

**TOWN OF MANHATTAN
Thursday, July 13, 2023
Regular Meeting
MINUTES**

Mayor Traig Howells called the meeting to order in the Town Meeting Room at 207 S. 6th St. at 7:00 P.M. Present were Council Members Ryan Engbretson, Betsy Mancuso, Josh Powell, and Morgan Taylor. Also present were Town Attorney Jane Mersen, Town Engineer Kyle Scarr, Town Planner Scott Hazelton, and Clerk/Treasurer Pam Humphrey. Twenty-five members of the public were present. One member of the public were present by Zoom.

PUBLIC COMMENTS:

None

MOY CONDITIONAL USE PERMIT – ADU AT 108 E GALLATIN/202 S 5TH ST:

Public Hearing

Clerk read public hearing notice.

Scott Hazelton, Town Planner: He described the application. It is a current non-conforming use but is being added on to so it needs to come into conformance. They are adding cold storage also. The cold storage portion is semi-detached and will have a 17-foot setback from the alley. Staff and Planning Board recommended approval.

Discussion/Decision

Motion- Mancuso; Second- Engbretson; Vote- Unanimous: Motion passed to approve the Conditional Use Permit for an Accessory Residential Unit at 108 E Gallatin/202 S 5th St.

Council discussed that it has been an ADU for many years, this will make it a conforming use.

FOX CONDITIONAL USE PERMIT – ADU AT 110 S 3RD ST:

Public Hearing

Clerk read public hearing notice.

Scott Hazelton, Town Planner: He gave the history of the project. The applicant submitted a building permit for a garage with loft storage. The applicant put the new garage on a new pad in the existing footprint. This created an issue with meeting the setbacks. The rear yard and side yard setbacks are both less than 7 feet. Mr. Fox has applied for a variance on the setbacks. The Council is looking at the use of the structure. Through the construction, the applicant changed to constructing an Accessory Dwelling Unit in the structure and applied for the Conditional Use Permit. If the variance and CUP are granted, it can move forward in one of three ways. If the Council approves the CUP and the Board of Adjustment approves the variance, the applicant can use it for residential purposes. If the Council does not approve the CUP and the Board of Adjustment approves the variance, the structure can be used as storage and garage. If the Board of Adjustment does not approve the variance, the Town may have to seek

abatement and the applicant cannot use the building where it currently stands. In addition, the building construction does not match the building permit specifications.

Kyle Scarr, Town Engineer: He stated that the Council should consider sewer capacity beyond what is already allowed for a lot when considering ADU's. The Town is currently out of capacity, and density will be adding to the requirement to meet discharge permits. It is unclear how granting CUPs should be handled. There is a difference in flow if there is a toilet in the garage for the homeowner to use vs having an entire living unit.

Councilwoman Mancuso: She stated that the Planning Board meeting minutes discussed that approving this would not set a good precedence.

James Fox, Applicant: He confirmed that the sewer would hook into his house, not directly to the main. It is currently a framed in building with the sewer connection to the house. He poured a new slab in the place of the prior slab. He stated that the prior building official told him that he could hook up the sewer, so he has an 8-foot hole in his yard that is a safety issue. He apologized for the way the process happened with the Town and that he is not out to do something against the rules.

Written comment by *Matt Sullivan, 115 S 2nd:* in favor

Greg VanAntwerp, 112 S 3rd: He stated that he is in favor of the ADU.

Discussion/Decision

Motion- Taylor; Second- Powell; Vote- 3 for(Engbretson, Powell, Taylor), 1 against (Mancuso): Motion passed to approve the Conditional Use Permit for an Accessory Residential Unit at 110 S 3rd St with the conditions of approval as set out in the Planners Report. The conditions include: Abide by all representations made by the applicant, get all approvals and inspections from the Building Department, abide by all easements, covenants, or regulations on the parcel at the time of submission, pay all impact fees, provide utility service connections and meters for the ADU, receive approval of the variance by the Board of Adjustment, provide proof of sewer flows and water requirements, and not hook to the Town water and sewer systems until adequate capacity is defined by the Town Engineer.

Council discussed the sewer capacity issues. They discussed the size of the ADU and its impact on the system. Council discussed the process that happened to get to this point. They were fine with what the building permit was done for. An ADU is a conditional use in R-1. Others have followed the rules, and setting a precedence could be detrimental to the process.

DUTCH BROTHERS MAJOR SUBDIVISION PRELIMINARY PLAT APPLICATION:

Public Hearing

Clerk read public hearing notice.

Scott Hazelton, Town Planner: He gave an overview of the project. The Planning Board recommended approval. Staff is recommending approval. All ditch agreements will need to be in writing prior to any work happening.

Brent Miller, Gaston Engineering: He represents both subdivisions. This project is the southern subdivision and is a major subdivision. He gave a history of the property. It was previously a residential major subdivision. He described the proposal. They have had it rezoned to Light Industrial. There are 26 conditions in the staff report. The right of way on Poelman Ln is 40 ft. Part is in the city and part is in the county. They cannot fit

the standard road specs in the 40 ft right of way. They would propose to widen the driving portion to 24 ft. They would add an easement between the two subdivisions for a future cross street if needed for a grid style network. They propose to have one well on each subdivision for fire protection. This type of development has a very low water flow projection. They had proposed on site sewer originally. They are offering to pay the Town toward the sewer upgrade project and wait for sewer capacity. They cannot fit the standards on Poelman without disrupting the ditches, fences, and yards of current residents. They would like to make it 20-24 ft wide. They are not proposing to change any ditches. There will be easements for the ditches. They will address the runoff toward the Farrier's property in their retention plan. The public wells would provide fire protection. They would have 2 deeper wells, that will pull for fire protection only. The width of Wooden Shoe Lane and Dutch Brothers Blvd would be collector width with no parking. Wooden Shoe Lane has a collector standard for 60 ft easement. The ditch would have to be piped and sized correctly where it is in the road right of way.

Mike DeVries, Applicant: He stated that each parcel has a 10-acre foot water right. Originally, they had proposed an independent sewer system. They would like to contribute to the sewer expansion instead of putting in their own sewer system. The easement doesn't affect their plan. It has 13 facilities on 60 acres. They appreciate the citizens' concerns. They will pay for their share of improvements. A traffic impact study is needed at S Broadway and Wooden Shoe Ln. They do not see the need for widening Poelman at this time or disturbing the ditches. There will be 24-30 employees per site, which is almost the same as a residential house. There will be large parking lots on each lot, so no parking is needed on the street.

Jason Holland, Applicant: He stated that the wells would be granted to the city for the water rights and the wells. They would pay for putting in the wells.

Kristen Swenson, 9501 Frontage Rd, Planning Board Member: She stated that she is hearing that there is a change in the sewer options that was not presented to the Planning Board. She is concerned about the width of the road with larger vehicle traffic. Input from the community and neighbors needs to be heard. Ditch and water rights need to be recorded on the plats. She asked if there would be specific details added to the final plat. She asked if they have to have a DEQ study for the water wells.

Erica Sebring, 8640 Poelman Ln: She stated that her front yard extends toward the road and wants to know how much road will be there. She asked if the wells would affect her well. She asked about compound walls to enhance both sides of the wall.

Dennis Hengel, Chief of Police: He stated that both industrial and residential developments have an impact on police services. He listed the residential impacts. With industrial developments, the impact is increased patrol checks and traffic, speeding, crashes, and parking issues. The location is favorable for this type of use. He has not reviewed the street situation. He is concerned with parking. He would like to see those addressed.

Ryan Miller, 707 Madison Ave: He stated that he is in favor of the uses in the subdivision. Businesses help with the tax base. We need more spots for this type of use.

Mary Ann Dyk, 9890 Poelman Ln: She stated that widening the road would impact the homes on one side or on her property. She asked if the wells would affect the people that already live along there.

Les Oldenburger, Wooden Shoe Ln: He stated that Wooden Shoe is difficult to navigate currently. A traffic study is needed on the traffic that will be using Wooden Shoe Ln. The intersection is already congested. He does like the project. He asked if there will be standards for building and water retention. He asked about the irrigation ditch that runs parallel to Wooden Shoe Ln. There is not enough width for ditch crossing. He asked about the water right shares that are in the ditch. It is limited by the shares.

Tom Langel, Applicant, LF Limited: He stated that the wells are only for fire protection, not for use on the sites.

Nancy Farrier, 8860 Poelman Ln: She stated that Poelman is currently a very narrow road and would be dangerous when meeting trucks if it is too narrow. She is also concerned about the intersection of Poelman, Branch and Main St.

Discussion/Decision

Motion- Mancuso; Second- Powell; Vote- Unanimous: Motion passed to table the Dutch Brother's Preliminary Plat application.

Mayor Howells is concerned with both roads, especially about the width of Poelman Ln in regard to truck traffic. He suggested a truck turn around area to encourage them to not go out on Poelman Ln. He suggested traffic control at Wooden Shoe and Broadway.

Kyle Scarr, Town Engineer: He stated that currently developers are responsible for getting roads up to Town standards. That condition needs to be more direct. The developer can submit a traffic study to MDT. MDT may allow the developer to put in a traffic control. It is the developer's responsibility to do it. If there is a concern at an intersection, in MDT right of way, the Town should not agree to it. He addressed water and sewer capacity. A cash in lieu offer does not get him to allow a capacity letter. They would have to provide their own capacity or wait until there is capacity. They also must provide their own water and transfer the water rights to the town. Larger wells for fire flow do not require water rights. The minimum requirement is to not degrade the Town's system. There would be DEQ review for the water wells, which would include checking neighboring wells, and providing an engineering design report. The subdivision traffic study indicated approximately 30% of the traffic to be off of Poelman Ln and 70% off of Wooden Shoe Ln.

Council discussed the use of drought resistant landscaping and a tree barrier. They discussed sticking to a reasonable sized streets keeps things operating smoothly.

Councilwoman Mancuso: She stated that she would like to see some of the concerns addressed and updated before they vote on the application. She would like to have reports on the effects on services. Ditch owners and neighbors also have some concerns.

EAGLE POINT/LF LIMITED MINOR COMMERCIAL SUBDIVISION PRELIMINARY PLAT APPLICATION:

Public Hearing

Clerk read public hearing notice.

Scott Hazelton, Town Planner: He recommended that the Council table this Plat application as it goes along with the Dutch Brothers one.

Written comment from Teri Jensen: Opposed

Discussion/Decision

Motion- Taylor; Second- Engbretson; Vote- Unanimous: Motion passed to table the Eagle Point/LF Limited Preliminary Plat application.

GROWTH POLICY DISCUSSION:

Scott Hazelton, Town Planner: He updated the Council on what is happening with the Growth Policy in the County Commission. The planners, attorney's and mayor met to discuss the County approval of the Manhattan Growth Policy. The Commissioners' primary concern is that it does not address the planning jurisdictional area in the 1 mile to 4.5 mile. He got comments from the County Planner, who suggested some edits. One option would be to have the Town adopt the Gallatin County Growth Policy for the planning jurisdictions. He has reviewed that growth policy. The commissioners have some concerns that the visions and goals section of their policy match the Town's intent. Another option would be to get feedback and adopt an amendment to the new Town Policy. It would go to the Planning Board, then the Town Council, and then the County Commission. A chapter added to the current policy would be expensive and would have to be funded and use a consultant. Most of the document relies on the MCA's.

Kristen Swenson, 9501 Frontage Rd, County rep on Planning Board: She stated that she testified before the Commission that Manhattan retain the jurisdictional area. It is important to have the people informed. She encouraged more of what the Commissioners are looking for. It is an important process, and there needs to be time to have public input.

RESOLUTION NO. 23-001 – MAIL BALLOT:

Motion- Engbretson; Second- Mancuso; Vote- Unanimous: Motion passed to approve Resolution No. 23-001, a resolution of the Manhattan Town Council notifying the Gallatin County Election Administrator of the Town's desire to conduct the 2023 Town general election by Mail Ballot in accordance with Section 13-19-202 MCA.

RESOLUTION NO. 23-002 – POLICE MILL LEVY:

Motion- Mancuso; Second- Powell; Vote- Unanimous: Motion passed to approve Resolution No. 23-002, a resolution of the Manhattan Town Council to place a town Municipal Services Levy for Public Safety on a mail out ballot during the general election.

Dennis Hengel, Chief of Police: He explained the purpose of the levy. Manhattan must compete to attract quality officers and this levy would help them to have a more competitive wage and contribute to needed equipment.

Council discussed that they would like the public to vote and make the decision.

PRELIMINARY BUDGET FY 2023-2024:

Budget available for public inspection July 14, 2023

Motion- Mancuso; Second- Powell; Vote- Unanimous: Motion passed to approve the Fiscal Year 2023-2024 Preliminary Budget.

PARK BOARD UPDATE:

Councilman Engbretson: None

SEWER COMMISSIONER REPORT:

Councilman Powell: He stated that the Screw Press is on schedule to be here in August. They will need to figure out how to get it installed as soon as possible. Todd is working very hard on all processes. He is working on the pH monitoring currently. DEQ requires that we monitor it daily instead of just working days. Todd is working on the relationship with the DEQ to help relax that regulation.

MAYOR'S REPORT:

- Dust control is behind schedule because of the rain that we have been getting. It is scheduled for July 26th currently.

CONSENT AGENDA:

Motion- Powell; Second- Engbretson; Vote- Unanimous: Motion passed to approve the Consent Agenda.

Town Licenses: MFY Enterprises LLC dba Cookies and Crumbs Bake Shop.

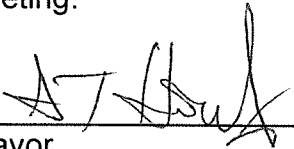
Chicken Coop Application: Shirley VanDyken

Approval of Minutes: Regular Meeting minutes from June 8, 2023, Special Meeting minutes from June 15 and June 29, 2023.

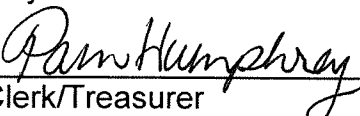
Claims: Dated 06/09/23 – 07/13/23 totaling \$ 1,327,361.17.

ADJOURN:

Motion- Mancuso; Second- Engbretson; Vote- Unanimous: Motion passed to adjourn the meeting.



Mayor



Clerk/Treasurer