

Plat, Annexation and Zoning Committee Minutes

September 29, 2010

10:05 am – 11:00 am

Missoula City Council Chambers, 140 W. Pine Street

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

Members Absent:

Others Present: Lori Davidson, Jen Gress, Elaine Hawk, John Hendrickson, Ruth Link, Laval Means, John Newman, Jim Nugent, and Shelley Oly...

I. Approval of Minutes

[August 22, 2010](#) approved as presented.

II. Public Comment on Items not on the Agenda

III. Staff Announcements

IV. Consent Agenda Items

V. Regular Agenda Items

A. An [ordinance](#) of the Missoula City Council amending Title 20, Missoula City Zoning Ordinance, Chapter 20.05.040 Development Options, and Table 20.05-3, intended to provide a development tool for subsidized small lot projects as recommended by the Missoula Consolidated Planning Board. ([memo](#)) ([Alternate Ordinance](#)) ([PAZ 08/04/2010](#)) ([PAZ 09/22/2010](#)) (Returned from Council floor: 09/27/2010) **REMOVE FROM AGENDA**

MOTION: The Committee recommends the City Council approve the [ordinance](#) of the Missoula City Council amending Title 20, Missoula City Zoning Ordinance, Chapter 20.05.040 Development Options and table 20.05-3, intended to provide a development tool for subsidized small lot projects as recommended by the Missoula Consolidated Planning Board and amended by the Missoula City Council.

Councilwoman Mitchell requested this item be returned back to Committee. Her comments are listed below:

- Does this type of density follow along the lines of the PNC's and create new lots on the smaller lots? Chair Jaffe replied that the old PNC's rules never allowed for an increase of density for zoning. This ordinance allows a density bonus based on the affordable units but it does not create new lots.
- Would the infrastructure be able to handle the number of cars if more lots are created? Chair Jaffe responded that the parking rules and standards still apply.
- What does permanent affordability mean? Chair Jaffe stated permanent affordability meant that the residents of these homes needed to meet the 80% AMI category and the pricing of the homes needed to match the HUD requirements in perpetuity.

- What are the taxation implications for these kinds of properties? Chair Jaffe shared that the ordinance did not determine taxation.
- What would the incentive be and would this ordinance be used? The incentive was that the ordinance created a density bonus and allowed for a reduction of the internal setbacks from 5 feet to 3 feet.

The floor was open for discussion:

- 1) Councilman Wilkins clarified the zoning areas where small lots were allowed, the ordinance was not creating any smaller lots. The lots would not be split up like the PNC's. Chair Jaffe pointed out that the purpose of this ordinance was to create permanently affordable units with a density bonus as an incentive. Jen Gress explained there was no minimum lot area so the lots could be reduced below the 3000 square feet and the density bonus would allow a small increase in density. Chair Jaffe added that the maximum increase of density was 20% for 50% of the units being made affordable. Councilman Wilkins was concerned with increased prices on the surrounding vacant lots.
- 2) Councilwoman Hellegaard wanted to know if this ordinance would allow for scraping because she had knowledge of three single family homes in the areas of McDonald and Grant, South and Thames and Paxon and 36th Street that had been scraped and multiple homes put up on those lots. Laval Means replied that this does not revise the regulations for scraping. Chair Jaffe stated scraping dealt with single family homes that were built on multiple non-conforming lots and the position of the home straddling lot lines. Mr. Nugent remarked that there was no ordinance that stipulates a private residence could not be torn down, removed or expanded. There was an effort to address the situation where homes straddled two lots were torn down and homes were then built on each platted lot.
- 3) Councilwoman Marler felt that a referral on scraping would alleviate misinformation. She added that this ordinance was speaking to density bonuses in zones that already allowed multiple housing.

Councilwoman Marler made the **motion** to pass the alternate ordinance which stated an ordinance of the Missoula City Council amending Title 20, Missoula City Zoning Ordinance, Chapter 20.05.040 Development Options and table 20.05-3, intended to provide a development tool for subsidized small lot projects as recommended by the Planning Board and amended by the City Council.

- 4) Councilwoman Walzer wanted to know if this ordinance would also decrease the size of the parcels in the residential multi-family zones. Ms. Gress replied it would, however, all the same criteria would have to be met.
- 5) Councilman Strohmaier called for the question, it passed.

The vote on the alternative ordinance passed with 8 votes of 'aye', 3 votes opposed (Lyn Hellegaard, Dick Haines, Renee Mitchell) and one abstained Jon Wilkins.

B. An ordinance of the Missoula City Council revising the Missoula city zoning ordinance, Title 20, Chapter 20.45 (accessory uses and structures), Section 20.45.080 regarding the installation of wind energy conversion systems within city limits. (memo) (PAZ 08/04/2010) (PAZ 09/22/2010) (Wiener proposed amendment) (Jaffe proposed amendment) (Returned from Council floor: 09/27/2010) **REMOVE FROM AGENDA**

MOTION: The Committee recommends the City Council approve the proposed ordinance amending Title 20, Section 20.45.080 "Wind Energy Conversion Systems" as show in Attachment 1 and recommended and amended by the Missoula Consolidated Planning Board and amended by Missoula City Council.

The Wind Energy Conversion Systems (WECS) item produced much discussion and was sent back to the Committee. Chair Jaffe had mailed out suggested language to the Committee and listed below are some of the points made during the discussion:

- 1) Councilman Childers stated that it was inappropriate to limit the height of the windmills to the height of the building structures and felt that the height of the WECS should remain as proposed.
- 2) Councilman Wilkins indicated that the height of the windmills should be dictated by heights of the zoning and anything over the 33% would need to go through the conditional use process thereby ensuring that the neighbors have a say in what happens in their neighborhood.
- 3) Councilwoman Mitchell would like to pursue this project on an experimental basis, gather data on noise levels, efficiency and cost effectiveness and see if the WECS were feasible for Missoula

Councilwoman Marler made the **motion** to approve the ordinance without the amended language made by Chair Jaffe which stated that the WECS may exceed zoning district height limits by up to 33% if the system is setback from all property lines by a distance at least equal to 1.5 and including Councilman Weiner's amendments.

Councilwoman Walzer made a friendly amendment to Councilwoman Marler's motion to change the text to include Chair Jaffe's edits to require any small WECS that exceeds a maximum height allowed in subject zoning district shall be approved by through the conditional use procedure.

- 4) Chair Jaffe had difficulty with the language. John Newman suggested the wording "only" be included so the language would read, "shall *only* be approved through the conditional use procedure
- 5) Councilman Haines indicated that the objections to the windmills were not the noise or hazard to people but the viewing of the windmills themselves. He asked what the basis for the 33% was. John Newman stated this was a matter of making sure that the horizontal WECS were above the building structures that are adjacent to it.
- 6) Councilwoman Rye pointed out that it would be onerous to have a person go through the conditional use process if they exceeded the 33% allowable height.
- 7) Councilman Weiner remarked there are legitimate concerns for sight lines in residential neighborhoods. There are lots of commercial and industrial areas that are open enough to accommodate one of the horizontal turbines which exceeded the height limitations. He made a **substitute motion** that stated small WECS must comply with the height limits of the subject zoning district when the district is residential and the systems may exceed zoning district height limits in commercial, industrial and open space public districts by up to 33%.

The vote for Councilman Wiener's substitute amendment failed with 2 votes of 'aye' and 10 opposed (Ed Childers, Dick Haines, Lyn Hellegaard, Roy Houseman, Marilyn Marler, Renee Mitchell, Stacy Rye, Dave Strohmaier, Bob Jaffe and Jon Wilkins)

The vote for Councilwoman Walzer's friendly amendment passed with 8 votes of 'aye' and 4 votes opposed (Stacy Rye, Jason Wiener, Ed Childers and Marilyn Marler).

Councilwoman Hellegaard made an amendment to make the WECS be a conditional use on anything smaller than 8,000 square feet lots which are the R5.4 zoning districts and below.

Councilwoman Rye called for the question, it passed.

The vote for Councilwoman Hellegaard's motion as amended was a voice vote of 8-4 which failed.

The vote on the main motion passed with 9 votes of 'aye' and 2 votes opposed (Dick Haines and Lyn Hellegaard) and 1 abstention (Renee Mitchell).

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 11:05 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.