



## Missoula Consolidated Planning Board Minutes

October 27, 2020, 6:00 PM

Virtual Meeting: Live Stream and On Demand: <http://www.ci.missoula.mt.us/webcasts>

YouTube Live Stream and On Demand:

<https://www.youtube.com/channel/UC5fnfMPFGSk8Gwq6F5UoqGg>

Live call in phone numbers: 1 (253) 215-8782 1 (888) 475-4499 (landlines only) Meeting ID: 960 049 3694

Voting members present: Andy Mefford, Peter Bensen, Stephanie Potts, Dave Loomis, Caroline Lauer, Shane Morrissey, Vince Caristo

Regular member(s) absent: Sean McCoy, Josh Schroeder, Neva Hassanein

### 1. Call to Order

Mr. Caristo called the meeting to order at 6:03 p.m.

### 2. Roll Call

Donna McCammon called the roll.

### 3. Approval of minutes deferred to a future meeting

### 4. Public Comment

Lia Mendez, graduate student at the University of Montana, environmental studies program, provided comments at the October 20, 2020 meeting of the Missoula Consolidated Planning Board (MCPB). She thanked the board members for addressing her comments and concerns on the Mullan Area landscaping code and native plants. Ms. Mendez remains interested in staff recommendations on amending the code to require a minimum percentage of native plants. She will continue to follow the public discussions on what constitutes native species and what might be on the landscaping list.

Seamus Land, environmental studies student, graduate program, University of Montana, also provided public comments at the MCPB meeting on October 20, 2020. He appreciated the discussion on native plants that ensued. He encouraged the board to continue the dialog on native plants due to their climate resiliency and the sense of place they create. Mr. Land encouraged the board and other entities to proceed with the Grant Creek restoration, the buffer zone, and the funding for that. He feels that the Grant Creek restoration will add to the sense of place and add an educational aspect to the plan.

### 5. Staff Announcements

5.1 Updated Planning Board Schedule (attachment)

5.2 2019-2020 Title 20 Update package adopted 10-19-20 at City Council

Ms. Means, City Development Services, explained the process with City Council and thanked the planning board members for their discussion and input.

### **5.3 Planning Board Moving to Zoom WEBINAR Nov/Dec 2020**

## **6. Public Hearings**

No public hearing(s).

## **7. Communications and Special Presentations**

### **7.1 City Subdivision and Townhouse Exemption Development (TED) Regulation Review Project – Update; Laval Means and Jessica Garrow (with consultant firm Design Workshop)**

<https://www.youtube.com/watch?v=4R83SIbKfIQ>

Ms. Laval Means, Development Services (DS), City of Missoula, reminded the board members that her department has been working on the assessment of the current land development regulations, focusing a lot on process, but also current regulations, best practices, and local examples. They will be receiving a recommendations report which will provide a roadmap for the way forward. She introduced Jessica Garrow and Nicole Rebeck-Stout, from Design Workshop. Mr. Ben Brewer, City of Missoula Planner, would be providing finer details later in the presentation.

Ms. Garrow provided a presentation on the recommendations report and the progress made with that. The Design Workshop team is comprised of Jessica Garrow, Project Manager; Anna Laybourn, Principal-in-Charge; Nicole Rebeck-Stout, Planner; and Brooks Cowles, Housing and Economics. An overview of project goals was provided, which had been previously provided when the team last met with the board, late spring/early summer. Goals are focused on outcomes and a report that will lead to a land use review process that is easier to administer from a city perspective, and easier to understand from community and development perspectives. Ms. Garrow stated that Missoula's Engage Missoula platform was used: <https://www.engagemissoula.com/missoula-subdivision-regulations-review> and interviews were completed. 120 participants took part in the community questionnaire and the highlights of those results were presented. The most important topics were identified as: create affordable housing (84%), consistent with values (89%), physical features (88%), and align with policy documents (83%). The environmental focus group identified their most important topics as: steep slope protections, access to local food, and access to rivers and waterways.

Mr. Caristo asked if these were questions on what people value, or what they feel needs to be changed. Mr. Garrow clarified that these are values which they feel should be incorporated into a code and into the process. Ms. Means and Ms. Garrow reminded board members that the packet [<https://pub-missoula.escribemeetings.com/filestream.ashx?DocumentId=52307>], and Engage Missoula, contains the draft of the recommendations report. The environmental report was still out while the draft recommendations report was being compiled, so that is not in the report at this time, but it will be added, along with additional detail, to the recommendations report.

Ms. Garrow compared the process in Missoula with national best practices. Four case studies were completed covering both subdivisions and the Townhome Exemption Developments (TEDs). They completed a state law analysis that focused on state law requirements. She stated that Montana is unique in how prescriptive the subdivision regulations are and where there might be opportunities for adjustment of Missoula's code to better align with state law. An existing code analysis was completed, with the focus on process. Best practice theme focuses: public comment process, housing opportunities, streamlined process, and policy alignment. Lessons learned from the case studies were identified as process or regulatory. Some of the "wins" were proactive conservation and development services support.

Missoula meets the state law requirements. Ms. Garrow stated that Missoula's parks calculations when density is not known is lower than the state allowance, and this is included in the recommendations report. Opportunities were identified: clarity in regulation hierarchy, pre-application documents, administrative reviews, and parks dedication updates. Existing code opportunities were identified as: ensure all timelines are incorporated in code, role of DS in agency comments, pre-application phase simplification, and timing of neighborhood meetings. The recommendations report places impact and issues into three categories: community impacts, city impacts, and development impacts and examples were provided.

Ms. Lauer asked for examples and context of city policies not being fully realized. Ms. Garrow stated that one example is that the housing policy seeking affordability and diversity of housing types; however, there are specific requirements related to density calculations, sloped lots, or other impacts to the amount of housing, and these could be updated. Ms. Garrow stated that a developer could be in line with the Growth Policy, but that it was not carried through into the zoning.

Mr. Bensen asked about the Planning Board's role in the process, and can the role of the board be optimized, and if so, how? Ms. Garrow provided a best practices example from Bozeman: instead of going to the planning board for a minor subdivision, that first step is completed at a staff level. There is still a public comment period but no public hearing. She stated that this was identified as a change that could be made to help streamline Missoula's process without negatively impacting outcomes. This is a delegation clearly allowed in state law. Mr. Garrow stated that there were also conversations around regulations based on geography and scale. She stated that proposals in certain areas where one might expect development, that are relatively consistent with the code and the growth policy, a more expedited process, and that may or may not skip Planning Board. Ms. Means clarified that minor subdivisions currently do not go to Planning Board, but to Land Use and Planning (LUP) Committee and there is still opportunity for public comment.

Mr. Caristo asked if subdivision and TED projects were required by state law to come to the Planning Board. Ms. Garrow stated that there several exemptions that can be adopted through the process and those are included in the recommendations report. She provided an example of changes that could be made to cluster subdivision regulations that would have a different process and could skip some of the steps. The same could happen with the infrastructure exemption and growth policy, where the community has an adopted growth policy and they have done some additional work to understand and quantify that infrastructure is available to serve that subdivision. In that situation some of

the steps could be skipped. Ms. Garrow stated that it is about taking advantage of the exemptions that are in state law.

Impacts and issues discussion from the recommendations report:

#### Administrative Issues

- Development process clarity
- City and agency review team consistency
- City staff capacity
- Timelines for the development process

#### Regulations issues

- Limited flexibility / options with regulations
- Conflicts between regulations and policies
- City staff has a larger workload than is necessary
- Policies and regulations are not prioritized and/or geographically prioritized

Ms. Garrow stated that the recommendations report is divided into sections. The first section is Administrative:

A1: Update checklists and flow charts

A2: Establish City project review team with project champion

A3: Implement a formal documentation process for established decisions / milestones

A4: Require key agencies to be present at scoping or pre-application meetings

A5: Create a development process manual. A Public Works (PW) manual is currently underway; and completing that is a short-term implementation strategy and will help with clarity issues around public works requirements. Ms. Garrow stated that once it has been in place or awhile, they recommend a review to see if it makes sense for the general development process.

A6: Increase staff capacity for development project review

Mr. Mefford felt that item A4 is important; many times, he has attended scoping meetings, or pre-apps. These can take weeks to get set up and frequently the decision-makers and/or key personnel are not in attendance. Having the right staff and agencies present at a stakeholder meeting is key to the success of a project. A secondary issue is knowing where you are in the process; it could benefit from having a process like that with a building permit, where a project number is assigned. As a developer's representative it would be advantageous to have access to a portal and see how it is moving along. Ms. Garrow stated that Mr. Mefford's concerns were consistent with the feedback they have heard. She feels there is an opportunity for clarity on this item.

Mr. Caristo asked about the Public Works manual; is this separate from their proposal? Ms. Garrow stated their full recommendation is to have a development process manual that covers not just Public Works, but the whole range of requirements

for a project. The Public Works manual is in the works now, so an important short-term step will be to complete that and learn from it.

Mr. Loomis felt that the importance of item A6 was obvious. There is a continuing problem with city development staff recruitment, training, and retention. He would like the Planning Board to urge the city to find long-term solutions. The current staff is doing remarkably well with the limitations placed upon them. He feels that the expectations of the staff are too high given what the department has been given by city council.

#### Code and State Law

CP1: Implement administrative review process. Ms. Garrow stated that certain minor subdivisions could be delegated to the planning director for review.

CP2: Establish an expedited review process based on criteria. Smaller projects could have a quicker path to approval.

Ms. Garrow stated that these are best practices pulled from Bozeman and Billings, MT as they are specific to Montana state law.

Ms. Potts will be moving to the Gallatin Valley soon and noted that housing is not affordable in that area. There are a lot large homes being developed, but they are not affordable and not near services nor the urban core. She compared this with recent Planning Board discussions on the Mullan Area Master Plan in Missoula; to attempt to prevent unchecked development from happening. She asked how this could be balanced but ensure the values are maintained as development occurs. Ms. Garrow stated that there are recommendations in CP4 that focus on aligning regulations to the policy documents.

CP3: Adjust neighborhood meeting requirement. They received a lot of comments and conservation about this with the LUP committee, the working group, and through community engagement. They identified that the neighborhood meetings requirement in Missoula is probably happening at the wrong time. It is happening before a public hearing, but so far into the process that the developer has already spent quite a bit of time, effort, and money to design the project, and is sometimes reticent to make adjustments based off the neighborhood meeting. They suggest:

- Establishing some best practices and handouts as to what should be happening at the neighborhood meeting and determine who should be participating and provide the guide to neighborhood councils and the development community.
- Staff presence/attendance at neighborhood meetings at least for the larger projects to answer questions and help clarify requirements.
- Adjust the requirements based on the project type. Small projects or minor subdivisions could provide a meeting or an informational mailer at their discretion, whereas a large subdivision would continue to have a neighborhood meeting. Other comment methods need to be considered, as opposed to comments received only at a neighborhood meeting, i.e. the Engage Missoula platform and on-line forums.
- Recommend the neighborhood meeting occur prior to the pre-application meeting.

- Reduce requirements of pre-application meeting.

Mr. Caristo asked about noticing requirements and publicity for neighborhood meetings. Ms. Garrow stated that Fort Collins, CO is required mail property owners within a 300-foot radius for notice of the public hearing and the same list is used for the neighborhood meeting. Other communities have a poster requirement. She agreed that it is difficult to notify every person.

Mr. Bensen felt that it was a no-win situation and felt bad for the staff having to attend these meetings. Not everyone knows when it is the right time to complain. He commends the effort but is not optimistic for a solution being realized. Ms. Garrow agreed that this is one of the more difficult elements in the report, and they have tried to outline multiple options and get feedback on what is and is not working.

CP4: Align regulations to policy documents. Implemented by allowing variations that meet the Growth Policy and zoning tool updates.

CP5: Update the TED process to prioritize clarity and establish clear criteria for its use. Ms. Garrow stated that it is important to point out that Missoula is the only community in Montana to utilize the TED process. The state law is short, about two lines, and it does not give a lot of direction. She felt that Missoula had done a good job, even with the lack of direction. The process works in Missoula and is compliant with state law.

Mr. Mefford said that Missoula was the only community in the state utilizing the TED; however, the communities in the Flathead, Bozeman, and Billings are also experiencing tremendous growth and they are deciding without the TED regulations. They are managing their growth through zoning. He felt this all goes back to staff workload; we have created a set of regulations and more checklists, which all take more staff time. He stated that one could argue that other municipalities in the state have been able to do without those regulations and questioned the necessity of creating the TED regulations in the first place. This would be one way to free up staff time to work on other things. Mr. Caristo asked if he was talking about conditional use approval. Mr. Mefford clarified that he was talking about the Townhome Exemption Development (TED) process which was created and put into the Title 20 development code. The entire section was added in, which he did not support. He also does not advocate overlay districts and design excellence. Mr. Mefford felt that the effort in keeping up Title 20, and these others, up to date is arduous and requires a lot of staff time and adds cost, and it starts factoring into affordable housing. He stated it was not so much about design exception, but the added processes which may have not been necessary.

Ms. Garrow stated that they recommend the TED be continued but that it be examined and streamlined as intended by state law. One of the recommendations is to re-evaluate the TED ownership unit.

Ms. Potts stated that a set of regulations was not created by the TED, TED exemptions are an exemption from subdivision review. She agreed that Missoula as a more onerous process than Butte or Billings; but it is still a less onerous process than having all those pieces of land go through a full subdivision review. The state has delegated citizen run boards at the county level the duty to review these. The vagueness in state law is to allow each county to do what is right for their communities. She felt that citizen review processes are important.

Mr. Caristo asked about the changes to the TED recommended by MCPB previously. Ms. Means concurred that amendments were heard last year, and it is important to look at all the land development regulations, not just the one tool as one affects the other. Mr. Brewer recapped the basic changes, including: limiting the scope of a project that a TED exemption could be used for, a size cap of up to 10 or 20 dwelling units for a single TED project; removed the conditional use requirement entirely so it is all an administrative review process through zoning compliance permit review and from there it is ready to file the declaration after that approval. Since then there has been one larger TED for 14 to 15 units that has been in the review process, which would have been a conditional use project under the previous regulations. Mr. Brewer stated that 12 to 15 smaller TEDs, many which were an existing home, adding another home to the property and using TED to make them both available for separate ownership. Others had 4 to 5 new units, which are in line with what they were aiming for and using TED as a tool for infill development and make that review process streamlined and have more residential units coming online more quickly.

Ms. Garrow stated that they recommend potentially increasing the cap size in certain areas. One example would be in an area with a Master Plan where there has been conversation and expectation around development that is going to occur. Similarly, certain infill areas might make sense as well.

CP6: Embed flexibility into regulations with options that reward innovation.

CP7: Update code to allow or encourage ADUs and Cottage Homes. They have discussed allowing ADUs within TED developments and removing the minimum lot size requirements for ADUs and cottage homes.

CP8: Update code density calculations by using gross density calculations. Hillside and floodplain lot reductions could be removed while still prohibiting development in those areas but allowing for the full density on the parcel.

Ms. Lauer ask about rewarding innovation in item CP6. Are rewards limited to density or do they extend to incentives for electric vehicle stations, on-site solar energy, climate related building performance, or air filtration for wildfire smoke? Ms. Garrow stated that implementation would not be that specific, the focus has been innovation and flexibility within the strict subdivision standards, which could be translated into street width and road connections, although she does see the opportunity to add in language on other incentives.

Mr. Loomis asked for clarification on item CP8, which has to do with steep slopes, and not subtracting from the density yield. Ms. Garrow stated that currently steep slopes are deducted from the density calculations. Any area considered sensitive lands should continue to not have development but, in an effort, to provide additional housing stock and variety of housing types, the land area should be calculated for the density. Mr. Loomis did not feel there should be a reward for steep slope properties, 20% and up. Dwellings downslope will suffer the consequences of increased runoff and bear the cost of expensive engineering solutions.

Mr. Morrissey agreed with the recommendation; if a site is 50% undevelopable due to steep slope standards or protecting watersheds, if those lands are deemed

undevelopable, double the density can be placed on the area of the parcel that is left. He felt that this would protect those spaces for the community.

Mr. Mefford added that it would be a good thing to promote an incentive to increase the density. He asked about the density computation. Ms. Garrow clarified that density would not be reduced for the slopes; the slopes could not be built upon, but neither would the density calculations be reduced.

Ms. Potts was concerned about making this a blanket rule. She recalled the Planning Board hearing on McCauley Butte which had both steep slopes and agricultural land. There are also large landowners holding mountainside real estate. Although this is city specific, she felt that there are nuances with each proposal and care should be taken with this.

Mr. Morrissey asked if the language should be extended lands that we want to preserve in some way, not only hillsides and floodplains. This would then include prime agricultural soils. Mr. Caristo noted that increasing density allowance would not absolve other requirements, include parkland, agricultural preservation, and streets. Ms. Garrow stated that he was correct; this is about the calculation only and does not change anything else as it relates to city requirements.

Mr. Loomis asked that if he had 100 acres, and 90 acres was in the floodplain, would he get full credit for density as if it was 100 acres, but put it on the remaining 10 acres? Ms. Garrow stated that as it is written now, it would eliminate the reduction in the density calculation; but they are hearing at this meeting that there are situations where the calculation should not change based off of a very large lot size and percentage of the lot within steep slopes or within a floodplain. Additional nuance could be provided to address the comments received at this meeting.

Mr. Morrissey asked if it could be improved with guardrails/side rails by specifying a density exceedance percentage and give it some parameters. Ms. Means stated that this is not a density bonus, but rights that are already there for the overall parcel. They can either go through a density reduction exercise and not build on the sensitive lands; but this recommendation is to not do the density reduction and still not build on those lands. The developer would still have to comply with zoning, building types, heights, and setbacks. There might be infrastructure and street and roadway constraints. Mr. Morrissey stated that is what he was advocating for but would be fine with a case-by-case review and allowing all density on a smaller piece of land.

Mr. Mefford asked about the transfer of development rights. A recent board hearing had both ag and hillside components; would that property owner have no options for development? Ms. Means stated that staff sometimes has to trace back through the history of subdivision to ensure that some rights might have been moved. It starts as one parcel, and some rights have been moved to creation, some have been limited. She gave the example that if a parcel had 40 units and these were used in different ways, then they would be done. Sometimes it may mean that a parcel cannot be developed and "no build" terminology would need to be placed if all the rights were previously used.

CP9: Update code to allow parking reductions in certain areas.



CP10: Update code provisions related to parks dedication requirements. Ms. Garrow stated that park dedication is a detailed section in state law, and there are opportunities to update these requirements. She provided implementation opportunities:

- Update to state dedication amount
- Clarify Cash-in-Lieu (CIL) options
- Update parks exemption language
- Allow some CIL by right for small park dedications
- Advocate for state law change

Mr. Caristo felt the parking reduction recommendation made a lot of sense. He asked if on-street parking was specifically addressed and allowed in certain situations, specifically, corner lot situations. Ms. Garrow stated that although it was not included, it would make sense as a medium-term recommendation. Mr. Brewer added that this is included in the design excellence overlay; in most of the sub-districts in a design excellence overlay credits are given for meeting parking requirements, which includes on-street parking adjacent to those sites.

Mr. Morrissey noted that design excellence does not apply in all areas, and it would be good to include here. He asked if there was a way to encourage alley access parking and/or reducing driveway width; to promote more walkable neighborhoods and less forward-facing garages.

Mr. Bensen was concerned that park dedication requirements. He recalled the park director's comment to the planning board, that the expenditure of CIL funds are up to the park district, and the monies may not benefit the subdivision from which they were collected. He asked if the CP10 recommendations applied only to the TED provisions, or were they to be more generally applied? Ms. Garrow stated that this recommendation is broader than subdivision and TED, but these requirements come from state law. Mr. Bensen felt that having an advocate in the process would be important. She stated that parks dedication, neighborhood meetings, and TEDs are where there are a lot of different recommendations because they are more the complex pieces of the Missoula process.

CP11: Adopt the subdivision infrastructure and growth policy exemption. Ms. Garrow stated that no community has adopted this exemption because it is complex. They suggest that as a short-term recommendation that the city work to understand the requirements for this infrastructure exemption.

CP12: Update the cluster subdivision exemption. There are opportunities to create a more streamlined process as it related to cluster subdivisions. There are opportunities to create a more streamlined process as it relates to cluster subdivisions. This could also be an area to tie in some of the policy documents and statements about the preservation of agricultural lands.

C13: Adopt a unified development ordinance (UDO).

Ms. Garrow stated that there are regulations that have been adopted twice; some of the requirements in subdivision have also been adopted in Title 20 as it relates to TED, this is redundancy that creates additional pages. When there are requirements from

engineering or public works that are outside of Title 20, there is a question on which regulation to meet. The UDO can help articulate that but pulling these into one place.

#### Programs and Policy

P1: Establish incentives for affordable housing.

P2: Prepare city research materials for habitat, slopes, geotechnical, etc.

P3: Establish hierarchy for policies based on geography.

Ms. Means will email board members a comment log to provide feedback and asked that those be returned by November 6, 2020. Comment can also be made through the Engage Missoula website. The final document will go to Land Use and Planning (LUP) on November 18, 2020.

#### **8. Committee Reports**

No committee reports.

#### **9. Old Business**

No old business.

#### **10. New Business and Referrals**

No new business nor referrals.

#### **11. Comments from MCPB Members**

Planning Board members thanked Ms. Potts for her service to the board and wished her well with her future endeavors in the Gallatin Valley.

Mr. Loomis appreciated the city staff presentation.

Mr. Bensen recalled a conversation about the land use element with Andrew Hagemeyer. They had preserving and connecting riparian areas, game trails and natural resources. These are not specific to any neighborhoods, and we need to facilitate paying attention to these details. One of the intentions of the park district was that children would have to walk only a certain amount to reach a local park. He stressed the importance of byways, trails, and connectivity through the whole city, and was not sure which department was responsible for this, or if the Planning Board should be more involved. Peter cited the influence of Teddy Roosevelt and Ian McCard.

#### **12. Adjournment**

Mr. Caristo adjourned the meeting at 8:16 p.m.