

Plat, Annexation and Zoning Committee Minutes

December 7, 2011

10:05 a.m. – 12:00 noon

Missoula City Council Chambers, 140 W. Pine Street

Members Present: Bob Jaffe, Ed Childers, Dick Haines, Lyn Hellegaard, Marilyn Marler, Stacy Rye, Dave Strohmaier, Pam Walzer, Jason Wiener, Cynthia Wolken,

Members Absent: Renee Mitchell, Jon Wilkins,

Others Present: Amy Fisher, Jen Gress, Laval Means, Jim Nugent, Aaron Wilson, Tim Worley, Lewis YellowRobe, Tom Zavitz, Deni Forestek, Sam Allen, Jon Gass, John Kellogg, Mike Barton, Kevin Slovarp, Doug Harby,

1. **Approval of Minutes from November 30, 2011** approved as presented
2. **Public Comment on Items not on the Agenda**
3. **Staff Announcements**
4. **Consent Agenda Items**
 - A. Approve or deny amendment request for Teton Addition at Maloney Ranch phasing plan. ([memo](#))—Regular Agenda (Aaron Wilson) (Referred to committee: 12/05/11)

MOTION: The Committee recommends that City Council approve the request to amend the phasing plan for Teton Addition at Maloney Ranch as shown on the Amended Phasing Plan dated October, 2011.

Aaron Wilson presented the proposed amendment request for Teton Addition of Maloney Ranch phasing plan, highlights included:

- The subdivision is located on the south end of Missoula in the Lower Miller Creek area, near Linda Vista Subdivision
- The subdivision was approved in December of 2007 with 16 phases.
- An amendment was approved in 2009 extending the deadline to 12/31/2011
- The current request is to complete the first 6 phases within 6 years
- The final phase is scheduled to be filed 12/31/2026.
- OPG Staff recommended approval.

There were no comments or questions from the Committee or the public.

Jason Wiener made the motion to approve the phasing plan amendment. The motion passed unanimously and will go on the Consent Agenda.

- B. Approve or deny amendment request for The Orchard Subdivision phasing plan. ([memo](#))—Regular Agenda (Aaron Wilson) (Referred to committee: 12/05/11)

MOTION: The Committee recommends that City Council conditionally approve the request to amend the phasing plan for The Orchard Subdivision to extend the Phase 2 final plat filing deadline to December 11, 2014, as shown in the Amended Phasing Plan, subject to installation of the semi-permanent barricade, to be reviewed and approved by City Public Works by January 31, 2012 as outlined in Condition No. 17.

Aaron Wilson presented this request for an amendment to the phasing plan for The Orchard Subdivision. Highlights were:

- This subdivision was approved for 30 lots in September of 2006, and a phasing plan was approved in March of 2008 creating two phases.
- The property is located in Orchard Homes neighborhood, between South 3rd and South 7th next to Hawthorne School
- The first of the phases was filed in September, 2008; an extension was requested and approved in 2009 with a deadline of 2011
- The current request is to extend the deadline to December, 2014.
- OPG received a late request to change to 7 years rather than 3; however, it is too late for agency comment or review.
- One agency comment received requested a condition, Condition No. 17, to install a temporary barrier to the end of the street to prevent access. This condition must be completed by the end of January, 2012.
- OPG Staff recommends approval of the amendment based on Condition No. 17.

Questions and comments from the Committee included:

- Is there someplace for emergency vehicle turnaround? Should the end of the street be a cul-de-sac rather than a barrier. There is emergency vehicle turnaround on the short courts.
- Have there been any homes built? Two homes have been built.
- Should it be 3- or 7-year extension? Because the 7-year extension request did not go out for agency review, it could be problematic.

John Kellogg, PCI representative, was fine with postponing a decision on the 7-year extension until agency review could be done. The Committee felt that a 3-year extension was sufficient; a lot of change could occur in 7 years. The developer could request another extension and the Committee could reevaluate it.

John Kellogg felt that the barrier would not be a problem as long as it could be temporary, not permanent. There were some dirt piles that they needed to access.

Dave Strohmaier made the motion to conditionally approve the amendment. The motion passed unanimously and will be on the consent agenda.

5. Regular Agenda Items

- A. An [ordinance](#) to amend Title 20 City Zoning Ordinance to incorporate text amendments to Section 20.45.020 entitled "Parcel and Building Standards in Residential Districts". ([memo](#)) ([optional language](#)) ([PAZ](#)) ([PAZ 11/30/11](#)) (Returned from council floor: 12/05/11) **REMOVE FROM COMMITTEE**

MOTION: The Committee recommends that Council adopt an [ordinance](#) amending Title 20, Chapter 20.45, Section 20.45.020 (Parcel and Building Standards in Residential Districts) with the Committee's amended language.

Jen Gress summarized the outstanding issues that were left to be discussed:

- The types of structures being looked at are ones that do not exceed 120 square feet
- These structures do not require a building permit; if they are over 120-square feet, they would be subject to a building permit.
- These are structures such as sheds, playhouses, and storage units
- These structures cannot be electrified, cannot have plumbing and cannot house animals.
- OPG Staff met with Engineering and crafted some language for the commentary box proposed for section 20.45.020B. Setbacks.

Questions from the Committee included:

- Does Engineering review zoning compliance permits at this time? No, generally engineering is not consulted for zoning compliance permits.
- Does Public Works have a problem with setbacks? Kevin Slovarp, City Engineer, felt that there should be a separation to deal with drainage and maintenance issues. He also noted there are other ways to address structure drainage issues.
- Are these structures allowed to be on permanent foundations? Yes, there are no regulations prohibiting them. Could Engineering develop a flyer and/or checklist to be given out at time of purchase by different businesses selling these structures? That might be possible, but there is no guarantee that the rules would be followed.

Kevin Slovarp commented that it is difficult to enforce regulations for sight visibility, building on an easement or zoning compliance after the structures are placed on a parcel.

Jason Wiener **moved** that the Committee recommend approval of the draft ordinance with two additions: language to cover the concerns of Public Works and that the structures be a minimum of 4 foot by 4 foot.

Comments from the Committee:

- Dick Haines recommends a setback for ease in maintaining the structures and in case of fire. Renee Mitchell felt that without setbacks there was the possibility of vermin, drainage, or blocking the light from a neighbor's garden.
- Lyn Hellegaard would like to see a setback and possibly a limit to only one structure per property.
- Jason Wiener felt that if a setback was required then a permit should be required. He was not in favor of requiring either .

Dave Strohmaier **moved** to amend Section B to require a two-foot side setback and a zero rear setback. Comments on the motion to require a two-foot side setback and a zero rear setback:

- Ed Childers would not support the motion, he sees no reason for a setback.
- Ms. Mitchell suggested a friendly amendment to Mr. Strohmaier's motion. No setback would be required if an accessory structure was placed along a property line not abutting another privately owned parcel. Mr. Strohmaier accepted the friendly amendment.
- Pam Walzer would not support the amendment. She feels that problems can be resolved between neighbors and was happy with the basics.
- Stacy Rye would not support setbacks because she felt there are a variety of these structures on property lines and they all seem to work.
- Mr. Jaffe would not support the motion since a setback would only be wasted space.

Public Comment included:

Sam Allen, representing the Pleasant View Home Owners Association appreciated the discussion; however, he clarified that many sheds in Pleasant View are close to other buildings and fences, they do not have vermin and the neighborhood does not resemble a slum. The Pleasant View HOA is asking for no setbacks and would like a place to store their garden supplies on their small lots.

Lee Clemmenson, who is a member of the City Board of Adjustment, felt that Pleasant View could request an overlay and coordinate it with their covenants to avoid placing this burden on the city. She felt that this ordinance would not protect the character of the neighborhoods and will cause problems with neighbors. In her experience, contentious issues that come to the Board of Adjustment involve setbacks. She asked the Committee to consider a minimum setback requirement to prevent vermin and create space for maintenance and safety.

Stacy Rye called for the question, which passed. Mr. Strohmaier's motion as amended failed with Ms. Hellgaard, Ms. Marler, Mr. Haines, Ms. Mitchell and Mr. Strohmaier voting Aye.

Discussion to require a minimum structure dimension of 4 feet by 4 feet:

- Cynthia Wolken would not support the four foot by four foot minimum, she knows that some garden sheds are not that big. Chair Jaffe agreed, but did not want to have a problem with a possible 2-foot by 60-foot structure. He would rather approach it by limiting the length of any side to be 12-feet.
- Mr. Wiener would accept a friendly amendment that would specific a maximum rather than a minimum dimension. Mr. Childers was hesitant to suggest a maximum dimension or a minimum dimension and moved to strike the dimension component of the amendment. Mr. Wiener accepted the suggestion.
- Lyn Hellegaard brought up the issue of the number of sheds allowed on a lot. She **moved** that structures be limited to only one per parcel.

Discussion on the motion to limit structures on a parcel:

- Stacy Rye would not support that, she felt that the 50% maximum coverage was sufficient.
- Ms. Walzer was happy with the requirement of 50% of the lot being open, she felt neighbors would be happier having people store their stuff in a structure rather than out in the yard.
- Ms. Marler would not support limiting the number of sheds, and they were not talking only prefabricated sheds, they can be garden sheds, or greenhouses. Sometimes it looks better to have a few small structures that are custom-built; the Committee should not stifle people.
- Mr. Childers did not want to limit the number of sheds, he felt that covenants could be used if a neighborhood wanted to govern the number of sheds.

Mr. Wiener called for the question, which passed. The motion on limiting the number of structures to one per parcel failed with two abstentions.

The amended motion to recommend approval of the draft ordinance with the new language in the commentary box to support the concerns of Public Works passed with Hellegaard opposing.

The topic will be heard under Committee Reports.

- B. A [resolution](#) to adopt amendments to the City of Missoula Subdivision Regulations, Article 3 entitled "Subdivision Design Standards," Section 3-020 entitled "Streets, Access and Transportation." ([memo](#)) ([PAZ](#)) ([PAZ 11/30/11](#)) (Returned from council floor: 12/05/11) **HELD IN COMMITTEE**

Tom Zavitz brought back the subject of subdivision street regulations, specifically drive lane widths. The proposed lane widths were 10-foot minimum drive lane width for residential streets and 11-foot minimum drive lane width for collector streets. Comments from MIST and Pat Little suggested 10-foot minimum width unless the speed limit is 35 mph or higher for collector streets.

Comments from the Committee included:

- Are one-way roads allowed? Mr. Harby explained that the direction of travel is not the issue, as long as it provides clearance for fire engines.
- Chair Jaffe felt that as long as there is 20-feet of clear space, he would not care. He would like to leave it open for interpretation.
- Stacy Rye felt that wider roads provided less stress on bicyclists.
- Ms. Walzer felt that narrower streets slow traffic, but she would like the bus to have its own lane of travel.

- Chair Jaffe pointed out for subdivision regulations the Committee should focus first on local residential streets. He felt a narrower lane width on local residential streets would be fine.
- Mr. Wiener thought a regulation of 20-feet of clear space per road was sufficient and it did not need to be regulated beyond that. He suggested that language to that affect be drafted.

The discussion was continued to the next PAZ meeting.

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. 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. Amendment Article 7. Error Corrections and Adjustments to the subdivision regulations to allow for restrictions or conditions placed on a plat by the governing body to be amended or removed by a future council. ([memo](#))—Regular Agenda (Lyn Hellegaard) (Referred to committee: 11/07/11)
6. Appoint one member to the Consolidated Planning Board for a regular position for the term beginning January 1, 2012 and ending on December 31, 2014. ([memo](#))—Regular Agenda (Marty Rehbein) (Referred to committee: 12/05/11)

VIII. Adjournment

The meeting adjourned at 11:54 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.