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**MISSOULA CONSOLIDATED PLANNING BOARD MINUTES**  
**City Council Chambers, 140 W. Pine**  
**August 2, 2016,**  
**At 7:00 PM**

**Members present:** Dick Ainsworth, John Newman, Michael Houlihan, Neva Hassanein, Jason Rice, Karen Slobod, Helen Jenkins, Ron Erickson, Dudley Improta

**Members absent:** Josh Slotnick, Andy Mefford

**Others present:** Christine Dascenzo, Tim Worley, Alicia Vanderheiden, Heather Peters

**I. Call to Order**

Mr. Ainsworth called the meeting to order at 7:02 PM

**II. Roll Call**

The Board Secretary called the roll; there were eight regular members present. A quorum was met.

**III. Approval of Minutes**

A. July 19, 2016 Meeting Minutes--

[History](#)

No action from July 19 meeting - will review and approve at next meeting.

**IV. Public Comment**

There was no public comment.

**V. Staff Comments**

There were no staff comments.

**VI. Public Hearings**

A. Missoula County Subdivision Regulation Amendments - Chapter 5  
(Christine Dascenzo)--

[History](#)

**Recommended motion**

THE PROPOSED AMENDMENTS TO THE MISSOULA COUNTY SUBDIVISION REGULATIONS, AS SHOWN IN ATTACHMENTS A & B, BE RECOMMENDED TO THE MISSOULA BOARD OF COUNTY COMMISSIONERS FOR ADOPTION.

Christine Dascenzo, Community and Planning Services (CAPS), introduced the agenda item. Chapter 5 of the Missoula County Subdivision Regulations is titled *Procedures for Subdivision Review, Preliminary Plat, Variances and Appeals*. A revision overview for Chapter 5 includes renumbering, moving multiple sections, general clean up to ensure consistent language throughout regulations, and text amendments to Section 5.7 and 5.8. She explained that this effort is considered to be final cleanup of majority of Chapter 5, reorganized and updated in 2015. Many are minor; however amendments to sections 5.7 and 5.8 are substantial. They introduce or alter county timelines and/or processes for public notice, submittal to the governing body, and processes for preliminary plat approval.

Ms. Dascenzo presented the following section changes:

- *Section 5.7.11* For minor subdivisions establish a 15 day public notice period prior to Commissioner meeting. Previous regulations did not have a timeline; this addition gives the section a consistent timeframe with other noticing processes.
- Proposed Amendment of *Section 5.7.11.1* Change “Planning Board public hearing” to “Board of County Commissioners public meeting”.
- *Section 5.7.14.10* Changes the time period for preliminary plat/plan approval from 2 years to 3 years.
- *Section 5.7.14.11.A* Without an extension or the creation of a phasing plan, all preliminary plats must be filed within 3 years instead of 2 years.
- *Section 5.7.15* Filing deadline of a preliminary plat is extended from 5 years to 6 years. If the subdivision is not platted within 6 years, it will need to establish a phasing plan or be voided. Proposed Amendment, See Memo on *Section 5.7.15.1* Language, which is amended to make Section 5.7.15 apply to all subdivisions, including those approved under previous sets of regulations. This is expected to standardize outcomes and procedures. Previously approved subdivisions would utilize November 4<sup>th</sup>, 2016 as their approval date.
- *Section 5.7.16* All final plat deadlines, and subsequent extensions, for phased subdivisions must fall within a 3 year period. Proposed Amendment, See Memo on *Section 5.7.16.1* Language, which is amended to make Section 5.7.16 apply to all subdivisions, including those approved under previous sets of regulations.
- *Section 5.7.16.2* Phased subdivisions cannot be extended beyond the following plat deadlines, which have been adjusted to increments of 3. Minors would have 9 years, 6-20 lot subdivisions would have 15 years, 21-49 lot subdivisions would have 21 years, 50+ lot subdivisions would have 24 years.
- *Section 5.7.16.6.2* The preliminary plat will be voided if the final plat is not submitted and no extension is requested before the expiration date.
- *Proposed Amendment*, See Memo 5.7.16.2 A new section is proposed for when a phasing plan is established, reorganizing text from *5.7.16.5 Modification* and increasing public notification and public process. \*See Memo 5.7.16.5 for an amendment responding to the reorganized text.
- *Proposed Amendment*, See Memo 5.7.16.5.D The section on No Change was marked for deletion in error and should be retained.
- *Section 5.8*—Ms. Dascenzo explained that the new section titled *Adjustments to Preliminary Plats and Related Documents* creates a process and criteria for reviewing modest changes to preliminary plats and increasing public notification

and public process. Proposed Amendment, See Memo on *Section 5.8.3*. Language was added to clarify that this section applies to all subdivisions, including ones previously approved.

**Ms. Dascenzo stated that no public comment was received on Chapter 5.**

She also mentioned a cleanup amendment that would add “No Phasing” to the title for *Section 5.7.16.7.A*, which had no title.

**Staff’s Recommended Motion:**

**That the proposed amendments to the Missoula County Subdivision Regulations, as shown in Attachments A and B of the staff report and staff memo dated August 2, 2016 be recommended to the Missoula Board of County Commissioners for adoption.**

No public comment was given.

**Ms. Jenkins moved, Mr. Erickson seconded motion.**

Ms. Jenkins expressed her support of the public hearing and appreciated the public comment time incorporated in the proposal.

Ms. Hassanein questioned why deadlines were included when no public are here to comment. Ms Dascenzo responded that changes are largely clean up, but some substantive changes are due to court case from Ravalli county. Getting regulations in line to make sure plats get regular check ins from the board. Ms. Hassanein asked other than clean up are all changes then in response to that court case? Ms. Dascenzo replied yes, some are also ripple effects from that case, but mainly to line up with findings that resulted from that case.

Mr. Worley noted that *Section 5.8* was added as a process to facilitate adjustments to preliminary plats and related documents; before there were no regulations that addressed that process. Mr. Rice wanted a rundown of what is allowed from major subdivisions. Ms. Dascenzo explained that there are maximums for different numbers of lots in subdivisions. All would have a 3 year approval window to complete phases. Mr. Rice asked if all 5 phases would need to be filed within 3 years of each other. Ms. Dascenzo and Mr. Rice went back and forth helping clarify the 3 year deadlines and extensions, mainly determining that as long as they come in every 3 years it can still be flexible up to the maximum number of years allowed with extensions. Mr. Erickson asked what was magic about 3 years. Ms. Dascenzo explained that in regards to phasing extensions it was determined at CAPS’ discretion in order to be consistent with recent court proceedings reiterating State law’s requirement that a plat be filed within 3 years.

Ms. Slobod questioned if environmental updates were acknowledged in these changes, such as solar, clustering for open space, and grading land. Ms. Dascenzo stated that those types of updates could be included in Chapter 3, giving examples of what was updated in recently approved Chapter 3. Ms. Slobod asked since that chapter is now updated when would sustainability practices be looked at again. Ms. Dascenzo said they are working on a maintenance phase rather than a large overhaul like is currently being done, and there should be regular opportunities for those changes to be brought up.

**(7:32) MOTION 1 - Ms. Jenkins moved, Mr. Erickson seconded motion, “That the proposed amendments to the Missoula County Subdivision Regulations, as shown**

**in Attachments A and B of the staff report and staff memo dated August 2, 2016 be recommended to the Missoula Board of County Commissioners for adoption.”**

*AYES:* Dick Ainsworth, John Newman, Michael Houlihan, Neva Hassanein, Jason Rice, Karen Slobod, Helen Jenkins, Ron Erickson, Dudley Improta.

*NAYS:* None

Motion (1) passed unanimously.

B. Missoula County Subdivision Regulations Amendments - Chapter 6 [History](#)  
(Christine Dascenzo)--

**Recommended motion** THE PROPOSED AMENDMENTS TO THE MISSOULA COUNTY SUBDIVISION REGULATIONS, AS SHOWN IN ATTACHMENT A, BE RECOMMENDED TO THE MISSOULA BOARD OF COUNTY COMMISSIONERS FOR ADOPTION.

Ms. Dascenzo, introduced the agenda item. Chapter 6 of the Missoula County Subdivision Regulations titled *Final Plat and Subdivision Improvement Guarantees*. She explained 2 minor word amendments that will be discussed throughout and at the end. Changes include renumbering and moving multiple sections, general cleanup to ensure consistent language throughout the regulations, and text amendments to 6.1, 6.2, 6.3, 6.5, and 6.6.

- *Section 6.2.3* A new process is established to determine sufficiency for a final plat submittal.
- *Section 6.2.3.2* Needs to have a typo corrected. “Confirm” should be changed to “conform”.
- *Section 6.2.4.1* Language should be amended to better differentiate a minor change on a final plat from a major change.
- *Section 6.2.4.4* This section replaces 6.2.9 Review Responsibilities by way of reference to Resolution 2016-004, which captures agencies responsibilities.
- *Section 6.2.8.3* Contains a typo that can be addressed by changing “Amendments” to “Adjustments”.
- *Section 6.3.5* Alternative Guarantee Methods - Multiple options have been incorporated for when a financial guarantee is required, including private and public escrow agreements, letters of credit, bonds, special improvement districts, and real property.
- *Section 6.6* This section is moved from 6.5.6 and expands on the process and criteria for review of modest changes to subdivisions that have been filed.

**No public comments were received on Chapter 6.**

Ms. Jenkins asked Mr. Rice & Mr. Ainsworth if they felt page 6-3 (*Section 6.2.4.1*) is fair to developers. A lot of content was added and she would like their opinion. Mr. Rice said that there have been a lot of additions over the last years; he thought some sections like “maintain the plans for water and waste water” were vague and would rather have it say if it is approved by DEQ and method of water and waste water. Mr. Rice said road regulations are the bigger concern for him, saying that at some point when you meet regulations and

don't impact the outside world, he didn't know why you can't change the route of the road; adding at the end it makes it so you can't do something that would be better suited for the current situation. Mr. Ainsworth agreed that as long as it is internal it shouldn't really matter. Mr. Rice added that as long as traffic flow stays the same and the roads exit the subdivision in the same way, why can't we save a tree with a minor amendment? These amendments have been getting shut down due to looking at the bigger picture in larger subdivisions rather than the way it's looked at when you are designing final plat.

Ms. Slobod asked if there was a way to add something to make that work. Mr. Rice, looking at *Section 6.2.4.1.B*, offered a change of "maintain traffic flow patterns to the external boundaries of the subdivision". He said the inside of subdivision should be flexible. Mr. Rice has seen many road cases, such as Canyon River, where a change would have been better. Mr. Newman asked if a slight change in the road may be seen as something that would make significant other changes to the original layout of lots and already reviewed plat design. Mr. Rice replied that they were allowed to shift the road in the Canyon River case, but couldn't connect roads in a different manner to save two large trees. Mr. Newman explained that road layout changes may be seen as a cause that would result in cascading changes. Mr. Rice went on explaining that the County Attorney was fine with a shift in roads, but not with changing the road connections, which he didn't agree with. Mr. Ainsworth said that Canyon River is a bit of a different situation, with the golf course it allows for a shift in road layout and lots without causing much disturbance to other lots because they are clear on the other side of golf course. He said that in most cases a slight change in road layout would affect a lot of other lots in subdivision.

Mr. Newman said that in general he could foresee major changes happening if these kinds of changes to wording were allowed. Mr. Rice agreed that in some subdivisions changes may not be agreeable, but a planning director should have flexibility to say whether it is minor enough to change or not. Due to a black and white interpretation of the law, even when everything else was good about a change, it could be denied. Mr. Rice would like to see flexibility in law if it has the same end goal. The same applies with pathways. This change would prohibit subdividers from being able to make a positive change in some cases.

Ms. Hassanein wondered if there was a way to give consideration to changes that would reduce impact and improve health and safety. Make a change that really demonstrates that it isn't just to accommodate a random thing, but when those changes are environmental, as well as a better lot layout, is there a way to encourage the planning director to allow a change if there is evidence of improved environmental quality or health and safety. Mr. Rice wasn't sure.

Ms. Jenkins asked what Mr. Worley thought of amending this item or removing it. Mr. Rice replied that it is moving in the right way, but the roads section is what needs revision. Right now it has to go to County Commissioners, who have requested large amendments that have had to stay the same as it wouldn't have an effect for 12 years.

Mr. Worley thinks some flexibility in language would be ok. He was worried a cascade would happen changing an already reviewed and approved plat. If environmental issues are discovered, those are addressed by Planning Board or Board of County Commissioners. If they come up later, outside of the public process, he would be cautious about how significant a change would be allowed to happen at final plat. There is some room to move with the road section and Mr. Worley agreed with adding environmental or health and safety wording.

Mr. Newman explained that the final 2 or 3 factors in this section are the most important and would let you get around some of the earlier items in list. Ms. Slobod suggested adding under minor deviations "the planning director may give consideration to minor

changes that encourage environmental or public health and safety improvements.” as it then gives some leeway to rules. Mr. Rice thought that was a good addition and that the roads section would still need more flexibility. He would like it to say “Maintain the overall transportation plan for vehicular and pedestrian travel”.

Mr. Rice agreed with the number of lots in part of Point A, but said “configuration” could use some work. Mr. Worley offered the suggestion of “Maintain the basic configuration”. Mr. Rice liked that and said right now it is very black and white and that adding “basic” would give enough flexibility. Making lots larger should not be discouraged; being able to delete lots should be ok. He doesn’t think it violates what was reviewed. He proposed adding an amendment for select minor improvements at final plat that are exempt from subdivision review. Overall, he likes the clarity and does support it, but is concerned about the black and white wording. Minor deviations should be defined and allowed. Ms. Jenkins proposed motions for amendments to minor deviations and then approval of all of Chapter 6. Specific motion wording was discussed and finalized.

**(7:52) Motion 2 - Mr. Rice moved, John Newman seconded, to add to the end of the first paragraph in Section 6.2.4.1 “The Planning Director may give consideration to minor changes that encourage environmental, public health and safety improvements”**

**AYES:** Dick Ainsworth, John Newman, Michael Houlihan, Neva Hassanein, Jason Rice, Karen Slobod, Helen Jenkins, Ron Erickson

**NAYS:** None

*Motion (2) passed unanimously*

**(7:59) Motion 3 - Mr. Rice moved, Ron Erickson seconded, to add “Maintain the basic configuration and number of lots” to Section 6.2.4.1 A**

**AYES:** Dick Ainsworth, John Newman, Michael Houlihan, Neva Hassanein, Jason Rice, Karen Slobod, Helen Jenkins, Ron Erickson

**NAYS:** None

*Motion (3) passed unanimously*

**(7:59) Motion 4 - Mr. Rice moved, John Newman seconded, to add “Maintain overall traffic patterns for pedestrian and vehicular travel” to Section 6.2.4.1 B**

**AYES:** Dick Ainsworth, John Newman, Michael Houlihan, Neva Hassanein, Jason Rice, Karen Slobod, Helen Jenkins, Ron Erickson

**NAYS:** None

*Motion (4) passed unanimously*

**(8:03) Motion 5 - Mr. Rice moved, John Newman seconded, to add “Maintain the basic plans for water and wastewater” to Section 6.2.4.1 C**

Ms. Hassanein wasn’t comfortable with voting on change without knowing more. Mr. Rice offered other suggestion to change the motion to use “general method” in place of “basic plans”. After discussion, it was decided to leave the wording as “basic plans”. Mr. Rice and

Mr. Improta gave examples of the changes that could occur and helped Ms. Hassanein understand why Mr. Rice wanted the change.

**AYES: Dick Ainsworth, John Newman, Michael Houlihan, Neva Hassanein, Jason Rice, Karen Slobod, Helen Jenkins, Ron Erickson**

**NAYS: None**

*Motion (5) passed unanimously*

**(8:05) Motion 6 - Mr. Rice moved, Ms. Jenkins seconded, to add letter K “Allow amendments that would be otherwise allowed through the exemption process by the Subdivision and Platting Act after the final plat” under Section 6.2.4.1**

Mr. Newman didn't think this amended motion was necessary. Ms. Jenkins understands what Mr. Rice and Mr. Newman are saying, adding that these are the pieces that make building expensive, and having less requirements would make building less expensive. Ms. Jenkins said she normally doesn't like to compromise on things, but this may be an opportunity to save people money without giving up progress. Ms. Slobod sees consequences, but thinks it could be phrased differently. Mr. Rice doesn't know how to revise as he is familiar with these terms and continued trying to express how non-threatening this was. Mr. Worley asked if the exemption would have to go through checks before final plat. Mr. Rice explained that they would be reviewed administratively and that there are only a few exemptions that are allowed in general.

**AYES: Dick Ainsworth, Michael Houlihan, Jason Rice, Helen Jenkins**

**NAYS: John Newman, Neva Hassanein, Karen Slobod, Ron Erickson**

Motion (6) failed with a tie vote of 4 ayes and 4 nays

Karen originally abstained; Dudley Improta is a city alternate and was determined to not be able to vote at this meeting after clarification of city/county members. The typo on the roll call list will be corrected. After clarification, Karen then changed her vote to nay, resulting in a tie vote, failing the motion.

**(8:16) Motion 7 - Mr. Rice moved, John Newman seconded “That the proposed amendments to the Missoula County Subdivision Regulations, as shown in Attachment A, and as amended by our actions today and as recommended by the staff, be recommended to the Missoula Board of County Commissioners for adoption.”**

**AYES: Dick Ainsworth, John Newman, Michael Houlihan, Neva Hassanein, Jason Rice, Karen Slobod, Helen Jenkins, Ron Erickson**

**NAYS: None**

*Motion (7) passed unanimously*

## **VII. Communications and Special Presentations**

There were no communications or special presentations.

**VIII. Committee Reports**

A. Discussion on Zoning Recommendation Subcommittee--

[History](#)

Mr. Ainsworth identified that the agenda item was being led by Josh Slotnick, who is not present this evening. He recommended postponing the discussion item again to the next meeting.

**IX. Old Business**

There was no old business.

**X. New Business and Referrals**

There was no new business or referrals.

**XI. Comments from MCPB Members**

Karen Slobod noted that she will be gone for a month.

**XII. Adjournment**