1976

Subdivision planning and approval process in Great Falls, Montana

David James Ward
The University of Montana

Recommended Citation
Ward, David James, 'Subdivision planning and approval process in Great Falls, Montana' (1976). Graduate Student Theses, Dissertations, & Professional Papers. 3771.
https://scholarworks.umt.edu/etd/3771
THE SUBDIVISION PLANNING AND APPROVAL PROCESS IN GREAT FALLS, MONTANA

By

David J. Ward

B.S., Baldwin-Wallace College, 1970
M.A., Miami University, 1972

Presented in partial fulfillment of the requirement for the degree of

Master of Business Administration

UNIVERSITY OF MONTANA

1976

Approved by:

Chairman, Board of Examiners

Dean, Graduate School

Date
# TABLE OF CONTENTS

LIST OF ILLUSTRATIONS ........................................ iii  

ACKNOWLEDGMENTS ............................................... iv  

Chapter

I. HISTORICAL BACKGROUND. ................................. 1  
The City of Great Falls  

II. CURRENT REGULATIONS. ................................. 12  
Federal  
State  
Local  

III. ACTUAL SUBDIVISION APPROVAL PROCESS. ............. 27  
Phase I, Concept Review  
Phase II, Preliminary Plat Review  
Phase III, Final Plat Review  

IV. PROBLEM AREAS. ........................................... 53  
Local Problem Areas  
State Problem Areas  

SOURCES CONSULTED .......................................... 63
LIST OF ILLUSTRATIONS

Figure

1. Concept Review ........................................29
2. Preliminary Plat Review .............................42
3. Final Plat Review ....................................47
ACKNOWLEDGMENTS

I would like to acknowledge the assistance I received from my advisor, Dr. Clyde Neu, as well as the help and cooperation from Bill Walters and John Richards of the Great Falls City-County Planning Staff. Without these people this paper would not have been possible. I would also like to thank Mrs. Grace Molen, whose last minute typing made completion of this paper possible.
CHAPTER I

HISTORICAL BACKGROUND

In the United States, city planning has existed since the nation's beginning. Washington and Jefferson were the first U.S. planners. They devoted much time and effort to the capital city to be built on the Potomac River site selected by Congress. The final design for the city was prepared by Pierre Charles L'Enfant, a French engineer. He combined the various proposals of Jefferson and Washington into a pleasing and functional design.

For a long time after its start in 1800, the city of Washington was considered too grandiose in scale. L'Enfant had made the amazingly farsighted prediction that the city would have a population of 200,000 at the end of its first century. By 1900 Washington had 231,000 residents.¹

Because Washington was designed as a capital city, it is not surprising that few other cities followed its design. The great majority of American cities were influenced by William Penn's plan for Philadelphia. The Philadelphia type plan consisted of a gridiron of streets,

interspersed with small parks, with a central plaza area containing the city hall. This design was intended to meet the needs of a commercial city along a waterway.

Because of its simplicity, Penn's plan had a very widespread influence on the initial planning of a large number of American cities. As was the case with Philadelphia, most of this country's first cities were on small, level areas along rivers. These small original plans were very functional and met the needs of the existing conditions. The scale was in harmony with the growth seen for the city's immediate future.

Up until the industrial age in the latter part of the nineteenth century, the United States remained primarily an agricultural nation. The few existing cities experienced limited growth and there were few planning problems. By 1870 only three cities had attained populations of 300,000. These were New York, Philadelphia, and St. Louis.² With the industrial age and the resulting large influx to urban areas this changed radically. In 1900 nine cities were over 300,000. By 1940 this figure was thirty.³

This rapid urbanization led to increasing concern about the planning of our cities. The early city plans were rapidly outgrown during this urbanization process and few if any new plans were implemented. Subdivisions and additions

²Ibid., p. 69 ³Ibid.
were added to the cities at such a rapid rate the areas covered by the original plans were far exceeded. The result of this was a hodgepodge of development which is still evident in many American cities today. The engrossment in growth for growth's sake led to a failure to define objectives and attempt to control the form and character of this urban growth.

The National Conference on City Planning early in the Twentieth century grew out of this concern about the growing problems of cities. This is the time period in which the discipline of city planning began to develop. Unfortunately, the development of this skill far outstripped its application.

A San Francisco citizens group was responsible for a comprehensive plan published in 1905. This immediately preceded the major fire and earthquake of that time. Unfortunately, this golden opportunity was missed in the scramble to rebuild the city. A St. Louis plan of 1907 was ignored, as was a 1909 plan for Chicago. Clearly, a gulf existed between city planning and effective implementation of the plans by local officials. Voluntary compliance was definitely not the answer.

The next step in this evolutionary process was the creation of planning commissions within the structure of local government. This step resulted in the creation of

---

4 Ibid., p. 70. 5 Ibid. 6 Ibid.
many comprehensive plans in places such as St. Louis, Missouri, and Newark, New Jersey. The mere creation of these commissions, however, did not persuade local officials of the desirability of following the recommendations of the planning commissions or the land use planners.

A major disruptive influence to city planning, the automobile, also appeared during this time. This made possible the expansion of cities by no less than 1,000 percent. This influence was (and still is) a major decentralizing force resulting in the development of core area slums.

The federal government began at this time to exert influence in the area of community planning. The Standard Zoning Enabling Act and the Standard Planning Enabling Act were drafted under the influence of the then Secretary of Commerce, Herbert Hoover, in 1926 and 1928 respectively. These were intended for the voluntary adoption by states and were the models for the initial state enabling acts adopted in the United States.

The kinds of requirements that the states were permitted to include in their zoning enabling legislation which followed the federal act were as follows:

---

7Ibid., p. 72.


9Haar, Law and Land, p. 186.
1. Height, size, and number of stories of buildings.
2. Percentage of a building lot which may be occupied.
5. Use of building and land (i.e., residential, single family dwellings).

Also, the purposes of zoning are spelled out by these state laws which are based on the standard act. For local regulations to be valid they must be based on one or more of the purposes spelled out by the state laws. These stated purposes are listed as follows:\(^{10}\)

1. To lessen street congestion.
2. To insure safety from fire, panic, and other damages.
3. To promote health.
4. To promote the general welfare.
5. To provide adequate light and air.
6. To prevent the overcrowding of land.
7. To avoid undue concentration of population.
8. To facilitate the adequate provision of transportation, water, sewerage, school, parks, and other public requirements.
9. To conserve the value of buildings.
10. To encourage the most appropriate use of land throughout the municipality.

The application of zoning regulations by communities has encompassed a broad range of effectiveness. Complete

\(^{10}\)Ibid.
inflexibility in changing zoning regulations is one extreme. Areas zoned for single family dwellings when family size was much larger may now be more suitable for two or three families—if the local zone permits such a change. Other communities have poorly executed zoning due to their failure to comprehensively plan their area before zoning various districts. When poor planning is coupled with inflexibility later on, real problems develop and the community suffers.

It is appropriate at this point to define zoning and to point where it fits in with items such as Master Plans and subdivision regulations.

There is some disagreement on the exact place which zoning occupies in the scheme of land use planning. It is safe to say that it should be the implementation of the comprehensive long range planning goals of the community. Zoning is an example of the police power of the state which is delegated to local governments. Zoning is one of the more significant powers under the control of local governments in the country.\(^\text{11}\)

Zoning has been of two distinctive types. District zoning is the designation of large areas of the community for specific types of uses. These are mainly industrial, commercial, and residential and various subsets of these categories. It is easy to write zoning requirements of

this type which regulate large areas, but this often fails to take into account the uniqueness of individual sites due to its broadness.

Another approach has been particularized zoning where each site is considered individually. Particularized zoning acquired characteristics of subdivision control. Today subdivision control is the most common legal method used by local governments for the site-by-site control of community development.\textsuperscript{12}

Zoning was intended to list in advance the uses intended for each district in the community. Variations in topography, ownership, and the purpose of subdivisions made it next to impossible for local officials to anticipate for the entire community the exact plan of required street and lot patterns.\textsuperscript{13} Subdivision regulations developed as a means of preventing the subdivision of land until the plan of such subdivisions received official approval and was duly recorded.

After a long and sometimes painful evolution, subdivision control regulations came to what they are today. Many subdivisions had been profiting by the inevitability of city streets and utilities even though the developer did not supply these improvements. Often the subdivider would move on leaving the community with a new area of

\textsuperscript{12}Haar, Land and Law, p. 189.
\textsuperscript{13}Ibid.
unpaved streets and insufficient sanitary facilities. This led to the enlargement of the subdivision control laws. Developers were required to install streets and utilities up to the city standard before the plan of subdivision could be authorized.\footnote{14}

The optimum process for good development may be roughly outlined as follows:

Planning Goals,
Master Plan,
Zoning,
Subdivision Regulations,
Well Regulated Growth.

The City of Great Falls

Great Falls, Montana was founded relatively late in American history. The first reference to this area was by Lewis and Clark written as follows:

From June 21 to July 15, 1805, the Expedition remained at the Great Falls transporting the equipment across the portage and preparing for the next stage of the journey.... The mountains to the Northwest and West of us are still entirely covered, are white, and glitter with the reflection of the sun.... In the area of Great Falls, we have noted the abundance of buffalo and grizzlies. One herd of the former numbered 10,000, and there were so many of the latter and they became so troublesome that I did not think it prudent to send one man alone on an errand of any kind.\footnote{15}

\footnote{14}Ibid., p. 190.

At the time of this expedition the Blackfeet Indians controlled this area. Trappers and traders followed Lewis and Clark's visits but the Indians maintained a hostile attitude toward these individuals. A permanent fort established in 1847 at Fort Benton eased tension in the area.\(^\text{16}\)

Agriculture, mining and grazing came to the area, and in 1881 Paris Gibson visited the locality. Gibson, an engineer, surveyed the townsite beginning in May 1882. Along with James J. Hill, the Great Falls Water Power and Townsite Company was incorporated. The town itself was incorporated in 1888 with Gibson serving as its first Mayor. (Gibson was responsible for the grid system of the streets similar to that used by William Penn in Philadelphia almost two centuries earlier in 1682.)

Great Falls developed both as a trade center for surrounding farms and ranches, and as an industrial center. The first major industrial plant was a silver smelter on the south bank of the Missouri River built around the turn of the century. Later the Boston and Montana Consolidated Copper refinery was built across the river from the existing silver refinery. The Anaconda Company later acquired the facility and it grew into one of the world's largest refineries of its type. This segment of Great Falls' economy has declined markedly with increased environmental regulations.

\(^{16}\)Ibid.
Agriculture also expanded during Great Falls' early years. As wheat production increased, mills developed to convert this product to flour. The processing and shipping of grain remains a significant force in the local economy.

Many early settlers were attracted to Great Falls by its vital economy and advantages offered by a planned city. The population grew to 14,000 by 1910 and to 24,000 by 1920. At 1950 it was 39,000. The most rapid growth occurred between 1950 and 1960 when the city experienced a 38.5 percent increase in its population. This put the city over 54,000.

As could be expected, this rapid growth was not without its problems. From 1950 to 1957 the city's growth engulfed 1,166 acres of land which had been agricultural prior to that time. This greatly increased the demand on all municipal services.

The pattern of growth since 1950 has been subject of much criticism. Many of the subdivisions put in during this period were randomly and widely scattered throughout the area with little thought of integration between one another. This random and largely unplanned expansion has led to a high tax burden. This is due to the extension of city facilities and services necessary to take care of those scattered areas.

\[17\] Great Falls City-County Planning Board, Master Land Use Plan, (Great Falls: 1969), p. 3.

\[18\] Ibid.

\[19\] Ibid.
Great Falls started off as a well planned community. Rapid expansion has somewhat deviated from the initial integration. Currently the city is in the process of attempting to see that future expansion and modification does not further compound the earlier problems.
CHAPTER II
CURRENT REGULATIONS

Currently, there are development regulations and other forms of influence at the federal, state, and local levels, which have varying degrees of effect on subdivision development in Great Falls. These regulations are categorized and outlined on the following pages.

Federal

The major federal antipollution laws have an indirect but still significant influence on subdivisions and other forms of development in the Great Falls area. These are the Clean Air Act Amendment of 1970 and the Water Pollution Control Amendment of 1972.1

The Clean Air Act established national air quality standards, and required states to implement a plan to attain air quality at least as good as the federal standards.2 There have been two federal court decisions which greatly


influenced the effect this act has on land use in Montana, particularly subdivision development.

The first court decision required that states consider the cumulative atmospheric effect of development. In particular, the decision required control of facilities which may be pollution free themselves but which attract a significant number of motor vehicles. Projects classed as indirect pollution sources are among, but not limited to, the following: major roads, parking facilities, shopping centers, recreation centers, stadiums, airports, apartments, and condominiums. Before these types of projects may be constructed, a favorable air quality impact review must be conducted. This applies to indirect air pollution sources constructed or modified after January 1, 1975.

The second decision was one made by the U. S. Supreme Court confirming a lower court ruling. The main thrust of this decision was to prevent significant deterioration of air quality in areas which exceed the minimum federal standards. This has a very significant effect on areas such as Montana, which have, for the most part, better air quality than the rest of the nation.

---

3 Ibid.


The Federal Water Pollution Control Amendment of 1972 has an indirect, but potentially significant, effect on Great Falls subdivision development. By setting standards for waste treatment facilities, local development is restricted to the pace at which the municipality can provide treatment facilities to meet these standards.

The act empowers the Environmental Protection Agency, or the state if it has the authority to issue required permits, to obtain a court order imposing a ban on sewer construction. This would effectively limit growth to the rate at which sewer treatment facilities could be put into operation. This situation would only arise where the city was not voluntarily complying with the standards set by the act.

An area of federal influence on Great Falls subdivision development, not in the form of regulations, is the planning assistance provided by the U. S. Department of Housing and Urban Development (HUD). Great Falls is currently using these "701" planning grants to assist in planning development.

There are two other areas of federal influence on subdivision development which will only be mentioned in this paper. One of these is the effect the Federal Housing Administration (FHA) has through its loan policies. The other is the federal influence in the area of low cost housing and urban renewal projects.
State

Montana has two distinct types of policies in the land use area. One type includes those policies which direct state agencies in specific fields and the other includes those policies meant to guide the actions of local governments in the area. Many state regulations are the second step in requirements originating at the federal level. This is especially true in the area of pollution control legislation. These state requirements will be reviewed on a department by department basis.

Department of Health and Environmental Services

This department administers the bulk of what is termed pollution control regulations. It is through these that the department's impact on subdivision development is felt. The regulating and licensing authority exercised by this department in the pollution control area has a substantial, indirect effect on land use in the state.

In the area of air pollution this department was charged with the administering of the Clean Air Act of Montana by the 1967 legislature. This law granted the department powers to establish the air quality standards and regulations to implement the law. The result is that Montana has some of the most stringent standards and regulations in the country.6

6Ibid.
Additionally, this department works with the previously mentioned Federal Clean Air Act. This required states to prepare a plan to maintain air quality at least as good as the federal standards. The plan also contains provisions to prevent any projects which would violate the standards. The resulting plan has been fraught with procedural and jurisdictional problems since it was approved in January, 1972.\(^7\)

The department also administers the state water pollution control regulations and the provisions of the Federal Water Pollution Control Amendment of 1972. The area of influence here is the department's responsibility for insuring that sanitary standards are adequate for new subdivisions. Prior to a subdivision plan being filed, the department and local health officer must certify that the development is free of sanitary restrictions. Until such restrictions are dealt with and removed, the developer is prohibited from selling any lot or erecting buildings requiring water, sewer, or solid waste disposal facilities.\(^8\)

Department of Fish and Game

This department has a broad range of powers which influence land use in the state. Two of these have potential impact on subdivision development in specific situations.

\(^7\)Ibid.
\(^8\)Ibid., p. 22.
The first is the department's administration of the Antiquities Act of 1973. This act covers the preservation of important historical, paleontological, and archaeological sites within the state. The department is authorized to enter into agreements with private landowners for the preservation of these areas. When it becomes necessary to prevent the destruction of any significant site, the department has been directed to use court action. This can involve an injunction preventing development for up to a year while a plan is worked out between the parties involved. While a problem of this sort does not come up very often, when it does, the impact is significant.

The second area of influence concerns stream preservation. The stated policy put forth by the 1965 legislature is that streams, particularly fishing waters, be protected and preserved so they are "available for all time, without change in their natural state except as may be necessary and appropriate after due consideration of all factors involved." This policy applies to any action controlled by state or local governments which effect the natural form of a stream. (This affect is usually seen in the form of stream channelization.) Those planning any action which could change the form of stream are required to file these plans with the department.

---

9 Ibid.

prior to the beginning of the project. If it is determined that a project adversely effects fish or wildlife habitat, the department is required to suggest alternatives which lessen or totally eliminate the possible degradation. If the proposing agency refuses to comply with the mitigating charges the problem is subjected to a binding arbitration procedure. This involves three residents of the county or counties involved. They are selected by local district court judges.\textsuperscript{11} As with the Antiquities Act, a problem would arise with a sub-division only in very specific situations but the potential delay resulting could be extremely costly.

Department of Community Affairs

This department, formerly called the Department of Intergovernmental Relations, deals with the laws which effect the relationships between federal, state, and local governments. In this capacity the department has both a direct and indirect effect on land use and subdivisions in the state. Regulations are administered by both the Division of Economic Development and the Division of Planning within the Department of Community Affairs.

The Division of Economic Development is responsible for the state's Planning and Economic Development Act of 1967. This act involves the development of long range plans dealing with economic and resource development. Specifically, this

\textsuperscript{11}Ibid., p. 18.
is done by identifying and maintaining information on prime sites for commercial, industrial, agricultural, and residential development. The division is also available to provide technical assistance on local development projects.

The Division of Planning concerns itself with the non-economic facets of the Planning and Economic Development Act of 1967. Although this act addressed economic development totally, very few guidelines were given to this division for preparation of a comprehensive plan.

The division has also been given the more clearly defined responsibility of administering the previously mentioned U. S. Department of Housing and Urban Development's (HUD) "701" planning grants. These are assistance grants for the establishment of local planning boards previously mentioned in the federal influence section.

The planning division's greatest area of direct influence in subdivision development is in its administration of the "Montana Subdivision and Platting Act." The purpose of this act as originally stated, was:

...to promote the public health, safety, and general welfare by regulating the subdivision of land; to prevent the overcrowding of land, to lessen congestion in the streets and highways; to provide for adequate light, air, water supply, sewage disposal, parks, and recreation areas, ingress and egress, and other public requirements; (and) to encourage development in harmony with the natural environment.

---

12 Ibid., p. 24.  
13 Ibid., p. 25.  
14 Montana, Department of Community Affairs, Montana's Local Planning Legislation, (October 1975), p. 16.
This act contains detailed criteria concerning the preparation of both environmental and municipal impact assessments. The environmental assessment is required in the areas of hydrology, soils, vegetation, topography, and wildlife for the area to be subdivided. Municipal assessment includes: schools, roads and their maintenance, water, sewage, solid waste, fire and police protection.\footnote{15}

The Montana Subdivision and Platting Act (1973) directed that "the governing body of every county, city, or town shall before July 1, 1974, adopt and provide for the enforcement and administration of subdivision regulations, reasonably providing for the orderly development of their jurisdictional areas....\footnote{16}"

Following this initial legislation the Planning Division was charged through the Montana Administrative Procedures Act (sections 82-4201, 82-4225) to prescribe minimum requirements for subdivision regulations adopted in compliance with this act. This requirement appears in the September 1974 "Minimum Requirements for Local Subdivision Regulations.\footnote{17}"

The next step in this evolutionary process resulted in the "Montana Model Subdivision Regulations," (June 1975).  

\footnote{15}{Montana, \textit{Third Annual Report}, "Environmental Quality Council," p. 25.}
\footnote{16}{Montana, \textit{Montana's Planning Legislation}, p. 31.}
\footnote{17}{Montana, Department of Community Affairs, \textit{Minimum Requirements of Local Subdivision Regulations}, (September 1974).}
As stated in these regulations, they "...are not state requirements, but intended to serve only as a guide for use in developing or evaluating local regulations." 18

These documents, the minimum requirements and the model regulations, establish a good set of guidelines for local governments to use in the establishment of their own plans. The minimum requirements set a base line which may not be ignored while the model regulations give the state's view of what the optimum regulations should be.

The original Montana Subdivision and Platting Act of 1973 contained a number of definitions and administrative rules. Many of these problems were straightened out by the 1974 legislature in House Bill 1017. Significant among the changes were the redefinition of the term 'subdivision.' The most important parts of the change in the definition were as follows: "...a division of land, or land so divided, which contains one or more parcels containing less than 20 acres...or, land so divided into two (2) or more parcels whether contiguous or not, any of which is ten (10) acres or less...." 19 The requirements concerning dedication of park areas were also modified. The park area is now defined in terms of a fractional part of the subdivision itself rather than the entire plotted area. 20

18 Montana, Department of Community Affairs, Montana's Model Subdivision Regulations, (June 1975).
20 Ibid., p. 32.
The 1974 version of the Montana Subdivision and Plat­ting Act was again modified. The 1975 legislature passed House Bill 666 which became effective April 21, 1975. The points of this latest change are best brought out in the section of this paper dealing with the approval of an actual subdivision.

Department of Revenue

With one notable exception, the state has not acknowledged the relationship between land use and taxation.\(^{21}\) The one exception is the state's so called "greenbelt law." This is mainly concerned with agricultural land which borders expanding urban areas. The purpose of the law is to protect this agricultural land from high tax burdens that would result in its being sold for subdivision uses. Specifically, it provides that land which qualifies may be taxed only for its value for agricultural purposes regardless of its market value. If the owner later chooses to sell the land for development he is penalized the difference between what he actually paid in taxes and what he would have had to pay without the greenbelt bill during the previous four years.\(^{22}\) Problems with this law will be discussed in the problems section of the paper.


\(^{22}\) Ibid., p. 36.
Other State Agencies

The Departments of Natural Resources and State Lands have little, if any, direct effect on subdivisions in Great Falls. This is not to say that they do not play a roll in land use in Montana. They do, but it has little effect on urban and suburban areas.

Local

The vast majority of land use decisions in Montana are made without the direct involvement of the state government. This is particularly true in the cases of cities and their surrounding areas. There has been, through the years, extensive delegation of land use control authority to the local governments. The sum total of this law is very cumbersome and often confusing. 23

Planning

The state has authorized the creation of planning boards by cities and counties. These boards are to function in an advisory capacity to the local governments. The Great Falls area has a city-county planning board, whose jurisdiction extends four and one-half miles beyond the boundaries of the city.

23Personal interview, William Walters, Assistant Planner, Great Falls, Montana, February 1976.
Planning boards are required to prepare a master plan for the development of their jurisdictional area and to present this to the governing bodies in their jurisdiction.\textsuperscript{24} The Great Falls City-County Planning Board is currently using the previously mentioned HUD "701" funds for this purpose. When local governments adopt a master plan they are required to use it to guide their directions in the areas of zoning, public facilities, and subdivision regulations.\textsuperscript{25}

Zoning

The federal enabling legislation in the area of zoning has already been mentioned in a prior section. Montana's legislature in 1929 (three years after federal enabling legislation) passed laws authorizing incorporated cities and towns to regulate land use through local zoning ordinances.

There are limits to the distance which a city may zone beyond its immediate boundaries. A first-class city such as Great Falls may extend its zoning authority three miles beyond its borders. City zoning may influence this area only if the county has not previously zoned the area. When a city-county planning board is formed, as in Great Falls, this area of influence extends to 4.5 miles from the city.

\textsuperscript{24}Personal interview, John Richards, Great Falls City-County Planning Board Office, Great Falls, Montana, February, 1976.

\textsuperscript{25}Great Falls, MT., Ordinance No. 1848, Amending Title 4, Chapter 9, Section 4-9-6(C), of the Official Codes of the City of Great Falls, 1975.
boundary. This board serves in an advisory capacity to the local government officials.

City Ordinance number 1948 (approved January 21, 1975) is a combined planning and zoning ordinance pertaining to "planned unit developments." The stated intent of this ordinance is as follows: "to permit flexibility of planning and design of entire residential subdivisions. It is recognized by this section that total planned and designed projects have the opportunity to incorporate unique and original concepts into the design of a Planned Unit Development, and that the benefits achieved may supersede the rigid requirements of typical zoning or subdivision regulations."

The term Planned Unit Development or "PUD" is a type of subdivision characterized by common ownership of open area. In many cases this is done through homeowners association with each unit paying a monthly fee. The subdivision which will be discussed in the following chapter is considered to be a PUD when the development is considered as a whole.

Subdivision Regulations

The City of Great Falls is currently operating without a formalized body of local subdivision regulations. They are relying heavily on the previously mentioned state requirements. Local regulations are in the process of being prepared and are expected to be ready sometime in the future.

---

\[^{26}\text{Ibid.}\] \[^{27}\text{Ibid.}\]
How the city is currently functioning in the above mentioned method will be shown in the following section using a recently approved subdivision as an example.
CHAPTER III

ACTUAL SUBDIVISION APPROVAL PROCESS

In this section the process through which a developer must proceed for the approval of a subdivision will be discussed. This will be done by following the Great Falls review process step-by-step. Each step will be elaborated upon and any problems with that particular step or phase will be pointed out at that time. General problems will be dealt with at the end. Where examples will aid in elucidating how a particular step takes place, the Fox Farm Addition subdivision will be used. This subdivision is a project of Western Property Associates and is the most recent subdivision to go through the approval process in the Great Falls area. Final plat approval and annexation of the first section of this development was approved March 17, 1976, at the Great Falls City Commission meeting.

The Great Falls area basic plat review process is divided into four distinct sections. Three of these are applicable to this paper. The Fourth is termed the Minor Plat Review procedure. This is only utilized for a subdivision involving five or fewer parcels without a park dedication.

It should be pointed out that the steps in the review
process to be outlined are not designed to cause difficulties for a developer or to create additional paperwork for the city. Over the long run it has been demonstrated that this sort of protracted process is necessary to insure adequate attention to the myriad of details involved in a subdivision today.¹

**Phase I Concept Review**

The concept review phase, also called the master plan phase, is utilized for most large subdivisions, including the example, which are to be developed in phases. Development is commonly done in this manner to enable the investors to begin recovering their investment earlier than if the development was done all at once. This phase is illustrated in Figure 1.

A. The first step of this phase consists of the initial contact between the sponsors of the proposed development and the planning staff of the city-county planning board. At this point the sponsors usually only hold an option to purchase the land under consideration. This initial contact for the Fox Farm Addition was made early in September, 1974.

A main purpose of this initial meeting is to acquaint the sponsors with the regulations and procedures they will have to comply with in developing the land. Great Falls currently does not have its own set of subdivision regulations

INITIAL CONTACT BETWEEN SPONSOR AND STAFF

B) DEVELOPER STAFF MEETINGS

C) FORMAL CONCEPT SUBMITTAL TO P.B. 2 AND STAFF

D) CONSULT REVIEW OFFICIALS AND AGENCIES

E) STAFF RECOMMENDATIONS

F) P.B. PUBLIC HEARINGS

G) GOVERNING BODY(IES) DECISION

Fig. 1. Concept Review (utilized for large subdivisions to be developed in phases).

SOURCE: Planning staff of the City of Great Falls, Montana, March 1976.
which may be given to a potential developer. These regulations are being prepared. They should be ready for submission to the State Department of Community Affairs and the local governing bodies in the not too distant future. As mentioned previously, the city is currently operating through the use of the State Minimum Subdivision Regulations and Model Subdivision Regulations.

At this first meeting the sponsors of the development submits a rough sketch of the proposal. This may be little more than a pencil sketch on a topographical map of the area. It should show simply the layout of the proposed development and how it relates to the surrounding areas. Included on this map are major streets, proposed use for each area (single family, multi-family, commercial), and major physical features of the area.

There is a major aid available to developers and the planning staff in evaluating how a proposed development fits into the existing community. This is in the form of a 1970-1990 land use plan. While it was never formally adopted by local government, it does contain information on existing land use and proposals for future growth. This plan was cited by the developers of the Fox Farm Addition and their plan parallels the proposed uses for the area in question.

B. Following the initial contact between developers and the planning staff there are a series of meetings. The purpose of these is to further develop the rough plan and to get the initial reaction of the planning staff. It is at this
point that many potential problems may be identified and dealt with before the developer has invested heavily in design of the development.

There are several types of problems which may come to light during these meetings. Examples of these would be utility hook-up limitations and flood plain conflicts. Both of these subjects were significant areas of concern with the Fox Farm Addition.

The rough plan is further detailed by the developer at this stage. It should include such information as: approximate boundaries of the tract, easements which are planned or exist, utility or other right-of-ways, parks and open areas, existing structures, natural features, and proposed public improvements.²

C. A third step involves the formal concept (Master Plan) submittal to the planning board and staff. By this point the master plan shows the surveyed boundaries of the site as well as a small locational map to clarify its placement in terms of surrounding areas. Placement of all existing proposed streets is shown. Easement for utilities are also drawn into this plan. Boundaries of individual lots are not necessarily shown, although a sample is helpful.

A very important item included on this plan is the design schedule. This is a proposed set of standards for various important items in the development. It addresses

²Ibid.
such subjects as utility type and size, building setbacks, street construction, and other items of similar nature.

This meeting gives the planning board an opportunity to question the developers at length about the project. It also allows the planning staff to present its view on any problems which it foresees for the development.

Following the presentation of the master plan to the planning board a review matrix is prepared. This is the first of four points at which this particular tool is used. The first matrix enumerates a particular item such as "flood plain" the problem seen by the staff in that area, the developers position, and the various alternatives available. This matrix is an extremely valuable aid which insures adequate attention to all problem areas.

D. At this point various agencies and officials are consulted for their opinion on the master plan. This is a very important stage for identifying problems. It also serves to get the positions of various agencies on items within their sphere of influence.

The following individuals and agencies are sent copies of the master plan and the review matrix for their consent and criticism:

1. City Manager
2. Director of Public Works
   a. City Engineer
   b. City Traffic Engineer
3. City-County Health Department
4. Park and Recreation Board
5. Office of City Zoning Administration
6. Fire Chief
7. School District
8. Montana Power Company
9. Mountain Bell Telephone
10. Great Falls Gas Company
11. Teleprompter of Great Falls

In some cases this information is merely informational and the agency has little, if any, input to the process. Teleprompter of Great Falls is a good example of this type of situation. The city engineer and the city traffic engineer both funnel their reports through the Director of Public Works.

This step proved to be a major point of delay in the process. For the most part this was due to the negotiations between the developer and the park board concerning the size and location of the park land to be dedicated to the city. This is not unusual since the most desirable park land, in many cases, contains the best building sites, for example, river frontage. The problem was eventually resolved but it did result in a delay of approximately four months.

E. Once the various officials and agencies have a chance to comment on the master plan the information is assembled by the planning staff. From this information a second matrix is prepared. It includes the positions and recommendations of the various agencies involved and finally the planning staff's recommendation on a particular subject. At this point it would be enlightening to illustrate how a particular area of concern is dealt with by the matrix. The example is
from the August 11, 1975 matrix concerning the Fox Farm Addition Master Plan.

ITEM: Flood Plain

PROBLEM: Policy has not been established by Planning Board and governing body to restrict or prohibit filling of flood plain areas.

DEVELOPER'S POSITION: The area within the flood plain was filled to obtain acceptable ground elevations for building sites.

REVIEW OFFICIALS COMMENTS AND RECOMMENDATIONS:

City Planning Assistant - Policy on flood plain should be established prior to approval of Fox Farm concept.

Building Inspector - Ground elevations below 3,305 feet should be placed in City flood plain zoning district. Ground elevations below 3,301.5 feet should be placed in Floodway District.

PLANNING STAFF RECOMMENDATIONS:

Observations:

- area filled in displaces about 35 acre-feet of water during flood condition.

- area filled in was not a drainage channel but rather a collection basin.

- existing City Flood Plain Ordinance allows fill within a flood plain to attain ground elevations for building sites.
The potential back water holding area filled in was infinitesimal compared with the total back water holding areas along the length of the Missouri River. Considering the fill project has already been undertaken and there will be an insignificant impact on the flood plain, the staff recommends this issue not terminate development in the northern portion of Fox Farm Addition. However, the staff recommends data should be compiled to possibly substantiate adoption of a policy by the governing bodies to prohibit fill in a flood plain.

The planning staff also prepared a set of recommendations concerning the Planning Design Schedule. This schedule contains various general guidelines concerning the development mostly in the areas of building location and lot size. Specifically it covers such items as: allowable building height in stores, minimum front yard setback, minimum side yard setback, minimum building separation, maximum building coverage, and other items along the same line. This is done for each type of area (i.e., single family detached, medium density apartments, etc.) contained in the total development. It is subject to slight modification upon submission of each subdivision plat. The staff evaluates this schedule in light of how it will effect the relationships of both buildings and open areas in the development and the development's relationship to existing adjacent areas.

During this period the staff also prepares a written assessment of the proposed development in accordance with
House Bill 666 mentioned in a previous section. Basically, the purpose of this assessment is to determine whether the proposed subdivision would be in the public interest. This is prepared using, in part, information supplied by the developers. The report is required to address the following topics:

a. the basis of the need for the subdivision  
b. expressed public opinion  
c. effects on agriculture  
d. effects on local services  
e. effects on taxation  
f. effects on natural environment  
g. effects on wildlife and wildlife habitat  
h. effects on public health and safety

F. After it has received the master plan, the planning board holds a public hearing on the matter. It is necessary for notice of the hearing to be published in a general circulation newspaper at least fifteen days prior to the hearing.

During the hearing the planning board is required to review all relevant information relating to public health, safety, and welfare. From this information it decides whether the plan should be approved, conditionally approved, or disapproved. The planning board also reviews the plans' compliance with the Montana Subdivision and Platting Act and any applicable zoning regulations which may affect the plan.³

The hearing in the case of the Fox Farm Addition master plan followed the following format. The developer presented the philosophy behind the development and described the uses of the various areas. Second, the planning staff explained the various items in the previously mentioned matrix. The main points concerned the flood plain (see matrix example above), site and location of park, the attachment of an approved design schedule to the plan, covenants to control appearance of lots backing onto Fox Farm Road, and the bike path. Proponents of the project were given an opportunity to speak. Opponents spoke against the flood plain and neighborhood shopping center. The hearing was then continued for a week with no action being taken by the board.

The second phase of the public hearing on the Fox Farm Addition master plan took place on August 19, 1975, a week after the first phase of the hearing. The same order of business was followed. In the intervening week a revised matrix has been prepared by the planning staff. The flood plain issue was resolved when it was determined no existing laws prevent an area from being filled to raise it above the level of the 100 year flood plain. The park issue remained unchanged. Various changes were recommended in the Planning Design Schedule. Access and other problems concerning homes backing to Fox Farm Road were seen by the staff as something controllable by covenants. Several other areas remained unchanged.

During the proponents opportunity to speak the developers accepted the staff recommendations in most areas. A
point of contention existed over who would pay the cost of an 18 inch sewer main over the proposed 12 inch main.

Opponents were given the opportunity to speak and expressed basically the same concerns as during the first meeting. Those were in the areas of flooding possibilities, school overcrowding and multiple family dwellings.

It is worthwhile noting at this point that while citizen oration at these hearings is encouraged, it rarely unearths any areas of concern not already addressed by the planning board and its staff.

Following the hearing of the opposition the planning board took action on the various facets of the master plan. This resulted in the planning board's approval of the master plan. This took place on September 2, 1975.

G. The planning board's approval is next passed along to the appropriate governing body for their consideration. This is in most cases a rubber stamp of the planning board's recommended action. In the case of the Fox Farm Addition, approval was required of both the Great Falls City Commission and the Cascade County Commissioners. This was due to the fact that this development is in the county and desires to become annexed to the city, to which it is adjacent. Once this approval is received the master plan is retained in the planners office.
Phase II Preliminary Plat Review

The next major phase following the Concept Review is termed the Preliminary Plat Review. Generally, the preliminary plat is a much more detailed design of a specific portion of the master plan. It follows the basic concepts put down in the master plan. By law a preliminary plat is defined as "a neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision which furnish a basis for review by a governing body."\(^4\)

The Montana Minimum Requirements for Local Subdivisions Regulations contains requirements for the form and content of preliminary plats and plat supplements. The purpose of this was to insure preliminary plats submitted to local governments and planning boards would contain information to allow adequate review. It was also intended to provide a certain degree on uniformity in the plats from one local government to the next for the benefit of engineers frequently responsible for preparing the plats.

According to the above mentioned regulations a preliminary plat should contain the following information:

1. Name, location, scale, north arrow, and date of preparation
2. Exterior boundries of the tract

\(^4\)Montana, Department of Intergovernmental Relations, Division of Planning, Subdivisions, (July 1974), p. 9.
3. Location of all section corners and legal subdivision corners

4. All lots and blocks with dimensions and owner of each lot

5. All streets, alleys, roads, highways, and their right-of-ways; locations of intersections and access points to collector and arterial highways

6. Location and boundaries of all park areas and common ground.

7. Existing and proposed utilities located on and adjacent to the tract
   a. sanitary sewers
   b. water mains and fire hydrants
   c. gas, electrical, and telephone lines and street lights
   d. nearest water and sewer lines when none are adjacent to tract

8. Contour map of area

9. Locations of existing buildings and improvements

10. Location and identification of all existing and proposed easements and right-of-ways

Supplements to the preliminary plat should include:

A. Vicinity map, including:
   1. names of adjoining subdivisions
   2. ownership of adjacent land
   3. location of railroads, power lines, towers, roads and other nearby land uses
   4. existing and proposed zoning

B. U.S.G.S. topographical map or aerial photo of area with subdivision clearly outlined

C. Master plan of entire development of which this plat is a portion

D. Drafts of any covenants and restrictions

E. Information concerning property owners association, if one is to be formed

F. An environmental assessment of the subdivision
G. Flooding survey data, when required

The first actual step of the preliminary plat review phase as shown in Figure 2, consists of a series of meetings between the developers and the planning staff. It is at these meetings that many problem areas with the preliminary plat and the supplemental information are dealt with and often solved.

A. This step, among others, involves negotiating a series of tradeoffs. That is, achieving a balance between a high quality addition for the city and a reasonably profitable project for the developer. A city which demands too much of a potential developer may end up ultimately discouraging much needed housing inputs to an area.

B. The preliminary plat and supplemental information which emerges from the meetings with the staff is then formally presented to the planning board and staff. This is basically the same sort of process as occurred in the third concept review step.

C. The plat is presented by the developer and problems seen by the staff are aired.

Once the preliminary plat is presented to the planning board, the governing body is required to approve, disapprove or conditionally approve it within sixty (60) days. This is unless the developer consents to the extension of the review phase. If the governing body should disapprove or

5Montana, Model Subdivision Regulations, p. 74-77.
Fig. 2. Preliminary Plat Review (utilized for subdivisions involving more than 5 parcels or park land dedication).

SOURCE: Planning staff of the City of Great Falls, Montana, March 1976.
conditionally approve the plat, a copy of the plat with a letter of explanation must be sent to the developer. This letter must also outline the necessary conditions which must be met to obtain approval.

Following formal submission of the plat, the planning staff prepares the third matrix. As with the previous ones, it identifies problems with their alternatives and recommends a course of action. It follows the same format as the previously given matrix example, except that the problems addressed are usually much more specific and detailed.

C. As with the master plan the preliminary plat is distributed to the previously mentioned review agencies for their input. Also the City Engineer's office is brought into the picture. They review the plat for specific items such as utility design, storm drainage systems, and streets to determine if the proposals of the developer are up to the city's standards on these areas and will adequately serve the present and long term needs of the future residents of the subdivision. Acceptance of low quality streets initially imposes a long term maintenance burden on the city.

D. The information and recommendations from the review agencies and officials as well as the engineer's opinion is assembled at this point. The planning staff prepares the fourth and final matrix. This matrix, as before, contains the problem, developers position, alternatives, and the position the planning staff recommends. It is at this time that the more technical problems such as utilities and streets are investigated.
E. The public hearing at this stage follows basically the same outline as the master plan hearing. Its purpose is to air the views on both the preliminary plat and the resulting rezoning involved. Notification procedures are the same. A newspaper notice must be made 15 days in advance of the hearing and landowners adjoining the tract are notified by registered mail.

The planning board hears the various recommendations of the parties involved. An item which generally receives public attention at this point is the environmental assessment which was listed in the items needing submission with the planning plat. The strictly environmental portion of this assessment deals with such areas as: surface water, ground water, soils and slopes, vegetation, wildlife, historical features, and visual impact. The community impact portion addresses the areas of: domestic water supply, sewage disposal, solid waste disposal, roads, utilities, emergency services, land use, housing, parks and recreation facilities, and accessibility of services and facilities.

A supplemental section concerning the impact of the subdivision on the local school system is also attached to the assessment. This school impact opinion is generally in the form of a reply letter from the superintendent of schools. In the case of the Fox Farm Addition No. 1, the school superintendent felt the present facilities would adequately handle the increased student load at the local schools. Private citizens expressed concern contrary to this opinion at the public hearing.
F. At this point the planning staff compiles what is termed the Staff Conglomerate Recommendations. This is a compilation of the engineering recommendations, the planning board's decisions and concerns, and any other significant items which the staff feels should be brought to the attention of the local governing bodies.

G. As with the master plan, the local governing bodies, specifically the Great Falls City Commission, act on the preliminary plat, based on the information. In addition, the plat must be accompanied by certain attachments. These are as follows:

a. Certificate of dedication for streets, parks, and other public improvements, or cash donations in lieu of dedication when applicable.
b. Certificate by licensed title abstractor showing any liens or claims against the land.
c. Copies of any covenants relating to the land.
d. Certification by State Department of Health and Environmental Sciences that plans and specifications for sanitary facilities are acceptable.
e. Copies of articles of incorporation of any homeowners association, when applicable.
f. Certification of security arrangement for public improvements, such as performance bonds or a letter of credit.
g. Copies of final engineering drawings and certificates by professional engineer that they are correct.
h. Certificate by governing body expressly accepting any dedicated lands and improvements.
i. Certificate of examining land surveyor, where applicable.
j. Copy of state highway permit when new highway will intersect with a state highway.

The developer has up to one year from the time the preliminary plat is approved to prepare and submit a final plat.

Upon approving or conditionally approving the plat the governing body is required to provide the developer with one (1) copy of a dated and signed statement of approval. The approval guarantees that the conditions and terms of the approval shall not be affected by any changes in the regulations affecting subdivisions. The approval is valid for a period of one year. It may be extended for another calendar year at the request of the builder and with the approval of the governing body.

The approval for the plan of the Fox Farm Addition was obtained on December 16, 1975.

**Phase III Final Plat Review**

The third and final phase of the review process is termed the Final Plat Review. This involves the preparation of final plat and associated documents, based on the previously approved preliminary plat. It is actually a formalization of many of the items in the preliminary plat which were not specifically defined at that time. It must conform in all major respects to the previously reviewed and approved preliminary plat. This phase is illustrated in Figure 3.
Fig. 3. Final Plat Review

SOURCE: Planning staff of the City of Great Falls, Montana, March 1976.
A. The first step of the third phase involves the submission of the final plat, associated documents, engineering information, and the proposed "Statement of Intent and Agreement," hereafter referred to as the S.I.A.

The final plat is required to comply with the Montana Uniform Standards for Final Subdivision Plats. This requires the plat to be prepared in a specific format and to contain a specific amount and type of information. In addition, the plat must be accompanied by certain attachments. These are as follows:

a. Certificate of dedication for streets, parks, and other public improvements, or cash donations in lieu of dedication when applicable.
b. Certificate by licensed title abstractor showing any liens or claims against the land.
c. Copies of any covenants relating to the land.
d. Certification by State Department of Health and Environmental Sciences that plans and specifications for sanitary facilities are acceptable.
e. Copies of articles of incorporation of any homeowners association, when applicable.
f. Certification of security arrangement for public improvements, such as performance bonds or a letter of credit.
g. Copies of final engineering drawings and certificates by a professional engineer that they are correct.
h. Certificate by governing body expressly accepting any dedicated lands and improvements.

---

7Ibid., p. 22.
i. Certificate of examining land surveyor, where applicable.

j. Copy of state highway permit when new highway will intersect with a state highway.

The developer has up to one year from the time the preliminary plat is approved to prepare and submit a final plat.

B. The information submitted by the developers is subjected to review by the previously mentioned officials and agencies. Simultaneously, it is evaluated by the planning staff and the city engineer.

One main item which is examined concerns the conformance of the final plat to the previously approved preliminary plat. The only two instances which permit significant changes from the preliminary to the final plat are improvements in design or changes which have occurred in the natural surroundings or environment since preliminary plat approval.

The plat is also screened for errors and omissions in calculating or drafting by the land surveyor. No land surveyor who has any personal or financial interest in the property may be the examining surveyor.

C. Following the review step the final plat is presented to a regular business meeting of the planning board. As in the previous cases, the recommendations of the planning staff are considered and a final recommendation is made by the planning board. This is assuming they feel the plat should be approved. If it is not, a copy of the plat with a letter of explanation must be sent to the developer within ten (10)
days following the meeting. The developer then makes the necessary corrections and resubmits the plat for approval. This may involve meetings with the planning staff and engineer before the plat is resubmitted.

D. Once the recommendation for approval is received from the planning board the final S.I.A. is drawn up. This is essentially a contract between the developer and the city. It deals mainly with the improvements which will be made to the subdivision by the developer. It gets extremely specific in terms of who bears what costs.

The document also makes reference to the security arrangements which the developer has made to insure completion of the improvements. This may take the form of: an escrow account, letter of credit, surety performance bond and others. The severity of this requirement often depends on the reputation and past performance of the developer. In the case of the Fox Farm Addition this item was not resolved until the final plat had been conditionally approved by the City Commission.

It also contains a section for special conditions. In the case of Fox Farm Addition this concerned limiting the number of sewer taps until the local lift station could be evaluated in terms of capacity.

The S.I.A.'s purpose is to formalize many of the items which were in the past handled with a handshake. It is intended to provide protection for both parties involved. Fox Farm Addition was the first local development to use this
tool and its effectiveness will remain to be seen. It should prove to be a worthwhile addition to the review process.

E. The final step in this review process is the governing body's decision on the final plat. This is done during a normal meeting of the City Commission. It would seem by this time that most minor and major problems with the plat would have been resolved. With the Fox Farm Addition No. 1, it was not until this final meeting that several items were resolved. One was the placement of a bike path in the subdivision; the second concerned who would pay for a sidewalk adjoining the park; the third involved the type of financial guarantee to be used for the public improvements. The first two were resolved during the meeting. The final item concerning the financial guarantee resulted in conditional approval for the plat. The details of this guarantee were left to the developers and the city attorney to work out.

Immediately following approval of the final plat, the area on the final plat was annexed into the city. This was done before the final plat was approved by the county commissioners. This does not appear to be causing any problems. The county commissioners have and will probably continue to play a very passive role in this type of development. They tend to "rubber-stamp" any decisions made by the city in this area. This type of annexation is in accordance with the state's Planned Community Development Act of 1974. This act prohibits annexation of areas merely to increase the tax base. It states that the area "should receive the services provided
by the annexing municipality as soon as possible following annexation."\(^8\)

Once the approval is obtained, the final plat, associated documents, and the S.I.A. are assembled for recording. Certificates are issued by each agency involved in the final review indicating that the portion concerning them is correct. Examples of agencies issuing these certificates are: the city-county planning board, county surveyor, county commissioners, the park board, and others where applicable. Once all this information is gathered the applicable portions are recorded by the County Clerk and Recorder and become part of the public record.

In the case of the Fox Farm Addition, the total time period from the initial contact between the developer and the planning staff to the final approval of Addition No. 1, was about two full years. Another developer concerned with a Planned Unit Development is attempting to combine phases I and II as a time saving measure. How successful this technique will be in saving time has yet to be seen. It should be pointed out that before each portion of the master plan for a development such as the Fox Farm Addition is to be built it must go through phases II and III.

CHAPTER IV

PROBLEM AREAS

Problems with subdivision planning and approval exist both at the state and local level. Because most of the decision making power for this process rests at the local level, it is not surprising that this is also the level with the most significant number of problems. The state, however, is not without its share of problems.

In this chapter the problems at various levels will be examined. The source of the problem and the inefficiency which results will be assessed. Possible solutions and the outlook for change will also be examined.

Local Problem Areas

The single biggest problem at the local level is the lack of a set of Great Falls subdivision regulations. This means a single integrated document containing all the local regulations and requirements which a developer needs to comply with for the approval of a development. Presently, a developer must consult various state and local documents as well as negotiate certain points with the approving agencies. While a set of regulations would not solve all the problems, it would be a very significant aid in this direction.

53
It should be pointed out that a set of local regulations will not be a cure-all to current ills. Due to the uniqueness of land and the resulting uniqueness of each development, a set of regulations could not possibly address all potential problem areas. It would, however, go a long way toward solving some of the more frequently occurring and routine matters, as discussed below.

Considerable inefficiency results from the current state of affairs. In many cases, for example, the developer of Fox Farm Addition was not able to anticipate the city's position on a number of matters because a policy was not in writing. When regulations concerning development are clearly defined, the developer may anticipate what has to be done in a particular area and take the necessary steps to comply. Even though the developer may not agree with the city's position on a matter, he knows what must be done in compliance. While it would be difficult to put an exact figure on the amount of time that this lack of written regulations adds to the approval process, it would be safe to say that it is significant.

The solution to this process is quite obvious: develop a written set of local subdivision regulations. This is currently being done by the planning staff. Once completed, it must go through a process of review and approval not unlike that of a subdivision plat. Any estimated completion date on these local regulations would be pure speculation, considering
Another problem area which may be solved by local regulations is that of a time schedule. Currently, there is little in the way of clearly defined time limits between various portions of the plat review process. One of the few areas which does have an established time frame is the period between preliminary plat submittal (see (B) of Figure 2) and the public hearing (see (E) of Figure 2), defined to be a maximum of 60 days. In the case of the Fox Farm Addition this phase took considerably longer due to additional time and information requested by the planning staff.

The establishment of a time table for the review process would be of most benefit to the developer. It would allow him to better plan his approach to the review process, and finally, to establish a starting time for construction. However, any time table must have provisions for extension. The time table should be realistically set up so that any extension is the exception and not the rule.

This problem can be solved by two approaches. The first approach would be the previously mentioned local regulations, and the second approach would be the increased skill of both the local developers and the planning staff in dealing with the plat review process.

Another problem relating to the planning staff poses great concern to the developer. This concerns the length of time spent by the planning staff reviewing materials from the
developer before they are sent to the review agencies and officials. This adds a considerable amount of time to the process and duplicates what is done after the material is returned by the review agencies and officials.

The author agrees with the developer on this point. A more objective opinion could be gleaned from these agencies and officials if they were not influenced by a planning staff recommendation on a particular subject. A staff recommendation in an area in which the reviewing agency has more expertise than the planning staff is a potential area of conflict.

This problem may be resolved in the future. The establishment of time limits with the local regulations may help. With a limited amount of time available, the planning staff may have to limit its review process to those areas specifically designated for this purpose. In addition, as the staff becomes more experienced in the review procedure in its final form, it is bound to become more efficient.

Another area of concern for the developers of the Fox Farm Addition had to do with the form of financial guarantee. This guarantee, as mentioned in a previous section, is a device used by the city to insure that all improvements in a development are completed, even if the developer becomes financially insolvent.

According to the developers, the additional financial guarantee required by the city cost approximately $100 per

---

1Personal interview, Wayne Dean, Great Falls, Montana, March 29, 1976.
lot. By additional, the author means a financial guarantee beyond that provided by the nature of the backers. Where a strong local financial institution has a significant investment in the development, as is the case with the example, completion is reasonably assured in the event the developer fails.

The city's position in this area is that the taxpayers should not be burdened with the cost of completing the public improvements in a development if a developer becomes unable to do so. In doing this, the city is attempting to establish a firm policy which will apply to every developer no matter what his financial capability.

The problem with the position is that it may add unnecessarily to the developer's cost by requiring guarantees which are not really necessary. This cost is ultimately passed on to the purchasers with increased lot prices. This is not to say that some developers should not be required to post a substantial guarantee. Where a developer with a good local record and substantial backing has to do this, it adds unnecessarily to his costs.

The solution to this problem lies in establishing the form of financial guarantee based on a careful credit evaluation of each developer. This is harder to do and potentially riskier than a firmly established and often unnecessary guarantee procedure, but it would be worthwhile in the long run. The potential savings to developers, and to the ultimate
purchasers in a subdivision, while not extremely large, is significant.

The outlook for the city adopting a plan of this sort is not extremely bright at this time. It may be that when the new city planner becomes better acquainted with local developers and their performance, he will adopt a more flexible position in his recommendations to the planning board and city commission.

State Problem Areas

There are several problem areas at the state level affecting land use planning, particularly subdivisions, which require comment. While these, in most cases, do not always have an immediate and direct effect on Great Falls developers, they do ultimately influence subdivision development in the city.

The first of these problems concerns the general lack of a coordinated state policy in the area of local land use and subdivisions. Subdivision policy is in somewhat clearer terms than other land use categories, but even this is fragmented and difficult to consolidate. Much of the policy is implied, it is hidden away in various agencies and laws.\(^2\) This quite obviously makes it difficult to know what the state's position is on a particular area. Even when all the

applicable agencies and laws are tapped and the information organized, the result is often conflicting and confusing.

There does not seem to be a tendency to reorganize this shortcoming. How soon a coordinated and consolidated state position on land use (including subdivisions) can be expected is pure speculation at this time. The problem has been recognized but no solution is foreseen for the immediate future.

The best approach to this problem would seem to be a land use conference. This would involve all applicable agencies and serve to air their roles and views on land use. From this, a state policy could begin to be formulated. A conference of this sort could also serve to identify various gaps and overlaps in current procedures.

Another problem area at the state level concerns the disparity between state requirements and enforcement ability. The best current example concerns the requirement for local subdivision regulations. The state legislature passed the requirement for local governments to formulate subdivision regulations for their community. This was to be done by a certain date or the state would formulate regulations for the committees. The state's ability to implement this policy is extremely limited, however. The time necessary for the state to accomplish this for noncomplying communities

---

3 Personal interview, John Richards, Great Falls, Montana, November 1975.
is upward of several years. Clearly, this was a requirement with little in the way of stimulus for prompt compliance.

Communities such as Great Falls are gradually complying, but not within the time frame which had been hoped when the legislature established the requirement.

A third area of concern at the state level has to do with Montana's Greenbelt law. This law is intended to keep agricultural land in production by reducing the property tax burden from what it would be if the land were taxed at its fair market value. This law comes into play in fringe areas around cities where new land is desired for subdivision expansion. As of yet, Great Falls has not experienced any major problems in this area, but the potential exists for problems which must be discussed.

This law has several major shortcomings which tend to make it less than totally effective in accomplishing its stated goals. The first of these is the fact that the law contains no provision prohibiting application to land which is in areas planned by local government for the expansion of services. This tends to encourage land speculation and induce conflict between local planning and state taxation policy.

The second problem with the greenbelt law has to do with the rather loose definitions of agricultural land. Any

---


^Ibid.
parcel of land used for agriculture and sold to a speculator may continue to be taxed as "agricultural" if a single horse or cow is grazed on the land. Clearly this was not the intent of the law. This problem coupled with the fact that the roll-back tax penalty, which is assessed when the land is converted to nonagricultural use, is not sufficient to discourage removal of the property from current agricultural use. An example of this would be: a land speculator acquires farm land for $2,000 per acre, invests an additional $2,000 per acre in development, subdivides the land and sells it for $6,000 per acre. A roll-back tax penalty of $112.36 per acre which is assessed is hardly likely to have much effect on the project.

The current law also requires some adjustment in the type of agricultural land it protects. Some agricultural land is of poor quality, not worth protecting. It would be better suited as a housing development or an industrial site. The current law protects all agricultural land regardless of quality. Future tax incentives for agriculture need to be applied selectively only to lands worth preserving as agricultural.

Another problem with any greenbelt regulation is that it often leads to leapfrog development. For financial

---

6 Ibid.

reasons, subdividers often try to develop land just outside the greenbelt, resulting in a patchwork effect on the fringe of the city. This usually occurs where the roll-back tax is high. However, this has not been a severe problem in Montana with the present law.

The outlook for change in this area is not bright at this time. No change is likely until the citizens realize that the vitality of the state agricultural industry depends on preserving productive land.  

When both the local and state problems are considered as a whole one thing becomes clear. The majority of all problems stem from the relative newness of the whole process of land use planning and control. Once planners become experienced with the concept and are able to adjust to the present difficulties, the process should improve. The problems presently being experienced in this area are no greater than could be reasonably expected. In fact, it would be unrealistic not to expect at least as many problems as are presently being experienced.

8Ibid.
SOURCES CONSULTED

BOOKS


JOURNALS


PUBLIC DOCUMENTS


Great Falls City-County Planning Board. *Master Land Use Plan*. Great Falls: 1969. (Mimeographed)

Great Falls, MT. *Ordinance No. 1848*. An ordinance amending Title 4, Chapter 9, of the Official Codes of the City of Great Falls, Montana. As the same pertains to Planned Unit Development. (1975).


PERIODICALS


INTERVIEWS


Walters, William. Great Falls City-County Planning Board, Great Falls, Montana. Interview, February 1976.