

Plat, Annexation and Zoning Committee Minutes

October 7, 2009

9:35 am – 11:00 am

Missoula City Council Chambers, 140 W. Pine Street

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

Members Absent: Ed Childers and Jon Wilkins.

Others Present: Rebecca Ciccone, Brian Derry, Kristen Kallemeyn, Mary McCrea, Jim Nugent, John Paoli, Janet Rhoades, and Denise Small.

I. Approval of Minutes

[September 30, 2009](#) were approved as presented.

II. Public Comment on Items not on the Agenda

III. Staff Announcements

IV. Consent Agenda Items

- A. Appoint one member as the "Alternate #2" member of the Historic Preservation Commission for the term commencing immediately and ending on December 31, 2012 ([memo](#)).—Regular Agenda (Kelly Elam) (Referred to committee: 10/05/09) (**REMOVE FROM AGENDA**)

MOTION: The Committee recommends the City Council appoint John Paoli as the “Alternate #2” member of the Historic Preservation Commission for the term commencing immediately and ending on December 31, 2012.

The Committee interviewed one candidate, John Paoli, for the “Alternate #2” position on the Historic Preservation Commission (Commission).

John Paoli:

1. Mr. Paoli felt the Commission could locate potentially historic assets.
2. Mr. Paoli stated he has been an architect for 30 years and has lived in many communities that were older and more urban than Missoula. He said that he lived in the present and looked toward the future and felt that not everything that was old needed to be preserved. He felt the Commission had a narrower focus, and he would provide a broader perspective.
3. Mr. Paoli was familiar with the National Register of Historic Places (Register) and had been involved with Register properties in New York City. A property on Front Street in Missoula was the only local Register property he had been involved with.
4. Mr. Paoli stressed Missoula’s need to preserve larger community assets, and professed some nervousness over Ordinance 20.3 and the action it took. Everyone wanted to be part of the urban place, but the question of urban nature gets sidelined.
5. Mr. Paoli stated that historic preservation and economic development were both important tools for moving forward. Historic preservation should be objective, just like architecture. He felt the important question was what does Missoula want to save and project?. If Missoula really wanted to become a city then it would be necessary to forsake the historic nature of some edifices in order to ensure economic development
6. Mr. Paoli wasn’t familiar with what was currently identified for preservation, but noted a good run on some of what had been done to-date. He stated that historic preservation should be on a case-by-case basis, and that it was a question of where to draw the line. People could be possessive of their own properties without knowing what had been there previously or what might come in the future.

7. Mr. Paoli said historic preservation was important, but a person could become overzealous on specific projects or parts of them. He stated that architects were often despised for developing or renewing property, when they were really only guiding an owner's wishes while doing their best architecturally and trying to meet a budget. He voiced concern about mandating things to people when or if they were in a historic district.
8. Mr. Paoli reported serving on the Design Review Board in 1997 or 1998.

John Hendrickson made a **motion** that the Committee recommend City Council appointment of John Paoli to the "Alternate #2" position of the Historic Preservation Commission. The vote passed unanimously. This item will go on the Consent Agenda.

- B. Approval or denial of the Conall Grove Subdivision plat extension request ([memo](#)).—Regular Agenda (Rebecca Ciccone) (Referred to committee: 10/05/09) (**REMOVE FROM AGENDA**)

MOTION: The Committee recommends the City Council approve the request to extend the preliminary plat approval period for the Conall Grove Subdivision, to extend the final plat submittal deadline to January 8, 2011.

Additional Information ([Conall Grove Subdivision Request and Maps](#))

Rebecca Ciccone reported that Conall Grove was a 7-lot subdivision on 1.99 acres located north of 3rd Street, and west of Reserve Street. Ms. Ciccone stated that PCI requested to extend the preliminary plat deadline to January 8, 2011 and that staff recommended to approve this extension.

Committee discussion:

- Chair Jaffe said it would be helpful to have a map indicating the subdivision location. Ms. Ciccone replied that a map would be provided to the Committee.
- Dick Haines asked that this item be placed on Committee Reports, so that a map could be included. Chair Jaffe asked if this item could be moved to the Consent Agenda if a map were provided. Mr. Haines agreed this would be acceptable.

John Hendrickson made a **motion** to approve extension of the preliminary plat approval period for the Conall Grove Subdivision. The vote passed unanimously. This item will go on the Consent Agenda.

- C. Approval or denial of the Howard Raser Business Park Subdivision plat extension request ([memo](#)).—Regular Agenda (Rebecca Ciccone) (Referred to committee: 10/05/09) (**REMOVE FROM AGENDA**)

MOTION: The Committee recommends the City Council approve the request to extend the preliminary plat approval period for the Howard Raser Business Park Subdivision, to extend the final plat submittal deadline to January 8, 2011.

Additional Information ([Howard Raser Business Park Subdivision Request and Maps](#)) (4.19 MB)

Rebecca Ciccone reported that Howard Raser Business park was a 6-lot industrial subdivision on 7.5 acres located east of the Howard Raser Drive/Old Grant Creek Road intersection. Ms. Ciccone stated that R.C. Hobbs Company requested to extend the plat approval deadline to November 19, 2010 and that staff recommended to approve this extension.

Committee discussion:

- Dick Haines suggested that staff present maps or drawings when requesting plat extension. Mary McCrea responded that in the future staff would make full presentations on extension requests. She added that the focus was not on the location but on whether

or not developers were within their prescribed deadlines. She also noted that there was typically a 21-day calendar deadline for extension requests and the requests were processed with a PAZ referral usually within 1-2 days of receipt by staff.

- Chair Jaffe stated this detailed information would assist the Committee members in identifying which projects were being presented for extension requests.
- Pam Walzer appreciated the fact that the two requests addressed at this meeting were both presented well in advance of their deadline. She asked what business or improvements may have already occurred at the time of final plat submittal. Ms. McCrea responded that:
 - There were a variety of conditions of approval prior to final plat submittal.
 - A developer could choose to install all road and sidewalk improvements and boulevards prior to final plat, or do an improvement agreement including a security such as a letter of credit or a bond. The developer could then begin improvements or submit the letter of agreement and have a two-year period, beyond final plat submittal, in which to install improvements.
 - A developer would submit the letter of agreement rather than to install the improvements prior to final plat approval.
 - At the time of a plat extension request, there was no business actually operating with a subdivision unless it had already existed.
 - If a developer proposed subdivision of a single lot, they could get a building permit; however, they might have difficulty filing the final plat if they didn't build in right location and address all subdivision conditions. Even for proposed subdivision of a single lot, a developer had to meet all zoning regulations in place.
- Chair Jaffe stated he understood that at the time of filing the final plat the developer needed to have the financing and infrastructure in place. An extension was simply a means by which to delay those until the developer hoped to start selling lots.

John Hendrickson made a **motion** to approve extension of the preliminary plat approval period for the Howard Raser Business Park Subdivision. The vote passed unanimously. This item will go on the Consent Agenda.

V. Regular Agenda Items

- A. Adopt findings of fact and conclusions of law for Sonata rezoning & subdivision, which was approved by City Council on December 17, 2007 ([memo](#)) (**HELD IN COMMITTEE**)

Janet Rhoades reported that she did not have a formal presentation prepared, but was here to answer questions and/or record requested changes to the proposal.

Committee discussion:

- Chair Jaffe stated that everything looked good to him.
- Stacy Rye felt that, for both the rezone and subdivision, the arguments had been clearly answered by the developer's representative. She was comfortable supporting the project for all those reasons stated in the Council minutes from December 2007.
- Jason Wiener clarified his understanding that the judge's main issue was with the rezoning and not the subdivision, and the question of the comprehensive plan compliance when zoning unzoned land.

Ms. Rhoades replied:

- Because the Judge emphasized the zoning section in the order of remand when he requested the findings, staff took extra care to make sure that findings from the staff report, the minutes and any of the documents that Council may have seen were also in the zoning section.
- There were several findings in both the zoning and subdivision sections, because those findings supported both the rezone and the subdivision. Staff wanted to

ensure that all of the findings and all of the reasons for approving the rezone were in the rezoning section as well.

Ms. Rhoades reported an error and recommended it be changed by the Committee. The error was in Finding 21, a) of the zoning section and stated that density was restricted to nearly half of what was permitted in RLD-2. Staff recommended changing it to read “density is restricted to 16 units less than what is permitted in RLD-2.” She reported this same Finding was repeated in the subdivision section, and requested that the Committee consider amending that before their final vote.

Committee and staff discussion:

- Chair Jaffe asked if this was an error on the original staff report, noting his understanding that the Committee was to confirm the material from December 2007. He questioned how this fit in.
- Ms. Rhoades replied this was from the December 17, 2007 City Council Minutes, pages 5, 9 and 15. She stated this was staff’s compilation error, not an error in the original staff report or City Council minutes.
- Chair Jaffe asked about the significance either way, in terms of Committee action.
- Mary McCrea replied that, knowing this was going back to the judge, staff reexamined everything and wanted to make sure that everything was in order, that anything put forward as a finding is found on the record and is accurate.
- Chair Jaffe said it made a difference whether or not it was part of the original record or represented a compilation error by staff.
- Ms. Rhoades reported it was staff’s mathematical error in compilation.
- Chair Jaffe stated this was a typographical error only and without Committee objection, Ms. Rhoades would fix it.

Additional discussion:

Ms. Rye asked Jim Nugent for recommendations on Committee adoption of the Findings of Fact and Conclusions of Law.

- Mr. Nugent said that when the motions were read the Committee should be sure they actually adopt the findings of fact. The minutes from December 2007 did not reflect that those actually happened. There was no evidence in the record that the City Council ever adopted the Findings of Fact and Conclusions of Law. Mr. Nugent commented that whether or not the Committee chair at the time read the whole motion, it was not recorded in the minutes if she did. He also reported discussion at the administrative level about having the Clerk read the motions prior to Council vote, so that everything would be accurate and included in the motions. This would enhance the record and ensure accuracy and complete content. There was also discussion about making sure that, whenever possible, the Clerk had all of the motions in front of the Council.

Ms. Rhoades stated that, for the October 14, 2009 PAZ meeting, staff could work with Mr. Nugent to prepare a sample motion for the Committee to adopt the findings of fact. This would ensure that they had the wording they needed right in front of them.

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. 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)
8. 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)
9. Discussion of OPG's [task list](#) and workload ([Urban Initiatives work plan](#)).—Regular Agenda (Mike Barton) (Referred to committee: 06/12/06)
10. Develop policies and procedures regarding ag land mitigation ([memo](#)).—Regular Agenda (Lyn Hellegaard) (Referred to committee: 06/01/09)
11. Appoint one member to the Historic Preservation Commission an "At Large" position for the term commencing immediately through December 31, 2012, and appoint one member to the Eastside sector for the term commencing immediately through December 31, 2011 ([memo](#)).—Regular Agenda (Kelly Elam) (Referred to committee: 08/24/09)

VIII. Adjournment

The meeting adjourned at 10:13 am.

Respectfully Submitted,

Denise Small

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.