

Plat, Annexation and Zoning Committee Minutes

July 08, 2009

10:05 am – 12:00 pm]

Missoula City Council Chambers, 140 W. Pine Street

Members Present: Chair Jaffe, Ed Childers, Dick Haines, Lyn Hellegaard, John Hendrickson, Marilyn Marler, Renee Mitchell, Stacy Rye, Pam Walzer, and Jon Wilkins

Members Absent: Dave Strohmaier, Jason Wiener

Others Present: Phil Condon, Elaine Hawk, Jamie Hoffmann, Ruth Link, Laval Means, Ryan Morton, Jim Nugent, Lewis YellowRobe, Tom Zavitz and Shelley Oly

I. Approval of Minutes

June 23, 2009 were approved.

June 24, 2009 were approved.

July 01, 2009 were approved.

II. Public Comment on Items not on the Agenda

III. Staff Announcements

IV. Consent Agenda Items

A. Consider [petition 9386](#) to annex a portion of Chuck Wagon Drive ([memo](#)).—Regular Agenda (Carla Krause) (Referred to committee: 07/06/09)(**REMOVE FROM AGENDA**)

MOTION: The committee recommends the city council adopt a resolution extending the corporate limits of the city of Missoula, Montana, to annex within the boundaries of the city a certain tract of land described as easement area A and B of Chuck Wagon Drive for which the owner has petitioned for annexation (Section 13, Township 13 North, Range 20 West, P.M.M.)

Chuck Wagon Drive provides a connection from Mullan Road to Lariat Loop and eventually to the new 44 Ranch Subdivision. Two portions of Chuck Wagon Drive are outside of the City's jurisdiction and require annexation. The current annexed portion of Chuck Wagon Drive contributes to existing public roads and to those roads that are being built as part of the new subdivision:

- ✓ Chuck Wagon Drive contributed to the City's grid system.
- ✓ There would be no additional service costs incurred because the City had originally planned to provide services to the roadway when 44 Ranch was annexed.
- ✓ Chuck Wagon Drive is a public roadway so no zoning and no public hearing was required.
- ✓ This is a simple petition method of annexation which required the Council to adopt a Resolution of Annexation and file the resolution at the County Clerk and Recorder's Office.

Jon Wilkins made the motion to adopt a Resolution of Annexation.

Pam Walzer asked what would be the right-of-way for Chuck Wagon Drive. Ms. Krause replied that Chuck Wagon Drive was an 80-foot easement so there would be plenty of room for future sidewalks and curbs and gutters.

The vote to adopt the Resolution of Annexation was unanimous and would go on the Consent agenda.

B. Appointment of a University area representative to the Historic Preservation Commission. ([memo](#)) Regular Agenda- (Marty Rehbein) (Referred to committee: 07/06/09) **(REMOVE FROM AGENDA)**

MOTION: The Committee recommends the City Council appoint Ms. Kathy Caras Veazy as the University area representative on the Historic Preservation Commission for a term commencing immediately and ending on December 31, 2012.

Kathy Caras Veazy's answers to the interview question:

Kathy Caras Veazy introduced herself and remarked that her family had been long time residents of Missoula. She had recently returned to Missoula and currently lives in the University district. She added that she has always been interested in historic homes and historic areas.

- 1) Ms. Veazy felt purpose of historic preservation was to add vitality to a community.
- 2) The Historic Preservation Commission contributed to Missoula by drawing all kinds of people to this community to view the historic districts. She added that she has met numerous people who have moved to Missoula because of the historic nature of the community, the quality of life and the fact that historic preservation is a vital link in our City.
- 3) Her knowledge came from living in different parts of the world and experiencing their historic areas. For example she resided in London England for six years in the first planned community. She also lived in Sao Paulo, Brazil and was interested in the architecture of Brazil. She has spent many years traveling and felt this knowledge could contribute to the Historic Preservation Commission.
- 4) Ms. Veazy was familiar with national register but wanted to learn more about how houses got listed on the national register.
- 5) She felt that historic preservation was one of the most important things to do in a community to keep neighborhoods viable. Her interest lay in helping investors and landlords incorporate rentals into the historic preservation.
- 6) She felt an important issue between preservation and economic development was the struggle between the historic preservation side and the building and investment that people want to make. She added because of the economy the conflict arises when people try to build more houses closer together but the houses may not be as well built as they should be. Ms. Veazy remarked that regulations were needed to help bridge the gap between the economical and the historical needs.
- 7) Ms. Veazy felt that both the Farviews and Orchard Homes areas were suitable candidates for historic preservation. She would like to see a sign arched over 3rd street denoting the Orchard Homes County Life Club. She pointed out that this structure has been there for a very long time and it was a landmark to the area and felt a sign would draw more people into that area.
- 8) Chair Jaffe asked Ms. Veazy was familiar with the new Historic Preservation Commission Ordinance. She stated she was not that familiar with it.

Pam Walzer made the motion to nominate the applicant to the Historic Preservation Commission for the University district.

The vote to nominate Ms. Veazy passed with 9 votes of 'aye' and 1 vote of abstained (Mr. Wilkins). This will go on the Consent agenda.

Mr. Haines commented that there was no representation from either the South east side or the South west side of Missoula, and felt there should be representation from those areas as well.

V. Regular Agenda Items

A. An [ordinance](#) repealing Title 19 Zoning Code in its entirety and adopting Title 20 Missoula City Zoning Ordinance and an [ordinance](#) repealing Title 2.84, the Historic Preservation Committee in its entirety. ([memo](#)) ([PAZ](#)) ([Staff Report](#)) ([Potential List of Issues](#)) —Regular Agenda (Laval Means) (Returned from Council floor: 06/22/09) (**HELD IN COMMITTEE**)

Laval Means summarized the discussion from the PAZ meeting of July 1, 2009 for Jon Wilkins because he was absent from the meeting. Laval Means stated in regards to small lot issues the density calculations in the business and commercial districts were changed from 1500 square feet per unit for a single purpose residential development to 1000 square feet per unit. The setbacks on the new proposed R3, which is not applied yet, were modified to start with 10-feet rear and 10-feet front with a footnote that stated in no case should the setback between those two be less than 30-feet.

The floor was opened for discussion:

John Hendrickson wanted more discussion on the proposed R3 district. Mr. Hendrickson felt the discussion of R3 could invite scraping and a back door to the PNCs. He wanted this proposed R3 district to be limited to new development, in new areas and not invite scraping and PNC in existing neighborhoods. There was more discussion on the proposed R3 districts:

- ❖ Would like to have the 15000 square feet minimum land area expanded to include the whole block in existing neighborhoods to give more neighbors opportunity for right-of-protest.
- ❖ To apply the R3 in an existing neighborhood would still require a rezone.
- ❖ Can established zoning districts have permanent zoning? Mr. Nugent replied that City Council always has the power to change any zoning regulations at any time. So there was no permanent zoning.

John Hendrickson made the motion that property in established neighborhoods currently zoned within the City as a residential zone could not be rezoned to the R3 zoning district. Mr. Hendrickson withdrew his motion. Discussion on the R3 zone continued.

- ❖ The R3 zone was another zoning possibility, less intrusive than high density high rise residential.
- ❖ R-3 was spot zoning and would like a definition of spot zoning. A scenario was given that a number of individually owned homes on non-conforming lots are bought by a developer and scraped. Does the developer still have the right to build on each one of these lots even though they don't meet the zoning that was in the area? Mr. Nugent explained the regulations state that if two non-conforming lots that are contiguous to each other are in a single ownership they are considered merged for the purposes of zoning regulations and would be treated as a single building site. Ms. Laval stated that regulation was the same in the update as well. Chair Jaffe stated that the attempt to use a new R3 zone for that situation was still a rezone. The point was if the building site was only conforming because it had two lots the developer does not have a right to build on each of those lots but if the property was rezoned then the lots are not non-conforming anymore. Mr. Nugent added that State law establishes the radius for the right of protest.
- ❖ Jim Nugent explained that spot zoning was determined on a case by case basis. The focus was on whether it was special legislation just for one person and whether it benefits others and property values. It is not dependant on size. He stated that spot zoning was not illegal. He also clarified that if the lots do not exist in the R3 zone the lots would need to go through the subdivision review process.
- ❖ Neighborhoods had no input or say when a PNC came into a neighborhood. By making small lots a rezone then nothing can happen without City Council action.

- ❖ People have a right to request rezoning on their property and could currently request to any zoning district. They may not get the rezone approved, but they can request it.
- ❖ Why keep the R3 when property can get rezoned to any other type zoning?
- ❖ Concerned with the setback requirements in relationship to porches that do not get calculated in to the footprint of the house. Ms. Means explained one of the things that spurred on the idea of a small lot single dwelling zoning district was that existing zoning front and rear setbacks were all fixed at 20' typically. There was no district that allowed lesser setbacks and yet there have been requests for reduced setbacks on recent residential development. Those projects have had to create specialized zoning or go through a PUD. Ms. Hellegaard asked whether a property owner could request a variance on the setbacks through the City Board of Adjustments (CiBOA). Ms. Laval explained that was available to them but they would have to prove there was a hardship.

- ❖ Mr. Wilkins made a motion to remove R3 zoning district from the document to be discussed at a later date.

There was discussion on Mr. Wilkins's motion.

- ❖ R3 zoning district was limited to the single dwelling detached house whereas other residential zones with similar minimum lot size and density would allow other residential building types.
- ❖ R3 was a useful tool for developers especially in new developments. The tool provides a standardized zoning district which would reduce the number of requests for specialized zoning districts for developments proposing single-dwelling small lots.
- ❖ If there was no market for R3 then developers will not use it. Ms. Rye called for the question. It failed.
- ❖ The purpose of the rewrite was to clean up and modernize the existing zoning ordinance and not add new zoning districts.

The discussion was open for public comment to remove R3 from Title 20.

Ruth Link stated the MOR would not support the motion. R3 is a useful tool to provide affordable housing in Missoula.

Jamie Hoffman reported that Windsor Park, Canyon Creek and Hellgate Meadows are all small lot developments and these homes continue to sell because the houses are affordable compared to the median home price in Missoula. These homes all have setbacks less than the traditional single family zones. These homes meet a need and they are attractive developments and there ought to be a zone a property owner can pick that reflects those developments.

Phil Condon spoke from the Farviews perspective. He stated R3 was a development tool that was desirable and has had success in new areas. There should be some way to increase the 15,000 square feet minimum land area where it applies and make it available to where it is useful for certain kinds of development.

Ryan Morton reminded the Committee members that Windsor Park, Canyon Creek and Hellgate Meadows were Special Districts and not PUDs. He added that most of the impact fees that were collected were from these developments so it was the largest market in the past few years. He stated it did not matter where the R3 zoning district was applied because the lots would still have to be divided through the subdivision process and this was a single family detached lot zone.

John Hendrickson made a substitute motion that R3 be limited to new developments only, not in existing City neighborhoods. The meaning of new development would be defined later. There was discussion on Mr. Hendrickson's substitute motion.

- ✓ Difficult to define existing neighborhoods. What about the legal non-conforming lots in existing areas. Change has already occurred and the historic platting pattern of small lots is different than the minimum lot size required by current zoning.

The substitute motion to limit the R3 zoning district to new developments failed with 5 votes of 'aye' and 5 votes opposed (Mr. Childers, Ms. Walzer, Ms. Rye, Mr. Jaffe and Ms Marler)

Mr. Wilkins clarified his motion to set the R3 zoning district aside until the document was complete and then bring this discussion back.

Dick Haines asked Ms. Means to provide a written description of the R3 zoning district so the committee members could have a more meaningful discussion.

The motion to set the R3 zoning district aside until the zoning document was complete failed with 5 votes of 'aye' and 5 votes opposed. (Mr. Childers, Ms. Marler, Ms. Rye, Ms. Walzer, Mr. Jaffe)

Building Height Issues.

Laval Means pointed out that a comparison between the Planning Board recommendations and the current ordinance on building heights and hillside protection component was e-mailed to all the members.

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.