



Planning and Development Board Agenda

**Thursday - May 16, 2019 4:00 PM
Wilsall Senior Center**

CALL TO ORDER AND INTRODUCTIONS

ELECTION OF OFFICERS

PUBLIC COMMENT

CONFLICT OF INTEREST

REVIEW AND APPROVAL OF MINUTES FROM PREVIOUS MEETING

March Meeting Minutes
[3.21.19 PB Minutes.docx](#)

DISCUSSION AND PUBLIC COMMENT ON DRAFT DECAY ORDINANCE

Discussion and Comment Period for Draft Decay Ordinance
[Ken Cochran Comments Summarized from 2.28.19.docx](#)
[Park County Community Decay Regulations_Draft 3.1.19.pdf](#)

**DISCUSSION OF IMPACT FEE IMPLEMENTATION PROCESS AND OTHER
CONSIDERATIONS**

PROJECT UPDATES

REVIEW OF CHAPTER 16 OF THE PARK COUNTY GROWTH POLICY

OLD BUSINESS

NEW BUSINESS

DISCUSSION OF NEXT AGENDA

PUBLIC COMMENT

ADJOURNMENT

Planning and Development Board Agenda Item Report

Meeting Date: May 16, 2019

Submitted by: Lawson Moorman

Submitting Department: PLANNING

Item Type: Minutes

Agenda Section:

Subject:

March Meeting Minutes

Suggested Action:

Attachments:

[3.21.19 PB Minutes.docx](#)

Planning & Development Board

Clyde Park Rural Fire Hall

Clyde Park, MT

4:00pm, March 21, 2019

Attendance: Planning Board Members Peter Fox, John Heidke, Mike Dailey, Frank Schroeder, Frank O'Connor, Rich Baerg, Dave Haug; Staff Kaleb Pearson, Lawson Moorman; Technical Representative William Smith; and ten members of the public.

Call to Order and Introductions: 4:00pm, Peter Fox called the meeting to order.

Conflict of Interest: None.

Public Comment: Douglas Dunn stated he saw the value in a Community Decay Ordinance and supported the draft, however he was uneasy that the draft could be taken too far in the future. Julie Jardine had several questions surrounding the Draft Decay Ordinance stated she viewed a Decay Ordinance as a positive step and was surprised there was not something similar already in place. Moorman and Fox addressed several questions surrounding process and where the Draft Community Decay Ordinance was in the process. Sharon Sites commented that people who bought property in the County should have known about the lack of regulations in place and she views a Community Decay Ordinance as a stepping stone.

Review and Approval of Minutes from Previous Meeting: *Dailey made a motion to approve the minutes as submitted, Schroeder seconded, motion passed unanimously.*

Public Hearing on Subdivision Amendments to Tract 10-D of S/D 263 and Tract 2 of S/D 240:

Smith, the Project Engineer outlined the requested amendment for Tract 10D of SD263. The Board discussed the amendment which was a request to allow a property to disconnect from the shared well in the subdivision and drill a private well, which would increase water pressure for the shared well system.

Heidke made a motion to recommend approval to the County Commission of the requested subdivision amendment for Tract 10D of SD263, based on the Finding that the proposal appears to be in line with subdivision regulations and would benefit the subdivision as a whole with no foreseeable detriments. Baerg seconded, motion passed unanimously.

Smith gave a presentation on the requested amendment for Tract 2 of SD 240 which entailed relocation of a drain field on the property. Pearson, the Park County Sanitarian, added that the amendment meets the standards and requirements of the State for sanitation systems and had already been issued a septic permit. Fox allowed the adjacent land owner, Mark Angle, to raise his concerns to be addressed by the technical representative, Smith. Angle stated he was concerned about the proposed drain field location impacting his property's water quality. A discussion by the Board surrounding potential water quality

impacts ensued. Smith and Pearson gave a detailed explanation as to why the proposed system would not allow to drinking water or nearby waterways above what is allowed under state law for all waste water systems.

Baerg made a motion to recommend approval to the County Commission of the requested subdivision amendment for Trach 2 of SD 240 with the condition that the neighbor's water quality concerns be forwarded to the Commission, based on the Finding that the proposal meets all of the required standards and laws set forth by DEQ and the state and seems appropriate for the specific lot. O'Connor seconded, motion passed unanimously.

Discussion of Draft Decay Ordinance: Moorman gave a brief overview of how the Board came to be working on a Draft Decay Ordinance and explained the process and where the Draft was currently in that process. Fox stated that he was under the impression that residents in the community were not sure what the Draft was or what it covered and wondered if there was a way to make it more concrete. Moorman stated that the process they were currently undertaking was an attempt to make the draft more concrete and he was not sure what else could be accomplished this early in the process to give stricter solidarity to the process. Moorman suggested forwarding these concerns on to Inman when he returned to try to determine the best way to move forward. The Board discussed the potential of speeding up or slowing down the process to try and create more transparency for the Draft. Fox reiterated that the Board's main concern is being as transparent as possible throughout the exploratory process and asked if Draft Decay Ordinance Comments can become a running section in the agendas. The Board also decided to postpone weighing in on Cochran's comments to the Draft until the next meeting.

Jim Taylor commented that he was initially concerned about the scope of what the draft might constitute decay but appreciated the Board's thorough discussion which cleared it up for him. Bob Shiplet wanted to make a distinction between antiques and community decay and wanted the Board to be aware of antique collectors.

Project Updates: None.

Old Business: Moorman informed the Board that the Commission had already voted to apply for Community Block Grant Funds for a project in Gardiner so a recommendation from the Board to apply for those funds for a neighborhood plan in the area surrounding Livingston was a moot point.

New Business: None.

Discussion of Next Agenda: Fox stated that this was covered throughout the agenda.

Public Comment: None.

Adjournment: Fox adjourned the meeting at 5:37pm.

Planning and Development Board Agenda Item Report

Meeting Date: May 16, 2019

Submitted by: Lawson Moorman

Submitting Department: PLANNING

Item Type: Discussion

Agenda Section:

Subject:

Discussion and Comment Period for Draft Decay Ordinance

Suggested Action:

Attachments:

[Ken Cochran Comments Summarized from 2.28.19.docx](#)

[Park County Community Decay Regulations_Draft 3.1.19.pdf](#)

Ken Cochran Comments Summarized from 2.28.19

1. Section 3 under purpose, incorporate more specific purposes. Cochran recommends largely mimicking the purpose section from the US Hwy 89/ East River Rd/ Old Yellowstone Trail South Zoning District.
2. Change definition of public view. Current definition states 6 feet. Cochran recommends changing to 8 feet.
3. Change definition of responsible person. Cochran suggests changing the definition to property owner as that is the legal standard.
4. Section 9 should include a mention of fines to give the regulations more teeth.

Park County Community Decay Regulations

Section 1. Title

These regulations are known and may be cited as the **Park County Community Decay Ordinance**.

Section 2. Statutory Authority

The authority of Park County to regulate Community Decay is granted under Montana Code Annotated (MCA) 7-5-2111.

Section 3. Purpose

The purpose of these Regulations is to promote public health, safety, property value and general welfare of the residents of Park County.

Section 4. Jurisdictional Area

This ordinance applies to the whole of Park County with the exception of incorporated municipalities or controlled by incorporated municipalities.

Section 5. Severability

If any provision of this ordinance is declared invalid by any court or tribunal, the remaining provisions of this ordinance shall not be affected thereby.

Section 6. Definitions

Abate- to eliminate or remove, or the elimination or removal of, all of the conditions that constitute a violation of these regulations.

Adjacent to- means directly abutting or sharing a border with.

Accumulate- to store, gather, collect, heap, or pile up.

Commission- Park County Board of County Commissioners.

Farming, Ranching, or Other Agricultural Operation- the use of land for agriculture or farming purposes, including but not limited to pasturage agricultural, dairying, grazing land, animal and poultry husbandry, horticulture, floriculture, viticulture, and forestry, and all uses customarily incidental to the normal operations thereof.

Community Decay- a Public Nuisance created by allowing rubble, debris, junk or refuse to Accumulate resulting in conditions that are injurious to health, indecent, offensive to the senses, or obstruct the free use of property so as to interfere with the comfortable enjoyment of life or property. Community Decay as use in these regulation may not be construed or defined to apply to:

- i. Normal Farming, Ranching, or Other Agricultural Operations, or to a farm, ranch, or other agricultural facility, and any appurtenances thereof, during the course of its normal operations; or
- ii. Normal activities at a shooting range; or
- iii. Persons servicing, manufacturing, or processing materials, goods, or products on lots in public view, so long as the materials, goods, or products are used in the normal operation of the business and are neatly stacked or piles.

Department- the Park County Planning Department or other office designated by the Commission to respond to and enforce complaints of Community Decay.

Person- an individual, firm, partnership, company, association, corporation, or other entity, whether organized for profit or not.

Public Nuisance- is one that affects, at the same time, an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

Public Roadway- any public road right-of-way in Park County, Montana however created.

Public View- Any point up to six feet above the surface of the center of any public road.

Responsible Person- a Person who violates the Park County Community Decay Regulations.

Shielding- a barrier comprised of natural and/or artificial materials and used to conceal conditions contributing to Community Decay from Public View.

Section 7. Prohibition

A Person violates these regulations by allowing or maintaining conditions that contribute to Community Decay on, or on property Adjacent to, a Public Roadway within Park County, Montana.

Conditions that may contribute to Community Decay include, but are not limited to, any discarded substance, item, or material, such as cardboard, paper, pallets, tires, iron, or metal; demolition waste; construction or building material, such as bricks, concrete, or wood; junk vehicles or trailers; vehicles or machine parts; dead animals or animal parts; appliances; furniture; branches, logs, or yard trimmings; and any other similar materials, items, waste, parts, or substances.

Section 8. Shielding

A Person does not violate these regulations by allowing or maintaining conditions that contribute to Community Decay on, or on property Adjacent to, a Public Roadway if the conditions are concealed from Public View in accordance with the following standards:

- i. All plans for shielding must be approved by the Department prior to commencing constriction of the shielding.
- ii. Shielding must conform to the requirements of any zoning, planning, building, or restrictive covenant provisions applicable to the property.
- iii. Shielding must be of sufficient height so that no conditions contributing to Community Decay are within Public View.
- iv. Shielding must be maintained by the Responsible Person in a neat and orderly manner and must be replaced or repaired when deemed necessary by the Department.
- v. Artificial Shielding Standards: Shielding materials must be consistent on any one (1) side of a shielding fence. The boards of a fence may be reasonably spaced or slanted to reduce wind load. Chain link fences with standard fiberglass or similar inserts are acceptable.
- vi. Natural Shielding Standards: Trees or Shrubs used as Shielding must provide concealment from Public View at all times of the year. A berm may be used, provided the slopes of the berm are covered and graded smooth with not less than three inches of top soil and are seeded with a weed-free seed mix or an approved landscaping demonstrated in the Plan of Abatement.

Section 9. Enforcement and Abatement

Upon receiving a signed, written complaint, the Department shall commence an investigation to determine if a violation exists. The Department may inspect the subject premises by any lawful means. If a violation of these regulations exists, the Department shall take appropriate action as provided herein to resolve the violation.

The Department shall notify in writing the Responsible Person of the violation. The notice of violation should state the following:

- i. The nature and location of the violation;
- ii. The actions needed to Abate the violation
- iii. The date Abatement must be completed in the absence of an approved Plan of Abatement;
- iv. That failure to comply with the notice within the specified, unless extended by an approved Plan of Abatement, enables the County to enter the property to Abate the violation; and
- v. That the County is authorized to assess the Responsible Person for the actual costs of the Abatement, and nonpayment of the assessment becomes a lien upon the property enforceable in the same manner as the nonpayment of property taxes.

Within thirty (30) calendar days from the receipt of the notice of violation, the Responsible Person may submit a written Plan of Abatement to the Department. The proposed Plan of Abatement must include, at a minimum:

- i. A complete description of the Abatement proposed;
- ii. The date for commencement of the Abatement;
- iii. Any reason why the Abatement cannot be completed within thirty (30) days from the receipt of the notice of violation; and
- iv. The date for completion of the Abatement.

The Department may accept or reject the Plan of Abatement, accept the Plan with modifications, or request additional information before making a final decision. The Department shall notify the Responsible Person in writing of its final decision.

The Responsible Person shall have thirty (30) calendar days from the receipt of the notice of violation to Abate the violation or to have a Plan of Abatement, approved by the Department, in place.

If the Responsible Person fails to Abate the conditions contributing to Community Decay within thirty (30) calendar days from receipt of the notice of violation or the time period specified in the approved Plan of Abatement, the Department shall notify the Responsible Person in writing of the failure to Abate the violation.

If the Responsible Person fails to completely Abate the violation within fifteen (15) calendar days of the notice described in subsection (F), the Department or its agents may enter upon the subject property to assess the extent of the violation. In addition, the Commission or its agents may Abate the violation and may assess the Responsible Person for the actual cost of the Abatement. Nonpayment of such an assessment becomes a lien upon the property and is enforceable in the same manner as a nonpayment of taxes.

Notwithstanding any enforcement action taken pursuant to this section, The Commission may bring any legal or equitable action in the name of Park County to enforce this Ordinance.

Section 10. Appeals

An alleged violator may appeal a final decision of the Department in writing to the Commission within fifteen (15) calendar days of the final decision.

The Commission shall hold a hearing regarding the appeal and shall, in writing, affirm, modify, or withdraw the Department's decision within thirty (30) calendar days after the hearing.