

## Plat, Annexation and Zoning Committee Minutes

August 3, 2011

10:05 a.m. to 12:00 noon

Council Chambers, 140 W. Pine

**Members Present:** Bob Jaffe, Ed Childers, Lyn Hellegaard, Marilyn Marler, Stacy Rye, Pam Walzer, Jason Wiener, Jon Wilkins

**Members Absent:** Dick Haines, Renee Mitchell, Dave Strohmaier, Cynthia Wolken

**Others Present:** Jim Nugent, Heather Kinnear, Lewis YellowRobe, Tom Zavitz, Chris Allen, Sam Allen

### I. Approval of Minutes for [July 29, 2011](#)

The minutes of July 29, 2011 were approved as presented.

### II. Public Comment on Items not on the Agenda

### III. Staff Announcements

### IV. Consent Agenda Items

1. Discuss the possibility of amending Chapter 20.45.020.B and C of Title 20 regarding setbacks and/or separation standards for accessory structures in residential districts. ([memo](#)) (Jen Gress) (Suspension of rules)

**MOTION:** The Committee recommends the City Council direct staff to prepare an ordinance amending Section 20.45.020 B and C of Title 20, the City Zoning Ordinance, to create a separate category of regulations for smaller accessory structures (less than 120 square feet) that provides for reduced setback standards and doesn't require a permit.

Jen Gress presented the staff report, outlining the discussion points regarding accessory structure setbacks in residential districts. (For the presentation, [click this link.](#)) Staff presented three options:

**Option #1:** Eliminate the separation requirement of 10' between all structures.

**Option #2:** Exempt accessory structures of less than 120 square feet from permitting.

**Option #3:** Create a separate category of regulations for accessory structures less than 120 square feet with reduced setback standards. Ms. Gress outlined the points to consider for this option.

Chair Jaffe explained that the reason for this discussion was that a building permit is not required for a certain size building and residents who purchase these buildings tend to overlook the need for a Zoning Compliance Permit. Subdivisions such as Pleasant View, with smaller lots, have had problems with accessory structures meeting required setbacks.

Jon Wilkins asked for clarification about these structures. It would be any building that is not a dwelling unit, such as a garden shed.

Pam Walzer explained that the Pleasant View Homeowners Association noticed that almost all of the existing accessory structures in their subdivision did not meet/comply with zoning. They would like to come into compliance by pursuing a neighborhood overlay. OPG felt this might be of interest citywide and were seeking Council's opinion.

Sam Allen, the vice president of the Pleasant View Homeowner's Association (HOA) explained that this came to light when a homeowner had issues with OPG and sought a variance for his accessory structures. The HOA noticed that this problem encompassed most of the garden sheds in the subdivision. Within the last five weeks, five new shed have been built and none of them are in compliance. The HOA did not feel that the setbacks are appropriate for their neighborhood.

Marilyn Marler wanted to make sure the Committee met the problem and asked if the reason for the discussion was because these structures were unattractive or not in compliance. Mr. Allen replied that attractiveness is not an issue, the HOA would like to be able to allow sheds without making the residents apply for variances.

Chair Jaffe asked for feedback on the options:

- Stacy Rye was fine with Option #3, which allows flexibility. She would like to keep regulations at a minimum and does not like regulating garden sheds. She did not believe a height restriction was necessary.
- Jon Wilkins liked Option #3; he would like to keep the height restriction. He wondered if this had been presented to the fire departments for comment. Ms. Gress explained this was a discussion and if they went forward, it would go out for agency and public comment.
- Ed Childers liked Option #3 and did not feel the height restriction was a problem.
- Jason Wiener felt that a ZCP should not be required for structures that do not require a building permit. Ms. Gress pointed out that currently no building permit is required for structures 120 square feet or less. That size may soon be changed to 200 square feet and not requiring permits may cause a problem in the future.
- Pam Walzer pointed out that if there were no regulations, it would be possible to line up 10 garden sheds along a property line. She felt this was why they needed regulations or zoning approval. She felt that Option #3 was simplistic and preferable.
- Ms. Rye agreed that there should be no need for a ZCP if there is no building permit required. She wondered if greenhouses would be compliant with the height requirement.
- Chair Jaffe wondered how much a ZCP cost and what the procedure should be for erecting a garden shed. Denise Alexander, OPG, explained that when you purchase a garden shed, there is manufacturer's notice to consult your local jurisdiction for rules and regulations; however not all consumers do. When they come to OPG, the cost of the ZCP is approximately \$50.

Ms. Walzer asked the Committee if they wished to seek a solution citywide or just the Pleasant View neighborhood. She would like to go citywide.

Chair Jaffe felt that the two solutions of the problem could be either an overlay for the Pleasant View neighborhood or a text amendment to the Zoning Ordinance. He felt that a general text amendment was less rigorous. He liked Option #3 but also felt it was unreasonable to make residents purchase a ZCP. He wondered if there was a way to regulate these structures without requiring a permit. Ms. Alexander was not aware of a precedent for this.

Chair Jaffe asked City Attorney Jim Nugent if this was possible. Mr. Nugent stated that they could regulate these structures and enforce the regulations without requiring a permit.

Mr. Wiener wondered if there were already instructions on the sheds sold at retail establishments to seek out rules and regulations, could they also distribute flyers. Ms. Gress explained that they could require that retail establishments in the city display the regulations. Mr. Nugent observed that they have this regulation for bike licenses; however, it does not do any good.

Chair Jaffe made a motion to direct staff to pursue a solution along the lines of Option #3 with no permit required. The motion passed unanimously.

Ms. Gress explained that the process going forward would be to craft language on this amendment and vet it through agencies for comment. It will then go to the Planning Board before coming before City Council.

## V. Regular Agenda Items

2. Consider an ordinance amending Title 20 Chapter 20.75 Signs and Chapter 20.100 Terminology Chapter, as amended by Planning Board. ([memo](#))—Regular Agenda (Louis YellowRobe) (Referred to committee: 06/27/11) **(REMOVE FROM AGENDA)**

Lewis YellowRobe presented the staff report, outlining the ten amendments to be clarified and revised. (For the presentation, [click this link.](#))

Questions and comments included:

- Lyn Hellegaard asked why other sign companies were not notified besides just one; she would like all of the sign companies in Missoula to be notified.
- Chair Jaffe asked for clarification of the awning sign revision and wondered if the signage was limited to the front square area rather than the slope. Mr. YellowRobe clarified that it included the front square area of the awning.
- Ed Childers suggested removing the verbiage that limited what banners could say, since essentially they can say anything.
- Chair Jaffe requested that the word “extending” be struck from the parapet wall terminology.
- Jason Wiener asked for explanation on the CBD area sign changes – would this increase the amount of signage? Heather Kinnear explained that there should be no increase in signage. Mr. YellowRobe added that Planning Board had the same concerns and he explained that CBD area businesses are reasonable in their requests.
- Chair Jaffe wondered if buildings with a lot of businesses under one roof would have an immense amount of signs; Ms. Kinnear explained that these businesses fall under a different category.
- Chair Jaffe wondered if the DRB had been notified. They were, but did not comment.
- Lyn Hellegaard questioned the parapet wall rule and asked for clarification regarding parapet walls—were they extensions of interior or exterior walls. Ms. Kinnear explained that for the purpose of sign placement, parapet wall means exterior walls.
- Jason Wiener wondered what was the difference between roof signs and wall signs for the purposes of sign permits. Ms. Kinnear explained that right now roof signs are prohibited.
- Chair Jaffe asked that notice be given to all sign companies in Missoula that the City Council public hearing will be held on Monday, August 8, 2011.

## V. Held in Committee or Ongoing in Committee

1. Annexation. (see separate list at City Clerk's Office for pending annexations) (Ongoing in Committee)
2. 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)
3. Ongoing discussion of City planning issues with members of the Planning Board.— Regular Agenda (Bob Jaffe) (Referred to committee: 3/20/06)
4. Resolution repealing resolution No. 7404 and declaring the annexation of Lots 53 and 54 Dinsmore's Orchard Homes No. 5 null and void. ([memo](#))—Regular Agenda (Jessica Miller) (Referred to committee: 01/10/11)
5. Resolution to annex and incorporate within the boundaries a certain parcel of land described as Linda Vista 12<sup>th</sup> Supplement, and zone the property Miller Creek View addition planned unit development with the underlying zoning of R-215 residential in the city all located in Section 13, Township 12 North, Range 20 West, P.M.M. ([memo](#))— Regular Agenda (Jessica Miller) (Referred to committee: 04/11/11)
6. An [ordinance](#) to rezone property located at 1500 39<sup>th</sup> Street. The property is currently zoned RM1-35 (Residential, 43 multi-dwellings per acre) and RT2.7 (Residential, 16 dwellings per acre) and if approved the property will be zoned to B1-1 (Neighborhood Business) and RM1.5 (Residential, 29 multi-dwellings per acre). ([Memo](#)) ([PAZ](#)) (Returned from Council floor: 06/06/2011)
7. Consider a request for a plat adjustment for Flynn Ranch Subdivision. ([memo](#))—Regular Agenda (Janet Rhoades) (Referred to committee: 07/25/11) ([Remove from Agenda](#))

## VI. Adjournment

The meeting adjourned at 11:26 a.m.

Respectfully Submitted,

**Deni Forestek**

Recording 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.***