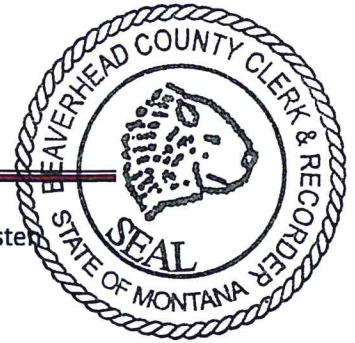


Beaverhead County Planning Board Regular Meeting
Commissioners Meeting Room
April 30th, 2020 at 1:00 pm



Planning Board Members Present: Ken Scalzone, Larry Yuhas, Vana Taylor, Barry Emge, Kristen Bailey, Justin Stanchfield, Larry Volkening, Kelly Rowe.

Planning Board Members Absent: Richard Lawson

Others Present: Rob Macioroski- Planner, Sadie Caltrider- Administrative Assistant (via phone), Tracy Sawyer- GIS Coordinator, Travis Wilson- Surveyor, and Tom Wagenknecht- Sanitarian, Michael McGinely- County Commissioner.

Opening: Chairman Larry Volkening opened the meeting at 1:00 pm.

Action on Previous Minutes:

A draft of the February meeting minutes was not available. Barry motioned to table the approval of February's minutes until the next meeting. Vana seconded the motion. A verbal vote was taken and the motion carried unanimously.

Area Reports:

Ken- No report.

Barry- Commented that there's no snow left at his house. Most of the run-off appears to be absorbing into the ground, the creek isn't up too high. Grasshopper Inn is under contract.

Kristen- No report.

Justin- Not much going on there. Two of the bars have sold, but they're obviously not up and running right now. A lot of people floating the river.

Vana- Commented on the current local real estate market and the difficulties that the pandemic has had on that industry.

Larry V.- Not much going on. Been working on the bike camp.

Planner's Update:

Emberstone II has taken a while to get to the board because of Coronavirus. Mrs. Leonardson was concerned because of the effect on their finances to get this through. That's why we're meeting today instead of waiting until the regularly scheduled May meeting. Rob noted he has had a few floodplain permits issued this year. Southern Montana Telco has quite a project from Wisdom to Jackson installing fiber optic cable in that area; a lot of that work is in the floodplain so he has issued that permit. Another floodplain permit was issued for stream restoration for FWP in the Wisdom area. The maps in those areas aren't officially adopted, but we are using them. The new floodplain mapping has been delayed,



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Stacey Reynolds, Clerk and Recorder
By: Justin L. Sauerbrei

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the process of adopting the new maps, because of the public meetings that need to occur. People can view the maps at the DNRC website. The City of Dillon has quite a few changes that are interesting to view in regards to updated floodplain information. We'll be adopting maps for the Big Hole and the Beaverhead Rivers eventually; the public meetings will have to be rescheduled. Rob added the DB Minor subdivision to this agenda so we could maybe skip the May meeting. The Rhodes Minor sub was going to recording today.

Kelly joined the meeting.

Emberstone II Subsequent Minor Subdivision

Rob read aloud the findings of fact and the planner's report prepared for this subdivision.

Motion for standard conditions:

MOTION: Justin motioned to approve standard conditions, Barry second. Motioned carried unanimously.

Site specific conditions discussion:

Barry stated it was good to speak with the owner on the visit they were able to discuss with her the purpose of the subdivision since some of it can't be accessed or used for a home site. Kelly stated we have to look at the fact that three lots are being created, regardless of what the owner says their intention is, we need to acknowledge that lot 3 is not suitable for a home site. We must consider and protect future owners of these lots.

Barry asked how you can build a road to spec with that terrain to all three lots.

Larry V. noted that on lot 2, it's pretty obvious that it could be developed and have access. The issue is lot 3 with no realistic access. How could we lay out a design to potentially make it accessible?

Kristen mentioned that the owner said they're in the process of building a jeep trail type road to lot 3 for utility access.

Vana asked if the board could restrict lot 3 to no family dwellings.

Travis stated that the board can't make that restriction, but that the owner could, and the board could ask them to.

Larry V. noted that the owner said they would be agreeable to changes.

Vana stated the restriction should go with the land to protect future owners.

Rob noted lot 3 will never meet driveway standards.



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Kelly asked if they must build the driveway to lot 3 to spec before final plat approval. He noted he had spoken to Travis previously and said they'd need to do that, or he wouldn't feel comfortable recommending this for approval. He and Travis spoke about an easement for that road in the future. He hadn't thought about needing it to be built before approval. Is there a way to take in Lot 2 and bring the driveway to lot 3 around that?

Travis said the question is, do they have legal or physical access, which the answer is yes, right off of 10 mile road. You could park on the right of way and walk up, technically.

Kelly asked how can the board protect the person that buys lot 3 in the future.

Larry V. stated if we go to driveway standards, which is probably too difficult. Is it possible to put restricted access easement that says it's an access road or utility road?

Kelly stated that a fire truck couldn't get up there, so there's no way it could be approved by the fire department. He noted that the board used to get a letter from each department, and we're no longer doing that. So DVFD has not seen this. Larry V. asked is it required that the entities all see it? Rob stated no. Kelly stated the board used to do it for all of them, minor and major subdivisions, from fire, ems, and law enforcement. Larry V. stated we should probably do that for liability.

Barry noted the bank is requiring this but there's no way to develop lot 3. We need to be able to shield ourselves from the liability since this can't meet the standards.

Kelly stated he and Travis spoke about it. Kelly doesn't believe that Travis' thought about 10 mile road access is correct. You'd need almost an easement from the county. He noted that it's not really our problem whatever the owner's financial situation is. The board wants to help the landowners, but they must protect future owners as is the responsibility of the board. If they can do both that's great.

Larry stated the owner mentioned they were in the process of putting an access to lot three. They plan on building a structure up there for their internet facilities. If they keep this land great, but if not it's a problem.

Ken asked if the board can say that the road must be built to specifications if they ever sell it?

Kelly stated the board has tried doing that before with a bridge in a subdivision. They required bonding for that. But the issue was between the time of bonding and project the cost of the bridge went up astronomically. Maybe there's some legal jargon that can cover this?

Rob suggested wording it maybe "utility road and not a residential access"?

Larry V. asked does the board have that authority.

Justin asked is it possible to put on lot 3 "is not suitable for residential construction"?



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Mike asked why are the owners doing three lots instead of two? The bank is requiring a second lot, but why are they doing three? He noted, don't send a subdivision to the commission without access to a lot.

Kelly stated that in 10 years, when this board is all gone, the next board is going to have to deal with this. The owners will never put it back into 2 lots in the future. The taxes are cheaper on 20 acre lots anyway. Someday someone will want to put an approach to lot 3 and the planning board and commissioners will have to deal with it.

Larry V. stated that when this was presented to us, lot 3 was going to be valuable as an area for cell towers. But there's no value without access.

Rob stated the board should put something on the plat itself for future buyers to see. Something like, "Utility use only, not intended for residential access."

Kelly to Travis, does this satisfy the owner's needs?

Travis stated there are driveway standards in the subdivision standards. So, the driveway cannot be built to standards where the easement is.

Kelly asked will the utility easement be where he put the easement on the plat? Travis stated pretty close.

Barry asked if the owners are looking at doing lot 3 as a utility lot for an internet tower? They're only looking at their residence on lot 1 and maybe another residence on lot 2. So, getting rid of lot 3 as Mike proposed, wouldn't work? Travis said the owners want to separate the towers from the residences.

Travis stated that he and the owners could've done a utility easement and skipped subdivision review. They could back up and do that, but it's cleaner to go through subdivision.

Kelly said if there's a way to label lot 3 for utilities only as a deed restriction, let's do it.

Travis noted the board can't make the owners but can ask.

Kelly stated the commissioners could say no. The owners will need to do something if they want it to pass.

Barry stated no one will ever build on lot 3. Kelly stated they will. With enough money, someone will. Vana concurred with Kelly.

Larry V. asked should the board approve contingent upon some type of legal restriction to prevent building on lot 3?



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Kelly stated yes. If the owners are doing what they say they're doing, it shouldn't matter to them. They get all three lots that they need for financing, and we don't have to worry about someone building on lot 3 down the road. And, the owners will never have to worry about building a road to standards.

MOTION: Kelly motioned that we approve subdivision contingent upon listing lot 3 as utility only lot on the plat. Kristen seconded the motion. No further discussion. A verbal vote was taken and the motion carried unanimously.

Site specific 7-9

Kelly stated that site specific condition #8 the regulations don't require to pave the approach on driveways. Rob stated Scott Jones told him to add that, when intersecting a paved county road.

MOTION: Justin moved to approve site specific conditions 7, 8, and 9, Ken seconded. No further discussion. A verbal vote was taken and the motion carried unanimously.

MOTION: Kristen motioned to send Emberstone II Minor Subdivision to the commissioners for preliminary approval including the addition of site specific #10, utility only on lot three. Ken seconded the motion.

Discussion:

Kelly asked what happens if this for legal reasons doesn't work and there's not a way to make lot 3 a utility only lot?

Rob stated the owners have to start over.

VOTE: A verbal vote was taken, and the motion carried unanimously.

DB Minor Subdivision

Rob read aloud the findings of fact and planner's report for this subdivision.

Larry V asked what the board thought of the variance request? Rob stated that the lot is fairly close to meeting the standard anyway.

MOTION: Barry motioned to approve variance the variance request, Ken seconded.



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Discussion:

Kelly asked aren't there already two houses on each lot? What happens with sanitation?

Rob deferred to Tom. Tom said the owners must go through DEQ approval again.

VOTE: A verbal vote was taken, and the motion carried unanimously.

Discussion on standard conditions 1-6.

MOTION: Ken motioned to accept the standard conditions; Barry seconded. No further discussion. A verbal vote was taken, and the motion carried unanimously.

Discussion on the site-specific conditions

Barry asked, regarding the split up of these lots, how this work in conjunction with DEQ rules regarding two acres needed for a septic/water. Travis stated that it's not a 2-acre requirement. If you can get sanitation to fit on a lot to meet DEQ standards, there's not an acreage minimum. Tom advised that the whole system, including mixing zones, must fit within the property boundaries.

Kelly stated there's a dust problem with having the penned animals. The adjacent landowners have no recourse for the nuisance. The board can give the neighbors a legal stance by suggesting different things in our conditions. The owners already have an existing arena and animals there. But if the board adds something about dust or smell as it relates to human health and safety that gives the neighbors a fall back for complaints. The predominate wind pushes it to the neighbors. The board has seen this happen before. His recommendation is that they must water and contain their dust.

MOTION: Kelly motioned that condition number 8 must be amended to adding a water system to address dust.

Discussion:

Barry asked about the right-to-farm ordinance on the plats.

Kelly stated this isn't farming. This is roping. The commissioners could toss it, but the board should be showing good faith in trying to help. Roping isn't farming.

Larry V. noted that Kelly is on a path that we're probably headed on as we set new subdivision regulations.



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Ken asked if the safe stocking rate applies to pens. Kelly stated that it only applies to say 20x20 pens are needed.

Kelly acknowledged that the only way to cure this is zoning, which is something the board doesn't want to do. There is a right to farm, but less than 20 acres isn't farming. It's to help the neighbors of subdivisions that do have large acre farms. Using it on under 20 acres is a misrepresentation of the spirit of the law. Maybe the owners are already dealing with the dust. But the board approved one last year that has dusty pens that aren't clean, and the neighboring subdivision has no remediation.

SECOND: Ken seconded Kelly's motion.

Barry stated this could be a slippery slope on regulation.

Kelly agrees that people should be able to do what they want with their property, but it's important to be neighborly.

Justin agrees with Barry.

VOTE: A verbal vote was taken, and the motion carried unanimously.

Larry V. would like to propose a #9 condition. There are a lot of easements that were not listed on the plat: gas, driveway, sanitation, etc. those should be added to the final plat.

Travis stated that when the property is purchased, it will be on the deeds, with the details, adding #9 would be unnecessary.

MOTION: Larry Y. motioned to approve site specific conditions 7-8, Kristen seconded. No further discussion. A verbal vote was taken, and the motion carried unanimously.

MOTION: Barry motioned to send this to the commissioners with the amendment made to site specific condition #8. Ken seconded. No further discussion. A verbal vote was taken, and the motion carried unanimously.

Other Business:

Rob noted that the board was supposed to have Jerry Grebenc last month. He'll have to reschedule that, as well as the presentation by McIsaac's. He'll look at doing it maybe next month. At this point we don't have anything submitted for review in May.

Rob also noted that Tom and Tracy having been working on the permit for construction. They have a form drafted. Rob will send it out for review.



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Vana noted that she would like to have a May meeting to review the construction permit. Larry V. stated that would be good to review that prior to meeting with Jerry Grebenc.

Rob noted that the next meeting will be on the 21st at 1:00 PM.

Adjourn

With no further business on the agenda the following motion was made:

MOTION: Barry motioned to adjourn the meeting, Vana seconded. A verbal vote was taken, and the motion carried unanimously. The meeting was adjourned at 2:45PM.

Submitted:



Secretary

Approved By:



Chairman

Dated

