deny the request by James and Janet Simmons for a Planned Unit Development Conditional Use Permit.
- **Sample Motion for Continuance:** Having reviewed and considered the application materials, staff report and exhibits, and public testimony, I move to continue the decision on the Simmons Planned Unit Development Conditional Use Permit Application for the purpose of (explain reason for continuance, and if applicable, specify any additional information that is being requested) until (state the date when the item will be heard again).

B. **Required Findings.** The Planning and Zoning Commission’s decision must be supported by findings related to the required determinations.

- Whether at least one of the four mandatory criteria of Section 13.5(a) of the Zoning Regulations have been met (See Staff Finding #4.B, Pages 9-12)
- Whether all the applicable specific standards of Section 13.5(b) of the Zoning Regulations have all been met (See Staff Findings #4.B, Pages 12-13).

- Whether the conditional use permit request meets the criteria of Section 18.3.2 of the Zoning Regulations (See Staff Finding #4.C, Page 17).

1. To provide findings in support of the above determinations, the Bridger Canyon Planning and Zoning Commission may wish to adopt in whole or in part the Proposed Findings presented in the staff report.

- If the Proposed Findings are adopted in part, please specify which findings are omitted.

2. The Bridger Canyon Planning and Zoning Commission also should make original findings based on other relevant information entered into the record during the hearing, including the applicant's presentation and public comment.

C. Motion for Issuance of Findings of Fact, Conclusions of Law, and Order. I move to authorize the Chair of the Planning and Zoning Commission to sign and issue written Findings of Fact, Conclusions of Law and Order that incorporate all of the findings and conclusions entered into the record in this manner.

Attachments:

1: Applicant's Application Packet

Exhibits:

A: City of Bozeman Department of Parks and Recreation Comments
B: Photos of the Subject Property
C: MDOT Comments
D: GCCHD Comments

Cc: County Attorney
William Dreyer, DOWL; bdreyer@dowl.com

F:\Development Review\Projects\Zoning\Z2017-011 Simmons CUP Zoning PUD Minor Subdivision\Simmons.PUD.P&Z.SR.doc



Gibson, Megan

From: Carolyn Poissant <CPoissant@BOZEMAN.NET>
Sent: Thursday, September 15, 2016 9:51 AM
To: Gibson, Megan
Cc: Loftsgaarden, Kirk (FHWA); Stoeffler, Lisa -FS; Mitchell Overton; jnelson@mdt.mt.gov
Subject: RE: Bridger Canyon -Simmons PUD Application for Review

Hi Megan,

We have secured and recorded the necessary trail easement on the Simmons property for our project. The only concern is the need to coordinate with the development to mitigate any conflicts where the trail and driveway(s) would intersect. We would appreciate it if you could keep us in the loop if any drive approach changes are proposed.

Thanks.

Carolyn Poissant, MLA, AICP
Manager of Trails, Open Space and Parks Design and Development
City of Bozeman - Department of Parks and Recreation
P.O. Box 1230
Bozeman, MT 59771-1230
Office Address:
415 N. Bozeman Street
Bozeman, MT 59715
Office Phone: 406.582.2908
Fax: 406.582.2292



From: Gibson, Megan [mailto:Megan.Gibson@gallatin.mt.gov]
Sent: Monday, September 12, 2016 2:50 PM
To: Carolyn Poissant <CPoissant@BOZEMAN.NET>
Subject: Application for Review

Hi Carolyn,
Attached is a Planned Unit Development application. Please let me know if you have any comments or questions on this as it pertains to the trail to the "M" easement.

Thanks,

Megan K. Gibson
Planner
Gallatin County Dept. of Planning & Community Development
311 W. Main St., Room 108
Bozeman, MT 59715
megan.gibson@gallatin.mt.gov
(P): 406-582-3130
(F): 406-582-3135

From the "M" Trail looking at proposed parcels 2B+2C



From the "M" Trail showing the existing dwelling



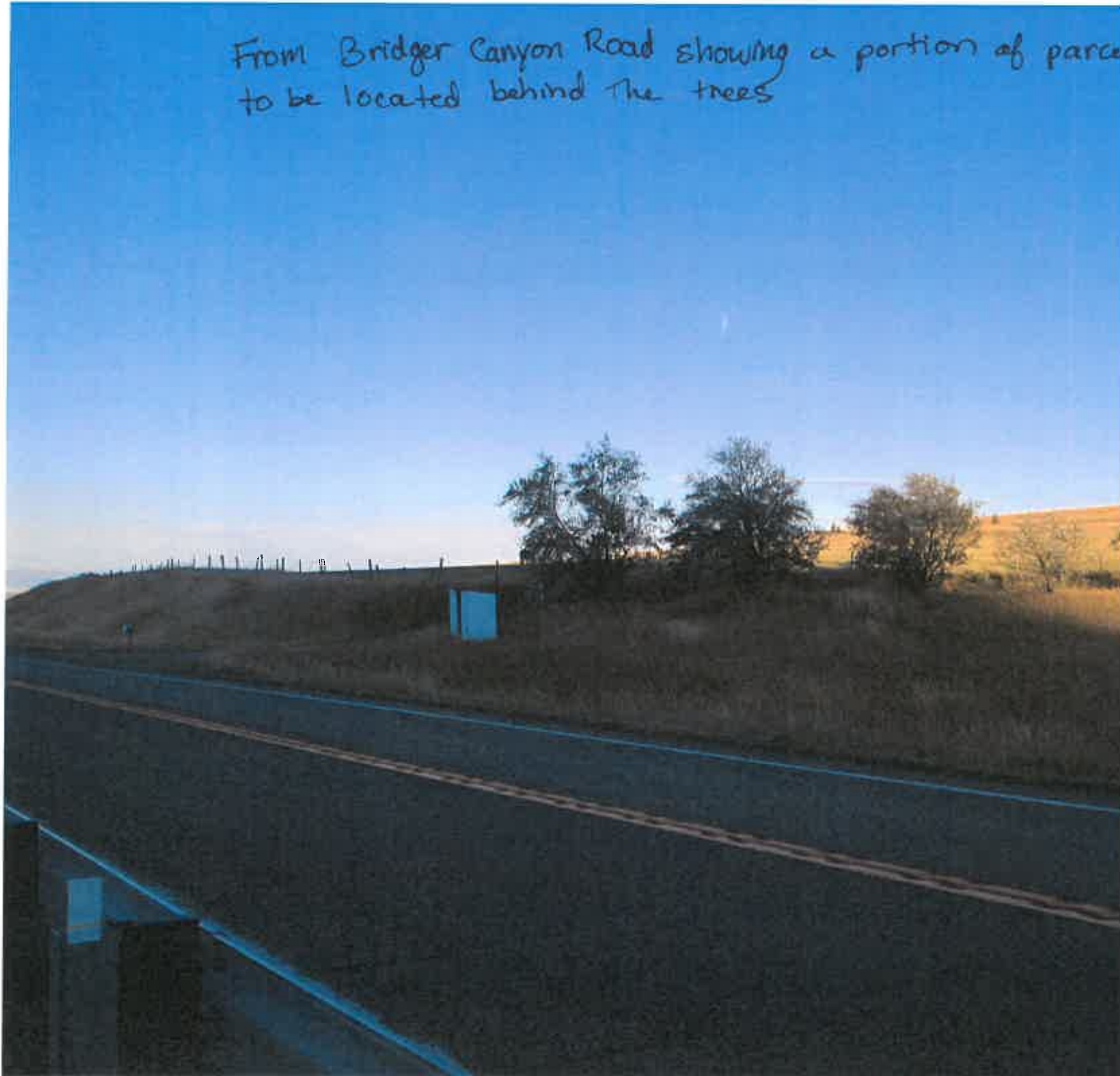
From the "M" Trail showing Proposed parcels 2B+2C + dwelling on the far right



From Bridger Canyon Road showing the existing d
+ proposed parcel 2B



From Bridger Canyon Road showing a portion of parcel
to be located behind the trees



Gibson, Megan



From: Tierney, Michael <mtiemey@mt.gov>
Sent: Thursday, September 15, 2016 11:22 AM
To: Gibson, Megan
Cc: DeMars, Kyle; Nelson, Jennifer; Ebert, Jeff; Alt, Lee
Subject: Simmons Minor PUD

Megan, MDT has received and reviewed a copy of the Simmons PUD and materials. Please note the following:

1. The write-up says that 2B-1 will access off Brass Lantern and 2C-1 will use “an existing easement off Bridger Canyon Road”. The exhibit shows the proposed access to 2C-1 using an existing approach off of Bridger Canyon Road. Two things:
 - a. The existing private approach will likely need an approach permit to take this from a single residence approach to a multi-family approach since this is a change of use. The developer should contact Kyle DeMars at 406-556-4704 to begin the review process. MDT will need to see a design, including turning movements, and a hydraulic analysis for the approach pipe assuming one is needed.
 - b. Any permit issue by MDT will be conditioned to only allow access to lot 2C-1 and the existing homes.
2. Lastly, the easement shown between the subdivided parcels and extending to Bridger Canyon Road WILL NOT be considered for an approach to Bridger Canyon Road.

Mike

Mike Tierney
MDT Planner



Gallatin County Survey Review Comm

Shared File No: 1635

Document No:

Planning File No: Z2017-011

CR File No:

Record Created: 9/12/2016 1:32:21 PM

CR Staff:

1/4 Section: NE 1/4 Section2:
Section: 33 Section2:
Township: 1S Township2:
Range: 6E Range2:

Other legal : Lot 2 Minor Subdivision 133

Owner Name: Simmons

Survey Type: Minor Sub # Lots on survey: 3

Plat Title:

Purpose:

Action Date: 9/23/2016 Planning Staff: Megan Gibson

PlanningComments:

Review for a 3 lot planned unit development.

Date Checked: 9/21/2016 EHS Staff: Brittney Nelson

EHS Comments:

Proposal seeks to divide Lot 2 of Minor Sub 133 (40 acres) into six tracts. Three tracts are proposed to be open space tracts (2A, 2B-2, and 2C-2) and the three remaining tracts to be developed or have existing development. Proposed Tract 2A-1 (0.49ac) is currently developed with a single family dwelling (permit 8221). However, this permit is only approved for 4 bedrooms and cadastral records state that there are now 6 bedrooms on site. This system will be required to upgrade the existing system as a part of the sanitation act review process. Proposed Tracts 2B-1 (1.0 ac) and 2C-1 (1.0 ac) will need to be reviewed under the sanitation act prior to their creation. BN 09.21.16