

## Plat, Annexation and Zoning Committee Minutes

May 12, 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:** Jen Gress, Warren Hampton, Mary McCrea, Laval Means, John Newman, Jim Nugent, Janet Rhoades, and Shelley Oly

### I. Approval of Minutes

May 5, 2010 approved as presented.

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

### III. Staff Announcements

### IV. Consent Agenda Items

A. Consider a proposal to add sub-section C, “Subsidized Development”, to Section 20.05.040 “Development Options” amend Title 20, the city’s zoning ordinance and forward to the Planning Board for consideration ([memo](#)).—Regular Agenda (Bob Jaffe) (Referred to committee: 05/10/2010) **(REMOVE FROM AGENDA)**

**MOTION: The Committee recommends that City Council forward this proposal to Planning Board for their consideration and added a new sub-sectioned to 20.05.040 Development Options, titled Subsidized Development (three or more dwelling unit project).**

Chair Jaffe stated the background for this referral corresponded to the meeting that was held at the First Interstate Bank to talk about building more affordable housing, the financing of condos and the problems with building attached housing and how to make it work better. There was a follow up meeting that led to discussions about regulatory changes. This proposal touches on the issue of detached housing and the way to create opportunities to create more affordable detached housing. One of the problems in the past has been not connecting the regulatory tools that were created with affordability. He wanted to offer something that eases some of the regulations for projects where developers are building affordable housing. A suggestion from staff was to tie the density bonus to the monetary subsidy, because the monetary subsidy from HUD comes with additional regulations such as area median income, targeting and rules on length of time the property has to stay that way. So the nature of the proposal is to offer when a project is a minimum 50 % subsidized density bonus of 20 % is allowed as well as a relaxing of interior set backs between buildings and minimum parcel size. Chair Jaffe stated a number of issues raised were:

- Suggestion that there be a sliding scale, creating a formula which would allow the density bonus to be reduced if the amount of subsidy was reduced.
- Subsidies should not be offered unless tied to permanent affordability such as land trust or deed restriction.

The floor was open for discussion:

Councilwoman Hellegaard wanted to see a presentation of getting some written information on the restrictions and regulations within HUD. She wanted to know how the HUD money could be

spent more wisely and use up the existing stock of houses already on the market or possibly using HUD money as seed money to help finance condominiums. Ms. Hellegaard felt this needed to be a broader discussion topic to see how the subsidized money is being spent overall and would submit a separate referral.

Roger Millar stated that he would research this and bring back more information.

Councilwoman Walzer thought this was a good idea but wanted to know how the developer could guarantee affordable housing outside of HUD with deed restrictions or a land trust. Mr. Millar stated the best way to accommodate this would be to send this to Planning Board and encourage the community housing development organizations to comment and provide options and optional language.

Councilman Haines wanted to see the City set some kind of a threshold for the people we are trying to help. He asked three questions, what percentage of a homes asking price should be subsidized, what is the end result and how many people are getting subsidized houses? Mr. Millar replied when the Affordable Housing Resolution was passed there was a lot of this information available. The median income family in Missoula can afford 160 thousand dollars and the median house is about 209 thousand dollars so the subsidy is close to 50 thousand dollars to get the median income family into the median priced house. He explained that 75% of the constituents in Missoula can not afford a median income home. Currently people want to rent rather than purchase a residence or condominium. The question is how to get a developer to build something and manage the property instead of selling it. Mr. Millar stated that OPG has partnered with MOR on their housing report and much of this information is available there. OPG also prepares a report to HUD on an annual basis and Nancy Harte can present this information to the council.

Marilyn Marler **made** a motion to forward this proposal to the Planning Board.

There was much discussion on this topic:

- Wanted to be sure that the past does not repeat itself. Councilman Wilkins did not want to see existing lots become smaller or degrading the older homes. Councilwoman Marler stated this was applicable to areas that were zoned as multifamily housing already. She felt it would be important to hear what the MBIA would have to say about this.
- Chair Jaffe stated one of the concerns that came out of that discussion as a change that needed to be done was to get rid of the minimum lot size for the town homes. The Title 20 Maintenance Amendments already addresses that concern and include a proposal to reinstate the language from Title 19 about no minimum lot size for townhouses.
- Would like to see this as an open ended idea so people can be a part of the solution and offer suggestions.
- Detached housing is more complicated trying to allow for smaller lot development.
- The changes are the 20% density bonus and smaller interior setbacks and no minimum parcel size.
- It would be helpful at Planning Board to have a mock up to show a hypothetical situation.
- Has a subcommittee been considered before taking this to Planning Board? There has been an informal subcommittee with developers and bankers and administration on finding out what is out there and what could be done. The outcome was what could be done about the process of moving projects through and a desire for a more efficient means to get a project up to speed.

John Hendrickson stated that the MBIA would be at the table to help offer additional language and ideas.

The vote to forward this to Planning Board passed unanimously and would go on the Consent Agenda.

## **V. Regular Agenda Items**

**A. Consider a request for a “Religious Assembly” conditional use for property located at 202 Brooks Street (St. Paul’s Lutheran Church) and zoned RM1-35 Residential / NC-B Boulevard Neighborhood Character Overlay Zoning District ([memo](#)).—Regular Agenda (Janet Rhoades) (Referred to committee: 05/10/2010) (REMOVE FROM AGENDA)**

Janet Rhoades gave a power point presentation on the conditional use for St. Paul’s Lutheran Church. Title 20 states that conditional uses are now being brought before City Council instead of going before the CiBOA as was the case in Title 19. This is a pre-public hearing item with the public hearing held on Monday, May 17, 2010. She stated that conditional uses items do not go before the Planning Board so there are no Planning Board recommendations.

Ms. Rhoades stated a conditional use staff report is similar to a rezoning staff report. The first couple of pages have the same basic information on the site followed by recommended motions, the introduction, applicable zoning regulations, the findings of fact and the review criteria with conclusions of law attached. Ms. Rhoades mentioned that she handed out the list of review criteria to be considered as a reference. She briefly went through only the applicable criteria and the factors to be considered so that council could determine whether the criterion has been satisfied.

Ms. Rhoades presented information about St. Paul’s Church:

- ✓ The property is located near the corner of Brooks and Higgins.
- ✓ The Comprehensive Plan land use designation Plan for the property is residential 16 dwelling units per acre and is across the street from a city center land use designation.
- ✓ The zoning is RM1-3.5 which designates a 3000 square foot minimum parcel size.
- ✓ The applicant requested to expand the existing church to provide for additional spaces for religious functions, will be ADA compliant, and provide improved restrooms and new meeting spaces to be used by non profits and other community organizations.
- ✓ Conditional Uses are tied to a development plan so that is why staff asked for more specific information.
- ✓ Staff recommends approval based on the review criteria.

Ms. Rhoades reminded the committee that the public hearing falls on the 3<sup>rd</sup> Monday so the rules will need to be suspended. A two-thirds vote would be needed to suspend the rules and hold the public hearing.

The floor was open for discussion:

Chair Jaffe asked about the three variances that went before the CiBOA. Ms. Rhoades replied that there were three variances that were approved at the CiBOA and with conditional uses the variances have to be approved prior to the approval of the conditional use.

Councilwoman Walzer asked whether there was a vote to set the public hearing. Ms. Rhoades responded that the public hearing did not need to be set by a council vote because this was not a rezone so there is no ordinance; this is just granting a conditional use that is already in the district.

Councilman Strohmaier asked why the public hearing was set for the 3<sup>rd</sup> Monday. Ms. Rhoades replied in order to accommodate the developer, staff schedules and with the holiday falling on May 31<sup>st</sup>, the public hearing needed to be held this Monday or be postponed for a month.

**B. Subdivision report format ([memo](#)).—Regular Agenda (Bob Jaffe) (Referred to committee: 05/10/2010) (REMOVE FROM AGENDA)**

Janet Rhoades introduced the new subdivision report format and went through the layout. Ms. Rhoades stated that most of this was reorganizing that came of some of the litigation that OPG

has been involved in, the planning workshop led by Michelle Brian Mudd about Findings of Fact and from working with the attorneys:

- ❖ The first two pages are the same.
- ❖ The first section is the new background section. The background section will orient the council to the project and as quick reference point.
- ❖ The second section is the findings of fact. In the current staff format the conditions come first then the findings of fact. This will be reversed so the findings of fact will be first with the conditions next. The second alteration with the findings is the addition of citations for all the findings of fact which makes the report more legally defensible.
- ❖ Variance request findings come after the subdivision findings.
- ❖ The motions and conditions of approval are after the findings and unchanged.
- ❖ A new reference cited section which cites all the plans and regulations, the elements of the application packet, agency comment and any attachments cited. The next section is the existing attachment section.

Ms. Rhoades pointed out the other difference in the new report format attachment is the final plat requirements section. The approval is the application packet as amended by conditions so if a condition is not amending the application packet (if it is part of the subdivision proposal) it is placed in a separate final plat requirements section. So what was originally assumed as a condition could no be under the final plat requirement section. This helps staff keep track of requirements at a final plat review. Ms. Rhoades stated if there are questions about the format to contact her.

Councilman Haines felt it would have been useful to link the new subdivision review format to the referral. Chair Jaffe stated there was discussion about issuing this report early however since there was a demonstration document was used instead so that the substance of the project would not be discussed prior to the actual noticed hearing on the project. Ms. Rhoades stated this document could be made available that cited the changes.

There was much discussion on the new subdivision review format:

- Whether there were sufficient findings of fact that were written in the record to support the additional or modified conditions. Mr. Millar stated that the governing body could state that the facts that were used to propose the conditions then staff would have the finding of fact. But staff needs to know what findings of fact the council is relying on to propose those conditions of approval.
- It would be a good idea to be respectfully reminded that council needs facts to follow up. Mr. Millar stated the case planner is the resource for finding the right findings of fact to build this before the council meeting.
- Mr. Nugent stated the need to cite the regulations of the law not just the plans to support whatever is being proposed. The more advanced notice staff has, the more helpful staff will be with compiling the references to the plans to go along with the facts proposed.
- What about the late subdivision proposal that is flawed but needs to be approved immediately? Mr. Millar stated this was a reason we went to the legislature and got additional time for the larger projects so anything over 50 lots is 80 days instead of 60 days.
- The need to change from considering annexation, subdivision and zoning as a package when the law requires only the subdivision decision be made in a certain period of time. Council has the ability to split up the package. Annexation conditions decisions can be conditioned outside of the subdivision process. Other suggestions would be to have an alternate timeline if the developer wants the annexation, subdivision and zoning done as a package. Mutually agree to an appropriate deadline or process the applications in series
- Generally everything is based off of the subdivision decision. Mr. Nugent stated that if doing comparable zoning the annexation and zoning need to be done simultaneously but the PUDs and rezones could be a separate process.
- Council would like to see what the subdivision will look like; and what the zoning will be before considering the annexation.

- The annexation would not continue if the subdivision is denied.
- Would like to get a preliminary design with a conceptual design with the request for annexation with the annexation agreement so that the developer knows ahead of time what is expected to do the final design. Mr. Millar stated that was the value of having a sketch plan process. The best way to do this is neighborhood planning that implements the growth policy and follow it up with zoning.
- Need to understand what a development is about before it is annexed.

## **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 11:25 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.*