

Big Horn County Planning and Zoning  
September 22, 2009  
Public Hearing  
Big Horn County Land Use Plan  
Basin Chamber of Commerce Meeting Room  
407 W. C Street, Basin, WY  
7:00 p.m.

**Board members present:** Bill Roady, Mary Russell & Mary Flitner.

**Land Planning staff present:** Jim Waller and Nick Wilson.

**Others present:** Ken Markert Planning Consultant, Brenda TenBoer newspaper, general public, speakers listed by name.

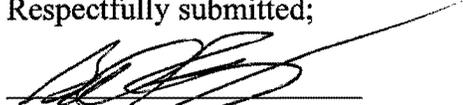
1. Call to order by Bill Roady 7:00p.m.
2. Chairman Roady gave introductions and welcomed the public. The purpose of the hearing was stated. The hearing rules were acknowledged on the back of the agenda
3. Mary Russell started to read the affidavit of publication from the Basin Republican Rustler and asked for Bill to read so the entire room could hear.
4. Bill Roady asked Ken Markert to give an overview of the proposed Land Use Plan. Ken presented a slide show of the project; briefly discussing the land use plan progress and the steps taken to get to the public hearing. Facts were included on the Planning Committee meetings and the open house meetings held earlier in 2009 and 2008.
5. Bill Roady then opened the hearing for public input acknowledging the speaker sign up list (**ATTACHED**)

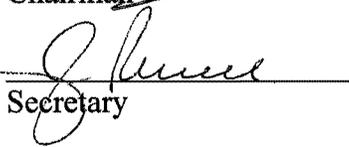
Speakers Comments

- **Lance Cheatham:** A Shell Valley Contractor understands land use regulations. Moved back to Wyoming to have freedoms to do with his land as he chooses. He opposes the new plan and states there should be no more rules or regulations. Zoning nuisance land uses??? Zoning is an attack on private property rights. This is pushing an agenda on the landowner.
- **Dick Loegering:** Opposes new plan. "No government control".
- **Larry Thomas:** The land use plan suggestions are the beginning to loss of property rights.
- **Winston Miller:** Opposes new plan. "No more government control".
- **Julie Collingwood:** No More government.
- **Dan B Collingwood:** Opposes new plan. "No government control".
- **Jack Clucas:** "Concerned about water quality".
- **Bill Craft:** Opposes new plan. "No government control".
- **Duane Arquette:** Big Horn County should stay as is. Opposes new plan. "Make no changes".
- **David Owens:** "The County picks & chooses what they want to enforce".
- **Boyd Van Fleet:** Opposes new plan. What do we have freedoms to? "No government control".
- **Jan Barnett:** Property rights go both ways. We need to limit government and keep as is. Who is to say what is suitable. Opposes new plan. "No government control".
- **John Anderson:** Oops....

- **Jack Cordner:** Zoning is a reformed drunk. No zoning is worse. In favor of plan-protection on natural resources. Public Vigilance adds to responsible things. "Zoning is ok if done in a responsible manner". **(ATTACHED)**
  - **Tim Mills:** Brief on the plan and history. Water quality is important and development affects things. In favor of plan for the county.
  - **John Craft:** Lance hit the nail on the head. Opposes new plan. "No government control".
  - **Fred Barnett:** Zoning is part of regulations. Zoning will take property rights. Opposes new plan. "No government control".
  - **Pam Flitner:** Thank you for Planning and Zoning commitments. Why do we need something new? Opposes new plan. "No more new regulations". We are on a scary teeter-totter.
  - **Jenny Mercer:** Submitted Written Comments. **(ATTACHED)**
  - **Todd Dalin:** Who were the 1900 property owners? Opposes new plan. "I never got a survey"! Entire thing should be resolved. College educated should get out.
  - **Mike Whaley:** Listed the items and stated the entire premise is wrong. The plan is vague and arbitrary. "Farm Bureau Federation officially opposes any land plan".
  - **Pete Reinschmidt:** Private property is the same as personal property and we don't want to loose our property rights. This is not the USSR but the USA. Opposes new plan. "No government control". "Can we vote on a new plan"?
  - **Scott Brown:** Opposes new plan. "Any plan is discrimination against the poor". What is going on in this country?
  - **Louis Zierlein:** No more regulations. Opposes new plan. "No government control".
  - **Terry Jones:** Appreciate the work on the plan. Acknowledges that the county must adopt a new plan. "What are the differences between the old plan and the new plan?" The goals are excellent. Best government is the least government. Private property rights are important and encourage Planning and Zoning to be senseatative to private property rights. Serious heart burn on Goal k-encourage rehabilitation or replacement of substandard housing and/or structures and ensure that all new housing meets health and safety standards. This is a vague goal. Economic improvement will help clean up junk.
  - **Keith Grant:** Thanks to the general public for comments. A county must have a plan. If we fail to plan then we plan to fail.
  - **Colleta Brown:** 5<sup>th</sup> generation Big Horn County resident plans on living here and staying here. Every step planning and zoning takes will affect my kids.
  - **Nancy Joyce:** Encourage development near towns but what if existing infrastructure in town is poor and new development meets or exceeds current rules and laws? Some regulation is required.
  - **Mike Sherman:** Is there any way to vote on the Land Use Plan?
6. Chairman Roady asked if there were any other comments or written comments. Brief discussion among Planning and Zoning. Mary Flitner made a motion to table a decision until next regular meeting on October 13, 2009 allowing written comments accepted until 5:00 p.m. October 12, 2009 and instruct Jim Waller to place a legal notice in the newspapers for two weeks. Mary Russell seconded the motion. All approved.
7. Chairman Roady called the meeting adjourned at 8:45 p.m.

Respectfully submitted;

  
Chairman

  
Secretary

Please SIGN UP HERE to speak at the hearing

Print your name below:

- X1. Lance Cheatham
2. Brenda TenBoer Brenda TenBoer
- X3. ~~DICK LOEBENING~~
- X4. SHARIE LOEBENING
- X5. Linda Thomas
- X6. Larry Thompson
7. ~~Sara Daffle~~
- X8. Frank Neal
- X9. Winton Neen
- X10. Jim Miller
- X11. Paul Coltriqued
- X12. Julie Coltriqued
- X13. Mary E Glucas
- X14. Jack Clucas
- X15. William Cuff
- X16. Duane Arquette
- X17. Zutta Arquette
- X18. DAVID W Owens
- X19. Boyd VanHut
- X20. ~~Mary Mercer~~
- X21. ~~Tom Mercer~~
- X22. Jan Barnett
- X23. John Ed Anderson
24. ~~Shirley Lipp~~
25. ~~Mark Lipp~~

Please SIGN UP HERE to speak at the hearing

Print your name below:

- 26. JACK CORDNER \*
- 27. Jim Mills \*
- 28. Michael Scherman
- 29. ~~Bob Craft~~ Bill CRAFT
- 30. John Craft
- 31. Fred Barto
- 32. Pam Overard Feitner
- 33. Jenny Mercer
- 34. Todd Dalton
- 35. MIKE WALEY
- 36. Pete Reinschmidt
- 37. Scott A. Brown
- 38. Louis Ziegler
- 39. Terry Jones \*
- 40. Kie M. Grant \*
- 41. Colleta Brown
- 42. Nancy Joyce
- 43. Mike Sherman
- 44.
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- 48.
- 49.
- 50.



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**September 22, 2009**

## **Remarks before the BIG HORN COUNTY PLANNING & ZONING COMMISSION**

Zoning is like inviting a reformed drunk to live in your home. If you're prepared to keep a careful watch, things will probably turn-out ok. Sadly, the alternative to zoning—that is, no zoning at all—is worse. Not all development can, in the eyes of the courts, be considered a nuisance or a violation of laws protecting water, wildlife, or other natural resources. If Conoco decides it wants to set-up a convenience store, and the land owners in the area object, who do you think is going win? Zoning levels the playing field against the Conoco's of the world.

The key words, when considering zoning, are public vigilance. Apathy can have serious consequences. In other parts of the country zoning has been misused to favor the wealthy at the expense of others. Requiring all homes, in a given area, to have at least 10 rooms, and be built on no less than 5 acres of land, is such an example. A zoning board, like any other public body, must always be accountable and behave responsibly. Not long ago a public official in this area, at a regularly scheduled meeting, as much as dared the authorities to take action after supporting the idea of illegally loaning equipment to residents. Thus responsibility means doing the right thing without having a policeman, or a judge, standing by your side.

Doing the right thing also means being fair and realistic. Absent a clear and present danger to public health or safety no one should be forced out of their home in the name of zoning. Accordingly accommodation should be made for those non-conforming structures and "nuisance uses" in lawful existence prior to the adoption of zoning. Zoning which has a regulatory mentality of "from this day forward," rather than the legally tenuous "ex post facto," builds, and does not destroy.

I've taken that leap of faith and now count myself as a proponent of county-wide zoning. I also like to think of myself as a supporter of open space and the right to ranch or farm. The proposed Land Use Plan raises the possibility of buffer spaces between new housing developments and a ranch or farm. New homeowners might be required to acknowledge, in writing, the rights of their rancher neighbor. Development appears controlled through the creation of high and low density development areas.

Your work is almost complete. You've reached the point of selling your ideas to some who are, rightfully, skeptical. I wish you well.

September 22, 2009

Dear Planning Board:

Thank you for this opportunity for public input, South Big Horn CD's Water Quality Committee, as well as my personal comments *below*:

1. "Vision Statement": This is a good vision statement and includes good strategies to achieve that vision, especially for Goals A, C, D, and E. On goal K, the strategy may have implications for agricultural operations since they tend to own older model mobile homes that are used for seasonal employment and thus would be unoccupied for part of the year. Suggestions and regulations should be carefully worded to protect ag operator property rights.

2. "Maps" General Comment: The Crystal Creek, Shell/Beaver Creek, and Medicine Lodge/Paintrock Creek valleys are the most scenic areas of the county. These valleys are characterized by wildlife corridors, pastures and tree lined creeks. They are also probably the most desirable and probable locations for future growth in terms of second homes, ranchettes, and rural subdivisions. Looking at the maps, several problems with growth in these areas arise:

A. (looking at the Essential Public Services map) These are the areas furthest from services, putting an undue burden on rural water districts, irrigation districts/ditch companies (water rights), and rural volunteer fire departments. For example, on the Future Land Use map, there are several areas shaded/labeled for medium density development (1 house per 10-20 acres) along Cold Springs and Alkali Roads in the Hyattville area. These areas are not in the local water company and are an hour from town services. I would question the wisdom of suggesting these areas be zoned medium density. There are several other areas such as east of Big Horn Lake, west of Beaver Creek, and east of Shell, which are labeled medium density but make no sense being zoned that way from an essential services or conservation of ag land standpoint.

B. (looking at the Future Plan map) These areas mentioned above under 2 are also mostly in floodplain or high sensitivity groundwater zones. I would, as the Water Quality Committee Chair, be very uncomfortable with these areas being zoned with anything other than current ag use in mind.

C. The plan suggests that the county and Shell use the map as a guideline and suggestions for zoning. If that is the case, I would suggest verifying the maps for accuracy of suggestion on the ground first and with local landowners.

D. Susan Duncan, a writer from Bozeman, says, "If farmland is not a designated land use in the planning process, it has no chance for survival." Since ag tax revenues are low and ag jobs are low paying, what or who will justify its existence as a valid land use in the future. The answer could be "this Plan". Ag lands of high production, scenic, historic, or environmental value should all be labeled and noted on the maps as suggested agricultural land use and hopefully zoned with low density if any zoning is to be applied to them. Producer input in this process is essential. I would suggest a more extensive public outreach in the form of "working sessions" in each unincorporated valley prior to adopting this Plan.

right monitoring.

9. "Enhanced Wastewater Treatment Standards" are needed, especially if a large subdivision is in a floodplain or the systems are densely located. If the DEQ doesn't mandate them in their review process, the county would need the expertise to make the determination.

10. "Right to Farm/Ranch" is a good idea. Hyattville has a group that has crafted its own set of notices. The "Code of the West" is also good but not as specific to our area.

11. "Ag Impact Mitigation" is needed.

#### C. New Regulatory Actions

1. General Zoning is needed and would bring this plan some beneficial use.

(I have attached an article by the aforementioned Susan Duncan about her view, which complements mine, of regulatory action "tools".)

2. Large Lot Zoning sounds like it would create a lot of ranchettes, which would not meet the goals of this plan or protect ag operation viability.

3. Agricultural Zoning would be beneficial to preserve ag land if it sought to label such working landscapes on the maps in areas of high production.

4. Cluster Zoning is a good idea, it's what we do out here already and would preserve more ag lands.

5. Overlay Zoning would be a good solution to protect floodplain/high groundwater susceptibility areas.

6. Nuisance Land Issues are a property rights issue. If junk yards are the main concern, than the county needs to require permits for junk yards and allow for a limit to them in zoning. One potential problem with this approach is that just about every farmer and rancher has a personal "junk pile" that they use for scrap metal, machinery repairs, parts, etc. Somehow, the law would have to differentiate between personal use and sales use, and also address simple "collectors". There would also have to be some entity to enforce these laws.

Another potential solution could be some kind of tax break for recycling existing junk or confining it to a low visibility area, setbacks from roads, etc.

7. Transfer of Development Rights (see attached article and below for my comments).

#### D. Spending/Infrastructure

1. Purchase of Development Rights is not a very popular growth control tool (see article). There are also already other available programs which do just this in the form of land trusts and government subsidized conservation easements. Would the county even have the level of funding needed for this? If so, preservation of "working landscapes" (allowing cultivation/use), not a conservation easement, would be the only way to protect current ag operation viability.

2. Funding for Affordable Housing would certainly help the other non-rural areas of growth.

3. A County Road and Bridge Assessment is a good idea, especially if the county plans on doing any "transportation impact analyses" with new subdivisions.

4. Funding for town amenities is a win-win situation, since both rural and urban citizens would use them. These are especially attractive to young families.

A. Regarding the release of Federal lands for development - this sounds good on the surface, but who will own it? Who will profit from it? And is that fair? A potential exists to unfairly harm or favor adjacent landowners, depending on their view.

B. Unforseen growth planning should involve affordable housing incentives for industry growth and restricting industrial growth to areas away from residential areas, main roads, and riparian areas.

C. Agriculture - unsure of what your recommendations are here.

Some planning tools to preserve agricultural/working landscapes are:

1. Working landscape designation - zoning.

2. Clustered and well placed developments - zoning.

3. Developer and new landowner education.

4. Helping ag owners remain viable by recognizing their dependence on Federal land and helping them with public land use rights.

5. Protection of ag owners' water rights and water quality in situations of new development.

E. Economy. Encouraging new businesses should have a balanced approach - let some growth and diversification occur while protecting ag lands and producers from too much development pressure.

F. Infrastructure

1. Water Systems - The Hyattville Water Well information is inaccurate in the plan. After the Engineer's Final Report (the one that said they had three times the water of their current use), they consulted with the engineer and ran some specific numbers. The well is currently averaging around 200 gpm, with 60 taps allocated already. The engineer felt that only other 15-20 taps should be allowed for this well in the future to preserve the current use. This would allow for the top projected population level (in the Level I study for WWDC) of 88 in 2030.

2. Waste Water Systems - Non-conventional systems are expensive and require DEQ approval, which is time consuming. These types of systems are needed in certain areas, but their placement costs should be measured against the possibility of no lot development in those areas and the protection of ground and surface waters.

Thank you for this opportunity to comment,

Jenny Mercer

Hyattville

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