

Town of Sheridan, Special Council Meeting October 17, 2022 – 103 W. Wallace Street, Virginia City, MT and via Webex

Council Members in attendance were Rahn Abbot, Tammy Todd, Wade Hampton, and Tom Roberts. Also in attendance were Mayor Mike Walter and Town Attorney Stephanie Kruer. Clerk Kristi Millhouse (Town of Twin Bridges) was present remotely.

Guests: Jerry Grebenc and Cody Marxer (Great West Engineering), Judy Edwards (remote), Peter Haun (remote), Bob Stump (remote), Michelle Schriock (remote), Karen Talley, Shawn (Developers Engineer), Sally Schendel (remote), Nancy Males (remote), Connie (remote), Cheryl (remote), Rick (Developer)

Mayor Mike Walter called the meeting to order at 6:04 pm.

Jerry Grebenc who works for Great West Engineer gave a synopsis of The Crossings Subdivision. Great West Engineering is the engineer for Madison County and was asked by the County to review the plans. The subdivision is approximately sixty-six homes on nineteen acres. Because it is in Town limits the Town has a say in the subdivision. But the Town is under the County Subdivision Regulations (subregs.), which is why Great West is reviewing the project with the planning board. The Town has their own Growth policy.

Jerry reported that there is agriculture water on the property and there are a couple of ditches. There is one ditch on the property that would need to be abandoned that still has water flowing through it. The wastewater will tap onto the Town's wastewater system. Fire protection would be provided by onsite fire hydrants. Fire code and fire suppression needs still need to be reviewed. There would be two routes into the subdivision. Traffic study was submitted with the plans. Geotechnically the property has high ground water. Basements would not be built. Stormwater drainage areas have been proposed for the high water. One lot is designated as park land, but that is up to the Town Council. Project was reviewed regarding the County subdivision regulations, but the Town's Growth policy was also used. Staff report that the Council received were finding of fact with a few amendments from the planning board. The subdivision application was reviewed based on the County subdivision regulations, state statute, and then Town's growth policy. The finding of fact ranges from statutory impact, agriculture, public health and safety, wildlife, ag water, impacts to other agencies in the Town, and the economy. If there is a negative impact, then it is up to Great West to provide conditions of approval. Great West recommended approval of the subdivision to the planning board. If Council decides against the subdivision, then the Council must go back to those finding and facts and justify why they are not approving the subdivision. Findings and facts need to match their approval.

Cody Marxer explained that Madison County Planning Board is made up of thirteen members which are from all areas of the County. The planning board took two days for public comment and had the application for two months prior to the public comment to review. The planning did recommend the removal of the comments from the fire department as the numbers that were stated were not correct. The correct information will be added. The planning board checked to make sure the findings are correct. They had twenty-four conditions for approval of the subdivision. They did not add any additional conditions but did amend some of the wording. At the conclusion, the planning board meetings it was the planning board reviewed the public comment to decide if it is legal and valid to the application process or is it just something that an individual just does not like. They must address the public comment.

Mayor Walter asked if there was any public comment on non-agenda items. Request for better notice as to where meeting is held in the future. Mike commented that they are working on that.

Mayor Walter asked if there was any new information regarding the subdivision. Question regarding the ARPA Application for the new well from Judy Edwards. Shawn (Developers Engineer) – the existing application for ARPA funds is to address the existing capacity of water for the Town, it does not address the needs for any growth in the Town, but it should be sufficient.

Is it correct that Judy is pointing out there is not enough funding for water? Yes, that is correct.

The Crossing Subdivisions – Subdivision Report. Has council reviewed, do they have any questions or anything that they want to add. Stephanie Kruer is taking notes on the Planning Board report of items that need to be addresses.

Page 2 – Discussion wanted regarding the soil and the well

Page 6 – Finding Facts in conclusion. Impacts on Agriculture – Tammy asked if the Planning Board looked into irrigation and water rights surrounding the property. Jerry Grebenc stated that you would have to go through an abandonment application through DNRC to abandon the current irrigation ditch that is there. This is something Rick (developer) would have to do. Rick commented that there are four or five water rights on the property. Four of them are not even usable. The fifth one is one of the oldest water rights. Options are it has not been used and someone could legally make a claim for it. He can sell the water right to another individual or sell it to the Town. There currently is an individual interested in the water right because he can only water certain days. Rick did not plan to get into the water rights. Jerry commented that Rick would have to provide documentation that he abandoned it or transferred it for the final plan is approved.

Stephanie asked Jerry Grebenc if the Council needs to put that in as a condition or is it already there. It is already in the conditions and must be addressed. The applicant has three years to complete the conditions and must show that all these items are completed.

Impact on Agriculture Water Facilities - Tom Roberts, questioned the proposal to fill in the ditches. Ditch on Southeast Corner, where is that water going to go. You might have a head of water heading your way. Shawn commented that as the subdivision gets built, anything that enters the subdivision will be directed to the stormwater system. Whether it is irrigation water or not. Tom said in theory that sounds good, but the ditch is two feet wide and three feet deep. He wants to make sure that we do not have houses getting flooded out from the ditch water and running down the streets. Shawn wants to make sure that the water does not run down Poppleton. Tammy commented that the removal of the ditch and Stormdrains also need to be approved by DNRC.

Tom commented he is not worried about the water upstream. He walked it today and could not find where the water starts. He would like to see something put in the conditions to tie it together. Shawn – commented that it would primarily be stormwater. It would be tied to the stormwater system.

Stephanie commented do we want to amend the conditions while we go through. Stephanie will keep track of the notes for recommendations when we get to that area.

Impact on local services – Tammy was still not certain on the 123 gallons per minute that was being referenced. Also, clarification on the statement that a new well will be built on the new subdivision in

addition to the current planned well. Shawn commented that 123 gallons per minute for is for basic water usage per household which is higher than required. The fire flow needs to look at all the wells and the Town's storage. The physical capacity test has not been done yet. Leaving that condition as is provides the Town with peace of mind because if the existing well and storage does not meet the requirements then the Town can require another well. Stephanie asked Shawn that giving the analysis for 123 gallons per minute and fire flow does that number of 123 gallons need to be changed. Peter did revise the water analysis as far as fire flow the Town does have fire flow eight hundred gallons per minute with the storage tank, but they do need to provide a physical test and it is something that should be done for the Town period. Shawn commented that the physical test is actual whereas the 123 gallons is estimated.

Water pressure – Homeowners will have normal pressure and they can add their own water pressure reducing valve. Tom did not think that it should be the homeowner's responsibility. Pressuring reducing valves should be put in certain areas and they are expensive but may be necessary. Tom thinks that it should be fixed in the design. Tom thinks that it should be fair to ask for the developer to contribute to the new well since the developer is adding 50,000 to 60,000 gallons to the system. Rick said his answer is no he is not willing to help pay for the well. It is a city well and it is a negotiation that could never end and something that was already being planned for before he started putting his development together. If there is not funding available, then it could delay the subdivision. He agreed that he is pushing the three-year requirement to get everything done for the subdivision. The subdivision will continue to change constantly over the next three years. Does not see the well as a funding issue for the Town. Shawn commented that we do not know what the costs are going to be.

Tammy asked Rick about the paved versus dirt roads. Rick is not for the paved roads, because the Town is going to need equipment to maintain the roads if they are paved. He does not see the Town of Sheridan having paved roads. He thinks paved roads will cost the Town a lot of money in the future. Rick commented that the Town currently does not have a road standard in place, and it would be difficult for the Town to requirement to have paved roads. The Town does not have requirement for the gravel roads. He would rather provide money for the Town to for other areas. Mayor commented also said that they have SID in the requirements so Town could go back and require paved roads in the future as a special improvement district.

Mike asked if there were two wells on property or one. There are two wells. One is shallow and one is not even working. Tom commented that there is a live spring on that property. Tom did not know it was there until today. Rick stated that it is coming from somewhere in the city. People's sump pumps are pumping to that spot. It is not spring fed. All that water is coming out of a tiny PVC tube. Heads towards the City. Once they get in and dig, they can get to the underlying cause of it. They believe it is from sump pumps. Tom did not think the sump pumps made any sense as no one's basements would be pumping right now. Nothing they have documentation shows the spring on the property.

Roads – Tom listened to the planning boards comments regarding roads. The plan going forward is for the Town to get all the roads paved. Even though the development is an island it is a direction that the Town is going towards, and it is in the CIP which goes out five years.

Rick commented that we can put it in as a condition, but it comes down to the cost. Currently with the market he is going to say no. Paving the roads is not cost effective to sell the ground. The numbers must work.

Hard part is your dealing with the County subregs. What are the Town's requirements for the roads. You could ask Rick to fix his portion of the road. Rahn commented that the first section addresses the issue. He is putting a subdivision in on a road that the Town already owns. Jerry commented that this road section is going to get updated soon, but it does not help the situation right now. Tom commented that he feels that the regulations need to be met. Discussion continued regarding the roads and whether they should be paved or not and who is responsible for maintaining the road. Cody asked what the guide for substandard roads is. Tom commented that there are standards for the County, since the Town is under the County subregs cannot the Town use them as their guideline. Stephanie commented that if the Town's roads are not at a standard, then you cannot say they are substandard. Rick commented that there is a lot of room for legal. You cannot go and fix all roads and say that this is the new standard, as this project is already in the process. He is not going to improve the access road at this time as he cannot afford to do that. Would he pitch in for sidewalks to the development, yes, he would. If forced to do paved roads and sidewalks, then it would become a legal matter. What the Town is asking for is not realistic. Rick has five partners in this development. Rick does not want to commit to something, but he is willing to work with the Town.

Karen Talley – subdivision road tying into a main road. The other subdivisions are examples of how that regulation was implemented.

Rahn commented that it sounds like there could be some negotiation with the roads. Can we address later.

Law Enforcement – The planning board did not get feedback from the Sheriff's department. The Sheriff's department will be over exerted. The impact is real. Tom commented that they are hoping to provide some place for the Sheriff's department to operate here in Town. The new subdivision would also allow for housing for someone working for the Sheriff's department. Rick commented that they understand that adding more people and are willing to help. Again, this is an issue for the City. If we look at density, and who is to say that we cannot do something to help the city. No one is ever going to be happy with us. Fire/Policy facility is another way to provide items that the Town needs. Donate an acre and then sell for cost. Also, it could become a community center.

Tom commented density affects everything. If we have latitude on some of these things, then we can resolve a lot of these issues.

School – Tom commented that some of the educators commented on the classroom size. That is one of the big issues. How do we add an additional 125 kids in our school system. A lot of things that are impacted and this is one of those things that concerns me the most is how it impacts the school. Rick commented that if you analyze the facilities and you took 18% of the whole development that is what you are putting into the school. Rick agreed with Tom. Schools are not usually an issue. Schools are already looking ahead. Most individuals living in Sheridan average an age of 57.5. Does not see a bunch of families with kids moving in there. Tom asked how the 125 number was figured out. Jerry, the number was set at the State, and you must take it with a grain of salt. Tom commented that the size of these houses will determine what moves into here. Jerry commented that with the subdivision review is hard to figure out. The schools do have open boundaries so they can go to any school, but the parents must transport the students to those other schools. Mike commented that there is top heavy and bottom heavy. Big Sky is top heavy where the other Towns are bottom heavy. A blend of housing, small, medium, large is a good combination for towns.

Power will be Northwestern Energy. Rahn asked if the water and sewer will they be stubbed out to the property line or will it just be down the middle of the road and the homeowner's responsibility to take it from there. Shawn commented it will be brought to the property line and then the owner's plumber will continue it on to the house. It will be a DEQ requirement. Hook up fee and meter will go in once the property owner starts to build.

Tom asked where are the mailboxes going to go? The plan is to put two community boxes on Water Street and two on Poppleton Street. Centrally located. Shawn was not familiar with the layout for the mailboxes. Designer Michelle was working on that. It would be easier to just have two big boxes. Rahn asked if they could go on lot one which has open space. Rick thought lot one would be a snow removal area. He will get back to the council on the mailboxes. It is decided by the post office. They typically want community boxes. Rick will figure it out why it was not on the plans, but they need to have it.

Question regarding open space. There are three lots that are being used for open space. Tom commented that his main thought is lot two because it has a power line overhead. Is it a park, who is liable if a kid gets a kite stuck in it. Shawn commented that open lots are not typically owned by the city, unless it is deeded to them. Typically, they are owned by the Homeowners Association. The Town originally did not want a park. Rick would prefer to have HOA maintain it until the lots in the development are sold out. Then it would be deeded over to the Town. Would it make more sense to deed to Town now and then the Town can use it down the road for a well if they need it. Tom commented that we already have one large park in Town that does not get used. Do we really need to have another park.

The location of the lot could be a future well for the town. Tammy commented that if it is park land it is by the railroad ground and Poppleton and is concerned about the safety of children. I would rather see park land in a centrally located area or cash in leu for upgrades to the current park. Jerry commented that it comes down to who owns it. If the Town takes the ground and then they would maintain it. If the Town does not want it, then make the HOA take care of it. Rahn asked for clarification that the HOA goes back to the Town as the Town will not enforce the covenants. The HOA will become dysfunctional and then when the Town goes into new zoning then the HOA goes away. If the Town has any zoning, then the HOA would not even exist. Tom commented that he hopes this will be a community within a community. Lot three would be stormwater system and it has a public works need. The infrastructure needs to be maintained. Jerry commented that depending on whether they are active or not there are areas that the HOA does own. Rahn would be ok with that on lots 1, 2 and 3 with easements on the infrastructure (water, sewer, Stormdrains). Rick commented that the Town wants to own the ground with the infrastructure. The preliminary plat should show the easements on the map.

Karen Talley commented that with being the real estate agent, the HOA is not turned over until over 50% of the lots are sold. Typically, an HOA must pay for the landscaping costs, or nothing will get done with it.

Rick commented that they have designed mailboxes on north and south end of subdivision. Cannot submit to post office until the final plans are done.

Lots 1, 2, and 3 will be designated as open space. Not really findings by the planning board but items that came out of the original plans. Conditions of approval – Town can put this detail in the conditions.

Impacts on the natural environment – Tom commented that report stated that there were not any noxious weeds but when he walked through it today, he found thistle. Tom would like to see those weeds dealt with soon.

Tom commented that when he looks at the 100-year plan. Intent is going to be another easement under the railroad ground for the stormwater. He does not think you can just dump it on someone else's ground. Jerry said that he would refer to DEQ as they are the experts. Rick commented that they will not be able to do anything without DEQ's approval. The gold standard is DEQ. Wanting to dump water in the vigilante canal.

Tom commented there is one spot that has a little grove of trees. Is there any way to save the trees? Shawn replied, the grove of trees has been discussed and they believe there is a way to make the pond without disturbing the trees. Rick commented that the value of the property is better if they can save the trees. They will either move or remove the trees if they cannot get around them. Shawn commented that the plan includes offsite draining into this area. They must look at the whole drainage area not just the eighteen acres that they are developing.

Tom commented on the eastern hollow top and the proposal for a burm. He has concern with the burm. How is the burm going to be part of the road, is that going to be a speed bump. They sometimes are just a drain issue per Shawn. This is a very preliminary design.

Lot 59 and 65 also slope to the west. If this burm does not hold everything, it may flood those lots. We are assuming those roofs of the houses will run off towards the roads. You may have some very wet lots on the west side. Shawn answered one of the items that needs to be done is to review the 100-year floodplain and make sure that there is not a draining issue.

Tom commented that the plans included 38% of pervious area to calculate the flooding. All of this was calculated before road paving discussion and sidewalks. If sidewalks are added, they will have to consider that. Shawn answered that when they calculated the pervious area, they did add the gravel roads and they do consider that as part of it. Tom commented that flooding is still a concern for the western Lots. Shawn commented that they will look at it and make sure that it will not be an issue.

Rahn asked about the ditches and roads and culvert on the eighteen acres. Are we concerned about holes in front of people's houses. That did not come up with the conversation with the planning board.

Mike commented that they need to change some of the wording in E for the well. The well MAY go on to site two.

Mayor Walter gave everyone a five-minute break at 8:26 pm. Meeting resumed at 8:37 pm.

Wade Hampton – Asked about no wetlands. Jerry commented that there is a specific definition of wetlands. Mostly in the Southwest corner of that lot. Tom asked if there is requirement to protect it. If there is a true wetland it falls under the Corp of Engineers. But the County does not require anything for wetlands.

Tom commented regarding the historical registry and the old building barn on the property. The barn is almost 80 years old. Tom asked if it is at all possible to preserve. Could be dismantled and given to someone. Rick commented that there have been offers of individuals to buy the barn. That is a possibility. It will not be bulldozed; it will be moved to Rick's farm if is not sold.

Wildlife and wildlife habit – Tom commented we know there is impact, but it is the price of growth.

Impacts on Public Health and Safety - Mike commented not in a flood hazard area.

Rahn commented that it states it is not a fire risk – There is a water risk. A lot of things will need to be addressed with the fire hydrants. Rahn said that he is concerned about the numbers on the houses. Rick commented that they will have something in the HOA as a requirement for numbers on the houses.

Mitigation from small hydrants. The plan does not speak to tests of the hydrants. Jerry commented that they will have to test all of them. Hydrants must meet IFC. That is done by an engineer. Any improvements will be in the final packet. It does not specifically say that there is a test, but it does have to prove there are enough fire flows.

Identify geological issues – Tom commented that there should be a geological study done and provided to any future home buyers. Shawn commented that part of the final design of the roads there will be a geotechnical study done that will be part of the final design package.

Last thing the Engineer wants is for them to stamp something and not have a geotechnical survey done. Rick commented that he has had bad experiences with Geotech surveys. There have already been some soil samples on this property. Rick asked if the Geotech tests that were already done was submitted to the Engineer. Great West has not seen it. Rick will get back to the Town with the current tests that were done. The planning board did not ask for the study. The planning board goes through a check list, and they decided it did not need a Geotech study.

Rick commented that the initial study shows it is the best soil. They already decided that they were not going to build any basements. Jeremy will send the current study that they have to everyone tomorrow. Most soil tests were dug down around seventy inches.

Is it reasonable to ask for no crawlspaces or not? Shawn commented that the primary reason for a crawlspace is for a geotechnical foundation. Slab on grade homes in Montana can be a disaster.

Rick will make sure the fiberoptics in there.

Recommended Findings

Page 18 – No changes

Page 19 - Errors and Omissions, Improvements. Clear Title – No changes

Subreg 4-48 a = sidewalks. Tom wants a safe place for kids to walk. Wants them to be able to cross the street immediately. Then continue the sidewalk up Poppleton and tie into the current sidewalk, get up to school safely. Mike commented that there is a grant available called Safe paths to schools. Rick commented that they may be able to create a path that gets everyone safely up to the school. Rick commented that its not as simple to putting in a sidewalk.

Page 20 – D – Restatement of the law – No changes

Provision of easements for utilities – Rahn asked about the Utilities easement for all utilities – Utilities includes electricity, water, sewer. Coming up to property line. Fiber optics and power are usually out in the street. Water and sewer will need an easement on the property.

Access to property – Tom asked does everyone have a driveway. Up to property owner to determine where driveway is. Tom asked for clarification on whether there was going to be on street parking. Rick answered that when they wrote the initial covenants, they were not planning for on street parking, but not sure it could be enforced. If the city does not enforce, then not sure he could enforce it. Jerry commented if you cannot enforce then do not add. Wade commented that the issue came up before regarding the widths of the roads and emergency vehicles. Everyone of these lots has a driveway. Tom is concerned about emergency vehicles and parking because of the swells.

Tammy asked that in the front of the lots what is the narrowest. Tom commented fifty feet. Should be able to park two vehicles.

Page 21 – Public Easements. Council will go back to this topic.

Page 22 – Affects on other Resources in the County – Tammy commented that during public comment there was an issue regarding garbage disposal being addressed. Tom commented that everyone currently either calls Dillon Disposal or garbage is hauled to the dump. Fee is accessed on the taxes by the County. Cody commented you are required to have a permit for construction materials at the dump.

Cultural historical resources – No comments

Page 23 – Effects on local economy. Tammy commented it should help us. Mike commented that we need to think about those on a fixed income and put the cost on those that should be paying and protect our citizens as much as we can.

Wade asked at the conclusion. It refers to the record, what record. Stephanie answered all the documents that the council received such as public comment, subregs, the application are the records. Keeps Council inline so that they cannot just say we do not like this and do not want it.

Page 24 – Public services provided by other entities in the County. Rahn commented that the Town is going to dig a well, but there maybe another one on open space two in the future needs to be added

Page 25 – Test – done by DEQ

Page 26 – Tammy commented that there was one comment on the growth policy. Mike is recommending to hold on page 26 until they can review the public comment. The density of the subdivision is a lot denser than the lay out of the rest of the Town.

Mike asked if Rick would agree to an extension for another 15 days, otherwise we must finish tonight. Rick agreed that he would do another extension. Rick also made a final comment that he really felt that it was important for the Town to take ownership of the three open space lots. One of the lots is for the retention pond and the second lot could potentially provide a well location for the Town. If the Town does not take it now and he (Rick) continues to own then there would have to be negotiates down the road, whereas right now he is willing to deed that ground over to the Town.

Discussion occurred on whether the council wanted to continue with the last couple of pages under the recommended findings or do they want to stop for the night and start with fresh eyes. It was agreed to continue the remainder of the discussion on another night. It will be at 6 pm on the 9th of November location will be determined.

Page 26 – Stephanie commented that in the rest of the items that the council needs to review they can refer to the growth policy. So, if there is some growth policy plan item that supports a condition then they would insert them here.

Tom made a motion to adjourn the meeting at 9:50 pm. Tammy seconded the motion. Motion was approved with a unanimous vote.