

PLANNING ADVISORY BOARD ZONING COMMISSION

FEBRUARY 22, 2011

Case Number

ZCA2011-1

Applicant

N/A

Owners

N/A

Property Location

N/A

Parcel ID Number

N/A

Requested Action

Amendment to Exhibit 20-1, Title 17, Chapter 20, Principal Uses by District and Title 17, Chapter 20, Article 6, Special Standards for Principal Uses.

Recommendation

The Board approves or denies the proposed amendments to the Zoning Code.

Project Planner

Brant Birkeland

COMMUNITY GARDEN ZONING ANALYSIS



Sample Community Garden

Summary

Project Description

Planning staff has drafted proposed amendments to Exhibit 20-1 Title 17 Chapter 20, Principal Uses by District and Title 17, Chapter 20, Article 6, Special Standards for Principal Uses. The intent is to liberalize where community gardens may be established in the city and simplify the process for establishing community gardens in residential neighborhoods while providing neighboring property owners with some assurance that community gardens will be properly established, organized and maintained.

The proposed amendments to Exhibit 20-1 Title 17 Chapter 20, Principal Uses by District classify community gardens as a permitted principal use in all residential zoning districts (R-1, R-2, R-3, R-5, R-6, R-9 and R-10), the M-1 and M-2 mixed use, and the PLI, POS and GFIA zoning districts.

The proposed amendments would also expand where community gardens would be allowed as a principal use with conditional use approval to add commercial zoning districts (C-1, C-2, C-3, C-4, C-5).

Special standards for community gardens are proposed to Title 17, Chapter 20, Article 6 to promote flexibility while ensuring consistency in the establishment of community

gardens. The special standards require submittal of documents to the Planning and Community Development Department including: a site plan, designation of a legally responsible garden coordinator, operating standards and a user agreement. The department would review the documents and issue a letter of approval identifying any additional conditions needed to protect neighbors.

Nothing in the existing code or proposed code amendments are intended to limit market gardens in the R-1 zoning district or gardens in other residential zoning districts as accessory uses to private residences.

Overview

Community gardens are defined in Section 17.8.120 General Definitions, City Code as “An outdoor area that is used to grow vegetables, fruits, flowers and the like by a group of unrelated individuals who primarily use what is grown for their personal use. The community garden can be divided into individual plots of land for the exclusive use of the person assigned each plot, or the entire garden may be a cooperative effort of any number of people, or a combination thereof.”

In recent years, community-based groups, organizations and associations have established and maintained community gardens in cities and towns throughout Montana and around the country. In addition to providing fresh vegetables, fruits and flowers, community gardens contribute to positive social interaction and community engagement, environmental awareness and neighborhood pride.

Municipalities have adopted a variety of programs, policies, and ordinances to facilitate the establishment and maintenance of community gardens, examples of which are provided below:

1. Municipal Community Garden Programs:

Several cities have created community garden programs that are operated by their Park and Recreation Departments. In this scenario, a city’s Park and Recreation Department collaborates with interested groups in assisting with the establishment of a community garden on city-owned land. These programs are often established based on public interest and/or need. Montana cities such as Helena, Bozeman, and Billings as well as Boise, ID have used this model to establish community gardens in their communities.

2. Community Gardens as a defined land use, with special standards:

Cities such as Philadelphia, Spokane and Salt Lake City have defined community gardens as a specific permitted land use, and classify community gardens as a permitted principal use in most zoning districts in the city if specific standards are met.

3. Community Gardens as a defined land use, without special standards:

Finally, cities such as Missoula, Seattle, and Portland have defined community gardens as a specific use of land, and classify community gardens as a permitted principal use in all zoning districts within the city, without requiring adherence to use specific standards.

Analysis:

Existing Code

Community gardens, as defined in Section 17.08.120 City Code, are permitted as a principal use by right in the R-1, M-1, M-2, PLI, and POS zoning districts, and as a principal use with a conditional use permit in the R-2, R-3, R-5, R-6, R-9, R-10, I-1, and I-2 zoning districts. Groups, organizations, or associations wishing to establish a community garden in a zoning district



where the use requires conditional use approval, must apply for, pay for, and be granted a conditional use permit by the City Commission prior to the establishment of a community garden. Community gardens are now prohibited in the C-1, C-2, C-3, C-4 and C-5 commercial zoning districts.

Proposed Amendments to Title 17, Chapter 20

The Planning and Community Development Department has researched community gardens and reviewed ordinances and programs adopted by other communities. Additionally, public support for liberalizing regulation of community gardens, especially in residential zoning districts, became apparent during the Pea Pods conditional use process.

Under the proposed amendments, community gardens will be a permitted principal use in all residential (R-1, R-2, R-3, R-5, R-6, R-9, and R-10) zoning districts, as well as the M-1, M-2, PLI, POS and GFIA zoning districts. Community gardens will require conditional use approval in those districts where community gardens may or may not be desirable or appropriate; that is all commercial (C-1, C-2, C-3, C-4, and C-5) and industrial (I-1 and I-2) zoning districts. See attached **Exhibit A - Principal Uses by District**.

Additionally, amendments are proposed to Article 6 Special Standards for Principal Uses to provide flexibility and consistency in the establishment of community gardens. Proposed special standards will require groups, organizations, or associations wishing to establish a community garden to provide the Planning and Community Development Department with the following information:

1. A dimensioned site plan identifying the specific location and dimensions of the community garden and plots, all structures and accessory areas including storage sheds, waste management, fences, access, parking, composting area, etc,
2. Contact information for the designated garden coordinator.
3. A set of operating standards addressing, at a minimum, tax status of the group, governance structure of the garden, hours of operation, water supply, maintenance and security requirements.
4. A user agreement between the group and the property owner signed by the garden coordinator and the property owner.

All documents submitted, including but not limited to the documents listed above, must be reviewed by the Planning and Community Development Department prior to the establishment of a community garden. The department will issue a letter of approval with any additional conditions or clarifications necessary to protect neighbors.

The department would keep the aforementioned documents on file and the community garden group would be responsible for providing revised documents as necessary.

Note that the proposed amendments serve to expand the zoning districts in which community gardens are permitted and also expand the districts in which community gardens may be allowed with conditional use approval.

With regard to community gardens in residential districts, the amendments have three clear benefits for organizers. By making community gardens a permitted use (subject to submittal requirements and staff approval): 1. It eliminates the cost of application fee for a Conditional Use Permit (currently \$700); 2. It reduces time necessary to gain approval from ±4 months for public hearings before the Planning Board and City Commission to a few days from submittal to staff of the required community garden documentation; and 3. It eliminates the potential for denial of a conditional use application if there are opponents to the establishment of the garden. At the same time, these changes eliminate the public hearing process, neighbors opportunity to express opposition to establishment of a community garden, the City Commission's right to deny the conditional use permit and City's right to close down a community garden if it does not adhere to conditions of permit approval. Of course, responsible organizers can insure community gardens benefit the neighborhood and community.

Recommendation

It is recommended the Zoning Commission recommend the City Commission approve the Amendment to Exhibit 20-1, Title 17, Chapter 20, Principal Uses by District and Title 17, Chapter 20, Article 6, Special Standards for Principal Uses.

Attachments

Exhibit A: Title 17 Chapter 20 Exhibit 20-1 Principal Uses by District

Exhibit B: Title 17, Chapter 20, Article 6, Special Standards for Principal Use

Cc: Jim Rearden, Public Works Director
Dave Dobbs, City Engineer

EXHIBIT A - TITLE 17 CHAPTER 20 EXHIBIT 20-1
PRINCIPAL USES BY DISTRICT

																			Special	
Agricultural Uses	R-1	R-2	R-3	R-5	R-6	R-9	R-10	C-1	C-2	C-3	C-4	C-5	M-1	M-2	PLI	POS	GFIA	I-1	I-2	Standards
Agriculture, horticulture, nursery	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	17.20.6.005
Residential Uses																				
Mobile home/park	-	-	-	-	-	-	P	-	-	-	-	-	-	-	-	-	-	-	-	17.20.6.010
Residence, single-family detached	P	P	P	P	P	P	-	P	-	-	-	P	P	P	-	-	-	-	-	17.20.6.020
Residence, zero lot line	-	-	P	P	P	P	-	P	-	-	-	P	P	P	-	-	-	-	-	17.20.6.040
Residence, two-family	-	C	C	P	P	C	-	P	-	-	-	P	P	P	-	-	-	-	-	17.20.6.050
Residence, multi-family	-	-	-	P	P	C	-	P	-	-	-	P	P	P	-	-	-	-	-	17.20.6.060
Residence, townhouse	-	C	C	P	P	C	-	-	-	-	-	P	P	P	-	-	-	-	-	
Residence, manufactured/factory-built	P	P	P	P	P	P	-	P	-	-	-	P	P	P	-	-	-	-	-	
Retirement home	-	C	C	P	P	C	-	P	-	-	P	P	P	P	-	-	-	-	-	
Special Care Facilities																				
Community residential facility, type I	P	P	P	P	P	P	-	-	-	-	-	P	P	P	-	-	-	-	-	
Community residential facility, type II	C	C	C	P	P	P	-	-	-	-	P	P	C	C	-	-	-	-	-	
Day care center	C	C	C	C	C	C	-	P	P	-	P	P	P	P	P	-	-	-	-	
Emergency shelter	-	-	-	-	-	-	-	C	C	C	C	C	C	C	C	-	-	-	-	
Family day care home	P	P	P	P	P	P	-	P	-	-	C	P	P	P	-	-	-	-	-	
Group day care home	P	P	P	P	P	P	-	P	-	-	C	P	P	P	-	-	-	-	-	
Nursing home	-	-	C	C	C	C	-	P	C	-	P	P	P	P	P	-	-	-	-	
Overnight Accommodations																				
Campground	-	-	-	-	-	-	-	-	C	P	-	-	-	-	-	-	P	-	-	17.20.6.070
Hotel/motel	-	-	-	-	-	-	-	P	P	P	P	C	P	P	-	-	P	-	-	
Food and Beverage Sales																				
Micro-brewery	-	-	-	-	-	-	-	-	P	-	P	C	C	C	-	-	P	P	-	17.20.6.080
Restaurant	-	-	-	-	-	-	-	P	P	P	P	P	P	P	-	-	P	P	P	
Tavern	-	-	-	-	-	-	-	P	P	P	P	C	C	C	-	-	P	P	P	
General Sales																				
Agriculture sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	
Auction sales	-	-	-	-	-	-	-	-	C	-	-	-	-	-	-	-	P	P	P	
Construction materials sales	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-	P	P	P	
Convenience sales	C	-	-	-	-	-	-	P	P	P	P	C	-	-	-	-	P	P	P	
General sales	-	-	-	-	-	-	-	P	P	P	P	P	P	P	-	-	P	P	P	
Manufactured housing sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	
Off-site liquor sales	-	-	-	-	-	-	-	P	P	P	P	C	C	C	-	-	P	P	P	
Secondhand sales	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-	-	P	P	P	
Shopping center	-	-	-	-	-	-	-	C	P	-	-	-	-	-	-	-	P	P	P	
General Services																				
Administrative services	-	-	-	-	-	-	-	P	P	P	P	P	P	P	C	-	P	-	-	17.20.6.090
Commercial kennel	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-	P	P	-	
Financial services	-	-	-	-	-	-	-	P	P	-	P	P	P	P	-	-	P	-	-	
Funeral home	-	-	-	-	-	-	-	P	P	-	P	C	P	P	-	-	-	-	-	
General services	-	-	-	-	-	-	-	P	P	P	P	P	P	P	-	-	P	P	P	
Professional services	-	-	-	-	C	C	-	P	P	-	P	P	P	P	-	-	P	-	-	17.20.6.100
Sexually-oriented business	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	
Veterinary clinic, large animal	-	-	-	-	-	-	-	-	C	-	-	-	-	-	-	-	P	P	P	17.20.6.110
Veterinary clinic, small animal	-	-	-	-	-	-	-	C	P	-	-	-	P	P	-	-	P	P	P	

																				Special
Rental and General Repair	R-1	R-2	R-3	R-5	R-6	R-9	R-10	C-1	C-2	C-3	C-4	C-5	M-1	M-2	PLI	POS	GFIA	I-1	I-2	Standards
Large equipment rental	-	-	-	-	-	-	-	-	C	C	-	-	-	-	-	-	P	P	P	
Small equipment rental	-	-	-	-	-	-	-	-	P	-	P	-	-	-	-	-	P	P	P	
General repair	-	-	-	-	-	-	-	P	P	-	P	P	-	-	-	-	P	P	P	
Vehicle Trade and Service																				
Vehicle fuel sales	-	-	-	-	-	-	-	C	P	P	P	P	-	-	-	-	P	P	-	17.20.6.120
Vehicle repair	-	-	-	-	-	-	-	-	P	P	C	P	-	-	-	-	P	P	-	
Vehicle sales and rental	-	-	-	-	-	-	-	-	P	P	P	P	-	-	-	-	P	P	-	
Vehicle services	-	-	-	-	-	-	-	C	P	P	P	P	C	P	-	-	P	P	-	
General Storage																				
Agricultural commodity storage facility	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	17.20.6.130
Fuel tank farm	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	P	
Mini-storage facility	-	-	-	-	-	-	-	-	-	C	-	-	-	C	-	-	P	P	P	
Freight terminal	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-	-	P	P	P	
Warehouse	-	-	-	-	-	-	-	-	-	C	-	-	-	C	-	-	P	P	P	
Indoor Recreation / Sports / Entertainment																				
Casino, type I	-	-	-	-	-	-	-	-	P	-	P	-	-	-	-	-	P	P	P	17.20.6.140
Casino, type II	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	P	P	17.20.6.150
Indoor entertainment	-	-	-	-	-	-	-	-	P	-	P	C	C	C	C	-	P	-	-	17.20.6.150
Indoor sports and recreation	-	-	-	-	-	-	-	-	P	-	P	C	C	C	C	C	P	P	-	
Outdoor Recreation / Sports / Entertainment																				
Golf course / driving range	C	C	C	C	C	-	-	-	-	-	-	-	-	-	-	P	P	-	-	
Miniature golf	-	-	-	-	-	-	-	-	P	C	-	-	-	C	-	-	P	C	-	
Outdoor entertainment	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	C	P	C	-	
Park	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Recreational trail	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Community Services / Uses																				
Administrative governmental center	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	C	P	-	-	17.20.6.160
Animal shelter	-	-	-	-	-	-	-	-	C	C	-	-	C	C	C	-	P	P	-	
Cemetery	C	C	C	C	C	C	C	-	-	-	-	-	-	-	P	P	P	-	-	17.20.6.170
Civic use facility	C	C	C	C	C	C	C	-	P	-	P	P	P	P	P	C	-	-	-	17.20.6.175
Community center	C	C	C	C	C	C	C	C	P	-	P	P	P	P	P	C	-	-	-	
Community cultural facility	C	C	C	C	C	C	C	P	P	-	P	P	P	P	P	C	-	-	-	
Community garden	P	CP	CP	CP	CP	CP	CP	-C	-C	-C	-C	-C	P	P	P	P	P	C	C	
Public safety facility	C	C	C	C	C	C	C	C	P	C	P	P	P	P	P	-	P	P	-	
Worship facility	C	C	C	C	C	C	C	P	-	-	C	P	P	P	-	-	P	-	-	17.20.6.180
Health Care																				
Health care clinic	-	-	-	-	-	-	-	P	P	-	P	P	P	P	P	-	-	-	-	
Health care facility	-	-	-	-	-	-	-	-	P	-	P	P	C	C	P	-	-	-	-	
Health care sales and services	-	-	-	-	-	-	-	P	P	-	P	P	P	P	P	-	-	-	-	
Education																				
Commercial education facility	-	-	-	-	-	-	-	P	P	-	P	P	P	P	-	-	P	P	-	17.20.6.200
Educational facility (K-12)	C	C	C	C	C	C	C	C	-	-	-	C	C	C	P	-	-	-	-	
Educational facility (higher education)	-	-	-	-	-	-	-	C	C	-	-	C	C	C	P	-	P	-	-	
Instructional facility	-	-	-	-	-	-	-	P	P	-	P	P	P	P	-	-	P	P	-	

Solid Waste, Recycling And Composting																			Special		
	R-1	R-2	R-3	R-5	R-6	R-9	R-10	C-1	C-2	C-3	C-4	C-5	M-1	M-2	PLI	POS	GFIA	I-1	I-2	Standards	
Composting facility	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	C	P	17.20.6.210	
Recycling center	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	C	P	17.20.6.220	
Solid waste transfer station	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	C	P	17.20.6.230	
Telecommunications																					
Amateur radio station	P	P	P	P	P	P	P	-	-	-	-	-	-	-	-	-	-	-	-	17.20.6.240	
Telecommunication facility																				17.20.6.250	
Concealed facility	C	C	C	C	C	C	C	P	P	P	P	C	P	P	P	C	P	P	P		
Unconcealed facility	-	-	-	-	-	-	-	C	C	C	C	C	C	C	C	C	P	P	P		
Co-located facility	-	-	-	-	-	-	-	P	P	P	P	C	C	C	C	C	P	P	P		
Utilities																					
Utility installation	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	C	P		
Transportation																					
Airport	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	17.20.6.260	
Bus transit terminal	-	-	-	-	-	-	-	-	P	P	P	-	C	C	C	-	P	P	-		
Heli-pad	-	-	-	-	-	-	-	-	C	C	C	C	C	C	C	C	P	P	P		
Parking lot, principal use	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	P	P	P		
Parking structure	-	-	-	-	-	-	-	-	P	-	P	P	P	P	P	-	P	P	P		
Railroad yard	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P		
Taxi cab dispatch terminal	-	-	-	-	-	-	-	-	P	P	P	-	P	P	-	-	P	P	-		
Contractor Yards																					
Contractor yard, type I	C	-	-	-	-	-	-	-	C	-	-	-	P	P	-	-	P	P	-	17.20.6.270	
Contractor yard, type II	-	-	-	-	-	-	-	-	-	-	-	-	C	C	-	-	P	P	P	17.20.6.280	
Industrial / Manufacturing																					
Artisan shop	-	-	-	-	-	-	-	P	P	P	P	P	P	P	-	-	P	P	-	17.20.6.290	
Industrial, heavy	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	P		
Industrial, light	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P		
Industrial park	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P		
Junkyard	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	C	P		
Light manufacturing and assembly	-	-	-	-	-	-	-	-	P	P	P	P	P	P	-	-	P	P	P		
Motor vehicle graveyard	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P		
Motor vehicle wrecking facility	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P		

- The use is not permitted in the district

C The use is allowed through the conditional use process

P The use is permitted in the district by right, consistent with the development standards contained in Article 6 of this chapter, as appropriate

EXHIBIT B - TITLE 17, CHAPTER 20, ARTICLE 6, SPECIAL
STANDARDS FOR PRINCIPAL USES

17.20.6.175 Community Garden

Prior to establishment or operation of a new community garden, the group proposing to establish the garden must submit the following documentation to, and receive written approval to proceed from, the Planning and Community Development Department:

- A. Dimensioned Site Plan. A site plan that includes the location and layout of garden plots and the location of any proposed structures or fences.
- B. Garden Coordinator. The name, telephone number and email address of the garden coordinator responsible for coordinating and managing the community garden.
- C. Operating standards. Operating rules addressing, at a minimum, the tax and governance structure of the community garden, hours of operation, maintenance responsibilities and security measures.
- D. User Agreement. A user agreement signed by the garden coordinator and the property owner.

The Planning and Community Development Department may require additional conditions be met for the protection of the community. The aforementioned information shall be kept on file in the Department. The group shall be responsible for providing the Department revised documents reflecting any significant or pertinent changes to operation or management of the garden. The Department shall investigate any citizen complaints and enforce established standards if necessary.