



Advisory Group Meeting Summary: Subdivision Regulations Revisions

January 27, 2010

Members Present:

Lori Davidson
Ken Jenkins
Gary Bakke
Dennis Druffel

Heather McMilin
Jan Hoem
Dick Ainsworth

Others present in the audience: 3 citizens

Note: These notes supplement the discussion that occurred during the Advisory Group Meeting on January 27, 2010. They are not verbatim.

The meeting began with concern over the evening's discussion items. Several AG members felt the scope of discussion was going to be too limited. Mike Barton assured the group that any comment they had would be listened to and sent on to Duncan Associates. A copy of an e-mail from Duncan Associates sent to Mr. Barton was provided to the group. This e-mail discussed the concern Duncan Associates had with the scope of work they were being asked to undertake for the subdivision portion of the rewrite. Attached was a copy of the contract outlining that scope of work agreed to. Staff has come close to the end of the contract and the money available to continue AG meetings regarding the City Subdivision regulations. There continued to be concern about the restriction of topics to discuss as well as a feeling that the group was not being used to its full potential. The group was reminded that consensus was not a part of their charge; rather they were to be a sounding board providing comments and concerns as representatives of the City's population. Many comments received from the group and individuals have been very valuable.

Staff was asked why the prohibition of gated communities was included. The group was informed that some of the proposed changes to the regulations are the product of early community input; such as the regulation to prohibit gated communities. Duncan Associates has been informed gated communities should be an allowed development option and the document language changed. The AG agreed with this decision.

Comments from other agencies as well as the public and AG will be forwarded on to Duncan Associates after review and comment by staff. Then Duncan Associates will decide what changes to make to the document.

The group agreed the cul-de-sac diameter of 86' proposed by the Fire Department e-mail was excessive and would not like to see it incorporated in the document.

Riparian regulations were discussed:

A request for a “clear” definition of riparian area was made. Concern was expressed about how the current definition has been used; for example, two existing Hawthorn bushes dictating whether an area was a riparian resource area or not. The definition needs to be concise and address roads and trails.

- Trails should not be prohibited in riparian resource areas. People will make their own trails which may harm the area more than designating a trail and access.
- The 20’ easement required for trails seems excessive, options for narrower easements and trails would be beneficial also.
- Maintenance of irrigation ditches is out of the control of the land owner, remove ditches from the definition of riparian area.
- Concern was expressed about the Parks proposal to require all riparian resource areas and buffers to be outside platted lots.

Discussion included:

- allowing some resource area on private property protected by no build areas, riparian management plans, and covenants;
- allowing a portion of the resource area to be used as common area, and
- including a portion of the riparian area in the park calculation.

Other members would like to see the riparian resource area be park land completely because they have concerns regarding lack of enforcement on private lots.

- There appears to be a conflict in the regulations regarding how riparian resource areas can be used. Staff will review the language again.

The advisory group agreed that a portion of the riparian resource area should be allowed as park dedication, being sure there is also an actual park area to be used by the public and thereby protecting the resource area. More discussion on riparian resource areas is needed; this is one of many topics that will be taken up at a later date outside this process.

Block Pattern.

The group agreed there was confusion in the language regarding the requirement to maintain a block pattern. The language should be cleared up and the exception language re inserted.

Double fronted lots.

What is being accomplished by removing this option from the standards? The group would like this option to remain and be reviewed on a case by case basis, and would like the exception language put back in.

Add a definition of “defensible space”; suggest using a definition from State Law. Staff will look into this request.

Agricultural land policy.

Consideration of impacts on agricultural lands by a proposed subdivision is included in the subdivision regulations because State Law requires that consideration. Missoula currently does not have any policy regarding agricultural lands, and is only subject to State Law in that regard; however, there is work going forward on this subject.

Cluster and conservation development option.

The conservation development plan is proposed as an optional tool to be used in development. One AG member expressed concern this option may become a requirement, there are no incentives in this option and he wondered why a developer might choose to use it. Incentives should be included. Staff assured the group there are no plans to make this a requirement.

The cluster and conservation options list things to be protected including slopes of 25% or greater but don't allow those slopes to be included as park dedication. These areas should be looked at on a case by case basis and a percentage of the area should be allowed to be included in the park calculation.

The Advisory Group agreed there should be incentives included in these options, including a percentage of non-buildable slopes in the park dedication and maybe a density bonus of up to 20%.

Requiring of appraisals for parkland dedication.

Section 3-080.6.c pg 3-27 says "..., appraisals are valid only if prepared within 6 months of the date that a complete final plat application is submitted for approval." The Advisory Group would like the language to say within six months of being deemed sufficient for review.

One member suggested adding a diagram to the definition of hillside driveway, and to clean up the contour road diagram.

Discussion regarding the meaning of "health and safety". Staff informed the group this language is from State law.

The language regarding Community Impact Report was added because of a clarification in State Law.

Discussion followed on how to keep local streets as local streets in existing subdivisions and not allow them to become collectors over time. Staff explained maintaining local streets is done by reviewing each new subdivision and having the project designed keeping the local streets in mind, making sure they don't become collectors by providing access to collectors in other locations.

Section 3-1201.D. Affordable housing. This is the only place in the subdivision regulations that affordable housing is mentioned. The only process currently available to guarantee affordable housing projects stay affordable is to connect them to funding monies through HUD or MBOH projects which have criteria to be met in order to get the funding for the project. Affordable housing is a bigger discussion than can happen in this process and will be discussed in a specific process later. Staff was requested to include the definition of affordable housing from Title 20 in the subdivision regulations.

Article 6 Variances. Concern was expressed that when a subdivision is created any variance requested would be considered a hardship created by the developer, creating the subdivision creates the hardship and it can not be supported according to variance criteria. Staff explained there could be existing topographic concerns that would be considered a land based hardship and could therefore be supported, variances are possible with the creation of a subdivision.

Items that the group came to a consensus regarding:

1. Remove reference to gated community.
2. Do not support the diameter dimension for cul-de-sacs proposed by the Fire Department.
3. Trails and roads should be regulated and allowed in riparian resource areas.

4. A portion of existing riparian resource area should be allowed to count toward park area requirements.
5. Clarify what is meant by “block pattern” and re-insert the exception language proposed to be removed.
6. Allow lots to be double fronted on a case by case review and re-insert the exception language proposed to be removed.
7. Provide incentives for using the Cluster and Conservation Development options.
8. Keep the original language in section 3-080.10 requiring the City Council “shall” waive the park dedication in those specific instances.
9. Appraisals required in section 3-080 parks and Open Space Requirements should be required within 6 months of the time the subdivision is deemed sufficient for review.

The Advisory Group would like to meet one more time to discuss the next draft provided by Duncan Associates that considers all comments to date. However, the funding to have Kirk attend another meeting or to make a draft after the AG meets again is not available. The next draft from Duncan Associates will be the draft sent to Planning Board for their consideration. Any comments from the group as a whole or individuals will need to be forwarded to the Planning Board separately. Staff will notify the group when the next draft is complete.