

## Plat, Annexation and Zoning Committee Minutes

September 9, 2009

10:05 am – 12:00 pm

Missoula City Council Chambers, 140 W. Pine Street

**Members Present:** Bob Jaffe (Chair), Ed Childers, John Hendrickson, Dick Haines, Marilyn Marler, Renee Mitchell, Stacy Rye, Dave Strohmaier, Pam Walzer, Jason Wiener,

**Members Absent:** Lyn Hellegaard, and Jon Wilkins,

**Others Present:** Mike Barton, Jen Gress, Laval Means, Roger Millar, Jim Nugent, Olivia Riutta, Tom Zavitz and Shelley Oly

### I. Approval of Minutes

August 26, 2009 not available

September 2, 2009 not available

### II. Public Comment on Items not on the Agenda

### III. Staff Announcements

### IV. Consent Agenda Items

- A. Appoint one member to the Design Review Board ([memo](#)).—Regular Agenda (Kelly Elam) (Referred to committee: 08/24/09) (**REMOVE FROM AGENDA**)

**MOTION:** The Committee recommends City Council appoint Ron Johnson to the Knowledge and Interest position on the Design Review Board for a term commencing September 1, 2009 and ending August 31, 2010.

The Committee interviewed two candidates, Mr. Don Sims and Mr. Ron Johnson, for the knowledge and interest position to the Design Review Board (DRB).

#### Don Sims

1. Mr. Sims stated that he had a minor degree in History from the U of M and a Masters Degree in Planning from Eastern Washington University. He noted that he knew quite a lot about graphic arts, including software background in GIS and Photo Shop. Mr. Sims lived in Missoula off and for nearly 9 years and felt he could contribute with regard to the architectural and cultural heritage of Missoula. He also talked about the railroad being an important aspect of the city and the advantage of bringing back the southern Amtrak routes.
2. Mr. Sims noted the difficulty of discussing this issue without addressing bulb-outs. He thought the design challenge was in managing the combination of pedestrian, automobile and bicycle traffic without making any one of those groups uncomfortable. He felt that Missoula was pushing to improve pedestrian and bicycle access and that this would be a continuing trend.
3. Mr. Sims stated that Missoula was doing a pretty good job with signage, with the exception along North Reserve Street. He felt that in that particular area the signage was geared toward automobile traffic, being large enough to observe from within a car. He added that in the Downtown area the signage was smaller and more appropriate to pedestrians.
4. Mr. Sims stated that he was not familiar with either the Board or current ordinance.
5. Mr. Sims stated that he would be content with alternate position.

#### Ron Johnson

1. Mr. Johnson stated that he was a lifelong Missoula resident and had previously served on the Design Review Board. He had a degree in Art and, lives in the historic district in a restored a Gibson house. He further noted that in the past many DRB members have not been able to attend meetings, which often created the absence of a quorum. He said that he would be content to serve as an alternate and thus help guarantee a quorum for meetings.
2. Mr. Johnson felt that there needed to be better criteria established in order for the DRB to function more effectively. He noted that electronic signage and the way that technology was used in it was

now a big issue. He stated the need for balance was between those who knew signs and those who wanted the most flash on the signs and the need for input by sign-builders as to how their signs are sized and used.

3. Mr. Johnson said that for the most part advertising signage in Missoula was quite good and getting better and more creative, showing originality without huge flash. He did add, however, that he felt there were too many signs along the major arterials, such as North Reserve Street. He recommended keeping signs in clusters and posting directions to those areas or businesses, thus eliminating the need for larger signs along the major roadways.
4. Mr. Johnson explained that he was familiar with the DRB, having served on it for fifteen (15) years. He stated familiarity, but not expertise, with the current sign ordinance. With regard to desired changes he discussed the status of Board members as volunteers and that felt that the applicants should have any and all problems solved prior to coming to the DRB. He added that the Board members are the last step in the approval process and should not be working directly with clients or applicants. He also stressed the importance of better cooperation between Board members and staff.
5. Mr. Johnson stated that for the most part his prior service was enjoyable. He felt that the lack of legal representation on the Board made it difficult when applicants brought attorneys into the application process. He also suggested that current DRB members should have more influence in the appointment of new members and reappointment of current members. Mr. Johnson also stated that he would be willing to serve as an alternate.

Ed Childers asked why the term expiration for this position was August 31, rather than the December 31 expiration date for all other DRB positions. Chair Jaffe suggested this might be a clerical error and offered to contact staff for the purpose of changing the term expiration date to make it consistent with the others. Jim Nugent recommended checking before any change was made, so as not to violate any existing ordinances. Jason Weiner reported that the existing ordinance does state that term expiration dates will be staggered. Marilyn Marler reported she received an e-mail from the City Clerk who clarified that the term expiration date of this position should be December 31, 2012.

Ms. Marler moved that the Committee recommend City Council reappointment of Ron Johnson to the knowledge and interest position of the Design Review Board.

The vote passed unanimously. This item will go on the Consent Agenda.

## **V. Regular Agenda Items**

- B.** Appoint one member to the Historic Preservation Commission an "At Large" position for the term commencing immediately through December 31, 2012, and appoint one member to the Eastside sector for the term commencing immediately through December 31, 2011 ([memo](#)).—Regular Agenda (Kelly Elam)  
(Referred to committee: 08/24/09)(**HELD IN COMMITTEE**)

Chair Jaffe reported that there were no applications at this time for the "At Large" position on the Historic Preservation Commission.

- C.** An [ordinance](#) repealing Title 19 Zoning Code in its entirety and adopting Title 20 Missoula City Zoning Ordinance and an [ordinance](#) repealing Title 2.84, the Historic Preservation Committee in its entirety. ([memo](#)) ([PAZ](#)) ([Staff Report](#)) ([Potential List of Issues](#)) ([Title 20 Discussion](#)) —Regular Agenda (Laval Means) (Returned from Council floor: 06/22/09) (**HELD IN COMMITTEE**)

Mike Barton stated that the OPG staff had compiled a list of technical changes that needed to be made in Title 20 in concert with Public Works. He added that there were eight recommended changes by Public Works. All the changes were consistent with the State statutes and the American's with Disability Act (ADA). Mr. Barton suggested that the Committee adopt these changes as a package and if there are any problems with any of the changes that staff would be available for further discussion.

Chair Jaffe asked to go through more of the major changes in the second document:

- One correction was to change the purpose in the industrial district to incorporate the allowance for residential.

- Language was added that affected the transition from Title 19 to Title 20 in terms of existing CLBs. The existing CLBs are handled by overlays but would not be handled that way in the future. The current CLB zones would be grandfathered into Title 20. If a CLB was approved but not developed within a five year period it would fall under the new ordinance.
- Bay windows do not extend into the basement and this revision was intended to be consistent with the new definition.
- Recommendations from the Public Works department about parking are included to be consistent with the ADA and Title 12. The method for counting parking spaces for Health Clubs is archaic and so the consultant provided staff with a more appropriate method which was one space per 200 square feet. There was much discussion about the health club parking requirement. Some committee members felt there should be an analysis of a number of health club parking areas to determine whether more parking spaces were needed because each health facility's requirements are different. Mr. Barton stated the best course of action would be to strike the health club section and rely on the general calculation for 'sports and recreation participant' uses.
- There was no definition for casinos in the state law or the zoning ordinance. Mr. Barton replied that there was a proposed definition in Title 20. Ms. Means explained the definition was on page 20.105-9 under "Sports and Recreation Participant" and was considered under the Use Classification chapter. Mr. Barton stressed that this recommendation addressed average demand and not peak demands for parking.

Stacy Rye made a **motion** to strike the health club parking calculation from Title 20. The motion passed unanimously and would go under the consent agenda.

Mr. Childers' concern was whether ADA van parking spaces needed to be signed, if businesses, primarily small business, could share accessible signed parking spaces and if there were proper access to those parking spaces. Chair Jaffe asked if there was any conflict with zoning code allotting so many spaces. Mr. Barton stated OPG was attempting to be consistent with Title 12 and ADA compliant. If this issue needed to be explored further it should be done in Title 12. Chair Jaffe asked if there was a timeline expectation for Title 12. Mr. Barton replied Title 12 was currently under review.

- The window signs revision is based on past PAZ discussion. Laval Means stated there was a permanent window measurement technique in the sign chapter for window area for each individual pane.
- The theater change was to be specific about the coverage of those signs as opposed to the dynamic displays. Mr. Hendrickson asked why dynamic signs were crossed out. Ms. Means stated it was more consistent to address dynamic display under one section. Chair Jaffe explained dynamic signs are not being denied for theaters. The signs just need to fall under the dynamic display rules. Ms. Walzer recommended striking the entire parenthesis in reference to manual displays as well. Mr. Barton stated the proposal could be revised.
- There are language changes and citations under the Lapse of Approval section made by Planning Board that was missed in this draft, so now corrected.. A definition of subsidized housing was added that was consistent with the definition in the current ordinance and the final change was a clarification in regard to principal and secondary structures.

Mr. Barton went over the revisions under the first document Attachment B:

- ✓ First revision was a reference added to the statutes.
- ✓ Second revision had footnotes deleted from the uses section in residential districts.
- ✓ Third revision corrects an inconsistency that Planning Board had pointed out that refers to the table on the following page, the revisions were made.
- ✓ Fourth revision made regulations for unzoned lands that are consistent with the change of height measurement calculation that had been made by Planning Board plus the interior setbacks.
- ✓ Fifth revision has to do with the vagueness of the word *unreasonable*. Ms. Walzer wanted to make sure this term was deleted from any other location in the ordinance.
- ✓ Sixth revision clarified how the rules on non conforming lots applied to certain dates after which non-conforming lots in common ownership were split.
- ✓ Seventh revision was a change that made Title 20 consistent with Montana statute.
- ✓ Eighth revision dealt with conditional uses and based on an understanding of how other jurisdictions operate, the change was to have City Council review conditional uses.

Renee Mitchell asked about two principal residential buildings, one behind another. She asked if the rear house was not subject to rear setbacks requirements then would the principle house be allowed to be on the lot line. Mr. Barton stated according to this document it would, but he suggested striking the sentence.

- ✓ Ninth revision clarified how the request for a zoning compliance review could be conducted.
- ✓ Tenth revision clarified that the Missoula Redevelopment Association (MRA) and the Design Review Board (DRB) may appoint representatives as oppose to have one of their own members serve on the Historic Preservation Commission (HPC). He added under this revision the Operations section 6 would stay consistent with the current practice.

Stacy Rye made a **motion** to adopt the staff recommended changes as amended as a complete package. The vote was unanimous and would go under the Consent Agenda.

Dave Strohmaier stated that he has no suggested amendments for the section labeled Cluster and Conservation. He pointed out that a constituent wanted a clearer explanation from staff between the differences of cluster and conservation options and what incentives there might be for a developer to choose one option over another. Laval Means pointed out that this section is described in a number of places in Title 20. The first place was in Chapter 5 under Residential and again in Chapter 20 under Open Spaces and Public Districts. It was mentioned as general descriptions in both chapters as well as a separate set of standards in their lot and building standard tables. There are two different types of options that are available in certain zones within some residential districts and a couple of open space districts. There is also a Chapter 55 that provides the purpose, standards, and management requirements for Cluster and Conservation. She noted that if someone was pursuing the idea of a cluster and conservation option it would typically appear as a subdivision. The proposal was to review Chapter 55 in this draft. The intent was for this chapter to ultimately appear in the subdivision regulations with the appropriate cross references.

She added that the Planning Board has reviewed this chapter. Staff proposed to eliminate the current cluster options in Title 19. Ms. Means reviewed the options that are currently in the existing Title 19:

- ❖ There is a general ability to cluster in Title 19, in the large lot zoning districts as the OR, SRR, LSR and RD's to have flexible lot sizes but not change density.
- ❖ The cluster option does not change the density but allows varying the lot sizes and is available to the existing districts.
- ❖ The cluster option would require 30% of open space be set aside. Parkland dedication would be part of the 30%.

Chair Jaffe asked about the map for the Southside RiverFront overlay. Ms. Means stated because the neighborhood overlay are being viewed as specific neighborhood character overlays the Southside RiverFront as well as the Boulevard Overlay maps will be added into the document.

Marilyn Marler explained that she would draft up a referral about the riparian issues at a later date.

Chair Jaffe asked about the PUD's. Mr. Barton stated that the references within the special districts would remain in Title 19. That is one of the reasons the City Clerk suggested having a different title and archiving the old title.

Ed Childers asked what would happen legally if the committee passed the rewrite. Mr. Nugent suggested changing the language of the motion to put in some acknowledgment of Title 19 rather than appealing Title 19. In case there was some adverse action to the law suit Title 19 would be held in abeyance in order to provide for a smoother transition to re-institute it, if the need arose. Mike Barton replied normally when an ordinance was adopted an additional severability section was added to the motion stating "that if any portion of this is stricken the rest of the ordinance would remain in affect." Mr. Nugent replied he did not know what the court order might state and instead of repealing Title 19 it should be temporarily suspended. There was much debate over delaying or approving the motion. Mr. Barton reminded the committee that the City of Missoula was under contract for a process that includes the zoning revision but also the subdivision regulation and the whole process was supposed to be completed in November 2009. Members discussed the possibility of bringing it to the floor on September 28, 2009 or October 5, 2009 and decided to discuss this at their next PAZ meeting. Chair Jaffe asked members to bring forward any

lingering questions by this Friday, September 11, 2009 in order to wrap up discussion by Wednesday, September 16, 2009.

## **Items to be Removed from the Agenda**

### **VI. Held in Committee or Ongoing in Committee**

1. Annexation. (see separate list at City Clerk's Office for pending annexations) (Ongoing in Committee)
2. Update the Rattlesnake Valley Comprehensive Plan Amendment ([memo](#)).—Regular Agenda (Dave Strohmaier) (Referred to committee: 04/02/07)
3. Discuss council's interest in pursuing a negotiated settlement over disputed trail conditions for Clark Fork Terrace No. 2 Subdivision ([memo](#)).—Regular Agenda (Mayor Engen/Jim Nugent) (Referred to committee: 02/25/08)
4. Request to rezone the property legally described as Lot 3 of Scott Street Lots Subdivision, located in Section 16, T13N, R19W, P.M.M. form D (Industrial) to I-1 (Light Industrial), based on the finding of fact and conclusions of law. (PAZ [05/21/08](#)) (Returned from Council floor: 6/2/08)
5. Correct the conflict in the height calculation regulations, between written language (a building envelope shall be established by showing the maximum vertical height allowed by zoning from finished grade) and the drawing on [page 151](#) of the [Zoning Ordinance](#).—Regular Agenda (Ed Childers) (Referred to committee: 3/27/06)
6. Ongoing discussion of City planning issues with members of the Planning Board.—Regular Agenda (Bob Jaffe) (Referred to committee: 3/20/06)
7. Discussion on assuring the currency of growth policy amendments ([memo](#))—Regular Agenda (Dave Strohmaier) (Referred to committee: 09/08/08)
8. Consider an interim emergency ordinance for proposed amendments to the City Zoning Ordinance, Chapter 19.90 Signs ([memo](#)).—Regular Agenda (Tom Zavitz) (Referred to committee: 12/15/08)
9. Consolidated Public Review Draft of the Missoula City Zoning Ordinance submitted by Duncan Associates to the Missoula Consolidate Planning Board for its review and recommendation ([memo](#)).—Regular Agenda (Roger Millar) (Referred to committee: 02/09/09)
10. Discussion of OPG's [task list](#) and workload ([Urban Initiatives work plan](#)).—Regular Agenda (Mike Barton) (Referred to committee: 06/12/06)
11. Develop policies and procedures regarding ag land mitigation ([memo](#)).—Regular Agenda (Lyn Hellegaard) (Referred to committee: 06/01/09)
12. [Petition 9438](#)—City of Missoula, 300 Fort Missoula Road commonly known as Fort Missoula Park, Tract B, Certificate of Survey No. 4826 located in the northwest one-quarter (NW 1/4) of Section 31, Township 13 North, Range 19 West and the northeast one-quarter (NE 1/4) of Section 36, Township 13 North, Range 20 West, Principal Meridian Montana. SUID 5908116 Geocode 219936101060000; Petition for Annexation (Referred to committee: 08/24/09)

### **VIII. Adjournment**

The meeting adjourned at 12:05

Respectfully Submitted,

**Shelley Oly**  
Administrative Secretary  
Office of Planning and Grants

***The recording of these minutes is available in the City Clerk's Office (for up to three months after approval of minutes). These minutes are summary and not verbatim.***