

Plat, Annexation and Zoning Committee Minutes

May 13, 2009

10:05 am – 12:00 pm

Missoula City Council Chambers, 140 W. Pine Street

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

Members Absent: Lyn Hellegaard

Others Present: Kari Brittian, Ron Ewart, Doug Harby, Paul Hubbard, Nick Kaufman, George Lake, Buck Lake, Andrea Luckett, Mary McCrea, Roger Millar, Ryan Morton, Jim Nugent, Thomas Orr, Janet Rhoades, Jon Turner, Erin Turner, Tim Worley and Shelley Oly

I. Approval of Minutes

April 22, 2009 not available.

May 6, 2009 not available.

II. Public Comment on Items not on the Agenda

III. Staff Announcements

IV. Consent Agenda Items

- A. River Road Lots Subdivision, a proposed minor subdivision of a 0.88-acre parcel into 3 residential lots, located on River Road between Curtis Street and Davis Street. ([memo](#)) ([Amendments to motions and conditions dated 5/15/09](#))– Regular Agenda (Janet Rhoades) (**REMOVE FROM AGENDA**)

MOTION: The Committee recommends that the City Council deny the request to vary from Article 3-2(15), which requires installation of 6'-wide concrete sidewalks with 10'-wide landscaped boulevards along the River Road frontage of the subdivision, be conditionally approved, to require a 6'-wide concrete sidewalk and a 10'-wide landscaped boulevard, except where the sidewalk would conflict with existing, healthy, mature trees, in which case the sidewalk may meander to avoid impacting these trees if approved by City Engineering and City Parks & Recreation, based on the findings of fact and subject to the recommended conditions of approval in the staff report

The Committee recommends that the City Council approve the request to vary from Article 3-3(1)(C)(3), which requires Lots 2 and 3 to abut on and have access to a public or private street or road, be approved, based on the findings of fact and subject to the recommended conditions of approval in the staff report.

The Committee recommends that the City Council approve the River Road Lots Subdivision be approved, based on the findings of fact and subject to the recommended conditions of approval in the staff report as amended by PAZ (per the memo dated May 15, 2009

Janet Rhoades gave a [powerpoint presentation](#) on the proposed 3 lot subdivision on 0.88 acres.

- Located on River Road between Curtis Street and David Street.
- The site is currently being used as residential and surrounded by residential uses.
- The Comprehensive plan is four dwelling units per acre and is zoned RLD-4 (four dwelling units per acre) and the density does meet the zoning requirements.
- There is one existing house on the property.

- Lot 1 is proposed to access River Road from the existing driveway.
- Lots 2 and 3 are proposed to access River Road via a new driveway and an emergency access vehicle turnaround.
- City Engineering recommended a one-foot no access strip on Lot 1 in order to prevent Lot 1 from accessing the new driveway.
- Because Lots 2 and 3 are accessed from a driveway, rather than a road, a variance has been requested.
- Because of geographical constraints staff recommends approval of the variance.
- The second variance was for sidewalks and boulevards along River Road. River Road was a collector street and 6-foot wide sidewalks and 10-foot boulevards are required on collector streets.
- The subdivider proposes 6'-wide concrete sidewalks with 6'-wide landscaped boulevards, requiring a variance to Collector Street standards
- Staff had taken into account sidewalk and boulevard widths of other portions of River Road and since there were no hardship constraints staff has recommended denial of the variance.
- City Engineering and OPG transportation recommended additional easement granted for sidewalk maintenance.

Ms. Rhoades summarized commented from the Urban Forester on the benefits of increased boulevards:

- ✓ Wider boulevards support mature trees, provide increased separation from traffic.
- ✓ Increasing the width of the planting area drastically reduced the impacts installed trees have on the surrounding infrastructure.
- ✓ Decreased damage to infrastructure adjacent to trees reduces future replacement/repair costs.
- ✓ Providing trees with increased rooting area increased water and nutrient availability, which in turn increased survivability and longevity.
- ✓ Decreased runoff into storm sewers was also an impact of large tree installation and increased planting strip width.
- ✓ Maintenance costs (tree pruning) are often decreased/delayed when the width of a planting area increased.

The floor was opened for discussion:

1. Chair Jaffe asked staff about the possibility of modifying the existing driveway to access to the other lots.
2. Dave Strohmaier asked how the subdivision related to the parkland dedication requirement. Ms. Rhoades replied that this project was in process before the parkland dedication requirements became effective.
3. Stacy Rye asked what the reason was for two north-south driveways. Ms. Rhoades explained that this was what the subdivider had proposed.
4. John Hendrickson asked if the rest of River Road could accommodate 6-ft sidewalks and 10-foot boulevards. Ms. Rhoades replied she would do some research before the City Council meeting on Monday night.
5. Jon Wilkins asked if there was an issue of Lot 1 being further subdivided in the future. Ms. Rhoades responded that this subdivision used the maximum density allowed by the existing zoning, so a rezone would be required for future subdivision to occur.
6. John Hendrickson clarified that a private driveway was used for two houses but if a third house was added the driveway becomes a road. Mr. Harby stated per Subdivision Regulation when a driveway was turned into a private road the road needed to be built to City standards which would mean that the starting point was curbs and sidewalks on both sides of the 24 to 28-foot wide road. He added at least 20-feet of paved width and curbs were needed for drainage support. Ms. Rhoades pointed out that the road could not be expanded to the required 24-foot width for a road serving three lots because of the location of the existing house. If this was the

direction of the Committee then a variance would be required. Mr. Harby stated if this was a private road then a private maintenance agreement would have to be in effect.

7. Jon Wilkins called the question to leave the road as is. It passed.

8. Jason Weiner asked if the adjacent property owners had any concerns. Mr. Ewart replied that this subdivision met the current zoning and the questions were mainly about the existing trees. Ms. Rhoades added that adjacent property letters and notifications were sent out.

The floor was opened for public comment:

Ron Ewart commented that the distance between the house and the privacy fence was 15-feet and the owner had no problem with paving the existing driveway and letting the three lots utilize the driveway because of the short distance to River Road. Chair Jaffe asked whether it was more desirable or less desirable to have additional driveways into River Road. Doug Harby replied the concern of serving all three lots with the existing driveway was the lack of space for parking or garage turn around because there was no additional parking on River Road. Mr. Ewart added that there was no problem with the additional access and that his firm was in agreement with the all the conditions of approval except for Condition No. 6. The developer wanted to keep the sidewalks 5-feet wide and the boulevards 7-feet wide to keep the existing mature trees intact based on the City Engineer's recommendation and because the right-of-way was insufficient. Ms. Rhoades noted that Council could consider allowing the sidewalk to meander within the 10-foot wide boulevard with the approval of the Public Works director to accommodate the mature, existing trees.

Jon Turner, a member of the public, stated his suggestion in regards to the driveway would be to vacate the existing driveway, create a new driveway and make an extension of the new driveway to access the existing house. Ron Ewart stated the preference would be to leave the proposal as is and share the existing driveway. But he would speak to his client about this proposal.

Stacy Rye made the **motion** to deny the request to vary from Article 3-2(15) which requires installation of 6'-side concrete sidewalks with 10'-foot landscaped boulevards along the River Road frontage of the subdivision. The motion carried with a unanimous vote and would be under the Consent Agenda.

Stacy Rye made the **motion** to approve the request to vary from Article 3-3(1)(C)(3) which requires Lots 2 and 3 to abut on and have access to a public or private street or road. The motion carried with a unanimous vote would be under the Consent Agenda.

Stacy Rye made a **motion** to approve the River Road Lots Subdivision subject to the Conditions of Approval and Findings of Fact. The motion carried with a unanimous vote and would go under the Consent Agenda.

V. Regular Agenda Items

- A. Approval for Chickasaw Place Subdivision annexed Lots 53 and 54 of Dinsmore's Orchard Homes and approved RLD-4 zoning ([5/8/09 memo](#)) ([memo](#)).—Regular Agenda (Tim Worley) (Referred to committee: 05/04/09) (**REMOVE FROM AGENDA**)

MOTION: The Committee recommends the City Council deny the variance to City Subdivision Regulations Article 3-2(15)(B) to allow a 5' sidewalk with a 7' boulevard along South 7th Street West be denied, requiring installation of a 6' sidewalk with a 10' boulevard.

The Committee recommends the City Council deny variance to City Subdivision Regulation Article 3-2(3) to allow a 16' half-street width (back-of-curb to centerline) requiring installation of an 18' half-street (back of curb to centerline) on 7th Street.

The Committee recommends the City Council approve the variance to City Subdivision Regulations Article 3-3(2)(2) to allow the block on the east side of Stallion Lane (including Lots 23-29) to exceed the 480' block-length standard by 61 feet be approved.

The Committee recommends the City Council approve the Chickasaw Place Subdivision on the Findings of Fact in the staff report and subject to the recommended Conditions of Approval as amended.

Tim Worley stated this was a continuation from the PAZ meeting of May 6, 2009 and he would be talking about the memo dated May 13, 2009 which included the findings of fact and Conclusions of Law related to existing and amended Conditions of Approval as well as some new Conditions of Approval related to a concept design of Chickasaw Place Subdivision.

Tim Worley referred to the points that have been discussed in previous PAZ meetings:

- ❖ The subdivision was contingent on an adequate written extension which has been granted.
- ❖ The road connection through the subdivision from north to south.
- ❖ The new concept design would have a maximum of 30 residential lots.
- ❖ The three acre agricultural parcel in the southeastern corner of the property.
- ❖ The sidewalks along 7th Street are required to meet City Subdivision Regulation standards.
- ❖ There are three short courts, which serve 18 of the 30 lots in the new design.

Mr. Worley summarized the new Conditions of Approval:

- ✓ A series of no access strips based on the new through road design with limited access onto Stallion Lane.
- ✓ Conditions that address review for adequate short court width, parking and turnaround for the short court in the northeast corner.
- ✓ Recommended for sidewalks along one side of each short court and 20-foot pedestrian easements that would extend to the western boundary of the subdivision. The number of parking spaces can be reviewed at the time of final plan review.
- ✓ Traffic calming could be employed in addition to slimming down the road width per the City Engineer's review of the northern end of Stallion Lane.
- ✓ City Engineering recommended adding language for the installation of a bridge or culvert for crossing of the ditch. The traffic calming could work in conjunction to a box culvert design.
- ✓ Language has been added for the Health Department that allows review of the design to make sure there was not a direct flow of untreated storm water into the aquifer.
- ✓ There was an altered condition based on the need for additional access point onto 7th Street.

The floor was opened for discussion:

1. Dave Strohmaier wanted to know why Lot 30 was still included in the concept design. Nick Kaufman replied the purpose of Lot 30 was accommodated an ag set aside to preserve the three acre agriculture. Lot 30 adds value to the agricultural parcel.
2. Ed Childers wondered whether parking would be available for community farming. Mr. Worley replied there was no prohibition against parking and language could be added to say that parking was permitted.
3. Dick Haines was concerned how the parcel would be used and if there was any type of rules against a land owner using this ag parcel for livestock versus agriculture. Mr. Kaufman replied it was with the rights of the developer to come up with a set of covenants and regulations relative to this piece of property.
4. Marilyn Marler called for the question. It passed.

Ed Childers make a **motion** to deny the variance to City Subdivision Regulations Article 3-2(15)(B) to allow a 5' sidewalk with a 7' boulevard along South 7th Street West be denied, requiring installation of a 6' sidewalk with a 10' boulevard. The vote was unanimous.

Ed Childers made a **motion** to deny the variance to City Subdivision Regulation Article 3-2(3) to allow a 16' half-street width (back-of-curb to centerline) requiring installation of an 18' half-street (back of curb to centerline) on 7th Street. The vote was unanimous.

Ed Childers made a **motion** to approve the variance to City Subdivision Regulations Article 3-3(2)(2) to allow the block on the east side of Stallion Lane (including Lots 23-29) to exceed the 480' block-length standard by 61 feet be approved. The motion carried with 9 'ayes' and 2 'opposed' (Renee Mitchell, Jon Wilkins).

5. Ed Childers asked what would happen at the north end of Stallion Lane. Tim Worley stated there was going to be a barrier erected which would enable the vehicles to back into the short court and turn around. Mr. Worley stated the parcel to the north was in the County so it would not be a through connection at the present time. Jon Wilkins **made** a friendly amendment to allow space for a turn around at the end of Stallion Lane. Mr. Childers would not accept the friendly amendment because backing up in the turn around land should not be a problem. Jon Wilkins then made an amendment to have a turn around at the end of Stallion Lane until the connectivity was all the way through. Doug Harby added a semi permanent barricade could be erected and eventually the connectivity would go through with traffic calming. This barricade would be similar to a t-intersection. Although the barrier would be visible Public Works felt that for the condition this would be an adequate turn around

6. Stacy Rye called for the question. It passed.

7. The question was call to require that a turn around to be installed. It failed.

8. Pam Walzer was concerned about the sewer installation and wondered if this was conditioned into the proposal to guarantee that it would occur. Tim Worley stated this had not been addressed as a Condition of Approval because the issue of the various conditions about where the sewer connection would be moved on Stallion Lane was a Health and Sanitation and DEQ issue and not the Subdivision Platting Act. He added that Jim Carlson could speak to this matter at the City Council meeting on Monday night.

Marilyn Marler made a **motion** to approve Chickasaw Place on the Findings of Fact in the staff report and subject to the recommended Conditions of Approval as amended. The motion carried with 8 votes of 'aye' and 3 opposed (Jon Wilkins, Dick Haines, Renee Mitchell).

9. Dave Strohmaier would like to make an amendment on the deletion of Lot 30 based on the fact that was not an integral part of making the agricultural parcel work. Mr. Kaufman wanted to tie Lot 30 to the agricultural parcel by a deed restriction and make it part of the covenants. Dick Haines called point of order asking if two motions were on the floor. Chair Jaffe replied there was one motion of the floor to approve the subdivision and one move to amend. Chair Jaffe reiterated that technically Lot 30 was a separate lot. The developer indicated the intent to market that lot as combined with the ag lot. Pam Walzer noted that even though the intent was for Lot 30 as an ag parcel this Committee can not legislate this matter.

Stacy Rye called for the question. It passed. The amendment failed with 2 votes of 'aye' and 9 opposed (.Pam Walzer, Stacy Rye, Bob Jaffe, John Hendrickson, Jon Wilkins, Dick Haines, Renee Mitchell, Ed Childers, Marilyn Marler)

10. Jason Weiner stated in addition to the finding in the staff report there were a number of factors that that he would submit to the record and ask that they be appended to the Finding of Fact.

- The agricultural use of the parcel was discontinued when the east half was purchased for the subdivision.
- The testimony by the developers' representative expressing preference for the ag mitigation by saleable lot rather than a common area.

- Testimony by the developers' representative expressing preference that Lot 30 be created in such a way it was conceived as a companion lot to the ag parcel.
- Finding that the configuration of the ag parcel was arranged to coincide with soils that were previously farmed
- Providing access to irrigation by the lot configuration at the expense of the land that was farmed rather than the easement
- Giving due weight to the preference to the sub divider that the mitigation be provided as a saleable lot.
- Lot 30, while impacting the best soil was included as part of giving due weight to the preference of the sub divider.
- Excerpts from the County Extension agent. stating that all the soils were
"The soil was Lome with relatively good texture and there appeared to be little cobble, gravel or rock which is unusual for most of the sites I have sampled in Missoula. The soil quality is adequate for vegetable farming in all the sections we tested. As I already said the southeast section would be much easier to farm because it is flat, level and has already been tilled and worked up. The north section has swales and high spots and depressions and would take more initial work to bring this kind of topography into production. This could be important to the economic viability of the farmer."

The floor was opened to the public:

Nick Kaufman reviewed what the conclusions were for the sewer main to extend to the north down Stallion Lane past 3rd Street. Department of Environmental Quality recommended to building a new routing main down the middle, make the wells equidistant, not file any violations on existing homeowners, and have homeowners hook up to the septic systems.

Jon Turner stated the preferred option would be to not run the sewer line down Stallion Lane. He suggested the sewer main run down Tower or 7th Street. He stated that all the driveways and landscaping that was done in anticipation of future connectivity would be impacted. Stallion lane was in good condition but if the sewer main was put down Stallion Lane it would become a lesser road. He requested that the developer needed to compensate any property owner on Stallion Lane if the dry line sewer needed to be redirected from their houses to the existing sewer and pay for a complete overlay of the road. He added that 100 % of the neighbors would have to be in agreement for the ag parcel to be converted to residential property.

Kari Brittian and Andrea Luckett presented a conceptual design of Chickasaw Subdivision that met all the Conditions of Revision and the Neighborhood Plan. Jon Wilkins asked what the dimensions of the lots would be. Ms. Brittian stated they would be 60-feet by 60-feet or 3900 square feet. Marilyn Marler appreciated the fact that the neighbors came up with a different configuration and felt that they should continue in that vein with the Neighborhood Plan.

Erin Turner wanted to make sure that the subdivision was addressing all the conditions and impacts.

Paul Hubbard stated this conceptual design needed to address where the best agricultural farmland was and then decide what the best design was for incurring its intended. He stated this was the closest design for protecting the best three acres in the southeast corner to be used for food production.

Ryan Morton pointed out the discussion was mainly about saving soil, keeping this parcel an open space and instead of calling it agricultural preservation it should be called conservation. He asked the Committee to pursue the legislative options to design subdivisions in areas where there was agriculture present to the standards available.

Per Chair Jaffe this item will go under Committee Reports.

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

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.