

Plat, Annexation and Zoning Committee Minutes

June 17, 2009

10:05 am – 12:00 pm

Missoula City Council Chambers, 140 W. Pine Street

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

Members Absent: Ed Childers, Jason Wiener

Others Present: Rod Austin, Gary Bakke, Jim Blume, Brent Campbell, Ken Duce, Matt Ellis, Jim Hausauer, Harold Hoem, Jan Hoem, Linda Lennox, Ruth Link, Linda McCarthy, Laval Means, Roger Millar, Eric Midtlyng, Jim Nugent, Michele Reinhart, Tim Worley, Tom Zavitz, and Shelley Oly

I. Approval of Minutes

June 10, 2009 were approved

II. Public Comment on Items not on the Agenda

III. Staff Announcements

IV. Consent Agenda Items

A. Approve or deny a request for an extension of the preliminary plat approval period for River Road Meadows Subdivision (formerly Great Spaces) from June 11, 2009 to June 11, 2010 ([memo](#)).—Regular Agenda (Michele Reinhart) (Referred to committee: 06/15/09) (REMOVE FROM AGENDA)

MOTION: The Committee recommends the City Council approve the extension of the preliminary plat approval period to June 11, 2010 for River Road Meadows (formerly Great Spaces) Subdivision.

Michele Reinhart brought forward a request from Ron Ewart for the plat extension for River Road Meadows Subdivision which was formerly Great Spaces Subdivision. Great Spaces Subdivision was approved June 11, 2007 subject to 16 Conditions of Approval with the deadline of June 11, 2009. The applicant asked for an extension to June 22, 2010. This extension is concurrent with Article 4-7(1) of the Subdivision Regulations, which allow an extension to be granted up to three years from the date of the preliminary plat approval. The applicant has met the four applicable review criteria per Article 4-7(3): (1) Circumstances governing the timing of the final plat review have changed beyond the control of the subdivider; (2) The Findings of Fact regarding the primary review criteria would still be valid; (3) No significant changes in the area have occurred which would change the evaluation of the proposal; and (4) Planning and provision for public services would not be disrupted by the extension of the deadline. OPG staff recommended approval of the preliminary plat approval period to June 11, 2010.

Stacy Rye **made** the motion to approve to extend the plat deadline to June 11, 2010. The motion to grant the extension was unanimous and would go on the Consent Agenda.

B. Set a public hearing and adopt a resolution of intention to adopt the Missoula Greater Downtown Master Plan as an amendment to the 2005 Missoula County Growth Policy ([memo](#)).—Regular Agenda (Ellen Buchanan) (Referred to committee: 06/15/09) (**REMOVE FROM AGENDA**)

MOTION: The Committee recommends the City Council set a public hearing on July 27, 2009 and adopt a Resolution of Intention to Adopt the Missoula Greater Downtown Master Plan as an amendment to the 2005 Missoula County Growth Policy.

Roger Millar presented this item because Ms. Buchanan was not available. He stated the Downtown Master Plan was unanimously recommended for adoption by the Planning Board. A draft of the Resolution of Intent was attached to the referral. He added that the date for the public hearing had been changed to July 27, 2009.

Stacy Rye **made** the motion to Set the public hearing for July 27, 2009 and adopt the Resolution of Intention to Adopt the Missoula Greater Downtown Master Plan as an amendment to the 2005 Missoula County Growth Policy.

The motion to set the public hearing was unanimous and would go on the Consent Agenda.

V. Regular Agenda Items

A. Pre-public hearing information update and background on proposed Title 20, Missoula City Zoning Ordinance ([memo](#)).—Regular Agenda (Laval Means) (Referred to committee: 06/15/09) (**HELD IN COMMITTEE**)

Roger Millar stated this was the pre-hearing information on the zoning and subdivision regulations update. He presented a [power point presentation](#) (1.9 MB) and talked about where the process was at and the changes between Title 19 and Title 20 and the issues that remain on the table. Mr. Millar added that more information was available at www.zoningmissoula.com

Listed below are the general directions that came out of the scoping and listening sessions and described in the Concepts and Directions report:

- ✓ Easier to use and understand.
- ✓ Housing variety/lifestyle choice.
- ✓ Proposed Approach, Expand residential building types.
- ✓ Places to work, shop, play and live.
- ✓ Reserving places for industry.
- ✓ Focus on design.
- ✓ Growing Greener.
- ✓ Connecting people and places.
- ✓ Rehab, reuse and reinvestment.

He went through the issues that were remaining on the table for discussion and Planning Board's recommendations:

- Density calculation.
 - Currently density is measured in several different ways. Planning Board's recommendation was to approve measurement of density based on parcel area. Some increase in density occurs with the rounding when converting from acreage to square footage.
- Minimum parcel size.
 - Planning Board's recommendation was to reduce the minimum parcel size to 3000 square feet in two dwelling and multi-dwelling districts.
- Building height.
 - Current regulation indicate a maximum building height of 30-feet in most residential districts but if the roof pitch is greater than 7 in 12, it can be 20% higher to equal 36-feet.

- Planning Board's recommendation was the building height in most of the residential zoned districts be 30-foot maximum unless there was a primary roof pitch of greater than 8 in 12, then it would be 35-feet maximum.
- Proposed building height measurement is much simpler, height is measured from the lowest point at grade whether existing or finished grade, to the highest point of the roof.
- Recommendation to remove the two story limit for residential structures.
 - Planning Board's recommendation was to remove "story" as a unit of measurement and base all building heights as feet. This eliminated a lot of vagueness in determining what constituted a story
- Bulk and mass standards.
 - Planning Board proposed to keep the one-third building height standard in the single family zoned districts proposed in RT10, R5-4, RT5-4, and R-8.
 - Two contiguous non-conforming lots of record in common ownership are considered on parcel of land. This is the same language as the current Ordinance.
 - Anti-scraping ordinance. This is the same language as the current Ordinance.
 - Chapter 19.69 PNC has been eliminated in Title 20.
 - Neighborhood character overlay zone. Planning Board's recommendation was to allow neighborhoods to work together to provide for neighborhood specific bulk and mass standards.
- Accessory dwelling units – ADU's.
 - Planning Board's recommendation was to create an accessory dwelling unit overlay that could be applied through a rezoning of the land and specific standards for development.
- Bed and Breakfast.
 - Planning Board's recommendation was to treat the use as a conditional use in residential districts and a permitted use in commercial districts, with use specific standards rather than the multi dwelling standards.
- Group living.
 - Planning Board's recommendation was eight or fewer people in a group living situation was a permitted use which was no change from the existing Ordinance and that nine or more people be a conditional use which was incorporating what was already used as City Attorney/Zoning Officer opinion into the Ordinance as ordinance language.
 - For the nine or more people in the conditional use there are density standards which would provide for a maximum number of residents per 1000 square feet of parcel area for a group living situation for nine or more people. The services and facilities that are provided would be limited just to the people that reside there.
- Home occupation. Home Occupation is permitted in all residential districts, but currently there are no standards to determine the number of employee or customers.
 - Planning Board's recommendation was to limit the number of employees or customers that can be in a home occupation to one non-resident person, whether a paid employee or not may be involved with the home occupation provided there was only one non-resident on the property at any one time.
- Administrative adjustments.
 - Planning Board's recommendation was an administrative review of minor deviations allowing for appeals to be made to the BOA.
- Dynamic display signs.
 - Planning Board's recommendation was to limit signs to arterials within C1, C2, M1, M2 zones with modification.

The floor was opened for discussion

1. Jon Wilkins and Renee Mitchell cited two scenarios concerning in-house variances and granting a variance that was not a variance but an interpretation of code. Mr. Millar replied that the scenario involved regulations existing that City Council had granted for a few zoning districts to allow for a garage to be placed closer to a rear or side property line if approved by the adjacent property owner.

Mr. Millar replied to Ms. Mitchell that merging R-1 and A zone districts was an amendment to the general zoning regulations but not a rezoning to specific property. Chair Jaffe asked Mr. Millar to bring specific case examples that were problematic and the results would be beneficial to the Committee. Mr. Millar stated he would be happy to bring back examples. Ms. Mitchell asked how was downsizing a parcel not an amendment to a zoning district. Mr. Millar replied that density in the RII zoning district, for example, was one dwelling per 2,700 square feet in the current and new zoning ordinance. Downsizing a minimum parcel allow the owners of that property to use the density the owners already have in other ways.

2. Pam Walzer wondered how to address the minor editorial details. She asked whether the definition of group living included any household with more than eight person. Mr. Millar replied the editorial details could be addressed in the meeting or emailed to Laval Means at OPG. A group of college students living together are not classified as group living under the old Ordinance or under the current Ordinance. Mr. Nugent concurred with Roger Millar. Ms. Walzer appreciated the proposal for smaller parcel size because it was more in keeping with the historic platting pattern in her neighborhood.

3. Dave Strohmaier commented that the results should be the best document possible and he felt the only way to make this happen was to work constructively together. He brought up the guest editorial that was published in the June 16, 2009 Missoulian. He asked if the authors of the article felt that the current zoning process was so flawed that it would be voted against regardless of any further refinement of the document. There were the issues brought up by John Hendrickson, Jon Wilkins, Dick Haines, Lyn Hellegaard and Renee Mitchell:

- ❖ Not looking to scrap the work in Title 20.
- ❖ Title 19 should be reinstated and Title 20 be integrated into Title 19. Title 20 was a rezone and not a rewrite and the citizens of Missoula needed to be notified accordingly.
- ❖ Felt the mailing was inadequate.
- ❖ Concerned that one person was given 80% say on what can happen
- ❖ Any change needed to be in compliance with the Growth Policy.
- ❖ Concerned with R3 and RM-1's and Temporary Uses.
- ❖ The Lowe Test needed to be brought before the Planning Board and discussed accordingly. Would like each change to be reviewed based on the Lowe test.
- ❖ Concerned about ADU's in single family residences and the downsizing of lots.
- ❖ Disappointed in not being able to obtain a second legal opinion.
- ❖ Why reduce parking requirements for people that want to use mass transit, concern over drive-through standards.
- ❖ The citizens of Missoula want to know how this rewrite would change neighborhoods.

4. Dave Strohmaier explained there were ways to enhance public notification without sending the draft Ordinance back to the Planning Board. The Planning Board was an advisory body to City Council. He added that any two members that wanted a second legal opinion could bring up the issue before the Committee of the Whole.

5. Stacy Rye wondered what happened to the issue regarding windmills and what did the neighborhood character overlay entail? Mr. Millar stated that the Planning Board had prohibited windmills city wide...He added that the neighborhood character overlay was designed as a way to enable site specific standards to work for specific neighborhoods. An opportunity to define neighborhoods that had a common identity and this was a way to preserve that. Neighborhoods that had a plan or an historic district could approach the Council with specific geographic boundaries, modified uses, specific standards and setbacks. Ms. Rye expressed concern over the term 'character' because it was too vague; it could mean different things to different people and could imply no change. She mentioned that she also wanted to discuss bed and breakfast, home occupation, day cares and accessory dwelling units in more detail.

Lynn Hellgaard **made** a motion for City Council to return the proposed Title 20 new Zoning Ordinance to the Zoning Commission/ Planning Board for the purposes of reviewing Title 20 in the context of the City and State zoning laws including the Lowe test, sending the required notices to the property owners as to what changes would be affected on their property and reviewing all provisions of Title 20.

The floor was opened for public comment.

Ryan Morton stated his firm was concerned with building heights on hillsides and the town home standards.

Jan Hoem stated that she had attended many meetings discussing the zoning draft and those meeting they were told that controversial items would be removed from the document once it was produced. She felt ADU's was a controversial issue and if this issue was taken off the table then there would be more rational discussion regarding Title 20.

Harold Hoem stated his concern was that PNC would come back in a different form. He added that the number of rentals and how they were distributed has an impact on the quality of the community and affordable housing may need to be addressed in a different way.

Chair Jaffe explained that since no member had called the question the motion would be left on the floor until the next meeting.

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. 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)
6. Ongoing discussion of City planning issues with members of the Planning Board.—Regular Agenda (Bob Jaffe) (Referred to committee: 3/20/06)
7. Discussion on assuring the currency of growth policy amendments ([memo](#)).—Regular Agenda (Dave Strohmaier) (Referred to committee: 09/08/08)
8. 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)
9. 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)
10. Discussion of OPG's [task list](#) and workload ([Urban Initiatives work plan](#)).—Regular Agenda (Mike Barton) (Referred to committee: 06/12/06)
11. Develop policies and procedures regarding ag land mitigation ([memo](#)).—Regular Agenda (Lyn Hellegaard) (Referred to committee: 06/01/09)

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.