

## Review of the NEW Subdivision Rules: Millar and Duncan Consultants

### Article I:

1-030 1. "accommodate community growth and development directly affects the government of the City of Missoula...set standards that reflect the best interest of city residents and the subdivider.

2. ...promote public health, safety, and general welfare, to prevent overcrowding of land, to lessen congestion in the streets and highways, provide adequate light, air, water supply, sewage disposal, parks and rec areas, ingress and egress, and other public requirements, to require development in harmony with natural environment, to protect the rights of property owners, and to require uniform monumentation...

O. diversity and originality in subdivision layout...to provide for a diversity of housing sizes and types, for variety of age and income groups.

## Article 2: Definitions

8. *Delegation of Authority*: Whenever a provision appears requiring the head of a department or another officer or employee of the city to perform an act or duty, that provision will be construed as authorizing the department head or officer to delegate that responsibility to others over whom they have authority.

### 2-020 Definitions

19 *Comprehensive Plan, Master Plan, or Growth Policy*---

34. *Dwelling Unit*: Any building or portion thereof providing complete, independent (eliminated "and permanent living or") housekeeping facilities for one household only.

60. *D. Lot Area*:

The area of a lot exclusive of street, highway, alley, road, or other rights-of way UNLESS OTHERWISE EXPRESSLY STATED. (can this mean that that a road/alley can count as a lot definition in order to meet min. lot size standards?)

63. *Low Input Design*: Requiring no fertilization or irrigation and only minimal maintenance.

70. *Non-Motorized Facilities*;

Improvements designed for the use safety and comfort of pedestrians, cyclists, equestrians and similar forms of non-motorized transportation---sidewalks, walkways, trails, bikeways...

75. *Parcel*

An area of land created by division of land, or a space in an area used for recreational camping vehicle or trailers. (How does this refer to the definitions of lot.)

77. *Phasing Plan (NEW)* IS THIS REALLY THE AVENUE OF STACKING OF LOTS!

A detailed plan for final platting and development of a subdivision in 2 or more phases. Phasing plans are approved at the time of preliminary plat approval and include all of the information required by 5-020.14.

78. *Planned Unit Development (PUD)*...that comprises a planned mixture of land uses organized in a prearranged relationship to each other, with open space and community facilities in common ownership or use. (How does this work in Residential zones?)

83. *Primary Urban Growth Area*; fitting this category are land where the extension of sanitary sewer is planned---including CIP budget

85. *Public Health and Safety*: The prevailing healthful sanitary condition of well being for the community at large. (Force through the sewer for more intense development. WHAT ABOUT CONSIDERATION OF FIRE, OVERCROWDING, NEC. EGRESS, AIR POLLUTION, CRIME INCREASES...AND MORE?)

97. *Road and Street Types*:

*D. Collector streets*: are 2 moving traffic lanes and 2 parking lanes

108. *Subdivision Types*:

B. *Minor Subdivision*

A subdivision of land in which 5 or fewer lots are created. (VERY IMPORTANT FOR STACKING OR PHASING IN THE SUBDIVISION?)

## ARTICLE 3: Subdivision Design Standards

### 2. *Hazardous Lands:*

A. Floodplains 1. Land located within the floodway (eliminated"of a 100 year flood event") WHY?

### B. *Wildland/Urban Interface:*

4, Design and Development of subdivisions must substantially preserve or enhance the unique character of an area, the natural terrain, natural drainage, existing topsoil, trees, and natural vegetation to the maximum extent possible and must be arranged to minimize the increase of land area devoted to impervious surfaces. (LINCOLN SCHOOL DEVELOPMENT???)

8. *Natural , Scenic, Cultural, or Historic Features:* The subdivision may not result in the destruction, loss, or damage or significant natural, scenic, cultural, or historic features. HOW ABOUT LINCOLN SCHOOL?

### 3-020 *Streets, Access, and Transportation:*

D. Road rights of way and street width, under special conditions, MAY BE NARROWER THAN STANDARD, subject to city council approval...

F. Circulation Patterns: First mention of an SID waiver statement "is required stating that the acceptance of a deed for a lot within the subdivision constitutes the assent of the owners to any future SID for the construction of a second access rout. The waiver expires in 20 years.

### L. *Private roads* (mostly exempt from city standards)

(2) eliminated for the standards: "All subdivisions shall meet city road standards".

5. Short Court: Roadway width 20 feet

c. Residential fire sprinklers are required in dwellings when the private road or driveway does not provide fire apparatus access to within in 150 ft.

3. Public Roads within the UGA

5. Other Public Road Standards:

c. The developer must include a statement on the subdivision plat that states that acceptance of a deed for a lot within this subdivision constitutes the assent of the owners to any future ID/RSID based on the benefit for upgrading the streets within the subdivision including paving, curbs and gutters, no-motorized facilities, street widening and drainage facilities and may be used in lieu of their signatures on a SID/RSID.

ANOTHER SHIFT OF EXPENSE TO THE PROPERTY OWNER FROM THE RESPONSIBILITY OF THE DEVELOPER...AND REMOVING THEIR RIGHT OF PROTEST.

E. Standard Widths (which may be allowed to vary using the city engineer's opinion! Check out complete chart on page 3-33. Example: Local Street, 12 ft traffic width for 81-200 units!!

Parking land: 8 ft., Bike land 5 ft. (or 12' when combined with parking lane).

6. *Alley Standards:*

C. Minimum pavement width is 12 ft. WHAT HAPPENS WITH INCREASED ALLEY PARKING WITH ALL OF THE ADU'S?

10. *Non Motorized Facilities:*

2. Read entire item (p. 3-14) All rural subdivisions within the UGA with lot frontage of 175 or greater or less than 500 ADT must construct concrete boulevard sidewalks or paved boulevard ped. Walkways and must WAIVE THE RIGHT TO PROTEST A SID/RSID FOR FUTURE PUBLIC IMPROVEMENTS.

3-080: Parks and Open Space Requirements:

3. Requirements for Park Dedication:

Needs to be explained with a graphic plat design example.

10. The city council may waive this requirement if the subdivision is a

A. PUD with sufficient park/common area

B. Proposed plat provides long-term protection of wildlife habitat; cultural, historical Or natural resources, or agricultural resources.

5. Mobile Home Lot:

Note: buffering standards are 50 ft on major arterials and 25 in depth along other boundary lines. (much greater than other residential conditions.) There are also bulk requirements--massing requirements--for mobile homes at 33% while there is no such protection in other residential areas. Also: 7 dwellings per acre!) The same is true of recreational vehicles--separated by 30 ft. and no more than 15 rec. vehicle spaces per acre.

3-120 Planned Unit Developments:

Purposes:

A. Enhanced Protection of Natural Resource Areas

B. Traditional Urban Development--commonly found in urban neighborhoods platted or created before 1950's.

C. Mixed use Development:--complementary mix of residential and nonresidential uses

D. AFFORDABLE HOUSING: Inclusionary zoning! 20% of the total number of dwelling units are affordable--HUD standards. (Ruled illegal in CA and ID as a form of takings--unfair to developers)

3. Criteria for Designation: Does not include the character of the neighborhood.

5. Waivers: The sections in these regulations on Lots, Blocks, Streets and Roads, and Park and Open Space Requirements may be modified or waived by the city council upon REQUEST OF THE SUBDIVIDERS...

6. Density: THE DIRECTOR OF THE OFFICE OF PLANNING AND GRANTS AND LOCAL AND STATE HEALTH AUTHORITIES MUST RECOMMEND TO THE CITY COUNCIL, IN CONSULTATION WITH THE SUBDIVIDER, THE OVERALL DWELLING-UNIT DENSITY. THE CITY COUNCIL MUST APPROVE THE OVERALL DENSITY.

3-13- Riparian Resource Area:

1. Purpose:

C. (9) That development may include educational, cultural, and recreational facilities, where it conserves the riparian resource, and meets the goals of (eliminated: Comp. Plan) now Growth Policy. (PAGE 3-37. NOTE: THIS CONTRADICTS THE EARLIER DEFINITION OF WHAT PLANS COUNT AND MUST BE FOLLOWED.

8. VARIANCE PROCEDURES: Note: L Undue hardship has been replaced with "is not essential to the public health safety and welfare.

3-140 Hillside Protection:

B. Hillside protection regulations (eliminated slopes over 10%) are now 15% or greater. And that even building will be allowed up to 25% with a restriction of parcel size.

3-150 Cluster and Conservation Development: Read Carefully! There is a transfer of development density within the subdivision.

## ARTICLE 4: Review and Approval Procedures

### Pre Application Meeting:

2. *Neighborhood Meeting*: Notice sent to folks within 300 ft., neighborhood associations, NC and interested individuals. Note: only written comments will be included in the application--not a record of verbal comments.

7. *Sufficiency Determination*: Number of copies of the application is really not specified. Way to keep the public in the dark.

8. *Amended Applications*: (Changes to the application) If the subdivider changes the subdivision application or preliminary plat AFTER OPG makes a determination of sufficiency but before the city council has rendered a decision, the subdivider must submit the amended application to OPG for review. Only if OPG says the changes are "material" will the public be given a new pre application meeting. THIS IS A GOOD WAY TO SNEAK IN CHANGES WITHOUT THE PUBLIC BEING MADE AWARE OF THEM!! Too much power to OPG and dubious arrangements with developers.

### 13. *Mitigation of Impacts*:

C. Although a city council may not deny approval of a subdivision based solely on the subdivision's impacts on educational services, it may require mitigation of impacts by the subdivision. The city council may require the subdivider to design the subdivision to reasonably minimize potentially significant adverse impacts identified through the review process of the subdivision application without unreasonably restricting a landowner's ability to develop the land. The city council must issue written findings to justify the reasonable mitigation required under this section.

4-020: *Minor Subdivision Review Procedure*: Minor subdivisions: 5 or fewer lots. Page 4-10

### 2. Minor Subdivision Exceptions:

A. Preparation of an EIS

B. Public hearing requirements

C. Parkland dedication

### 3. Public Comment and Notice Provision for Minor Subdivision

Note: the notice of the proposed subdivision must be mailed to each property owner of record whose property is IMMEDIATELY ADJOINING THE LAND INCLUDED IN THE PRELIMINARY PLAT, PROPERTY OWNERS' ASSOCIATION, APPROPRIATE NEIGHBORHOOD COUNCILS AND OTHER NEIGHBORHOOD ORGANIZATIONS. This is a much smaller area of protest than the usual 150-300 ft area of notification. This makes it harder to mount a legal protest.

### 4-030 *Major Subdivision Review Process*

### 3. Public Hearing and Notices:

Only to property owners adjoining the subdivision--not 150-300 ft.

Note: the impacts considered by the PB are of the Growth Policy, not any Comp. Plans in effect.

### 6. New Information and Subsequent Public Hearing:

7. B. The city council may not consider any information regarding the subdivision application that is presented after the subsequent hearing when making its decision to approve, conditionally approve or deny the proposed subdivision. HOW CAN THE CITY COUNCIL BE STRIPPED OF ITS RIGHTFUL CONSIDERATIONS?

4-070 *Preliminary and Final Plats*

2. Phasing: Nothing in this section prohibits the phasing of a project over a period the exceeds 3 years... WHAT ABOUT STACKING OF THE LOTS IN ORDER TO AVOID SUBDIVISION REVIEW?

E.. *CITY COUNCIL REVIEW AND ACTION ON FINAL PLAT.*

The city council may not disapprove a final plat if it conforms to the approved preliminary plat and if the subdivider has completed all required changes and met or exceeded all standard and requirements of these regulations...

ARTICLE 5: SUBMITTAL REQUIREMENTS:

5-020 *Subdivision Application Form and Preliminary Plat Supplement*

6. Primary Review Criteria Report:

D. Natural Environment including adjacent public land, cultural resources, hydrological characteristics, soil characteristics, and vegetative cover types. IGNORED: MAINTAINING NEIGHBORHOOD CHARACTER AND HISTORIC PRESERVATION.

7. *COMMUNITY IMPACT REPORT*: including education, local services, school bus routes, transit routes, roads and maintenance, water sewage, fire and police. NOTHING TO MAINTAIN THE CHARACTER OF THE NEIGHBORHOOD OR HISTORIC PRESERVATION. "Growth Policy compliance--no consideration of Comp Plans such as the RS Comp Plans or neighborhood plans.

5-030 *Additional Requirements for Major Subdivisions*:

The subdivider must provide an EIS that is required in MCA 76-3-603 (look up this law and see if it also protects Historic sites..) Must include primary review criteria report, summary of probable impacts and community impact report. (would this mean that safety concerns for overcrowding a canyon with subdivisions may endanger lives in the event of a natural disaster?) The Environmental Assessment must include proposed avoidance and mitigation efforts that will be used to reasonably minimize potentially significant adverse impacts.

## ARTICLE 6: VARIANCES

### 6-010 *General*

The city council , on recommendation of the planning board (what if the board does not recommend a necessary variance) may grant from these regulation when strict compliance with these regulation will result in undue hardship and when it is not essential to public welfare. Costs or financial considerations may not constitute the sole basis for approval of a variance. (BOA can never ignore these factors and financial gain is never a consideration; it's in state law and may also be for the city council).

4/ Again it is the Growth Policy that is important (the Urban Area Comp Plan or master plan area have been eliminated. WHY IS THIS DONE?

## ARTICLE 7 ERROR CORRECTIONS AND ADJUSTMENTS

7-020 Minor Errors on the face of a recorded plat

WHY IS THERE A NECESSITY FOR THIS CHAPTER? IS OPG REALLY THAT INCOMPETENT?

7-030 MAJOR ERRORS (Good Grief! Real incompetence-.)

ARTICLE 8 EXEMPT LAND DIVISIONS

(THIS SECTION MUST BE FULLY EXPLAINED. SURE LOOKS LIKE STACKING.)

8-030 *Divisions Exempt from Plat Filing and Review:*

The following divisions or aggregations of land are exempt from plat filing and review but must be surveyed and are subject to applicable zoning regulations adopted under MCA 76, Chapt.2

1. Outside platted subdivision

A. *relocating common boundaries outside platted subdivision*

2. Inside platted subdivisions, relocation of common boundaries or aggregation of 5 or fewer lots must be surveyed and an amended plat filed BUT IS EXEMPT FROM SUBDIVISION REVIEW. PAGE 8-2

8-040

3. *Types of Exemptions*

D. Relocation of Common Boundary Exemption

A division of lots that redesign or rearranges lots within a platted subdivision but does not result in an increase in the total number of lots. (How will this affect the new MU/ADU zoning? Ownership?)

NEED FOR EXPLANATION:

E. (e) How is the Growth Policy involved?

ARTICLE 9: PUBLIC AND PRIVATE IMPROVEMENTS

9-010 *Subdivision Improvements Agreement:*

D. *SID*

(2) Again, a waiver of protest is mentioned

9-020

2. Buying into the subdivision requires waiving protest rights to such things a non-motorized facilities and much more.