

# **MINUTES**

## **PLANNING BOARD**

**The Powell County Planning Board met in a regular session on Thursday, April 8<sup>th</sup>, 2021 at 1 PM.**

**Members Present:** Bill Pierce, Justin Williams, Tracy Manley, Rick Hirsch, Randy Mannix, John Beck, Earl Hall & John Wagner

**Members Absent:** John Hollenback

**Staff:** Scott Hazelton, Ann O'Toole & Kathryn McEnery

**Public:** Nina Benjamin, Helen Dobbins, Carolyn Carter, Betty Eisenzimer

**President Hirsch called the regular meeting to order at 1:04 PM.**

### **Agenda Item #1 – Attendance**

With eight members being present, a quorum was established.

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

Staff recommended a change in order of agenda item 5b and 5c to accommodate those applications being presented by the same agent. Member Manley moved to accept the alteration and Member Mannix seconded the motion and the Agenda with proposed alteration was approved unanimously.

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

Member Manley moved to accept the minutes as written with Member Pierce seconding the motion to approve. The minutes were approved unanimously.

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

#### **Eisenzimer CUP**

President Hirsch opened the hearing and explained the procedures that the Board would follow. President Hirsch explained that the hearing had been noticed twice in the Silver State Post on March 24<sup>th</sup>, 2021 and March 31<sup>st</sup>, 2021. President Hirsch asked Mr. Hazelton to provide his report.

Mr. Hazelton gave a brief description of the project, explaining that regulation allows up to 4 residences using a Conditional Use Permit. Mr. Hazelton also stated that there had been one inquiry from Nina Benjamin regarding use of the proposed granary. Mr. Hazelton stated that the board is not concerned with building materials or design and that the application is to add an additional residence to the parcel. The proposed conditional use would comply with the appropriate zoning. Mr. Hazelton also provided the board and Ms. Eisenzimer a copy of the letter submitted by Ms. Nina Benjamin on Wednesday April 7<sup>th</sup> in opposition of the application.

Ms. Betty Eisenzimer and Ms. Carolyn Carter answered questions from the board in support of the application. Ms. Nina Benjamin and Ms. Helen Dobbins answered questions from the board in opposition of the application.

Ms. Dobbins stated that she was concerned about construction equipment accessing the proposed build site through the rest of the property. Ms. Carter said that Ms. Eisenzimer and herself had been taking care of the property and cleaning up abandoned trailers and vehicles.

Member Pierce asked about the number and make-up of the trust. Ms. Benjamin explained that there are 3 trustees and 8 beneficiaries. Member Hall asked if the trust was in an LLC. Ms. Eisenzimer stated that it was not.

President Hirsch asked to table the application until Ms. McEnery, who would be at the meeting later, was able to respond on the county's behalf.

Upon Ms. McEnery's arrival she stated that until it was clear how the trust was set up and that there was proof of right to submit this application on behalf of the Carol Boyd Trust that the Board should refrain from making a decision and suggested that the application be tabled.

The motion for tabling was made by Member Wagner and the motion was seconded by Member Hall. The board voted to table the application until the May meeting at a vote of 8-0.

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

##### **Burt (McQueary) Boundary Relocation**

Mr. Hazelton presented the proposed boundary relocation of Mr. Dan McQueary through his agent Mr. Hans Streufert. Both agent and applicant were in attendance. The relocation would create parcels that were in conformance with the appropriate zoning district. Mr. Dan McQueary stated that the reasoning for the boundary relocation was estate planning.

President Hirsch asked questions about the Boundary Relocation incorporating all out buildings as shown on the aerial imagery map. Mr. Dan McQueary stated that the Boundary Relocation would incorporate all buildings in the proposed 8.82-acre portion.

President Hirsch asked for a vote on the proposed boundary relocation. Member Pierce moved to accept the application with staff conditions. Member Beck seconded and the vote passed 8-0.

##### **Olsen Agriculture Subdivision Exemption**

Mr. Hazelton presented the proposed agriculture exemption from subdivision of Mr. Tim Olsen through his agent Mr. Hans Streufert. Both agent and applicant were in attendance. The agricultural subdivision exemption would create two parcels that were in conformance with the appropriate zoning district. The 58.55-acre parcel would be split into a 22.50-acre parcel and a 36.05-acre parcel. Mr. Olsen stated that the reasoning for the agricultural subdivision exemption was for sale to the neighbor to the west.

Member Hall asked Mr. Hazelton about the history of Agricultural Subdivision Exemptions in Powell County. Mr. Hazelton stated that 2001 was the last time an agricultural subdivision exemption had been used. President Hirsch asked Mr. Olsen about the historical use of exemptions on other portions of the Olsen families land. Mr. Olsen stated that the other exemptions, with confirmation from staff, had occurred on other parcels and that use of exemptions is at the parcel level not ownership.

Member Beck asked Mr. Hazelton how it was tracked that a piece of property had an agricultural covenant on it. Mr. Hazelton stated that the covenant would be filed with the deed. Ms. O'Toole said the DOR should list the property by COS which is checked upon the receipt of an application. The agricultural subdivision exemption is listed on the face of the COS and would alert the department to the exemption.

President Hirsch asked for a vote on the proposed boundary relocation. Member Pierce moved to accept the application with staff conditions. Member Beck seconded and the vote passed 8-0.

### **Big Sky Land Investment LLC Boundary Relocation**

Mr. Hazelton presented the proposed boundary relocation of Big Sky Land Investment LLC through their agent Mr. Bryan Asay. The agent was in attendance. The relocation would create parcels that were in conformance with the appropriate zoning district. Mr. Asay stated that the reasoning for the boundary relocation was gifting a parcel to the caretaker for the land owner, Big Sky Land Investment LLC. The LLC owns the two full sections to the east (Section 21 and Section 22) and are gifting the proposed 20-acre parcel to a caretaker.

President Hirsch asked about access to the 20-acre parcel. Mr. Asay stated that the Forest Service would not grant the access agreement until the parcel was in the caretaker's name. Member Wagner advised Mr. Asay that the Forest Service could deny his request. Mr. Asay stated that there is optimism the Forest Service would permit it since the previous owner received the permit for the same access.

Member Mannix asked Mr. Asay about access to Section 21 and Section 22 from the proposed 20-acre parcel. Mr. Asay stated that there will be an easement from the 20-acre parcel to the eastern sections.

President Hirsch asked for a vote on the proposed boundary relocation. Member Manly moved to accept the application with staff conditions. Member Pierce seconded and the vote passed 8-0.

### **Neigberg Conservation Easement**

Mr. Hazelton presented a brief overview of the expansion of the conservation easement near the Patterson Prairie Road. Ms. Sarah Richey, of Five Valleys Land Trust, was there to present and answer board questions about the expansion of the conservation easement for another 120-acres to the east of the existing conservation easement.

Member Williams asked Ms. Richey about compensation and how conservation easements are evaluated and assessed in perpetuity. Ms. Richey explained the process and explained that in perpetuity is a hard thing to evaluate at times. Member Hirsch and Member Pierce questioned how there would be 4 housing sites on this conservation easement and how that fell in line with the conservation endeavors of Five Valleys Land Trust. Ms. Richey stated that the addition of the 120-acres poses such an important corridor for wildlife migration that the additional home sites were worth the easement.

Member Mannix stated that he had concerns that the amendment to the conservation easement would alter the intent of the original.

Member Beck asked Ms. Richey to consider allowing the easement to incorporate a gravel pit as the county is regularly in need of gravel. Ms. Richey said the expansion is unsuitable for gravel but that there is potential to add a site on the original easement parcel.

The Board thanks Ms. Richey for her time. As the Board does not give an official ruling on Conservation Easement they asked Ms. Richey to incorporate their concerns into the easement moving forward.

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

**None**

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

President Hirsch raised concerns about departmental overreach and the desire to maintain Powell County as an agriculturally productive rural community.

Member Pierce brought up the Wildfire Checklist becoming more regulatory than an assessment. Mr. Hazelton showed Member Pierce the newest form of the Checklist. There was discussion between members about building codes as they relate to the WUI.

**Agenda Item #8 – Staff Comments**

Mr. Hazelton discussed the lack of signed minutes from July 2016 to 2019. Member Manley was Board President at the time and said that he would like to rectify this situation by signing the approved minutes. Mr. Hazelton said this would suffice.

The County Attorney explained her work on the Old Yellowstone Trail project related to the County road going from Washington Street in Deer Lodge, through Grant-Kohrs NHS and into the Rock Creek Cattle Company Ranch. The County Attorney said she would keep the Board in the loop as her work progressed.

The County Attorney also provided the board an update on the Spotted Dog road ownership project. The County Attorney stated that the county is drafting a letter to be submitted to the Montana Department of Fish, Wildlife, and Parks.

**Agenda Item #9 – Public Comments**

None

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

President Hirsch announced the May 6<sup>th</sup> meeting. Mr. Hazelton stated that the meeting will be at the library due to a blood drive in the Community Center.

**Agenda Item #11 – Adjourn**

President Hirsch adjourned the meeting at 4:17 PM.

Respectfully Submitted,  
Scott Hazelton  
Powell County Planning Director

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President Rick Hirsch

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Date