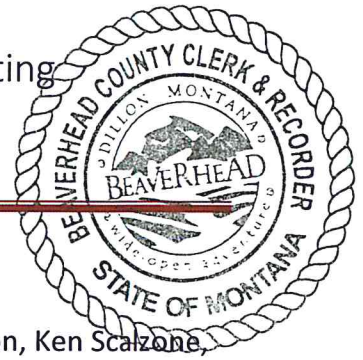


Beaverhead County Planning Board Regular Meeting  
Commissioners' Room, County Courthouse  
June 10, 2021 at 1:00 pm



At 1:00 p.m. the Regular Planning Board Meeting commenced.

**Planning Board Members Present:** Larry Volkening, Kristen Bailey, Rich Lawson, Ken Scalzone, Justin Yoder, Larry Yuhas, Vicki Brastrup, Vana Taylor, Kelly Rowe

**Planning Board Members Absent:** Justin Stanchfield

**Others Present:** Rob Macioroski, Casey Elliott, Travis Wilson, BJ Klose, Kathy Simkins, Mark Simkins, Todd Hazelbaker, Travis Wilson, Mike Klakken, Tom Wagenknecht, JP Plutt, Jean Bergueson, Jacy Suenram, Rochelle Hoerning

**Opening:** Chairman Larry Volkening opened the meeting at 1:02pm

**Action on Previous Minutes:**

**MOTION:** Ken moved to approve the minutes from the May 13, 2021 Planning Board Meeting as submitted. Kristen seconded the motion. A verbal vote was taken and the motion carried unanimously.

**Planning Board Member Reports:**

Larry Yuhas reported that the rain has really helped, a little construction happening, Area near Barrett Minerals looks like an industrial park being developed.

Ken did not have anything to report.

Rich reported that properties continue to sell in his area. Road construction is still happening in the area; probably will continue all summer with road closures.

Kristen reported that the Lima Dam will be out of water before the end of June. Dell café is open five days a week (The School House Café), she has heard a lot of good things about the café. Lima swimming pool fundraiser is coming up.

Vana reported that there are 14 active residential listings in Beaverhead County right now, 64 sold listings in the last 6 months. There are 45 parcels of land, only about 5 of those are under \$65,000 and they are bare land. There are 9 farm and ranches for sale in Beaverhead County. There are 19 properties under contract, 6 under contract with contingency. For Commercial properties there are 6 active in Beaverhead County. People are still looking to purchase property in that \$250,000- \$350,000 range, but prices continue to rise even higher. There have been about 4 or 5 rental properties that are going up for sell because the price to sell is really good right now. This is affecting the population that needs to rent, renters are calling daily to

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try and find a rental. The school has hired some new teachers this year and they are frustrated because they can't afford or find a place to live here. The low-income housing next to Safeway is still being built.

Justin Y reported that they were grateful for the snow they got in the Polaris area. Some new development is happening, Grasshopper Inn business is doing well.

Larry V reported that the bicycle camp is doing really well, there is a race currently happening so some bicyclist will be coming through town.

**Planner's Report:**

Rob reported that the floodplain mapping has now entered a 90-day appeal period for those that are concerned about their properties in the floodplain. The appeal period will run until approximately October 2, 2021. Once the appeal period ends it will go back to FEMA, possibly by next year the new floodplain maps will be adopted. Rob hasn't received a whole lot of appeals, there is a form on the County website that can be filled out if someone wanted to start an appeal. Rob was advised by the DNRC that the earlier things are turned in the better it is for the property owner, in the event that there are questions. Rob stated that once there is an appeal done, there will be a hearing. There is a new cell tower going in near Dell, not sure what outfit will own it.

Next month the Planning Board Meeting is going to be moved to a Wednesday, July 14, 2021 at 9:00am due to Tara Depuy coming for training purposes and to answer legislative questions. Once Tara is finished, we will hold our regular Planning Board meeting to discuss agenda items. Jerry Grebenc emailed this week asking where we are in the Growth Policy planning. Rob suggested to the group that we have a smaller committee put together to meet on a regular basis to get things moving forward.

**Public Comments & Questions:**

Larry Y asked Rob what it means if someone is in the floodplain. Rob stated that the home owners would need to get flood insurance. If you are in the floodway though, you cannot get insured. Tom stated that no waste water treatment system is allowed within the 100-year floodplain, however you can still be permitted to build with restrictions and still need insurance. Rob stated that when questions come in about floodplains, he immediately forwards them to the DNRC for review.

**Plutt Family Minor Subdivision Discussion & Action on the Preliminary Plat:**



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Rob read out loud the Findings of fact report for the Plutt Family Minor Subdivision to the group. Rob noticed a correction that will need to be made in the findings of fact report. The correction will be made under the Staff Recommendations, Nissen Lane Minor will be changed to Plutt Family Minor Sub.

Vana asked if there will be a new plat that shows the road entrances, for safety issues. Rob stated that they will be added to the finalized plat. He can provide copies of those changes once it's done. Ken asked about the entrance to lot 3, there currently is not an access to that lot at this time. The developer will have to put in the entrance. Vicki asked the group about emergency vehicle access to the lots. Larry V stated that the County has standards on how the driveway will be placed onto Overland road. The State also has standards if they were to place the driveway near the State Highway. The standards will ensue that the emergency vehicles have access.

**Public Comments & Questions:**

Mayor Klakken introduced himself and stated that he is here to represent the City of Dillon. Mr. Klakken stated that the Plutt Family Minor Subdivision is off Hwy 41 near the walking path. The City owns an 8-inch water line and sewer line near this location. He suggested that by DEQ requirements, administrative rules this subdivision should be connected and annexed into the City. Mr. Klakken stated that he thinks this Subdivision meeting should be held in front of the City Board, the subdivision is within 500 feet, 30 feet or 40 feet away from the boundary of the property.

Rob stated that he thinks it will be up to the DEQ to make that determination. Tom stated that once it goes through the review with DEQ that will be addressed. Mr. Klakken asked Tom to have the City of Dillon in the request. Tom stated that he will include it in his comments when he sends his letter into the DEQ for the Subdivision application.

Vicki stated that she noticed how the Subdivision will allow large animals. She asked how many animals will be allowed per lot? Larry V stated that they will go by the safe stocking rate. Vicki asked the group if each lot will have their own well. Per Travis, yes, each lot will have their own well. Vicki asked if each lot will also have their own barn yard, and what the lot size requirements are in order to have a barn yard. Travis stated that he doesn't think there is any stipulations on barn yards, but there is a stipulation on pen size. Larry V stated that those stipulations are in the safe stocking rate and grazing plan. Larry V stated that the size of animal will determine the amount of time it is allowed on the land, for grazing. However, if the animal is confined to a pen there is not any stipulations unless there are covenants. Vicki stated that



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she is concerned about the pens being near the well, and the effect it would have on the drinking water. Tom stated that the Beaverhead County Subdivision Regulations try to mitigate that with the safe stocking rate. However, it's the property owner's responsibility. Tom stated that there is a well isolation zone that is a 100-foot radius around any well, that's where you get the setbacks for septic. Tom stated that for best practice that radius should also go for pens, but it's only a recommendation to the property owner.

Mr. Klakken asked if a hydrologist study has been completed. If there will be a requirement for the depth of wells compared to the septic systems that are being installed. Tom stated that septic systems have a local review process and will need to meet the DEQ requirements.

**MOTION:** Larry Yuhas moved that the Plutt Family Minor Subdivision Preliminary Plat is approved by the County Planning Board. Rich Seconded the motion. A verbal vote was taken and the motion carried unanimously.

**Peters Conservation Easement:**

The group reviewed the Peters Conservation Easement, the surrounding areas of the easement appear to be: BLM, The State, Forest service, private land.

**MOTION:** Ken moved that the Peters Conservation Easement is approved by the County Planning Board as submitted. Kristen Seconded the motion. A verbal vote was taken and the motion carried unanimously.

**Public Comments & Questions:**

**Conservation Easement Discussion/ Q&A**

Jim Berkey, Nature Conservancy-High Divide Headwaters Director, presented information about Conservation Easements. Jim introduced Jeff Johnson, a land owner that will also be able to help answer questions that the group might have.

Jim stated that a Conservation Easement is a voluntary agreement between a land owner and an entity that is able to hold Conservation Easements, such as the Nature Conservancy. There are agencies that hold conservation easements like the FWP or NRCS. Each group has their own mission, the FWP really focuses on winter range and wildlife habitat, etc. Whereas NRCS might focus more on things like to protect wet land, agriculture land, etc. As a land owner you might have a limited bundle of rights, you can grant some of those via conservation easement to a third party like the Nature Conservancy or other similar organizations. Easements can be for a





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term (like 10-30 years) or they can be perpetual. Most of the groups that Jim mentioned are mostly all perpetual, and have a value attributed to that easement. The values are always different depending on if it is a term vs perpetual; perpetual agreements are always a lot more significant. Rob asked if perpetual easements could ever be removed. Jim stated that easements could be nullified through a court of law, not due to a change of mind, but because the purpose of the easement can no longer be achieved or there is eminent domain.

Amendments to conservation easements are not easy, but can be done, if necessary. An easement can only be sold once. Kelly asked, if you purchased a piece of land with an easement on it would you have the option to buy the land back? Per Jim, it's not a tangible item like that, its pretty much a one-way grant, unless the conservation easement is extinguished.

Vana asked, why we are seeing more conservation easements in Beaverhead County? Jeff stated that most of the people in the County wanting an easement are part of the agriculture population, and need to keep their cattle fed. They look at the easement as a way to get land value, without changing the dynamics of how things are running. Kelly asked Jeff if the money that comes from the Conservation Easements are capital gains tax. Per Jeff, yes. Jim stated that the income tax laws were changed in 2015 to greatly enhance the benefits of a non-agriculture land owner to take advantage of the value of the easement. So, for example, if you're gifting the easement for 15 years at a rate of 50% of your adjusted gross income, and your adjusted gross income is \$100,000, then you can take \$50,000 of the value of your easement and just write off the top to your report to the IRS; saying you make \$50,000 less for 15 years. For an agriculture producer they can take 100% of the value of the easement for 16 years.

Kelly stated that the County does not have any say really about what is done with easements, the State decides and makes the final approval. Kelly stated that more of these easements are coming closer to the City of Dillon and that's limiting the growth in the City, land locking development for more infrastructure. Kelly asked Jim what should be done to avoid this? Jim made the recommendation to start conversations earlier about potential easements that are close to the community's growth, there is a 90-day review period that can be utilized in order to discuss those types of concerns. State law requires conservancy organizations to give 90 days for review. Jim stated that if there is an easement that is seriously jeopardizing the community's growth infrastructure then it should be discussed amongst the County Planning Board in order to make recommendations and comments during the allotted review period. Kelly asked if zoning the County for agriculture would make a difference on easement approval. Jim stated that he doesn't think zoning would really make a difference because easements can be done not only in agriculture areas, but also in urban areas.



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Vana asked if it's a positive or negative to have a resale of a property with a conservation easement on it. Jim stated that many factors play a part in that, but it really just boils down to the appraisals that are done on the property. Kristen stated that she thinks easements really help the County as far as road maintenance, EMS services, etc., especially in those rural areas. Larry V asked if easements ever change hands. Per Jim, yes, by State and Federal law they have to be assignable because there is not a guarantee that any organization will be around forever. They would be passed to the next organization that is going to manage it, same goes for the land owner(s). Larry V asked if easement organizations can trade easements in order to get bigger easements. Per Jim, he has never heard of that happening. Each easement is unique in its own way, some are case by case situations.

**Discussion on County Growth Policy:**

Larry V stated that we need to put together a sub-committee in order to prepare a framework for Jerry G. Rob suggested that the sub-committee could meet every two weeks. Rob, Larry V, Larry Y, Kelly and Kristen stated that they would join the sub-committee. Larry V asked what day and time would work best for everyone. It was agreed amongst the group that meetings would be held on either Mondays or Fridays.

**Public Comments & Questions of Non-Agenda Items:**

Rob stated that the DEQ approval was received in the mail to start the Nissen Lane Subdivision development. Rob stated that a letter was sent to the West Field Subdivision property owners in regard to the road. Kristen asked if the commissioners approved the Badger Hill Subdivision. Per Rob, yes, the preliminary was approved.

The next meeting will be held on Wednesday, July 14, 2021 at 9:00am.

**ADJOURN:**

With no further business to discuss, Ken moved, and Justin Y seconded the motion to adjourn the meeting. The meeting adjourned at 3:06pm.

**Submitted:**

  
Secretary, Rochelle Hoerning

**Approved By:**

  
Chairman, Larry Volkening



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