

Plat, Annexation and Zoning Committee Minutes

July 01, 2009

10:5 am – 12:00 pm

Missoula City Council Chambers, 140 W. Pine Street

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

Members Absent: Dave Strohmaier and Jon Wilkins

Others Present: Collin Bangs, Phil Condon, Lori Davidson, Den Duce, David V. Gray, Jamie Hoffmann, Mark Landkammer, Ruth Link, Laval Means, Roger Millar, Ryan Morton, Jim Nugent, Ryan Morton, Tom Zavitz, and Shelley Oly

I. Approval of Minutes

June 23, 2009 not available

June 17, 2009 not available

II. Public Comment on Items not on the Agenda

III. Staff Announcements

IV. Consent Agenda Items

V. Regular Agenda Items

- A. Denny's Copy Stop rezoning request from R-1 (Residential) to BN (Neighborhood Business). The property is located at the intersection of Higgins Avenue and South Avenue ([memo](#)).—Regular Agenda (Janet Rhoades) (Referred to committee: 06/22/09) **(REMOVE FROM AGENDA)**

Chair Jaffe reminded the members this was a pre-informational item and not action was needed.

Janet Rhoades gave a presentation about the rezone request of Denny's Copy Stop.

- ✓ This was a rezone from R-1 to BN(Neighborhood Business).
- ✓ Denny's Copy Stop was located at the intersection of Higgins Avenue and South Avenue.
- ✓ The rezoning was proposed for eastern portion of the property only.
- ✓ The Comprehensive Plan does comply with neighborhood commercial zoning.
- ✓ OPG staff recommends approval because it made sense to have the existing parking lost be in the same zone as the rest of the business.

Mark Landkammer reiterated that the applicant wanted the entire complex to conform to the current zoning. This was a great example of mixed use with retail space on the lower floor and residential up above.

- B. An [ordinance](#) repealing Title 19 Zoning Code in its entirety and adopting Title 20 Missoula City Zoning Ordinance and an [ordinance](#) repealing Title 2.84, the Historic Preservation Committee in its entirety. ([memo](#)) ([PAZ](#)) ([Staff Report](#)) ([Potential List of Issues](#)) —Regular Agenda (Laval Means) (Returned from Council floor: 06/22/09)

This is a continuation of the Missoula Code Rewrite discussion and the topic was density calculations or small lot issues, and new zoning districts - RM1 and R3.

Roger Millar gave a [power point](#) relating to density calculations. He explained the zoning district changes:

- ✓ Zoning districts for residential districts: “R” for residential “RT” for townhome and “RM” for multi-dwelling.
- ✓ Zoning districts changed from letters to denote size: SRR changed to R-215 to denote a residential 215 thousand square foot minimum parcel.
- ✓ Residential zoning districts proposed to be combined: Districts “A” and “R-I”, “R-XII and MU”, and the “R-III, R-IV and B.”
- ✓ Two new zoning districts were created but not currently mapped: R-3 and RM-I.

Mr. Millar explained the consultant took the naming convention of the zoning districts and consolidated them under the heading of detached houses which include several different ways that the existing code refers to single-dwelling residential, as well as two unit houses, townhouses, multi unit houses and multi unit buildings. The current ordinance used a variety of approaches to density which created a lot of confusion. A new, simplified density measurement for minimum parcel area per dwelling unit regardless of bedrooms was proposed. The Planning Board recommended approval of the approach for measuring density based on parcel area per unit, to revise the parcel area per unit measurement for the multi-dwelling districts to 1500 square feet per unit, there is no change for the larger lots districts, there is some increased density for the RH districts, and some rounding in some districts.

The floor was opened for discussion:

1) Stacy Rye asked why the Planning Board recommended raising the density to 1500 square feet in the multi-dwelling districts. Mr. Millar replied the Planning Board felt the additional square footage was warranted and this standard carried over into the commercial district as well. The consultant recommended an RM-1 and the Planning Board wanted it to be RM1.5. In this proposed draft, the RM-1 was a new zone that has no mapped equivalent. The commercial zones are linked to the standards for RM-1.5 for single-purpose residential multi family and the minimum is 1500 sq feet. Mixed use multi family in commercial districts has no minimum.

Mr. Millar continued explaining that the minimum parcel area per unit or bedroom varied in the old zoning districts (R-VII, R-III, R-IV, B, RH, R-VI) from 750 square ft to 3600 square ft. It was proposed that the R-XII become RM2.7 with 2700 square feet minimum, R-III, R-IV, and B become RM1.5 with 1500 square feet minimum, RH becomes RM0.5 and the R-VI becomes the RMH with 1500 square foot minimum. He added this was the only place an increased density was proposed in RH from the existing code permitting a range between 750 square feet to 1,000 square feet per unit to the proposed code permitting 500 square feet per unit. The large lots (R-215) were now a one dwelling unit per 215 thousand square feet. In the R80, R20, R20, and RT10 there was an increase of 8 % if the parcel was clustered as part of a development. The conventional development according to the existing code is actually a decrease in density. The cluster development option that would be available for the RT10 would require a 30% open space but the applicant could cluster the units and the 10,000 square foot minimum parcel size would not apply to each unit but to the overall density on the project. He stated in the smaller districts and R-2 district there was no change in density. In R-XII and MU districts 2700 square feet was proposed. For the multi dwelling districts 1500 square feet per unit are proposed. The minimum parcel area was proposed to reduce the minimum parcel area to 3000 square feet in RT2.7, RM2.7, RM-1.5 and the RM0.5. For example in existing R-2 if there was a parcel that was less than 5400 square feet nothing could be built on it even though the density allowed for one dwelling unit per 2700 square feet. The proposal in RT2.7 was to bring the minimum parcel size down to 3000 square feet so a single family dwelling could be built on that parcel, but the density does not change. The proposed change to the R-2 zone was not an increase in density but in options.

2) Ed Childers asked if the proposal was to increase the zoning up to 16 units per acre anywhere there was R-XII zoning. Mr. Millar replied R-XII allowed 12 units per acre as a base with an option of 16 units per acre if the neighborhood design standards are met in addition to the multi family standards. In the proposed RM2.7 the minimum lot area would be 3000 square feet with a minimum area per unit of 2700 square feet.

- 3) Chair Jaffe asked how the rounding changed the “B” zone. Roger Millar replied the “B” residential zone depended on the number of bedrooms with a 3500 square foot minimum parcel size limit for the project. The proposal was for 1000 square feet per unit with a 3500 square foot parcel area. The Planning Board raised the square footage to 1500 square foot per unit.
- 4) Renee Mitchell asked if rounding off the lot size numbers created more non-conforming lots. Mr. Millar stated if the lots were rounded off and smaller in size than they would be more conforming lots and less non-conforming lots. Ms. Mitchell asked what kind of judgment would be decided if there were shortages in the lots. Mr. Millar responded the lots would be legal non-conforming and addressed per the chapter on non-conformities.

Mr. Millar pointed out another change that Planning Board made that has caused some concern was in the Commercial districts section, table 20.10-2. The consultant recommended that there be no minimum parcel area per unit for a vertical mixed use development, but for the single purpose residential building the requirement was 1500 square foot per dwelling unit. Chair Jaffe asked if it were a multi unit development in a commercial district then why there is a density limit. Mr. Millar replied the rationale was because it was a commercial district and buying land in commercial districts can lead to a dearth of retail space. He added this was a regulation designed to encourage mixed use in the commercial zones as opposed to the conversion of commercial property to strictly residential property. Ms. Rye wondered there was not a regulation that stipulated that retail needed to be on the first floor. Mr. Millar responded that was one option and the consultant decided it was better to allow the single use residential but incentivize the mixed use.

The floor was opened for public comment:

Jamie Hoffman reported the Housing Authority funded a 2006 analysis of impediments of affordable housing choice study. It was anticipated based upon a conservative growth estimated that Missoula would need to provide 1071 apartments over 5 years. He indicated that half of the City of Missoula rents their homes. He stated Missoula needed multi family zones for the purpose of providing houses for the half of Missoula that rent because there was not enough housing.

Collin Bangs spoke on his own behalf and spoke about the Dearborn property. The comments from many people that toured the Dearborn property asked why it was located where it was and the reply was that this was the only place that was zoned and would take that much density, it was zoned commercial. He added that any building that had underground structured parking would have to have enough units in it to pay for the parking. He wanted the commercial zones that did not have strong commercial values to be changed back to accommodate the 1000 square feet per unit to allow for residential multi family. He also thought multi family should apply to the proposed B zones. John Hendrickson asked how to rectify the undesirable lots. Mr. Bangs replied if the lot had commercial value then make the lot mixed use and have no density requirements at all. He added having no density in areas where there is mixed use will bring that commercial value to that type of development. Mr. Bangs also addressed the R-3 zone. He stated setbacks are needed to change in the proposed zoning. He proposed reducing the front yard setback from 20-feet to 10-feet and changing the rear yard setback to less than 10-feet.

David Gray stated he did not support cutting the density in half in the existing B district. He felt the zoning needed to allow for smaller multi-plexes instead of large ones. He felt that increasing the square footage from 1000 to 1500 will increase the price that people need to pay for those units.

Ken Duce if the City of Missoula was serious about affordable housing then we need to reduce the square feet to less than 1000 square feet.

Jason Wiener made the **motion** to restore the 1,000 square foot area per unit minimum in the current R-III and R-IV, B and R-VI, thus renaming the proposed R1.5-45 in the current B district with the proposed RM1-45 district, and renaming the proposed RM1.5-35 for the current R-III and R-IV to the RM1-35.

5) Many council members discussed eliminated the square footage of the land area per dwelling from the absolute minimum or maximum from the existing ordinance. Chair Jaffe explained just average the total number of units that would fit into the total amount of land size but it does not specify the minimum size for a unit. Mr. Millar stated there are other things that need to be taken into consideration besides the lot area such as parking.

Philip Condon reminded everyone that there are three architects on the Planning Board and they tried to find a middle ground that would not be the absolute minimum from the existing ordinance or the absolute maximum from the existing ordinance.

Ruth Link stated MOR recommends that residential units in commercial districts be zoned at 1000 square feet per unit and do not recommend the residential multi family.

The **motion** to reduce the amount of square footage from 1500 square feet to 1000 square feet failed with 5 votes 'aye' and 5 votes opposed. (John Hendrickson, Lyn Hellegaard, Dick Haines, Renee Mitchell and Ed Childers.)

Jason Wiener made a motion for single purpose residential density calculation in proposed districts B and C refer to the proposed RM-1 and this would rectify the residential only development in commercial.

Mr. Millar stated that would change the table in 20.10-2 Parcel and Building standards for proposed B and C districts.

Stacy Rye stated making houses affordable should not be the goal of the rewrite and called for the question. It failed.

Lori Davidson pointed out that the fact that there was no land available zoned for multi family limits where it could go. The only land that was available for multi family was commercially zoned and if restrictions are imposed then we can't build multi family housing.

Ed Childers made a friendly amendment to make the square footage 750 instead of 1000 in the new proposed zone commercial zones. Mr. Wiener stated he would accept the amendment even though he had reservations for decreasing the incentive to put in smaller land areas within the city.

The motion to limit the single purpose residential units in commercial district to 750 square feet instead of the 1000 square feet per unit failed with 4 votes of 'aye' and 6 opposed. (Ms. Marler, Ms. Mitchell, Ms. Hellegaard, Mr. Haines, Mr. Hendrickson).

Ms. Marler made a **motion** for 1000 square feet standard per single purpose residential unit in the commercial zoning. The motion to change the square footage to 1000 square feet per unit in the commercial zoning district carried with 8 votes of 'aye' and 2 votes opposed (Ms. Mitchell, and Mr. Haines).

Mr. Millar stated there is a creation of an R-3 zone and it currently is not applied anywhere in the City. He indicated that the concerns with PNC's were the lack of notice, the lack of hearing and the lack of the right of protest. This is the only residential zone district that has a minimum square feet requirement on it and in order to achieve this zoning a property owner would have to go through the rezoning process. This zone is not currently applied to any land but it could be through the rezoning process. There is a 15,000 square foot minimum land area. Ms. Rye asked what could be done with the R-3 zone district. Mr. Millar stated it was a brand new zoning district, it would be a 3000 minimum square foot lot size, it would allow for single family development. He felt it was good for affordable housing to have the R-3 zone district available. Mr. Hendrickson stated this would be good to have in a new development but not in existing established neighborhoods.

Mr. Bangs cited examples of houses that the yard area ended up being on the side of the house because the front yard has a larger setback than the rear yard setbacks.

Roger Millar suggested amending the table so the front yard and rear yard setbacks are 10 feet instead of 20- feet and footnote the page by stated the total setback of the front and rear yards must equal 30-feet.

Pam Walzer make a motion to amend table 20.05-3 residential parcel and building standards so that the front yard setback in the R-3 zone was ten feet and the rear yard setback in the R-3 zone was ten feet and both of those setback were footnoted with a foot note that stated that the total of the two setbacks would have to equal at least 30-feet.

The motion carried with 7 votes of 'aye' and 2 votes opposed (Ms. Mitchell and Ms. Hellegaard) and one abstained (Mr. Haines)

Chair Jaffe identified building height, hillside, measure stories, side yard setbacks in relation to building height at the next PAZ meeting July 8, 2009.

Remove from the Agenda

VI. 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. Discussion on assuring the currency of growth policy amendments ([memo](#))—Regular Agenda (Dave Strohmaier) (Referred to committee: 09/08/08)
8. 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)
9. 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)
10. Discussion of OPG's [task list](#) and workload ([Urban Initiatives work plan](#)).—Regular Agenda (Mike Barton) (Referred to committee: 06/12/06)
11. Develop policies and procedures regarding ag land mitigation ([memo](#)).—Regular Agenda (Lyn Hellegaard) (Referred to committee: 06/01/09)
12. [Petition 9428](#)—Peters Properties LLC; 208 Montana Avenue and 210-212 Montana Avenue; Part of Lot 17, All of Lots 18-20 of Block 32 of East Missoula Addition; Geocode #220024117020000; Petition for Annexation

VIII. Adjournment

The meeting adjourned at 12:00 pm

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.