

Plat, Annexation and Zoning Committee Minutes

December 15, 2010

10:35 a.m. - Noon

Missoula City Council Chambers, 140 W. Pine Street

Members Present: Bob Jaffe (Chair), Roy Houseman, Dick Haines, Dave Strohmeier, Ed Childers, John Wilkins, Lynn Hellegaard, Renee Mitchel, Marilyn Marler, and Stacy Rye

Members Absent: Pam Waltzer, Jason Weiner

Others Present: Tim Worley, Jim Nugent, John Newman, Laval Means, Mike Barton, Andy Short, Paul Forsting, Jason Rice, and Bobbi Day

I. Approval of Minutes

The minutes of [December 8, 2010](#) were approved as presented.

II. Public Comment on Items not on the Agenda

III. Staff Announcements

IV. Consent Agenda Items

V. Consent Agenda Items

- A. Consider a request to rezone property at 620 Addison and 826 Kern. ([memo](#))—Regular Agenda (Tim Worley) (Referred to committee: 11/22/10) **HELD IN COMMITTEE**

Motion: The committee recommends the City Council set a public hearing on January 10, 2011, on an ordinance rezoning property located at 620 Addison and 826 Kern from RM 1-45 residential multi-dwelling and replaced with B1-1 Neighborhood Business—Intensity Designator 1.

([Presentation](#))

Territorial Landworks, Inc. (TLI) properties and McCue Construction were the applicants requesting to rezone both of their properties. TLI offices are located at 826 Kern Street and McCue Construction's building is located at 620 Addison. Both buildings are adjacent to each other.

- The applicants would like to make the existing nonconforming uses conforming (TLI) and to make an existing nonconforming use more conforming (McCue).
- The property is currently zoned RM1-45; the applicants are requested to be rezoned to B1-1, Neighborhood Business, which was the lowest commercial intensity.
- The Addison property has been zoned commercial since the 1960s.
- TLI has been at their Kern Street location since the 1950s with primarily a general office use. They also have a limited construction sales and service use that is legal nonconforming under current zoning. They would not be able to expand under the current zoning because of the setback requirement. The use could continue but the scale of the building could not be changed.
- One of the difficulties was the 2' side setback. With the rezoning the setback requirement would go away and the TLI building height could go up to 40'.

- Staff supported the rezoning request because of the existing commercial uses; it would bring one property into conformity and the other one closer to conformity, there has been existing commercial uses at this location for a long period of time, the Comp Plan supports smooth transitions from commercial to residential, the property is served by city infrastructure and services, and the Comp Plan supports both large and small businesses for the economic health of the community.
- Planning Board met December 7 with seven members present. They voted with 2 votes of 'yes' and 5 votes of 'no' on the motion to approve the request to rezone. There were a few reasons but the most notable was they felt it was spot zoning.
- Staff supports the rezoning but the motion failed at Planning Board.

Paul Forsting with TLI added that they had worked with OPG staff on several concerns over past few years to get a positive staff report.

- There is an example of a similar 'spot zoning' property a few blocks from this location.
- The Comp Plan designates this area for Residential, 16 dwelling units per acre but this area would not be consistent with the Comp Plan. Look at the Comp Plan language rather than the designation.
- Aerial photos do not show an existing parking lot. It is located in front of the Kern Street building
- Surrounding uses are mostly industrial uses.
- The Kern Street property was rezoned in 1964 to B residential (previously it was zoned an industrial zone).

Questions and comments from the Committee:

1. What was the reason for the rezoning request? Current zoning did not reflect the use. Under Title 19 there was not the same allowed uses under Title 20. The current zoning limits improvements on the site since the property was a legal nonconforming use.
2. What other uses were allowed in B1-1? Allowed uses included artists works and sales, business equipment, food and beverage retail, medical offices, etc.
3. It was surprising the Planning Board did not support the rezoning. The whole area could benefit from more street trees and other improvements.
4. Why would McCue Construction still not be in compliance? Their use went beyond what was allowed but it would be closer to conforming. That business would still be considered a nonconforming use.
5. Will something have to be done to meet fire code, especially since the buildings are so close? Yes, fire codes will still need to be met.
6. What reasons did Planning Board have for denying the request? There was a technical malfunction so the presentation slides could not be viewed – this may or may not have an impact on their decision. The issue of spot zoning was the main reason for denying the proposal.
7. Why was the request being made? Possible remodeling or adding cubicles? TLI has no immediate plans, which was part of the problem. Their goal was to get more office space for those working in the building. They could bring the foot print up to two stories but would not go up the full 45' allowed. TLI wanted to know what they could do but the setbacks make that very restrictive to come up with a plan.
8. There was a similar rezoning request at 2012 North Avenue that was denied. What was the difference between that request and this one? That request was for C2 commercial which is a much higher intensity. The transition from commercial to residential was much higher in that case.

9. Neighbors concerns were primarily regarding the height (as reported in the Planning Board minutes).
10. This rezoning would be an improvement to the neighborhood, would not displace any residential, lowered the height, and the additional uses would not impact the neighborhood.

Councilman Wilkins made a motion to suspend the rules and set the public hearing on December 20, 2010 for this rezoning request. Before the vote, Mr. Nugent was asked to comment on spot zoning. Any zoning was spot zoning; Council needed to look at the criteria to see if it was an unlawful spot zoning case, and he did not feel this fell into that category.

Andy Short: represents the building tenant and spoke about the positive aspect both of these businesses were on the neighborhood.

Councilwoman called for the question which passed unanimously. The vote to suspend the rules and set the public hearing passed unanimously. The Committee discussed the process and wondered if they needed a motion to set the public hearing or if something should have happened on the floor first. Staff found that the request to set the public hearing needed to go on the Consent agenda.

VI. Regular Agenda

- B.** Discuss Russell & 3rd land use and zoning visioning and update. ([memo](#))—Regular Agenda (Bob Jaffe) (Referred to committee: 10/25/10) **HELD IN COMMITTEE**

Review of past discussion at PAZ on November 17, 2010. The Committee requested modeling showing how things look now and the potential look of the corridor. The [Southside Riverfront Neighborhood Character Overlay](#) leads development in this area. ([Presentation](#))

Review of the Southside Riverfront Overlay standards that include setbacks, height and allowed uses.

- The C-2 zone covers a fairly large portion of the Russell Street corridor.
- There were no front yard set backs in the C-2 so a property line could abut up to the road pavement. This was an important item for consideration.
- Front yard set backs could not exceed 60' in depth; parcel depths along Russell Street do not exist.
- Maximum height for C-2 allows 120' but the overlay restricts that height.
- Current uses would continue to exist.
- The parking language in the overlay was important – basically it would restrict the big box stores that were seen along Reserve Street.
- Building articulation and glazing requirements limited the look of the corridor.
- The modeling was based on existing zoning (using Google Earth imagery). Some of the structures were inserted that currently do not exist, some structures were shown as they exist, and some were shown with hypothetical modifications.
- Height and location were shown based on allowed zoning.
- Most of the buildings were shown at the property line and some shown at 60' (the maximum allowed). Some of the buildings were shown that could be up to 45'.
- The model gave an idea of the affect that the existing zoning and the existing road could have on the corridor.
- More discussion could include looking at the Southside overlay and/or the pedestrian overlay. Might be able to take pieces from other overlays and fold into a design for this corridor.

Committee discussion and questions:

1. The Southside overlay document pretty much addresses the issue along this corridor but the Committee may want to look expanding this area, possibly by a couple of blocks to the west.
2. Why were some areas left out of the overlay district? It could be because those areas are residential.
3. Try to encourage less intensity development along the corridor.
4. The setbacks and parking were of concern.
5. In the model the tall buildings without much setback really stood out; noise could be a problem with these buildings. This needs to be done right the first time because there will not be room for expansion.
6. The overlay should be expanded west to Catlin Street near the bowling alley.
7. Most of the businesses in the overlay district do not comply with the allowed uses but they do represent a substantial part of the area.

Michael Tree, with Mountain Line noted that congestion would be a huge issue along this corridor. He complimented the way that the buildings were set up on the street in the model. Public transit will take on a more supportive role and so when buildings were set further back, transit became more attractive.

The Committee continued discussion and questions:

1. Discuss lowering the height where 120' was allowed.
2. Was it true that the building could currently be built right up to the property line? The buildings in the C-2 overlay do not have setbacks.
3. Parking should be in the back but there should be some setback in front (10' to 20') for landscaping.
4. Are there any requirements for having landscaping as part of the setback? There were some street frontage landscaping requirements but it was based on if it was a new development or just a modification. There was a test to see if the requirements applied. This may not apply where no setback was required.
5. Staff could explore a way to get more involvement such as commenting on line. This could also be done through a map amendment.
6. What was the public involvement process when the overlay was developed? There was a joint process with MRA and OPG to develop a plan for this area and focus implementation to zone unzoned lands. A consultant was hired to conduct envisioning workshops with the result being used to develop overlay tools and a neighborhood plan that went through public hearings. Public involvement was developing a neighborhood plan.
7. A whole planning process may not need to be done right now, especially if the Housing Authority did a charrette for this area.

Discussion will continue so this item will be held in committee.

VI. Items to be Removed from the Agenda

VII. Held in Committee or Ongoing in Committee

8. Annexation. (see separate list at City Clerk's Office for pending annexations) (Ongoing in Committee)

9. Update the Rattlesnake Valley Comprehensive Plan Amendment ([memo](#)).—Regular Agenda (Dave Strohmaier) (Referred to committee: 04/02/07)
10. 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)
11. Ongoing discussion of City planning issues with members of the Planning Board.— Regular Agenda (Bob Jaffe) (Referred to committee: 3/20/06)
12. Consider a resolution of intention to annex City and UM properties located in the southeastern quadrant of the City and schedule a public hearing in accordance with Montana Code Annotated Part 44 government lands method of annexation. ([memo](#))— Regular Agenda (Carla Krause) (Referred to committee: 10/25/10)

VIII. Adjournment

The meeting adjourned at 11:55 a.m.

Respectfully Submitted,

Bobbi Day

Recording 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.