

Plat, Annexation and Zoning Committee Minutes

August 24, 2011

11:05 a.m. to 12:00 noon

Council Chambers, 140 W. Pine

Members Present: Bob Jaffe, Ed Childers, Dick Haines, Lyn Hellegaard, Renee Mitchell, Stacy Rye, Dave Strohmaier, Pam Walzer, Jason Wiener, Jon Wilkins, Cynthia Wolken

Members Absent: Marilyn Marler

Others Present: Tom Zavitz, Jim Nugent, Steve Adler, Laval Means, Amy Fisher

I. Approval of Minutes for August 17, 2011

The minutes of August 17, 2011 were not linked to the agenda so they were not approved at this meeting.

II. Public Comment on Items not on the Agenda

III. Staff Announcements

Laval Means with the Office of Planning and Grants reported on comments received from David Gray at Paradigm regarding the Maintenance Package for Title 20. He objected to deleting the word “complete” from the definition and believed that the intent of the definition of dwelling unit was to line up with the International Building Code. The staff will research this issue and bring back their results to the Committee for review while reviewing the Title 20 Maintenance Package.

IV. Consent Agenda Items

1. Confirm the reappointment of John Horrell to the City Board of Adjustment as first alternate for a term commencing immediately and ending June 30, 2014. ([Memo](#)) (Mayor Engen) **REMOVE FROM AGENDA**

MOTION: The Committee recommends that City Council confirm the reappointment of John Horrell to the City Board of Adjustment as First Alternate for a term commencing immediately and ending June 30, 2014.

Jason Wiener made the motion to confirm the reappointment of John Horrell. The motion passed unanimously.

V. Regular Agenda Items

2. Discuss clarifications to the regulations for non-conforming uses and structures in Title 20, Missoula City Zoning Ordinance, especially pertaining to 20.80.040 Nonconforming Uses, 20.110.050C3 Exceptions to Side Setbacks, and 20.80.030 Nonconforming Structures. ([Memo](#)) (Tom Zavitz) **HELD IN COMMITTEE**

Tom Zavitz presented options for changes and clarifications to the regulations, which included:

- ✓ In previous PAZ discussion, the council directed staff to revise the regulations in order to relax the requirement so that non-conforming structures can be repaired without losing nonconforming status.
- ✓ Now, the focus is on clarifying the language pertaining to non-conforming structures and uses to make it more understandable to interpret, especially related to not increasing the non-conformity.

- ✓ Previously, it had been assumed that nonconforming structures and uses were expected to be phased out over time; however, now the thought is it is preferable to preserve the historic features of the neighborhood.
- ✓ Clarify and codify the options to height increase, horizontal increase, and/or limit to residential or commercial uses

Questions and comments included:

- ✓ Pam Walzer wondered if a home that is nonconforming because it is located within a side setback can be extended along the side and height? Mr. Zavitz explained that this is the reason they would like to clarify this, right now it is possible; however, it causes conflicts with the neighbors.
- ✓ Chair Jaffe would like to craft language to make these nonconforming structures fit better within the neighborhoods. The goal is to introduce the topic, discuss the potential impact and, if necessary, make changes.
- ✓ Jon Wilkins felt that this needs to be addressed since a lot of homes in his neighborhood are nonconforming and deteriorating, he would like to have clear guidelines as to what can be done to repair and remodel these homes without problems. He would like to see a height restriction.
- ✓ Renee Mitchell asked how often an exception to the setback is requested. Tom Zavitz responded that it occurs fairly often and is probably one of the most common case that goes to the Board of Adjustment.
- ✓ Renee Mitchell agreed that most expansions made sense but we should be careful about potential abuse.
- ✓ Chair Jaffe pointed out that right now it is very lenient, he would like to see some language, diagrams, and examples. He suggested that an approach could be to maintain the current height of the building within the setback and then allow an increase in height for development outside of the setback.
- ✓ Chair Jaffe asked for clarification to the rule that if commercial nonconforming use is stopped for a year, can it continue? Mr. Zavitz explained that no, it may not.
- ✓ Dave Strohmaier felt it would be helpful to have some proposed language to look at as a starting point. He felt that sometimes a change in use can add vitality to a neighborhood.

Public comment included:

- ✓ Steve Adler explained the project that he is working on now and how it had been interpreted by the Office of Planning and Grants. The problem was that the existing structure did not have a foundation and needed to be lifted in order to build a foundation underneath. They had made some changes to the pitch of the dormer to allow more interior space. Ed Childers asked if the problems were because the height was nonconforming; Mr. Adler said that only the side setback is nonconforming. He pointed out that the project is within Title 20 guidelines.

Mr. Zavitz asked the Committee to think about the increase or decrease in nonconforming and how they would like to make changes.

Jason Wiener felt he would be interested in discussing the nonconforming uses and structures to see how far from the norm they are and how they fit within the zoning hierarchy. He felt they were going in the right direction as far as retaining the building footprint. Chair Jaffe agreed and thought it might be a good idea to fix some of the zoning in some of the districts where they have a cluster of uses that are in conflict with their zoning.

Mr. Adler asked the Committee to respect the historic patterns in neighborhoods and keep sustainability in mind.

VI. Items to be Removed from the Agenda

1. Resolution to annex and incorporate within the boundaries a certain parcel of land described as Linda Vista 12th 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: 04/11/2011)

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: 01/10/2011)
5. An [ordinance](#) to rezone property located at 1500 39th 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)
6. An ordinance to rezone property at 1500 39th Street from RM1-35 (Residential, 43 multi-dwellings per acre) & RT2.7 (Residential, 16 dwellings per acre) to B1-1 (Neighborhood Business) and RM1.5 (Residential, 20 multi-dwellings per acre) ([PAZ minutes 7/20/2011](#)) (Returned from Council floor: 08/15/2011)

VI. Adjournment

The meeting adjourned at 11:57 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.