

MINUTES OF MEETING OF PLANNING
AND ZONING COMMISSION HELD AT,
10:30 A.M., NOVEMBER 17, 1972

Pursuant to Notice given as provided by law, the Missoula County Planning and Zoning Commission met in the Office of the County Commissioners at 10:30 A.M., on November 17, 1972, to hear the petition of residents for zoning an area in the Lolo vicinity, more particularly described as follows:

That portion of the West One-half (W $\frac{1}{2}$) of Section Twenty-two (22), Township Twelve (12) North, Range Twenty (20) West, Principal Meridian Montana, which lies West of Highway 93 as currently constructed and West of former Highway 93, whichever is the most westerly, not including that portion of the West One-half of said Section Twenty-two known as the Mulhauser Acres which lies between Highway 93 as currently constructed and former Highway 93.

Present were Commission members H.W. Stoutenburg, Chairman, Richard H. Ostergren, Oscar K. Ostenson, County Assessor Fred R. Barclay, with County Surveyor Elmer Frame absent. Also attending were John C. Moe, Darrel Hill, Norma and Richard Rossignol, Donald Tomlinson, and Richard Mallick.

Chairman Stoutenburg opened the meeting by announcing the petition had passed by 91%.

Mr. Moe explained that their reason for zoning is to keep the area single family residential, and to zone out commercial and/or trailer courts. Mulhauser Acres is excluded as it already has trailers; the Zoning proposed does not forbid trailers or structures currently in existence.

Mr. Tomlinson asked whether C & M Homes, which are factory built and come in parts, are restricted by this zoning. His concern had just finished a \$40,000 C & M Home in the vicinity. Chairman Stoutenburg stated the petition mentioned erected buildings, so didn't feel that would restrict these homes, and comment was made that this activity is actually not in the proposed zoning area.

The question was brought up whether a person could substitute a new trailer in place of an old one, and it was felt this is not forbidden as it has never been so construed in the Courts. As to the question of a person living in a basement while erecting a house, it was decided this matter could be postponed until the feeling of other residents not present is ascertained, and what time limit for completion of construction will be allowed.

Fred Barclay cautioned that the state may be going to take complete control of classification of lands in outlying districts. His office classifies the land as it has always been, but if it is changed by the State, it might end up being reclassified from grazing to residential as zoned. Therefore, they could not afford the taxes under that category instead of grazing. He also brought out there may not be a place locally to be heard on this.

Mr. Moe questioned whether they could "unzone"? He was advised that any time they found conditions unsatisfactory they could re-petition to have it amended or zoned for a different category. If this zoning is passed and it appears such step proves a hindrance later, it is not a lost cause.

Fred Barclay made a motion that his zoning petition be taken under advisement until a future date when the question of basements has been gone into among the residents, after which they will be notified when the matter has been settled. Seconded by Commissioner Ostenson and carried unanimously.

The Planning and Zoning Commission then adjourned.

CONTINUATION MEETING HELD AT
10:45 A.M., NOVEMBER 27, 1972

The Planning and Zoning Commission met in the office of the County Commissioners, with all members present, to further consider the petition for creation of Planning and Zoning District No. 33.

Chairman Stoutenburg read the request for amendment to the petition to establish this district as submitted by the petitioners, all of whom signed.

The amendment requested that the following revision be inserted in the original petition:

"At the end of paragraph numbered "1", change period to comma after the word 'maintained' and add:

"Also, except that while constructing a single family residence the owner thereof may reside in the basement of said residence for a period not to exceed eighteen months during which time he shall diligently pursue the construction of the balance of said residence."

Motion was made by Commissioner Ostergren, seconded by Fred Barclay and carried unanimously, "that we grant the petition for creation of Missoula County Planning and Zoning District No. 33, with the amendment as stated."

WHEREUPON the following resolution was passed and adopted:

*BE IT RESOLVED, that whereas a petition was filed with the Board of County Commissioners of Missoula County, Montana, for the creation of a planning and zoning district in the Lolo vicinity, within the boundaries described in said petition and shown on map submitted therewith, and

WHEREAS, the petition was signed by more than sixty percent (60%) of the freeholders within such area, and

WHEREAS, the County Commissioners thereupon appointed a Planning and Zoning Commission in accordance with the provisions of Chapter 41, Title 16, R.C.M. 1947, as amended, and

WHEREAS, the Planning and Zoning Commission thereafter, by order, directed that Notice of a public hearing be given as required by law, and such notice was thereafter given and a public hearing held,

NOW, THEREFORE, IT IS ORDERED AND THIS DOES ORDER that there is hereby created Missoula County Planning and Zoning District No. 33 in the Lolo vicinity, which said district is more particularly described as follows:

That portion of the West One-half (1/2) of Section Twenty-two (22), Township Twelve (12) North, Range Twenty (20) West, Principal Meridian Montana, which lies West of Highway 93 as currently constructed and West of former Highway 93, whichever is the most westerly, not including that portion of the West One-half of said Section Twenty-two known as the Mulhauser Acres which lies between Highway 93 as currently constructed and former Highway 93.

IT IS FURTHER ORDERED, and this does order, that the following shall govern the use of lands and structures within the above Planning and Zoning District No. 33:

SECTION 1

1. No building, structure or premises shall be used and no building or structure shall be erected structurally, altered or maintained except as otherwise provided in this Resolution, and, except as herein specifically provided, it shall be unlawful to use any of the lands within the boundaries of this Zoning District or any structures or buildings located thereon for any commercial business or industrial use and that the area hereinabove described in said Zoning District is restricted to one-family residential purposed only, and prohibits the construction of two-family or multi-family housing rental units, except that strictly-regulated and bonafide condominium structures may be erected provided one-family ownership of each condominium unit is maintained, also except that while constructing a single family residence the owner thereof may reside in the basement of said residence for a period not to exceed eighteen months during which time he shall diligently pursue the construction of the balance of said residence.

2. The uses specifically permitted are as follows:

- (1) The growing and harvesting of timber.
- (2) Any agricultural, horticultural or stock raising enterprise.
- (3) Public or private parks or recreational developments such as a golf course or tennis courts.
- (4) Single family dwellings shall be permitted under the following stipulations:
 - (a) No dwelling shall occupy a lot or tract of land which is less than one (1) acre in area.
 - (b) No erected dwelling or residence shall be transported onto or located within the Zoning District.
 - (c) The following are specifically ordered not to be deemed as dwellings:
trailers, mobile homes and basements.

SECTION 11

In conformity with the provisions of Section 16-4103, Revised Codes of Montana, 1947, the Board of County Commissioners shall have the power to authorize such variance from these regulations that will not be contrary to public interest where, owing to special conditions, the literal enforcement of the Planning and Zoning Commission would result in unnecessary hardship.

SECTION 111

Reference is hereby made to the descriptive material contained in the petition filed in connection with Missoula County Planning and Zoning District No. 33 and to the map of said district which is on file in the Office of the County Clerk and Recorder of Missoula County, Montana."

H.W. Stoutenburg
 H.W. Stoutenburg
 Chairman, Zoning Commission

Fred R. Barclay
 Fred R. Barclay
 Secretary, Zoning Commission

305240

I received and filed this instrument for record on the 29 day of May 1972 at 4:54 o'clock P.M., and it is recorded in vol. 44 of Missoula Records of the County of Missoula, State of Montana, on page 1051.

Witness my hand
 Valonac R. Young, County Recorder
 By Barclay R. Barclay, Deputy
 Fee \$ 2.00 Paid
 Return to Journal Journal "B"
 Address _____

RESOLUTION

WHEREAS, this Board did on October 18, 1972, receive a petition requesting the zoning of an area located in that portion of the following described area:

That portion of the West One-half (W½) of Section Twenty-two (22); Township Twelve (12) North, Range Twenty (20) West, Principal Meridian Montana, which lies West of Highway 93 as currently constructed and West of former Highway 93, whichever is the most westerly, not including that portion of the West One-half of said Section Twenty-two known as the Mulhauser Acres which lies between Highway 93 as currently constructed and former Highway 93. all in Missoula County, Montana, and

WHEREAS, the petition was signed by more than sixty percent (60%) of the freeholders within such area, and thereafter public hearing was held, as required by law, by the Missoula County Planning and Zoning Commission on November 17, 1972 and thereafter the Commission met again on November 27, 1972 at which time the petition was granted.

WHEREAS, resolution containing the provisions for proper description and regulations controlling the zoning of area petitioned for was passed and adopted by the Missoula County Planning and Zoning Commission under date of November 27, 1972, and made a part of the Zoning records in Zoning Journal "B".

NOW, THEREFORE, BE IT RESOLVED, that the Board of County Commissioners of Missoula County, Montana, do hereby approve and accept the recommendations of the County Planning and Zoning Commission and hereby adopt the resolution granting said petition for creation of Missoula County Planning and Zoning District No. 33 within the boundaries described in said resolution appearing in said Zoning Journal "B" and recorded in Book 44 of Microfilm, page 1051.

Passed and adopted this 29th day of November, 1972.

SEAL

BOARD OF COUNTY COMMISSIONERS
Missoula County, Montana

ATTEST:

S/ Richard H. Ostergren
Chairman
S/ H.W. Stoutenburg
Commissioner
S/ Oscar K. Ostenson
Commissioner

S/ Veramae R. Crouse
Clerk of the Board

325211

I received this from the Registrars for records on Nov. 29 1972 at 4:56 P.M. and it is recorded in Vol. 44 of Missoula County of the County of Missoula, State of Montana, on page 1055. Fee 7.00
Paid Return to Zoning Journal With my hand, Veramae R. Crouse, County Recorder
Address "B" in Authority of Seal Deputy