



Planning Department

Powell County Planning Department • 409 Missouri Ave., Suite 101 •
Deer Lodge, Montana 59722 • 406.846.9795 • chamming@powellcountymt.gov

MINUTES

PLANNING BOARD

The Powell County Planning Board met in a regular session on Thursday, November 9, 2017 at 1 PM.

Members Present: John Hollenback, Tracy Manley, Rick Hirsch, Earl Hall, John Beck, Randy Mannix, John Wagner, Bill Pierce

Members Absent: None

Staff: Carl Hamming

Public: Joy Stocking, Debbie Larabee, Brian Larabee, Glen Stocking, Jared Lay, Debra Silk, Karen Johnson, Joseph Miller, Floyd Yoder, Peter Miller, Dan Senecal, Kim Shumaker, Ken Shumaker, Diana Stitt, Greg Neudecker, Tim Hendricks, Pat Elliott, Don Mondul, Nancy Braun, Ken Silvestro, Gary Lewis, Cheryl Lewis, Joann Wallenburn, Nancy Brown

President Manley called the regular meeting to order at 1:00 PM.

Agenda Item #1 – Attendance

Eight members being present established a quorum.

Agenda Item #2 – Approval of Agenda

The Board approved the Agenda as presented.

Agenda Item #3 – Approval of Minutes

Member Hollenback motioned with Member Hall seconding to approve the October Minutes as presented. The Planning Board approved the motion through a vote of eight to zero.

Agenda Item #4 – Non-Public Hearings

None

Agenda Item #5 – Public Hearings

5a. Miller/Yoder Subdivision – Gold Creek

Mr. Hamming opened the discussion by stating that public notice was posted on the County webpage as well as letters that were mailed out to all adjacent landowners. The Silver State Post published notice of the public hearing in its October 25th and November 1st editions. There have been no comments or inquiries regarding the application.

Mr. Hamming gave the Planning Board a brief presentation of the proposed subdivision including maps of where the property is located and the acreages. The stated intention is to create two new tracts; the

southern tract for the metal fabrication business that Mr. Yoder previously received Board approval and the northern tract will be for a private residence.

Jared Lay, the surveyor, clarified that he had spoken with Chad Lanes and worked out the proper language to include on the survey for DEQ to review the 5-acre tract for potential residential use.

The Board discussed with Mr. Lay the easement on Griffin Hollow and Mr. Lay confirmed that this survey would make the 60' public access easement official. The Board also asked about the irrigation ditch running through the property and Member Hollenback, owner of the ditch, stated that they do have a historic access easement on the ditch. The Board discussed the easement through the Church property. Evidently it was previously an approach onto Gold Creek Road that had fallen into disrepair and had recently been improved with a culvert added. If approved, the County Road Crew will have to inspect and sign off on the improvements.

Mr. Pierce and Mr. Hamming discussed the layered confusion regarding the DNRC's regulations for drilling new wells in subdivisions in rural settings. The Board discussed proposed language that be included on the Findings and Conditions that state that water availability is not guaranteed and that petitioners will have to comply with all DEQ and DNRC regulations.

Member Hollenback motioned with Member Hall seconding to approve the minor subdivision with Staff recommended conditions and the disclaimer about water availability for the proposed subdivision at Gold Creek. The Board voted eight to zero to recommend approval for Mr. Miller's subdivision.

5b. Davis/Senecal Subdivision – Nevada Creek

Mr. Hamming opened the discussion by stating that public notice was posted on the County webpage as well as letters that were mailed out to all adjacent landowners. The Silver State Post published notice of the public hearing in its October 25th and November 1st editions. Mr. Hamming stated that there were three calls asking for details about the proposed subdivision as well as interest from Commissioner Mannix.

Mr. Hamming gave the Planning Board a brief presentation of the proposed subdivision including maps of where the property is located and the acreages associated with the zoning districts surrounding the reservoir. With Mr. Senecal acting as the agent for Mr. and Mrs. Davis, Mr. Hamming informed the Board that the intention of the subdivision is to allow greater flexibility for Mr. and Mrs. Davis to sell their property. Evidently there is an interested party for the parcel of 40-acres with the cabin and they intend to sell the vacant 52.49-acres as well.

President Manley opened the public hearing and Mr. and Mrs. Shumaker voiced concerns about road maintenance and the accuracy of their easement as portrayed on the survey. When they were constructing the road from Braziel Lake Loop to their property, they had to deviate from the official easement due to springs in the area and Mr. Davis signed off on the easement changes. The Shumakers also expressed concern about additional subdivisions and the precedent that this could establish. If more residences were constructed, road issues such as safety and maintenance would be magnified.

Diana Stitt asked the Board about the zoning districts and the history of family conveyances that Mr. and Mrs. Davis have executed. The Board and Mr. Hamming discussed the loophole that exists within the State that sometimes family conveyances are executed as an abuse to evade subdivision review. The Board also discussed how there are many parcels within the County that existed prior to the density zoning being implemented.

The Board discussed the date of the submitted survey and Mr. Senecal briefed the Board on how he worked with Ries and Associates to develop the survey options for Mr. and Mrs. Davis. Mr. and Mrs. Davis are trying to receive subdivision approval before committing to the cost of hiring the surveyors to mark the road. The Board discussed their displeasure with this order of operations and would prefer to see an updated survey for their review.

Mr. Manley motioned to table the request and Member Pierce seconded the motion. The Board voted eight to zero to table the subdivision request to allow Mr. and Mrs. Davis to update the survey and submit it to the Board for their review.

5c. Bauman Crosses CUP for Public Services – Deer Lodge

Mr. Hamming informed the Board that the petitioner requested that the CUP petition be tabled to allow the Power of the Crosses to decide if they want to in fact host public services and ceremonies at the site of the crosses.

Member Hall motioned to table the request for six months and Member Wagner seconded the motion. The Board voted seven to zero to table the request with Member Beck abstaining from the vote.

5d. Request to Amend Condition #3 (Haul Route) for CUP 10-16, Deer Creek Excavating

Mr. Hamming opened the discussion by stating that public notice was posted on the County webpage as well as letters that were mailed out to all adjacent landowners. The Silver State Post published notice of the public hearing in its October 25th and November 1st editions. Mr. Hamming opened the discussion by presenting a history of the gravel pit CUP. Mr. Hamming reminded the Board that the CUP is valid and approved by Powell County and the amendment request was only concerned with the proposed changes to the haul route.

Ms. Debra Silk of the Double Arrow Ranch Landowners Association (DARLOA) presented their request on behalf of Deer Creek Excavating to amend Condition #3 to permit hauling through the Double Arrow Ranch (DAR) for projects occurring in the DAR. Ms. Silk said she was acting on behalf of the DARLOA, but Mr. Hamming stated that Cheryl Lewis had signed off on Ms. Silk requesting the amendment. Ms. Silk stated that the hauling along Evergreen Drive would benefit the landowners of the DAR with cheaper gravel and better maintenance. Permitting hauling through Evergreen Drive would also lessen the traffic and impacts on Cottonwood Lakes Road. Ms. Silk requested that access be permitted in a manner that only allows hauling within the DAR for projects occurring within the DAR.

The ranch manager of the DAR, Mr. Miller, detailed the gravel needs determined in a recent road analysis. Mr. Miller stated that for their 5-yr road plan, they will need 4,100 cubic yards of gravel. Mr. Miller estimated that 82 truckloads of gravel per year would be required which pencils out to 11 or 12 loads per month for work on the DAR roads. Mr. Miller also said the shorter hauling route would equate to over 50% savings for the landowners of the DAR.

Member Pierce, referencing the Staff report, voiced concern over the Powell County Planning Board's authority to mandate or require anything of DARLOA and Deer Creek Excavating within the DAR. Ms. Silk stated that if access opened up for Deer Creek to haul along Evergreen, DARLOA would enter into a MOA with Deer Creek to restrict hauling within the DAR for projects only occurring within the DAR.

President Manley opened up the public hearing. Pat Elliott gave a presentation opposing any change to Condition #3. Mr. Elliott stressed that it's the Planning Board's duty to mitigate the adverse effects

through the CUP process and permitting hauling along Cottonwood Lakes Road. Mr. Elliott also stressed that Deer Creek Excavating stated that Cottonwood Lakes Road is their haul route in their application to DEQ (under review) and that would need to be changed and considered within their DEQ application.

Don Mondul stated that DARLOA is only getting involved in the gravel pit debate because they want cheap gravel. Until this time, only one access point has ever been considered. Permitting access along Evergreen Drive would set a bad precedent and he is upset DARLOA is now getting involved in the debate over the gravel pit and haul route.

Nancy Brown stated that the Board does not represent the entire landowner base. She emphasized that the DARLOA covenants highlight the environment and their natural setting and this should be the top priority, not cheap gravel.

Gary Lewis of Deer Creek Excavating stated that he has done business in the DAR for years and hauled on all the roads and that they're in decent shape. He is not proposing a haul route through the DAR, he wants to be able to conduct business in the DAR with the most logical route from the proposed pit. Mr. Lewis stated that he believed the opponents are voicing all their concerns because they want to stop the pit even though the roads and route are at issue.

Greg Neudecker complimented Powell County's zoning and its preservation of open space in District #3. He has young kids and is concerned about them using the roads in a safe manner if hauling trucks are also frequenting the roads of the DAR.

Karen Johnson, A DARLOA Board member, stated that the DAR already has truck traffic on all roads for normal business and they can handle Mr. Lewis' operations within the DAR. People already need to be careful on all DAR roads because there are hundreds of homes within the development.

Mr. Miller stated that Evergreen Drive is maintained in the summer and winter and is 18' wide with gravel and is safe for hauling some of Deer Creek's trucks. He believes it's safer to haul the gravel through the interior of the DAR rather than force the trucks to go all the way around through town and through the southern end.

Ken Silvestro stated that Evergreen Drive is a narrow road and not safe for trucks. The Planning Board should not listen to the price savings talk because it should be a safety issue.

Tim Hendricks stated that the improvements to Evergreen Drive were not sufficient and limited only to the Drive but not the other roads that would also be handling truck traffic. He believes the traffic would triple on Evergreen if they were permitted access from Powell County.

Brian Larabee believes the maintenance on DARLOA roads is too infrequent and therefore there are safety concerns on all the roads if trucks are permitted to haul. He also mentioned that Cottonwood Lakes Road is closed in the winter and Mr. Lewis would look to Evergreen Drive as an access route during those winter months when Cottonwood is closed.

Joann Wallenburn stated that DARLOA is clearly not representing the landowners as a whole but rather just those looking for cost savings. She has concerns that Evergreen can't safely handle the proposed truck traffic. She also asked what will happen to Evergreen Drive at the County border after the pit is closed and reclaimed. Will it be an open travel route? She also wants more studies conducted about the potential truck traffic and impacts to their quality of life.

Joyce Stocking also stated that the DARLOA does not speak for all the landowners. She is concerned about the DAR roads, especially in the winter, when they're icy and it would be dangerous for trucks to be traveling through and around tight corners in places where road conditions cannot be improved.

President Manley then closed the Public Comment period after no one else wished to speak. President Manley then stated that he was hesitant to amend any conditions without the County Attorney in attendance. Member Pierce stated that it is logical for the DARLOA to haul gravel into the DAR through Evergreen Drive, but understands the concerns of the landowners along Evergreen. Member Pierce also questioned their authority to require anything of DARLOA or Evergreen Drive within Missoula County. The Members discussed their question of what is the majority consensus of the landowners within the DAR because it seems the DARLOA does not speak for everyone. Ms. Silk clarified that it is a seven-member board with six in favor of opening up Evergreen for DAR projects.

Member Hall asked the public if any of them had previously approached Missoula County about residential zoning. They stated that they had rejected it because they prefer their covenants required by the association. Member Pierce wondered what the general consensus of the landowners within the DAR because it's difficult to tease out how much of the DAR is in favor of cheaper gravel and hauling along Evergreen Drive. Further, Member Pierce wants the Board to be careful about projecting reach outside of Powell County because some of these issues should be dealt with by Missoula County such as restrictions within the DAR. The Board discussed the difficulty of trying to draft language that stays within their jurisdiction of Powell County, but still mitigates some of the adverse effects of the proposed hauling on Evergreen Drive. The Board would like more information from Missoula County as far as the public access language for DAR roads and their ability to restrict Deer Creek's operations within the DAR. The Board would also like the opportunity to draft language for restrictions and check with the County Attorney as well. Member Pierce motioned to table the request for the amendment to Condition #3 by the DARLOA and it was seconded by Member Hall. The Board voted seven to zero to table the request (Member Hollenback had to exit shortly before the vote).

Agenda Item #6 – Continued or Tabled Business

LHC, Inc/Deer Creek Excavating

Mr. Hamming informed the Board that Judge Dayton denied the appeal. Mr. Hamming distributed his ruling to the Board Members.

Growth Policy

Mr. Hamming will initiate the process to officially seek public comment and eventually adopt the updated document. Due to the length of the meeting, the Staff/Board did not wish to discuss the language of residential overlay districts.

Agenda Item #7 – Planning Board Comments

None

Agenda Item #8 – Staff Comments

a. County Attorney

None

b. Planning Director

None

- c. Other
- None

Agenda Item #9 – Public Comments

None

Agenda Item #10 – Announcement of the December 7th meeting

President Manley announced the Planning Board will hold their next meeting on December 7th at 1 PM.

Agenda Item #11 – Adjourn

President Manley adjourned the meeting at 5:05 PM.

Respectfully Submitted,
Carl Hamming
Powell County Planning Director

Tracy Manley, President

Date