



Planning and Development Board Agenda

**Thursday - June 20, 2019 4:00 PM
Gardiner Community Center**

SPORTSMAN RETREAT SUBSEQUENT MINOR SUBDIVISION SITE VISIT - *Site visit will take place at 14 Peter's Lane, Gardiner, MT at 4pm.*

Staff Report for Sportsman Retreat Subsequent Minor Subdivision
[Subdivision Administrator Report for Board Consideration on 6-20-2019 with signature.pdf](#)

CALL TO ORDER AND INTRODUCTIONS - *Reconvene after the site visit at the Gardiner Community Center at 5pm.*

PUBLIC COMMENT

CONFLICT OF INTEREST

REVIEW AND APPROVAL OF MINUTES FROM PREVIOUS MEETING

Previous Meeting Minutes
[5.16.19 PB Minutes.docx](#)

DISCUSSION/DECISION ON RECOMMENDATION OF FORWARDING THE DRAFT PARK COUNTY COMMUNITY DECAY ORDINANCE TO THE BOARD OF COMMISSIONERS

Draft Community Decay Ordinance
[Park County Community Decay Regulations_Draft.docx](#)

REVIEW OF CHAPTER 16 OF THE PARK COUNTY GROWTH POLICY

PROJECT UPDATES

OLD BUSINESS

NEW BUSINESS

DISCUSSION OF NEXT AGENDA

PUBLIC COMMENT

ADJOURNMENT

Planning and Development Board Agenda Item Report

Meeting Date: June 20, 2019

Submitted by: Lawson Moorman

Submitting Department: PLANNING

Item Type: Staff Report

Agenda Section:

Subject:

Staff Report for Sportsman Retreat Subsequent Minor Subdivision

Suggested Action:

Attachments:

[Subdivision Administrator Report for Board Consideration on 6-20-2019 with signature.pdf](#)

Park County Planning and Development Board Agenda Item

Park County, Montana

Agenda Title:	<u>Sportsman's Retreat Subsequent Minor Subdivision</u>
Meeting Date:	Public Hearing scheduled for Thursday, June 20, 2019 at 5:00pm in the Community Center, Gardiner, Montana. Site Visit: Scheduled for 4:00pm on June 20, 2019 – on site.
Department:	Planning Department
Presented By:	Wm. Michael Inman, Director/Subdivision Administrator 

Subdivision Administrator Report – Completed on June 13, 2019.

I. Proposal:

Scott and Lori Hamilton are proposing to subdivide their property into four separate parcels. The property is located at 14 Peters Lane, Gardiner, Montana, Section 23, Township 9 South, Range 8 East. Three of the parcels will be approximately .27-acres and one lot will be 1.4-acres (see **FIGURE 1 and 2**)

The Park County Subdivision Regulations require all subdivisions be reviewed by the Park County Planning and Development Board and Park County Commission. This proposal is being reviewed under the 2010 *Park County Subdivision Regulations* as a subsequent minor subdivision. It is the responsibility of the Subdivision Administrator to forward a recommendation to the Park County Planning and Development Board. The Planning and Development Board is responsible for reviewing the proposal and all relevant information, and forwarding a recommendation to the Park County Commission. The Park County Commission is the final authority concerning all proposed subdivisions in Park County.

Subdivision Administrator Recommendation:

The Subdivision Administrator recommends conditional approval of the Sportsman’s Retreat Subsequent Minor Subdivision, with the findings and conditions proposed in this Subdivision Administrator Report, to the Park County Planning and Development Board.

II. Background:

A. Site:

The proposed Sportsman’s Retreat Subsequent Minor Subdivision is located in the Northeast ¼ and SE ¼ of Section 23, Township, 9 South, Range 8 East (See **Figure 1**). The property is approximately just over 2-acres in size. The proposal consists of four separate parcels for single family use (See **Figure 2**).

Figure 1: Vicinity Map

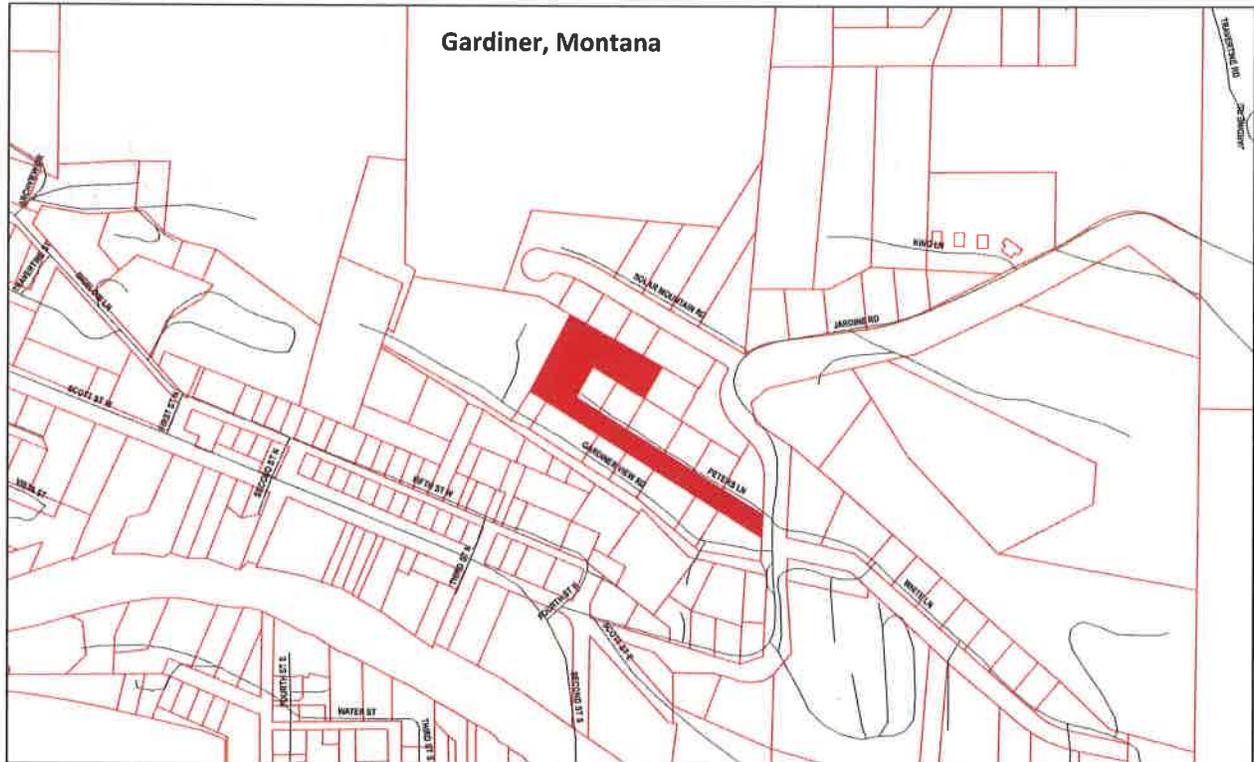


Figure 2: *Aerial Photo with approximate Subdivision Boundaries *



B. Timing and Authority:

- A pre-application meeting occurred on August 21, 2018 with Subdivision Administrator, Wm. Michael Inman and the applicants, Scott and Lori Hamilton and Dennis Foreman, Registered Land Surveyor.

- The preliminary plat application was submitted to the Park County Planning Office on March 11, 2019.
- The application was deemed to be missing certain elements on March 18, 2019.
- The application was revised and resubmitted on April 29, 2019.
- The application was deemed to contain all required elements on May 3, 2019.
- The application was deemed insufficient on May 22, 2019.
- The application was revised and resubmitted on May 30, 2019.
- The Application was deemed sufficient for review on June 3, 2019.
- The remaining 14 copies of the application were submitted to the Planning Office on June 4, 2019.
 - Given the sixty working day review period for subsequent minor subdivisions, the Sportsman’s Retreat Subsequent Minor Subdivision shall be reviewed by Park County no later than August 28, 2019.
- A public hearing before the Planning and Development Board is scheduled for June 20, 2019 at 5pm in the Gardiner Community Center.
 - A site inspection with the Planning and Development Board is scheduled for 4pm on June 20, 2019.
- A public hearing is scheduled before the Park County Commission on Thursday, June 27, 2019 10:00am in the Community Room of the City/County Complex at 414 East Callender Street, Livingston, MT.
 - A Site inspection is rescheduled with the Park County Commission on June 20, 2019 at 4pm with the Planning and Development Board.

Subsequent Minor Subdivision applications must be evaluated by the criteria outlined in section IV of the 2010 *Park County Subdivision Regulations*, as applicable. The Park County Commission may approve, conditionally approve, or deny the proposed subdivision based upon the evidence of record. The Park County Commission is the final authority regarding all subdivisions in Park County.

III. Criteria:

1	<i>Affects on Agriculture</i>
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- The proposed Sportsman’s Retreat Subsequent Minor Subdivision should have little to no impact on Agriculture in the area as the proposal is within the Gardiner Community and very little agricultural production is located within the immediate vicinity.

2	<i>Affects on Agriculture Water User Facilities</i>
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- The Proposed Sportsman's Retreat Subsequent Minor Subdivision will not impact Agricultural Water User Facilities as none exist on the property.

3	<i>Affects on Local Services</i>
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- The proposed Sportsman's Retreat Subsequent Minor Subdivision will add three additional residential single-family units to the Gardiner area which is within the jurisdiction of the Park County Sheriff's Department.
- The proposal will be serviced by the Gardiner Fire District.
- The proposed subdivision will not increase the amount of roads currently maintained by the County.
- The proposed subdivision may impact the local school district with the potential for new school children.

4	<i>Affects on the Natural Environment</i>
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- The proposed Sportsman's Retreat Subsequent Minor Subdivision should have little impact to the natural environment given the previous ground disturbance and prior construction in the area.
- Soil disturbance during the construction of this proposed subdivision will increase the potential for the spread of noxious weeds on the property and the surrounding area. Section 7-22-2116, MCA states; "it is unlawful for any person to permit any noxious weeds to propagate on their property."

5	<i>Affects on Wildlife</i>
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- Landscaping may attract wildlife in the area given the close proximity to Yellowstone National Park.
- The proposal will result in three additional single-family residential structures, which may add to human/wildlife conflicts.
- Grizzly bears frequent the community of Gardiner in search of food—solid waste may serve as an attractant if not properly stored, and may lead to an increase in human/wildlife conflicts.

6	<i>Affects on Wildlife Habitat</i>
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- The proposed Sportsman’s Retreat Subsequent Minor Subdivision should have a minimal impact on wildlife habitat in the area given the urban environment.
- The proposal is located within the community of Gardiner, which is not considered prime wildlife habitat.
- Conflicts between wildlife and humans is common in Gardiner due to the close proximity to Yellowstone National Park.

7	<i>Affects on Public Health and Safety</i>
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- The proposed Sportsman’s Retreat Subsequent Minor Subdivision may adversely impact public health and safety with regards to fire protection and emergency services. The proposal is located within the Gardiner Fire District, and will include one additional fire hydrant for firefighting purposes.
- Wildfire should not adversely affect the proposed subdivision given the amount of development within the area and the lack of native vegetation.
- The proposed subdivision is located off Peters Lane, which allows public access.
- The applicants have requested a variance from the Design Standards for Streets and Roads **(See Variance Request)**

- Unmaintained road approaches may affect emergency response capabilities.

8	<i>Compliance with the survey requirements in part four of the Montana Subdivision and Platting Act</i>
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- The final plat shall conform to the *Uniform Standards for Final Subdivision Plats* and shall be accompanied by the required certificates.

9	<i>Compliance with the provisions of Physical and Legal Access to each parcel within the subdivision and the required notation of that access on the applicable plat and any instrument of transfer concerning the parcel</i>
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- Physical and legal access to the proposed Sportsman's Retreat Subsequent Minor Subdivision is provided off of Jardine Road, a County-owned and -maintained road, and Peters Lane, and public use road.
- The applicant(s) for Sportsman's Retreat Subsequent Minor Subdivision have proposed to continue Peters Lane and provide a hammerhead turn-around (**See Variance Request**).
- The applicant(s) have requested several variance requests regarding physical and legal access (**See Variance Request**)

10	<i>Compliance with the provisions of easements for the location and installation of any planned utilities</i>
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- Easements for the provisions of public utilities are located in the Granite Street right-of-way.

11	<i>Compliance with the review procedures contained in the Park County Subdivision Regulations and the Montana Subdivision and Platting Act</i>
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- The Sportsman’s Retreat Subsequent Minor Subdivision is being reviewed under section IV of the 2010 *Park County Subdivision Regulations* and in accordance with the Montana Subdivision and Platting Act.

12	<i>Consideration of an officially adopted Growth Policy for the area involved</i>
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- The proposed Sportsman’s Retreat Subsequent Minor Subdivision is consistent with the Park County Growth Policy, as it is being built in close proximity to existing infrastructure, will minimize impacts to local services, wildlife, wildlife habitat, and the natural environment, adds to available single-family residential housing in the Gardiner area and protects private property rights.
- The proposal will utilize the Gardiner Water and Sewer District services which will minimize impacts to ground water and quality.

13	<i>Compliance with the Park County Subdivision Regulations</i>
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- Subdivisions that do not comply with the 2010 *Park County Subdivision Regulations*, section VI—*Design and Improvement Standards* may adversely affect the primary criteria under Section 76-3-608, MCA.
- Amendments made to any covenants imposed by the County or which mitigate potential adverse effects may nullify the intent of the covenant.
- The 2010 *Park County Subdivision Regulations* require that a platting certificate showing the names of the owners of record of the subdivision and the names of any lien-holders or claimants of record against the land be submitted to the County Attorney.
- Parkland Dedication is required for all subsequent minor subdivisions—the applicants have proposed cash-in-lieu of parkland dedication in accordance with State Statute provisions.

- The *2010 Park County Subdivision Regulations*, section III-A.6.(F)(1) requires a subdivider(s) to complete all conditions of preliminary plat approval and apply for final plat approval thirty days prior to the expiration of the two year approval period, unless an extension is requested by the subdivider(s). Any changes made to the original application or preliminary plat, other than changes made to meet the required conditions of final plat approval, may substantially alter the information used to evaluate the proposed subdivision under the primary review criteria (Section 76-3-608, MCA) and requirements of this subdivision.
- Subdividers are required to comply with all other standards and procedures of the *2010 Park County Subdivision Regulations*, which are applicable to all subdivisions prior to receiving final plat approval. Any unmet regulations, procedures, or provisions that are not specifically listed as conditions of approval, do not create a waiver, variance, or other relaxation of the lawful requirements of the *2010 Park County Subdivision Regulations* or state law.

IV. Variance Request.

The applicant(s) for the Sportsman's Retreat Subsequent Minor Subdivision have requested three variances from the design and improvement standards for streets and roads (see section 37 of the Preliminary Plat Application). Specifically, the applicants are proposing the following:

1. Park County Subdivision Regulations Section VI-H Table 1 #1 – Minimum right-of-way width on level terrain for a local road shall be sixty feet—the applicant(s) are proposing a right-of-way width of thirty feet for the new section of road to the hammerhead turn-around.
 - a. Applicant Justification: The variance is needed in order to fit the proposed roadway into the subdivision. A thirty foot right-of-way and a twenty foot roadway width is proposed due to the fact that the roadway will need to pass by an already constructed single family residence, and a neighboring tract to the west. The distance between the single family residence and the property line to the west is forty feet. As designed with a thirty foot right-of-way, the right-of-way will be on the edge of the existing property line to the west and ten feet from the single family residence to the east.
2. Park County Subdivision Regulations Section VI-H Table 1 #2—Minimum roadway width of twenty-four feet for all access roads. The applicant(s) are proposing a roadway width of twenty feet.
 - a. Applicant(s) justification: According to Fire Department Standards, a twenty-foot wide access road is the minimum allowed in the District.
3. Park County Subdivision Regulations Section VI-H 1 #7—Maximum local road length of 750-feet. The applicant(s) are proposing a total road length of 1122-feet with a hammerhead turnaround.
 - a. Applicant(s) justification: A road length of 1,112-feet will be required to provide access to lot 1D. Peters Lane is an already established roadway that is 650-feet in length. The applicants are proposing an additional 472-feet and a hammerhead turnaround at the end. There is no easement or right-of-way available to loop this street back into the existing street network.

The Planning and Development Board shall comply with the provisions delineated in section XI-B of the 2010 *Park County Subdivision Regulations* when considering any variance request from the design and improvements standards contained in section VI of the regulations:

XI-B. Variances**XI-B-1. Variances Authorized**

The Board of Commissioners, after a public hearing on the variance request, may grant variances from chapter VI, [Design and Improvement Standards], of these regulations when, due to the characteristics of land proposed for Subdivision, strict compliance with these standards would result in undue hardship and would not be essential to the public welfare. A variance will not be granted if it would have the effect of nullifying the intent and purpose of these regulations.

The Board of Commissioners shall not approve a variance unless it finds that:

- A. The granting of the variance will not be detrimental to the Public Health, Safety, or general welfare or injurious to other adjoining properties;*
- B. Due to the physical surroundings, shape, or topographical conditions of the property involved, strict compliance with the regulations will impose an undue hardship on the owner. Undue hardship does not include personal or financial hardship, or any hardship that is self imposed;*
- C. The variance will not cause a substantial increase in public costs; and*
- A. The variance will not place the Subdivision in nonconformance with any adopted zoning regulations.*

Agency Comments:

Public Works Department (Attached): *I reviewed the preliminary plat application for Sportsman's Retreat Subsequent Subdivision. The information provided in Sections 18, 19, 28 and 37 is sufficient for the estimated traffic impacts associated with the variance requests based on the proposed single-family residential uses proposed in section 1.4. Development Type. The proposed 30' width and 20' driving surface will limit the level of service for the access and utilities with regards to traffic. I would suggest consideration of a requirement to prevent obstructions within the easement such as parked cars, trailers, equipment etc...and a requirement that maintains the single-family use.*

Local Fire Protection Authority (Attached): *Bob Copland—I have reviewed the site plan and fire protection plans for the Sportsman's Retreat Subdivision and I am comfortable with the three variances requested. IF the 20-foot roadway and the hammerhead turnaround are kept clear of the parking of trailers, boats, snowmobiles, ATVs, and all other types of vehicles. Another question I have is with the size of the*

proposed water service lines, they are much larger than those commonly used for single family dwelling. Are multiple-family dwelling doing to be permitted on each lot? If so the increased traffic and larger multi-family dwellings will make fire protection services more difficult on the proposed dead-end turnaround.

Subdivision Administrator Recommended Findings of Fact and Determination: The Subdivision Administrator recommends approval of the proposed variance with the following findings of fact and conditions:

- A. *The granting of the variance will not be detrimental to the Public Health, Safety, or general welfare or injurious to other adjoining properties;*
 - a. **Findings of Fact:** *Vehicles and other items parked or stored in the proposed thirty-foot right-of-way may impede emergency vehicle access and response capabilities.*
 - b. **Findings of Fact:** *Multi-family dwellings, commercial activity and any other uses other than single-family dwellings, will increase traffic and limit emergency vehicle access and response capabilities.*
- B. *Due to the physical surroundings, shape, or topographical conditions of the property involved, strict compliance with the regulations will impose an undue hardship on the owner. Undue hardship does not include personal or financial hardship, or any hardship that is self-imposed;*
 - a. **Findings of Fact:** *The Community of Gardiner is an urban setting with mostly county-owned substandard streets and roads.*
 - b. **Finds of Fact:** *The proposed subdivision is limited in space given the existing structures and property boundaries.*
 - c. **Findings of Fact:** *No other access easement is possible given current property ownership*
- C. *The variance will not cause a substantial increase in public costs; and*
 - a. **Findings of Fact:** *All three variance requests will not increase public costs—the proposed access road will be owner and maintained by the owners within the subdivision.*
- B. *The variance will not place the Subdivision in nonconformance with any adopted zoning regulations.*
 - a. **Findings of Fact:** *The proposal is not located in a zoned area within the county.*

Recommendation Conditions:

1. **Condition:** A covenant shall be filed with the Subdivision Final Plat stating: *“The Sportsman’s Retreat Subsequent Minor Property owners shall maintain the access road and hammerhead*

turnaround, and shall keep the entire thirty-foot right-of-way clear of all vehicles, campers, boats, trailers, materials, or any other item in order to aid emergency vehicle response capabilities.”

- 2. Condition:** Prior to Final Plat Approval the subdivider shall install no parking signs along both sides of the access road which notify all landowners of the requirement to keep the road right-of-way clear of all encroachments
- 3. Condition:** A covenant shall be filed with the Subdivision Final Plat stating: *“The Sportsman’s Retreat Subsequent Minor Subdivision shall comprise of single-family dwellings—no commercial businesses or multi-family housing of any kind is permitted on any lot in the subdivision.”*

V. Recommended Findings and Conditions:

The proposed Sportsman’s Retreat Subsequent Minor Subdivision and submitted supplements have been reviewed to determine compliance with the *Montana Subdivision and Platting Act* and the *2010 Park County Subdivision Regulations*.

I. Affects on Agriculture			
Recommended Findings		Recommended Conditions	
A	The proposed Sportsman’s Retreat Subsequent Minor Subdivision should have little to no effect on Agriculture in the area as the proposal is within the Gardiner Community and very little agricultural production is located within the immediate vicinity.		
II. Affects on Agriculture Water User Facilities			
Recommended Findings		Recommended Conditions	
A	The Proposed Sportsman’s Retreat Subsequent Minor Subdivision will not impact Agricultural Water User Facilities as none exist on the property.		
III. Affects on Local Services			
Recommended Findings		Recommended Conditions	
A	The proposed subdivision will have an impact the Sheriff’s Office and other county service providers because three additional residential structures are being proposed.		

B	The proposed subdivision may result in an increase in school age children, thus affecting the Gardiner School District.		
C	The cumulative effects of this and other subdivisions in the area may require future, county-imposed improvements. The improvements may include, but are not limited to; road, sewer, water and fire services. The improvements may be funded by rural or special improvement districts.	1	A waiver of protest to create a Rural Improvement District or Special Improvement District consistent with state statute shall be delineated on the final plat as a condition of final plat approval.

IV. Affects on the Natural Environment

Recommended Findings		Recommended Conditions	
A	Soil disturbance during the construction of this proposed subdivision will increase the potential for the spread of noxious weeds on the property and the surrounding area. Section 7-22-2116, MCA states; "it is unlawful for any person to permit any noxious weeds to propagate on their property."	2 3	A covenant shall be filed with the final plat requiring control of County declared noxious weeds. A covenant shall be filed with the final plat stating: " <i>Unit owner(s) shall comply with the required Noxious Weed Management Plan, approved by the Park County Weed Supervisor.</i> "
B	VI-B of the 2010 <i>Park County Subdivision Regulations</i> states, "All vegetation disturbed during construction shall be reestablished with vegetation types that have been recommended by the NRCS or MSU Extension Office and approved by the Planning Office."	4	Any areas disturbed during construction shall be reseeded by the subdivider(s) for the purpose of establishing adequate ground cover. The choice of species to be used shall be approved by the Natural Resources Conservation Service or the County Noxious Weed Control Board which reviews the choice of species to ensure it is compatible with the climate and soil types of the subdivision.

<p>C</p> <p>D</p>	<p>The arid climate, poor soil quality compromise re-vegetation measures if seed is simply sprayed onto topsoil.</p> <p>If areas disturbed during construction are not properly re-vegetated erosion and weed problems can occur and storm water drainage can compromise water quality.</p>	<p>5</p>	<p>Prior to final plat approval, the applicant(s) at their own expense shall provide evidence of reseeding for any areas disturbed and a contract that guarantees a 70% revegetation for a period of at least one full growing season beyond the final plat approval date, if applicable. Reseeding practices shall be in accordance with recommendations provided by the Park County Extension which reviews reseeding practices to ensure they are compatible with the climate and soil types of the subdivision. The Park County Noxious Weed Control Board and Weed Supervisor shall inspect and provide written approval prior to final plat approval.</p>
<p>E</p>	<p>New construction may impact cultural/historical/paleontological resources in the area.</p>	<p>6</p>	<p>A covenant shall be filed with the final plat stating: <i>"If during the implementation of any project cultural resources (archaeological/historic/paleontological) are encountered, or if previously known cultural resources will be affected, all work should cease and the Park County Planning Department shall be notified immediately. The County will evaluate the cultural resources in consultation with the State Historic and Preservation Office (SHPO) to determine if the resources constitute a cultural property and if any mitigation or curation is required."</i></p>

F	The Sportsman's Retreat Subsequent Minor Subdivision application shall be reviewed and approved by the Department of Environmental Quality and the Park County Sanitarian prior to final plat approval.	7	The Sportsman's Retreat Subsequent Minor Subdivision application shall be reviewed and approved by the Department of Environmental Quality and the Park County Sanitarian prior to final plat approval to protect the quality and potability of water public water supplies for domestic uses and to protect the quality of water for other beneficial uses, including uses relating to agriculture, industry, recreation and wildlife as set forth in Section 76-4-101, MCA.
G	The Mineral Rights may have been severed from the property. Future mining or subsurface exploration may adversely affect the natural environment. The applicant(s) have indicated no mineral rights will be transferred to any tract within the Sportsman's Retreat Subsequent Minor Subdivision.	8	A covenant shall be filed with the final plat stating: " <i>Owner(s) are hereby informed that no mineral rights have been transferred to any units/members of the Sportsman's Retreat Subsequent Minor Subdivision.</i> "
V. Affects on Wildlife			
Recommended Findings		Recommended Conditions	
A	Storm water run-off and erosion caused by the proposed condominiums may adversely affect water quality in the Yellowstone River, which may adversely affect wild fish populations.	9	The applicants have proposed a storm water drainage plan which will minimize storm run-off potential and erosion. The final <i>Storm Water Drainage Plan</i> shall be certified by a professional engineer and submitted to the Planning Department prior to final plat approval.

B	Conflicts may occur between landowners and wildlife with regards to residential landscaping.	10	A covenant shall be filed with the final plat and shall state: <i>"All landscaping is encouraged to be comprised of plant species that do not attract wildlife as recommended by the MSU Extension."</i>
C	Solid Waste stored in non-bear resistant containers may increase bear activity in the area and may result in human/bear conflicts	11	A covenant shall be filed with the final plat and shall state: <i>"All lot owners within the Sportsman's Retreat Subsequent Minor Subdivision shall utilize bear-proof solid waste receptacles when storing solid waste outdoors."</i>
VI. Affects on Wildlife Habitat			
Recommended Findings		Recommended Conditions	
A	The spread of noxious weeds may adversely affect wildlife habitat in the area.	--	See Condition 5 and 6 regarding noxious weeds.
VII. Affects on Public Health and Safety			
Recommended Findings		Recommended Conditions	
A	Fire protection is provided by Gardiner Fire District. The subdivision is required to have an inspection by the Fire District having jurisdiction for compliance with required fire protection and prevention measures.	12	The local Fire Protection Authority (FPA) shall review and approve the subdivision fire protection feature(s) prior to final plat approval. The local FPA shall submit, in writing to the Subdivision Administrator, a detailed report illustrating verification and approval of the fire protection features prior to final plat approval.

B	Wildfire should not adversely affect the proposed subdivision given the amount of development within the area and the lack of native vegetation.		
C	Unmaintained roads may adversely affect the response capabilities of emergency services.	13	A covenant shall be filed with the final plat stating: <i>"The Sportsman's Retreat Subsequent Minor lot owners shall be responsible for maintenance, repair, improvement and other work on the proposed road approach and internal driveway."</i>
D	Peters Lane if a privately-owned and maintained road which allows public access		
E	The applicants have proposed three variances from the design standards under Section VI of the Park County Subdivision Regulations	--	See Variance Request and Recommended Findings and Conditions

VIII. Compliance with the survey requirements in part for of the Montana Subdivision and Platting Act

Recommended Findings		Recommended Conditions	
A	Plats shall conform to Section 76-3-401-406 MCA of the Montana Subdivision and Platting Act.	14	The proposed Sportsman's Retreat Subsequent Minor Subdivision shall conform to the Section 76-3-401-406 MCA of the Montana Subdivision and Platting Act.

IX. Compliance with the provisions of Physical and Legal Access to each parcel within the subdivision and the required notation of that access on the applicable plat and any instrument of transfer concerning the parcel

Recommended Findings		Recommended Conditions	
A	Legal and physical access is required to each parcel within the subdivision and the required notation of that access must be shown on the plat and any instrument of transfer concerning the parcel.	15	All road approaches providing physical and legal access to the proposed Sportsman's Retreat Subsequent Minor Subdivision shall be built and maintained to County Standards, see section VI of the 2010 <i>Park County Subdivision Regulations</i> . See also the requested variances and Recommended Findings and Conditions
B	The applicants for the Peterson Minor Subdivision have requested three variances from the design and improvement standards for streets and roads.	--	See requested variances and Recommended Findings and Conditions .
C	The 2010 <i>Park County Subdivision Regulations</i> require all roads providing physical and legal access be built to the design and improvement standards as delineated in section VI.	--	See requested variances and Recommended Findings and Conditions .

X. Compliance with the provisions of easements for the location and installation of any planned utilities

Recommended Findings		Recommended Conditions	
A	Utility easements are required and must be delineated on the final plat. The preliminary plat indicates public utility easements within all relevant road right-of-ways.	16	The final plat shall indicate utility easements as required by the 2010 <i>Park County Subdivision Regulations</i> . The final plat shall state "Public Utilities."

XI. Compliance with the review procedures contained in the Park County Subdivision Regulations and the Montana Subdivision and Platting Act			
Recommended Findings		Recommended Conditions	
A	The Sportsman's Retreat Subsequent Minor Subdivision is required to be processed in compliance with the 2010 <i>Park County Subdivision Regulations</i> and the <i>Montana Subdivision and Platting Act</i> .	17	The Sportsman's Retreat Subsequent Minor Subdivision shall be processed in compliance with the 2010 <i>Park County Subdivision Regulations</i> and the <i>Montana Subdivision and Platting Act</i> .
XII. Consideration of an officially adopted Growth Policy for the area involved			
Recommended Findings		Recommended Conditions	
A	The proposed Sportsman's Retreat Subsequent Minor Subdivision is consistent with Chapter 6 [Housing] in that it will provide for three additional single-family dwelling units to an area that struggles to implement additional housing opportunities.		
B	The proposed Sportsman's Retreat Subsequent Minor Subdivision review is consistent with Goal 15 [Protect Private Property Rights] as it has been reviewed in compliance with the current subdivision regulations and the Montana Subdivision and Platting Act, which provides the right of landowners to subdivide property under the Act.		

C	The proposed Sportsman's Retreat Subsequent Minor Subdivision review is consistent with Goal 16.7 which encourages development near existing infrastructure.		
D	The proposed Sportsman's Retreat Subsequent Minor Subdivision review is consistent with Goal 2 which aims to reduce wildlife/human conflicts.		
E	The proposed Sportsman's Retreat Subsequent Minor Subdivision review is consistent with Goal 12.2 which encourages growth utilizing existing water and sewer district infrastructure.		

XIII. Compliance with the Park County Subdivision Regulations

Recommended Findings		Recommended Conditions	
A	Subdivisions approved by the County Commission shall comply with the provisions of Chapter VI, <i>General Design and Improvement Standards</i> in the 2010 <i>Park County Subdivision Regulations</i> .	18	Subdivisions approved by the County Commission shall comply with the provisions of Chapter VI, <i>General Design and Improvement Standards</i> in the 2010 <i>Park County Subdivision Regulations</i> , unless a variance has been granted by the Governing body.
B	Any covenants which are imposed by the governing body to mitigate the adverse effects of a subdivision proposal shall not be amended except with the consent of the governing body.	19	The final covenants shall be submitted to the Park County Planning Office prior to applying for final plat approval. It shall be clearly delineated in the final covenants that those covenants required in these conditions shall only be amended with the consent of the Park County Commission. The Planning Office shall approve the covenants for the compliance with this order prior to final plat approval.

C	Any covenant required as a “condition of final plat” cannot be amended without the written consent of the Park County Commissioners.	20	The applicants shall clearly identify all County imposed covenants and it shall be noted; <i>“All county imposed covenants shall not be amended or repealed without the written consent of the Park County Commission.”</i>
D	The 2010 <i>Park County Subdivision Regulations</i> require that a platting certificate showing the names of the owners of record of the subdivision and the names of any lien holders or claimants of record against the land be submitted to the county attorney.	21	A platting certificate shall be submitted to the Park County Planning Office prior to final plat approval.
E	The applicant(s) shall have two years from the date of preliminary approval to complete the conditions and apply for final plat approval (see section III-A-6.F of the 2010 <i>Park County Subdivision Regulations</i>).	22	The applicant(s) shall have three years from the date of preliminary approval to complete these conditions and apply for final plat approval. Application for final plat shall be submitted at least thirty days prior to the expiration of the preliminary plat approval period, unless the applicant(s) request an extension, not to exceed one year. Failure to comply with the final plat provisions or the conditions of final plat thirty calendar days prior to the expiration of the preliminary plat approval period will render the governing body’s approval null and void.
F	Any changes made to the original application or preliminary plat, other than changes made to meet the required conditions of final plat approval, may substantially alter the information used to evaluate the proposed subdivision under the primary review criteria and requirements of this subdivision.	23	Any changes made to the original application or preliminary plat, other than changes made to meet the required conditions of final plat approval, may require the subdivider(s) to resubmit the application for subdivision review pursuant to state law and section II-B-5 of the 2010 <i>Park County Subdivision Regulations</i> .

G	The applicants are required to provide parkland dedication as required under section VI-P of the 2010 <i>Park County Subdivision Regulations</i> . The applicants are proposing cash-in-lieu of parkland dedication.	24	Prior to final plat approval—the applicants shall provide the required cash-in-lieu of parkland dedication to Park County.
H	Applicant(s) are required to comply with all other standards and procedures of the 2010 <i>Park County Subdivision Regulations</i> , which are applicable to all subdivisions prior to receiving final plat approval. Any unmet regulations, procedures, or provisions that are not specifically listed as conditions of approval, do not, in any way, create a waiver, variance, or other relaxation of the lawful requirements of the 2010 <i>Park County Subdivision Regulations</i> or State law.	25	The applicant(s) shall comply with all other standards and procedures of the 2010 <i>Park County Subdivision Regulations</i> , which are applicable to this subdivision prior to receiving final plat approval. The applicant(s) for this proposed subdivision is hereby informed that any unmet regulations, procedures, or provisions that are not specifically listed as conditions of approval, does not, in any way, create a waiver, variance, or other relaxation of the lawful requirements of the 2010 <i>Park County Subdivision Regulations</i> or State law.

VI. Conclusion:

The proposed Sportsman's Retreat Subsequent Minor Subdivision, with the inclusion of the recommended findings and conditions identified in this Subdivision Administrator Report, mitigate the adverse effects of the review criteria and brings the subdivision in compliance with the requirements of Section 76-3-608(3), MCA.

VII. Park County Planning and Development Board Role and Options:

The Park County Planning and Development Board shall consider the application, preliminary plat, supplements, public testimony, and this Subdivision Administrator Report before forwarding a recommendation to the Park County Commission.

The Park County Planning and Development Board shall make one of the following recommendations regarding the Sportsman's Retreat Subsequent Minor Subdivision preliminary plat application, to the Park County Commission:

1. Recommend approval of the Sportsman's Retreat Subsequent Minor Subdivision with findings and conditions as identified in the Subdivision Administrator Report;
2. Recommend approval of the Sportsman's Retreat Subsequent Minor Subdivision with findings and conditions as amended by the Park County Planning and Development Board;
3. Recommend denial of the Sportsman's Retreat Subsequent Minor Subdivision.

Planning and Development Board Agenda Item Report

Meeting Date: June 20, 2019

Submitted by: Lawson Moorman

Submitting Department: PLANNING

Item Type: Minutes

Agenda Section:

Subject:

Previous Meeting Minutes

Suggested Action:

Attachments:

[5.16.19 PB Minutes.docx](#)

Planning & Development Board

Wilsall Senior Center

Wilsall, MT

4:00pm, May 16, 2019

Attendance: Planning Board Members John Heidke, Mike Dailey, Frank Schroeder, Frank O'Connor, Dave Haug; Staff Mike Inman; Public Jean Skillman

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

Election of Officers: *Schroeder made a motion to nominate Dailey as Vice Chair of the Planning Board, O'Connor seconded, motion passed unanimously. Schroeder made a motion to nominate Heidke as Chair of the Planning Board, O'Connor seconded, motion passed unanimously.*

Public Comment: None.

Conflict of Interest: None.

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

Discussion and Public Comment on Draft Decay Ordinance: Inman noted that he spoke with attorney's office on Cochran's public comment surrounding suggested changes which he had submitted and the attorney's office found legal issues with the comments. The Board discussed the processes for amending the Draft and accepting public comment. The Board discussed Cochran's comments. Inman discussed the comments in the context of state statute. The Board asked if the photographs of potential decay cases helped clarify the Draft at all. Inman stated they helped but the Draft would largely operate on a case by case basis. The Board and Inman discussed nuances of enforcement and what state statute allowed for enforcement. Schroeder raised the question of moving a recommendation to initiate a draft forward to the Commission. The Board requested that a Decision to forward the Draft Decay Ordinance to the Commission be added to the June Agenda. The Board also requested that the definition suggestions made by Ken Cochran were updated in the Draft.

Discussion of Impact Fee Implementation Process and Other Considerations: Inman gave the Board an overview of the process outlined under statute to create impact fees. The Board discussed the current growth trends in the County. Inman raised some of the issues the County would run into surrounding moving forward with impact fees, including the lack of new subdivisions occurring. O'Connor brought up Orea Creek as an example of a potential area where impact fees might work. Inman informed the Board what impact fees could and could not be used for and stated that he was not aware of any counties in Montana with impact fees in

place. The Board agreed that they had originally felt impact fees had a wider latitude than statute allows.

Review of Chapter 16 of the Park County Growth Policy: Heidke summarized past discussion surrounding Goal 16. The Board discussed the recurrence of the proposed tire dump in Paradise Valley and if there was a potential link between specific uses such as the tire dump and Goal 16. The Board asked Inman if they could recommend a moratorium on certain specific uses in the County. Inman stated that because they were running short on time it would be better to come prepared to talk more about this subject at the next Board meeting.

Project Updates: Inman stated he was attempting to hire an intern to inventory existing signs in the newly created district. Staff also updated the Board on the lack of applicants for a Board of Adjustments. Inman noted that the Old Yellowstone Trail planning project was wrapping up and that the Rails to Trails program has identified the Paradise Valley as a priority project as part of a larger coast to coast trail system. The Board discussed what the potential funding and local input might look like for a trail project.

Old Business: Schroeder asked if wording on the side of a truck is a violation of the new zoning district regulation. Inman stated that it was part of a larger enforcement issue that the Department was working on.

New Business: None.

Discussion of Next Agenda: The Board requested that a Discussion/Decision to forward a recommendation the the Commission to move forward the Draft Decay Ordinance and a continued discussion of Goal 16 be added to the June Agenda.

Public Comment: None.

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

Planning and Development Board Agenda Item Report

Meeting Date: June 20, 2019

Submitted by: Lawson Moorman

Submitting Department: PLANNING

Item Type: Discussion / Decision

Agenda Section:

Subject:

Draft Community Decay Ordinance

Suggested Action:

Attachments:

[Park County Community Decay Regulations_Draft.docx](#)

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 eight (8) feet above the surface of the center of any public road.

Responsible Person- The owner of the property on which a violation of the Park County Community Decay Regulations has taken place.

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 as 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.