

Regular Meeting
October 14, 2008

Present: Councilpersons Dan Becker, Betty Jo Ellison, Rick Harbin and Susan Hert

Absent: Mayor John Williams

Also Present: Public Works Supervisor John Bleth, City Attorney Gary Ryder, City Clerk/Treasurer Michelle Richards, Police Chief Larry Reinlasoder, and Zoning/Code Enforcement Officer Jan Morgan

Council President Ellison opened the meeting at 7:00 pm, followed by the Pledge of Allegiance. City Clerk/Treasurer Richards called the roll.

Consent Agenda:

Councilperson Hert moved to approve the Consent Agenda. Councilperson Becker seconded the motion. Discussion: Councilperson Harbin had a few questions about the claims including the purchase of dog biscuits and street mowing. Motion carried with all in favor.

- a. Minutes of 9/23/08 Regular Meeting
- b. Claims Roster 10/09/08

Departmental Reports:

Department Reports were given by Attorney Ryder, Public Works Supervisor Bleth, Police Chief Reinlasoder, Zoning/Code Enforcement Officer Morgan and City Clerk/Treasurer Richards in addition to written reports provided in Council's packets.

Public Comment and Participation:

President Ellison opened the Hearing at 7:18 pm for 4421 Remington Drive. Zoning/Code Enforcement Officer Morgan introduced the request from Rob Alt to allow a corral and shelter for horses in the R-3 Residential District before the residence is constructed. City code for this district is for single family residences. Officer Morgan does not support granting a Conditional Use Permit.

Rob Alt, owner of the property at 4421 Remington Drive, introduced himself. Mr. Alt stated he has a specific plan for this property and researched the codes thoroughly when he purchased the property. Mr. Alt has made efforts to comply with city codes. Mr. Alt maintains the property and has made special efforts to address the fly issue. Typically there is only one horse

on the lot but at two times there were 3 horses on the lot as he was temporarily caring for someone else's horses. He keeps the property well maintained and removes the manure regularly. He is trying to sell his home in Billings but cannot guarantee when it will be sold. Water and sewer was put in last week to this property and he is working on the electrical. He is also researching new homes for the property. Mr. Alt stated the City of Billings' codes specifically state what comes first unlike Colstrip's, which does not specifically state a residence must be built first. Mr. Alt sees many code violations in the town that are not being addressed. This is a gray area and he has consulted people who agree this seems to be selective enforcement. No other comments were received. Council President Ellison closed the hearing at 7:30 pm.

Council President Ellison opened the Variance Hearing for 5 Plum Court at 7:31 pm. Zoning/Code Enforcement Officer Morgan introduced the variance request to side setbacks for a garage to extend to the property line on one side of the property. Mrs. Morgan recommends denying the request as presented. Councilperson Hert asked if there is a sidewalk. There is no sidewalk on Plum Court, but there is on Olive Drive. Councilperson Hert is concerned about children on the sidewalk and visibility when backing out of the proposed garage. She asked Jan if there would be a safety hazard for pedestrians. Jan said that visibility is a concern to her also.

Jason Soiseth, 5 Plum Court, stated there is not a sidewalk on Plum Court and there is no pedestrian traffic. Mr. Soiseth does not want to exit onto Olive Drive due to the sidewalk present on Olive. He also does not want to build a 36' long garage that he would have to park his vehicles in two deep. The garage he intends to build is 26' by 36' and an extra foot for the eaves or anything else that may extend into the side setback. Mr. Soiseth stated the garage is mostly for storage of vehicles that are not primary vehicles, except his spouse's vehicle. Councilperson Harbin asked about any feedback from neighbors. No feedback from neighbors has been received. Councilperson Becker stated the only problem he sees is if vehicles are parked along the street, visibility would be obstructed when backing out of the garage. Police Chief Reinlasoder stated he was asked to look at this for a safety concern. The way the streets and lots were constructed and laid out it is hard to tell. Chief Reinlasoder does not want to penalize homeowners for wanting to improve their property but he can't determine what will happen in the future and what is stored in there. "No parking" could be painted on the curb to help alleviate visibility concerns. Councilperson Hert is concerned of liability for the city if this is allowed due to a recent situation in Laurel. Councilperson Harbin asked Attorney Ryder for his comments. Attorney Ryder explained Variances are permanent regardless of ownership and Conditional Use Permits are for a specific time period, specific use and specific property owner and do not transfer with ownership. Councilperson Becker asked if the existing fence is on the property line and if the variance is for an additional 6". Mr. Soiseth stated that is correct. Council President Ellison closed the hearing at 7:58 pm.

New Business:

Councilperson Harbin moved to approve a Conditional Use Permit for 4421 Remington Drive for no more than four livestock units. Councilperson Becker seconded the motion. Discussion: Councilperson Harbin asked Attorney Ryder if a time limit would be appropriate. Attorney

Ryder recommended including conditions regarding insect control and a building permit be obtained. Council discussed additional requirements to include in the Conditional Use Permit and a time limit. Mr. Alt has requested two years. Attorney Ryder suggested granting the Conditional Use Permit with conditions as agreed upon with city staff and applicant and tie it to a building permit. Councilperson Ellison asked how long a building permit is good for. Mrs. Morgan explained they are good for 180 days with the option to apply for an extension of another 180 days; after that a new building permit would need to be obtained. Councilperson Harbin asked Mr. Alt if he could live with that. Mr. Alt responded he could. Councilperson Ellison agreed that the Conditional Use Permit and Building Permit should go together. Councilperson Harbin amended his motion to include the submission of a Building Permit and subsequent to the insect control and property maintenance conditions recommended by Attorney Ryder. Councilperson Becker seconded the amendment. Councilperson Hert abstained as she works with the applicant. Councilpersons Ellison, Harbin and Becker voted in favor. Motion carried 3-0.

Councilperson Harbin moved to approve a Variance to the side setback at 5 Plum Court for the construction of a garage. Councilperson Becker seconded. Discussion: Councilperson Harbin asked if Attorney Ryder has any comments. Attorney Ryder suggested the curb be painted for no parking to address the visibility concern. Councilperson Harbin agreed this should be done. Motion carried with all in favor.

Michael and Olivia Sample are interested in purchasing the Montana Moose coffee kiosk and would like to know if the city intends to continue leasing the space and if the conditions would be comparable to the current lease. Councilperson Harbin asked if they would like the same location. Since the Samples were not present to answer questions, Councilperson Harbin asked they attend a council meeting.

Councilperson Hert moved to approve entering into an agreement with CPRD on the Fountain located next to City Hall and participating at a cost of \$12,373 less \$4,600 paid by the city for concrete removal. Councilperson Becker seconded the motion. Discussion: Councilperson Becker wants to make sure maintenance of the fountain is included in the agreement. Attorney Ryder will draw up the agreement. Councilperson Harbin abstained due to conflict of interest; he is Executive Director of CPRD. Councilpersons Becker, Ellison and Hert voted in favor. Motion carried 3-0.

Administrative Matters:

Councilperson Ellison thanked Zoning/Code Enforcement Officer Morgan for her work on the variance and conditional use permit requests and stated she did a good job.

Council President Ellison adjourned the meeting at 8:20 pm.

Michelle Richards, City Clerk/Treasurer