

Public Hearing
My Willow LLC
Conditional Use Proposed Development Request
May 13, 2021
Ennis Town Hall, 6:30 pm

Mayor Leavitt opened the public Hearing for the My Willow request for conditional use located within the North Forty subdivision. The development parcel is 1.5 acres and located at the northern end of the Subdivision (Block 2, North Forty Subdivision, Town Plat 2/268, Section 33, Township 5 South, Range 1 West, Madison County, Montana). The request is for multi-family six three-story condo residential units.

Commissioner present were Hardy, Schroeder, Ranson, Bancroft and Roberts.

Alex Hogle, Madison County Planning Director gave a summary of the project: Madison County and the Town of Ennis have entered an interlocal agreement where the County planning board serves as a planning board for the Town of Ennis. The project applicant is My Willow LLC, represented by Breeann Johnson of Western Roots Law PLLC. The staff report lays out the findings of fact pursuant to regulations. Alex has recommended approval, and the planning board also forwarded a recommendation of approval pending conditions. (doc attached).

The property occurs in a CCR zoned area; primary access to the location is from Otis Ave. Montana Department of Transportation determined the key access points. Challenges on the review included parking an access, and it has more than the required amount of parking spaces including disability. He recommended considering text amendments such as remove the TND zoning until it can be reworked, this may be a potential lawsuit area.

Regarding the findings of fact document:

-Alex did not receive any public comment on this project, but did receive comment from Joe Brummel on behalf of Madison Valley Rural FD. They do not have tall ladder truck capability and therefore may not be able to fight a building fire adequately. However, the regulations clearly allow a 40' building height in a CCR. Joe also mentioned the separation space of buildings, and that internal fire sprinklers are not required.

-Regarding draft finding of fact #4: Alex thinks this is a reasonable request. There has to be a way to monitor water usage and shut off if necessary, prompting draft language on conditions 5, 6, and 7. Upon entering a private building, it is important that Ennis Public Works be able to access the mechanical room.

The County Planning board vote was 10-1 in favor of the project. The vote against was a point to recognize the inconsistency between state law/code and what is enforceable for local health services.

Breeann Johnson, Western Roots Law spoke on behalf of her client: This is a different kind of project for Ennis, historically, the conditional use permit has been waived, but not now due to the proposed multi family structure. My Willow has been diligent in trying to check all the boxes so that the permit can go through, although more specifics (from the Town) would be helpful. The height of the structure in the CCR allows 40', and they looked at the next closest zoning for comparison. The majority of the structure is under 30'.

When you have fast growth, there are ups and downs. Breeann has worked with other towns, and it's easy not to see the holes and gaps until they are faced within a project. Multi-family housing is needed in this growing area, and My Willow wants to be as accommodating as possible. This is a local development, and they are trying to hire local contractors.

The Mayor asked for public comments:

Maria Marzulo Lake provided a letter (attached): Without reasonable growth, the town will not prosper. The developer hasn't provided a definition of affordability. What criteria will you use? Handicap parking: it's hard to understand how a handicap person can use a unit with stairs. Storage areas: shared between 2 owners is potential conflict—whose insurance is responsible for damage? Are there covenants on age of occupants and pets—this will be an ongoing problem for an HOA and too much control for rural Montana. Can current water and sewer accommodate this expansion? Fire and first responder concerns: they cannot service these units. View shed: those living to the west may have their view shut cut off. Find a better way to grow.

Tania Cubel: There may not have been public comment, but the turnout is the response. Has seen what happens in multiple family dwellings when things go wrong—fire, emergency. How can you build this without a fire department? When you have anonymous owners in a building/condo, you don't know who is coming in and out. Don't gloss over the potential loss of life, we need the fire dept here to say if they can defend these buildings or their residents.

Jim Parsons: Concerned about the greedy carpet baggers/profiteers that are here. They are not from our town. Where is the common sense when there is a 3-story building, and an emergency happens in 30 below weather? Fire department: we don't have the right facilities for it. We may have a water shortage. What about sewer capacity. The public hasn't been able to come in and comment.

Jack Sammis, Black Jack Ranch: There are no specifics on planning and too many things left hanging and uncertainties. We have a community here in Ennis; (There) hasn't been a worse time for our families, but there is talk about the monetary benefits. We need to get out of the pandemic first. How can you move forward with this before taking care of our locals; we don't want another Bozeman. The Planning Director needs more answers before proceeding, we need infrastructure commitment. We have to look at our local community and what is the benefit to us with this project?

Shery Gold: She went to county board when Josh Vujovich wanted to build North 40; he wanted to put a lot of small houses on a small parcel. She doesn't see that this will be a lovely thing. If these are condos, the owners can rent them out. If you drive down Otis now, there is no scenery to be seen. This is turning into not the last best place, the beginning of the end, does not want to see this as a precedent.

Christian Pederson: Knowing that it's now public that we have no fire department, are you going to disclose this when you sell them (the condos, to Breeann). Breeann: We have acknowledged that Ennis has a problem with its code and what and how it can be enforced. Ennis has an opportunity to fix this problem, the burden cannot be put on one party to fix a towns' infrastructure problem. The developer is trying to comply with the process, and trying to conform with regulations.

Tony Treglia: Not in favor of a 3-story unit. What is each unit going to sell for? When you talk about local ownership, what is the % of local ownership? Has lived in places of development, developers come in with trucks with ladders, paying for extra wells, chipping in for infrastructure.

Keith Brauneis: Keith is on the master plan steering committee; everyone is encouraged to comment. Ennis is in the beginning stages of what we want to be when we grow up, there is more to come. He is not opposed to the project, but opposed to it today.

Gordon Todd: Why can't the buildings have sprinkler systems?

Kirk Cardoso: There are no fire engines, no fire escapes, the town council is subbing out work, we cannot handle our own work in our own community. The entire Council should resign. We shouldn't get rid of Police; we don't want to see a California. We have no infrastructure, what is the price of these units? He is opposed to project and this council. The town is wasting \$\$ on a lawsuit.

Kevin Kramer: Development is coming, the zoning laws have holes in them. The Town needs to figure out how to handle these issues. Either we will end up with one project or may end up with 100 that needs more planning for long term. The regulations aren't clear, need to be clarified.

Dino Fanelli: Most of us are from somewhere else, and don't want' to see it turn into a Big Sky. What is the cost of growth? We did not move here to see 30' buildings. Opposed to project, too premature.

Trevor Lockhart: (To Alex) The CCR allows for 40' buildings. The RTD allows 25' with a 2' variation. Alex: CCR allows for 40' and defers to the other standards. Trevor: If we verify this conditional use permit, how many more developers will take advantage of the inconsistencies in zoning regulations? It opens a door of where do we draw the line. We have habitat for humanity houses for low- income community members; these (proposed) units are not for community members. Developers have no moral or ethical backbone to develop with these inconsistencies. You are putting the cart before the horse.

Leigh Fosnot: Moved here from Sun Valley, has been here for 20 years, has watched a cowboy town turn into a gentrified community. This is about more than Ennis, it's about Jeffers and Cameron. She is opposed to the project; it will destroy the town itself and surrounding towns. Please think this through before you act, there is no turning back.

Mike Delaney: How does this benefit Ennis and its traditions, and residents? Does it? Does it provide jobs? Affordable housing? We don't need something obscuring our views. Public safety and services are the commissioners' primary duty. We don't want to be put in a position where we have to catch up the developers. Cart before the horse is happening. More developers to come. Not enough contractors to complete project. Vote your conscience; if we don't have the services for it, it's not a good time for Ennis. Don't make it a hasty decision.

Tashina Meyer: Fire safety; do you remember the Sportsman's lodge burning, the water supply ran out and it was not a 3-story building. Nothing has changed for our fire dept capability to handle it.

Kelley Elser, Director of Ennis Public Works: I was there at the Sportsman's fire, we did not run out of water.

Robert Fosnot, former city planner in Tiburon, Ca.: Tiburon was a seaside community, the harbor was destroyed with development. This Council needs to do some studies and get infrastructure in place. Please deny this application and move forward with further studies.

Derek Seidenkoff: Doesn't want development. What's next, fast food? Before developers bring their project, they invest in the town and its infrastructure. Change is coming, but we don't have to look at it seems to be the attitude of the developers. Size of the unit—fire dept cannot reach it or service it.

Infrastructure, sewer and water is a concern for the amount of people in these units. There are 12 units, where are the propane tanks going? Remember the fire near the post office, they were propane tanks and close to having a major explosion. There isn't enough room to house them.

Kathleen Mallee: Thank you for having a town meeting. This high-density project without infrastructure is foolish. Grateful for your time, but would like you to deny this project, ask developers to raise the fund to develop our civic entity first for roads, sewer, stoplights and grow. When they come forward to you with resources for development, citizens may feel different.

Josh Vujovich: Hears contradictions, the town wants affordable housing, but don't want to build. Want to build a house, but don't want anyone else to. He has put in the water/sewer line, this project has been ongoing for a long time, these designs are theoretical as far as fire safety approval, this project has been in the works for 6 months, there has been opportunity for comment. Delaying development will get more expensive for workforce housing.

Dino Fanelli: (to Alex): No public comment? Alex: No comment in response to the legal notices, but after the planning board meeting, there was comment. Dino to Council: how do you go forward after all these comments that are opposed?

Brandi Palmerton: You are voting on this, but there is a water/wastewater review after you vote?

Jim Parsons: How long has the water review been out? Can't hire at the dump.

Kelly Elser: Water is paid by the rate of use, not a tax.

Trevor Lockhart: What about waste? Norris is trucked over here, have there been waste studies?

Brittany Langley: If the Board isn't fully aware of procedures, how can you vote?

Mike Langley: You have a hard job, please vote your conscience for the town of Ennis, not for the developers.

Tania Cubel: Part of the town is here telling you that we do not want this project—at least 10%. Loss of life is on your hands if something happens. If something happens, the entire community is affected.

The Hearing was closed at 8:13

**Ennis Town Commission Meeting
May 13, 2021
Ennis Town Hall, 7pm**

Open Meeting: Mayor Leavitt opened the May 13 Commission meeting at 8:22pm.

Pledge to the flag

Commission Present: Hardy, Schroeder, Ranson, Bancroft and Roberts.

Minutes: The Commission reviewed the April 2021 minutes. Bancroft moved to approve, Ranson seconded. Roll Call: Hardy: abstain, Schroeder: aye, Ranson: aye, Bancroft: aye, Roberts: aye.

My Willow Conditional Use Review and Vote

Call for a motion:

Roberts moved approve the Conditional Use Permit for My Willow LLC with the adopted Findings of Fact and conditions, including #7, forwarded by the Madison County Planning board.

Ranson seconded the motion.

Discussion:

Mayor asked if the commission had any questions, and read the findings of fact to public (attached).

Roberts made a subsidiary motion to adopt Finding of Fact (FOF) including #4, Ranson seconded.

Roll call: All in favor

Mayor read each FOF conditions, w/discussion and questions for each:

1. Hardy: we have talked about different substrates, and the question of drainage came up. Could pavers allow for more drainage? Roberts: have asked Breeann if stormwater management is included in the plan? Breeann: It's not required until we have the permission to begin building.
2. No discussion
3. No discussion
4. No discussion
5. Roberts: It's a zoning permit, not a building permit.
6. No discussion
7. No discussion
8. Hardy: Consider xeriscape in future discussions for water conservation purposes. Schroeder: Permitted on 4/12? Alex: This is a typo; it should be 4/2. Landscaping plan provided by applicant, and it meets site requirements. Roberts (Breeann): when looking at trees and shrubs, we talked about the size of trees, is this part of discussion? Breeann: This is not part of requirements, but we put together a list of potential species that are all native. Roberts: with irrigation? Breeann: Yes
9. Roberts: What is the specification? Ranson read the code. (Alex: You may want to say in accordance with *applicable specifications*.)
10. No discussion
11. No discussion

12. No discussion

13. No discussion

14. Bancroft: Handicap access? Alex: I'd encourage you to address it by amending to add language.

15. No discussion

16. No discussion

17. No discussion

Discussion:

Ranson: 3 years ago, the Town Council started to change the zoning, and there were lots of mad people because of the change, it's not the council's fault; the council tried to get through the zoning change project. Growth is going to happen, there are loopholes in the zoning, and we need to look at the Findings of Fact and what's here in front of us. If we vote no, we have to give a reason.

Roberts: The infrastructure for this project is ready. There is a master plan for this project that says the town's water and sewer can fit this project. Environmental review has been done on each plat. If this project was 200 yards to the North, it would fall under county zoning and there wouldn't be this level scrutiny. We tried to fix the zoning and had resistance; we have to treat everyone the same. I am not representing My Willow, and what we have heard is that we need more housing in Ennis.

Mayor: There is a state application for a building this big. If it passes here, it goes through the state for fire marshal approval. A procedure is followed.

Roberts: Zoning is confusing and can hard to understand, this is not a variance. We are able to put more conditions on their use, but they could ask for more. This project has gone through more scrutiny than the Town Pump project. Jackson hole placed a moratorium on building, but doing this reduces the supply, and houses became more expensive. The town does not regulate HOA's, and propane tanks would have to be buried. Affordability is subjective-what is affordable or attainable? The MT state legislature just ruled that we cannot require affordable housing. The price point will be dictated by My Willow's budget; we cannot tell them what to tell them what to sell their houses for. I spent hours on the zoning rewrite because of projects like this, but we have to follow regulations that are written. At the time people were not happy with zoning changes, so that puts us in a hard position.

Breeann: Condo units can be sold individually, not like apartments which require the fair housing act. These do not fall within ADA requirements.

Mayor: Can we require sprinklers in the building? Alex: No, owners can choose to equip their buildings with sprinklers or not.

Bancroft: Can the lagoon handle it? There are other places that want to subdivide, and we can't plan for future development without knowing what it can handle. We need places for people to live, we have a shortage of workers who cannot afford to rent anything. Alex: The County is not driving development, not pushing for it. Bancroft: Property owners were offered annexation but at their own expense for water/sewer. Overdevelopment will not happen due to lagoon max loads.

Hardy: (to Breeann) Each condo is 1200 ft square, what is the price point? Breeann: About 1300. The market now is volatile—supply, lumber, gas shortage, she cannot give a firm price, but about 4 months ago, the ballpark was \$300,000 per unit. The goal is to provide a price point for a single family or a professional.

Schroeder: Concerned with affordability, a study was done that to live in Ennis you need to make 22\$/hr. Houses are already expensive, and we can't control that. Affordability doesn't apply here because they are for sale. Also concerned about the look of the building and what's already here. The commissioners aren't professionals, and we are trying to do the best we can.

Maria Lake: Is a moratorium a possibility until zoning is amended? Roberts: Not sure, but we can find out.

Ranson: I understand your concerns, but we have rules we have to follow.

Public: Is there a defensible reason to table?

Alex: The options here are approval, approval with conditions, or denial.

**Mayor: via Alex, there is a provision, an interim zoning ordinance, prohibiting any zoning ordinance that may be considered as an urgency measure to deal with matters of concern.

Mayor called for a vote: All in favor, motion passes.

Public Comment on non-agenda items:

Derek Seidenkoff: Thank you, please have Ennis at heart.

Trevor Lockhart: I understand your position. Regarding the ethics of City Council Members: Councilman Hardy's actions are a breach of ethics and his duties of the council. I'm asking for his resignation for asking for donations publicly. He is representing our town on and off the clock. I've taken information and questions to legal counsel and enforcement. Please don't be there this Saturday at the market and have some ethical value.

Christian Pedersen: Cory has devalued the entire council with your actions and should be held accountable for your actions.

Nicole Haas: Is here to ask that the council say thank you to the people who worked on the ambulance; we didn't receive any notice of termination, no thank you. It would have been nice to have some appreciation.

Roberts: We are sorry and we dropped the ball and that you received no thanks.

Roylance review of Conditional Use Stipulations Set Previously

Roberts: In August of 2019, a conditional use permit was issued for the property near Bauer and Madison. The applicants were asked to submit a site plan, and this needs to go to the county planning board with a public hearing to allow a Finding of Fact and recommendations. The parking isn't labeled, is it all gravel? Roylance: It will be all gravel to pull all the way around to Madison. Roberts: The area needs more screening, do you have plans for a dumpster? Roylance: No. Roberts: You also need some landscaping or xeriscaping along Madison Avenue, and in between the buildings.

Mayor: The project has already been approved?

Roberts: The motion states "approved with conditions to approve a site plan and landscaping."

Mayor: This project will be tabled for a month to allow you to gather information that the council has asked for. (Site plan.)

This item tabled until next council meeting.

Temporary Use Permits:

DePew: Occupy travel trailer while construction ongoing

Roberts: Move to approve, a Temporary Use Permit for travel trailer at 310 Williams St. for Mr. Depew and wife for up to 1 year while construction is ongoing on their home. Schroeder seconded the motion.

Roll call: All in favor, motion passes.

Claypool: Occupy travel trailer while home is under repair

Ranson: Moved to approve a temporary Use Permit for John Claypool while renovating at 224 W Grizzly. Bancroft seconded. Roll Call: All in favor, motion passes.

Water and Wastewater Capacity study review:

-Report is on file. Bancroft: What is the capacity? Schroeder: Hydraulic capacity can handle an additional 520 hook-ups on sewer, 372 on water. If annexation were to happen, city would have to come up with a plan—can address this in the master plan so there is a representation of what people identify as Ennis?

Schroeder (to Elser): Do you have well recommendations?

Elser: The numbers are hard to say, one meter wasn't working, but we ran an entire year with one well. 2 wells are mandatory by DEQ. Roberts: Can we drill a well at antelope meadows where the city owns Property? Elser: Needs a study, but a good choice. Hard to find a place to drill 150 feet away from a residence. The one by the rodeo grounds was only 80 gpm. Roberts: AARPA had \$ coming for shovel ready projects; Great West can answer more technical questions.

Street Study Review:

-Elser presented an inventory of all the streets in town presented by worst condition first to get an idea of what needs to be fixed when we can afford it. Town needs to keep the road maintenance district. He is looking to turn this into a 5-year plan. Would like to make the committee a little bigger to see which the town wants to fix. Roberts: Is someone working to make sure we are current on fees? Mayor: this is a special project. Yearly budget will allow around 75\$K to start picking off the list; need by next month to approve a resolution for a 5-year plan and change the ordinance.

Elser: Public Works is shorthanded right now, and will be interviewing soon. The maintenance district \$ can only be used for maintaining what's already there, but can build a lateral between 2 paved roads. The board may decide it makes more sense to bring in a company just to do chip sealing, etc.

Board of Adjustment Discussion:

-Brought to attention by Alex. Either appoint another board or create an ordinance to make the council a zoning board. Alex recommended that there should be a zoning board of adjustment outside of the town. **Put advertisement in the paper and website: are you willing to serve on this board?

Department Reports:

Library: Written report submitted.

Police: Written report submitted.

Public Works: Elser reported earlier

Zoning:

Clerk: Written report submitted.

Mayor Comments:

-For next month: Blake will send out a public records request form. Greenbaum will be on for next month's fence issue on Hugel. There will be a sub meeting on the Riverside Addition, it's outside of town limits, but the town needs to pay attention and attend planning board meetings in case of annexation. Ginger sent copies of expense and revenue budget, please review.

Commission Comments:

Roberts: Nora bland will be here on May 27th and 28th, listening sessions for subgroups. Lisa would like to formally thank the ambulance crew for the years of service and dedication.

Hardy: Would be open to a peer review and talking to the council.

Claims: Bancroft moved to approve; Schroeder seconded. Roll call: all in favor.

Adjourn: Bancroft moved to adjourn; Roberts seconded. Roll call: all in favor. Meeting adjourned @ 11:07pm

Blake Leavitt, Mayor

Karen Ketchu

Ginger Guinn, Clerk/Treasurer