

# POWELL COUNTY PLANNING BOARD

## MINUTES

**Regular Meeting – Thursday, May 11, 2023 – 1 PM**

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

**Members absent:** Earl Hall

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

**County:** Attorney Kathryn McEnery

**Public:** William McIntosh III, Haven McIntosh, Lorraine and Roger Mead, Mary Ann and Dan Frehrier, Kevin Jones, Ron Senecal, Colleen Ambrose,

1. **Attendance:** With eight 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 Manley seconded the motion and the motion was carried 8-0.
3. **Approval of Minutes**
  - a. **April 6<sup>th</sup> minutes:** Vice President Pierce motioned to approve the minutes. Member Manley seconded the motion and the motion carried 8-0.

4. **Non-Public Hearings**
  - a. **None**

5. **Public Hearings**
  - a) **McIntosh CUP**

President Hirsch opened the public hearing. He noted that the public notice for this hearing circulated twice in the Silver State Post in April 26 and May 3 editions. Director Cooley presented the Staff Report.

The petitioners, Bill and Jill McIntosh presented a request to build a home for their daughter-in-law's parents on their parcel in Avon which will share the lot with the current Post Office. They have spoken with the County Sanitarian, Chad Lanes, and will either use the existing septic or install a new septic. The Sanitarian has no issues with either option.

The Planning Board had several questions. Member Manley requested clarification that the old store was located in the Post Office. President Hirsch questioned whether there were any plans to reopen the store. Mr. McIntosh, Bill's father, was present with his daughter-in-law, Mrs. Haven McIntosh to answer questions. He explained that there were no plans to open the store. President Hirsch further questioned whether the home would be on the same lot as the Post Office. Mrs. Haven McIntosh discussed how the lot was laid out and that the two buildings would be on a single lot. Member Wagner questioned whether they would use the existing septic. This is to still

be decided but the County Sanitarian, Chad Lanes, is aware of the proposal and does not see any adverse impacts to neighboring property owners if a new septic is installed. Member Williams questioned whether parking would be on Old Avon Road. The petitioners confirmed that the road is not very busy and that off-street parking was acceptable. They also noted that there is an easement next to the proposed home site. This will remain.

No public comments were received prior to the meeting regarding this request.

Roger and Lorraine Mead were present at the meeting. They were concerned about the impacts of an additional septic system in town and whether it would cause limitations for other landowners. He felt his concerns were addressed in the discussion about their septic proposal and the comments from the Sanitarian prior to the meeting.

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

Member Wagner moved to provide a favorable recommendation for the Murphy Conditional Use Permit with amended conditions listed by the planning staff. Member Manley seconded the motion. The motion was carried 8-0.

**b) Klett CUP-continued**

President Hirsch opened the public hearing. He noted that the public notice for this hearing circulated twice in the Silver State Post in April 26 and May 3 editions. Director Cooley presented a brief report and update of the proposal. 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. This request was presented at the April Planning Board meeting. It was tabled due to the need to allow time for additional public comment and to provide time for the petitioner to coordinate with the landowners' association about the proposal.

Director Cooley recommended approval of the Conditional Use Permit contingent on conditions listed in the staff report. The planning staff received one email public comment from the public regarding this request. Wishing to remain anonymous, the comment indicated that he had met the applicants and thought they would be good neighbors. He further stated that he would defer land use decisions to the intent of the original developer, Mrs. Dee Dee Lane.

In response to the proposal, President Hirsch clarified that the Planning Board must make a decision based on land-use regulations, and that the Planning Board does not have the authority to supersede or enforce private covenants. Mr. Klett's attorney, Kevin Jones was present to answer questions about the application. Having consulted over many land-use cases, Mr. Jones advised that the Landowners' Association would have a difficult time preventing the building of a second residence, because it isn't explicitly prohibited in their covenants. He supported the Planning Staff and Planning Board's remarks about needing to base their decision on the County Regulations. Vice-President Pierce recommended that the landowners association work to revise their covenants if they wish to prevent multiple residences on a single parcel.

Several public comments were made about the proposal at the meeting. Mary Ann Frehier, the secretary for the LOA, commented that they do not support the proposal. They feel that two residences do not maintain the rules and rustic nature of the community. Their biggest concern is road maintenance due to increased traffic. Mary Ann submitted her written comment to the Planning Staff in addition to her spoken remarks.

Coleen Ambrose objected to building the second residence. She felt that in doing so, it would create a precedence and that this type of development was not in line with the intent [of the covenants]. She requested that the Planning Board condition authorization on approval by the LOA. Mr. Klett clarified via virtual attendance that he did submit his plans to the LOA. Planning

Director Cooley confirmed that she was cc'd on this correspondence. Mr. Jones advised against adding this condition.

Dan Frehier commented that the subdivision was created prior to County standards for roads and subdivisions being implemented. A primary concern and issue is the consequence of increased traffic and a potential for increased fire hazards with limited access. As this subdivision continues to grow, this will need to be addressed at some point.

Member Mannix recommended that the #2 Conditions of Approval be amended to say, "The petitioner shall follow the fire protection plan with consultation to their Fire District."

Following this procedure, President Hirsch accepted a motion from Member Pierce to approve the petitioner's request for a CUP with Member Mannix's amendment to the conditions of approval. Member Manley seconded the motion. The Planning Board voted to approve the request for a CUP, with conditions, by a vote of eight to zero, with one person being absent.

**6. Continued Business**

**a. None**

- 7. Planning Board Comments** The Planning Board inquired about cell tower work occurring in Avon. President Hirsch discussed a land division on a parcel owned by the Bergs in Racetrack. Planning Staff explained that this was a mortgage parcel created prior to Montana law being changed to clarify that mortgage parcels are not new tracts of land. A 30-acre parcel will be divided.

**8. Staff Updates**

**a. County Attorney**

**b. Planning Staff – Legislative, Roundhouse, and Living Local app updates.**

Planning Staff discussed impacts of the recent legislative session. The only bill immediately effective is SB158 for family transfers. Miss Cooley reviewed the changes. The Roundhouse Soil Remediation proposal was approved by the Montana DEQ and solicitation for contractors will be done in the coming weeks. A Living Local App is being developed for Powell County. It will be a single source for all community events and will link to all public and private services in the County.

**c. Other**

**9. Public Comments**

**10. Announcement of the May 18<sup>th</sup> Meeting**

**11. Adjourn.** Time N/A

**Respectfully Submitted,**

**Amanda Cooley**  
**Powell County Planning Director**

President Rick Hirsch

Date