

MINUTES

Regular Meeting
Powell County Planning Board
Thursday, April 14, 2011
Deer Lodge Community Center

- **Call to order at 1 p.m.**
- **Attendance**
Members Present: John Beck (JB), Rick Hirsch (RH), John T. Manley (JM), Randy Mannix (RM), John Hollenback (JH) and Bruce Thomas (BT).
Excused: Sharon Jacobsen (SJ), Marlin Gilman (MG) and Bill Pierce (BP)
Staff: Brian Bender (BB), Peggy Kerr (PK) and Lewis Smith (LS).
Also Present: Isaac Farabaugh 846-1447, MaryJo & Roger Fortner 846-3491
- **Approval of the Agenda**
Bruce Thomas made the motion and John Hollenbeck seconded it for the Board to approve the agenda with no additions, through a unanimous vote.
- **Approval of the March 17 minutes**
Randy Mannix made the motion and Bruce Thomas seconded it for the Board to approve the minutes as presented, through a unanimous vote.
- **Continued or Tabled Business** – The Chapel at Riverfront Park – The petitioner has not yet met the required elements of his application, and attorneys are reviewing whether the petitioner will have to go through DEQ review. Schillo is aware and his surveyor is aware of the delay. This issue is left tabled.
- **Public Hearings**
Fortner CUP – (see attached staff report): JM announced the subject and purpose. The petitioners have submitted an application seeking to add a second residence to their property by moving a house from another property to theirs. The purpose of the public hearing is to receive public comment on the proposal.

JM stated the hearing notice was published in the Silver State Post on March 30 and April 6.

JM asked if any board member wished to declare a conflict of interest in the matter. Rick Hirsch asked if he needed to declare a conflict since he lives next door to the petitioners. He answered questions from Lewis Smith and Brian Bender, and stated he believes he can render a decision that's impartial and will not jeopardize the integrity of subsequent meetings, he has no financial stake, he cannot see their residence from his, the tract he owns next to the petitioners is 140 acres of pastureland.

LS - Based on what you've stated, I don't think you have a conflict of interest.

BB - Did you have a conversation with the petitioners previously on this matter?

RH - One, about coming to the board with his intention and asking about the procedure.

BB - No plea for a vote?

RH - No. Mostly about procedure.

JM - Is ok with RH's answer. Having a phone conversation is no different than anyone else in the valley calling board members about county issues. I don't see any conflict, either.

JM asked the Planning Department to present its report. BB staff recommends CUP approval with five conditions. No comments have been received. One neighbor stopped by to ask questions.

JM asked if the board had questions regarding the location and nature of the proposal.

RH - Asked if the smaller house has water.

Roger Fortner - No. The well collapsed. It is not a residence; it is more of a farm accessory building. When we first moved there, that is where we lived. Then we fixed up the barn.

RH - It's a nice old ranch-type home to be used instead of demolished. It will be torn down if it doesn't get moved.

Roger Fortner – It's been there 90 years.

RH - I see it as an improvement. Their land is on the Old Milwaukee ROW.

BB – Have you staked it? A. Yes.

BB – There are minimum siting requirements for well permitting in Montana, and they will adhere to that.

Roger Fortner – We put a new septic and drainfield in eight years ago. We had plans of building new, and financially, that was crazy, and we couldn't agree on what we wanted. So we did a "T" off the septic system so we could build a new home in the future.

LS – Asked about a creek.

BB - Racetrack Creek runs to the south. It is out of the designated floodplain area. We notified DEQ; they sent a letter stating the petitioners were out of the historic floodplain area.

JM – Asked the proponent to give their statement.

Roger Fortner – I feel we are going to improve our property by putting that out there. It's a nice home; well kept.

BB – We pulled the assessor card. The home has an appraised value of \$94,000. They are re-using it, bringing it back and improving the property so adding value to the county.

JM – Announced the public hearing to be open. Asked for any petitions. No petitions submitted or comments given.

RM – Asked what the planning board's responsibility is for the CUP.

BB – This is a second residence. In our zoning regulations, a second home is permitted with this type of review process. They are not placing multiple homes on there for non-legitimate reasons; it is not going to interfere with agricultural operations.

JM – Declared the public hearing closed with no comment. He called for a motion and discussion by the board.

RM – Made the motion to approve the application with conditions and it was seconded for the Board to approve the CUP with conditions, through a unanimous vote.

▪ **Non-public hearing items**

Slayton/Murdock COS – Boundary relocation (see attached staff report and separate memo)

BB – Will send a letter to both landowners regarding sewer and septic issues.

JB – I don't think that is our decision.

LS – Have the board make the decision regarding the boundary relocation. Have the department send an informational letter regarding the sewer and septic issues. At some point in time it is going to be an issue. None of the lots have septic systems, and the lots are smaller than an acre in the communities. When those start going because of age, the communities will have to figure how to deal with this as a community.

RM – Asked if they were creating a tract of land. A. No, although they have found a loophole to make a larger tract of land.

BB – It is inside a rural center where you want development. He's not taking land out of production.

RH - Made the motion, and it was seconded by JB, for the Board to approve the COS application with conditions put forth by planning staff, since it is determined that it is not an attempt to evade subdivision review, through a unanimous vote.

▪ **Planning Board Comments**

Tracy Manley stated he has been approached by Ovando on another cell tower.

Planning staff has discussed a CUP application with Clearview Tower. The cell tower agent asks the planning board to move the regular planning meeting to May 12 from May 5 so they can install the tower as soon as possible, and it would be tough for planning staff to complete the CUP review by then. After consideration, the planning board recommended keeping the May 5 date.

▪ **Staff Updates**

County Attorney – LS: Discussed Legislative issues (see attached). He does not believe any subdivision bills will pass. He also discussed the issue of Main Street in Avon that was owned by the Aili Davis estate. The plat showing the county road easement from the community hall and west was filed last month. He is now working on the land from the community hall to east of 141 going to the school district, who will in turn give a road easement to the county.

The next step is Ovando, which wants to abandon streets in the wetland.

Planning Director – BB: Will present the March monthly report to the commissioners on Monday. The planning board will receive it in the May packets.

BOA Memo (see attached memo).

The commissioners have given a green light to hire a GIS intern for the summer to correct the land use maps. EPA and DEQ are supportive. Funding is coming from EPA.

CUP process (see attached memo): Will be changing the application packets in subsequent months. If the planning board has comments, let the Planning Department know.

▪ **Assistant Planner – None**

- **Other –** The planning department has conducted two site visits regarding cell towers. RCCC has a small tower on a wheeled structure (see attached memo). Basically, it is a small station to feed signals down into the development and beamed back up. The department never gave approval for a CUP. Cell tower is not defined in the regulations. If staff went to the letter of the law, they would need to apply for a CUP. It is 70 feet tall, mobile and used from June through October. Staff does not see a great need for them to apply for a CUP unless it does become permanent in its current configuration or if another tower were to be brought in. Isaac Farabaugh stated at this time they rent the tower and then it is returned, but this year, because of weather, it was not returned. They looked at the process of a permanent tower and completed RF mapping to provide better service for the whole county road area five years ago when Alltel was the major carrier. They had great communication with them, but then the merger came with Verizon, who were cease and desist with all new towers. Also, RCCC tried to join ventures with the Garrison tower, but they were not interested. If there is a power easement issue, RCCC is more than happy to accommodate. Now, since Verizon is open to future development, they hope to begin to have conversations with them for a permanent tower structure, when they file for a new CUP.

It was also discussed that the location permitted at Garrison has not been operating for a year. If it is not operating, it should be taken down. Planning staff is drafting a letter to Global Tower Partners regarding Garrison and Powder House Hill towers. One issue is to use a relay and keeping the mobile tower as a repeater, similar to Lincoln, but planning is limited to recommending or referring them to other locations. The Planning Board concurred the temporary tower is considered a non-material issue unless they decide to make it permanent.

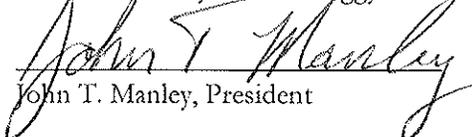
Burnt Hollow – A CUP was approved last summer for an additional residence with an advisory notice to them regarding use of heavy equipment on the county road. Since then they have tallied \$9,000 worth of damage.

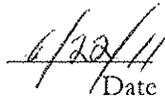
▪ **Public Comments – None**

▪ **Next Regular Meeting – Thursday, May 5**

- **Adjourn – BT made the motion and JB seconded it for the Board 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


Date

