

Plat, Annexation and Zoning Committee Minutes

May 05, 2010

10:05 am – 12:00 pm

Missoula City Council Chambers, 140 W. Pine Street

Members Present: Bob Jaffe (Chair), Ed Childers, Lyn Hellegaard, Roy Houseman, Dick Haines, Marilyn Marler, Renee Mitchell, Dave Strohmaier, Pam Walzer, Jason Wiener, and Jon Wilkins.

Members Absent: Stacy Rye

Others Present: Gary Bakke, Jen Gress, John Hendrickson, Ruth Link, Rick McCool, Laval Means, Roger Millar, Jim Nugent, Tim Worley and Shelley Oly

I. Approval of Minutes

[April 28, 2010](#) approved or denied as presented.

II. Public Comment on Items not on the Agenda

III. Staff Announcements None

IV. Consent Agenda Items

- A. Approve the proposed adjustment to the Grove Street Addition plat subject to the amended conditions of approval as shown in [Attachment J. \(updated memo 4/30/09\) \(memo\) \(PAZ\)](#) (Returned from Council floor:05/03/10) **(REMOVE FROM AGENDA)**

MOTION: The Committee recommends that the City Council approve the proposed plat adjustment and condition amendment for the Grove Street Addition plat subject to the amended conditions of approval as shown in [Memo Attachment 2](#) dated May 5, 2010.

Tim Worley explained that subsequent to committee discussion, the applicant submitted a request to delete the requirement for residential sprinklers in the new homes (Attachment B). In 2005 when the subdivision was reviewed, a Mountain Water main had not yet been installed in Grove Street. The water main has since been installed, and a fire hydrant has been added adjacent to Lot 4 in the subdivision, providing a water supply for firefighting. In addition to the new request regarding the sprinkler condition the applicant has also requested that the plat adjustment condition of approval requiring driveway abandonment prior to building permit approval be amended to require abandonment prior to Certificate of Occupancy.

Mr. Worley presented a [power point presentation](#) and stated the access abandonment needed to happen prior to the building permit closeout. The Certificate of Occupancy would be approved until the driveway was abandoned. He explained that another issue was the fire sprinkler requirement. The hydrant installation would eliminate the need for residential fire sprinklers, so the other issue was a request for the deletion of the fire sprinkler condition. The Fire Marshall supported the hydrant as a legitimate water source for fire fighting. Mr. Worley further explained staff recommended approval of the plat adjustment and changing the wording to abandonment of the driveway prior to closeout. He also recommended deleting Condition #4 because the hydrant provided an adequate water supply for firefighting.

Chair Jaffe asked where the Certificate of Occupancy fit into this process. Mr. Worley replied the Certificate of Occupancy makes sure that everything in a constructed home has been completed and that there are no “red tags”; these are items left open regarding that particular permit. In this case even if the driveway was not abandoned but the home was completed the ‘red tag’ that would be left would be that the driveway still needed to be abandoned.

Chair Jaffe asked what the significance was for not receiving the Certificate of Occupancy. Mr. Worley replied the Certificate of Occupancy makes the house more saleable the next time.

Rick McCool stated he was the builder and pointed out that if there are red tags or a Certificate of Occupancy cannot be obtained then lenders would not lend any money until those documents were in place. So before the property will sell there needs to be a Certificate of Occupancy in place. The driveway will be taken away and all will be made right.

Chair Jaffe indicated that no one has any objections as long as the corrections get taken care of and it is coordinated with the construction schedule. He felt that the Certificate of Occupancy and the fire sprinkler requirement should be incorporated into the boiler plate language. Chair Jaffe suggested that the title search become apart of the Certificate of Occupancy process during the home buying and home selling process

Councilwoman Walzer wondered whether there was a letter from the Fire Inspector. Mr. Worley stated there was one in hard copy and this would be sent electronically also.

Councilman Childers asked what constitutes abandonment of the driveway. Mr. Worley explained abandonment that the concrete needed to be taken out and backfilled with soil and a new curb line needed to be established where the concrete has been taken out.

Chair Jaffe asked if one of the requirements was a no access strip. Tim Worley replied the applicant brought that up as a possibility but that would entail coming up with extra documents such as easements or plat attachments that would then need to be recorded at the Clerk and Recorder's. The more realistic approach would be to physically abandon this access point rather than to go with the no access strip option. Then once the rear access for the garage is obtained then there would be no possibility for any access off of Grove.

Chair Jaffe asked for comments from the business community to speak to the title search and checking for the Certificate of Occupancy. Ruth Link stated she would research that answer and also research the conversion from a construction loan to a conventional or standard loan for mortgages.

Councilman Wilkins made the motion to accept the plat adjustment and condition amendment that the OPG staff brought forward for the Grove Street Addition.

The vote was unanimous and would go back on the Consent Agenda.

B. Consider a resolution of intention to adopt amendments to the City of Missoula subdivision regulations revising Articles 1 through 9. ([memo](#)).—Regular Agenda (Laval Means) (Referred to committee: 05/03/2010) (REMOVE FROM AGENDA**)**

MOTION: The Committee recommends that the City Council adopt a Resolution of Intention to adopt the revised City Council Draft of the City Subdivision Regulations Articles 1 through 9, dated April 30, 2010 as amended by the Planning Board and set a public hearing for June 7, 2010.

Laval Means stated that the intention was to set a public hearing and adopt the Resolution of Intention to adopt the amendments to the City Subdivision Regulations, specifically the revision of Article 1-9. Ms. Means stated there was a summary of the amendments in the packet that was sent out to the committee. She explained that this was the final phase of the overall contract with Duncan Associates to review and update the development regulations. The Planning Board had reviewed the Subdivision Regulations and made amendments, and the amendments were incorporated into the document. Ms. Means suggested the first possible date for the public hearing was June 7, 2010. She also mentioned the last update for the revisions of the Subdivision Regulations was the April 30, 2010 update.

Ms. Means provided salient points of the Subdivision Regulation revision:

- These revisions are specific in theme and intended to focus on the following themes of amendments.
 - Align with recent revisions to the City Zoning Ordinance.

- Address 2009 State Legislative changes.
- Continuity between the County regulations and applications where possible, the benefits of which are consistency between City and County projects and for projects that might transfer over.
- Minimal maintenance from staff recommendations and agency comments.
- This document was not a restructuring like Title 20, this is a revision proposal as one can see with the strike through and underlines.

Councilman Haines wondered if a hard copy could be provided concerning the maintenance areas and where they were located in the regulations. Ms. Means stated that could be done.

Councilman Weiner made the motion to adopt the Resolution of Intention and set the Public Hearing for June 7, 2010.

John Hendrickson mentioned that the MBIA had concerns with the discrepancies of the ditches in the riparian areas.

The vote was unanimous and would go on the Consent Agenda.

C. Update and motion to forward the proposed Title 20 amendments to Planning Board for their consideration and recommendation regarding the corrections to the Title 20 Zoning Ordinance ([memo](#)).—Regular Agenda (Tom Zavitz and Laval Means) (Referred to committee: 05/03/2010) (REMOVE FROM AGENDA)

MOTION: The Committee recommends the City Council forward the proposed amendments to Title 20 to the Planning Board for its consideration and recommendation.

Tom Zavitz stated that the intention of this revision package was to become an annual maintenance package for Title 20. This maintenance package contained 50 items that were mostly clarifications and omissions that arose through use of the document by the OPG's permit staff, architects and other interested parties. Mr. Zavitz stated this revision package was sent out to 500 interested parties for comment.

Mr. Zavitz explained the excel spreadsheet and how it was set up. The section number was at the far left, the issue or problem was the middle column and far right column was how staff resolved the issue and used the language from the documents with underline and strike out. He gave examples of this:

- ✓ The **section** was located in the Parking chapter 20.60-18. The **problem** was changing the gross floor area calculation for commercial buildings to calculate the square footage to be used in parking calculations. The **revision** was to exclude the utility areas such as staircases, restrooms and usable floor area and then increase the square footage in the individual parking standards to make up the difference lost by simplifying the gross floor area calculation method by 20%.
- ✓ The **section** was located in the Parking chapter 20.60-5 financial services. The **revision** adjusts the parking calculation numbers by increasing them 20 %.

Chair Jaffe stated there were some types of business that needed a greater ration of utility areas. Mr. Zavitz agreed that would be some variations. Councilman Childers asked if this would result in more or less parking spaces. Mr. Zavitz explained this revision would result in a similar amount of parking spaces as was in Title 19.

Councilwoman Walzer asked if there were any solutions that were not acceptable. Mr. Zavitz replied that if the issues arose from a policy or context issue such as snout houses, this would be separated from the maintenance packet and addressed at another time.

Her question stemmed from a technical aspect that allowed the City Engineer control to decide whether someone could put in a driveway when an alley access already existed. This process usually went before the DRB and the process would then be determined by their members.

Ms. Means replied that this was a valid point and an example of some of the decisions the committee would be voting on. However, the new regulations in Title 20 required that all driveways be off the alley way if there was one.

- ✓ The example is located in the Parking chapter 20.60-19, parking calculation number for an indoor go cart tract. The **problem** was no parking calculation for this type of use intensity. The **revision** was to add some new parking standards for uses that are not currently covered such as construction sales and services and nursery greenhouse detail.

Mr. Zavitz explained some issues were reorganized to make them logically ordered. Another type of item listed here would be Councilwoman Hellegaard's issue with not allowing permanent window signs on exterior windows. Temporary windows signs should be allowed so that section was changed accordingly.

Chair Jaffe asked about allowing taxi's used in commercial signage. Mr. Zavitz stated this issue fell under the Terminology heading in Title 20 which stated that commercial signs were not allowed on taxi's when they should have been allowed.

- ✓ This item was located Under Non Conformities #36. The **problem** was trying to standardize lot area districts in some of the larger lot districts. The **revision** was to allow projects that had been through the Subdivision process and that had been non-conforming under the new ordinance.

Councilwoman Walzer asked about 2 contiguous lots issues that were established before Title 19. Ms. Means stated these subdivision regulations addressed more current subdivisions. Roger Millar clarified this by explaining the lots that were created originally in earlier subdivision were created before there was zoning in the City. The problem appeared when people tried to apply modern zoning to those earlier lots. With Title 19 there was no minimum lot size. The revision was for each subdivision developed the understating was that each lot would have a house on it.

- ✓ This item was located under the Use and Building Specific Standards #12. The **problem** was townhouses being subject to the standard lot size instead of having a no minimum lot size. The **revision** was that Title 20 should include the Title 19 standard for townhouse minimum lot sizes.

Councilman Strohmaier asked when Title 19 came into affect. Mr. Millar stated the last change was in 1972

Mr. Zavitz explained that the memo outlining how well Title 20 was working. He stated that the OPG permit's staff had been using this document for six months now and felt it was very user friendly. He remarked that much of the language was in black and white instead of in opinions. The items that are new to the ordinance are accessory dwelling units, several conditional uses, and the administrative allowance process.

Councilwoman Marler made the motion to forward this maintenance package with revisions to the Planning Board.

Councilman Weiner asked when the discussion regarding the discarded language during the rewrite would be brought up. Mr. Millar replied it would be better to write a separate referral for this item or any other issue of substance that was too controversial so that the constituency could be present at future meetings.

Councilwoman Walzer asked a list could be generated so that the committee members were kept apprised of those issues. Ms. Means stated that could be done.

Chair Jaffe wondered how the interpretations in Title 19 would be handled. Mr. Zavitz replied there was a list of interpretations already being initiated in the OPG permit's division. The OPG permit's staff would be keeping a running list. Mr. Millar stated the goal of Title 20 was to abolish the many

interpretations needed in Title 19. When interpretations come up those issues can be set aside and made apart of the annual maintenance packet or be defined in a zoning officer opinion.

Councilman Strohmaier wanted to make sure that Title 20 stayed a comprehensive document and not to the way of Title 19. Mr. Millar stated the reason Title 20 would stay a comprehensive document was because there was a systematic review and maintenance procedure and Title 19 had no systematic review or maintenance procedure.

The motion passed unanimously and would go on the Consent Agenda.

V. Regular Agenda Items

VI. Items to be Removed from the Agenda

VII. 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. 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)
4. Discussion of OPG's [task list](#) and workload ([Urban Initiatives work plan](#)).—Regular Agenda (Mike Barton) (Referred to committee: 06/12/06)
5. Ongoing discussion of City planning issues with members of the Planning Board.—Regular Agenda (Bob Jaffe) (Referred to committee: 3/20/06)
6. Discuss the implications of the Sonata Park court case ([memo](#)).—Regular Agenda (Bob Jaffe) (Referred to committee: 03/08/10)

VIII. Adjournment

The meeting adjourned at 11:10 am

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.