

**REGULAR MEETING OF THE CARBON COUNTY PLANNING
BOARD**

NOVEMBER 19, 2024

TUESDAY 7:00 PM

CARBON COUNTY PERSONAL SERVICES BUILDING

10 OAKES AVENUE SOUTH

RED LODGE, MT

A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF MINUTES OF PREVIOUS MEETING

October 15, 2024

D. PUBLIC HEARINGS

None

E. REGULAR BUSINESS

1. Red Lodge Area Future Land Use Map

2. Carbon County Subdivision Regulations Update

F. PETITIONS & COMMUNICATION FROM AUDIENCE

G. WRITTEN COMMUNICATIONS

**H. REPORTS FROM PLANNING BOARD MEMBERS AND
COMMITTEES**

I. STAFF REPORTS

J. ADJOURN

Carbon County Planning Board
October Meeting
10-15-24

- A. Call Meeting to Order, 7:00 pm, Gordy Hill – Chairperson
- B. Roll Call
 - Present: Besty Scanlin, Clint Peterson, Mike Hayes, Angela Kallevig, Clinton Giesick, Gordy Hill, Forrest Mandeville
 - Audience: see attached sign-in sheet
- C. Approval of 9-17-24 Minutes
 - Betsy moved to approve with amendments. Angela second.
 - Motion passed unanimously
- D. Public Hearings
 - *Bullinger Variance from Setback Requirements*
- E. Regular Business
 - *Bullinger Variance from Setback Requirements*
 - Requested 13 ft setback from front property line vs regulation 30 ft
 - Permit was approved on June 1, 2023
 - Construction has started
 - Complaint was received in July, 2024
 - Building site was adjusted as a result of a rock vein being discovered upon excavation
 - Adhering to the 30 ft setback requirement would make it difficult to build a reasonable residential structure
 - Side and rear setbacks are being met, no other properties are being crowded
 - Betsy Scanlin
 - Are there other buildable locations on lot?
 - Have you read the conditions proposed by neighboring property owners?
 - This variance is a case of asking for forgiveness, not permission
 - Clint Peterson
 - Sees no issue with the variance, but it should have been applied for before construction began
 - Clint moved to recommend Commissioner’s approval. Betsy second.
 - Motion passed unanimously
 - *Fox Ridge Subdivision*
 - 2 lot minor subdivision
 - 6.10 acres total
 - Ag covenant currently in place
 - Subdivision approval will revoke ag covenant
 - Individual well & septic systems are proposed

- Betsy Scanlin
 - Need to take a look at groundwater availability reports moving forward, just as we did with this subdivision
 - Another example of ag land being lost
- Clint moved to recommend Commissioner's approval. Angela second.
 - Motion passed unanimously
- *Teesdale Addition Amended Subdivision*
 - 2 lot subdivision
 - Located on North edge of Bridger, MT
 - .92 acres total
 - City water and sewer already in place
 - 2 homes are currently on site
 - Subdivision approval will allow homes to be sold separately
 - Sand Creek Canal has an easement along West side of property
 - Betsy Scanlin
 - Could the subdivision process have been avoided to save the landowner money?
 - Clint moved to recommend Commissioner's approval. Angela second.
 - Motion passed unanimously

F. Audience Communication

- *Bullinger Variance from Setback Requirements*
 - Todd Bullinger – property owner
 - Rock veins were the reason that the structure was relocated, raised, and rotated
 - Building options are very limited on this lot
 - Had no clue a variance was needed when construction started
 - Does not understand the complaints about neighbor's views being obstructed
 - Fire risk is actually lowered in this location due to being closer to the county road
 - Wildlife will be affected regardless of building location
 - Structure will be two stories with a tuck under garage
 - Willing to work with neighbors
 - Mike Baker – neighboring property owner
 - Had a variance granted in 2021, but applied before construction started
 - Curious why this variance is being applied for after the home is nearly complete
 - View from master bedroom is being obstructed by this new construction
 - Would like to see trees intact and downward facing lighting
 - Scott Hancock – neighboring property owner

- Wants to see accountability and consequences for not applying for the variance before construction started
- Concern about intrusion onto county road
- Wildlife migration corridor will be affected
- Increased fire risk
- Wants downward facing lighting
- Wants more trees planted
- Wants the new structure to have dark colored roof and siding

- *Fox Ridge Subdivision*

- John Glanz
 - Neighboring landowner
 - Stated that Consolidated Ditch has a 30 ft easement vs the 20 ft listed in the application
 - Wants to make sure the ditch can be accessed for maintenance
- Travis West – Engineering West
 - Canal easement is 15 ft from center of canal
 - Drainfields can go to edge of property line
 - 1 acre ft/year of water will most likely be used on each home
 - Groundwater Availability Report has been included in the application
- Forrest Mandeville
 - 1st Judicial Court has recently ruled that counties can't rely on DEQ in regard to water availability

G. Written Communication

- Red Lodge Fire comments on Bullinger Variance
- Anita Philipsborn comments on Bullinger Variance
- Scott & Julie Hancock letter opposing Bullinger Variance

H. Committee Reports

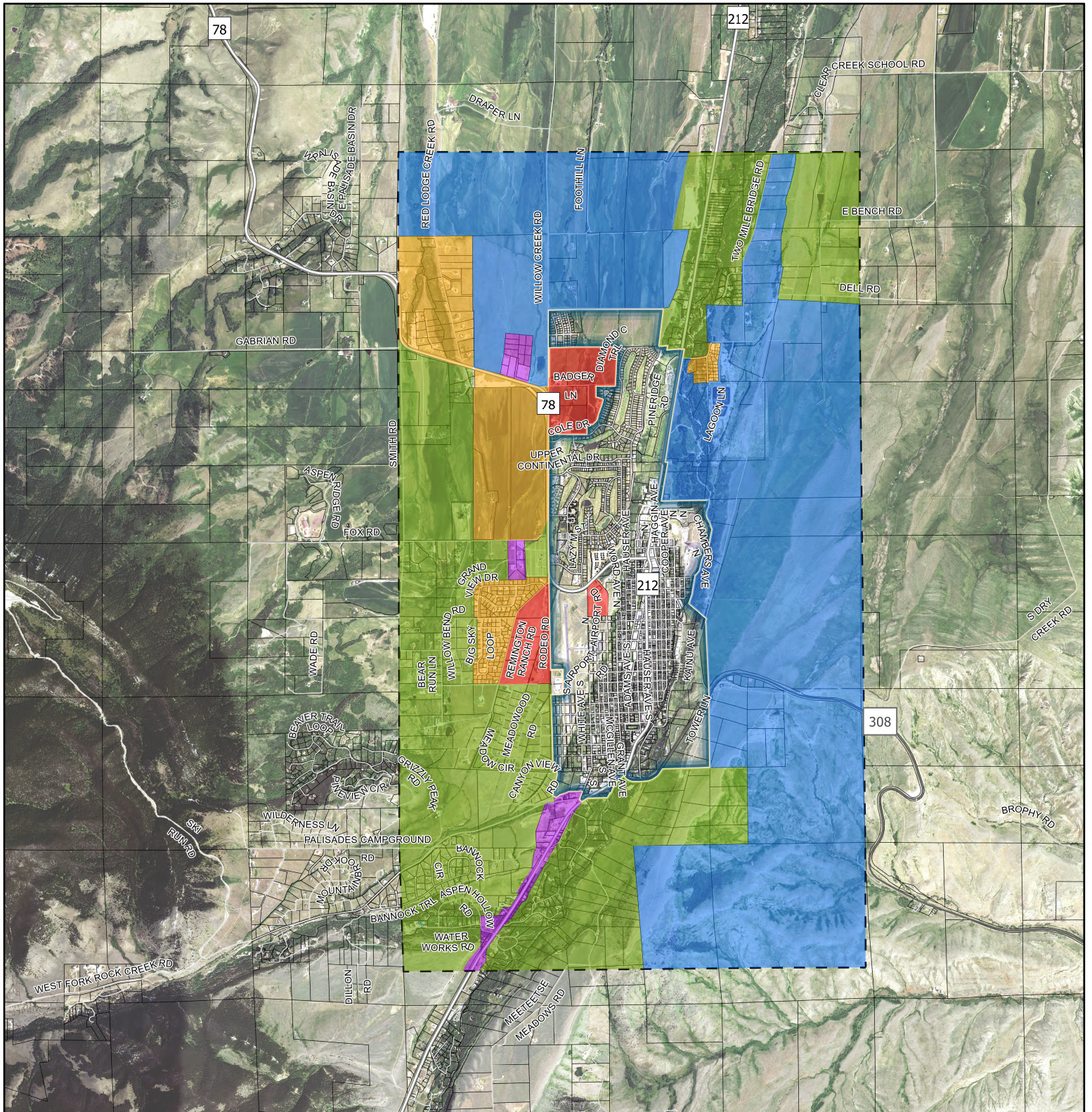
- *Carbon County Conservation District*
 - Regular amount of 310 permit activity in the Rock Creek drainage

B. Staff Reports

- *See Regular Business*

C. Adjourn Meeting

- 8:45 pm

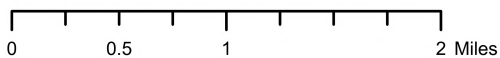


Cooperative Future Land Use & Planning Area

City of Red Lodge, Carbon County, Montana

- 1 Mile Buffer of City Limits
- Commercial
- High Density Residential (<1 acre)
- Low Density Residential (5-20 acres)
- Medium Density Residential (1-5 acres)
- Open Space/Agriculture (>20 Acres)

Montana Code Annotated §76-3-601(2)(b) sets the basis for the one-mile planning area.



CARBON COUNTY
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SUBDIVISION REGULATION AMENDMENTS - MEMO

Date: November 8, 2024
To: Carbon County Planning Board
From: Forrest J. Mandeville – Contract Planner
RE: Enforcement in Subdivisions

Background:

The issue of enforcing conditions, representations, and agreements made during the subdivision process has been coming up in Carbon County in a variety of subdivisions and various factors. This creates complications with the review process and the degree of comfort County officials and the public has with approving subdivision.

Some general scenarios are as follows:

- A subdivider designs a subdivision with cisterns for potable water supply. The County approves the subdivision with a finding regarding impacts on the natural environment based on this information. After the subdivision is filed, the developer or a subsequent lot owner applies to DEQ to re-write the lot for a well. If DEQ approves this change, it is allowed though it was not contemplated in the County's consideration of impacts.
- A lot owner or owners not following requirements of another department or agency, such as weeds, sanitation, addressing, water rights, fire, etc. State agencies' enforcement may be subject to prioritization and agency staff availability. Local agencies may be saddled with the issue of a lack of local enforcement ability, such as a subdivision with an unmaintained dry hydrant.
- A subdivider makes representations in a public meeting about the management of a subdivision that the County lacks the ability to enforce, such as types of housing, control of garbage, or general maintenance. These are generally controlled through covenants or an HOA, but the County is not party to and does not enforce such agreements.

Possible Solutions:

There are several possible ways these situations can be addressed differently. While it may not be possible to go back and address issues with old subdivisions, the current amount of subdivision activity gives urgency to address the issue to make sure such issues do not continue to arise in more subdivisions.

The following options have been used by other counties and discussed as potential options for Carbon County:

- Subdivision Improvements Agreement (SIA). An SIA is typically used to secure the provision of required public infrastructure that is not completed prior to final plat. However, some counties such as Yellowstone County and Stillwater County utilize SIAs to create a legally binding agreement between the subdivider, their heirs and assigns, and the County by spelling out expectations and requirements.
- Make the County party to covenants. Typically, the County is not subject to covenants, which are privately enforced. Some counties, such as Sweet Grass County, require private covenants to contain a provision that any covenants required by the County require the approval of the County to be changed.
- Provide additional standing. When covenants are used, typically only the owners of lots within the subdivision are party to covenants and have the ability to enforce the covenants. The County may be able to require subdividers allow other potentially impacted property owners outside of the subdivision to bring action to enforce covenants.
- Other regulations. The County may be able to use other regulations, such as zoning or decay ordinances to address unwanted situations.

Because Carbon County is updating its Subdivision Regulations, it is an optimal time to make any changes the County thinks is necessary. These are not the only issues and changes the updates will address, but are some of the more urgent. Staff guidance from the Planning Board will be valuable in moving forward with drafts of the proposed Regulations.