



January 27, 2025

Lee Boman
6311 Andrea Lane
Missoula, MT 59803

Dear Mr. Bowman:

Thank you for reaching out about the ongoing concerns in the Invermere Subdivision, including those affecting its residents and the developer's incomplete work. I understand your frustrations and want to address the issues you've highlighted.

Developer's Responsibilities and the City's Role

We appear to agree that the primary challenges with Invermere's parklands are a result of actions (or lack thereof) by the developer. These issues date back over 20 years, when Missoula County approved the subdivision with conditions requiring the developer to:

1. Dedicate common space for public use.
2. Make park and utility improvements.
3. Establish a Homeowners' Association (HOA).
4. Provide a plan for the maintenance of common area parklands.

Looking back, it may have been beneficial for County authorities to take a more proactive approach in ensuring these matters were addressed by the developer over the years. It was after the City annexed the Invermere Subdivision in phases beginning in 2018 that these challenges became more apparent. Since then, the City's staff has worked diligently with the County, the developer's representative, and residents to press for the resolution and completion of these requirements, particularly those related to the parks, open spaces, and stormwater system. However, the City has still had to work within the bounds of existing agreements.

HOA Responsibility for Maintenance

You asked why the HOA is responsible for maintaining the park, open spaces, and stormwater system, and why taxes are not used to cover these costs. I understand this may feel burdensome, but this approach is shaped by several City financial and equity considerations. As a city-wide practice, all new developments, including subdivisions like Invermere, are required to establish an HOA to maintain improvements that primarily serve the subdivision rather than the larger surrounding area. For Invermere, this includes the parks, open spaces, and stormwater system,

which are specifically designed to meet the subdivision's needs. These responsibilities are outlined in the subdivision covenants to ensure that owners and purchasers are aware of them from the outset.

Developer's Non-Compliance and City Action

Despite the developer notifying the HOA that he was "done" with the parks, he has not formally communicated this to the City. The developer's deadline to complete the park improvements is January 31, 2025, so there was little the City could do until this deadline passed or the project clearly could not be completed by that date. Once winter set in, it was clear the Developer could not meet the required deadline. As a result, the City deemed the developer in default of his Parks Improvements Agreement and called upon his bond in December 2024. The City will take steps to use the bond funds to address deficiencies in the park improvements as weather permits.

The City is also preparing to turn over the main park and Miller Creek Frontage Park to the HOA for ongoing maintenance. The HOA has been responsible for managing the deeded open spaces for some time.

Park Improvements Agreement

Please note that the funds from the Park Improvements Agreement will not be available for use until the deadline in the improvement agreement period passes, which is at the end of January 2025. Upon formal default, the City's obligation will be to complete specified park improvements and redress deficiencies in standards using the funds available. We are developing a scope of work to complete park deficiencies and will be in contact with the HOA president if there are any choices or options. Unfortunately, reimbursing the HOA for costs to maintain the parks while it was still the developer's responsibility to improve them is not a permitted use of the funds under the terms of the Parks Improvement Agreement. The City did not ask the HOA to take on that maintenance work. The need for the maintenance resulted from the developer's inaction, rather than any decision by the City. Because the developer was still within the contractual window to perform, the City had no recourse against him for a lack of action at the time. However, it is possible that the HOA would have a claim against the developer for these costs.

Stormwater Infrastructure Management

Regarding the stormwater system, the City is responsible for managing the infrastructure within the right-of-way, while private property owners are responsible for managing stormwater from the subdivision development outside the right-of-way. This is standard practice across the state and country.

The City's Stormwater Utility met with the HOA in March 2024 to discuss erosion issues at an outfall in the park. The Stormwater Utility has worked with the developer's representative, who addressed the erosion promptly. Additionally, the HOA was provided with a template for the Stormwater Facility Maintenance Covenant and Access Easement, as referenced in the Improvements Agreement.

Moving Forward

In summary, the City is dedicated to addressing these issues within our authority and working to ensure that Invermere residents can fully enjoy their parks and open spaces. Our next steps are as follows:

1. To sever the developer's involvement in the Invermere Subdivision's parkland improvements.
2. To utilize the bond funds to bring the park improvements up to standard.
3. To ensure there are no unpaid balances for necessary public utilities.
4. To provide a "clean plate" for the HOA and residents to manage and enjoy the parks and open spaces.

Finally, you may be interested to know that I have directed my staff to review Mr. Lemm's practices regarding development obligations across the city. If that review reveals a pattern of significant shortfalls, the City may take appropriate action against him, which could include revoking his business license and eliminating his ability to do work in the City. While this may not provide immediate relief, please know that we take your complaints seriously and are actively addressing them.

Contact Information

I understand that I may not have addressed every question you raised, but I hope this letter offers some clarity. If you'd like more background, an explanation of City code or subdivision regulations, or have additional questions about the Invermere Subdivision's parks, please feel free to contact David Selvage, Associate Director for Park Systems & Services, at:

Email: selvaged@ci.missoula.mt.us

Phone: 406-552-6252

Thank you again for your engagement on this important matter. We remain committed to collaborating with the residents of Invermere to ensure that the parklands and open spaces are well-managed and maintained.

Sincerely,



Andrea Davis
Mayor

Cc: Stacey Anderson, City Council Ward 5
Bob Campbell, City Council Ward 5
Jean MacDonald (Via Email)
Harry Northey (Via Email)