

**MINUTES OF THE MEETING  
OF THE  
GREAT FALLS PLANNING BOARD/ZONING COMMISSION  
July 26, 2011**

**CALL TO ORDER**

The regular meeting of the Great Falls Planning Board/Zoning Commission was called to order by Vice Chairman Bill Roberts at 3:01 p.m. in the Commission Chambers of the Civic Center.

**ROLL CALL & ATTENDANCE**

Planning Board Members present:

Mr. Bill Roberts  
Mr. Terry Hilgendorf  
Mr. Ron Kinder  
Ms. Cheryl Patton  
Mr. Thor Swensson  
Mr. Wyman Taylor

Planning Board Members absent:

Mr. John Harding  
Mr. Michael Bates  
Mr. Marty Byrnes

Planning Staff Members present:

Mr. Mike Haynes, Planning & Community Development Director  
Ms. Jana Cooper, Planner II  
Mr. Charlie Sheets, Development Review Coordinator  
Ms. Phyllis Tryon, Senior Administrative Assistant

Others present:

Mr. Dave Dobbs, City Engineer  
Ms. Patty Cadwell, Neighborhood Council Coordinator

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

**MINUTES**

Mr. Roberts asked if there were any changes to be made to the minutes of the public hearing and regular meeting held on July 12, 2011. There were no changes and the minutes were received as submitted.

## **PUBLIC HEARING**

### **Vacate R.O.W. 1<sup>st</sup> Ave NW east of 3<sup>rd</sup> Street NW**

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

Ms. Cooper presented details of the application. She stated she was entering the Staff Report into the record. The applicant, Talcott Properties, LLC, is requesting to vacate a portion of 1<sup>st</sup> Avenue Northwest generally located 112 feet east of 3<sup>rd</sup> Street Northwest extending approximately 181 feet east and then south approximately 204 feet, ending at 1<sup>st</sup> Alley Northwest. The area is approximately 0.4 acres. The applicant is also requesting an amended plat consolidating the adjacent properties owned by Talcott Properties, LLC, with the subject property. The amended plat is approximately 1.8 acres. The area is zoned M-2 Mixed-use transitional.

The portion of 1<sup>st</sup> Avenue Northwest being vacated is public right-of-way and is undeveloped. The City's Public Works Department does not need to retain the property to maintain adequate public traffic flows. The City does need to retain the property for use as a public utility easement. The applicant will be required to maintain a fire access for emergency vehicles and fire apparatus as required by the Fire Department. The applicant will maintain access off of 3<sup>rd</sup> Street Northwest from 1<sup>st</sup> Avenue Northwest.

During the previous Planning Advisory Board meeting, questions were raised regarding the City's right to sell right-of-way. Ms. Cooper presented information documented in a memorandum dated January 31, 1991, in which the Planning Director at that time concluded that right of way is not owned by the governing body but is owned by the abutting land owner. Therefore, the City cannot sell what it does not own. The Planning and Community Development Department staff is revisiting this issue with the City Attorney and others to determine if there should be an update to this interpretation.

Ms. Patty Cadwell, Neighborhood Council & Youth Coordinator, presented the project to Neighborhood Council 2 on July 6, 2011. There was no comment. At the time the staff report was written, staff had received one letter of support from Mountain West Bank, a neighboring property. Mr. Henry Schuman, a neighboring property owner, called staff this morning regarding concerns with sanitation truck access. Ms. Cooper stated she made a call to City Sanitation, but had not yet received a call back. She said staff will work through these issues before final action is taken before the City Commission. She suggested an addition to the conditions of approval addressing proper sanitation access.

Ms. Cooper presented the conditions of approval, and concluded by offering to answer any questions from the Board. The Board had no further questions.

### PETITIONER'S PRESENTATION

Mr. Jim Drishinski, Business Manager for Talcott Properties, who resides at 4415 River Drive North, said that Talcott had received a lot of positive feedback on the project. He stated Talcott Properties desired that the project contribute to the betterment of the City.

Mr. Roberts asked about fill on the property. Mr. Drishinski explained the filled portion is land to the south, and once the vacation is finalized, Talcott hopes to have other development in that area. He stated the land will be leveled.

### PROPOSERS OPPORTUNITY TO SPEAK

Mr. Henry Schuman, 3426 8<sup>th</sup> Avenue North, was in favor of the project but had a question about traffic exiting through the alley. He stated he spoke to Mr. Sheets about the City maintaining the storm sewer system.

### OPPOSERS OPPORTUNITY TO SPEAK

There were no opposers.

### OTHER PUBLIC COMMENT

There was no public comment.

### PETITIONER'S OPPORTUNITY TO CLOSE

The petitioner did not wish to close.

### PLANNING ADVISORY BOARD DISCUSSION & ACTION

Mr. Roberts opened the Planning Board discussion and action. Mr. Kinder asked for clarification on whether the property had public access onto Central Avenue West and if there was an alley. Ms. Cooper stated there was no public access onto Central Avenue West and there is an alley. Ms. Patton asked for clarification on whether there will be access onto 3<sup>rd</sup> Avenue Northwest. Ms. Cooper stated there is access onto 3<sup>rd</sup> Avenue Northwest and a separate access onto 3<sup>rd</sup> Street Northwest. There was no further discussion by the board.

MOTION: That the Planning Advisory Board recommend the City Commission approve the request to vacate the right-of-way and approve the associated proposed Amended Plat of Lots 3 and 4, Block 598, and a portion of 1<sup>st</sup> Avenue Northwest, of the 5<sup>th</sup> Addition to Great Falls, and Parcel No. 2, all located in Gov. Lot 7 of Section 2, NW1/4,

and Gov., Lot 2 of Section 11, Township 20 North, Range 3 East, M.P.M. Great Falls, Cascade County, Montana, subject to the following conditions:

1. The amended plat of Lots 3 and 4, Block 598, and a portion of 1<sup>st</sup> Avenue Northwest, of the 5<sup>th</sup> Addition to Great Falls, shall incorporate correction of any errors or omissions noted by staff.
2. The amended plat for subject property shall be submitted to the City Public Works Department for review and approval prior to approval by the City Commission. The amended plat shall include the following:
  - The amended plat shall dedicate 1<sup>st</sup> Avenue Northwest as a utility easement for future utility expansion.
  - The amended plat shall provide any access for fire and emergency vehicles as specified by the Fire Department.
  - The amended plat shall ensure that Sanitation has access to the remaining lots.
3. A Development Agreement shall be prepared containing terms and conditions for the abandonment of the right-of-way.

Made by: Ms. Patton  
Second: Mr. Kinder

Mr. Roberts asked if there was further discussion and there was none.

Vote: The motion carried unanimously.

Ms. Cooper advised the applicant of the next procedural steps regarding the application.

## **PUBLIC HEARING**

**Upper/Lower River Road Water & Sewer District No. 4**  
**Upper River Road adjacent to portions of 31<sup>st</sup> and 32<sup>nd</sup> Avenue South and 3<sup>rd</sup> Street South**

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

Ms. Cooper presented details of the application. She stated she was entering the Staff Report into the record. The Upper/Lower River Road Water & Sewer District Board is requesting approval of annexation and rezoning of the property from Cascade County to the City of Great Falls, and establishing City zoning on the property from County Suburban Residential 1 to R-3 Single-family high density. The subject property is generally located east of Upper River Road and adjacent to portions of 31<sup>st</sup> Avenue South, 3<sup>rd</sup> Street South, and 32<sup>nd</sup> Avenue South, and is approximately  $\pm$  16.6 acres. Existing uses include a mix of single and multi-family residential and some commercial operations. The subject property contains 57 parcels involving 27 different owners.

Ms. Cooper provided background information on the subject property. In 1996, Cascade

City-County Health Department and the State Department of Environmental Quality initiated an 18-month groundwater pollution study in the Upper and Lower River Road and Donovan Park areas. The study recommended area residents alleviate potential public health problems by developing an official sewer and water district. In 2001, property owners along Upper and Lower River Roads voted to create a water and sewer district. The District and the City entered into a Memorandum of Understanding dated August 19, 2003. In November 2003, voters in the defined District defeated a \$5.7 million bond to pay for extension of City water and sewer lines into the area. To reduce the per household cost of the project, the District was divided into smaller service areas. Annexations of Service Districts were approved by the City Commission as follows: District No. 1 on March 6, 2007; District No. 2 on May 5, 2009; and District No. 3 on November 16, 2010.

Ms. Cooper reported that as a prerequisite to obtaining City water and sewer services, property owners in Service District No. 4 were required to sign several documents, including an annexation petition. The petition requires the signatures of a majority of the owners of parcels before the City Commission can take action on the petition. To date, the petition is lacking four signatures. Existing legal land uses which are not permitted under the proposed zoning will continue to be recognized and allowed as legal non-conforming uses.

The streets in the subject area are not built to City standards, are currently unpaved, and have no curb, gutter or sidewalks. The City is not obligated, as part of this annexation, to bring streets to City code. The requested annexation and zoning does not include a proposal for any new development; therefore, it is reasonable to assume there would be no increased traffic demands caused by this request.

There is an existing sewer line which is not part of the ULRRWSD No. 4 and will not be utilized by property owners in District No. 4. City water and sewer mains shall be extended both on 31<sup>st</sup> Avenue South and 32<sup>nd</sup> Avenue South. There are not existing storm drain facilities in any of the ULRRWSD areas and District No. 4 will not have storm drain either.

The City will not require residents of Service District No. 4 to waive their right of protest for future special improvement districts for roadway, street lighting, and storm drain improvements. It is mutually agreed and understood that the District will not be involved in formation of roadway, storm drain, lighting, or other Special Improvement Districts. The City is not obligated to upgrade or improve roadways within the District. Annexation of the subject property will enhance health, safety and welfare through application of City Codes and provision of municipal services.

The matter was presented to Neighborhood Council No. 6 on November 10, 2010, by the ULRRWSD Board, and by Ms. Patty Cadwell, Neighborhood & Youth Council Coordinator, on July 6, 2011. There were no comments from the public either time.

The conditions of approval for this project are part of the Memorandum of Understanding signed by ULRRWSD No. 4 and the City Commission on July 19, 2011. Based on this Memorandum, staff recommends approval of the proposed annexation and rezoning.

Ms. Cooper offered to answer any questions from the board. Ms. Patton asked if the gray areas on Exhibit F, the zoning map showing the ULRR water and sewer districts, were unincorporated. Ms. Cooper responded in the affirmative. Mr. Roberts asked if the project will move to the City Commission without the required signatures. Ms. Cooper stated it will not move forward until all necessary signatures are submitted. She explained that due to funding issues, the project is being expedited so that once the signatures are in place, the project can immediately move forward to the City Commission.

#### PETITIONER'S PRESENTATION

Mr. John Stephenson-Love , 300 40<sup>th</sup> Avenue South, Board President of ULRRWSD, stated the board was pleased the project was moving forward. He explained that in a bond election on June 21, 2011, 21 of the 23 voters voted affirmatively to assess their properties for this project. He explained that in order to assess these owners for the project, the subject property has to be annexed by the City. He stated they are gathering the needed signatures and did not anticipate any problems meeting the requirement.

#### PROponents OPPORTUNITY TO SPEAK

There were no proponents.

#### OPponents OPPORTUNITY TO SPEAK

There were no opponents.

#### OTHER PUBLIC COMMENT

There was no public comment.

#### PETITIONER'S OPPORTUNITY TO CLOSE

The petitioner did not wish to close.

#### PLANNING ADVISORY BOARD DISCUSSION AND ACTION

Mr. Roberts opened the Planning Board discussion and action. Ms. Patton commended John Stephenson-Love and all the members of the ULRRWSD for their diligence in seeing the project through all the different phases. This included the process of getting

funding to reduce costs to property owners in order to get the water and sewer services they need for their health and safety. She said the City agreed to this annexation under conditions that were less than ideal. She noted the City would normally require street and other improvements, but waived those conditions for the health and safety of those in this district. She stated the project has taken much longer than expected and that the City took on huge responsibilities for Fire and Police protection without roadway improvement. She hoped the property owners understood their roadways will not be brought up to standards until they determine to do so, and they should not expect City maintenance to handle problems that exist. She stated she had been involved in the project early on, and it was really nice to have the project progress this far. She appreciated all the work City staff has done on the project.

There was no other board discussion.

MOTION: That the Planning Advisory Board recommend the City Commission approve the annexation of Service District No. 4 of the ULRRWSD located in Section 24, Township 290 North, range 3 East, Cascade County, Montana and as depicted on the attached Vicinity Map, subject to compliance to the Memorandum of Understanding dated July 19, 2011 between the City and the ULRRWSD and subject to the Zoning commission adopting Recommendation II.

Made by: Ms. Patton  
Second: Mr. Taylor

Mr. Roberts asked if there was further discussion and there was none.

Vote: The motion carried unanimously.

Ms. Cooper advised the applicant of the next procedural steps regarding the application.

#### ZONING COMMISSION DISCUSSION AND ACTION

Mr. Roberts opened the Zoning Commission Discussion and Action.

MOTION: That the Zoning Commission recommend the City Commission approve establishing City zoning classification of R-3 Single-family high density district to the various properties within said Service District No. 4 based on current County zoning, existing lot size and current land use upon properties as depicted on the attached zoning map, subject to the Planning board adopting Recommendation I.

Made by: Mr. Hilgendorf  
Second: Mr. Swensson

All being in favor, the motion carried unanimously.

Ms. Cooper advised the applicant of the next procedural steps regarding the application.

## **BOARD ACTIONS – NOT REQUIRING PUBLIC HEARING**

There were none.

## **COMMUNICATIONS**

### Upcoming Planning Board Projects

1. Shumaker Washbay – Annex/Zoning – PAB/ZC August 9, tentative
2. Buttrey's Warehouse – Subdivision – PAB/ZC August 9, tentative
3. 1815 21<sup>st</sup> Avenue South – Annexation/Zoning/Amended Plat

### Project Status:

1. Cascade Ridge – City Commission July 5 & August 2
2. Abandon ROW 13<sup>th</sup> St. N & 11<sup>th</sup> Alley N – City Commission July 19 & August 16
3. Crescent Drive Rezone/Subdivision – City Commission August 2 & September 6

### Meeting/Obligation Calendar, July 22, 2011 – August 5, 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 9, 2011. Mr. Roberts polled the members of the Board as to whether they would be able to attend that meeting. Mr. Kinder will not be available and Mr. Taylor was unsure if he would be able to attend.

## **PUBLIC COMMENT**

There was no further public comment.

## **ADJOURNMENT**

The meeting was adjourned by Vice Chairman Roberts at 3:43 p.m.

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CHAIRMAN

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SECRETARY