

ZONING AND PLANNING BOARD MEETING MINUTES

September 19, 2024, Zoning & Planning Board meeting was called to order at 7:00PM at City Hall at 206 Main Street, Three Forks, MT 59752.

Members Matt Jones, Kelly Smith, Racheal Tollison, Jacob Sebens and Amy Laban were present at City Hall; City Planner Randy Carpenter, Lee Nellis (consultant for Impact Fees and Zoning/Subdivision Regulation rewrite), and City Attorney Susan Swimley all attended at City Hall. (Zoom is a virtual meeting tool allowing people to attend remotely, which started as an option during the COVID-19 pandemic and the City has continued to offer for meetings.) Niki Griffis and George Chancellor were excused. There was a quorum with the attendance of five members, and the meeting was held. The minutes were completed by City Clerk Crystal Turner who was also present at the meeting.

Vice Chair Matt Jones called the meeting to order. He reminded everyone the meeting was being recorded.

Public Present: Bret Robinson, Chuck Wambeke.

PUBLIC COMMENT (items not on the agenda): There were no public comments on items not on the agenda.

CONSENT AGENDA

Minutes from the meeting held on 8/15/2024

Amy Laban moved to approve the August 15th, 2024, meeting minutes. Kelly Smith seconded the motion. Crystal Turner noticed that the 8/15 minutes did not state which board members were excused. She will correct that.

Motion Passed 5:0.

OLD BUSINESS

Suggestion of possible housing tour dates for density?

Randy Carpenter provided a few dates he was available.

October 16 at 5PM was agreed upon and where all will meet will be decided later.

PUBLIC HEARINGS

Public Hearing and Recommendation on a Request by RCREI, LLC for an amendment to their CONDITIONAL USE PERMIT to allow the 3 cabins to be open year-round. The property is located in the Southeast quarter of the Northeast quarter (SE4NE4) and the Northeast quarter of the Southeast quarter (NE4SE4) of Buttelman's Addition (Plat D-34-B), more commonly referred to as 126 East Jefferson Street.

City Planner Randy Carpenter entered his staff report into the record. He recommended approval without any conditions.

Applicant Presentation: Bret Robinson said that nothing will change on the property. "I guess I didn't realize that we could have asked for the cabins to be open year-round at the initial application. We are not asking for the RV spots to be open year round, just the cabins. This will help offset the cost we have into this to build it and provide another opportunity for folks to come and visit the area and ski here or whatever. Nothing will change the other conditions," Bret told the Board.

Board Discussion/Questions/Motions: City Attorney Susan Swimley asked a couple questions which she hoped would help the board decide. "What was the genesis of the limitation?" she asked. Kelly Smith replied

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it was mainly because the other RV campground was approved to be open May-November, "Which was because that property is in the floodplain and we were just trying to be consistent from RV park to RV park." Mrs. Swimley asked the board to continue thinking of those types of things as it discusses the application.

Racheal Tollison asked if each cabin has a kitchen and bathroom and everything? "I wasn't here when the Board approved it," she explained. Mr. Robinson said all the cabins have more than one room, but yes at least one bathroom and the kitchen. Kelly Smith asked if all three cabins would be used as rentals if the owners are not there. Mr. Robinson replied that yes, he would like that ability. Matt Jones questioned if Mr. Robinson wanted them to be short term rentals? Mr. Robinson said yes. Matt said, "I remember that you wanted one to be for you, and the others for friends and family when they came up like family, friends and clients." Bret Robinson said they are living in one now. Matt continued, "Is it your permanent residence then?" Bret replied, "No, we are in process of relocating, and sold our place in Texas, but for a year this is where we will be resting our heads. Kids are excited about it."

There was no public comment, and no applicant rebuttal.

Board Questions/Discussion with Staff and/or Applicant: Amy Laban asked the City staff, "What would happen if these cabins are renting so nicely, are you going to say *I want to build more cabins?*" Kelly Smith said he would have to come back to the Board with a new application. Matt Jones confirmed the zoning is Agricultural. Kelly Smith said it is Agricultural/Residential. Matt, "So he doesn't have to actually live there?" Randy Carpenter and Susan Swimley both responded that no, it does not fall under the short term rental requirements of the Residential District. Kelly said she thinks it was the home occupation has to be incidental to the home residence.

Amy Laban moved to approve the Request by RCREI, LLC for an amendment to their conditional use permit to allow the three cabins to be open year-round. Rachael Tollison seconded the motion. Matt Jones asked if the Board needed to address landscaping the property to the west of the property? Susan Swimley said if the Board is modifying this use, it will not negate anything the Board has already previously made conditions. Matt asked if they could add additional conditions? Susan Swimley replied, "Can you explain to me how the use of these cabins year round changes the condition and would require landscaping?" There was discussion that the Board previously thought the applicant should landscape by planting trees around the entire property boundary. Kelly Smith reminded him that the condition was to have trees planted along the right-of-way and the applicant has done that; the rear of the property does not face public right-of-ways. Lee Nellis suggested that the neighboring, upon development, would landscape. Amy agreed with Lee's comment and that was what she was just thinking. Jacob Sebens said he thinks it seems reasonable to have the development that comes in [next] would screen landscaping rather than require it now for the *development of the future that does not exist yet.*

Motion Passed Unanimously.

NEW BUSINESS

A. Discussion of the 1-Mile Extra-Territorial Zoning District with Gallatin County

Susan Swimley introduced herself to those who have not met her previously, especially in person and not on Zoom. She had asked the letter (see packet) she drafted to be sent to the Board back in August so they had time to think about it. "I think I have accurately set out what the City has done historically

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for subdivision work, which has been free for the County. It does not violate any laws. We can continue to work for the County for free. We met with the County to see what they thought, but I did not get any indication as to what they would do when you provide them with a recommendation. We could try to negotiate a new agreement to allow Three Forks to continue this process but have Gallatin County pay us back. Or have the City go through the process of having a planning jurisdiction over their property, administered by the City and not the County, notify every property owner within that boundary – this would be a big undertaking and quite honestly, I think the county residents will not want the City to do this. I think those property owners will happily come talk to the City when they want water and sewer service on their own. The County has clearly told us, we have to do the work, get the outreach, and then present that to the County, who was pretty clear, that they are not going to give us any indication as to what would be acceptable to them. Just do all the work and present to the County and they could say *maybe not*. Manhattan did this and the County did not agree to that. My perception is that the County would do the same thing to Three Forks. My recommendation is to stop working for the County for free. I am looking for a recommendation from this Board, to send to the City Council, whether you think it is a good idea (bottom of pg. 2). But again, this is my perception of what would happen and I'll turn the rest over to Randy because he will have a different opinion about cooperation, because I am a lawyer and cooperation does not really work in my field. Randy is more optimistic than I and so I will turn it over to him."

Lee Nellis said the City could charge the cost for the expenses incurred for the areas outside of city limits to the applicant. Susan said no not unless there is an interlocal agreement signed with the Gallatin County that agrees to that. Lee said, "Ok, but the City should be charging the applicant, but I understand that it also need the County to agree to that."

Randy Carpenter said from his perspective, his biggest concern of what he does not want to see, is Three Forks ringed by a bunch of subdivisions like we see at Hwy 287 and I90 within the 1-mile planning jurisdictional area. "I don't think that is far-fetched concern. I don't think it is in the interest of the City for that to happen: 1) makes it harder for Three Forks to expand if hemmed in by large lot subdivision, 2) septic tank concerns, 3) that ties in with water quality issues, 4) the costs of people not in the City using the services and roads who do not pay City taxes." I suggest we do some planning to get a better understanding of that area within the 1-mile what the City could reasonably serve with water and wastewater. This would establish priority areas for the growth of the City. He has spoken with Great West, and has done some work with Jessica Salo who estimates a \$10,000 range, to establish an area that the City could reasonably serve and distribute the services to these areas just outside the City. He believes this is an important, yet modest, exercise for the City to conduct.

Susan Swimley – the \$10,000 is to identify places which *maybe we could then start this process*, so that is not the end of the expenditure of funds, it is just the engineering to see *if we want to go forward, these are the areas we would target*. The Board could do all the work for the County, and the County has still not told you what they envision seeing in this area. There were several comments about how long this discussion has been going on between the County and the City; some discussions started as early as 2006, then brought up again in 2009, 2014, and now again. Randy added he is more optimistic about this current [County] Commission than any others.

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Matt Jones said, "Since the beginning of time, it seems the Interlocal has been discussed but why has nothing has ever happened. Susan said she thinks that is because the County won't respond. Is there a way to force the County to respond?" Susan said no. Randy said the County has told him that the City should write down what it wishes, and now they would consider it. Susan replied she believes this is false. Matt asked if Susan believed it is false to do the work? Susan said, "I think it's false to do all the work, spend all the money, do all the planning and then we'll consider it. I have a very different view than Randy Carpenter has about the current Commission." Kelly Smith asked if she believed it should be a collaborative effort to come up with a draft. Susan said she thinks the County won't help provide input at all. Randy said he thinks a more in-depth discussion with the Commission of *what do you guys want to do* and discuss it. "I don't think our last meeting, about six weeks ago, went very well," Randy said. "I think it is for the good of the community to have some influence over what happens in the immediate vicinity of the City." Matt Jones said he agreed with that. Crystal Turner said that the City Council approved a letter to the County Commission asking them to adopt our Growth Policy (back in May) and the Council has not heard any response at all. Amy Laban suggested asking for a confirmation of receipt.

Kelly explained how the County handles applications that are submitted now that are within the 1-mile boundary which is: application comes in, City advertises it, the City Zoning Board holds a hearing (if required depending on the application type) and makes recommendations, the City planner takes that to the County for the second hearing and ultimate decision. Susan said the City would have to update its Subdivision Regulations as well, and ask the County adopt those for their 1-mile area and so if the agree to an Interlocal and any subdivision applications came in for that area, they could follow the City's same rules. Kelly said, "The horseshoe property near the School's undeveloped land north of the city limits, there is a 20-acre parcel with exempt wells that was for sale for years. People called all the time asking what they could do there, and we have it designated as "Industrial" yet a trailer house ended up being placed there which negated what we believed its use would be best since it is surrounded by storage units, the batch plant and other industrial uses. The County sent anyone who contacted them about this property to us to have them learn our rules – so they have been operating like we have a 1-mile jurisdictional area." Randy added there is very little the County can do to deny an application. Matt said we should ask the County to allow us to have jurisdiction in the 1-mile. Kelly recommended the City Zoning Board should look at what Manhattan got approved [by the County] and if it is similar to what the City thinks is agreeable, we could consider requesting the same or modified agreement, or at least start the conversation there. Racheal Tollison agreed this was a good idea. Randy suggested asking the County if they would consider allowing the City to do the review of any subdivisions in the jurisdictional area. Susan asked how that is any different than how the City is operating now? She added, "It's not different than the State requirement that if you are in 1000-feet you have to hook up to municipal sanitation," she said. Amy Laban asked when the County adopted Manhattan's Growth Policy and Interlocal Agreement, and would like to read through it to see if there is anything to glean that Three Forks feels similar about.

Jacob agreed but thought it would be good to see the agreement that the County approved, and possibly the original version. Matt asked but if you are within 1000-feet you have to seek municipal connection? Susan said yes, and she added that most municipalities would require you to annex in order to provide those services. Susan explained there used to a "three times the cost" rule at DEQ

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and that if it cost three times to connect to a municipal system than it would cost to build your own than DEQ would allow it. However, many areas have had issues (things like groundwater contamination, some of the folks wanting municipal services rather than being on a well and septic that they me be on, and other reasons). So that is no longer a rule and the developer must now prove a financial hardship not to connect. Not connecting, and building next to [a city], is a work around of all the services by being on the edge but not annexed and does not pay taxes to the city. Water Courts have also argued against exempt wells as a form of subdivision use. Amy Laban is struggling with if this is a good decision for the whole city, "As a representative of the City, I should be doing what is best for the City. And I don't know if should we spend \$30,000 to determine if this is the best interest of the City or if it's an investment in the City's future." Susan Swimley said to the Board, "You already have a lot on your plate already, and my recommendation is not just about money, but time, as well as outcomes." Susan will get the Manhattan interlocal and get it to the Board. Matt said he agrees with Randy, "I want the control in the mile but if it is a moot point and the City isn't gaining anything at all that's not good and it would be a waste of time and money."

B. Discussion with Lee Nellis Regarding the Recommendation from the Impact Fee Advisory Committee (IFAC) about Impact Fee Amounts

Lee Nellis provided an update on the status of Impact Fees. The IFAC met yesterday and had a good discussion. He shared his screen with the spreadsheet breaking down and explaining the various projects for each area an impact fee could be attributed to. "These projects are all tied back to the projects listed in the CIP. We must determine for each if they serve the existing population, or growth, or both. Then you also split it out based on use: commercial vs. residential. For example, a McDonald's would obviously use much more water than a small office business," Lee explained. He detailed out the colors of each trial impact fee based on its corresponding projects listed in the CIP which could be achieved in the next five years, and in the gray area to the right of the spreadsheet is where each breakdown would be for residential single family, residential multi-family, commercial infill, etc. "This is what was presented to the IFAC, but then I worked on this with Kelly this morning to learn what funds are already set aside for various projects. All the various projects total over \$15,000,000. These fees are driven by that total cost. The work that Kelly and I did on what funding sources available will result in a noticeable downward trend in these fees. The Planning Board doesn't have a formal role in this, but we wanted to ensure you were aware of this. The Council will ultimately decide to charge these, not charge them, or charge a lesser amount that what will be presented," Lee closed.

C. Discussion on the Main Street Parking Survey Results

Randy Carpenter explained his memo regarding off-street parking requirements which was distributed to the Board. "This requirement is a significant deterrent to new development downtown. If you wanted to build a restaurant say the size of the Iron Horse, you would be required to have more off-street parking places than the size of the existing building, almost 2.5 times the size actually." He also mentioned that living downtown is also a recommendation, something like living upstairs in the downtown. However, this would require 1.5 spaces for each unit on top of the requirement for the use on the main level. Rather than build up you are saying [to the applicant] *this will be asphalt*.

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With that said, staff did a survey in July and August to see how much on-street parking is available. We looked at Main Street and the side streets east and west from Sacajawea all the way down to Elm Street. There are 239 spaces in on-street parking spaces. The average occupancy was 37% occupied. The average number of available spaces on street was 151. So, there is plenty of parking in the downtown area of Three Forks. If we get to a stage when we can reduce the regulation, but on Main Street it's a state road – technically our ordinance cannot dictate what is or is not required on the state highway. Given that concern and tallying up the non-Main Street parking spaces (which there are 90 available) was 39% occupied and 61% available. It seems pretty clear that my intuition just by walking down the street that there is a lot of unused parking spaces downtown and there is not a parking problem downtown. So as the Zoning Ordinance is updated, a relaxation of the required off-street parking will be recommended,” Randy said. Amy Laban asked if the City relaxes the off-street parking requirement, what would it do the existing businesses that had to provide that? “Can they recapture that space?” she asked. Randy Carpenter said absolutely. He reminded the Board there is no decision being requested tonight, just wanted to provide the Board with this information.

D. Discussion regarding Zoning Code Rewrite

Lee Nellis said there are couple questions he would like to get answered this evening, and plant some seeds as well – but will be brief since it's been a late meeting already. 1) Do you need to, and are you willing, to meet a couple times a month to get this rewrite done? “Think about that while I do my presentation,” he requested.

Lee said he wants to minimize the request for variances. The subdivision part will be the biggest bite and be the most time-consuming, but that is required by state law. “In the purpose section, each chapter will have its own purpose statement. They will be real about what actually happens in Three Forks and not just generic. I will also present the general principles. I have learned this is how we help the people in this office be more clear, as well as make it easier for the applicants. If you give the staff these general principles, they know upfront what they will be required to perform and/or submit.” He asked that the board send him questions directly. If he does not receive any comments, he will assume the Board is ready for the next chapter. He may send the chapters not in order of what the final regulation may be. “We will cover all the existing zoning districts – their definitions and designations based on the existing map. We would like to start with residential districts, and specifically the southeast area and that is because there is development waiting to come into the municipal boundary. Zoning – as you have practiced it – usually happens one request/thing at a time. You did this tonight with the conditional use permit – just look at zoning *one lot at a time*. The new code could give you opportunities to approve “whole neighborhoods” by them adhering to the goals of the GP, and the regulations in the new Zoning code. Each chapter will have a few things in common: a reference to the map and boundaries, the purpose, the uses and permits needed, dimensional standards, performance standards.”

Kelly Smith asked, “If we have this in our zoning ordinance and someone wants to change their zoning, and we have a map in each area which is approved, would we have to recodify each district that has the affected map/boundary area?” she asked. Lee replied that is why zoning whole “neighborhoods” is so great because if you have it figured out for the neighborhood already you will really minimize the requests to change that. Kelly replied that is good in theory, but if the ordinance is too rigid and needs

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applications to change it she is thinking of the cost to recodify the ordinance. Randy said in other communities though, that happens all the time.

Lee explained in more detail to start with a “Kyd Road Neighborhood Zoning District” (see PowerPoint).

Amy Laban asked if it would be appropriate where that mentions parks, to include trails? Lee said yes that makes sense. He continued, “In Three Forks you cannot impose inclusionary zoning, that is a law requirement. I am giving the Planning Board a homework assignment #1) wander around town, Bozeman, Helena, wherever – and take pictures of landscaping that you think works. What is attractive, effective, anything you have a positive reaction to it. Send the pictures to Lee and Randy. “This action item will be due before the October meeting. I could give you some pictures, but it won’t be nearly as effective,” Lee said. Matt asked if Lee and Randy wanted to see just “any landscaping” or businesses specifically. Lee said, “Anything you find appealing. If you see a business, even a storage unit business, if you see something that you like.”

Lee then continued explaining other performance standards (which are more detailed statements of the City’s goals) which may apply to all development or just to a particular development. These would be things like safe access, including pedestrian and bikes, and then safe and adequate parking. Other performance standards are obvious like water, sewer, streetlights – but we need to be thinking about perpetual maintenance. “It’s great to say landscape it, and they do and it looks great, but they need to also irrigate it or it won’t look good for long,” he said. Fair contribution to off-site infrastructure via impact fees is one method to maintain, “I like impact fees because they are fair and everyone pays the same. But there could be a developer agreement, there will always be a path.” He continued performance standards could be: outdoor lighting – do you want it or want to be able to see the stars or not; telecommunications (which is detailed in federal law), signs and public art, accessory uses, and temporary uses. “At some point you should anticipate a homework assignment of looking and taking pictures of signs as well,” Lee suggested.

Matt Jones asked about setbacks. “So, we don’t have to think about setbacks anymore?” Lee said it could be broad in the code, and the developer will come with what they feel works with the goals you set. “This ordinance will not be abstract, it will be very concrete. You put the big pieces in motion, and the piece fill in,” Lee replied. He asked if the Board was ready to see a draft of the Kyd Road Zoning. They said yes. Lee will prepare that and present to the Board at the October meeting. He asked if the Board had thought about meeting twice per month? The Board members agreed it would be better to not have marathon meetings, this way they can provide better input and not be mentally exhausted. Next meeting will be October 1, time to be determined and Kelly Smith will send an email to the Board to get a feel for George Chancellor and Niki Griffis’ availability. Lee asked the Board members that if they have a thought or question, please send it to me AND Randy so we have that.

Amy Laban moved to adjourn. All seconded the motion in unison.

Motion Passed Unanimously and the meeting adjourned at 9:31PM.