

**MINUTES OF THE MEETING
OF THE
GREAT FALLS PLANNING ADVISORY BOARD/ZONING COMMISSION
August 9, 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 3:00 p.m. in the Commission Chambers of the Civic Center.

ROLL CALL & ATTENDANCE

Planning Board Members present:

Mr. John Harding
Mr. Bill Roberts
Mr. Michael Bates
Ms. Cheryl Patton
Mr. Wyman Taylor

Planning Board Members absent:

Mr. Terry Hilgendorf
Mr. Marty Byrnes
Mr. Ron Kinder
Mr. Thor Swensson

Planning Staff Members present:

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

Others present:

Mr. Dave Dobbs, City Engineer
Ms. Patty Cadwell, Neighborhood Council Coordinator
Mr. Doug Bennyhoff, Assistant Fire Chief Prevention

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 July 26, 2011. There were no changes and the minutes were received as submitted.

PUBLIC HEARING

**Shumaker Trucking & Excavating
3501 Old Havre Highway**

PLANNING STAFF REPORT & RECOMMENDATION

Ms. Cooper presented details of the application. She stated she was entering the Staff Report into the record. The applicant is requesting annexation and establishment of City zoning of Lot 1A, Block 1, Great Falls Industrial Park Section 2. The subject property is located east of U.S. Highway 87, north of the previously vacated 34th Avenue Northeast alignment.

Staff is requesting the Planning Advisory Board make a recommendation to the City Commission to also include Lot 2A, Block 1, and Lot 1A and Lot 2, Block 4, Great Falls Industrial Park Section 2. Current zoning on the properties is County I-2 Heavy Industrial. The proposed zoning is City I-2 Heavy Industrial. The district is intended to accommodate those activities associated with processing raw materials or other activities with a potentially significant off-site impact.

Ms. Cooper stated that the history on this property included a letter from the City Engineer, Dave Dobbs, dated November 29, 2004, which states that Mr. Dobbs and former Senior Planner, Bill Walters, discussed the possibility of only annexing a single lot into the City. The applicant is relying on this letter to defend his position to only annex Lot 1A. Staff feels this letter should not be considered with this proposed annexation for the following reasons.

The current version of the City Code was adopted in October 2005 and had a widespread effect on the policies and practices of the City. In addition, the City passed Ordinance 2930 on February 21, 2006, which adopted the Official Code of the City of Great Falls (OCCGF) 13.2.075 requiring annexation of parcels located outside City limits receiving City water and/or sewer services. Finally, the Amended Plat which created Lot 1A, Block 1 was not recorded at the Cascade County Clerk and Recorder's Office until March 24, 2008. Therefore, the above referenced letter could not have been directly related to Lot 1A, Block 1 because at the time the letter was written, the lot did not exist.

Ms. Cooper stated it is the Staff's position that Mr. Shumaker has no vested rights associated with the issuance of this letter for annexing only a portion of his property. There are three Code requirements that apply to the subject property which support

Staff's recommendation to annex all four lots. Title 13, Chapter 2, Section 13.2.075 of the Code states that parcels outside the City limits receiving water and/or sewer services must annex into the City or services will be terminated. Section 13.2.080 states that there shall be no physical connection between any private water supply systems and the municipal water system. Section 17.24.110 states that a lot shall abut a public or private street that meets the standards of this Title and provide legal and physical access.

Staff received a letter from the Fire Chief dated July 8, 2011, noting his concerns with annexing only Lot 1A. His concerns include a response time of five minutes or greater, jurisdictional responsibilities and potential error in dispatching, and lack of direct access without crossing an adjoining property. Access to a property through another property which is not within the appropriated limits of the City is not acceptable access.

The basis for Staff's recommendations is that Lot 1A currently receives City services, and there is an existing private fire hydrant on Lot 2A, Block 1 that receives City services. Also, existing buildings are located in such a manner that parcel lines run through the middle of the buildings. Therefore, Lot 2A, Block 1 and Lot 1A and Lot 2, Block 4, must be annexed to be consistent with Code requirements. The alternative to annexing all four lots would be to deny the annexation request and cease providing City water services to the property.

City Building Official, Craig Raymond, inspected the property on June 30, 2011. A list of Code violations which need to be addressed if the property is to be annexed is attached to the Staff Report. The applicant would have a reasonable time to bring life-safety issues into conformance with Code after annexation. The Staff Report includes a list of criteria in the code which must be considered in conjunction with rezoning. The proposed zoning is consistent with County zoning designations.

Patty Cadwell, Neighborhood and Youth Council Coordinator, provided information to Council #3 on July 25, 2011. Comments received included concern for truck traffic entering and exiting onto U.S. Highway 87, concern for the type of contaminants that might flow into the City sewer system, and concern about annexing only Lot 1A, Block 1 regarding access issues. Additionally, the Council was in support of the annexation because it will add to the City tax base.

In conclusion, City Staff has a strict policy of not annexing pieces and parts of properties. Staff feels annexations should be based upon good planning principals and should not leave roadways under multiple jurisdictions or enclaves of unappropriated land that create confusion or undue burden, especially on emergency service providers.

Ms. Cooper presented the conditions of approval, and concluded by offering to answer any questions from the Board. Mr. Harding asked if the annexation was initiated by the City or the petitioner. Ms. Cooper stated the City requested the annexation in order to continue City water services to the property. Mr. Harding asked if single lots can be

annexed, and Ms. Cooper stated they could. She reiterated the reasons for the multiple lot annexation desired by the City in this case.

Mr. Wyman asked if the buildings on the property are receiving City water services. Ms. Cooper stated they are not. Mr. Harding noted that the City encouraged annexation for properties that were wholly surrounded by other City property, but since this property was not, he questioned why the City was requesting all four lots be annexed. Mr. Haynes explained the applicant has been receiving City services for some time and would like to continue to receive them. The disagreement lies in which properties need to be annexed. Mr. Haynes noted that the provisions of City Code dictate that all four lots be annexed, as does good planning and the Growth Policy.

PETITIONER'S PRESENTATION

Mr. Spencer Woith, 1725 41st Street South, clarified that the application is only for Lot 1A. He stated that in 2004, the City requested an easement for sanitary sewer for the malt plant and made it available for Shumaker Trucking & Excavating to connect to the services on that lot. He said the fire hydrant is easily moved to Lot 1A. The other parcels are not and will not be receiving City services. He said they are willing to work with the City to solve the emergency access issue. He also stated that they would resolve all nine items addressed in the 2006 letter from Mr. Dobbs.

PROPOSERS OPPORTUNITY TO SPEAK

Mr. Joe Aline, 1016 34th Ave NE, an employee of Shumaker Trucking, said the only lot they want to annex is Lot 1A and he reiterated that the other parcels will not be receiving City services. He said this was the first he had heard that the fire hydrant was not on Lot 1A, and it can be easily relocated. He said the current water line meets City requirements, and they will bring the other line going south up to City Code. He said they were not interested in annexing the other three lots, but it was possible to annex them in the future.

OPPONENTS OPPORTUNITY TO SPEAK

Fire Marshall Doug Bennyhoff, 732 9th Avenue Southwest, said it was problematic for the Fire Department to respond appropriately to this address. He said that the one lot should have its own address. He also said the jurisdictional boundaries were problematic.

Mr. Aline stated the Lot 1A does have its own address.

OTHER PUBLIC COMMENT

There was no further public comment.

PETITIONER'S OPPORTUNITY TO CLOSE

The petitioner did not wish to close.

PLANNING BOARD DISCUSSION & ACTION

Mr. Harding opened the Planning Board discussion and action. He asked Mr. Dobbs to speak concerning the letter written in 2004. Mr. Dobbs said the force main was put in as part of the Malt Plant project, but it is not clear when the line serving the Shumaker property was put in and that portion was not inspected by the City. In 2006, there was concern about washbay ground water contamination, and the washbay was connected to the City system.

Mr. Roberts asked if the property had legal and physical access to a public right-of-way. Ms. Cooper stated that currently there is not an access, and it is unknown whether the State would allow access to Highway 87. Ms. Patton asked the width of the strip from the Washbay to the highway. Ms. Cooper said it was 30 feet.

Mr. Harding stated that the question of annexing all the lots needed to be addressed before addressing access. He said staff was correct in that there was no current legal access to the property. However, he said he believed there was a way to resolve the issue and annex just Lot 1A. He asked for Board discussion. Ms. Patton said she was not in favor of annexing the single lot as the applicant proposed unless there was a resolution of access off Highway 87 and a larger portion of land included in Lot 1A. She did support Staff's recommendation.

Mr. Harding stated a single lot can be brought into the City. He said the rules were basically the same now as in 2004 except that the City is requesting properties brought into the City that have City services. He said he understood the Staff's position, but he also noted that when Shumaker Trucking agreed to an easement for the Malt Plant, they did not expect the City to require annexation of all four lots in the future. He suggested incorporating additional land into Lot 1A to allow for access. Mr. Bates supported working with the applicant on a solution to annexing just Lot 1A.

Discussion ensued about exactly where to locate the lot boundaries. Mr. Roberts stated it made sense to annex all four lots, and inquired if taxes were the main objection. Mr. Aline stated additional taxes amount to \$12,000-\$18,000 annually.

Mr. Harding asked Staff if there had been discussion about changing the lot boundaries for access. Mr. Haynes said they had been unable to reach any agreement with the applicant. Mr. Aline stated initially Shumaker Trucking had entertained the idea of moving the access, but Staff said no. Mr. Harding said he did not support annexing the current Lot 1A, but would support a change to provide access. Mr. Woith stated they were willing to look at legal highway access by acquiring an approach permit or extending the lot to the existing entryway.

Mr. Harding said he thought a simple solution and reasonable compromise is to simply bring in a larger portion of land into Lot 1A to include highway access. Ms. Patton stated she felt it was not appropriate for the Board to redesign the lot in this meeting. She made a motion that the Board recommend to deny the annexation and then allow Staff and the applicant to work out a solution.

MOTION: That the Planning Advisory Board recommend the City Commission deny the annexation of Lot 1A, Block 1 of the Amended Plat of Lots 1 and 2, Block 1 and Lots 1 and 4, Block 4 of the Great Falls Industrial Park Section 2 and Lots 3 and 4, Block 5 of the Amended Plat of Lots 3 and 4, Block 5 of the Great Falls Industrial Park Section 2 in the NW ¼, Section 31, Township 21 North, Range 4 East, P.M.M. Cascade County, Montana.

Made by: Ms. Patton
Seconded: Mr. Roberts

Mr. Harding asked for Board discussion. Discussion followed. Mr. Haynes pointed out that it would be helpful to add a requirement that the applicant be required to make a new application for annexation since they continue to receive City services.

Mr. Aline again stated they had attempted to work with the City, but Staff did not allow any options for changing the lot to provide access.

MOTION WITHDRAWN: Ms. Patton withdrew her motion, and Mr. Roberts withdrew his second to the motion.

Mr. Harding stated he thought it important for the Board to conduct its business when it is presented so as not to delay the process. He said there could be a recommendation made today so that the issue did not have to be brought forward another time. He suggested a recommendation to accept a change in the boundary of Lot 1A.

Discussion followed about legal access issues for the City. Mr. Roberts said that rather than rush a decision, he would like the applicant and Staff to have time to work out the details of an agreement. Mr. Harding again suggested the Board make a recommendation to accept a change in the boundary of Lot 1A to include access. Ms. Patton stated she could not support a decision that was not clearly written out. She therefore supported Staff's position to bring all four lots into compliance. Since that recommendation posed financial issues for the applicant, she suggested Staff and the applicant work out an agreement. Otherwise, she supports recommendation number one in the Staff Report.

Mr. Harding stated that as long as he had served on the Board, there had never been an application tabled, but it is an option. Mr. Roberts stated that tabling this application

could be the best decision. Mr. Harding entertained a motion to table the issue until the next meeting.

MOTION: To table the application of this annexation.

Made by: Mr. Roberts
Seconded: Ms. Patton

Mr. Harding opened Board discussion. Mr. Haynes noted that the application cannot be brought forward at the next meeting due to the need to survey, make a new application, and advertise a public hearing. Mr. Roberts stated it is better to delay the approval of the application and get it right.

VOTE: Four were in favor. Mr. Harding voted against the motion. The motion carried.

The public hearing was concluded. Mr. Aline asked if a new application required more fees. Mr. Haynes said a new subdivision required fees but the City would accept the application fees already paid. Ms. Patton noted that if her original motion had passed, the City would have had no option but to disconnect City services to the property.

BOARD ACTIONS – NOT REQUIRING PUBLIC HEARING

Industrial Subdivision – Buttrey's Warehouse 6th Street Southwest & Crescent Circle

PLANNING STAFF REPORT & RECOMMENDATION

Ms. Cooper presented details of the application. She stated she was entering the Staff Report into the record. The applicant is requesting a minor subdivision of one lot into four lots. Existing zoning is City I-1 Light Industrial. The proposed northern lot consists of an existing warehouse currently being converted into office/retail suites. The newly created southern lots are proposed for new development, but specific uses have not yet been determined.

There is an existing water main in Crescent Circle. There is a sewer main in 6th Street Southwest, but a 30-inch force main must be crossed to access it. Ms. Cooper noted that City Engineer, Dave Dobbs, has stated it could be difficult to access services since 6th Street Southwest is State owned. However, there have already been negotiations to work out the issues involved.

There is sufficient capacity to accommodate traffic from the new development, but there may be some delays on 6th Street Southwest during peak hours. The location of the proposed southern driveway could cause visibility problems due to the curvature of Crescent Circle to the west. Staff will review concerns as the development moves forward.

Ms. Cooper stated there are six conditions of approval contained in the Staff Report. Staff recommends approval of the application. Ms. Cooper concluded by offering to answer any questions from the Board.

Ms. Cooper clarified information on the proposed southern traffic entrance and parking for the entire subdivision. Mr. Harding asked Mr. Dobbs to clarify the sewer connection issues. Mr. Dobbs explained the sewer access concerns on 6th Street Southwest and noted it is the applicant's responsibility to work with the Montana Department of Transportation, which they currently are.

PLANNING BOARD DISCUSSION & ACTION

Mr. Harding requested a recommendation from the Board.

MOTION: That the Planning Advisory recommend the City Commission approve the Amended Plat of Lot 1A, Block 2, B.N. Car Shop Addition, a Subdivision in the W ½ of Section 11, Township 20 North, Range 3 East, P.M.M., Cascade County, Montana, subject to the following Conditions of Approval being fulfilled by the applicant:

1. The Amended Plat of Lot 1A, Block 2, B.N. Car Shop Addition shall incorporate corrections of any errors or omissions noted by Staff.
2. The final engineering drawings and specifications for the required public improvements to serve the subject property shall be submitted to the City Public Works Department for review and approval prior to any building permits being issued by the City.
3. A Grading Plan, State Stormwater Discharges Associated with Construction Activities Permit, and Stormwater Management Plan shall be developed to City standards and shall be submitted to the City Public Works Department for review and approval prior to issuance of building permits.
4. Applicant shall submit proposed project drawings including architectural, landscape, signage and lighting plans as required for review and approval by the Design Review Board prior to submittal of permit plans.
5. A geotechnical investigation and report prepared by a Professional Engineer (and indemnifying the City) with recommended building foundation design shall be submitted to the Planning and Community Development Department for review and approval prior to issuance of building permits.
6. A Shared Parking Agreement shall be prepared containing terms and conditions for the shared use of parking for all lots in the proposed subdivision, which are acceptable to the City's Planning and Community Development and Public Works Departments.

Made by: Ms. Patton
Seconded: Mr. Bates

Mr. Harding opened Board discussion. Mr. Roberts inquired about whether the items noted in the Traffic Analysis should be part of the Conditions of Approval. Mr. Finch explained that the City can address those issues as development progresses with the Public Works Department and through the plan review process.

VOTE: All being in favor, the motion carried.

2011-2015 Transportation Improvement Program (TIP)

Mr. Finch presented the Staff Report on the proposed 2011-2015 Transportation Improvement Program (TIP). He stated he was officially entering the Staff Report into the record. Mr. Finch explained that the Planning Board, Transportation Advisory Committee, and the Policy Coordinating Committee are local partners in approving the Transportation Improvement Program. He explained the TIP is a five-year plan formulated according to Federal regulations for implementation of transportation programs for the City of Great Falls, Cascade County, and the Montana Department of Transportation (MDT).

Mr. Finch described transportation projects being implemented in Great Falls. Projects include current work on Smelter Avenue in Black Eagle and work on the Central Avenue West Bridge. A project going to construction next year is Smelter Avenue Northwest. A roundabout is proposed with this project, which is the first for Great Falls.

Several air quality improvement projects are included in the update. These include a City-wide sidewalk project, bus purchases by the Great Falls Transit District, and a new bike and pedestrian facility to fill the gap between the Warden Bridge and 6th Street Southwest. As the two Smelter Avenue projects are completed, the Fox Farm Road reconstruction project is the next priority for use of Urban Funds. Also, a project reconstructing 13th Street South, 29th Avenue South, and 26th Street South will be funded using earmark funds, which replaces the former proposed South Arterial. The project will provide an improved loop around the south-central edge of Great Falls.

Mr. Finch stated there is uncertainty regarding future funding levels. There is strong interest at the Federal level to change existing programs and even to do away with Metropolitan planning organizations such as this one.

Mr. Finch noted that two additional projects were just added to the TIP yesterday; one is a street sweeper for the City and the other is the purchase of a tanker truck and a flusher truck by the County to reduce particulate matter in the air during sweeping.

Staff advertised for public comment beginning on July 13. One comment was received objecting to the creation of a roundabout within Great Falls. That comment has been passed on to the MDT. Staff recommends the Planning Advisory Board approve the

2011-2015 TIP. Mr. Finch concluded his presentation and offered to answer any questions from the Board.

There was a question on whether South Arterial earmark funds were still available. Mr. Finch explained that the earmark funds for the South Arterial are still available for the South Central Arterial, including 29th Avenue South.

MOTION: That the Planning Advisory Board approve the 2011-2015 Transportation Improvement Program and include the two additional items presented by Mr. Finch.

Made by: Mr. Roberts
Seconded: Mr. Bates

VOTE: All being in favor, the motion carried.

COMMUNICATIONS

Upcoming Planning Board Projects

None

Project Status:

1. Vacate ROW 13th St. N & 11th Alley N – City Commission July 19 & August 16
2. Crescent Drive Rezone/Subdivision – City Commission August 2 & Sept 6
3. Vacate ROW 1st Ave NW – City Commission August 15 & Sept 6
4. ULRRWSD4 – Awaiting Annexation Petitions

Meeting/Obligation Calendar, August 5, 2011 – August 19, 2011

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

Petitions & Applications Received

None

Good & Welfare

The next regularly scheduled meeting of the Planning Advisory Board/Zoning Commission is August 23, 2011. The meeting is tentative.

PUBLIC COMMENT

There was no further public comment.

ADJOURNMENT

The meeting was adjourned by Chairman Harding at 4:35 p.m.

CHAIRMAN

SECRETARY