

# **GRANITE COUNTY PLANNING BOARD**

## **Public Monthly Meeting**

### **Courthouse Courtroom**

**220 N. Sansome Street, Philipsburg**

**January 3, 2019, 6:00 p.m.**

#### **Present:**

Granite County Planning Board Members: Tom Rue – Vice-President, Gail Leeper, A.J. Michnevich, Tom Sanders, and John Spaeth.

Planning Board Staff: Linda Bouck, Granite County Planning Director.

Guests: Neil Buckley, Leslie Casey, Kent Ellis, Alan Frankel, Elena Gagliano, Brenda Griggs, Patty Hamblock, Philipsburg Town Council Member John Johnson, Vera Johnson, Anthony Laslovich, Phil McDonald, Town of Philipsburg Attorney Robert Medof, Robin Morrison, Doug Morrison, Dick Motta, Town of Philipsburg Mayor Daniel Reddish, Tom Standford, Philipsburg Town Council Member Carl Sundstrom, Kody Swartz, John R. Vukonich and Spencer Woith

#### **I: Call to Order**

Vice-President Tom Rue called the meeting to order at 6:05 p.m. The Board and Staff introduced themselves.

#### **II: Pledge of Allegiance**

#### **III: Election of Officers**

The Board decided to move the election of officers to the end of their agenda.

#### **IV. Finn Addition – Public Hearing and Deliberations**

Planning Director Linda Bouck gave an overview of the subdivision and went through the findings of fact. It was noted one written comment had been submitted by Mary Minchow on behalf of the Rita Finch Estate. The had four concerns one with the drainage from the east (north arrow mislabeled on the map used, really is the drainage from the south), ensuring a 20' easement is along the portion of the property bordering the Finch property, requesting outbuildings be limited to 300' instead of 800', and requesting the developer to extend utilities to the Finch property. Bouck noted the Board really has no ability to require the developer to

extend utilities to adjoining properties outside of this subdivision. The developer has left a 35' wide utility easement corridor to the Finch property for their future use.

Kody Swartz, an engineer for the developer, stated Caledonia Road is acting as a dam keeping water and drainage from entering the property from the south. The storm drainage pond should slow and allow particulates to settle before draining to a storm drain. Swartz also noted the 20' setback between the Finch property and this development is already represented on the plat.

The developer noted they were in general compliance with the regulations, with the exception of condition 29 which would require all slopes over 15% to be marked as unbuildable. They are requesting this condition be removed to allow for daylight basements.

Spencer Woith, engineer for the developer, noted it is not their intention to limit the multifamily lots to duplex units. They were considering 4-6 town houses on each of the multi-family lots. It was noted the application referred to the lots as duplex lots throughout.

Woith also stated they are hoping to build this out as a whole but they might phase it. Bouck explained if the phasing plan is not submitted prior to the Philipsburg Town Council making a decision, then the developer would have to reopen the subdivision and take the phasing plan back through the process before they could phase. It would be better to put in place a phasing plan, if they didn't need it that would be fine but it would be there if they did decide to implement phasing. Woith said they would submit a phasing plan prior to the Philipsburg Town Council meeting.

Vice-Chairman Tom Rue asked for questions from the Board for the developer.

John Spaeth asked if they had defined the culvert size and asked who would be enforcing the covenants. Swartz stated culverts for driveways will be a minimum of 12" and stated covenants would be enforced by the property owners within the subdivision. The Town of Philipsburg would have standing to enforce covenants required by the Town as part of the process. It was noted they will not have a homeowner's association with this subdivision. Spaeth also stated he liked the town houses on the multifamily lots as it allowed for some affordable living within the subdivision.

A.J. Michnevich said he did not think limiting the size of outbuildings to 300' would be large enough. There would then be the potential of vehicles or items being stored outdoors. He believes it is better to leave the outbuildings at 800'. He said he thought the easement access to the Finch property to the east was sufficient mitigation for their concern. He then asked the developer if they were going to limit short term rentals or address short term rentals in the covenants. Swartz stated they do not intend to limit short term rentals at this time.

There being no further comments from the Board, Vice-Chairman Rue opened the public hearing portion of the meeting.

Leslie Casey, an adjoining property owner, said she had concerns as to whether there would be enough potable water with the addition of this subdivision. She also has concerns regarding whether the Town water and sewer systems have adequate capacity for these additional lots. She believes the extra pressure on these systems should be addressed by the developer.

Swartz replied the subdivision would have 8” sewer mains throughout. There are some 6” mains downslope from them but the design should help to alleviate some of the stress on the system at peak times. He added that all of the lines from the school downslope are pvc pipe. Woith noted the Montana Department of Environmental Quality will review the design for compliance with sanitation and water laws. As part of that review they will verify the Town’s infrastructures ability to accommodate this development.

John Vukonich, former public works director for the Town of Philipsburg, said the Town has more than adequate water volume available to accommodate the additional lots. He also stated an expert from H&S engineering has completed a report on the sewer lagoon and the sewer systems should be able to handle 31 additional lots. It was noted a letter to this effect was contained in the packet by the developer. The letter was obtained from John Vukonich prior to him leaving the public works director position with the Town of Philipsburg.

Vice-Chairman Rue asked if Mayor Daniel Reddish wished to comment on the water and sewer capacity. Mayor Reddish stated the Town does not wish to comment on this application until it reaches the Town of Philipsburg for consideration.

Robin Morrison, an adjoining land owner, said she had concerns with the added stress on the Town’s sewer system. She noted the Town is constantly patching the system and that the infrastructure in many places is very old. She asked who will be paying for all of the sewer issues when they arise in the future.

Doug Morrison, an adjoining land owner, said he had several concerns with the design of this subdivision. He stated he felt lots 24-31 were too small in size. The developer noted the lot sizes are about the same as neighboring properties and town lots.

Mr. Morrison also had concern with 4 of the lots accessing on to South Montgomery Street. He noted the street is busy and questioned what impact this subdivision would have. He believes the developer should pave South Montgomery Street from College Street all the way to the Rosalind Addition. He believes the entire subdivision should be fenced.

A discussion was held as to whether 2 out of the 4 lots accessing on to South Montgomery Street could access off of interior subdivision streets. The developer noted that due to the steep topography there, around 7% it would not really be feasible to have those two lots access off of the interior subdivision roads. After consideration the Board agreed with the developer. Alan Frankel with the developer pointed out the subdivision will be paving South Montgomery Street

from College Street to the Shirley Court entrance of the subdivision. This should help alleviate some of the dust concerns associated with the road currently for the adjoining land owners.

Mr. Morrison questioned whether mine tailings were present on site. Phil McDonald stated they have done preliminary dirt work for the site and no mine tailings have been found.

Mr. Morrison stated when Whiskey Flats Subdivision was proposed the Town said the subdivision could not connect to the Town's system because of the sewer lagoons. He questioned what had changed between then and now. He also stated the developer should have to post a cash bond for any potential problems 20 years down the road. Frankle with the developer again noted all of this will be verified by the Montana Department of Environmental Quality prior to any permitting being approved. Bouck added the subdivision regulations do not allow for any kind of cash bond for potential issues 20 years from now. The added tax revenue from the new residents should help to defray these costs.

Kent Ellis said he is a resident of Granite County and he thinks this is a good project for Philipsburg. It will increase tax revenue, and be an added benefit to the town. He noted this is a good opportunity for the town to grow and he was in support of the project.

Brenda Griggs, a neighboring land owner, asked if the homes in the subdivision would have a height restriction. The developer noted when the property was purchase it had a 30' height restriction on a portion of the property. They set this same 30' height restriction for the whole subdivision within the covenants. Ms. Griggs asked who would enforce the covenants. It was noted the property owners within the subdivision will have a right to take a civil action to have their neighbor comply with the covenants. The original height restriction can be enforced for that section by the previous property owner. The portion of the covenants under the Town of Philipsburg Required Covenants can also be enforced by the Town of Philipsburg.

Betty Hawthorn, a neighboring land owner, questioned whether she'd have to enforce dogs at large. Bouck noted the subdivision covenants do require dogs to be fenced and the Town of Philipsburg does have an ordinance regarding dogs. Surrounding property owners outside of the subdivision do not need to enforce covenants for the subdivision. A general discussion was held regarding pet control within the Town.

There being no further public comments Vice-Chairman Rue closed the public hearing portion of the meeting. Bouck noted this was the first of two public hearings required for this subdivision. The next one will be held at the Town Hall with the Philipsburg Town Council on the first Tuesday of February at 7 p.m. Adjoining land owners will be noticed and a notice will be in the paper as well.

Vice-Chairman Rue opened the Finn Addition for deliberations and recommendation from the Planning Board.

Gail Leeper asked what FEMA mapping said for this area, as it appears to be in a minimal flood hazard zone. Swartz said the property is located in zone x an area of minimal flooding with no set elevations.

John Spaeth pointed out the developer bought the land and has the right to develop the property as does any other land owner in Montana. It is hard to say no to a subdivision when it is within compliance of State laws. Surrounding land owners may not want to see change but it is a well thought out subdivision and he did not believe it would have that large of an impact on Philipsburg.

Gail Leeper asked about the traffic on South Montgomery Street. Swartz stated a traffic study was completed as a requirement of the subdivision and it is well within national standards. Currently there are 136 passenger trips on the street per day. With the addition of the subdivision there will be 272 passenger trips per day, with an estimate of 35 trips per hour at peak hours. Currently peak hours see 12 trips.

A discussion was held on the developer's request to eliminate condition 29 regarding no building on 15% slopes. The Board deliberated on the matter and decided since this subdivision will be connected to sewer and water with paved roads, and the condition is often put in place to eliminate steep driveways or improperly installed septic systems, they would remove condition 29.

The Board also agreed to change the multi-family lot from 2 units to 4 units for each lot with the developer deciding if they want to do one building with 4 or 2 buildings with 2 per lot, with the maximum total units for both multi-family lots to be eight units.

Tom Rue made a motion to recommend approval of the Finn Addition with 28 conditions as amended above. A.J. Michnevich seconded the motion. Motion passed unanimously.

## **V. Wiederspiel – Family Transfer Hardship**

This matter was requested to be presented before the Planning Board by the Board of Commissioners. They would like the Board to review the hardship presented by Mr. Wiederspiel or his representative Ed Churchill and make a recommendation on whether the family transfer is an attempt to evade subdivision.

Linda Bouck gave some background information on the family transfer. The Wiederspiel Family Transfer was completed in October of 2017. As has always been the policy for Granite County, should a deed on a family transfer be submitted for filing within 2 years of the date of the family transfer filing, a review for evasion is completed. Although no deed has been submitted, Mr. Wiederspiel requested a determination with consideration for a personal hardship. The family transfer created parcel was 195 acres and the parent parcel was 40 acres. The parent parcel

retains the right to sell without evasion review at any time. Mr. Wiederspiel has requested to transfer the 195 acre parcel due to a hardship.

No one representing Mr. Wiederspiel was able to attend the meeting and no information for consideration of a hardship was presented.

Vice-Chairman Tom Rue said he has looked at the realty listings and the parcel has continuously been on sale for the past three years. He remarked the Board has never considered financial issues in connection with a hardship.

Gail Leeper pointed out the whole thing is based on a hardship and no hardship has been presented.

Kent Ellis, a resident of Black Pine, stated the parcel has been on the market for a long time. It hasn't sold because the price is too high. Doing the family transfer was a way to cut the parcel and attempt to gain the full price. He said the inability to reach your full price is not a hardship. He urged the Board to deny the hardship.

Given the evidence before them, the Planning Board determined the attempted sale of the parcel to be an evasion of the subdivision and platting act. They believe the parcel was created for sale purposes only and to evade subdivision requirements.

A.J. Michnevich made a motion to recommend the Board of Commissioners deny the hardship and inform the owner that any attempt to sell the property prior to October of 2019 will result in legal action by Granite County for evasion. Tom Sanders seconded the motion. Motion passed unanimously.

## **Election of Officers**

The Board took up the agenda item for election of officers. Two Planning Board members requested the Chairman position A.J. Michnevich and John Spaeth. Both members gave their reasons for requesting the chairman seat. Vice-Chairman Rue called for a vote of the members. It was decided by a 3 to 2 vote to elect A.J. Michnevich as the new Chairman.

Vice-Chairman Rue asked if John Spaeth would be interested in putting his name in for the Vice-Chairman position. John Spaeth asked to be considered for the position. A vote of the members was called for and John Spaeth was elected 4-0 for the Vice-Chairman.

## **Minutes**

### **A. December 6, 2018**

The Board reviewed the minutes from December 6, 2018. Several corrections were noted.

**Gail Leeper made a motion to approve the minutes with corrections from the Board's December 6, 2018, meeting. Tom Rue seconded the motion. The Board voted unanimously to approve the minutes.**

**V. Public Comment**

There was not public comment.

**VI. Miscellaneous**

There was no miscellaneous.

**VII. Adjourn**

**Tom Sanders made a motion to adjourn the meeting. Gail Leeper seconded the motion. The Board voted unanimously to adjourn the meeting.**

The meeting was adjourned at 8:10 p.m.

**Minutes approved on February 7, 2019**

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**A.J. Michnevich**