

MINUTES
LAUREL – YELLOWSTONE CITY-COUNTY PLANNING BOARD
April 5, 2018 10:00 am
Council Chambers

Members present: Judy Goldsby, County Rep.
Jon Klasna, County Rep.
Jerry Williams, Conservation Corps Rep.
Dan Koch, City Rep.
Roger Giese, County Rep.
Ken Gomer
Lee Richardson
Ron Benner

Others present: Forrest Sanderson, Interim City Planner
Kurt Markegard, Public Works Director

CALL TO ORDER: The meeting was called to order at 10:00 a.m. by Judy Goldsby.

ROLL CALL: Members present were Goldsby, Klasna, Williams, Koch, Richardson, Gomer, Benner, Giese

APPROVAL OF MINUTES FROM PREVIOUS MEETINGS: A motion was made by Jerry Williams and seconded by Lee Richardson to approve the minutes of the November 2nd, 2017 meeting. The motion carried by a vote of 5-0.

New Business:

Introduction of Forrest Sanderson with KLJ Engineering

Judy introduced Forrest Sanderson from KLJ Engineering Consultants who has been appointed to be the Interim Planner for the Laurel City/County area. Forrest talked about his planning experience and the communities that he is currently serving as contracted Planner. The committee members introduced themselves and gave a brief narrative of their background and why they serve on this committee.

Discussion of Growth Management Plan

Forrest spoke about Laurel's Growth Management Plan and the possibility to take a look to see if the plan needs updating. Kurt handed out a memorandum that Forrest had sent to him that outlines what a Growth Management Plan should contain and the memorandum is attached to these minutes. The committee discussed the items that goes into a growth management plan. Forrest asked if everyone on the committee had a copy of the plan and some members were given a copy of the plan at the end of the meeting to read before the next meeting.

Discussion of Subdivision Regulations

Forrest informed the committee that due to Montana State Legislative changes he is recommending that the subdivision regulations be updated in order to comply with the new regulations. Kurt handed out to the committee Forrest's memorandum that details the updates that Forrest is recommending to be adopted to Laurel's subdivision regulations. The committee discussed subdivisions and land locations that could be annexed around Laurel. Kurt and Forrest discussed with the committee the water and sewer infrastructure that would have to be extended to properties wishing to be annexed. Lee asked how many properties outside the City limits currently have water and sewer and Kurt informed the committee that there are about eight two property accounts that are outside the city limits. Some of these properties only have water service. The committee discussed if some properties are better suited for annexation than others and Forrest stated that the developers must extend the water and sewer services with their own funds. Forrest also stated that would also include all city infrastructure like curb, gutter, sidewalks, storm water management, and streets. Forrest believes that all developers must follow the rules and he will be making sure that the rules will be followed if he has to review any future requests for annexation. Final Plat and Phased Subdivisions are the items that need the major changes. Jerry questioned Forrest about HB445 and phased subdivision regulations. Forrest talked about the need to have a complete plan upfront and not increment plans that may change over time. Forrest indicated that phased plans can have up to twenty years to complete the phases of a development. Forrest stated that a developer and the current city residents should have a win – win relationship.

Forrest talked about House Bill 416 and the costs associated with development to meet Environmental Impact Statements. Environmental Assessments are what the developers should have to prepare and not the Environmental Impact Statements. Forrest stated that this is a good change for the citizens of Montana.

Senate Bill 219 was discussed and how the mortgage exemption was use to subdivide land in the past.

Forrest informed the committee that he should meet with the Mayor and discuss how to implement the changes to move forward with the amendments to the subdivisions regulations.

Forrest asked the committee to review the Growth Management Plan and the committee should discuss the plan at a future meeting.

Judy asked if the legislature changes the subdivision rules every two years does this mean the committee will have to recommend changes every two years. Forrest stated that the legislature has changed the regulations every two years except for 2007 since 1993.

Judy asked Forrest if the Growth Management Plan in on Laurel's web site. Forrest stated that there are a number of documents on the web site. Kurt stated that he just viewed the web site and there is no mention of the Growth Management Plan on the web site.

Old Business:

Jerry informed the committee that the City of Laurel may be getting grant funds from the ExxonMobil Settlement. Ken stated what the funds will be going towards. Kurt also reported on the grant funds and that the draft program is out for public comment and will be ending on April 30, 2018.

MISCELLANEOUS: The next meeting is May 3, 2018

PUBLIC COMMENT ON NON-AGENDA TOPICS:

Richard Herr map signifies all land that can be annexed in the future like the City of Billing published in the Billing Gazette. Judy explained a grant had been received but she didn't know if that covered what Richard is asking. Forrest stated that a Growth Management Plan could include a map indicating preferred areas for annexation and extension of services. Richard talked about areas like south of the Yellowstone River or to the West of Laurel as areas that have different challenges.

Judy stated that Forrest and Kurt should look at the Growth Management Plan and make recommendations for the next meeting.

ADJOURNMENT: A motion to adjourn was made by Dan and seconded by Ron to adjourn. The motion passed. The meeting was adjourned at 12:16 pm.

Respectfully submitted,

Kurt Markegard, Public Works Director



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Memorandum

Date: 3/30/2018
To: Laurel City-County Planning Board
Copy to: Kurt Markegard
From: Forrest Sanderson, AICP, CFM
RE: Laurel Growth Policy, Review

Remarks

As part of my initial meetings with City Staff I obtained a copy of the Laurel Growth Policy. Upon opening the document, I noticed that it is dated December 2013. Montana Growth Policy Law requires that the document be reviewed at least every five years. This review can be as simple as the Planning Board reviewing the document, conducting a public hearing and recommending no changes be made to the document. OR as complicated as reviewing the document and determining that wholesale modifications are necessary or the worst case, things have changes so much that we need start from scratch and create a brand-new document.

I have included the entirety of Montana Growth Policy Law in this memo to serve as a place to start our conversations and to serve as a reference for the Planning Board as you review your existing document and prepare to issue a recommendation to the Governing Bodies of the Jurisdiction as to how you would like to proceed.

76-1-601. Growth policy -- contents.

- (1) A growth policy may cover all or part of the jurisdictional area.
- (2) The extent to which a growth policy addresses the elements listed in subsection (3) is at the full discretion of the governing body.
- (3) A growth policy must include:
 - (a) community goals and objectives;
 - (b) Maps and text describing an inventory of the existing characteristics and features of the jurisdictional area, including:
 - (i) land uses;
 - (ii) population;
 - (iii) housing needs;
 - (iv) economic conditions;
 - (v) local services;



- (vi) public facilities;
- (vii) natural resources;
- (viii) sand and gravel resources; and
- (ix) other characteristics and features proposed by the planning board and adopted by the governing bodies;
- (c) projected trends for the life of the growth policy for each of the following elements:
 - (i) land use;
 - (ii) population;
 - (iii) housing needs;
 - (iv) economic conditions;
 - (v) local services;
 - (vi) natural resources; and
 - (vii) other elements proposed by the planning board and adopted by the governing bodies;
- (d) a description of policies, regulations, and other measures to be implemented in order to achieve the goals and objectives established pursuant to subsection (3)(a);
- (e) a strategy for development, maintenance, and replacement of public infrastructure, including drinking water systems, wastewater treatment facilities, sewer systems, solid waste facilities, fire protection facilities, roads, and bridges;
- (f) an implementation strategy that includes:
 - (i) a timetable for implementing the growth policy;
 - (ii) a list of conditions that will lead to a revision of the growth policy; and
 - (iii) a timetable for reviewing the growth policy at least once every 5 years and revising the policy if necessary;
- (g) a statement of how the governing bodies will coordinate and cooperate with other jurisdictions that explains:
 - (i) if a governing body is a city or town, how the governing body will coordinate and cooperate with the county in which the city or town is located on matters related to the growth policy;
 - (ii) if a governing body is a county, how the governing body will coordinate and cooperate with cities and towns located within the county's boundaries on matters related to the growth policy;
- (h) a statement explaining how the governing bodies will:
 - (i) define the criteria in 76-3-608(3)(a); and



- (ii) evaluate and make decisions regarding proposed subdivisions with respect to the criteria in 76-3-608(3)(a);
 - (i) a statement explaining how public hearings regarding proposed subdivisions will be conducted; and
 - (j) an evaluation of the potential for fire and wildland fire in the jurisdictional area, including whether or not there is a need to:
 - (i) delineate the wildland-urban interface; and
 - (ii) adopt regulations requiring:
 - (A) defensible space around structures;
 - (B) adequate ingress and egress to and from structures and developments to facilitate fire suppression activities; and
 - (C) adequate water supply for fire protection.
- (4) A growth policy may:
- (a) include one or more neighborhood plans. A neighborhood plan must be consistent with the growth policy.
 - (b) establish minimum criteria defining the jurisdictional area for a neighborhood plan;
 - (c) establish an infrastructure plan that, at a minimum, includes:
 - (i) projections, in maps and text, of the jurisdiction's growth in population and number of residential, commercial, and industrial units over the next 20 years;
 - (ii) for a city, a determination regarding if and how much of the city's growth is likely to take place outside of the city's existing jurisdictional area over the next 20 years and a plan of how the city will coordinate infrastructure planning with the county or counties where growth is likely to take place;
 - (iii) for a county, a plan of how the county will coordinate infrastructure planning with each of the cities that project growth outside of city boundaries and into the county's jurisdictional area over the next 20 years;
 - (iv) for cities, a land use map showing where projected growth will be guided and at what densities within city boundaries;
 - (v) for cities and counties, a land use map that designates infrastructure planning areas adjacent to cities showing where projected growth will be guided and at what densities;
 - (vi) using maps and text, a description of existing and future public facilities necessary to efficiently serve projected development and densities within infrastructure planning areas, including, whenever feasible, extending interconnected municipal street networks, sidewalks, trail systems, public transit facilities, and other municipal public facilities throughout the infrastructure planning area. For the purposes of this subsection (4)(c)(vi), public facilities include but are not limited to drinking water treatment and distribution facilities, sewer systems, wastewater treatment facilities, solid waste disposal facilities,

parks and open space, schools, public access areas, roads, highways, bridges, and facilities for fire protection, law enforcement, and emergency services;

- (vii) a description of proposed land use management techniques and incentives that will be adopted to promote development within cities and in an infrastructure planning area, including land use management techniques and incentives that address issues of housing affordability;
- (viii) a description of how and where projected development inside municipal boundaries for cities and inside designated joint infrastructure planning areas for cities and counties could adversely impact:
 - (A) threatened or endangered wildlife and critical wildlife habitat and corridors;
 - (B) water available to agricultural water users and facilities;
 - (C) the ability of public facilities, including schools, to safely and efficiently service current residents and future growth;
 - (D) a local government's ability to provide adequate local services, including but not limited to emergency, fire, and police protection;
 - (E) the safety of people and property due to threats to public health and safety, including but not limited to wildfire, flooding, erosion, water pollution, hazardous wildlife interactions, and traffic hazards;
 - (F) natural resources, including but not limited to forest lands, mineral resources, sand and gravel resources, streams, rivers, lakes, wetlands, and ground water; and
 - (G) agricultural lands and agricultural production; and
- (ix) a description of measures, including land use management techniques and incentives, that will be adopted to avoid, significantly reduce, or mitigate the adverse impacts identified under subsection (4)(c)(viii).
- (d) include any elements required by a federal land management agency in order for the governing body to establish coordination or cooperating agency status as provided in 76-1-607.
- (5) The planning board may propose and the governing bodies may adopt additional elements of a growth policy in order to fulfill the purpose of this chapter.

76-1-602. Public hearing on proposed growth policy.

- (1) Prior to the submission of the proposed growth policy to the governing bodies, the board shall give notice and hold a public hearing on the growth policy.
- (2) At least 10 days prior to the date set for hearing, the board shall publish in a newspaper of general circulation in the jurisdictional area a notice of the time and place of the hearing.

76-1-603. Adoption of growth policy by planning board. After consideration of the recommendations and suggestions elicited at the public hearing, the planning board shall by resolution:



- (1) recommend the proposed growth policy and any proposed ordinances and resolutions for its implementation to the governing bodies of the governmental units represented on the planning board;
- (2) recommend that a growth policy not be adopted; or
- (3) recommend that the governing body take some other action related to preparation of a growth policy.

76-1-604. Adoption, revision, or rejection of growth policy.

- (1) The governing body shall adopt a resolution of intention to adopt, adopt with revisions, or reject the proposed growth policy.
- (2) If the governing body adopts a resolution of intention to adopt a growth policy, the governing body may submit to the qualified electors of the area covered by the growth policy proposed by the governing body at the next primary or general election or at a special election the referendum question of whether or not the growth policy should be adopted. A special election must be held in conjunction with a regular or primary election.
- (3) A governing body may:
 - (a) revise an adopted growth policy following the procedures in this chapter for adoption of a proposed growth policy; or
 - (b) repeal a growth policy by resolution.
- (4) The qualified electors of the area covered by the growth policy may by initiative or referendum adopt, revise, or repeal a growth policy under this section. A petition for initiative or referendum must contain the signatures of 15% of the qualified electors of the area covered by the growth policy.
- (5) A master plan adopted pursuant to this chapter before October 1, 1999, may be repealed following the procedures in this section for repeal of a growth policy.
- (6) Until October 1, 2006, a master plan that was adopted pursuant to this chapter before October 1, 1999, may be revised following the procedures in this chapter for revision of a growth policy.
- (7) Except as otherwise provided in this section, the provisions of Title 7, chapter 5, part 1, apply to an initiative or referendum under this section.

76-1-605. Use of adopted growth policy.

- (1) Subject to subsection (2), after adoption of a growth policy, the governing body within the area covered by the growth policy pursuant to 76-1-601 must be guided by and give consideration to the general policy and pattern of development set out in the growth policy in the:
 - (a) authorization, construction, alteration, or abandonment of public ways, public places, public structures, or public utilities;
 - (b) authorization, acceptance, or construction of water mains, sewers, connections, facilities, or utilities; and

- (c) adoption of zoning ordinances or resolutions.
- (2) (a) A growth policy is not a regulatory document and does not confer any authority to regulate that is not otherwise specifically authorized by law or regulations adopted pursuant to the law.
- (b) A governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based solely on compliance with a growth policy adopted pursuant to this chapter.

76-1-606. Effect of growth policy on subdivision regulations. When a growth policy has been approved, the subdivision regulations adopted pursuant to chapter 3 of this title must be made in accordance with the growth policy.

REFERENCE:

76-3-608. Criteria for local government review. (1) The basis for the governing body's decision to approve, conditionally approve, or deny a proposed subdivision is whether the subdivision application, preliminary plat, applicable environmental assessment, public hearing, planning board recommendations, or additional information demonstrates that development of the proposed subdivision meets the requirements of this chapter. A governing body may not deny approval of a proposed subdivision based solely on the subdivision's impacts on educational services or based solely on parcels within the subdivision having been designated as wildland-urban interface parcels under 76-13-145

- (3) A subdivision proposal must undergo review for the following primary criteria:
 - (a) except when the governing body has established an exemption pursuant to subsection (6) of this section or except as provided in 76-3-509, 76-3-609(2) or (4), or 76-3-616, the impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety;



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Memorandum

Date: 3/27/2018
To: Laurel City-County Planning Board
Copy to: Kurt Markegard
From: Forrest Sanderson, AICP, CFM
RE: Laurel Subdivision Regulations, Review

Remarks

As I performed a cursory overview of the codification of the 2017 Laurel Subdivision Regulations, I did a cursory review of the balance of the document to determine if there were any additional items that may be worthy of consideration for inclusion in the Regulations. During this review, I noticed that the City of Laurel Regulations do not include the modifications enacted as part of the 2017 Legislative Session.

Primarily, the 2017 changes make provisions for the review and approval of Phased Subdivisions and correct deficiencies in the enabling legislation and other items identified in the Legacy Ranch Case in Ravalli County as follows:

HB 245 - Effective May 3, 2017

This legislation mandates timelines for the review and approval of final plats. Although I am not aware of an issue in the City of Laurel, apparently in some jurisdictions final plats have not been acted upon in a reasonable amount of time.

In the broadest of terms, the final plat review timeline is limited to 60 days:

- 20 days for the subdivision administrator to review for conformance;
- 20 days for the subdivision administrator to review any additional information submitted;
- 20 days for the governing body to review and approve or deny the final plat.
- The final plat application will need to be submitted 60 days prior to expiration of the preliminary plat approval.

These changes should be included in the Subdivision Regulations.

HB 416 - Effective October 1, 2017

This legislation addresses issues raised in the Legacy Ranch and Aspen Trails Court Case out of Ravalli County. In the Court Decision, the local government was required to apply a "hard look" standard of review to subdivisions within their jurisdiction.



In general terms, the legislation provides clarification that an Environmental Assessment for subdivision is NOT an Environmental Assessment under the Montana Environmental Policy Act, but the standard of review at the local level is “Arbitrary, Capricious or Unlawful.”

These changes should be included in the Subdivision Regulations.

HB 445 - Effective May 8, 2017

This legislation again addressed issues raised in the Legacy Ranch decision related to the ability of local government to approve phased subdivision applications. The legislation also outlines procedural requirements, approval timelines and the ability to impose conditions on future phases as they are proposed for filing. These new conditions in addition to the original conditions imposed on the overall development must be met before the phase can be filed.

The necessary changes to implement phased subdivision approval should be considered for inclusion in the Subdivision Regulations.

SB 219 - Effective April 7, 2017

This legislation addresses the issues surrounding Mortgage Exempt Surveys filed before October 1, 2003, and the parcel that was created was transferred to a third party. In short, the legislation legitimizes the transfers and clarifies that the remainder parcel can be conveyed without subdivision review.

The necessary changes should be included in the regulations.

Recommended Modification - Preliminary Plat Approval Period

These changes address concerns stemming from the Legacy Ranch Decision. The concern centers on the public’s right to know and to meaningfully participate in governmental decisions. Additionally, there are concerns that some reasonable limit on the lifespan of a preliminary plat approval period needs to be implemented.

The specific recommended changes require that notice of a request to extend an approval of a preliminary plat must appear on the agenda for the governing body, that the governing body provide an opportunity for the public to comment on the requested extension and that the maximum cumulative period for an approval or a preliminary plat is fixed to a reasonable timeline.

These changes should be considered for inclusion in the Subdivision Regulations.