

Beaverhead County Planning Board Regular Meeting
Commissioners Meeting Room
May 21st, 2020 at 1:00 pm

Attendance:

Planning Board Members Present: Ken Scalzone, Barry Emge, Kristen Bailey, Larry Volkening, Kelly Rowe, & Richard Lawson.

Planning Board Members Absent: Vana Taylor, Justin Stanchfield, & Larry Yuhas

Others Present: Rob Macioroski- Planner, Sadie Caltrider- Administrative Assistant (via phone), Wagenknecht- Sanitarian, Tracy Sawyer- GIS Coordinator, Jerry Grebenc- Great West Engineering, and Jessica Murray- County Extension Agent.

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

Action on Previous Minutes:

February Minutes:

MOTION: Ken motioned, and Kristen seconded to approve the minutes from the February meeting. A verbal vote was taken, and the motion carried unanimously.

April Minutes:

MOTION: Kelly motioned, and Kristen seconded to approve the minutes from the April meeting. A verbal vote was taken, and the motion carried unanimously.

Update on Old Business:

Commissioner meeting last Monday regarding the Emberstone II sub, reported the planning board findings. The discussion regarding lot 3, the owners were in the meeting. The owners agreed to not allow any residential const. on lot 3. "No structures requiring water or sewer on lot 3" on the plat.

Larry V, why was that the decision? Rob, the access was the biggest issue. Jed didn't think the utility road restriction would be very enforceable. The owners want to put a small building up there for the internet business, but it wouldn't require water and sewer.

Kristen, what happens if these people sell? Rob, the deed restriction goes with the property and would require county approval to remove. This is the best we can do without any zoning. Lot 3 is accessible from the back side of the property via jeep trail.

Area Reports:

Barry: Not much going on. The Byway opened this week, not much snow left where he lives.

Ken: No rain, only about 1/10th of an inch. Not much else.



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Stacey Reynolds, Clerk and Recorder

By: Stacey L. Sauerbrier

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Rich: Tearing the motel down in Wisdom. Looks like they're putting a mechanic shop in there. There's a lot of water, a lot of rain and some snow.

Kristen: Not a lot going on. Not much moisture.

Kelly: Working across the county. There was snow on Badger Pass this morning. It was wet in Horse Prairie yesterday. Has been wondering what's going on out on Webster Lane, there's a marijuana store out there now, but no signage. Thought people should be notified what is being sold out there. Kristen said there's one near Dell now, too.

Larry V. Still working on the bike camp, making progress. Gave away six bikes this week and brought three more in. Have had a few cyclists at the camp for the season so far.

Planner's Report

Rob introduced Jessica Murray, thanked her for setting up the remote meeting. There are two or three subdivisions being worked on, we'll probably have one for the June meeting. The property across the canal from the PUD is having a lot of interest. It's 360 acres, and someone is looking at 2 acre lots for development. There's another party interested in putting 20 acre lots out there. Rob received a letter from the BOR regarding bridge specs if something went in there. There's a prospective subdivision out on Nissen Lane as well.

The Floodplain maps are moving forward. Rob has a meeting on June 5th about how to move forward with public meetings. We're looking at adopting maps for Big Hole and Beaverhead at the same time, probably late next year or early next year. The changes will be substantial. Kelly asked what the turnaround time for a floodplain permit is, Rob said 15 days with public notice times.

Larry V. said Jamie Hollifield told him that he's super busy with inspections.

Rob noted the 4th house in Silverwood is going up. Lots are selling so fast Donnie said their three-year plan is now a year and a half plan. Tom said he was out there the other day explaining the layout to someone and explained that it's difficult to fit everything on the small lots. He hasn't received a septic app on the one being built currently, so we don't know if it's even in the correct spot.

Jerry Grebenc, Great West Engineering

Jerry came to discuss the proposed "permit to build" and how those processes are beneficial to everyone in the community:

- Make sure houses are built according to the sanitation layouts
- Make sure roads are built to appropriate standards



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- Make sure addresses are assigned for emergency services

Jerry stated that Choteau County has zoning, but it's not the type of zoning that everyone generally thinks of. It was adopted through the codes that legalize zoning. They adopted this zoning in the late 1990s when they were worried that the BLM would impose restrictions on property near the breaks. What was developed was a process where people had to come into the county to apply for review. At that time, it wasn't administered the way it was intended. A year ago, it was updated for simplification. If you want to build a house you have to apply, work with the sanitarian, the addressing coordinator, and if you have an approach to a county road you must work with the road department. Commercial and business must go through the commissioners there, here they only go through the state for minimal approvals for electric and building codes. Jerry noted that county doesn't address building codes, it's more like subdivision review, but for individual units not subdivision.

Kelly, we already have all these permits Jerry is talking about, just enforce them. Tom, people aren't doing that, how do we enforce it? Kelly, make them dig it up.

LarryV, how does Choteau deal with this?

Tom, we can deal with it through the legal system if something isn't permitted for sanitation.

Kelly, with Silverwood, did they stake everything like they're supposed to?

Tom, the wells are in, and Travis staked the corners of the primary drain field, but not the replacement. We just don't have a way to catch it.

Kelly doesn't see how this piece of paper will change anything.

Tom, we want them in BEFORE they ever dig anything.

Jerry, what they've done is contact the surveyors, installers, developers in the county and insist that they get the permit. The really pushed education of those people. It really needs to be a system, but explain to people this isn't big brother, this is getting them emergency services and making sure their sanitation systems work for 20 years like they're supposed to. In Choteau it's always been to explain to people that they're safeguarding their investment in their property.

Larry V.: How do we have a process that Tom talks about that requires people to come in?

Jerry: Relators, builders, surveyors, etc., all must be pulled into the loop to help the administration process.

Kelly: There's something missing in the order of how this is done which is why we're having these problems and Tom is spending time cleaning up messes.



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Tom, the biggest issue we're seeing is building a second residence on a lot that is a single family only lot. Do we want to ignore this so that eventually everyone is putting an Air BnB in their yard? He's fought people on this, and people are mad. These are trickle down effects that cause a lot of tax dollars to be missed.

Ken: Are there penalties for violating these? Tom, just if people violate wastewater treatment rules.

Rob, you can see buildings on cadastral that are multiple years old but aren't being assessed for buildings on their taxes. He would like people to come in and follow the procedures and are aware of what needs done before and during their building process.

Larry V. How do we catch the people that are intentionally dodging these rules?

Barry, we should start with the realtors to push this information out.

Tom, the realtors are actually pretty good about it. But some people just start building, and get their septic permit later, and then we show up on site and find out they put things in the wrong spot.

Kristen, do people know before they start building that they need these permits?

Tom, if you don't know, why wouldn't you ask? This is common experience across the country.

Kelly, the builders should be getting the permits. They're not going to see this permit to build if they aren't even seeing the septic permit now.

Larry V. asked Rob how he would see this working.

Rob, Butte Silverbow has had building permits in place for many years, people are just aware that is a requirement and follow the rules now.

Ken, are there any requirements for contractors for continuing education? Tom, you pay a fee for a workman's comp exemption and then you can be a contractor. Beaverhead County does require all excavators to have a license every year, but we don't administer a test.

Kelly, we've taken the step to have the engineers place the sanitation in subdivisions. Tom stated that's great, but we still have the issue of COSs especially higher than 20 acres that don't have a lot layout because they only need local approval.

The conversation continued back and forth about how to address the problem of getting people to follow the permit process.

Jerry, everyone's comments are valid. From his perspective, we should start with education. If that doesn't work, we should step up to consider zoning. The Choteau County commissioners hate calling it zoning, but to adopt the development permit to comply with statute and give it teeth, it must be



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adopted through zoning code statutes. The subdivision and zoning act are pseudo zoning. Because Montana doesn't have zoning in most places, the act is written so that some aspects of zoning can be accomplished without being "zoning." If you can make a nexus between aspects of the planning act and what you're asking the developer to do, it will usually stand up in a court of law.

Larry asked Jerry how do we address some of these things in a county-wide growth plan without calling it zoning?

Jerry, the board needs to be upfront that they want a simple process, but it legally must be adopted through zoning statutes. In the growth policy it can be addressed that the county wants to look at this permit process and that may require implementation of rules through zoning statutes.

Larry asked how do we accomplish this while keeping the commissioners on board? Jerry stated that the growth policy is really the basis of a conversation. The board also needs the buy-in of the community via public discussions during the rewriting of the growth policy. Things don't have to be in great scientific detail or planned out, but in the growth policy it should be noted concerns that are existing and that the county MAY explore ways to address these issues.

Jerry, this is a good segue to discussing how to accomplish a new growth policy.

Jerry stated that the board could accomplish this without paying for a consultant. The board members know the community, what's needed, the board can come up with a list of realistic goals and tie it to an action plan in the form of a list of projects. The hard part is tying the goals to projects, and the hardest part is getting the public input needed which will be even more difficult during COVID-19. Jerry has sent many of the recently completed growth policies to Rob for the board to use as a template. The board doesn't need to reinvent the wheel.

Larry V. the implementation is the concern. Jerry said he can layout a step-by-step process for the board. The hardest part will be community input because of the size of the county and the difficulty in getting people to come to public meetings. We should consider county-wide surveys. Jerry said, if he lays out a step-by-step plan then the board can assess what is feasible to do locally and which parts need to be hired out.

Kristen, we needed to start on this years ago. We need to get going on this.

Larry V., we should split up the statutory requirements for the growth policy, from what is optional. That would make this more manageable.

Tom asked if we can do the public meetings on smaller portions or does it need to be the whole the document at once? Jerry, yes it can be done in smaller portions.

Kelly, when is our deadline? Rob, 2023.



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Jerry, Powder River did most of their outreach through online surveys and they had over 100 responses. This was a better turn out than public meetings. Paper copies in public places with drop boxes also see better response rates.

Rich, this is a good way to start with places like the Big Hole, but there's a lot of people up there with the mentality that they don't want these kinds of rules. They don't realize that following these rules is in their best financial interest. This could help bring awareness to them.

Jerry can send examples of the survey monkey surveys that were used by other counties.

Larry, should we be dovetailing this effort with the commissioners? Jerry, yes, the board should be sitting down with the commissioners and getting their input ideally before going to the public to avoid going down paths with dead ends. If this update isn't realistic, don't do it. It should be 75% achievable.

Jerry concluded his presentation and left the meeting.

Larry to the board, would they like to set up a meeting with the commissioners to discuss the growth policy? Kelly, how frequently are these meetings going to be? Larry would like to have one meeting, and then do our own thing getting things together for six months before we need to go back to them. The board agreed that sometime in June would work.

Rob stated that next Thursday is the deadline for someone to submit a subdivision for the June meeting.

Other Business:

Kelly stated he wanted to go back to the Emberstone II approval. His understanding was that the board voted that the plan only go forward to the commissioners if the utility only restriction on lot 3 was okay, that if it wasn't it should have come back to the planning board, not to the commissioners. Rob stated that it was already on the Commissioners' agenda, which is why Rob sent out the email for board member comments ahead of the meeting.

Barry stated that he didn't feel like the board needed to comment on it at all, the purpose was to fulfill financial requirements from the lender to create an area for the internet utility. The cost to make the road compliant would be astronomical.

Kelly, it's not on the board to make exceptions for individual financial situations, our duty is to protect the public. The way we approached it was right, but he understands Rob's stance on it being publicly noticed already. The issue is, lots are being created maybe not to the standards we want, and people are buying them without knowing what they're really getting.



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Old Shopko Building

Tom stated that any change of use, in this case department store to a convention center, must go through review with the state. He's putting in a commercial kitchen which it needs to be reviewed by the state fire marshal. The new owner hasn't done any of this. The sanitation facilities in that building cannot accommodate the 600 people that he's claiming he can have in there. The only way the owner can accomplish what he wants to do, is with a lot of modifications. This comes back to Tom via the health approval that is needed to have a commercial kitchen in that building. That approval goes hand in hand with state fire marshal approval for fire safety and facility size, sanitation facilities, etcetera.

Larry V., could the project be ceased? Tom stated they could if they build the kitchen and begin using it, but not until then because there's no rules against what he's doing until he opens.

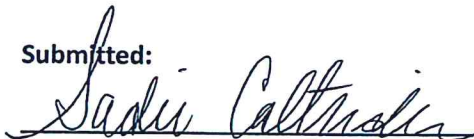
Tom this is a lot like what happened with the medical marijuana facilities downtown. Those were changes of use, but the City of Dillon told him that there's no building permits here and they didn't direct him to the state for the change of use ordinances.

Adjourn

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

MOTION: Ken motioned to adjourn; Barry seconded the motion. A verbal vote was taken, and the motion carried unanimously. The meeting was adjourned at 3:10 PM.

Submitted:



Secretary

Approved By:

 8/13/2020

Chairman

Dated



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