

**Rockville Planning Commission  
Regular Meeting  
Rockville Community Center, Town Hall  
November 12, 2019 – 6:00 pm**

1. **CALL TO ORDER – ROLL CALL:** Planning Commission Chair Joyce Hamilton called the meeting to order at 6:00 p.m. The following members of the Rockville Planning Commission were present: Bergen Meyer, Cheryl McGovern, Jane Brennan, and Linda Brinkley. Town Clerk, Vicki S. Bell, recorded the meeting.
2. **DECLARATION OF A CONFLICT OF INTEREST:** Chair Hamilton inquired if anyone had a conflict of interest with any agenda item; none were declared.
3. **PUBLIC COMMENT:** No public comment was made.
4. **CONSIDERATION AND POSSIBLE ACTION ON AN APPLICATION FOR A TEMPORARY USE / SPECIAL EVENT PERMIT FOR THE TRI-STATE ATV CLUB JAMBOREE BEING HELD MARCH 2020 BY GLEN ZUMALT:** Glen wanted to correct something in the application letter. He said there were 25 sponsored rides last year and they'd probably have 26 this year. They have obtained a special use permit from the Town of Rockville for the last two years. They visited Grafton and they have donated a couple hundred dollars for the upkeep of Grafton Road the last two years. Glen says they will keep their speeds down inside of the town and will watch for muddy, slick roads.

Jane said when this first came about, it became an issue because of our relatively new off highway vehicle ordinance. Because the ATV club has a large circle of influence, the Town asked Glen to notify their members of our ordinance and Glen said just before the Jamboree, about 30-50 people show up at the ATV club's meeting. They have 1,000 members and usually the February meeting has 100-150 people attend. And that's Glen's opportunity to share the Rockville Ordinance with their members.

Jane asked if there had been any complaints. Clerk Bell said Cheryl complained. Cheryl explained that the road is in horrible condition and it's not getting any better and we're in one of the longest draughts and the dust is about four inches thick right now. Cheryl objects to allowing recreational traffic on that road. Glen said last year they took pictures before and after to determine if there were any damage and no damage was found. He said the low-pressure tires do stir the dust. Cheryl said that's the issue. Cheryl said in the wintertime there's two types of road out there: muddy and rutted or dry and dusty. Glen explained that Jubal McNate is the guide on this ride. Jane clarified that there are 23 riders, one ride per day. Glen said that's the maximum: 20 participants and three guides. Jane asked about the time two years before that they stopped their ride because of mud. Glen and Jubal agreed that one day two years ago, they did not venture beyond the Grafton cemetery because of the mud. Jane thanked them for that. Jane said she appreciated the donations. Glen said all donations are limited to charities.

Motion by Jane Brennan: WHEREAS the Tri-State ATV Club has a history of use of Rockville Roads during their annual Tri-State Jamboree without significant damage to these roads or damage to the Grafton area, and WHEREAS, the Tri-State ATV Club acknowledges the Town of Rockville has in July of 2016 passed an ordinance prohibiting the use of off-highway vehicles (OHV) within the boundaries of the Town (Ordinance No. 16-0713-03) and the Tri-State ATV Club agrees to notify the Jamboree participants and also the club members that the operation of non-licensed ATV's is prohibited on Rockville Roads, except by Special Permit, and WHEREAS, the Tri-State ATV Club agrees to follow the requirements of a Special Event Permit as to speed, noise, litter, and WHEREAS, the Tri-State ATV Club has agreed to consider limiting the ride to the Grafton Cemetery in the event of exceptionally muddy road conditions, and WHEREAS, the Tri-State ATV Club has explained that this tour will originate in Apple Valley, follow Smithsonian Butte Road (aka Big Plains Road) continue into the Town of Rockville, stopping at the historic sites of the Grafton cemetery and the Grafton townsite, they will travel in a group with a designated leader, and WHEREAS, the Tri-State ATV Club has in the past, made donations to the Town of Rockville and the Town of Grafton townsite to assist with adding gravel to the roads this tour encompasses for which we thank them, and WHEREAS, the application for a temporary use / special event permit submitted by Glen Zumwalt for the Tri-State ATV Club for an



organized, guide-led ATV tour for no more than 23 ATV's once a day for three days for the date of March 19, 20 and 21, 2020, is complete and fulfills the requirements of the Rockville Land Use Code Chapter 7.25 and in as such, does not violate the General Plan,

Jane Brennan **MOVED** to approve this special event application. Linda Brinkley **SECONDED** the motion.

**VOTE** on motion:

**Bergen Meyer – Aye**  
**Cheryl McGovern – Aye**  
**Jane Brennan – Aye**  
**Linda Brinkley – Aye**  
**Joyce Hamilton – Aye**

**The motion passed unanimously.**

Glen said he knew some of the County Commissioners wanted to improve Big Plains road. If there were an opportunity for the Tri-State ATV Club to influence or help improve that road, they'd be happy to weigh in.

5. **OPEN THE PUBLIC HEARING FOR PUBLIC COMMENT ON AN APPLICATION FOR A SUBDIVISION FINAL PLAT SUBMITTED BY TYDON OLER AND JACOB ANDERSEN FOR A MAJOR SUBDIVISION OF APPROXIMATELY 8.38 ACRES AT 490 EAST MAIN STREET (SR-9) INTO FOUR (4) PARCELS:** Linda Brinkley **MOVED** to open public comment. Cheryl McGovern **SECONDED** the motion.

**VOTE** on motion:

**Bergen Meyer – Aye**  
**Cheryl McGovern – Aye**  
**Jane Brennan – Aye**  
**Linda Brinkley – Aye**  
**Joyce Hamilton – Aye**

**The motion passed unanimously.**

Clerk Bell received a call from a neighbor who was babysitting grandchildren tonight and wanted her to ask the following questions. The piece of property on the west boundary the developer is using to access their well, how wide is that? Tydon responded it's 20' wide except right there around the well, it's another 10' around the well. Is it a road? The owners' intent for that piece of property is for well access and occasional use by family to access land on the south side of the river. He envisions pumping water from that well to a well house on the four-acre parcel (to the north). That continuous piece of pipe coming up out of the flood plain will better protect the well from contamination. Clerk Bell explained those questions were on behalf of Karen Lodinger.

Kim Cook wanted to know about the left-over bits. Chair Hamilton tried to explain how Mr. Oler changed the property line and then subdivided one of the two parcels. Kim asked if the south side piece would become affiliated with his personal piece on that side of the river. Tydon responded it would be kept as a separate parcel but would be contiguous with the other two parcels over there (on the south side of the river). Kim asked how big it is and Tydon responded it's 2.75 acres and then a parcel just under 7 acres and a parcel just under 4 acres. Kim asked about the well and Tydon explained there are three wells on the property on the north side of the river. The one Karen Lodinger was asking about he plans to retain ownership of for personal use. Kim asked where he planned to live and Tydon said they planned to build on the south side of the river. He said one well would be dedicated to the four parcels on the north side of the river. The other two wells would be in use on the four-acre piece. There is a chance that he might try to make use of the one well on the south side of the river as well, if that was at all possible, but he has not even looked into that. And if he did, it would be for irrigation over there. The well has the capacity, he just doesn't know the logistics.



6. **ADJOURN PUBLIC HEARING** - Hearing no further public comments, Chair Hamilton called for a motion to close public comment. Bergen Meyer **MOVED** to close public comment. Cheryl McGovern **SECONDED** the motion.

**VOTE** on motion:

**Bergen Meyer – Aye**  
**Cheryl McGovern – Aye**  
**Jane Brennan – Aye**  
**Linda Brinkley – Aye**  
**Joyce Hamilton – Aye**

The motion passed unanimously.

7. **CONSIDERATION AND POSSIBLE ACTION ON AN APPLICATION FOR A SUBDIVISION FINAL PLAT SUBMITTED BY TYDON OLER AND JACOB ANDERSEN FOR A MAJOR SUBDIVISION OF APPROXIMATELY 8.38 ACRES AT 490 EAST MAIN STREET (SR-9) INTO FOUR (4) PARCELS BY TYDON OLER:**

Tydon said the main reason for keeping that strip on the west side of the property that Karen Lodinger inquired about is to make the parcels contiguous with the parcels on the south side of the river for green belt purposes. Cheryl asked about the subdivision name. Tydon replied it is Belle River Estates, which is the middle name of his oldest child and which stands for Beautiful River Estates. Cheryl asked if it was currently in green belt and Tydon affirmed all of it is currently in greenbelt. Cheryl expressed concern about the hefty roll back taxes and Tydon explained as the lots sell, five years of roll back taxes will need to be paid. He said who pays is negotiable. Tydon went on to explain the County takes out any river property and they have a mitigation on roll back taxes and assessments for property in the flood plain and things like that. All the lots are under reservation. The lots only come out of greenbelt as they are sold, not when the subdivision is approved. Cheryl asked if the remnant on the south side of the river would come out of greenbelt, and Tydon said it would stay in greenbelt. She asked about it being less than five acres and Tydon said it is contiguous with the two other parcels on the south side, as well as the four acres on the north side of the river. Cheryl remarked that was a lot of greenbelt going away in this little town. Tydon said the acreage is still there. Its just not tax accessed as greenbelt, so it's actually a tax benefit for the town.

Cheryl said Chapter 12 specifies gated communities are not allowed. Tydon said the Fire Marshal would approve the roadway as gated as long as it had a Knox Box. Jane agreed with Cheryl that Code would not allow a gated community. Tydon asked if there were any consideration since the road will be private. He does not think a gate was discussed in the phone conversations with the reservation holders. If it can't be gated, Tydon says he's okay with that. Cheryl said that's good because the Code says it can't be gated. She went on to say Code did allow a gate if there's a compelling reason. Tydon said the compelling reason is that it's a private road. Jane does not want the compelling reason to be because it's a hoity toity community. Tydon said they charged very reasonable prices for the lots. The Town of Rockville just sold a third of an acre on the river for not a whole lot of money under what the developers have contracted these lots, and at two acres, the developers felt it was a fair price. And if people were willing to reserve early and work with the developers as they go through this process, the price would be very fair. But if someone comes along after the improvements are in, they could charge more. Tydon said they do not want to create a hoity toity subdivision. They just want to offer something the owners can be proud of and want to build their home on. Everyone that Tydon's talked to is planning a reasonable size home: 1,700 to 2,400 square feet. Cheryl said that's fine, so long as they understand they cannot have a gate. Tydon said there's no gate on the subdivision plans.

Cheryl said the Code also talks about cookie cutter development. Tydon responded they're not designing the homes and he would think that the four individual lot buyers would get their own designs. Cheryl said that's great.

Cheryl thought there was something in our Code about CC&R's. She thought they could not have any restrictions that were not already part of the Code. Tydon said CC&R's can go above and beyond what the Town's restrictions are. Cheryl argued no, the developer could not, not



according to our Code, so he'd have to read that. Jane said it's 12.1.13 D. Self-imposed restrictions. If the owner places restrictions on any of the land contained within the subdivision greater than those required by this Code, such restrictions may be required to be indicated on the subdivision plat or the Planning Commission may require that CC&R's be recorded with the County Recorder in a form to be approved by the Town Attorney. Jane said what she understood from our training is the CC&R's can be different, but not over-arching. Tydon agreed, they should not try to override Rockville's Codes. Jane said our Code has night sky light restrictions, so the CC&R's cannot say you can have any kind of light you want, but the CC&R's can be more restrictive. Tydon said there was one reservation holder on the phone call that asked if they could restrict light exposure from windows. Tydon said he felt that was more restrictive than they wanted to go in their CC&R's. But if the owners all unanimously agreed to that, Tydon said he would record it. Cheryl asked how they could restrict RV's from being parked on the lots in the subdivision if it's allowed everywhere else in town. Chair Hamilton said the purpose of the CC&R's is to go above and beyond what the Town allows, if they agree as a group that they want restrictions above and beyond what the Town requires. And the Town requires that they be recorded so that when the title search is done, the next buyer is made aware that they're agreeing to these restrictions. Tydon said an example was that Rockville allows trailer homes, but one of the things discussed on that phone call was to not allow them in that subdivision. He went on to explain the purpose of the CC&R's is not to make everything hoity toity, but to make sure everyone is building a full-time residence that appreciates in value. Jane said she thought we all understood now the direction that the CC&R's need to go. Clerk Bell asked if Cheryl was okay with that. Cheryl responded that does make it hoity toity. Cheryl expressed concern that they would try to make sure this and that is not in their back yard. Jane asked if there would be some wording that specified some xeriscaping in their yard. It makes things more uniform. Cheryl said that would make their property more valuable. Tydon said CC&R's, if too restrictive, does not add value, but makes it harder to sell. Jane said everyone gets a copy of the CC&R's before they buy. Tydon agreed, the buyer gets the CC&R's at title search.

Jane asked if there would be an HOA. Tydon said they discussed an HOA. He imagines there will be, and he will recommend that as the developer, specifically for the well. As he started writing the well agreement, he said a master meter would be set on that well, not only for electric use, but also for water consumption. Who signs up for that and then collects money from their neighbors? The draft well agreement is for an HOA to manage the meter at the well. But ultimately, if they're all against an HOA, then that's okay with Tydon. Jane asked if there's no HOA, who enforces the CC&R's? Tydon said he lives in a subdivision with CC&R's but no HOA. And it's specifically written into the CC&R's that each individual is responsible for enforcing the CC&R's. If you feel your neighbor is doing something against the CC&R's, and you cannot work out the issue, then you have to take them to court. Tydon said he would anticipate the HOA would require some kind of unanimous or 75% in agreement rule. There are just four homes; talk to your neighbor.

Tydon doesn't like restrictive CC&R's, but he's letting the reservation holders make those decisions. It does not sound like they want restrictive CC&R's. Chair Hamilton said the purpose of CC&R's is for conformity, to make sure your property value is protected because your neighbor is not doing something – we all get along because we're all conforming. Jane said the word community.

Cheryl said there's a guarantee for a performance bond required in our Code. Tydon said he sent Clerk Bell an email about that. Tydon has attempted to get a quote for a performance bond. The response he received is there's nothing to bond because the bond wouldn't be for the Town. The Town has no responsibility for putting in any of those improvements. Cheryl said it's for the developer. Tydon said no, the beneficiary of the bond. Who do we name as the beneficiary of the bond because there's no public improvements being built there on the property? Tydon said all the improvements are private: power is owned by Rocky Mountain Power; the road is private; the well and culinary system is private; and the fire hydrant is a private system where the developer is paying the Pipeline Company up front for the hydrant. Cheryl said since the attorney is being consulted, we cannot approve the final plat until the performance bond issue is resolved. Tydon argued the Code says a bond will be required for any public improvements, or any that the



Town would have responsibility for. Tydon is willing to bond to the purchaser for any improvements that are incomplete at the time a lot is sold. Cheryl said there's nothing in the Code about the improvements being public utilities. It really says everything you say you're going to do to the property needs to be bonded before the Town can authorize you to proceed. Tydon feels like the bond is a waste. Jane says our requirements for the subdivision is that the lots have road frontage and the developer has not yet put in the road. And if the developer cannot afford to put in the road for some reason and the Town has allowed the subdivision of these lots without the developer's ability to put in the road, then the Town has approved an inappropriate subdivision, which we are not allowed to do. So, you see, it's not just utilities. Tydon said it would be the responsibility of the lot owner to put in the road before getting a building permit, or else they won't be able to get a building permit. Jane said that's not how our subdivision goes. We need road frontage in order for these to be acceptable subdivided lots. Tydon said he's fine bonding the buyers. They have no intention of selling the lots until all utilities are in place. Clerk Bell said it's a safety net. Tydon said it's a private roadway, so the Town would be getting into private. But Tydon is okay with whatever the Town Attorney says. The bond agent came back and told me he did not know what to bond. And why would the developer ensure the Town because the Town is not putting in any public improvements. Jane asked if this was something, we could do pending the attorney's say on the bond. Clerk Bell responded she thought we could make it a condition. Tydon again suggested the entity to bond would be the lot buyers. Tydon again stated he had no intention of selling any lots before all improvements are completed. Jane said having a lot without road frontage is more important to her than the sewer and water. Clerk Bell said we should hear from our attorney by tomorrow. Tydon said he was fine with whatever the Town Attorney recommends.

Cheryl said the developer still has not shown that he has culinary water. Tydon said the developer has 59-acre feet of water. Cheryl said she got all that, but the Department of Water has not said they'll turn it over to culinary for the developer yet. Tydon said that is not a requirement of final plat. It was said that the developer could not sell a lot prior to proving culinary water. Again, Tydon said the developer has no plans to sell lots until culinary water is present, so he's okay with that stipulation. Jane reiterated that Tydon said they would close after the improvements are in. Tydon responded that's his intent. Jane responded that intents change. Tydon said when I say that's my intent, we don't have any intent of closing on any of those lots until all the improvements are in. Jane said intents change. You need the money or whatever, somebody wants to close right away. Tydon said he can't close until the culinary water is in and he is not going to close on the lots prior to all the improvements being in. He's already getting bids; he already knows what those costs are going to be, for the private water system and the roadway, as well as the power. Jane asked him if he was telling the Planning Commission that he would not sell the property until they have culinary water on each of those four lots. Tydon said it's his intent to sell buildable lots. Without culinary water, it's not a buildable lot. Cheryl asked how he would notify the Town that the water shares had been changed to culinary water rights. Tydon responded the State Water Engineer would have to approve that. And Tydon will be in touch with the Ditch Company. He said he has other water shares he can work with. Cheryl said he could not bring them across the river. He responded, "in limited cases, but we're not bringing them across the river."

Motion by Chair Hamilton: Whereas the application for a subdivision final plat submitted by Tycob, LLC for the division of just over 8 acres into 4 lots is complete and the subdivision complies with the Rockville Land Use Code Chapter 12 and the Rockville General Plan; and the subdivision complies with the zoning, and the owner has met with most of the Town's requirements. That one exception being the lack of culinary water. Therefore, Mr. Oler has agreed not to record the plat with Washington County until the irrigation water rights have been changed to culinary water rights. And now, I, Chair Hamilton, therefore **MOVE** to recommend approval by the Town Council of this application for subdivision final plat subject to the irrigation water rights being converted to culinary water rights, and subject to the resolution by the Town Attorney of the performance bond question. Tydon asked to amend the motion to allow for any culinary water rights, so long as they're approved by the State Engineer for culinary water use.



Cheryl said it (the conversion of water rights from irrigation to culinary) would go out for public comment for 60 days. Tydon agreed.

Chair Hamilton repeated the motion for clarity: Whereas the application for a subdivision final plat submitted by Tycob, LLC for the division of just over 8 acres into 4 lots is complete and the subdivision complies with the Rockville Land Use Code Chapter 12 and the Rockville General Plan, and the subdivision complies with the zoning and the owner has met most of the Town's requirements, the two exceptions being the lack of culinary water and the question of the performance bond. Therefore, Mr. Oler will not record the plat with Washington County until culinary water rights have been proven. And now I therefore **MOVE** to recommend approval by the Town Council of this application for a subdivision plat subject to the culinary water rights being proven and subject to resolution by the Town Attorney of the performance bond question. Jane Brennan **SECONDED** the motion.

Cheryl said for the record, once again, from this point there's still a lot required of our Code, so the developer should be sure and read them – things like inspectors. Mr. Oler asked if she was speaking of the utilities going in. Cheryl said the whole process. Mr. Oler agreed that's when the real work begins, and the developer starts putting in all the infrastructure. Mr. Oler will make sure that's done as it should be.

**VOTE** on motion:

**Bergen Meyer – Aye**  
**Cheryl McGovern – Aye**  
**Jane Brennan – Aye**  
**Linda Brinkley – Aye**  
**Joyce Hamilton – Aye**

**The motion passed unanimously.**

Jane asked about the buyers. Mr. Oler said he has never met any of the people prior to getting reservations. Sometimes things fall through. People don't get the financing they want. Hopefully they all go through swimmingly. The developers have a couple backups. April will try to be here tomorrow. She has the relationships with several of these people, but I do not. Jane said it would be nice to have some families, some little kids. Tydon met one of the ladies; he knows she's local. And he met one that was not local. And the other two April communicated to Tydon were well respected in the community. Jane said it was good to know; she was just curious.

8. **APPROVAL OF THE MINUTES FOR THE OCTOBER 8, 2019 REGULAR MEETING** – Bergen Meyer **MOVED** to approve the minutes. Cheryl McGovern **SECONDED** the motion.

**VOTE** on motion:

**Bergen Meyer – Aye**  
**Cheryl McGovern – Aye**  
**Jane Brennan – Aye**  
**Linda Brinkley – Aye**  
**Joyce Hamilton – Aye**

**The motion passed unanimously.**

9. **APPROVAL OF THE MINUTES FOR THE OCTOBER 8, 2019 WORK MEETING** – Bergen Meyer **MOVED** to approve the minutes. Cheryl McGovern **SECONDED** the motion.

**VOTE** on motion:

**Bergen Meyer – Aye**  
**Cheryl McGovern – Aye**  
**Jane Brennan – Aye**  
**Linda Brinkley – Aye**  
**Joyce Hamilton – Aye**

**The motion passed unanimously.**

10. **TOWN OFFICE REPORT** – Chair Hamilton reported the town office approved a simple building permit for Trish Jennings to install solar panels on her property and she believes they are done. Cheryl asked where she put the solar panels and Chair Hamilton responded they're on the roof.
11. **PLANNING COMMISSION ADMINISTRATIVE BUSINESS** – Chair Hamilton reported the next Planning Commission meeting will be on January 14, 2020.

Chair Hamilton reminded the commissioners that at the last work meeting we decided to invite the Rockville Pipeline Water Board to a work meeting. The Town Council would like to be involved as well. So, we are planning to meet on Wednesday, December 11<sup>th</sup> at 5 p.m. All but one commissioner can make that meeting. Chair Hamilton will confirm with the Town Council and Water Board.

Chair Hamilton said when she went to Town Council to report on the work meeting, the Town Council instructed her to survey all residents of Rockville in the RR-1/2 zone about the proposed animal ordinance. This is basically from Dennett (should be DeMille) Lane to the river, from the lot Tydon sold on the west end of town to the cemetery on the east side of town. Of the respondents, 68% said yes, they would support an animal ordinance and 32% said no, they wouldn't. Cheryl said she wanted to see the documented results. Jane said she did not get a call. Chair Hamilton said if there were two people living in the house, she allowed two votes. Chair Hamilton said what she loved about making the phone calls was the number of people who responded, "I don't want to mess up my neighbors; how much acreage does Jane and Crissy have?" Chair Hamilton went on to say, "I love this community. People really try to get along here and I love that." Chair Hamilton told Cheryl she could come to the office to see the survey results. The name of the person and their vote was recorded.

Jane reported the Rockville Christmas Party would be held on the 6<sup>th</sup> of December. Linda asked what day of the week that was, and Jane responded Friday. Clerk Bell said the Rockville Leaders' Dinner is Monday, December 9<sup>th</sup> at 6 p.m. at Jack's. Bring your significant other.

12. **ADJOURN:** Linda Brinkley **MOVED** to adjourn. Bergen Meyer **SECONDED** the motion.

**VOTE** on motion:

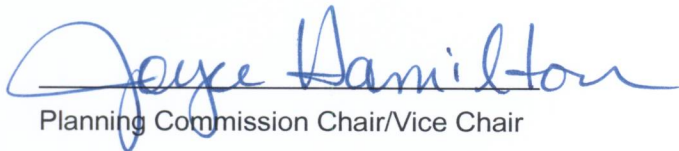
**Bergen Meyer – Aye**  
**Cheryl McGovern – Aye**  
**Jane Brennan – Aye**  
**Linda Brinkley – Aye**  
**Joyce Hamilton – Aye**

**The motion passed unanimously.**

The Planning Commission Meeting adjourned at 6:10 p.m.

Minutes Prepared by:  
Joyce Hamilton, Deputy Town Clerk  
Town of Rockville

APPROVED:

  
Joyce Hamilton  
Planning Commission Chair/Vice Chair

The foregoing minutes were posted in the cabinet of the Rockville Town Office by Ucku S Bell  
at approximately 10:00 AM PM on 15 Jan 2020 and on the Rockville Website.

Ucku S Bell



