

# POWELL COUNTY PLANNING BOARD

## MINUTES

**Regular Meeting – Thursday, April 6, 2023 – 1 PM**

**Members present:** Rick Hirsch, Bill Pierce, Randy Mannix, Justin Williams, John Hollenback, John Wagner

**Members absent:** Tracy Manley, Earl Hall, John Beck

**Staff:** Amanda Cooley, Ann O'Toole

**County:** Attorney Kathryn McEnery

**Public:** Jamison Grover, Kathy Kelinshmidt, John DeHart, Ron & Deidre Shirley, Mike Whittacker, Kevin Klett, Dennis Regan, Johnathan Gargmann, Jeff Pinkard, Jacey Ewing

1. **Attendance:** With six members being present at the onset of the meeting, a quorum was established.
2. **Approval of Agenda:** A motion to accept the agenda as written was made by Vice President Pierce. Member Hollenback seconded the motion and the motion was carried 6-0.
3. **Approval of Minutes**
  - a. **February 9, 2023:** Vice President Pierce motioned to approve the minutes. Member Wagner seconded the motion and the motion carried 6-0.
4. **Non-Public Hearings**
  - a. **Ewing Boundary Relocation**

Planning Director Cooley presented the request by Mr. and Mrs. Ewing to relocate common boundaries between a single lot within a platted subdivision and adjoining land outside a platted subdivision, in Section 28 and 33 in T9N R9W. The Lavelle parcel is located within the Wildflower Subdivision and is currently 3.2 acres. The Ewing Parcel is located outside the Wildflower Subdivision and is approximately 57 acres. The resulting parcels will be 8.19 acres and 52.03 acres, respectively. The new boundary location will be down the center-line of Bitterroot Lane. Access is provided via Bitterroot Lane to both parcels.

No Planning Board members recused themselves from the discussion.

Member Mannix asked whether either side of Bitterroot Lane was fenced. Neither side is fenced. Member Pierce questioned whether the additional land added to the subdivision was subject to covenants. Miss Cooley confirmed that the subdivision covenants will apply to the parcel and the additional acreage added. Member Pierce further questioned whether this would have adverse impacts to the subdivision and the applicants stated that they didn't believe there were any issues. President Hirsch confirmed the addition of 5-acres to the Lavelle parcel. Member Wagner questioned whether there was any change to the easement or access of Bitterroot Lane. Miss Cooley confirmed that there would be no change to the road boundary.

With no further inquiries, Vice President Pierce motioned to approve the boundary relocation. Member Hollenback seconded the motion and the vote was carried 7-0.

## 5. Public Hearings

### a) Klett CUP

President Hirsch opened the public hearing. He noted that the public notice for this hearing circulated *once* in the Silver State Post on April 5. Notices were sent to the eight adjoining property owners. Though properly submitted for notice, the newspaper neglected to publish the first notice. As a result, several members of the public showed up unsatisfied that proper notice had been given. Jamison Grover, a member of the public, specifically noted the limited time to respond to the application. Planning Staff did attempt to reschedule the hearing with the petitioner; however, the petitioner had already arranged flights and travel plans to accommodate the Planning Board appearance. As this was a newspaper error, staff worked within MCA guidelines to not impose undue burden on the petitioner. MCA 7-1-4127 allows for posting errors in the newspaper as long as at least one posting is made and the notice is posted in at least three (3) areas of the courthouse and on the website. The notice was posted as required in the courthouse and county website. Two people commented on the application ahead of the meeting, both members of the property owner's association. One comment was received on April 4 via phone call and one comment was received on April 5<sup>th</sup> via email request for a phone call and a follow-up phone call. Both comments centered around the property owners association not having been contacted by the petitioner to approve their site plan, as is required in their covenants. There is also concern about the additional traffic and resulting maintenance that two homes on a single lot will create.

Following the discussion about the public notice, Director Cooley presented the Staff Report. She clarified that under item e. Availability, capacity and quality of utilities and community services – the petitioner had stated that “*The Little Blackfoot Land Owners Association maintains electric and phone to the lot.*” The Land Owners Association does not maintain these services and the petitioner will be responsible for them. She also noted an error under the Conditions of Approval that should state “Kevin Klett” rather than “Rock Creek Cattle Company.”

The petitioner, Kevin Klett, requests permission to build a second home on his parcel located on Lot 30 of the *Little Blackfoot Ranches (AKA Dana Ranch)*, an un-platted subdivision, between Garrison and Avon. The septic and well will be shared between both residences. Sanitarian Chad Lanes had no concerns regarding this application.

Mike Whittaker, co-representative with Kevin Klett, explained that the homes were for themselves and their children to enjoy. The home requested for the CUP permit will be about 750 sf. Member Williams asked the representatives present from the property owners association if they would be satisfied if the applicants built one larger home rather than two separate homes. They unanimously responded that they would be more satisfied. President Hirsch asked the property owners' association how many had mother-in-law suites on their homes. Only one owner responded that they did as it was original to the ranch prior to division. Member Pierce questioned whether the covenants were able to be modified. The LOA confirmed that they could be modified every ten (10) years but that it would have to be done at a future date (2028). He made the attendants aware that while the Planning Board decision has to be made according to the County Planning and Zoning Regulations, not with regard to the private covenants. County Attorney McEnery advised that it would be in the County's best interest to allow opportunity for the LOA to communicate with the landowners.

Five members of the public provided public comment. Jameson Grover, a past-president of the LOA and current owner of the original Dana Ranch cited concerns about building multiple homes. The road infrastructure will not support sixty lots with multiple residences. He requested that the Planning Board table the application until the LOA can have a discussion with the

landowner. He emphasized that multiple homes will not provide grounds for subdivision at any later date. Member Pierce noted that within the County Zoning and Development regulations, that a landowner can build a second residence with approval from the Planning Board, though the Board does have the right to consider impacts of additional traffic in their decision.

Roman Brittenitiam stated that he wants everyone to have an opportunity to have a voice. The LOA spends a lot of time and money maintaining the roads and the want it to remain a nice place.

Kathy Kleinschmidt only heard about the proposal this morning. There hasn't been enough time to discuss the proposal.

Ron Shirley is an adjacent landowner. He wants time to meet with the board about the issues the LOA has presented.

John DeHart is concerned about a "slippery slope" of allowing multiple homes. He doesn't want to see the wrong precedent set and wants to be mindful of the limited resources available.

With no further comments by the public, President Hirsch closed the public hearing.

Vice President Pierce motioned to table the discussion until the next meeting, giving reason to the newspaper's public notice error and in consideration of the discussion held. Member

Williams seconded the motion. The motion was carried 6-0

**6. Continued Business - none**

**7. Planning Board Comments**

Member Wager asked whether there had been any developments on the Grove driveway and Brock Creek Road. Admin O'Toole stated that the access would be replaced according to county road standards. They have been in regular communication with the planning office but no physical action has yet been taken.

**8. Staff Updates**

- a. County Attorney – The county attorney provided a report of the Hospital Sale and the potential Arrowstone Park property acquisition.
- b. Planning Staff - Planning staff informed the Planning Board of a public comment opportunity on the Clark Fork Strategic Plan produced by DEQ and NRDP. An update about ongoing land use legislation was also provided.
- c. Other

**9. Public Comments - none**

**10. Announcement of the May 11<sup>th</sup> meeting**

**11. Adjourn – 3:00p.m. by President Hirsch.**

Respectfully Submitted,  
Amanda Cooley  
Powell County Planning Director

President Rick Hirsch

Date

**The Planning Board will meet at the Powell County Community Center  
416 Cottonwood Ave., Deer Lodge, MT 59722  
For Further Information Contact:  
The Powell County Planning Department**