

COMMISSIONERS APPROVAL

FOSS *JF*

CHILCOTT

IMAN

STOLTZ *RS*

BURROWS *JB*

Members Present.....Commissioner Greg Chilcott, Commissioner J.R. Iman, Commissioner Ron Stoltz and Commissioner Jeff Burrows

Date.....December 17, 2012

► Minutes: Glenda Wiles

► The Board met at 9:30 a.m. for a review and decision on the Hensler Zoning District No. 10 Amendment Request. Commissioner Chilcott called the meeting to order. Present at this meeting was Deputy County Attorney Howard Recht and Planning Administrator Terry Nelson. Numerous citizens were also present.

Terry presented a power point presentation with background information. He noted if the amendment request was approved, there would be a new Subpart F to the Zoning District which would allow Lot 28 and Lot 29 of Paradise Acres to have three dwelling units on Lot 28 and four dwelling units on Lot 29. Subpart F would also include setbacks of 25 feet and a building height at 30' from existing grade. Terry also addressed the signatures for and against the petition to amend the district and other emails that have come in over the weekend that he has not had time to properly review.

Terry addressed the procedure for amending the zoning district explaining the Planning and Zoning public meeting and verification of signatures by the Clerk & Records Office. The MCA addresses how to create a zoning district (60% of the residents are necessary and they have 67%).

Terry noted several issues that need to be addressed as follows:

Covenants must be changed to allow multifamily units; DEQ approval must be updated; past court cases under review of MCA 76-20101 (Lost Horse Zoning District) requires the public convenience and interest be reviewed; MCA 15-10-420 addresses the finances for this change to be paid by a levy within the district; and MCA 76-20104 addresses a development pattern for the purpose of health safety and general welfare as well as maps, plats, charts and description. Terry stated the original zoning district did not have the development pattern so it is the recommendation of the Planning Department, based on their conversations with legal counsel, that a tax district needs to be created first, for this amendment request and possibly the other zoning districts. After that they can revisit this amendment to see if the development pattern fits.

Public Comment:

Engineer John Kellogg of PCI Consulting represent petitioners Mr. and Mrs. Bielby. The Bielby's have experienced the downturn of the economy so they want to create rental units within this subdivision development. Over the last twenty years the Bielby's have created the fourth phase of this zoning district. John addressed the lots within phase four and stated this amendment would fit well within the development as it is the lower two lots in the Eight Mile area. It would also be an opportunity for construction jobs as well. John stated the covenants would need to be changed to allow the higher density. PCI has looked into DEQ approval (for sanitation) and they feel comfortable obtaining that approval. John reminded the Commissioners that the Planning & Zoning Commission approved the amendment sending it forward for Commissioners approval. The petition obtained proper residential signatures and has been verified by the Clerk & Recorder.

Attorney Dave Cotner (Datsopoulos MacDonald and Lind P.C.) has been retained by Butler Development, which is owned by Mr. Krumbeck to represent their interests at this meeting. Attorney Cotner stated Butler Development owns by a parcel to the east and also within the Remington Subdivision . He noted last Friday a protest document was sent to Commissioners signed by 26 landowners who are now changing their mind about the amendment. With those signatures, Mr. Bielby only has 40-43% residents who support the amendment. Attorney Cotner presented these original signatures for the record. He noted the 26 landowners are within the district, and he has not included the people that are in the vicinity (in Remington Ridge Subdivision).

Attorney Cotner addressed the original resolution creating the development (maximum density 1 dwelling per acre and limited to single family dwelling). This zoning district was created legally under MCA in 1978. Zoning is established under the MCA allowing protection to the district and requiring government to become involved. He stated this district is under part one zoning which is citizen initiation. He questioned the ability to amend this district, noting two lots do not meet the minimum threshold of 40 acres. Attorney Cotner feels this petition is simply an attempt to circumvent the district that was created in 1978. In his opinion, the Commissioners cannot act as they do not have standing to do so. He then addressed MCA 76-20101 (sections 310 and 311) and how districts are created. He did not feel this amendment addresses the public interest or convenience. Numerous owners purchased property for single family dwelling, and there is no amendment process in the district. Secondly under the 60% rule, while the petition was signed by more than 60%, some individuals here today will say they were told something else when they signed, so they were misled by the petition for amendment. Now these residents know the facts and 26 of them have now withdrawn their support.

Attorney Cotner addressed the three maps in his handout; addressing the developer's lot who owns 30% of the lots; the residents who now oppose the amendment; and 97 lots with 40% in favor of which includes the developers lots. Therefore he does not see that the law allows the Commissioners to act on this. The residents have two levels of protection; the covenants and the zoning, of which those rules do not change. He believes if the amendment was approved it would be like spot zoning, and the DEQ issues are not being addressed. He felt one could even

argue that it is an evasion of the Subdivision rules. He stated the use of these lots is not consistent with the original intent of single family residences.

Attorney Howard Recht noted while the statutes don't give specifics to amend, he believes they can amend according to the MCA by the same way they created the district. He stated the change is for the entire district not just the two lots. The issue of spot zoning was addressed with P&Z Commission, and the Montana Supreme Court answered this question about a month ago; allowing spot zoning within a citizen initialed zoning district (case out of Helena involving a gravel pit). Attorney Recht felt the county does have the authority to go forward. Signature verification of 60% was obtained and if some of the residents now want to change their minds, then by their signature 50% will block the amendment from going forward. He also noted every land owner has one vote, not per lot. Attorney Recht noted the Commissioners do have the authority to look at this amendment, to consider the pros and cons as well as the new written comments. In regard to public interest as opposed to private interest, the Commissioners need to consider the major opposition was from properties outside the district (Remington Subdivision). To create the district you have to look at the 60%, but you are not restricted to those within the boundaries, and you can consider the points of view of those who border the area as they do have weight and merit.

Proponents:

Michael Stephenson stated he went with Mr. Bielby when the original signatures were obtained. They laid out maps and only addressed the two lots. He stated they were not trying to hide anything. He does not know what lies Keith Krumbeck told them when they changed their minds on their original signatures. He feels like his character is being demeaned as well as Mr. Bielby's.

John Ames is in support of this amendment and when Mr. Bielby came to him, he was well prepared and he understood it was only for two lots. He felt Mr. Bielby was upfront with him and did not change any facts. John feels the development will be good for the area.

Carla Bielby stated they live in this development right above the two lots. They are perplexed and saddened by Mr. Krumbeck's actions, they thought he was a friend. In regard to property values going down, they are not planning to deface the value of their and others property. Also in regard to density impacts, some people want to live in the country and these rentals will give them that opportunity. She asked about a family that has 9 children, that is high density so what does it matter if it is a house or an apartment Many things have changed since 1978.

Opponents:

Keith Krumbeck stated he spoke to a couple of individuals and they decided they did not want the amendment. Because of that conversation he decided to investigate himself. Getting people to change their minds is hard as they don't want to admit they made a mistake. He presented them with a laundry list of important things and he found out there was a whole lot of spin by the developer and the person who made the initial contact. The residents he had contact with stated Mr. Bielby relayed to them that the addition would only impact him as the lots are in the far

corner; they also said they wanted to construct 'a' duplex, with one lot; some heard a duplex or 'two'. Keith noted some residents felt if they did not sign Mr. Bielby would make them feel like a fool and the jerk of the neighborhood; one resident said the developer told him he had unanimous support for this amendment. Keith felt Mr. Bielby is broke and needs the income from the rental units. Keith discussed the proposed amendment for both lots, how the apartments will impact everyone, the erosion of the property values and how the owner of Lot 27 will be negatively impacted by the septic. Keith also addressed the negative impacts of the additional traffic on roads, noise, water, and the density issues created by those that do not own the property. These residents told him Mr. Bielby was not honest with them and then began to wonder if the next step would be to ask for modular homes. He stated it was not hard to garner 26 people who changed their minds on the amendment

Michael Zonner stated he lives adjacent to the proposed lots. While he initially signed the petition he learned there were some misrepresentations by Mr. Bielby. Another friend signed because he had signed. Michael bought in this area because he wanted to be out in the country with low density. He did not want to be the 'one man out' so he signed the petition, but he had immediate regrets. He felt Mr. Bielby was not straightforward with him, he also has concerns about adding more traffic to the roads creating worse conditions. He has worked on a culvert and spent several hundred dollars of his own money as the road is not maintained by the county and there were two accidents this morning. Duplexes will bring more children.

Bob Harkin lives in the Hidden Valley Ranch area with 300 homes. He is there in behalf of some of his neighbors and they consider this spot zoning. It would create a property value decline, increase in water usage, need for larger septic and pressure on our eco systems, as well as more traffic on the roads, safety issues for children on the affected roads, and changing the density will change the character in the area and will have negative impacts. We like our privacy in the area and accordingly urged the Commissioners to reject this request. In regard to the poor economy, the developer accepted that risk. The negative consequences should not be borne by the residents in the area.

Loren Stormo is a small business owner, forester and is new to the county. He lives in the Remington Subdivision but is right next to the two lot being discussed. He bought because of the single family residences in the area. As a business owner we have risks and forecasts that need to allow for changes. If there was a demand for this sort of development, then someone would have seen that and done it in an area where there are less problems. The number of people who have changed their minds is important. He urged the Commissioners to postpone any decision today and see if this change will fit into the neighborhood.

Mark Wilson lives in this district and initially he was not in favor of it and wanted to research it more. Mr. Bielby did call him several times but he did not sign. He was unclear on the number of votes needed and he was under the impression Mr. Bielby needed 100%. He felt like the odd man out for not signing and his wife encouraged him to sign so Mr. Bielby would not come back to their house. Mark is a plumber so he understands the economy. He was also told it was only a duplex which is different than what he is hearing now. Since he was not clear on the process he ended up signing, but wishes now he had not signed. He feels if Mr. Bielbey can do it then so

can "Joe" or someone else. He feels this is setting a bad precedence and is detrimental to his family. He knows the ground is tough hardpan, so his concerns are for the septic and traffic.

Public Comment was now closed.

John Kellogg gave a rebuttal stating zoning must adapt and protect the values of the community. He feels this is a minor change and not a huge impact in the area. The roads have been paved by Mr. Bielby. The growth is reasonable and anticipated had there been a growth plan. Mr. Krumbeck made a number of comments that he feels is misleading. The lots are at the bottom of the district. thus not centrally located. The document they signed showed a duplex and four plex. Construction jobs have taken a nose dive and while this construction would be a small job, it provides some relief for those looking for work. Water and sewer is an issue that DEQ addresses adequately. In regard to modular's, this district/ covenants do not allow modular's.

Public Comment was now closed.

Board deliberation then took place.

Terry stated the Planning Staff recommends the creation of a tax district for the citizen initiated zoning district, prepare a spot zoning analysis (development pattern) to see if this change would create a development pattern and then revisit the amendment.

Commissioner Chilcott expressed his concerned over a number of the comments indicating there was misrepresentation made on the number of duplexes but notes the petition language is clear.

Commissioner Burrows, noted the petition clearly stated 60% not 100% of the landowners signatures are necessary.

Attorney Recht clarified how the process for amendment is meant to work. Terry discussed what the tax increment district would pay for (development plan, pattern which is paid for by the levy under part one zoning requirements).

Commissioner Iman expressed concern that some of the original 60% signatures have changed their minds. Terry indicated the number of protests are counted during the protest period. Right now the number on the petition is 67%. Terry also noted the development pattern is required for all other districts as well.

Commissioner Stoltz made a motion to have the Planning Department review the creation of a tax district prepare an analysis on the development pattern and spot zoning.

Commissioner Burrows seconded the motion. Discussion: Commissioner Chilcott asked if they should verify the second set of signatures (those who have changed their minds). Attorney Recht stated he would need to research as to when the signatures were received, but agrees the Planning Staff needs to make that review and analysis and the County Attorney's Office can review those questions and issues. Commissioner Burrows asked about levy. Terry addressed MCA 15-10-420 & 76-20102. Discussion also included the districts creation in 1978 and how

the law has changed since that time. Attorney Recht noted the 1978 law allowed the creation, the law in 2012 is applicable for amendment. **All voted "aye". (4-0).**

Terry will review this information with the Planning and Zoning Commission and see if the analysis can be done, if not they may have to hire the work being done.

Commissioner Burrows made a motion to table the Amendment on the Zoning District until the research is completed. Commissioner Iman seconded the motion. All voted "aye". (4-0)

Commissioner Chilcott suggested the Planning Department send letters to all the residents so they have the correct information on the process and how the Commissioners are moving forward with the analysis. He stated the applicant can pay for the staff time and they may want to review the fee schedule for amending zoning districts.

Attorney Cotner felt this process is taking a left hand turn here and asked if it would be appropriate to have the planning department send letter to residents of the zoning district explaining the expense involved and see if they even want to move forward.

Commissioner Chilcott stated as the planning department develops the information they can address that.

► At 1:00 p.m. the Board interviewed Skip Kowalski for the Open Lands Board.

► Stevensville School FFA 7-Member Panel met with the Board at 1:30 p.m. to present an issue paper to the Commissioners on the pros and cons to building roads in the Bitterroot Forest.

► At 2:00 p.m. Ravalli County Economic Development Director Julie Foster met with the Board for a discussion and decision on development of a Tax Increment Finance District in Hamilton for Water and Waste Water, Industrial District at the Airport and Mixed Use Technology District on a portion of the Bitterroot Stock Farm. Julie presented a projected budget for the TIF Districts. (See attached). Also present was Realtor Terry Polumski.

If the Commissioners decide to move forward on this creation, public meetings will be held which will include the development of the actual geographic boundaries. Terry indicated the Board of Realtors have pledged \$3,000 to help pay for the public meetings. Julie indicated the goal is to create the district then seek grant dollars to help fund the district. Commissioner Chilcott addressed the costs to Ravalli County and when they would be due, the costs for software that will be necessary for use by the Treasurer in the approximate amount of \$10,000. The commitment to the Montana Rail Link delivery is also a consideration to the monies committed towards this district. Julie noted the projected timeline would be at least one year out.

The Board advised Julie to develop the proposed boundaries into an aerial map, develop an explanation of the benefits of utilizing tax dollars to 'create infrastructure and development' Julie will also revisit the commitment to Montana Rail Link for shipments.

Projected Budget for Ravalli County Proposed Tax Increment Financing (TIF) Districts

Activity	County	BSTF	Private	Total Project Costs
TIFs	\$ 26,000.00	\$ 11,000.00	\$ 3,000.00	\$ 40,000.00
PER	\$ 9,000.00	\$ 14,000.00	\$ 7,000.00	\$ 30,000.00
TOTAL ENTIRE PROJECT	\$ 35,000.00	\$ 25,000.00	\$ 10,000.00	\$ 70,000.00

Projected Timeline

Public Meeting on Project	1-Jan-13
Submit Application	1-Jan-13
Start up complete	1-Feb-13
PER Started	1-Mar-13
PER Completed	1-Jun-13
GO / NO GO on TIF	1-May-13
Proceed with TIF Project	1-Jun-13
Completion	1-May-14

Water and Waste Water Feasibility for Ravalli County Proposed Tax Increment Financing (TIF) Districts

- **Industrial District at the Airport**
- **Mixed Use Technology District on a portion of the Bitterroot Stock Farm**

The projected engineering for the Ravalli County water and waste water feasibility for the proposed TIF would include a Preliminary Engineering Report (PER) to support subsequent applications from the County for the water, waste water, available broad band Internet services, and preliminary information on roads and drainage.

Proposed Deliverable: Preliminary Engineering Report with information required for Economic Development Administration (EDA) and Community Development Block Grant – Economic Development (CDBG-ED) infrastructure applications and other potential funding sources.

The Basic Outline of the Scope of Work is as follows:

1. Assist with Identification of the Planning Area and the potential Service Area of the proposed Tax Increment Finance district(s).
2. Evaluate the feasibility of connecting to existing City of Hamilton water and waste water facilities. Provide an assessment of the existing water, sewer, utilities, broad band Internet, and road ways which the property utilizes. Analyze the cost of providing conduct in which to run the fiber along with any water and sewer piping.
3. Describe and document the need for the proposed project and the problems to be solved. The PER should briefly discuss health & safety issues, capacity concerns with providing domestic water and sewer flows. The PER should also review fire flow requirements and availability. The PER will also examine the lack of and affordability of workforce housing due to lack of available land and infrastructure. RCEDA will assist with the later.
4. Identify service alternatives and screen each alternative for feasibility. The PER should consider numerous alternatives to provide water, waste water, broad band Internet and roads to service to the subject project area. Some of these alternatives will be dismissed early as they will prove to be far in excess of reasonable and prudent, while other alternatives will need to be investigated on a deeper level to ascertain the most viable solution.
5. The PER will analyze the alternatives and select a preferred alternative. The PER should include a review the details of the post screened alternatives to weigh out the pros and cons of each alternative. Based on the results of the detailed alternative analysis a recommended preferred alternative should be included in the PER to provide water, sewer and rail service to the subject area and provide a detailed cost estimate of the preferred alternative.
6. The PER will include an implementation plan that is a plan for funding and implementing the project including a description of items to be added or replaced.

7. To ensure public participation and accurate information that selected engineering contractor will attend at a minimum two meetings of the Ravalli County Board of Commissioners to discuss the implementation plan. The selected contractor will attend up to two public hearing to present the plan and answer questions. The meetings and public hearing should lead to the adoption of the plan by the County as their preferred method of development.

The contract for services shall not exceed \$30,000. The PER must be delivered 90 days or less from the date of the award. Revisions and a public hearing will follow with final adoption by Ravalli County; this includes follow up of revisions as the comments/revisions are adopted.

The consultants selected for this portion of the project must be registered as a Professional Engineer with the State of Montana. The RFP will include constructing the final project.

DRAFT

Ravalli County Proposed Tax Increment Financing (TIF) Districts

- Industrial District at the Airport
- Mixed Use Technology District on a portion of the Bitterroot Stock Farm

Prior to the creation of these TIF Districts, it will be necessary to prepare a Growth Policy for the area encompassed in each proposed District. It is possible that this can be accomplished through a single Growth Policy Document that includes two neighborhood plans. We have divided this summary scope of work into two steps, the preparation of the Neighborhood Plans/Growth Policy and the creation of the TIF Districts (including the associated zoning districts).

Step 1. The Preparation of a neighborhood plan for each of the two areas to be included in a single growth policy (if possible) The contents of a Growth Policy are defined in 76-1-601 MCA.

- (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
 - (g) a statement of how the governing bodies will coordinate and cooperate with other

jurisdictions

(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

The Growth Policy neighborhood plans for the two proposed TIF districts will be prepared through a combination of efforts to provide the necessary information.

1. Information and associated key findings on population, economic conditions and housing will be drawn from the Comprehensive Economic Development Strategy (CEDS) prepared by RCEDA.
2. Information and associated key findings on the state of infrastructure and associated needs in the two proposed TIF areas will be drawn from a consulting engineering report commissioned by the County.
3. Information and associated key findings on remaining inventory items including land use, local services, public facilities, natural resources including fire (wildland urban interface) sand and gravel resources and other items that the community identifies will be prepared by the County Planner and RCEDA.
4. All maps necessary to present the information spatially will be provided by the County Planner and the Ravalli County GIS office.
5. The Ravalli County Planner will “mine” the previously adopted growth policy to prepare the remaining sections of the draft document.
6. The selected contractor in conjunction with RCEDA and the Planning Department will facilitate public meetings to identify goals and objectives, based on key findings (during a trip to Ravalli County - see below).
7. The selected contractor will review all sections to make sure that the requirements of the Growth Policy statutes have been met and will also provide general editing of the document.
8. The final growth policy will be prepared by the Ravalli County Planning Department and the RCEDA.

Step 2. Creation of the TIF Districts

The creation of these two districts will require the following:

1. Adoption Processing (in conjunction with the zoning regulation and TIF plan) of the a neighborhood plan for each TIF area (this probably will be combined into a single Growth Policy Document) - as noted above
2. Preparation of a district zoning regulation for each area (this could be combined into a single document).
3. Preparation of a TIF plan for each area.

4. Preparation of all appurtenant documents: notices, staff reports, transmittal memos, resolutions, ordinance, etc.

RCEDA and County Planner will process all documents, and attend and present at all required hearings. The selected contractor will make additional trips to Ravalli County only as necessary, within the project budget.

Estimated Costs of Providing Services – Two Contracts

Contract #1 Ravalli County will contract with the selected contractor to review information, key findings, etc. being produced for the Growth Policy to make sure that they meet growth policy standards and to provide review and editing. This small contract will also provide for the following site visits.

Visit #1 Conduct workshops for each proposed TIF area on potential uses, problems, possible design, boundary setting, etc. The TIF workshops will enable the community to make the decision regarding whether the TIFs will go forward. *(Note: If it is decided that the creation of one or both of the TIF Districts will not proceed, then efforts to prepare the growth policies will likely be halted.)* This visit would be the first step.

Visit #2. If we decide to proceed with the TIFs, the selected contractor will come to Ravalli County to hold a workshop for each area to work on **goals and objectives** for each neighborhood plan/Growth Policy based on the key findings and the input that came from the previous workshop.

Site Visit #1 \$2,500

Growth Policy Review and Editing: \$3,000

Site Visit #2 \$2,500

Contract #2. Ravalli County will enter into a contract with the selected contractor of Montana to create both TIF Districts. The cost of completing all the remaining required steps for both districts will be \$25,000 for one or \$40,000 for both.