



MINUTES
PLANNING & ZONING COMMISSION
PUBLIC HEARING
November 14, 2017
STARTING AT 5:00 PM

LOCATION: 150 Courthouse Dr, Driggs, ID 83422
1st Floor Meeting Room

Commissioners Present:

Sarah Johnston
Jack Haddox
David Breckenridge
Marlene Robson
Pete Moyer
Cleve Booker
Chris Larson

Staff Present

Joshua Chase
Sharon Fox
Billie Siddoway
Gary Armstrong

1. Approval of Minutes

• **Tuesday October 10, 2017**

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| RESULT: | ACCEPTED [UNANIMOUS] |
| MOVER: | Sarah Johnston |
| SECONDER: | Chris Larson, Vice Chair |
| AYES: | Sarah Johnston, Jack Haddox, David Breckenridge, Marlene Robson, Pete Moyer, Cleve Booker, Chairman, Chris Larson, Vice Chair |

2. Chairman Business

Mr. Booker introduced Mr. Armstrong as the new Planning Administrator.

3. Administrator Business

Mr. Chase commented that the county has received draft data on the new FEMA floodplain maps and sometime next year a preliminary map will be ready to present to the public and receive comment prior to adoption of the new maps. The floodplain ordinance would also be updated at that time.

Mr. Chase next talked about the existing draft code website shared by the cities of Driggs and Victor to keep the public informed about the progress of the draft code. The BoCC would like some direction from the Planning Commission as to the future of the draft code process because it appears, based on the website, that the county is still working on the draft code. A discussion should be held as to what to communicate to the public about the website and the draft code. Mr. Chase commented that the cities have an interest in maintaining the website because it represents their approved codes and would like to have the information available for other jurisdictions in the state as a resource for their codes. Mr. Booker asked the Commission to take some time and look at the website and decide how they feel about moving forward with the process and how to address that on the website.

Item #1. – PUBLIC HEARING: PRELIMINARY PLAT REVIEW: Cutthroat Creek Subdivision-POSTPONED

Legal Description: RP06N46E324805; SW4 LESS #3183 & #3330 SEC 32 T6N R46E

Mr. Chase commented there has been no new submission of materials for Cutthroat Creek so he recommended continuing the preliminary hearing to a date uncertain until they come back with new updated information.

Mr. Booker asked if it is necessary to keep continuing the hearing if the applicant is not attempting to submit new information. Mr. Chase explained the applicant is going to submit an extension application to the BoCC in December. Ms. Siddoway suggested giving the applicant a deadline for submitting new information or the application could be denied.

MOTION: I move to continue the hearing to a future Planning & Zoning Commission meeting on January 9th pending receipt of updated studies that meet the requirements in Title 8 and Title 9.

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| RESULT: | FAILED [UNANIMOUS] |
| MOVER: | Chris Larson, Vice Chair |
| SECONDER: | David Breckenridge |
| AYES: | Sarah Johnston, Jack Haddox, David Breckenridge, Marlene Robson, Pete Moyer, Cleve Booker, Chairman, Chris Larson, Vice Chair |

I move to continue the hearing to a future Planning & Zoning hearing on February 13th pending receipt of updated studies that meet the requirements of Title 8 and Title 9 by January 29th.

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Chris Larson, Vice Chair |
| SECONDER: | David Breckenridge |
| AYES: | Sarah Johnston, Jack Haddox, David Breckenridge, Marlene Robson, Pete Moyer, Cleve Booker, Chairman, Chris Larson, Vice Chair |

Item #2. – WORK SESSION: Building Rights Policy

Mr. Chase reviewed the history of the building rights issue and the ordinance amendment approved by the Planning and Zoning Commission in early 2016. The BoCC made the decision to adopt a component of the proposed ordinance as a policy rather than an ordinance amendment. He explained that the policy established criteria for determining whether or not a parcel had building rights, but they did not adopt the component that provided options if it was determined the parcel did not have building rights. He felt the current policy has some issues that need some clarification or revisions if it were to be continued. The BoCC identified building rights as an ordinance amendment priority and a work group was formed to come up with some alternatives. The County Attorney developed five alternatives to resolve the issue to be discussed at a work session and then presented to the public at a public hearing. Mr. Chase commented he felt the policy that was adopted represented the history of the ordinance amendments over time but could use some additional clarification, or an alternative policy should be agreed on and then presented to the public for their input.

Ms. Johnston asked how well the current policy is functioning. Mr. Chase commented the previous staff had reviewed approximately 400 parcels and found around 30 of them that did not have building rights. He explained one of his issues with the current policy is there are two conflicting time frames on ag divided

parcels depending on when they were divided. He felt that on almost all of the parcels that did not have building rights there was a process for obtaining the rights. The current policy does not deal with lot splits that were signed off by the Planning Dept. that should not have been approved according to the policy in place at that time.

Ms. Johnston was concerned that the application form that someone fills out to determine building rights states on it that the results are not binding so it seems there is no point in paying for an answer. Mr. Chase agreed that was a problem, but commented the statement on the form was not part of the policy adopted. Ms. Johnston felt property inquiry results should travel with the parcel even if it is sold before someone builds a home. Mr. Haddox agreed that if someone pays for a property inquiry it should continue to be upheld regardless of any future ordinance changes. Ms. Johnston wanted to continue working with the current policy and improve it.

Ms. Siddoway commented she hoped the Commission could get the alternatives they were comfortable with presented to the public for their input. She agreed that a lot of record determination should remain with the parcel and pointed out that in Alternatives 2 and 3 there is a revision that states that if the county determines a parcel to be a lot of record it would include a certificate that can be filed with the Clerk & Recorder that states the parcel has building rights. She commented that Alternative 1 has a different approach that moving forward all lots created are assumed to have building eligibility and if there is not building eligibility the Assessor would send out a letter to the owner informing them they cannot build a house on their property. Ms. Siddoway commented she was looking for input from the Commission regarding the alternatives they like or if they want to see some of them combined or expanded on. She wanted feedback if the Commission had ideas other than a lot of record certificate or the notice of non-eligibility for a building right so she could work that into a proposal.

Mr. Moyer asked if there was some kind of notice between the Assessor and the Planning Dept. letting them know that a new lot has been created without a signature from the Planning Administrator. Ms. Siddoway commented she thought that when the Assessor receives a plat that creates a new lot they could notify the Planning Dept. to find out if it went through the proper process. If it did not, either the Assessor or Planning Administrator could send the owner a letter that informs them they did not create a lot with building rights and that it needs to be remedied. Ms. Johnston commented that would work for newly created parcels but there is still the problem with previously created parcels that may or may not have building rights. Mr. Booker commented he felt there should be a process established to fix all lots that are deemed unbuildable if the owner had no idea when they purchased the lot that it didn't have building rights. Ms. Siddoway commented that Alternative 3 was intended for people who bought a lot with no idea it was created illegally so they could get building rights based on her determination that if they had come in to build their home four years ago they would have been issued a building permit. She pointed out that Alternative 1, Amnesty, offers the same resolution but does not require any staff time to do research on how the parcel was created.

Mr. Booker commented that there is no obligation to provide building rights for people who did not come through the proper channels. Mr. Haddox asked what the process is for review of a property inquiry application, if it involved deed research. Mr. Chase commented that was how it is handled at this time, but some parcels are more difficult to determine than others. Mr. Haddox suggested offering the person who is looking to determine if they have building rights a lower application fee if they do the research and can provide the documentation on the history of the origin of the parcel they purchased. Mr. Chase agreed it would be a good idea to have the applicant do more of the research and charge them less.

Ms. Robson asked if property is divided based on a will and an attorney draws up the new deeds and records them, would that be a legal lot split. Ms. Siddoway responded that the county has not been recognizing that

as a legal division. She acknowledged that does happen a lot, and she felt the solution was to educate the attorneys and the judges who do probates in our county that the lot split is only legal if the County signs off on it. She stated that if the Commission would like her to work with the Planning Dept. to develop a specific provision in one or more of the alternatives to deal with judicial partitions she could add that.

Mr. Moyer asked about the ability to remodel a property if you inherited it and it was split illegally. He wanted to know if the property could be sold even if it wasn't a legal lot split. Ms. Siddoway commented it could be sold, and there are some instances where people want to split property never intending to have building rights on the piece they are selling or exchanging with a neighbor. Ms. Johnston commented that further down the road that person could sell the lot without disclosing it has no building rights because it has it's own deed.

Mr. Booker asked about the \$450 fee suggested to resolve the building rights issue. He wanted to understand how that amount was determined because he felt the public might challenge the basis for that fee. Ms. Siddoway commented that it is important for the fee to be related to the County's cost to provide the service.

Mr. Booker asked the Commission how they want to proceed with the alternatives. Mr. Larsen felt they should have a public hearing to get the public's input before trying to finalize a proposal. Mr. Haddox commented he liked parts of each of the proposals, but wanted some public input before trying to determine the best option. Ms. Johnston commented that the alternatives presented were more thoughtful and had more options that when the building rights issue was originally discussed last year and thanked the staff for the effort. Mr. Booker commented that hopefully, if the Commission can do a good job of forming a solution, the BoCC won't need to make any major changes.

Mr. Moyer asked if the county has identified all the unbuildable lots. Mr. Chase explained the county has not tried to identify all unbuildable lots. The issues were arising from people doing property inquires that identified unbuildable lots. Mr. Booker felt it was important to find out how many unbuildable lots exist in the county and thought using college interns or non profit organizations might help sort through the process. Ms. Johnston agreed that it was a good idea to understand the magnitude of the issue. Mr. Chase commented he would like to see more clarification about recourse options on lots without building rights. He asked for direction from the Commission on how to approach that. Mr. Booker was in favor of moving forward by getting public input.

Ms. Robson asked about probate land splits. Ms. Siddoway suggested sending a notice to attorneys in the region that practice in probate court and tell them if they do estate planning or probate work they need to make sure they comply with the land use planning ordinance if they want the client inheriting the property to have building rights. Mr. Breckenridge agreed that it was a good idea to educate the lawyers regarding the need to make sure the probate process is done according to the current land use ordinances.

Mr. Chase asked if the Commission wants to move forward and schedule the public hearing for December. It was the consensus of the Commission that they would like to hold a public hearing to discuss the issue in December.

ADJOURN

MOTION: Adjourn at 6:45 PM

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| RESULT: | ADOPTED [UNANIMOUS] |
| SECONDER: | Chris Larson, Vice Chair |
| AYES: | Sarah Johnston, Jack Haddox, David Breckenridge, Marlene Robson, Pete Moyer, Cleve Booker, Chairman, Chris Larson, Vice Chair |

Cleve Booker, Chairman

Attest: _____