

## Plat, Annexation and Zoning Committee Minutes

May 19, 2010

10:20 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(11:30am), Marilyn Marler, Renee Mitchell, Stacy Rye, Dave Strohmaier, Pam Walzer, Jason Wiener, and Jon Wilkins.

### Members Absent:

**Others Present:** Gary Bakke, Mike Barton, Lori Davidson, David Edgell, David Gray, Ruth Link, Dale McCormick, John Newman, Jim Nugent, Janet Rhoades and Shelley Oly

### I. Approval of Minutes

[May 12, 2010](#) approved as presented.

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

### III. Staff Announcements

### IV. Consent Agenda Items

- A. Consider amendments to the Title 20 Missoula City Zoning Ordinance, Chapter 20.110, Section .050 "Setbacks" as shown in Attachment 2 ([memo](#)).—Regular Agenda (John Newman) **(REMOVE FROM AGENDA)**

**MOTION: The Committee recommends City Council set a public hearing on June 14, 2010, on an ordinance amending Title 20, Section 20.110.050 entitled "Setbacks" amending residential garage setback requirements.**

John Newman explained that during the transition of the zoning requirements from Title 19 to Title 20 regarding garage forward design there was dissatisfaction from the building community:

- ✓ An interim emergency zoning ordinance was passed to allow garage forward design and stated that all garages needed to be set back from the street by 20-feet.
- ✓ OPG was directed by Council to draft a permanent solution to the garage setbacks issue.
- ✓ OPG staff worked with the MBIA to draft acceptable language.
- ✓ OPG staff received no adverse comments from reviewing agencies or interested parties.
- ✓ OPG will be revising the diagram in the Measurements and Acceptance Chapter 20.110 that showed houses on corners with a primary and secondary front. The diagram change will refer to side street setbacks instead of secondary fronts.
- ✓ OPG proposed to include a subordinate setback of 20-feet under Front Setbacks and a Stand Alone Garage Setback of 20-feet from the street.
- ✓ Chapter 20.110.050 under Section A Front Setbacks would include a new Subordinate E and under the entire Setback section there is a new Attachment D.
- ✓ Attachment 2 is Planning Board's recommendation to approve the draft amendments.
- ✓ OPG staff recommends setting a public hearing for June 14, 2010.

The floor was open for discussion:

- 1) Councilwoman Marler asked whether MBIA proposed amendments were included in Attachment II. Mr. Newman replied the proposed amendments are the culmination of MBIA and OPG's recommendation. Councilwoman Marler made the **motion** to set the public hearing for June 14, 2010.

2) Chair Jaffe wanted what other aspects of the code provided any protection for more traditional neighborhoods that addressed garage dominated houses. Mr. Newman replied the primary requirement that would protect those types of neighborhoods would be that garages access off of alleyways if alleys are present. Also the additional 20-feet setback would protect any access from the side street.

3) Councilwoman Walzer asked what would happen in established neighborhoods when an older home that had alley access was torn down and a new home was built but had lost the alley access due to boundary line relocation. Councilman Weiner responded that this was either covered by the ordinance or that a variance would be needed. Mr. Newman added that there would possibly be a front yard setback exception.

Councilwoman Rye wondered whether language could be drafted to make this exception "the residential garages that are accessed from the street must be set back 20-feet and may not be located closer to the street than the front façade of the building" a rule rather than an exception. Chair Jaffe stated the committee would set to approve the public hearing and then schedule a pre public hearing the week prior to the public hearing.

The floor was open for public comment.

David Edgell pointed out with the new subdivision regulations would not allow this type of property to exist anymore. However the existing property would access either from the alley or the street.

John Hendrickson gave a brief synopsis of MBIA's process. He concluded that MBIA had no problem with the edited language from OPG. He stated the alley load rule plus the 20-foot setback rule would addressed the older neighborhoods plus. He pointed out that snout houses created diversity in neighborhoods and better affordability.

David Gray stated that neighborhood character overlays are one of the best parts of the Code Ordinance. He felt that it would behoove the Council not to impose ordinances that apply to an entire city to specific neighborhood characters. We would have more clarity and less conflict in the code overall if the character of a neighborhood was not preserved in a general ordinance but a character overlay for that district.

The **motion** to set a public hearing for June 14, 2010 was approved unanimously and would schedule a pre public hearing meeting to discuss and formulate language revisions.

4) Chair Jaffe wondered whether the public hearing language could be amended to make it more restrictive. Jim Nugent asked if it was proposed in the current legal ad. John Newman replied that additional language would be adding a restriction to the current legal ad. Mr. Nugent replied that as long as the public was notified in advance of the public meeting that the advertised item was subject to alternative language. Mr. Newman stated he could submit another legal notice stated the proposed item was subject to revision. Councilman Weiner stated the legal notice could be advertised as a midway between the old rule and the proposed rule. Councilman Strohmaier stated that is was not uncommon to post proposed amendments to the agenda item between the time the public hearing was set and the actual meeting.

Councilman Wilkins **made** a motion to reconsider the motion to set the public hearing until there are further discussions concerning the amendments.

Chair Jaffe wondered how to proceed because the motion passed unanimously. Mr. Nugent replied the reconsideration would take a two thirds vote.

Councilwoman Marler pointed out that generally the public that attends public hearing meetings generate a lot of comments and participation. Councilwoman Rye called for the question, it passed.

The floor was open for public comment on reconsideration:

John Hendrickson stated that the Planning Board had already passed the amendments and it was not a good idea to delay the public hearing.

David Gray asked to leave the amendment as is because if the garages were located in the alley they could not be built as the ordinance proposed. The rule in Title 20 states if there is an alley then it can not be accessed from the street.

The **motion** to reconsider the previous motion with a two thirds vote failed with 1 vote of 'aye' and 10 votes opposed (Mr. Strohmaier, Mr. Weiner, Ms. Walzer, Ms. Rye, Chair Jaffee, Mr. Houseman, Ms. Hellegaard, Ms. Mitchell, Mr. Childers, and Ms. Marler)

**B. Grand Vista, Lot 20A Subdivision, a proposed minor subdivision of a 1-acre parcel into 5 residential lots, located just east of Hillview Way in the South Hills area ([memo](#)).—Regular Agenda (Janet Rhoades) (Referred to committee: 05/17/2010) (REMOVE FROM AGENDA)**

**MOTION 1: The Committee recommends the City Council approve the variance request Article 3-2(1)(J), which requires the private road serving Lots 1-3 to have a minimum of 24' surface width within a minimum 28'-wide private access easement based on the findings of fact in the staff report.**

**MOTION 2: The Committee Recommends the City Council approve the variance request from Article 3-2(15)(A)(1), which requires 5'-wide sidewalks with 7'-wide boulevards to be constructed on the private road serving Lots 1-3 based on the findings of fact in the staff report.**

**Motion 3: The Committee recommend the City Council approve the variance request from Article 3-2(15)(A)(1), which requires 5'-wide sidewalks with 7'-wide boulevards to be constructed on Grandview Way based on the findings of fact in the staff report.**

**Motion 4: The Committee recommends the City Council approve the Grand Vista, Lot 20A Subdivision based on the findings of fact and subject to the recommended conditions of approval in the staff report.**

Janet Rhoades gave a powerpoint presentation about Grand Vista Subdivision:

- Because this is a minor subdivision it does not require a public hearing and is an action item with a 35 day deadline associated with it.
- This is a minor subdivision of five lots on one acre located in the South Hills on Grandview Way.
- The zoning is R5.4 which allows 8 dwelling units per acre and the comprehensive plan is residential 6 dwelling units per acre.
- There are four existing homes.
- The applicant proposed to divide each unit into a separate lot.
- A condition recommended by Public Works was to put in a no access strip on the south side of the property to prohibit access from Addie Court.
- Two variance requests relate to the private road that serves lots one, two and three. Variances are requested for surface width and sidewalk.
- One variance requests sidewalks on Grandview Way.
- Staff recommends approval of the three variances.
- The applicant has chosen to do a geo technical survey for the project instead of putting no build zones on the property. There are notes on the final plat that require any new construction including additions to comply with the recommendations of the survey.

The floor was open for discussion:

1) Councilwoman Rye clarified that the existing houses are being subdivided in order to put the houses up for sale. She wondered why the applicant did not build condos or townhouses on the vacant lot and sell those in the interest of more affordable housing. Lori Davidson replied that the intent was to sell lots to help pay for the subdivision. Ms. Davidson added that HUD did not allow the funds from the sale of the property to be used for that. The only way to use the proceeds would be to build replacement public housing.

Dale McCormick stated the property was zoned R-1, single family residential. He gave a brief history of the project. The two issues of this project were the access to the property and the

existence of the 25% or greater slopes on portions of the property. He went through the proposal process and explained that the existence of the 25% or greater slopes was not created by natural causes but by the previous development. The solution was to require a geo-technical study on lots two through five for any changes to those lots prior to approval. The expense would then go to the future home owners rather than the Housing Authority. He explained that there was a recommendation from the geo technical engineer and that a note was placed on the plat requiring future construction to comply with the recommendation of the geo-technical study. The survey concluded that lots two through five are in good shape and show no deterioration and the soils and slopes on Lot one are appropriate for development. Mr. McCormick stated they are in agreement with OPG staff's recommendation. He pointed out there was a comment from Parks & Rec as to the reason why this subdivision did not require parkland dedication. He explained there was no parkland dedication because all of the lots were small enough that only one dwelling unit could be placed on them per zoning.

2) Councilman Wilkins asked who owned the property to the west of this subdivision. Mr. McCormick stated the property was the common area that was part of the subdivision to the south. Councilman Wilkins made a **motion** to approve the three variances and the subdivision. 3 Councilwoman Mitchell wanted to know about the driveway that served lots one through three. Mr. McCormick replied it was a shared driveway which would require a shared maintenance agreement.

4) Chair Jaffe asked what happens to the funds that the Housing Authority gains from the sale of these homes. Ms. Davidson replied these homes will not be restricted as affordable housing and the proceeds are required by HUD will be used to produce new public housing units. Chair Jaffe asked whether the expectation of the loss of the four units was to create four new units. Mr. Davidson stated the goal was to replace up to 56 units of public housing which was the maximum amount could do under HUD regulation.

5) Councilman Wilkins thought this was a great project because this would create affordable opportunities for others. Ms. Davidson agreed that most of the purchasers of these homes were first time home buyers or lower income households. Chair Jaffe felt it might be in the interest of the community to look at when the Housing Authority was divesting of certain housing if there was a way to continue retaining it in affordable housing stock thru a continued subsidized deed restriction or not. Ms. Davidson replied this was a good point and the goal of the Housing Authority was to reserve as much affordable housing as possible.

6) Councilwoman Mitchell called for the question, it passed.

The **motion** to approve the subdivision with the variances passed unanimously and would go on the Consent Agenda. Councilman Haines abstained from the vote due to his late arrival. There was no objection to have this item on the week's Consent Agenda.

## V. Regular Agenda Items

### A. Discussion of OPG's task list and workload.—Regular Agenda (Mike Barton) (Referred to committee: 06/12/06) (**HELD IN COMMITTEE**)

Mike Barton gave a brief overview of the FY2010 Urban Initiatives task list with notes on the progress made relative to those tasks. He also attached a list of possible options for the next fiscal year.

- The major task during FY10 was the revision of zoning and subdivision regulations. Title 20, the new zoning code has been well received by the regulators as well as the community. Staff has also prepared a package of amendments to the zoning ordinance that include clarifications and technical corrections. OPG intends to conduct this type of review annually.
- The updated subdivision regulations are now going through review process as are some zoning changes that are addressed under Council contingency.

Chair Jaffe asked how the Urban Initiatives department was funded especially with respect to the County's participation. Mr. Barton replied that there was an additional contribution from the

County intended to recognize that there is a piece of the urban services area that is not within the municipal boundary but is not addressed by the Rural Initiatives office. He stated the amount was roughly equivalent to .5 FTE.

- The Target Range neighborhood has completed a plan that has been recommended for adoption by the Planning Board. Currently there is an ongoing discussion as how this will be accommodated by the City and County of Missoula. There is also a future interest in maintaining and/or separating the two growth policies. He pointed out that the Urban Initiatives office was responsible for the update and the UFDA amendment to the growth policies.
- There is a housing summit coming up next month. Mr. Barton stated that staff anticipates some direction in terms of development of City owned property or City assisted properties.

The floor was open for discussion:

1) Councilwoman Rye stated that OPG was contracted with the Bureau of Business and Economic Research and wanted to know how much the contract for. Mr. Barton replied it was in the neighborhood of ten thousand dollars. Councilwoman Rye then asked if the contract was over ten thousand dollars why it did not come before the Council. Mr. Barton replied it did not come to council because administratively the survey was billed through the County and the City and the University participated in its funding and the total amount of funding was not more than ten thousand dollars. Councilwoman Rye inquired about the city owned lots and wondered why the City of Missoula was not going forward with the affordable housing plan. Mr. Barton replied that his department was prepared to staff this project once the City decided to sell those lots or put them into use. He pointed out that his staff has presented the plans to the administration and the task force that addresses housing issues. Councilwoman Rye wondered how many City owned lots were there. Mr. Barton replied there were two dozen parcels of surplus city property. He explained that eight or ten of those parcels could be suitable for residential development and there are sketch plans and work ups that suggest that as many as twenty or thirty housing units could be built on those City-owned properties.

2) Councilman Weiner inquired about the compilation of neighborhood sets. Mr. Barton explained there are neighborhoods that are planned but those neighborhoods feel they need to go through additional planning processes to address neighborhood issues. Staff's goal is to be more available to neighborhoods in strategic or implementation planning efforts as opposed to the broader neighborhood plans. Staff is proposing to compile demographic data bases and information sets that would include current projects and desires in neighborhoods.

3) Councilman Weiner stated that many of the items listed in the FY11 task list as regulatory changes could be covered in the FY10 task list as council contingency items. He inquired whether the regulatory changes could be put under the same 500 hours as the council contingency items. Mr. Barton replied this was up to the Council. He stated the staff goal was to identify as many projects as possible in the work plan but to reserve some hours for projects that emerge during the course of the year. Councilman Weiner wondered how many FTE's are equivalent to 6300 hours. Mr. Barton replied that would equal three FTE's. Councilman Weiner inquired what type of internal process takes place to prioritize the FT11 task list. Mr. Barton responded projects are pursued that are consistent with Councils' direction.

4) Councilman Strohmaier inquired about updating the existing conditions in existing neighborhoods. Mr. Barton stated an item that is at the top of FY11 task list is to make useful information like the databases that deal with land and land use more readily available to staff and the public.

## **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. Ongoing discussion of City planning issues with members of the Planning Board.— Regular Agenda (Bob Jaffe) (Referred to committee: 3/20/06)
5. 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 12:00 pm

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.***