

## Plat, Annexation and Zoning Committee Minutes

June 30, 2010

10:35 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, Stacy Rye, Dave Strohmaier, Pam Walzer, Jason Wiener, and Jon Wilkins.

### Members Absent:

**Others Present:** Mike Barton, Jen Gress, John Hendrickson, Paul Hubbard, Ruth Link, Laval Means, Jim Nugent, Tom Zavitz, and Shelley Oly

#### I. Approval of Minutes

June 23, 2010 approved as presented.

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

Chair Jaffe announced that the Sonata Park court case would be taken off the Held in Committee items. Councilman Childers asked if OPG was doing anything differently because of the Sonata Park court case. Mike Barton replied that he did not believe that there had been an application come in that addressed the same points.

#### III. Staff Announcements

#### IV. Consent Agenda Items

A. Consider maintenance amendments to Title 20, Missoula City Zoning Ordinance ([memo](#)).—Regular Agenda (Tom Zavitz) (Referred to committee: 06/28/10) (**HELD IN COMMITTEE**)

**MOTION: The Committee recommends that City Council set a public hearing on August 2, 2010 to consider an ordinance to amend Title 20, Missoula City Zoning Ordinance.**

Tom Zavitz requested that a public hearing be set to consider the maintenance amendments to Title 20, Missoula City Zoning Ordinance. Mr. Zavitz summarized the process up to the present date:

- Title 20 has been in effect for 8 months.
- Urban Initiatives staff has kept an ongoing list of errors, clarifications, and omissions based on the development community and other agencies.
- The list of 50 items was circulated in March 2010 for agency comments.
- It was referred to Planning Board May 10, 2010.
- Planning Board reviewed the ordinance June 1, 2010 and made motions for some revisions
- The maintenance packet would be an annual housekeeping project.

Mr. Zavitz spoke about two of the Planning Board's motions concerning Title 20 maintenance amendments. The first issue dealt with the definition of existing grade. He explained this became an issue when a developer graded a hillside and converted the slope into something that would not be measured as a hillside measurement. Planning Board determined a point in time when all grades would be measured so that if grading occurred after that point in time, it would help prevent evasion of hillside regulations. Planning Board wanted to make the point

in time based on the criterion from the 1999 City aerial survey with 2-foot contours and OPG suggested using the time of application to set that point in time. Mr. Zavitz explained that the survey was not easily accessed by applicants due to software needed. Since a point in time could not be determined, OPG staff suggested using the original point in time language, "in situations when a final plat was not available, existing grade is determined or would exist at the time of application for building permit/zoning compliance permit."

Chair Jaffe asked if the existing grade would still need to be measured and confirmed at the time of application. Mr. Zavitz replied that currently an actual elevation on building permits were not required. Councilman Childers asked if the reinstated original point of time was in Title 20 now. Mr. Zavitz replied that it was.

Mr. Zavitz provided another example of an omission. The research service use included in the Use Chapter was deleted from the table that showed what uses were allowed in zoning districts. The research service use was placed in the Business and Commercial District table as permitted in B2 and the commercial zoning districts but not in B1. Councilman Wiener asked why the research service use was not allowed in B1. Mr. Zavitz responded that the decision was based guidelines from a 1997 Zoning Officer Opinion and permits approved since 1997.

Councilwoman Marler **made** the motion to set the public hearing on August 2, 2010. The vote was unanimous and would go on the 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) (**REMOVE FROM AGENDA**)**

Mike Barton passed around copies of the [task list options](#) for FY11 and the FY10 task list. The Committee had several questions concerning the task list options:

- Is the currently proposed strategy for convening a community wide discussion of agriculture policy the right method?
- Where is the OPG staff in implementing the agricultural policy? Mike Barton replied that the impetus for holding the discussion were the regulatory needs in the city. The Urban Initiative staff would still go forward with addressing the legislative issues such as the mitigation of valuable agricultural soils being lost to subdivision. The city's stake in this was not as broad as the county's so there would continue to be ongoing discussions with the County Commissioners and Rural Initiatives.
- Will the hours that were allocated for agricultural policy be redistributed to ordinance or regulatory revision. Mr. Barton responded staff would devote hours to coming up with a proposal for subdivision regulations as they address agriculture. He was unsure as to whether this issue would be addressed in a larger forum that discussed agricultural or food issues.
- What was the different direction of the discussion? Mr. Barton answered that the county wanted to go in a different direction in terms of putting a regulatory package together. Councilman Wiener asked for more specifics. Mr. Barton explained that issues such as agricultural mitigation for subdivision would be much different for the county's consideration than for the city's.
- Is it possible for staff to use hours to investigate ways to subsidize sewer to make it available for the smaller agricultural lots. Mr. Barton reported that the UI staff has been doing a lot of research into local government strategies for addressing agriculture in their communities and would continue to do that with emphasis on those particular subdivision regulations for immediate consideration. He pointed out that the Urban Initiatives section has the responsibility to do planning in the waste water service area that was outside the municipal boundary but Urban Initiatives staff did not perform the work in terms of development

The floor was open for public comment:

Paul Hubbard from CFAC stated some good points were raised but wanted to clarify some other points. Mr. Hubbard explained the area of friction was in the urban fringe where there was a disconnect between the city and the county planning as to where infrastructure should or should not go. There are areas like Orchard Homes and Target Range where much of the area was converted to residential and there are areas that are within the urban service area but still outside the city. Then there are areas like East Mullan that have 20-acre lots on very fertile soil within the urban service area with some existing infrastructure. There was a big concern to lose those farms with incredible potential. He pointed out that it was important to remember that agricultural policy would apply to different agricultural communities within the urban service area especially when thinking about mitigation. Mr. Hubbard stated it was important to be consistent with terminology when talking about gardens. The City Council unanimously adopted a new definition that included agricultural land but excluded gardens. It was important to distinguish the difference between working farms and home gardens. CFAC's recommendation was to create agricultural cornerstone areas where the agricultural resources are.

- Is there a way for OPG staff to keep Council apprised of issues? Mr. Barton replied that most of the participants in this discussion agreed the need for clearly understood and consistent expectations.
- Need an explanation of the Orchard Homes Neighborhood Plan. Mr. Barton reminded the Committee that the neighbors in Orchard Homes first approached the city and the county to implement a neighborhood plan:
  - ⇒ UI staff conducted some early scoping sessions.
  - ⇒ Target Range and Orchard Homes wanted separate neighborhood plans.
  - ⇒ The Orchard Homes effort was not as far along as the Target Range plan. Urban Initiatives staff was asked to combine pieces of the draft Orchard Homes plan and re-distribute the drafted portions among interested neighbors for a consensus. Now that the Target Range plan is completed the idea was to find out if the Orchard Homes neighborhood would like to continue forward with a plan using the Target Range Plan as a template. Councilman Childers asked if there would be a distinction between areas with the city limits and those outside. Mr. Barton replied the municipal jurisdiction would be recognized but the plan was for the entire area.
- Does the Target Range Neighborhood Plan recommend any regulatory changes that the Commissions are adopting with the plan? Mr. Barton clarified that the plan recommended changes to zoning but those zoning changes would have to be implemented through a legal process. There is concern among the County Commissions that the amended growth policy adopted by the City in 2006 differed slightly from the version that the county adopted. Since the adoption of the updated growth policy there have been additional amendments that made the two policies more divergent. The Commissions have adopted the Target Range plan and there has been discussion as to whether the other governing bodies needed to concur with that action and adopt amendments to make the plans consistent. He stated that the Target Range Plan would come before the Committee in some form.
- Does the Target Range neighborhood still desire to be annexed into the City? Mr. Barton replied the most productive aspect of this planning effort has been a better understanding of the issues related to annexation and growth and where the impetus comes from for the changes that have occurred. The plan was an acknowledgment of what the participation of the Target Range neighborhood and what they want to see happen in the future. Jason Wiener pointed out that a neighborhood survey found overwhelming opposition to annexation.
- Is there a self selected neighborhood for the historical overlay? Mr. Barton stated that the most likely candidates seem to be the North Side West Side and the downtown.

Urban Initiatives staff was conducting meetings with neighborhood councils to evaluate their desire for an historical overlay.

- Are there partners for the form based code? Mr. Barton replied that \$50,000 has been allotted in the budget which would go towards an estimated \$200,000 effort to have a form based code proposal developed in the downtown area with a suggestion to begin work at the end of the fiscal year.
- The need to create an inventory of items to bring before the legislature such as subdivision for lease or rent. Are there any legislative efforts from the development community? Mr. Barton stated the updated task list included addressing the legislative agendas. The particular item of subdivision for lease or rent deals with a County Attorney Opinion stating any structure that could be leased or rented triggers the need for subdivision review.
- Council wanted to participate in the discussion of the items to be brought before the legislature. Mr. Barton stated that the Urban Initiatives staff would be available to provide guidance or support on that aspect.

Chair Jaffe asked if there were any land use related legislative agendas being brought forward by MOR or MBIA.

Ruth Link from MOR stated that the State Association handles the legislative agenda. Ms. Link indicated that some of the issues of interest to realtors included water rights and subdivision for lease or rent. She remarked that she would get back to Council with a detailed list.

John Hendrickson from MBIA stated that the State Organization handles the legislative agenda for MBIA as well. He added that MBIA was reviewing subdivision for lease or rent, the Sonata Park decision, the North Lolo Growth Plan and the Seeley Lake Regional Plan. He added there was no legislation drafted or planned for the upcoming legislative session.

Paul Hubbard from CFAC stated they were watching the efforts to pre-empt local government's ability to plan ahead with agriculture. Mr. Hendrickson stated that MBIA funded an ag study but were not preempting anything.

- What was the status of the Lolo Incorporation? Mr. Barton stated he was not aware of the status and would inquire into this.
- Were there enough hours to accommodate everything on the task list? Mr. Barton responded that he would have a more developed list with hours and milestones associated with the various projects.
- What was the next milestone on the affordable housing? Mr. Barton pointed out that the City has several surplus pieces of property that could potentially be developed as affordable residential property. UI staff was beginning discussion with non-profit developers now to look into possibilities for those parcels. He stated the next milestone was either a city agreement or an RFP for development of those properties.
- Please describe the GIS policy development and explain how this gets us planning for the urban areas. Mr. Barton explained the GIS policy development was a county wide project that had to do with the fact that we have several different government entities that operate from different bases and information layers. We need to coordinate the information and make it readily available to staff and the public.

## VI. Items to be Removed from the Agenda

#5. Discuss the implications of the Sonata Park court case ([memo](#)).—Regular Agenda (Bob Jaffe) (Referred to committee: 03/08/10)

## 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.*