

MINUTES

Regular Meeting

Powell County Planning Board

Thursday, February 10, 2011

Deer Lodge Community Center

- **Call to order at 1 p.m.**
- **Attendance**
Members Present: John Beck, Marlin Gilman, Rick Hirsch, John T. Manley, Randy Mannix, Bill Pierce, and Bruce Thomas.
Excused: John Hollenback, and Sharon Jacobsen.
Staff: Brian Bender, Peggy Kerr, and Lewis Smith.
Also Present: Bernhard Schillo, Sharon Schillo, Jennifer Willis, Edward Willis, Pat Hansen.
- **Approval of the Agenda**
Bender explained the new design of the agenda. A board member asked if anyone is allowed to bring anything up that is not on the agenda. A. Yes, although any action item would have to be noticed 48 hours in advance. Planning staff will modify the agenda by adding planning board member updates.
Manley is leaving the meeting at 2:30 p.m.
Thomas made the motion that the Board seconded to approve the agenda with no additions, through a unanimous vote.
- **Approval of the January 13 minutes**
The usual planning board hearing minutes that were separate from the regular minutes have been absorbed into the regular minutes. All minutes are draft until approved. If there are any changes, they will be updated into the document, which will then be mailed to the president for his signature.
Beck made the motion that the Board seconded to approve the minutes as read, through a unanimous vote.
- **Election of Officers**
Bruce Thomas made the motion that the Board seconded to retain John (Tracy) Manley as president of the Powell County Planning Board, through a unanimous vote.
Randy Mannix made the motion that the Board seconded to retain Marlin Gilman as vice president of the Powell County Planning Board, through a unanimous vote.
- **Continued or Tabled Business -- None**
- **Public Hearings**
The Chapel at Riverfront Park, a Subsequent Minor Subdivision --
The presiding officer, Tracy Manley, opened the hearing at 1:30 p.m. and announced the purpose and subject of the hearing as follows: "We are here to hold a public hearing to consider the Preliminary Plat application of the Chapel at Riverfront Park Subsequent Subdivision. "The purpose of this hearing is to receive public comment on the proposal." Manley stated that proper notice of this hearing has been provided. "The hearing notice was published in the Silver State Post on January 26 and February 3, 2011."

The Board members were asked if they wished to declare a conflict of interest in this matter. There being none, all board members participated in the hearing.

The Planning Department presented its report (see attached staff report).

The Board took the opportunity to ask questions to clarify the location and nature of the proposal.

Beck – Where is church's location? A. It is to the southwest of the RV Park.

Schillo – When the chapel was built we obtained permission to do a pump-up system. The septic drains to the northwest of the RV Park.

Pierce – Questioned planning board's authority. Why is this application not meeting the 5-acre minimum lot size that it is zoned for? A. The tract is not being created for residential use; it is being created for an institutional use. Q. Why would you not do a variance? A. V-B-2.

Characteristics are non-residential. You could not attach a parsonage to the church. Q. Do you put a deed restriction on it? A. No. The zoning provisions would be addressed. There is no language associated with a deed to regulate land use. We need to modify the regulations to accommodate the definition of a church.

Pierce – We have a snag in DEQ approval. Questions whether you can use land outside of the created tract for septic.

Schillo – The RV park is licensed as a public water supply system, and you can pump water and sewage just the same as a city would operate. We are licensed, pay a license fee every year and test the water once a month.

Smith – Is an existing RV park system able to hook up to a new tract. A. This is existing use. The hookup was approved before this subdivision application.

Schillo - Has worked with Chad since he bought the RV park. One idea was to have a drainfield and septic system for the chapel. There was room for the well, but the drainfield is the sticking point. The groundwater table is high there. We would have to have a mound system of some type. We discussed that, but the best solution was to tie into the existing system because it has plenty of capacity. A mound system would be silly.

Bender – The scenario is that the state says no. You could opt for a larger tract of land.

Schillo – Let's see what DEQ comes back with.

Bender – At this point, there is not resolution between Chad Lanes and DEQ.

Gilman – Asked about floodplain issues.

Schillo – Basically, FEMA drew the floodplain around the RV park because it was existing. Legally, it is not.

Hirsch - It is arbitrary.

Bender – Yes, maps are arbitrary. They are a tool in the delineation process. If the board has concerns regarding the floodplain they can ask for further testing.

Schillo – After the 1981 flood with 4 feet of water, a dike built off the bridge of the highway to the railroad. On the other side the highway is the buffer. The railroad bed is 6 to 8 feet higher. This will either keep the water out or keep it in.

Hirsch – Use common sense.

Bender – The board should determine whether the ground would be dry but surrounding area would be flooded. It's not a residence. It has limited usage. It's a structure that may pose a hazard downstream.

Hirsch - Could you use a holding tank?

Schillo – We would use roughly 4,000 to 5,000 gallons, tops.

Hirsch - Road issue? A. Will be drawn on the plat, as well as utilities. The access road has been marked.

Bernie: I have a church building sitting on my property put in by money donated by people of the church, a 501(c)(3) nonprofit corporation. The church has its own board of directors and members. I did it on my property because it was handy. I don't feel comfortable having it on my property. I want it to go to the church.

Manley declared the public hearing open. He asked if there were any petitions or data for the Board to consider. None were presented. Manley next asked for statements from the public. "Please state your name before making your statement." No comments.

Manley declared the public hearing closed and called for a motion and discussion by the Board. There was no discussion.

The Board took this action: Member Thomas made a motion and seconded by Member Hirsch for the Board to table the recommendation regarding The Chapel At Riverfront Park Preliminary Plat to the next scheduled Planning Board meeting pending a determination by the Department of Environmental Quality regarding the need for the lot to accommodate an onsite septic system. The Planning Board approved the motion through a unanimous vote.

▪ **Non-public hearing items**

Because of a right of way issue, the Fleck Minor Subdivision application has been postponed.

▪ **Staff Updates**

County Attorney - Smith discussed bills before the Legislature. The only subdivision-related bill (SB209 – Revise subdivision and platting act) has been tabled. UPDATE: In First House Committee—non-tabled. There are 12 to 15 bills related to medical marijuana.

HB 391. Local initiative out of Missoula to make marijuana laws a low priority in county attorney's office. Prohibit anything that is contrary to state law.

HB366. Revise county interim zoning law.

HB402. Revise zoning laws for sand and gravel pits.

HB426. Revise incorporation laws to coincide with annexation laws.

HB316 and 317. Sunset statutory appropriations. HB316 – Redistribute certain revenue and income to state general fund. HB317 – Sunset statutory appropriations over certain periods.

Medical marijuana bills 12 to 15 bills.

Also: Moving the Board of Crime Control from the Justice Department to the Department of Corrections.

Q. Is there a bill regarding requiring subdivision for lease or rent; for instance if a landowner would have a mother-in-law apartment in the back of his lot, he would have to go through subdivision.

Bison Bill: The commissioners prefer the one stating Fish, Wildlife & Parks cannot bring bison into a county without county commissioner permission.

Manley turned the meeting over to Vice President Gilman.

Planning Director – Regarding revising regulations, Bender plans to create a matrix including how much time is put into each application and how they are monitored.

Letter from Sandra Roe – See attached. In a phone conversation Bender said she had no concerns about the Kmon CUP but is concerned that the area might be getting too crowded. She also did not get the letter in time to attend the meeting. Have put on Web site that applications must be in two weeks before schedule meeting. Q. Why doesn't planning staff have a better time frame? A. It is duly noted that when we modify our regulations we will address that issue.

Q. Can you update the board on the Conservation Easement Working Group meeting? A. It was well attended by agencies. Just one landowner who was not from Powell County.

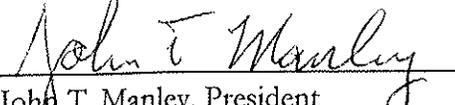
Assistant Planner – None

Other – None

▪ **Public Comments** – None

- **Next Regular Meeting – Thursday, March 17 at 1 p.m.** to accommodate Planning Staff attending the Montana's Floodplain Manager Conference March 8-10 in Lewiston.
- **Adjourn – Pierce made the motion that the Board seconded to adjourn, through a unanimous vote.**

Assistant County Planner Peggy Kerr compiled the Minutes for review by Planning Director Brian Bender.


John T. Manley, President

Mar 17-11
Date