

ZONING AND PLANNING BOARD MEETING MINUTES

February 16, 2023, Zoning & Planning Board meeting was called to order at 7:00PM at City Hall at 206 Main Street, Three Forks, MT 59752, and via Zoom (Zoom is a virtual meeting tool being used due to COVID-19 and social distancing guidelines).

Chairman George Chancellor, Members Kelly Smith, Amy Laban and Niki Griffis were present at City Hall. Matt Jones was excused. City Planner Randy Carpenter was also present at City Hall.

Public Present: John Pearson

Chairman Chancellor reminded everyone the meeting was being recorded.

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

CONSENT AGENDA

Minutes from the meetings held on 1/19/2023

Amy Laban made a motion to approve the minutes. Kelly Smith seconded the motion.

Motion Passed Unanimously.

NEW BUSINESS

Review of the Zoning & Planning Board Bylaws and Forward Recommendation to the City Council to Adopt the Amendments

Crystal Turner explained the bylaws have not been updated since 1996, when the board was adopted, but some things have been changed process wise. "Over the past few years, Kelly and I have been working on the updates that already occurred and documenting them in this version." She highlighted the changes added the proper MCAs referenced within, the former document said "the council chairman would officiate and administer the oaths of office of all board members, and keep those records" so Crystal changed that to the City Clerk's duties. At some point the Legislature changed the term of "Master Plan" to "Growth Policy" so that has been updated. The document also provided specific Roberts Rules of Order language, and this board has not operated like that in quite some time; it is much more casual so Crystal revised to just refer to Roberts Rules instead of changing the way the Board operates. The meetings were set on the first Thursday of the month, and the board has been operating on the third Thursday of the month for many years, so that is changed. Crystal and Kelly also took the liberty of adding a deadline time for applications to be submitted so the deadline to get notifications to the newspaper are still met. "We set that at noon so that we have time to review the application and create the notices to be sent to the newspaper in the event the last Friday of the month is also just 15 days prior to the third Thursday of the following month," Kelly explained.

Chairman Chancellor made a motion that we forward on to the City Council that they adopt the changes we have amended. Niki Griffis seconded the motion.

Motion Passed Unanimously.

Discussion and Decision to Recommend to the Council to Amend the After-the-Fact Zoning Permit Fees

Pursuant to 11-20-2(C) of the Zoning Regulations to Ten Times the Original Permit Fee

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Crystal Turner explained that it requires much more time and resources: advertising, mailing notices, costs more to research an after-the-fact permit. George asked if this was to set an example. Crystal and Kelly said no, this is because of the considerable heavier workload to process after-the-fact permits. Crystal proposed 10 times the normal permit fee. There was discussion about discretion on each application. The Board did not want to see an after-the-fact shed permit, a normal fee of \$50, cost \$500 which could be more than the shed is worth. Staff agreed those types of permits do not require public notices, zoning permits do not but conditional use, floodplain permits, variances, etc. these take more time and require notices posted in the newspaper and around town and mailed to the neighbors. The board asked if there could be an appeal process allowed if staff says to the applicant that this is an after-the-fact fee. Kelly replied, "Not as the code is written now, but it could be added. The exhibit for the fee schedule, we increased after-the-fact fee, but maybe highlight to the applicants that there could be reimbursement as stated in 11-20-1-C?" George asked if the 10x would cover all the expenses for engineers, lawyers, etc. He feels that if one had to pay \$5,000 for a floodplain permit could be justified because the City still has to go through all the engineering reviews and other professional expenses. Amy Laban said then the staff would have to track it all by each "job" so to speak and if we did not track it this way it could open it up to argument. Kelly Smith argued that it would be hard for her to charge someone that high of a fee for a shed. "Yes, they should know about our regulations because we inform them when they move in and the information is all over our website and Facebook, but maybe the floodplain shed permit fee could be less," Kelly suggested. Niki Griffis said she felt it should be for more complex applications and not things like a shed.

Crystal wondered if she and Kelly should just highlight the 11-20-1-C reference to all applicants when they apply for any type of zoning permit. George asked that the Board table this decision to the next meeting because we have had good ideas to discuss. Randy Carpenter suggested asking the City Attorney about appeals to the after-the-fact fee – who would hear something like that, and what about an application fee for an appeal to be heard: would there be one? George likes the 10x but would like to see an appeal process and have some discretion permitted to back off the 10x fee if staff has a valid reason.

Chairman Chancellor moved to table this until the next Zoning meeting. Amy Laban seconded the motion.
Motion Passed Unanimously.

Discussion and/or Decision on Possible Residential Zoning Changes Provided by an Ad Hoc Group of Professionals

Moved to the end of meeting in case Matt Jones could zoom in.

PUBLIC HEARINGS

Public Hearing and Recommendation the Approval of a Conditional Use Application by Kelly Smith to Operate a Short-Term Vacation Rental, Example "Air BnB" for the Property Located at Block 11, Lot 4, Buttelman Addition, Plat D-20, more Commonly Referred to as 7 N. Kansas Street
(Kelly Smith left the table and went and sat in the audience.)

Randy Carpenter read his staff report and reviewed the application to the Board. Staff recommended approval of this application with the following conditions:

1. It shall only be operated when the applicant is present during rental period.

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2. The applicant shall receive a Public Accommodations License from the Gallatin County Health Dept.
3. The applicant shall receive a Sales and Use Tax Permit from the MT Department of Revenue.

Applicant Presentation: Kelly Smith said regarding the lodging and facility tax, “If you use Air BnB they collect and submit it for you.” Randy Carpenter said he just learned that and given that knowledge and proof that they collect all and submit the tax, he would be agreeable to strike that condition. “Kelly explained this is not a family bedroom, it has always been a guest room. It is the master bedroom with an en-suite bathroom on the main level. The renters would have access to come through the house from either the front door or the garage door and walk straight to their room. There would be a microwave and a refrigerator but no kitchen.

Board Comments/Questions: Niki wondered if we need to add with the sales and tax revenue that if it is not collected through Air BnB the applicant needs to collect and pay it. George asked if the Board can leave it as a condition and let it take care of itself – since Air BnB does it. Amy Laban amended the condition as “Applicant shall pay all sales and use tax as required by law.”

Public Comment: There was no public comment.

Chairman Chancellor closed public comment.

Applicant Rebuttal: There was no rebuttal.

Board Questions/Comments:

Chairman Chancellor moved to approve the CUP for home occupation for Kelly Smith at 7 N. Kansas Street with the conditions that it shall only be operated when the applicant is present during the rental period, the applicant shall receive a Public Accommodations License from the Gallatin County Health Department, and applicant shall receive a sales and tax use permit, required by law. Niki Griffis seconded the motion.

Motion Passed 3:0. Kelly abstained.

OLD BUSINESS

Public Hearing and Recommendation on a Request to Define “Meeting Hall” in Title 11

Kelly Smith informed the board that “Meeting and Lodge Halls” are referenced in 11-8A Central Business District, yet the Zoning ordinance does not have a definition. “Since meeting and lodge halls were put in the ordinance in 1980, things have changed. A definition might be helpful down the road,” she said.

Proposed definition:

Randy Carpenter – Title 11 is the zoning chapter of the City Code. Recent Conditional Use Permit proposals have led the Planning Board to discuss what is a “meeting hall”. Is it commercial, a conference center, etc? This request came to Randy from Kelly and George.

Staff recommends the following as a definition of meeting hall be added to 11-2-2: DEFINITIONS: A building or part of a building used for the assembly of persons for singular events such as conferences, religious functions, catered occasions, special events, club meetings, music venue, philanthropic purposes, and other such activities.

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Board Questions/Discussion: Niki Griffis asked if the Board needed to add what zoning districts this would be allowed in? Kelly Smith replied no, because meeting hall is only a permitted use in CBD and not listed in any other district. Randy Carpenter said the Board is only addressing the definition now, "When we do the new code and rewrite the Zoning, we can address if it will be allowed in other zones," he added.

Public Comment: There was no public comment.

Chairman Chancellor closed public comment.

Kelly Smith moved to add the definition meeting hall as a building or part of a building used for singular events, such as conferences, religious functions, catered occasions, special events, club meetings, music venues, philanthropic purposes and other such activities. Amy Laban seconded the motion.

Motion passed 4:0.

Discussion and/or Decision on Possible Residential Zoning Changes Provided by an Ad Hoc Group of Professionals

Randy Carpenter explained he asked a group of professional engineers, architects, and other city planners to help review the City of Three Forks' code and tonight is only presenting the first part of those discussions. Randy said, "I will present the rest later but wanted to explain the process and the basic principles to the Board. And how would we codify these principles and put them into law?" He added the Ad Hoc Committee's recommendations are not binding in any way; he is just asking for feedback tonight. "Once we get through this feedback process, we can give the information to Great West Engineering who I believe will be re-writing the zoning ordinance. Great West thinks it is highly advisable to wait to rewrite the zoning ordinance until after the current legislative session is complete, or nearly complete because there is just a bunch of stuff that may change our direction completely or update this for us," he said. He explained about HB337 max lot size bill.

Randy presented his PowerPoint. He explained the problem with existing minimum lot size, 10,500 square feet compared to any other code out there is quite a large lot so it results in more expensive housing. "The bigger lot just costs more, and slightly higher density is just more economic," Randy explained. Showed the Future Land Use Map (FLUM). "When you annex you have to designate what zoning your property would be zoned, and it has to align with the FLUM. So, we are really only talking about the two yellow parcels to the northwest of the existing town and the southeast of the existing town on the FLUM. Take townhouses for instance, we could write the code to allow those by right, rather than conditional uses. Staff would like to present maintenance of the Residential (R) zoning (our existing code) and a couple new denser residential districts. He then presented the "guiding principles" that this group came up with.

Building height is key. Kelly Smith asked what that means? She asked if that means height could be taller, shorter, what? Randy said it does not have to be anything, just needs to be well thought through. Kelly said near the airport has a 24-foot limit because of the flight path, but 36-feet is the maximum for everywhere else which is what the code allows now would accommodate 3 stories. Kelly said Central Business District does not have a height limit. Randy said these are suggestions for the residential code. George said where he worked a long time ago, they had these "bird houses" that were very narrow but could be three stories. However, the stairwell takes up most of the usable space.

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Randy continued on lot coverage saying, "I go back and forth on this. Currently the max for structures is 35% for Single Family Homes." They talked about Jason Karp's [City of Belgrade's planner] recommendation to make setbacks take care of the max lot size. There was discussion on the second home suggestion without having to go through subdivision. This would not meet laws in MCA. How would you even record it? So essentially it just becomes an Accessory Dwelling Unit (ADU).

Discussion on trails and parks. Amy asked about park versus open space? Randy said you can make open space in the subdivision without it being dedicated to the public use. Wetlands in Bozeman are "open space." Recommended including pictures in our zoning code saying, "These are very helpful, gets the concept across to the person for ideas while meeting the intention of the code."

Discussion on the "Missing Middle" which could be: work/live, multifamily of all sorts: apartment housing, duplex, triplex, fourplex, small commercial (see diagram in his PowerPoint presentation). Randy provided an example like his Bridger project. "The main point is you can use smart design to make it feel less congested," he said.

Kelly said, from the public's perspective ADUs is a thing the public asks for all the time. She likes that. The suggested porch requirement; not sure about that. Crystal gave an example of the staggered porches in a multifamily complex. Kelly likes porches, but she never sits on hers. Amy loves the idea, Niki likes them too but not sure about requiring them. Amy suggested that everything [in the new code] should have some autonomy. "Not every duplex needs to be exactly the same, but we've done that [with conditions] to be consistent with each application," she said. Amy is excited about hearing of different zoning densities. Trying to be consistent with CUPs is getting really difficult. It does not lead people to envision what they want.

Regarding the grid design for the town and blocks, the board felt this is still key. Topography may collide with the guiding principle but perhaps a deviation is written into the code or even the applicant could request a variance from the design code.

Discussion on alleys being key; the board likes mandating alleys be included. They have a purpose for the utilities easements as well as ADUs' access (like Granny units). George said as long as they could meet the setbacks, he does not see a problem. Amy agrees, with the cost of housing and aging parents and costs of taking care of them having a granny unit would make sense. ADU could be written as "smaller than main house". Kelly said the current code said "has to have a contiguous foundation" so we do not allow ADUs. Niki asked what is accounted for when you add more density and it impacts your water and sewer capacity.

George asked what would be in part two of Randy's presentation. Randy said he could take these principles and make them a rule, drafted as a code. Discussion on average density versus minimum lot size. Gives variety in the neighborhood, and then affordability too by offering many choices. Next time Randy will present an overlay of different lot sizes.

Amy asked for a copy of the PowerPoint to make notes.

Planning Board agrees with Great West Engineering on waiting to rewrite the residential zoning until the legislature is finished this year.

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Amy Laban moved to adjourn. Niki Griffis seconded the motion.

Motion Passed Unanimously.

Meeting was adjourned at 8:47PM.