

MADISON COUNTY PLANNING BOARD

To: Commissioners
From: Charity Fechter, Planning Director
Date: November 9, 2012

Subject: **Planning Board Summary –October 29, 2012**

The regular Planning Board meeting began at 6:00 p.m. with 9 members present, Laurie Schmidt presiding. 23 members of the public were also present: David & Marjorie Klem, Ben Coulter, Craig Shirley, Allen Schallenberger, Bernie & Andi Fisher, John Corey, Jan Smith, Jim Smith, Cedar West, Ken Yecny, Duane Thexton, Kevin Germain, Kim Miller, Doris Fischer, Greg Morgan, Pat Bradley, Rand Bradley, John Bingham, Leesa Bingham, John East, Donna Jones.

- **Public Hearing, Madison County Growth Policy 2012 –Growth Policy Update**
 - The public hearing process was outlined, followed by a description of the growth policy update process, and a review of the changes made to the current growth policy. The growth policy was then opened for public comment, noting several letters had been received and were on file.
 - 11 individuals commented. The Planning Board then discussed the comments, both oral and written. (See attached)
 - Changes considered by the board were:
 - Remove #8 under 3.4.1. , preserving vistas from public land – motion failed; recommend no change. Reasons given were strong community support expressed in forums, comments.
 - Modify #17 under 3.4.1, consultation with agencies and municipalities within 2 miles, to a lesser distance. After discussion, no change was recommended.
 - Page 6.13 – include all watersheds (not just Big Hole) in supporting their land use planning efforts – recommended unanimously to be inclusive of all watersheds.
 - Planning Board Resolution 1-2012, recommending adoption of the Madison County Growth Policy Update 2012, was passed unanimously (attached).
 - The Planning Board would like to have a joint meeting with the Commissioners to review the changes in the growth policy before the Commissioners hold their hearing.
- **Planning Board Application**
 - The application from the Silver Star resident was discussed. Given its contribution to the county's tax base, the planning board felt someone who could represent Big Sky is important.
 - The conservation district position will be vacant until an appointment is suggested by the conservation districts.
- **Planning Board Member Reports**
 - Clyde Carroll –
 - Attends the Twin Bridges meetings on the 2nd Tuesday of the month.
 - Twin Bridges will be holding public meetings to develop the water rates for 2013.
 - Twin is working on a grant for the senior citizen center
 - Lane Adamson – Commented he has a horse for sale.
 - Eileen Pearce – Sheridan is working on the sewer line. Completion is expected in July.

The meeting adjourned at 9:03 p.m.

**PUBLIC COMMENT AND PLANNING BOARD DISCUSSION ON GROWTH POLICY 2012
(Excerpt from DRAFT minutes - 10/29/12)**

Public Comment opened at 6:20pm

It was noted that several letters had been received and were on file.

Doris Fischer (Sheridan resident):

- Couldn't help but note Madison County's legacy: First county in the state of Montana to have a Planning Board and the first county to have a Comprehensive Plan (later re-titled Growth Policy). All these years later, it can't be said that the existence of the Growth Policy has stymied growth.
- The purpose of the Growth Policy is not to stop growth but to guide growth.
- Thank you for the measured approach in updating this policy.
- Really appreciate the section on the history of Madison County, the hugely informative maps and the chart showing the status of various projects/plans in Madison County.
- If the policy status had shown no work to be done, this would have indicated a dying county.
- Would suggest that section 6.13 indicate not just supporting the Big Hole Watershed but expand it to include all of the watersheds.
- In response to citizens who wrote letters to the Madisonian:
- Private property rights – this document contains 9 separate areas that stress the importance of private property rights. It is a law in Montana that private property rights be respected.
- Public Health and Safety – This term reminds us that the county needs to advance the interest of all citizens. A search through the State's legislative website came up with 17 pages of citations referencing "public health and safety". This term covers a spectrum of meanings, depending on context. County Planning is one – state law bears this out.
- The primary job of the Planning Board is to be a steward of the growth policy.

Pat Bradley (Twin Bridges resident):

- Reviewed email sent to the Planning Office on October 26, 2012 (on file)
- New information is very helpful.
- Addressing scenic views good, if factual.
- Ongoing budgeting is necessary.
- Coordination is very important. State and federal land managers all have a place at the table.
- Consider having the economic survey done by MCED.
- Tax incentives should wait for consideration until after the legislature has met.
- Compliance is only common sense.
- Technical assistance is common sense, giving groups a shortcut.
- Public lands were zoned a few years ago; this should be done again.
- The Right to Farm worked out well.
- Providing assistance for citizen-initiated zoning is useful.

- What is subdivision by lease or rent?
- Educator/collaborator position good to get policies known.
- Zoning is volatile because of fear mongering.
- Ask the Commissioners what they are doing with the cost of services study; what about impact fees?
- This is a menu of development ordinances.
- The CIP is a model for good planning.
- New modified/added criteria gives applicants an understanding of how projects will be reviewed.
- Commissioners make the decision.
- Landowners are served by land use planning to protect themselves and their investment.
- Virginia City and Nevada City need to consider historic preservation. Family exemptions in their vicinity, approved without regard to public health and safety, are problematic.
- This will lead to a solid future. The policy is not negative or harmful.
- Land is not a commodity but a community

Allen Schallenberger (Biologist, Rancher, Wildlife Writer - Sheridan)

- Mailed a letter to the Planning Board (on file)
- Page 2.3 - The response statistics should be around 5%, not the 18% given.
- Maps state deer ranges were left off of the maps because it clutters them up; he thinks it's because there is no deer range.
- Maps show that the Virginia City area is a travel route for wolverines and grizzly bears. Wolverines are not an endangered species so why are they shown?
- Grizzly bear is a plains species; don't list them as forest species. The current grizzly plan ends in a few months and it has not yet been re-written.
- Fish & Wildlife wants to de-list the grizzly by the year 2014.
- You shouldn't list all the mountain ranges as suitable habitat for grizzlies and wolverines because they are not. You won't be promoting public health and safety by doing this. Don't show any range as suitable grizzly habitat.
- Encourage development, but not by encouraging grizzlies which are aggressive animals in this area.
- Maps on the web are so poor you can't tell the wildlife habitat.
- Need to do a better job on the publication.

Greg Morgan:

- The county has limited resources and a limited tax base. There are other things to take care of such as the police department and the health of our citizens. Convince me that this avalanche of policy is worth the money.

David Klem (resident of Mammoth):

- Catherine Ellerton sent in a letter (on file) expressing concern about the 2008 petition that 62 people signed to remove Mammoth from the setback. If these setbacks are put in place again, people will lose their land.
- Section 3.2.5 refers to private property rights, abiding under laws balanced by public health, safety and welfare.
- Section 3.3.1 Land Use goal:
 - ◇ Objective G. How can Mammoth be kept safe from natural disasters? Most residents that build in these areas know the risks involved.
 - ◇ Objective I – make affordable housing available. This is unclear. Does that mean a developer will have to include low income homes within their high end development? Developers will be reluctant to invest in Madison County if that's the case.
 - ◇ Objective J – refers to “discourage scattered residential development”. What does that mean?

John Bingham:

- Has sent in several letters (on file) and spoke at the last Planning Board meeting regarding the Draft Growth Policy. Would like to reiterate:
- The change in the definition of ‘floodplain’, it says “base flood”, what is that?
- This seems to be a concerted effort to affect the rights of those land owners on the Madison River and other rivers.
- Even though private property rights are mentioned, zoning would adversely affect those rights.
- Disagree with emphasis in changing the existing rights of the legacy landowners who bought land with an understanding of their rights.

Berny Fisher (resident of Mammoth):

- Sounds like a second attempt to overrule on the South Boulder.
- What is the motive?
- Thought this issue was resolved and here it is again.

Duane Thexton:

- Applauds that the documents have been merged into one.
- Has a concern that there is not a definition of new development. This discussion came up during streamside with limits on maintenance and now this comes up – what is new development?
- Has some concerns:
 - ◇ The ability to maintain property rights.
 - ◇ Section 10.2 – states totally voluntary approach cannot be endorsed, now saying we're going to force it. Confusion leads to conflict which leads to cost.
 - ◇ Lots of maps not in earlier version. With two dozen maps, any place you want to live will have more than one issue to contend with.
 - ◇ Has been in meetings referencing guidelines. Freedom driven by document; more expensive, less desirable.

- ◇ Land use policies will use the data; bad if the data becomes too burdensome.

Craig Shirley (citizen of Madison County):

- In 1973, was taking part in a mapping exercise in Madison County which turns out to have been during the first Comprehensive Plan.
- If Madison County still a good place to live, then that plan from so long ago has worked.
- The land on which we live is our patrimony. “This is what we leave to our children. And our great moral responsibility is to leave it to them either as we found it or better than we found it” (Ronald Reagan).
- Those that support abandoning or radically changing the Growth Policy should ask themselves “why would we trade a system that has served us so well for one that has served others so poorly?” (Sandra Day O’Conner)

Kevin Germain (Resident of Ennis):

- Appreciate the burden the Planning Board has on its shoulders. The dedication and time commitment to the county is huge. And it’s a thankless job.
- Realize that we have no zoning and by some this is considered a good thing. But we have a Growth Policy to guide us.
- The Planning Board needs guidelines as they make decisions on behalf of all of Madison County; the Growth Policy provides the guidelines.
- The public process used is admirable; the growth policy has been fairly vetted.
- The Growth Policy is not just a document for the Planning Board but for developers too. It is a benefit to the developer.
- Has 9 years experience with development in Madison County and has never seen the Growth Policy used as a hammer.
- As a developer, has used the Growth Policy as a tool for planning developments.
- The Planning Board does an admirable job and hopes that the Growth Policy will continue to be used.

Rand Bradley:

- Thank you for your role in this.
- Has seen the Growth Policy work well.
- Encourages the Planning Board to pass the updated Growth Policy.

6:53- Public Comment closed. Planning Board took a 15 minute recess to read the packet of comments as submitted by Madison County citizens and on file.

Planning Board Discussion (responses are in italics):

- Discuss the language regarding setbacks:
 - ◇ Nothing new has been added to the document.
 - ◇ The concept of zoning has been carried over since 1999; nothing new was added regarding river corridors.
 - ◇ As the status chart shows, nothing has been zoned. The commissioners have chosen a voluntary streamside protection method.
 - ◇ This document is not proposing river corridors.
 - ◇ Zoning can be used in the future if citizens choose.
- While it was helpful to combine the 1999 document and the 2006 document, it has probably added to the confusion in that it appears changes have been made.
- Private property rights have been part of the document since 1999 (the language regarding property rights is verbatim from the 1999 document).
- Gets the impression that people don't really understand the Growth Policy. The Growth Policy is a picture of how the county is going to grow.
- Growth is through subdivision, not through the individual home process or individual land owner process.
- The Growth Policy is subdivision guidelines and it helps developers know what to expect.
- The comment that this policy might prohibit a person from putting siding on their house – the Growth Policy doesn't address situations like that. Growth Policy has to do with subdivision.

John Bingham (audience) – Understanding that in order to perpetual zoning, there must be a reference to it in the Growth Policy. The Growth Policy was used to support zoning during the streamside issue. *That is incorrect. Zoning can be done in two ways 1) the commissioners down and 2) from the bottom up. Zoning is not dictated by the Growth Policy and doesn't need to be referenced.*

Berny Fisher (audience) – But the people in Mammoth have been told that if their cabin burns down they can't replace it. *That is incorrect. The previous streamside regulation was a regulation proposal. The Growth Policy is not regulation.*

- Would like to address the comment that the maps are hard to read: they are very detailed but the purpose is for developers to come into the office and view the maps in detail and perhaps obtain some counseling about a particular area.
- The maps are not recommending actions – just offering information. They are not regulatory.

Charity presented a review of the written comments (on file).