

Plat, Annexation and Zoning Committee Minutes

August 04, 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, Marilyn Marler, Renee Mitchell, Dave Strohmaier, Pam Walzer, Jason Wiener, and Jon Wilkins.

Members Absent: Dick Haines, Stacy Rye

Others Present: Gary Bakke, Mike Barton, Jen Gress, John Hendrickson, John Newman, Jim Nugent, Janet Rhoades, Tom Zavitz, and Shelley Oly

I. Approval of Minutes

July 28, 2010 approved as presented.

II. Public Comment on Items not on the Agenda

III. Staff Announcements

IV. Consent Agenda Items

A. Consider a request for a phasing plan amendment for Pleasant View Homes No. 4 Subdivision. ([memo](#))—Regular Agenda (Janet Rhoades) (Referred to committee: 08/02/10) **REMOVE FROM AGENDA**

MOTION: The Committee recommends the City Council approve the phasing plan for Pleasant View Homes No. 4 Subdivision in accordance with Article 4-7(2) of the Missoula City Subdivision Regulations.

Janet Rhoades gave a [powerpoint presentation](#) and stated that the applicant requested a phasing plan amendment request for Pleasant View Homes No. 4 located west of Reserve Street, south of Broadway and north of Mullen Road.

- The Pleasant View Homes Subdivision was approved June 6, 2005.
- Phases 1 and 2 have already been filed.
- The applicant requested to extend the Phase 3 filing deadline from June 6, 2011 to June 6, 2013 because in today's housing market, townhomes are more difficult to sell due to bank financing restrictions.
- The design phase including lot and road configuration, size and number would not change from the phasing plan that was approved in 2005.
- There were no adverse agency comments.
- Staff recommended approval of the extension.

Councilman Wiener **made** the motion to recommend the approval of the phasing plan amendment.

The floor was open for discussion;

- 1) Councilman Wiener wondered if these homes classified as townhomes with fee simple lots underneath them or condominiums and what were the special financial restrictions. Ms. Rhoades replied these were considered townhomes. Ms. Rhoades read aloud the letter from Eli and Associates concerning the reasons why the applicant requested the extension.
- 2) Chair Jaffe wanted a more precise explanation of the special financial restriction before the public hearing. Ms. Rhoades answered she would clarify this with Ron Ewart.
- 3) Councilwoman Mitchell asked what the procedure was if the applicant could not sell any of the units and wanted to change the phase of the development. Ms. Rhoades explained the

applicant could do a plat adjustment to convert the townhomes to single family lots or could submit a new subdivision plan.

The motion to extend the phasing plan amendment was unanimous and would go on the Consent Agenda.

B. Proposed text amendments to Title 20, Missoula City Zoning Ordinance, Section 20.05.040 Development Options and Table 20.05-3. ([memo](#))—Regular Agenda (Jen Gress) (Referred to committee: 08/02/10) **REMOVE FROM AGENDA**

MOTION: The Committee recommends the City Council set a public hearing on September 27, 2010 to consider changes to Chapter 20.05.040 Development Option of Title 20 and Table 20.050-3 as recommended by the Missoula Consolidated Planning Board as shown in Attachment 1.

Jen Gress explained this was an action item to set a public hearing for the subsidized housing amendment.

- ✓ Planning Board sent approved language for the Committee's consideration that stated subsidized housing under HUD or MBOH would be allowed to have modified building standards including up to a 20 % density bonus, smaller lot sizes and be required to be permanently affordable.
- ✓ Staff recommends the public hearing be set for September 27, 2010.

The floor was open for discussion:

Chair Jaffe asked for an explanation of how this progressed through the Planning Board with any modifications. Ms. Gress went through the process:

- ✓ City Council sent proposed language to Planning Board.
- ✓ MBIA proposed additional language.
- ✓ The Planning Board adopted the language proposed by MBIA which included modified building standards, smaller lot sizes, up to 20% density bonus using an adjusted ratio scale, added specific language for townhomes, and requiring these homes be permanently affordable.

Councilman Wilkins **made** a motion to set the public hearing for September 27, 2010.

- ✓ What zones are these houses allowed in: Ms. Gress replied the multi-family zones which are RM2.7, RM1.5, RM1-35,RM1-45, RMH and RM0.5
- ✓ What is the difference between these proposals and inclusionary zoning? Ms. Gress explained that inclusionary zoning was a requirement to meet certain specifications of price or home ownership and this proposal was an option. However if the developer chose this option they would need to follow the criteria but it was not a requirement.
- ✓ Who would be in charge of the rent stipulations? Ms. Gress responded there was no stipulation on charges of rent but the information to meet the income guidelines came from HUD or MBOH.
- ⇒ Is option 1 for rental of homes and option 2 for sale of homes? Ms. Gress pointed out that option 1 addressed the multi-family issue and rental opportunities. Option 1 was more complex than could be addressed now. To insure that all the processes are in order additional items need to be discussed and addressed. The MBIA provided a general list of discussion items under the heading of Parameters for Expounding Housing Affordability Tool (Small Lot Development Ordinance) for Multi-Family and Private Funding Options.
- ⇒ Single family zones are an aspect of Missoula that need to be preserved because they help make up Missoula's character.

⇒ How would this address accounting for enough parking to deal with the increased density. Chair Jaffe replied that the parking requirement was set by the square footage of units and would not be affected.

The floor was open for public comment:

John Hendrickson stated that option 1 dealt with rentals and multi dwelling and option 2 dealt with owner occupied housing attached and detached. He added that townhouses are a viable commodity and that attached housing needed to be a part of that. He noted that this opened up the possibility of public private partnerships. He explained that after speaking to the affordable housing community that if there was no possibility of public private partnerships then the affordable housing would not go forward as government funds diminished.

The motion to set the public hearing for September 27, 2010 was unanimous and would go on the Consent Agenda.

C. Consider amendments to the Title 20 Missoula City Zoning Ordinance, Section 20.45.080 "Wind Energy Conversion Systems" as shown in Attachment 1. ([memo](#))—Regular Agenda (John Newman) (Referred to committee: 08/02/10) ~~REMOVE FROM AGENDA~~

MOTION: The Committee recommends the City Council set a public hearing on September 27, 2010 to consider amendments to Title 20, Section 20.45.080 "Wind Energy Conversion Systems" as shown in Attachment 1.

John Newman explained this was an action item to set a public hearing for Title 20 Missoula City Zoning Ordinance, Section 20.45.080 Wind Energy Conversion Systems.

Mr. Newman brought the Committee up to date on the review process so far:

- ✓ This item was brought before PAZ on May 26, 2010 and the Committee recommended the language in the Planning Board review draft of Title 20 be sent back to Planning Board for consideration after an agency review period.
- ✓ After the review period OPG staff changed the language that was originally forwarded by Councilman Wiener and that language went to Planning Board on July 20, 2010.
- ✓ Planning Board made some additional changes.
- ✓ Staff recommended approval of the draft amended with the changes made by the Planning Board.
- ✓ Staff recommends the public hearing be set for September 27, 2010.

Councilman Wiener pointed out the Planning Board made a couple of recommendations:

- ⇒ Heights of the towers.
 - Planning Board proposed to have a minimum height requirement that would be lower for the vertical towers than the horizontal axis.
- ⇒ Noise and vibration of the towers.
 - Planning Board reviewed decibel level charts and there were no changes made for the noise items.
 - Based on agency comments the vibration would dissipate within a few feet of the tower.
 - Planning Board recommended removal of these items.

John Newman pointed out that there would be pictures of the different types of towers and encouraged the Committee to review the Planning Board minutes from May 20. 2010.

Councilwoman Walzer made the motion to set the public hearing for September 27, 2010.

Councilman Wilkins wanted a noise demonstration to include a noise meter so he could hear how noisy a machine was and have the noise meter to determine how the different noise levels would affect the neighborhood. Chair Jaffe reminded everyone that these towers make the most noise when there was wind and along with the wind comes ambient noise. Mr. Newman stated that the turbines are becoming more effective as the technology advances.

The motion to set a public hearing for September 27, 2010 was unanimous and would go on the Consent Agenda

D. An [ordinance](#) to amend Title 20, Missoula City Zoning Ordinance to incorporate maintenance revisions. ([memo](#)) ([PAZ](#)) (Returned from Council floor: 08/02/10) **REMOVE FROM AGENDA**

MOTION: The Committee recommends the City Council approve the Title 20 Maintenance Amendments to the Missoula City Zoning Ordinance as amended.

Tom Zavitz passed around a [document](#) that showed altered language for existing grades and buffering items.

Mr. Zavitz spoke about the language change to the buffering piece specifically the change from the word coniferous to evergreen. There was discussion on the buffering section:

- The developer should be allowed to figure out what kind of tree they want to plant.
- It was good to have flexibility on the type of tree because some trees get too big for a 6-foot wide planting area. Councilwoman Marler recommended that the language be amended to add evergreen tree or evergreen shrub because the term evergreen encompassed many different varieties of plants.
- The fence is providing the main buffering and the trees offset the look of the fence.
- Shrubbery may be better than a tree and was the plant on the inside or outside of the fence? Mr. Zavitz responded that this option used to hold the fence plus 6-feet of landscaping in distance. There was a concern at Planning Board that the option of using a fence plus landscaping would impinge upon buildable areas. The Planning Board compromised by keeping one tree per 20-feet. He added if the option was to use the fence the fence would be the buffer and the landscaping would be visually aesthetic.
- The scenario would be the residential property line, then the tree or shrub, then the wall/fence and then the commercial area. Mr. Zavitz replied the placement of the tree or shrub would be left to the designer as long as the placement was one tree or one group of shrubs per 20-feet. He added the trees or shrubs would not necessarily be on the outside of the fence.
- Wasn't the intent to break up the view of a wall or fence? If this is the case wouldn't the landscaping be on the section the public would see? Mr. Zavitz stated the landscaping would be on the outside of the fence.
- The fence should be on the property line with the shrubbery or tree on the project side of the fence.
- Do not see how we can require shrubbery or vegetation to be placed on someone else's property.
- Putting a wall or fence on the property line is not acceptable. Can we reduce the 6-foot landscape width to a smaller quantity yet keep the softening of the solid wall or fence with landscaping. Mr. Zavitz replied that with other communities the landscaping was generally on the outside of the fence in a buffer.
- How does maintenance of that strip work out because the maintenance access would be from the neighbor's property? The purpose of the fence or wall was to separate the project from the residential area.
- Councilman Wiener pointed out there was a different level of nuisance associated with commercial abutting residential versus multi family abutting residential and that was why he suggested the 75% opaque or greater phrase. He indicated that the 6-foot

landscaped width was larger than the setbacks in many zones. Mr. Wiener recommended reducing the landscaped area to 5-feet for the residential uses.

- If the scenario was between a commercial property and a residential property then putting the fence in with landscaping on the outside of the fence would essentially add to the residential neighbor's use and take away from the commercial parking.
- The fence does need to be required provided there is landscaping provided as a buffer.
- Can a wall be a cinderblock wall? A cinderblock wall without softening or buffering seems to be a hardship for the residential areas.
- Was the fence/wall option required with vehicle use? Mr. Zavitz stated the intent was if the fence option was chosen the fence would have to be 100% opaque if there was a vehicular use area adjacent to the property.
- How did this wind up in the maintenance package? Mr. Zavitz explained staff was clarifying where the fence would be located within the 6-foot landscaped buffer.
- Whatever buffer is needed the adjacent property owners need to be notified to make sure it would be compatible with all parties involved.
- When there are differing adjoining property uses there should be different types of fences allowed.
- There cannot be a set requirement for the landscape buffer because the requirement correlates with whatever is allowed in the zoning setbacks.

Councilman Wiener **made** a motion to recommend the changes as sent from the Planning Board with the exception of grading section.

Councilman Wiener **made** an amendment to amend the existing language to read 5-foot landscape width with a 75% opaque or greater wall along the interior of the buffer area. One evergreen tree or evergreen shrub is required per 20 linear feet of fence or wall. Where vehicular use areas abut adjacent residential property, the lot shall be screened with a solid (100% opaque) wall or fence.

The floor was open for public comment:

John Hendrickson asked if the grading elevation was set at the time of final plat or has that been changed. Mr. Zavitz responded if there was information available the grading elevation would be set at the time of the final plat and if there was no information available the grading elevation would be set at the time of application.

Mr. Zavitz addressed the thickness of the walls and the parking calculation. He explained the gross floor measurement definition. Currently the gross floor measurement was measured from the outside building wall. That square footage number, especially in multi-family, then determined how much parking per unit would be required for the multi-family building. He indicated there was some concern about this way of calculating, for example, when a builder proposed a building with an extra thick wall; that might decrease the square footage inside of the building and could increase the parking requirements. Mr. Zavitz then presented [two case studies](#) that showed when the measurement method would increase the required parking. He stated the Building Department explained that the typical wall used in a multi-family was about 8-inches thick using a 2 x 6 stud. If someone used super insulation then another 2 x 4 stud plus a blue board would be added and the wall thickness would increase to 12 or 12.5 inches thick. He reminded the Committee that each unit was measured separately and the amount of parking space per unit would be calculated from that measurement.

Mr. Zavitz suggested that instead of tinkering with area calculation have an administrative adjustment for green walls or super insulated walls, and if the walls were over 12-inches there would be some leeway to adjust the walls back to a regular wall size. Chair Jaffe asked what the wording was. Mr. Zavitz suggested keeping this administrative adjustment with the multi-family and not commercial.

Council Wiener made an amendment on the way to calculate an area for the purpose of determining the size of a unit in multi-family and to use the internal area of the unit calculation excluding the external wall. Mr. Zavitz stated that could be done with a footnote. Councilman Wiener did not know what the implications were for commercial. Councilwoman Hellegaard stated she would like to see the commercial calculation included to encourage offices to build energy efficient walls. Chair Jaffe replied that the consistency made sense and should include commercial uses.

Councilman Wiener **made a motion** to amend D-3 of 20.60.20 so that square footage parking standards would be computed on the basis of internal floor area as defined by staff.

The floor was open for public comment:

Carl Posowitz stated that including the first 4-inches of the interior wall footprint would allow this to be used for residential and commercial as well and keep it simple. He stated you still would be able to meet the energy code with the 2 x 4 exterior wall with various rigid insulations packages on either side. He added that there is such a variation of thicknesses of exterior wall from structural foam panels or blocks. He suggested the wording include 'that the area was calculated by the net square footage plus an assumed 5-inch thickness of exterior wall.'

The motion to amend D-3 of 20.60.20 so that square footage parking standards would be computed on the basis of internal floor area as defined by staff was unanimous.

Mr. Zavitz stated there was some difficulty in defining what a detached and an attached garage was because setbacks differ for garages than for other accessory structures. The consultant made the suggestion to have a common wall, and it was decided the width of the common wall was 5-feet so that the building was part of the principal building. There was some discussion on the definition of attached and detached garages:

- ✓ Anything that shared a common wall was an attached garage and could have an impact on what could or could not be insured.
- ✓ The construction of the sentence would be easier to define if the sentence read an attached garage must have at least ___ feet of wall length in common with the primary structure.
- ✓ What is relevant is that if it is a detached garage there is a shorter setback from the alley than an attached garage and with a detached garage there is a minimum amount of space between the detached garage and the primary structure.
- ✓ Anything that attaches to the main structure is an attached garage.
- ✓ An attached garage has a door that connects the structure and the garage and the common wall that supports the door.
- ✓ The definition of a garage regarding how much common wall must be shared has little to do with the definition of a garage. This sentence should be struck from the definition of a garage.
- ✓ If the common wall was less than 3-feet then the setbacks for the garage would need to be used for detached garage.
- ✓ There was clarification that if the garage is detached then the Accessory Structures Chapter was used.

Councilwoman Walzer **made an amendment** to state an attached garage must have some wall length in common with the primary structure

Councilwoman Hellegaard **made a friendly amendment** to state the primary structure and the attached garage must have at least 5-feet of wall length in common to be considered attached. Councilman Wiener accepts this as a friendly amendment.

Councilwoman Marler **made a friendly amendment** to suggest a common wall space of 3-feet. Councilman Wiener accepts this as a friendly amendment.

Gary Bakke made a suggestion to say any garage that has shared common structural integrity with a house is considered attached. Mr. Zavitz stated this could be reviewable. Chair Jaffe asked the Committee if Mr. Bakke's suggestion was acceptable. The Committee accepted the suggestion.

The motion to accept Councilman Wiener's motion of the [maintenance package as amended](#) was unanimous 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. Ongoing discussion of City planning issues with members of the Planning Board.— Regular Agenda (Bob Jaffe) (Referred to committee: 3/20/06)

VIII. Adjournment

The meeting adjourned at 11:55am

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.