

Plat, Annexation and Zoning Committee Minutes

May 20, 2009

10:00 am – 12:00 pm

Missoula City Council Chambers, 140 W. Pine Street

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

Members Absent:

Others Present: Denise Alexander, Mike Barton, Jen Gress, Jim Hausauer, Nick Kaufman, Steve King, Ruth Link, Mary McCrea, Kevin Meade, Roger Millar, Chris Behan, Ellen Buchanan, Jim Nugent, Janet Rhoades, Kevin Slovarp, Tim Worley, Lewis Yellowrobe, Tom Zavitz and Shelley Oly

I. Approval of Minutes

[April 22, 2009](#) approved as presented.

[May 06, 2009](#) approved as presented.

[May 13, 2009](#) approved as presented.

II. Public Comment on Items not on the Agenda

III. Staff Announcements

IV. Consent Agenda Items

A. Approval or denial the Mill Site PUD Subdivision Condition Amendment, Plat Adjustment and Phasing Plan ([memo](#)).—Regular Agenda (Tim Worley) (Referred to committee: 05/18/09) **(REMOVE FROM AGENDA)**

MOTION: The Committee recommends that the City Council approve the Condition of Approval #21b as amended in Attachment C. And to approve the proposed adjustments of the preliminary plat, subject to the Mill Site PUD Subdivision conditions of approval as amended in Attachment C.

MOTION: The Committee recommends that the City Council approve the proposed phasing plan request for the Mill Site PUD Subdivision subject to the following requirements: Elimination of plat adjustment detail (Notes 1-8 and related graphics) on Sheet 1 of 1 dated May 15, 2009; and Retention of the north-south alley in Block 3 of Phase 2.

Tim Worley gave a brief summary on the power point presentation for the Mill Site PUD subdivision.

- Staff requested to amend one Condition No. 21B, adjust the preliminary plat and phase the Mill Site PUD subdivision:
- The Mill Site Subdivision is located adjacent to the Ball Park and south of the Clark Fork River, between Orange Street and Russell Street.
- It was approved April 9, 2009 subject to 29 Conditions of Approval.
- Condition No. 21 addressed site contamination such as buried wood waste and petroleum products.
- Condition No. 21B addressed the written agreement between the applicant and Department of Environmental Quality (DEQ) whereby the applicant would monitor the ground water quality at the subject property relative to C9 and C10 aromatic compounds defined by DEQ as well as manganese and iron.
- Condition No. 21C addressed no new potable water wells without approval from DEQ.

Mr. Worley spoke with Mr. Harvela from the City/County Health Department and Mr. Harvela stated C9 and C10 aromatic compounds were based on fuel based contamination on the site and the cleanup of these compounds are complete at this time. He added that manganese and iron remain but are not considered a health risk. These compounds affect the taste and smell of the water.

He stated it was recommended to strike the original language in Condition No. 21B and the addition of new language that would still require monitoring for iron and manganese contamination. This language was supported by the City/County Health Department and DEQ for the substitute for the original Condition No. 21B.

Mr. Worley spoke about the adjustments to the Mill Site preliminary plat:

- ✓ The primary concern was the request for the elimination of the section of alley between Montana and Idaho streets.
- ✓ The second request was the addition of a curved alley (radius) on the western side of the Mill Site.
- ✓ The third request to eliminate two access points to a future parking lot and move the lot line to accommodate a new single access point on Wyoming Street.
- ✓ The fourth request was the boundary lot line relocations on the eastern side of the Mill Site adjacent to Ogren Park at Allegiance field.
- ✓ Staff supported all the adjustments except the elimination of the alley between Idaho and Montana Street because of the importance of retaining an unbroken alley connection from Dakota Street to Idaho Street.
- ✓ The applicants requested to phase the plat into two separate phases with the deadlines of April 30, 2012 for the first phase and April 30, 2018 for the second phase.
- ✓ Temporary cul-de-sacs would be needed where roads would dead end.

Nick Kaufman explained that the removal of the alley connection was requested because of the extra cost involved and loss of common area green space. Kevin Slovarp stated that the Engineering Department was agreeable as long as some connection could be to an existing alley in order to make it easier for City utility services to get in and out. Ellen Buchanan explained there was a discussion to run the north-south connection of the trail system within Silver Park down to the Milwaukee trail through the alley or run the trail system as part of California Street. There would be a connection within the park that would access California Street. It is the City's intention to reconstruct California Street with sidewalks on either side but no bike lane or trail.

Mr. Kaufman summarized that his office was open to taking the alley connection north to intersect with the east-west alley between Montana and Idaho Streets per Mr. Slovarp's recommendation and vacating it from that point north and eliminate the 2 access points for the common area parking lot.

The floor was opened for discussion:

Stacy Rye made **motion** to approve the Condition of Approval #21b as amended in Attachment C. And to approve the proposed adjustments of the preliminary plat, subject to the Mill Site PUD Subdivision conditions of approval as amended in Attachment C. The motion was unanimous and would go on the Consent Agenda.

Stacy Rye made a **motion** to approve the proposed phasing plan request for the Mill Site PUD Subdivision subject to the following requirements: Elimination of plat adjustment detail (Notes 1-8 and related graphics) on Sheet 1 of 1 dated May 15, 2009; and Retention of the north-south alley in Block 3 of Phase 2. Mr. Worley wanted clarification for the second bullet to read "retain a portion of the alley for connectivity." The motion was unanimous and would go on the Consent Agenda.

1. Ed Childers asked how does the phasing plan allow the project to proceed any faster and where is the project at monetarily. Mr. Kaufman stated the Phasing Plan assured the viability that all the planning, investment and work allows the project to proceed without having to invest in the entire infrastructure at one time. Ms. Buchanan replied MRA had reviewed the plan, been involved in the discussions and the decision making process. Now that this development would be phased separately the financing would need to be looked at again to perceive how it would work for a

phased development. Chair Jaffe asked if the roads and the sidewalks would be installed first. Mr. Kaufman replied everything related to phase one would be developed in phase one. What was critical to Phase One was the connection to the Milwaukee Trail as well as the Silver Park connectivity. Marilyn Marler asked to be kept in loop on during the planning for Silver Park. She asked if there was a master plan for Silver Park. Ellen Buchanan stated this was an MRA funded project and Parks and Rec was working in conjunction with the MRA. The master plan had been in place for awhile. She added it was envisioned that Silver Park would be built in conjunction with the development. It was MRA's intention to develop the parking for the baseball stadium first with the other priority being the trail connection finished along the river front. She added that Surface Transportation Program Enhancement (STPE) funds have already been allocated for the trail connection.

Ed Childers asked when the acquisition of the property going to happen. Kevin Meade stated currently there was a purchase agreement with the Silver Foundation with a series of extension options. The environmental issue with DEQ was the methane that was trapped in the sawdust layers and the log pond. The wood waste removal would be necessary before the parking lot could be constructed.

2. Chair Jaffe asked about the status of the MRL Bridge. Mr. Meade replied a bridge design was in place and costed out by the Engineering Department. He added it was a matter of funding and getting an agreement in place with MRL and the City of Missoula.

B. Consider adopting a six month interim zoning ordinance to zone Tract 7 and a portion of Tract 12 of Dinsmore's Orchard Homes Addition #4, and Lots 1 and 2 of Dinsmore Orchard Homes #4, Tract 11 located in the SW ¼ of Section 19, T13n, R19W, P.M.M., commonly known as The Gables subdivision ([memo](#)).—Regular Agenda (Tim Worley) (Referred to committee: 05/18/09) **(REMOVE FROM AGENDA)**

MOTION: The Committee recommends that the City Council set a public hearing on June 15, 2009 to consider adopting a six month interim zoning ordinance to zone Tract 7 and a portion of Tract 12 of Dinsmore's Orchard Homes Addition #4, and Lots 1 and 2 of Dinsmore Orchard Homes #4.

Tim Worley provided some background on The Gables subdivision:

- ✓ This 42-lot subdivision was located in Orchard homes on the northside of 3rd Street and west of Hiberta.
- ✓ It was approved May 22, 2006 subject to 26 conditions
- ✓ The preliminary plat approval period will expire May 26, 2009.
- ✓ There was a request to phase the project to extend it out.
- ✓ The Comp. Plan was mixed with parks, open space and residential two dwelling per acre.
- ✓ Based on the allowance for duplexes staff recommended RLD-4.

Roger Millar stated the purpose today was to set a public hearing. The substance would be discussed at the public hearing.

The floor was opened for discussion:

1. John Hendrickson asked if the applicant wanted the zoning to be changed. Mr. Millar replied the applicant was not asking for anything. This was brought to the Council's attention because the plat was about to expire and if the plat expired there would be a piece of annexed, unzoned land in the Orchard Homes area. The other issues were the possibility of the applicant letting the plat expire and putting a mini storage on the site and the letter received from the applicant's attorney stating that because the land was unzoned the zoning ordinance was not applicable. This referral was initiated by the City. Mr. Hendrickson asked what emergency zoning was recommended. Mr. Millar replied the OPG staff would recommend RLD-4 and this zoning would support the subdivision that was approved.

2. Jon Wilkins asked if the neighborhood would have to go through the right of protest again. Mr. Millar responded this there was no right of protest on interim zoning and this would be a temporary zoning for six months and then Council would consider permanent zoning for the property which

would entail the hearing before the Planning Board and City Council and the right of protest. This was a temporary measure to make sure there was zoning on the land while that discussion occurs. Mr. Wilkins then asked what could happen to that property now without zoning. Mr. Millar replied in the unzoned land section of the Zoning Ordinance there was a four point test used to determine what was permitted. He added the resolution to annex the property was conditioned on the approval of the preliminary plat of the subdivision. Mr. Nugent pointed out that there was a right of protest for interim zoning but the past protest would not be viable. Mr. Millar noted that he stood corrected and was glad Mr. Nugent was in attendance. Roger Millar remarked a public hearing would be set with a published notice in the newspaper for at least seven days. Even though State Law does not require property owner notification or posting the property; OPG staff would do this.

Marilyn Marler made a **motion** to set the public hearing for RLD-4 interim zoning on June 15, 2009. The motion was unanimous and would go on the Consent Agenda.

3. Stacy Rye asked what would happen if the property owner protests the zoning. Mr. Nugent replied a two-thirds vote would be needed to override the protest. If the neighbors protested a two-thirds vote would be needed to override that protest also. Ms. Rye asked how the extension of the preliminary plat works in conjunction with the interim zoning. Mr. Millar replied the preliminary plat was designed to be consistent with the RLD-4 zoning. It does not affect extending the subdivision. Mr. Kaufman indicated that the owner of the property had every intention to do a residential project when the subdivision was approved in 2005 however because of the present economy the applicant came up with another viable alternative which was a mini storage project. Chair Jaffe felt the applicant wanted to extend the plat but then he was actively pursuing another project. Mr. Kaufman stated if the mini storage project did not get approved the applicant would go with the subdivision. He stated the mini storage project would come before the Council in the next 30 days.
4. Jon Wilkins made a friendly amendment to the motion to ensure public notification through property owner letters and posting of the land.
5. Renee Mitchell asked if this property could be de-annexed and become subject to County regulation. Mr. Nugent stated this was a possibility if the Council approved it and then it would subject to County Regulations.
6. Jason Weiner stated the context of the notice should include what was required and that this was not a new development.

The floor was opened for public comment:

Ryan Morton had three points on the process of interim zoning. He stated there was no incompatible use notified until this meeting, there was no proposal for zoning until the motion and there was no ordinance attached to the referral. He felt it was unfair for the public participation. He added before a public hearing was set there should be a legal opinion as to whether zoning regulations for unzoned land dealt with whatever was on the property. Roger Millar added the purpose of the referral was to initiate the process of a public hearing. There will be an ordinance for the Council's consideration and the public will have adequate opportunity to review the ordinance before the public hearing. The goal was to clarify this for the community and give the community protection while the applicant was considering the PUD.

V. Regular Agenda Items

- C. Discussion of OPG's [task list](#) and workload ([Urban Initiatives work plan](#)).—Regular Agenda (Mike Barton) (Referred to committee: 06/12/06) (**HELD IN COMMITTEE**)

Mike Barton prepared a draft of the proposed tasks that Urban Initiatives will work on in Fy2010. He anticipated that Urban Initiatives would continue to work on the Zoning Ordinance and Subdivision Rewrite into the next fiscal year not only in terms of the adoption of both amendments but also in the six month adjustment period after the ordinance was adopted. Other work plan items include:

- Target Range/Orchard Homes plan.
- The scoping of the Growth Policy update or a review in 2011.
- The Mayor's Housing Initiative.
- An Agricultural Lands policy which addressed the conservation and protection of agriculture lands and soils. .

The floor was opened up for discussion:

1. Stacy Rye suggested it would be helpful to have the previous years' work plan and a review of the work completed and be able to compare it to what was being currently proposed. Dave Strohmaier agreed with Ms. Rye to have a level of the review of the previous year's accomplishments and/or at any point when the allocated council projects hours have been exhausted. Ms. Rye asked how many hours were budgeted for the Mayor's Housing Initiative. Mr. Barton replied the same number of hours was budgeted this year as for last year. He stated his staff was currently in the process of developing a plan for several sites to do work force housing in conjunction with that task force. Mr. Millar added the affordable housing policy that was adopted was also a product of the work plan. Urban Initiatives is working with the Mayor on a project to create work force housing. There are a number of properties owned by the City. The team is working to identify sites that might be appropriate for creating work force housing. Mr. Barton stated there were two dozen parcels that have been looked at and eight or nine parcels that could be suitable for multi unit developments. John Hendrickson wanted to be kept apprised of the location of the parcels.
2. John Hendrickson wanted to know if the Target Range/Orchard Homes are billable hours to the City. Mike Barton stated this was undertaken with support of the County. He stated those hours were billable hours to the County. Mr. Millar stated the County contribution was \$25,000 as a part of the budget for this year and next year's fiscal budget.
3. Dave Strohmaier asked if the growth policy review item, as it related to subdivision proposals, was different from the work done by subdivision review. Mr. Millar replied the subdivision application was sent out to all agencies that review and Urban Initiatives comment on it with respect to the growth policy. Mr. Barton stated that some flexibility was added in the task list
4. Renee Mitchell wondered whether or not funding was accepted from the Orchard Homes residences for the Orchard Homes Neighborhood Plan. Mr. Millar replied that funding was not the only issues last year. Staff was allocated to work on the UFDA project, the results of which were needed before a Target Range/Orchard Homes plan could be accomplished. The residents are still welcome to contribute money to the planning effort.

Roger Millar presented a power point presentation on general update on OPG's workload. He explained the slides showed a year to year comparison in regards to the activity that comes through OPG. The first column is fiscal year 2008 through the end of the third quarter, the second column is the current fiscal year through the end of the third quarter, and the third and fourth columns are the third quarter itself for both FY2008 and FY2009. He stated as an office the total fees are up about thirteen percent compared to last year. The place that OPG is down still is in rezonings and elsewhere OPG was in good shape. He felt that the public was getting a better product out of the OPG office because the staff was not overloaded.

Mr. Millar explained our response to the trend:

- Holding vacant positions open in the office.
- Sent planner to the legislature. Michele Reinhart was on LWOP from December to May.
- Reduced projects staff overtime by 430 hours compared with the last fiscal year.
- Proposing elimination of 2 FTE in current planning section in FY 2010 budget.
- Two current planning staff members on FMLA summer 2009.

He stated that action has been taken to make sure OPG comes in to conformance on where the fees are in FY2009 and two positions have been eliminated.

Jon Wilkins would like to know the amount of time staff spends on after hour meetings and how are they compensated. Mr. Millar replied most of the time is compensated as compensatory time and there was a minimal amount of overtime. He said he would compile information on after hours meetings and share that with the PAZ.

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. Discuss council's interest in pursuing a negotiated settlement over disputed trail conditions for Clark Fork Terrace No. 2 Subdivision ([memo](#)).—Regular Agenda (Mayor Engen/Jim Nugent) (Referred to committee: 02/25/08)
4. 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)
5. Orchard Homes discussion and work session to set a foundation for considering annexation, rezoning, and subdivision proposals within the context of City land use and infrastructure policy. ([memo](#))—Regular Agenda (Roger Millar) (Referred to committee: 07/14/08)
6. Correct the conflict in the height calculation regulations, between written language (a building envelope shall be established by showing the maximum vertical height allowed by zoning from finished grade) and the drawing on [page 151](#) of the [Zoning Ordinance](#).—Regular Agenda (Ed Childers) (Referred to committee: 3/27/06)
7. Ongoing discussion of City planning issues with members of the Planning Board.—Regular Agenda (Bob Jaffe) (Referred to committee: 3/20/06)
8. Discussion on assuring the currency of growth policy amendments ([memo](#))—Regular Agenda (Dave Strohmaier) (Referred to committee: 09/08/08)
9. Consider an interim emergency ordinance for proposed amendments to the City Zoning Ordinance, Chapter 19.90 Signs ([memo](#)).—Regular Agenda (Tom Zavitz) (Referred to committee: 12/15/08)
10. Consolidated Public Review Draft of the Missoula City Zoning Ordinance submitted by Duncan Associates to the Missoula Consolidate Planning Board for its review and recommendation ([memo](#)).—Regular Agenda (Roger Millar) (Referred to committee: 02/09/09)

VIII. Adjournment

The meeting adjourned at 12:05 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.