

**MINUTES OF THE MEETING  
OF THE  
GREAT FALLS PLANNING ADVISORY BOARD/ZONING COMMISSION  
October 25, 2011**

**CALL TO ORDER**

The regular meeting of the Great Falls Planning Advisory Board/Zoning Commission was called to order by Chairman John Harding at 3:02 p.m. in the Commission Chambers of the Civic Center.

**ROLL CALL & ATTENDANCE**

Planning Board Members present:

Mr. John Harding  
Mr. Bill Roberts  
Mr. Marty Byrnes  
Ms. Cheryl Patton  
Mr. Wyman Taylor

Planning Board Members absent:

Mr. Thor Swensson

Planning Staff Members present:

Mr. Mike Haynes, Planning & Community Development Director  
Ms. Jana Cooper, Planner II  
Ms. Phyllis Tryon, Administrative Assistant

Others present:

Ms. Patricia Cadwell, Neighborhood Council and Youth Council Coordinator

Mr. Haynes affirmed a quorum of the Board was present.

**MINUTES**

Mr. Harding asked if there were any changes to be made to the minutes of the public hearing and regular meeting held on September 13, 2011. There were no changes and the minutes were received as submitted.

## **PUBLIC HEARING**

### **Conditional Use Permit 264 15<sup>th</sup> Avenue South**

#### **PLANNING STAFF REPORT & RECOMMENDATION**

Ms. Cooper presented the Staff report for the Conditional Use Permit application for two dwelling units on one lot located at 264 15<sup>th</sup> Avenue South. Ms. Cooper stated she was entering the Staff report into the record. She stated that the applicant is actually Robert Cole, son of Betty Lou Hall. Ms. Hall was listed as the applicant on the Staff report. Ms. Cooper explained that the property is located in a residential neighborhood with single-family dwellings on all sides. She noted photographs contained in the Staff report which show other two-story garages existing in the neighborhood.

Zoning on the property is R-3 Single-family high density, which allows a second dwelling unit through the Conditional Use process. The detached garage on the subject property was legally permitted and constructed in 1995 with access from the alley. The owner has submitted building plans to convert the second story into a residence. The property is located in an area of mixed development with predominantly single-family residential uses. There are a few two-family residences in the area, as well as some apartments and condominiums, although none on the subject block. These higher density developments do not seem to adversely affect the neighborhood.

The off-street parking requirement for the proposed two-family dwelling is two spaces per dwelling unit. The subject property has two off-street spaces in the existing garage. The grade of the property makes it infeasible to provide the additional parking in the back of the lot. As an alternative, the applicant proposed to provide the additional required spaces in front of the property. However, consistent with Public Work's policy, City Engineer Dave Dobbs will not allow the off-street parking in front of the property. City Commission has the right to modify regulations through the Conditional Use Permit process. In this case, Staff is in favor of waiving the off-street parking requirement based on the special conditions of the property.

The property owner states that the second dwelling unit will be occupied by himself or his mother, so there will be no immediate traffic impact. If the property were sold, future impact would be minimal.

The applicant will need to follow the City permitting process to establish water and sewer in the second dwelling unit. If the proposed unit is metered separately, there will need to be a separate shut-off per the City Utility Department.

Staff concludes that the proposed second residence is consistent with the City's Growth Policy due to the fact that the existing neighborhood consists of a mix of land uses and residential densities. The proposed residence is to be created within an existing building that is compatible with the type, scale and physical character of the neighborhood.

Neighborhood Council Coordinator, Ms. Patty Cadwell, presented information to Council #6 on October 10, 2011 regarding the application. She will present the Conditional Use information for this project to Council #6 on November 2, 2011. The applicant has provided a list of signatures in support of the application from his immediate neighbors.

Staff received a call yesterday from a neighbor regarding concerns about current parking issues in the alley. Some of the neighbors are parking in places which make alley garage access difficult. Ms. Cooper stated she assured the caller that this project will not allow parking blocking the alley and that the owner must comply with parking regulations. Ms. Cooper said she recently received another call about alley parking in a different location not related to this project, and it seems to be a City-wide issue.

Ms. Cooper stated there were two Conditions of Approval for this application. Based on the information provided in the Findings of Fact, Staff recommends approval of the Conditional Use Permit. Ms. Cooper concluded her presentation of the Staff Report and offered to answer questions from the Board.

Mr. Taylor asked if the statement on Exhibit E was true. Ms. Cooper said her understanding of the situation was that the owner applied for a permit to build a garage, and during building plan reviews, was found to be constructing a second residence. Therefore he was asked to follow the process for a Conditional Use Permit. Mr. Haynes clarified that it is possible to add accessory living space without adding a second dwelling unit, but the owner did not have a permit for a second residence.

Mr. Byrnes asked for clarification on the grade at the building. He also asked if the Building Department would be inspecting egress and access, which Ms. Cooper affirmed they would. He then noted that if the Board approves this project with conditions, and in the future the property sells and the second unit becomes a rental, the City would then have no recourse for parking requirements. Ms. Cooper agreed, adding that Staff felt the parking requirements for a second dwelling on the property were infeasible at this time.

#### PETITIONER'S OPPORTUNITY TO SPEAK

Mr. Robert W. Cole, 264 15<sup>th</sup> Avenue South, thanked the Building Department for their assistance in this process. He said the garage had previously been wired for electricity, and he hired an electrical contractor to rewire and had a plumber install plumbing before he realized he was in error in the permitting process. At that point, he followed the recommendations of the Building Department as he moved forward. He said he is building this residence for his mother.

#### PROPOSERS OPPORTUNITY TO SPEAK

There were none.

## OPPONENTS OPPORTUNITY TO SPEAK

There were no opponents.

## OTHER PUBLIC COMMENT

Don Hungerford, 3034 9<sup>th</sup> Avenue South, spoke regarding parking issues when a residence is rented out. He said a residence in his neighborhood is being rented to five individuals with two cars each. When friends show up, there are 15-20 cars in back and in front of the house. He said this has turned a nice quiet neighborhood into a disaster. He also said new landlords may not be aware of these issues but there should be safeguards in a lease to prevent such problems. He said he is not speaking against this application and thinks it is a worthy project, but wanted others to be aware of possible future problems.

## ZONING COMMISSION DISCUSSION & ACTION

Mr. Harding opened the Zoning Commission discussion and action.

Ms. Patton stated there would probably be more requests in the future for mother-in-law type apartments due to extended families needing to reside together for care or economic reasons. She said she had no problem with adding living space to this garage, but she had a strong issue with inadequate parking. If living arrangements change in the future, there is a potential for a rental, and that presents parking problems. She said she would therefore probably vote against this project. She also noted there was some space for parking to the west of the garage, although it may be difficult to add parking because of the grade.

Mr. Roberts stated he was not in favor of Conditional Use Permits. He said he observed a past permit situation which has turned into a neighborhood eyesore with a pile of materials left at the curb. He said when exceptions are made, these are the sort of results that can occur and he will vote against this project.

Mr. Byrnes stated that if the property changes hands or the mother no longer resides there and the space was to be rented, the City has no recourse on the parking situation. He asked if there was anything the Board could do to place conditions on that aspect of the project.

Mr. Haynes said conditions of approval can be placed on the project, but that he had never been presented with a situation where a temporary Conditional Use Permit would be dissolved if the property changes hands. He said he would have to ask the City Attorney.

Mr. Harding asked Mr. Haynes to explain why the project has gotten to this point and been given a favorable recommendation by Staff. Mr. Haynes said the Department is

trying to work with the owner, who may request a Conditional Use Permit, and that adding parking next to the garage is very difficult and would impact the neighboring property. The applicant was agreeable to parking in the front, but ultimately the City Engineer denied that request. Mr. Haynes explained that Staff felt a recommendation of approval without additional parking was reasonable, but he noted it must come before this Board and then ultimately the City Commission for approval.

Mr. Harding stated he thought the project is out of character for this neighborhood and did not, in general, agree with it. However, he said that he could vote for this project because the neighbors were in agreement with it and there was no opposition. He asked Mr. Haynes for clarification on Conditional Use Permits. Mr. Haynes provided clarification and then said this applicant had received approval of all but one neighbor on the block, which is more than most applicants submit.

Mr. Taylor said he was concerned about what happens in the future when the property is sold. He said this project did not conform to the neighborhood. Mr. Byrnes asked if additional parking options were explored. Mr. Haynes said they were, and the applicant was willing to add parking spaces, but realized what a major project it would be as well as requiring approval of the neighbor. He also said he thought the applicant would probably prefer to have the Board recommend the approval of the permit with the added condition of two additional parking spaces rather than receive a recommendation of denial.

Mr. Harding asked for Board input on adding the condition of additional parking. Mr. Byrnes said he thought the project was an excellent Conditional Use situation for a mother-in-law apartment but was strongly against the project if the City had no future recourse for additional parking. Ms. Patton said she agreed with Mr. Byrnes and could support this project as long as additional parking spaces were provided.

**MOTION:** That the Zoning Commission recommend that the City Commission approve the Conditional Use Permit for a two-family residence to be established at the property legally described as Lot 17, Block 1, Prospect Heights Addition to Great Falls Section 13, T20N, R3D, P.M.M., Cascade County, Montana, subject to the following Conditions of Approval being fulfilled by the applicant and based on the following findings:

1. The applicant shall ensure that all relevant permits for construction are obtained and kept in good standing with the City of Great Falls Building Department, and that the applicant shall call for all required inspections throughout the construction process.
2. The applicant shall provide facilities for adequate mail delivery to both residences as required by the Post Office.
3. The applicant shall meet City Code requirements for off-street parking with two parking spaces per dwelling unit. A total of four spaces is required, which is two additional spaces for the Conditional Use Permit.

Made by: Mr. Byrnes  
Seconded: Ms. Patton

Mr. Harding asked for any further discussion. Mr. Roberts inquired where the additional parking spaces would be located. Ms. Patton said there was some room next to the garage west of the alley. Mr. Roberts asked if adding those spaces there was feasible and likely, and Mr. Haynes said it was possible at a cost. The owner would need to construct a retaining wall and resolve the grade issue, as well as work with the neighbors, as construction of the retaining wall would impact the neighbor's property. Mr. Roberts wanted assurance that the parking would be provided. Discussion followed regarding how that could be enforced. Ms. Patton inquired if the Occupancy Permit could be withheld or utility connections held until the Conditions of Approval are met. Mr. Haynes said no Certificate of Occupancy would be issued until conditions were met. Mr. Roberts asked the owner to address the issue.

Mr. Cole said the grade is five feet at the alley and becomes 20 feet along the property. He said he would have to remove a mature shade tree. He said he was surprised this was an issue with R-3 zoning. He said he would agree to a condition that only his mother live in the unit. He said it would almost be cheaper to build the house out to the garage than to dig that parking area and go through the process of building retaining walls and involving the neighbor's property. He said he would rather work with the Building Department to make the house and garage one residence. He thought the request to construct parking destroys the neighborhood and the tree, that he was trying to work with City code, and that he was amazed at the condition for parking. He then said he was probably going to go ahead with plans to build onto the house and void this process.

Mr. Harding commented that a lot of the Board discussion centered around the additional parking, but for him the main issue was the project being out of character with the neighborhood, and the potential for setting a precedent. He thought the project could work because of a lack of dissension among the neighbors, and he agreed with the need for additional parking spaces.

Mr. Taylor asked whether digging out the parking area was impractical. Mr. Harding thought it was. He also said the Board must carefully consider the application because of setting a precedence for the future. He also stated that Neighborhood Council 6 has not yet been presented with this project.

Ms. Cadwell, Neighborhood Council Coordinator, said she had sent out an email and received one response indicating that they were not against the project if the other neighbors were not against it.

There was no further discussion.

VOTE: Mr. Harding, Ms. Patton, and Mr. Byrnes voted for the motion. Mr. Taylor and Mr. Roberts voted against. The motion carried.

Ms. Cooper advised the applicant of the next procedural steps. Mr. Harding noted that this Board is an advisory board to the City Commission, which will make the final decision. The public hearing was concluded.

## BOARD ACTIONS NOT REQUIRING PUBLIC HEARING

### **New Board Members**

#### PLANNING STAFF REPORT & RECOMMENDATION

Mr. Haynes presented the Staff Report on New Board Member applications to the Planning Advisory Board. He explained that three Board members recently resigned from the Board due to job changes and/or relocation. The Board vacancies were advertised in the Great Falls Tribune. There was an application deadline, which was extended due to having more vacancies than applications received. A total of seven applications were received, with one being delivered to Staff in the Planning and Community Development Department after the Board packets had been mailed. Copies of that application are in front of the Board. Two of the applicants, Mr. Rudolf Tankink and Mr. Richard Calsetta, are elected to serve on Neighborhood Councils. The City Attorney has determined them to be ineligible to serve on the Board, since no elected officials may hold a Board position with the City.

Mr. Haynes provided information regarding the requirements to be selected to the Board. A person must be a resident of the City of Great Falls, and although any interested citizen may serve, a person with experience in development is preferred.

Mr. Haynes explained that in the past, the City has not been as diligent in allowing Boards to make recommendations to the City Commission on selecting new board members. However, that has often been due to the fact that board members are reappointed or that the same number of applications have been received as there are openings on a board. In this instance, there are more applications than openings, and it is common practice to ask the Board to make a recommendation to the City Commission. The City Commission will ultimately have the final decision. Mr. Haynes asked the Board to select three applicants they determine would be the best applicants to serve the community on this Board. Mr. Haynes offered to answer any questions from the Board.

Mr. Taylor inquired if the address of 2700 Big Ranch Road is within City limits. Mr. Haynes affirmed it is. Mr. Harding opened discussion for the recommendation to the City Commission of new Planning Advisory Board members.

After discussion on how best to take a poll of the Board to determine the top three

applicants for recommendation to the City Commission, it was decided that each Board member would submit a ballot to the Planning Director with their top three candidates ranked in order from one to three. Mr. Haynes counted the ballots and it was determined that the Board recommendations are as follows: Mr. J. Scot Davis, Dr. Heidi Pasek, and Mr. Nathan Weisenburger.

MOTION: That the Planning Advisory Board recommend to the City Commission the appointment of Scot Davis, Heidi Pasek, and Nathan Weisenburger to the Planning Advisory Board.

Made by: Ms. Patton  
Seconded by: Mr. Taylor

All being in favor, the motion passed.

## PLANNING BOARD DISCUSSION & ACTION

### COMMUNICATIONS

#### Upcoming Planning Board Projects

1. Shumaker Washbay
2. Agritech Park

#### Project Status:

1. Crescent Drive Rezoning – City Commission Oct. 4 & Nov. 1

#### Meeting/Obligation Calendar, October 21, 2011 – November 4, 2011

A copy of the calendar is attached and incorporated herein by reference, and was received without comment.

#### Planning Board FY 2011-2012 Budget

A copy of the first quarter Planning Department Financial Report was received without comment.

#### Petitions & Applications Received

None

#### Good & Welfare

The next regularly scheduled meeting of the Planning Advisory Board/Zoning Commission is November 8, 2011. The meeting is tentative.



### **PUBLIC COMMENT**

Mr. Hungerford requested that the Motion regarding the Conditional Use Permit be clarified. Mr. Harding explained the motion is to recommend to the City Commission that the permit be allowed with the addition of two parking spaces. There was no further public comment.

### **COMMENTS BY THE BOARD**

Mr. Taylor reported that a recent state-wide meeting of the Ski Bums of Montana was held to honor Mr. Roberts' 50 years of leadership and help him celebrate his 90<sup>th</sup> birthday. The Board congratulated him and wished him a happy birthday.

### **ADJOURNMENT**

The meeting was adjourned by Chairman Harding at 4:10 p.m.

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CHAIRMAN

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SECRETARY