



# Planning Department

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## MINUTES PLANNING BOARD

**The Powell County Planning Board met in a regular session on Thursday, December 5, 2019 at 1 PM.**

**Members Present:** Bill Pierce, John Beck, Earl Hall, Justin Williams, Randy Mannix, John Wagner

**Members Absent:** Tracy Manley, John Hollenback, Rick Hirsch

**Staff:** Carl Hamming, Kathryn McEnery

**Public:** Will Danforth, Jim Thompson, Paul Thompson, Darin Boyd, Stephanie Boyd,  
Lori Yount, Jack Andersen

**Member Pierce called the regular meeting to order at 1:05 PM.**

### **Agenda Item #1 – Attendance**

With six members being present, a quorum was established.

### **Agenda Item #2 – Approval of Agenda**

The Board made no changes to the Agenda.

### **Agenda Item #3 – Approval of Minutes**

Member Beck motioned to approve the November minutes as submitted. Member Williams seconded the motion and the Board voted six to zero to approve the Minutes.

### **Agenda Item #4 – Non-Public Hearings**

**Thompson FC**

Mr. Hamming presented the overview of the request from the Thompson family and their surveyor, Will Danforth. Mr. Hamming began by discussing the history of the request as it was originally submitted in spring of 2019, but pulled from the agenda shortly before the meeting. This is due to the fact that the land the Thompson family would like to convey to their two sons was created by an earlier exemption from subdivision review when the Streitz family executed a Family Conveyance in 2009. Therefore, according to Powell County Subdivision regulations, the land is ineligible for another exemption from subdivision review (a family conveyance). Mr. Hamming specified that he did not have reason to believe that the Thompson family is looking to abuse the exemption and evade subdivision review, but rather, they unfortunately have a request that goes against the County regulations.

The Board asked Mr. Hamming to clarify the history of the FC criteria and a recommendation for denial. Mr. Hamming stated that the criteria existed in the 2006 regulations adopted by the County, but Montana Code Annotated does not mandate them.

Mr. Thompson gave the Board an overview of his history living in Powell County and in owning the land as they purchased it from the Streitz family in 2015. They are now interested in conveying the property to their two sons in the hope that they will return home to the Deer Lodge area. Mr. Thompson described the process in which they had researched the State's rules and regulations for a Family Conveyance, but were unaware of the County's regulations. Mr. Danforth stated his belief that MCA 76-3-511 prohibits the County from developing criteria and regulations that are more stringent than the State's regulations. Mr. Thompson stated his desire that the County Attorney be present to allow her to weigh in on the matter (County Attorney McEnery could not attend the meeting until ~2pm).

The Board questioned Mr. Hamming about their options to proceed. The Board questioned if they were to deny the request, if the Thompsons could bring it before the Board of Adjustments and Mr. Hamming confirmed that if the request was denied, the Thompsons could appeal the Board's decision to the Board of Adjustments.

The Board further discussed the possibility of the Thompsons going through the minor subdivision process, but Mr. Danforth and Mr. Thompson were hesitant to undergo the costly effort without guarantee of success, as it would require more review at the local and state levels.

The Board discussed their displeasure about being stuck in this particular dilemma in such that they did not have any reason to believe Mr. Thompson was abusing the FC exemption, but they also did not want to disregard the County regulations and approve a FC that could set a bad precedent.

Member Wagner motioned to table the request for the Thompson FC to allow the Thompsons to work with the County to research the legal issues central to their request and inform the Board of their findings at the January meeting. The motion was seconded by Member Hall. The Board voted six to zero in favor of the motion.

#### **Agenda Item #5 – Public Hearings**

##### **Whitehall Trucking and Towing – Kevin Brunet**

Mr. Hamming informed the Board that Mr. Brunet requested the item be pulled from the Agenda as his acquisition of the property fell apart and he was therefore looking for different properties to operate his wrecking business.

Mr. Hamming explained why it would be prudent to table the motion in case Mr. Brunet purchases different property to operate his business. He will have to update and correct the submitted application to reflect current information.

Member Hall motioned to table the request and Member Beck seconded the motion. The motion was approved by a vote of six to zero.

#### **Agenda Item #6 – Continued or Tabled Business**

**None**

#### **Agenda Item #7 – Planning Board Comments**

It was suggested to have the FC criteria on the Board's agenda to revisit the language.

#### **Agenda Item #8 – Staff Comments**

- a. County Attorney – update on North Powell ambulance levy and the MRA.
- b. Planning Staff – Mr. Hamming noted the end of the year and need for three members to renew their membership on the Board. Next meeting will be the annual meeting to nominate chair and vice-chair.
- c. Other - None

**Agenda Item #9 – Public Comments**

Four members of the public requested clarification on a Conditional Use Permit and the process required. There was some discussion about Powell County residential zoning and the conditions that can be attached to an approved CUP.

**Agenda Item #10 – Announcement of the December Meeting**

Member Pierce announced the Planning Board would hold their next meeting on January 9<sup>th</sup> at 1 PM.

**Agenda Item #11 – Adjourn**

Member Pierce adjourned the meeting at 2:45 PM.

Respectfully Submitted,  
Carl Hamming  
Powell County Planning Director

/s/ Member Bill Pierce

Date