



# PLANNING BOARD MINUTES

Monday, March 4<sup>th</sup>, 2019 ADLC County Courthouse Courtroom

**Meeting called by** Art Villasenor, Chair  
**Type of meeting** Monthly Meeting  
**Minutes taken by** Carlye Hansen

**Members Present:** Art Villasenor, Chairman;  
Rose Nyman, Vice-Chair; Frank Fitzpatrick; Mary  
Kae Massey; John Lombardi; Bob Wren; Annette  
Smith; Craig Sweet

**Staff:** Chas Ariss, P.E., Planning and Public Works  
Director; Gayla Hess, Planner I; Carlye Hansen,  
Planning Department Secretary

## AGENDA TOPICS

### Call to Order

Meeting was called to order at 6 pm by Art Villasenor, Chairman.

### Approval of Minutes

*Motion was made by Rose Nyman to approve the minutes from February 11<sup>th</sup>, 2019, with corrections as noted by Rose Nyman; seconded by Annette Smith. Motion passes 8-0.*

### Public Hearing

Public Hearing on the 2019 update on the Anaconda-Deer Lodge County Growth Policy. This policy provides an update to the ADLC Growth Policy that was completed and updated in 2010.

### Staff Report:

Gayla Hess, Planner I, reviewed the current status of the draft copy of the 2019 Growth Policy. The two public comments addressed by Mr. Wren were addressed in a memo from Robert Horne dated 02/23/2019. Also this evening is another opportunity for the public to comment on the draft as it appears at this time.

### Matters from the Board:

Art Villasenor also noted that there are questions that were addressed by Audrey Aspholm, former member of the Planning Board, which she had received from an outside citizen, and these questions were also addressed by Mr. Horne in a second memo dated 02/23/2019. Audrey's concerns were in regard to AWARE and its significant influence as far as disabilities within the county. Mr. Villasenor stated that AWARE is mentioned, not only where Bob mentioned under "disability", but there is another area where it is noted that a lot of citizens are moving here because of AWARE and for the services that they provide. He feels that this is sufficient and this is addressed in the document. Audrey's second issue was that she had a conversation with Ed

Silverstein, a citizen of Anaconda, and a local realtor. He lives at Georgetown Lake and he is concerned about the availability of internet up in that area. This was addressed in the policy regarding the providers that provide Georgetown Lake with internet and that it is the responsibility of the internet companies to deal with all of this, not the county, so therefore, he does not feel that the growth policy needs to elaborate anymore on that matter.

Rose Nyman had a number of additions/changes/deletions to be made to the Growth Policy. These were gone through one by one and the changes have been made accordingly after brief discussion on each. Rose will go to the Planning Department on Wednesday to go over a final review of these edits to be sure all have been received and documented.

Bob Wren also had some additions/changes/deletions and these to have been made accordingly after a brief/discussion on each.

**Public Comment:**

None.

At this time, the Board would normally take action, however, there is some confusion regarding this in how this has been noted on previous agendas in the past and how this has been noted on the agenda today. However, back at the meeting in January of 2019, it was recommended that the Planning Board forward the growth policy to ADLC Board of Commissioners. She feels the motion was already made and after the corrections are made, this can be sent to the commissioners. Due to this, no vote is needed today and then we can reference the vote on January 11<sup>th</sup>, 2019.

Craig Sweet feels that there needs to be a new recommendation to the Commission now that the Public Hearing is closed. At this time, Carlye stated that nothing like this has ever been done before. The Public Hearings have always included the vote, without specifically stating this on the agenda separately. There was detailed discussion regarding this and the confusion between the board, the planning secretary, and the rules regarding Open Meeting Laws.

*Motion was made to approve the forwarding of the 2019 Update Growth Policy to the County Commissioners with all corrections noted by Mary Kae Massey; seconded by Frank Fitzpatrick. Motion passes 8-0.*

**Old Business**

**Review of the Draft Copy of the Planning Board Ordinance and By-Laws**

**Matters From The Board:**

Rose Nyman noted several corrections to be made to the By-Laws. These were gone through one by one and the changes have been made accordingly after brief discussion on each item

Bob Wren noted several corrections to be made to the By-Laws. He also questioned staggering of the membership of the Board. After review, it was determined that most of the members are staggered at this time and no real changes need to be made. These weres reviewed and changes have been made accordingly after brief discussion on each item.

Frank Fitzpatrick noted the changes regarding quorum and the majority vote status. Rose Nyman spoke with Ben Krakowka, County Attorney. After discussion, the line in the bylaws was changed regarding a quorum consisting of a minimum of five voting members at a properly called meeting.

The above were discussed extensively.

**Matters From the Staff:**

None.

**Public Comment:**

None.

*Motion was made to approve the forwarding of the updated Planning Board Bylaws to the Board Commissioners with all edits noted and final copy to be placed on file with the Clerk of Commission by Rose Nyman; seconded by Frank Fitzpatrick. Motion passes 8-0.*

Appointment of Member to the Conservation District to Represent the Conservation District to the Planning Board.

**Matters From The Board:**

Rose Nyman discussed that in the Ordinance, State law requires that we have someone on the Planning Board from the Conservation District. If no one applies for this position there is an alternate plan. The Clerk of Commission, Lori Sturm, contacted the Conservation District in Deer Lodge to see if someone would serve on the Planning Board. There was a Conservation District Board Meeting the next day, however, no one followed up afterwards. Lori again reached out and there is no one who wants to serve on the Planning Board. At this point, the Planning Board has a choice, the eight active members will either consider someone for appointment and move this on to the commission or simply have the Commission remove the words "Conservation District" from the newspaper ad, so that anyone from the public can apply. Obviously we are not going to get anyone, but we can state that we have tried.

Frank Fitzpatrick feels that this should just be eliminated from the ad and the ordinance so the Board can fill the spot with a county citizen.

Rose Nyman also has another concern regarding the Conservation District in that she didn't see any name that she recognized from Anaconda-Deer Lodge County. She stated that the Conservation District should have a representative from Anaconda-Deer Lodge County on their end, however, that is not technically our problem.

John Lombardi feels that this person will have very specific, defined duties, if to be on the Conservation District Board, and he feels that unless someone was given this information in advance of applying for the Planning Board, he feels that his could be very misleading and that the 9<sup>th</sup> member needs to be a more or less a "special 9<sup>th</sup> member" with duties that are defined in the ordinance. He feels that we do need the 9<sup>th</sup> member but in order to fill the conservation position, there will be more specific duties that they may not expect

Art Villasenor feels, after discussion, that we will just proceed with what we discussed and will remove the "Conservation District" of the ordinance and let any folks who are interested in becoming a member of the Planning Board to contact the Executive Secretary and we will hopefully get this position filled.

Rose Nyman asked if someone would like to call Deer Lodge and speak with the secretary for the Conservation District. Carlye will get the information from Lori and forward this onto Art, and he will get in touch with these folks to discuss with them and he will ask to be put on the next agenda to see what the situation is and how this should be handled.

**Matters From The Staff:**

None.

**Public Comment:**

**None**

New Business

Gary Soushek Retracement of Existing Tract of Record

Chas Ariss, Planning Director, discussed the background on this situation. The Soushek family had a lot and there are two houses on the lot, one is on Cedar Street (the main house), and the other is in the back and is accessed off of the alley way. Back in 2013, the owner of the property had requested a variance from the minimal lot size requirements to do a lot split. The documentation from that time was included in the packet. The lot was to be split evenly into two even parcels. At that time, no action was taken by the property owner. Just recently, we received a revised plat for this and they have split the lot, but not in accordance to the specifications of the variance. This was supposed to have been divided into two 3500 square foot lots. One lot is 4483 square feet and the other is 2517 square feet. They are essentially trying to deviate from what the Board of Adjustment ruling was. We managed to catch this before filing was completed and Chas feels that he would like the Planning Board to determine whether we should return this back through the Board of Adjustment or just reject the amended plat all together and tell the applicant that they need to revise the plat or apply for a second variance that speaks to the alternate sizing of the lot split. With the density of houses in town, the county doesn't like to have anything below the minimum lot size requirement primarily due to parking issues within the community. This will increase the density and the parking will become an issue in that neighborhood.

Craig Sweet asked if there will be more plats coming forward similar to this. He states that this is similar to the density problem out in Opportunity. This could push the area into a high density mode which really is not desirable in the residential areas in the area. Chas says that right now, this probably isn't a huge problem, but when the time comes for ownership changes, then the spectrum changes, and may lead to a larger problem moving forward. There are already many code issues regarding these types of properties in higher density areas.

Chas wanted to bring this to the attention as he wants members to get this in their head that we do have a number of nonconforming lot splits. Chas feels this is more just an informational topic, and not something that need Planning Board approval. He just wants to make the Board aware that this is something they will need to be thinking about as more of these issues come up in the future.

At this time, Chas is going to reject the plat which will make this go back to the Board of Adjustment.

**Public Comment:**

None.

### The Cottage at the Old Works Golf Course

Chas just wanted to bring the Board up to date on the progress. The developer of this project, and the way that they crafted their plat for this project, was previously discussed and approved to allow this project to move forward as a Major Development Permit/Planned Unit Development. The developer has since come in and had some expectations that the MDP approval was that for a subdivision approval and prior to that, the conditions that were attached to this by the county, it appears that the developer is pushing back now and that their real intent was to develop the property as a sub-dividable PUD, and Chas explained to them that this was not what was approved and if they want to do a subdivision, this is possible, but they will have to go through subdivision application and do another MDP for that process. It sounds to him that in order to put the infrastructure in place for extending the water line beyond what the county has done for them, as well as surveying some of the properties on the south side of Pennsylvania Avenue and Pizzini Way, that they were looking at prospectively selling some of the lots. There were 15 cabins proposed and then an office and gym area and it looks like they were going to cash flow the infrastructure and development with selling some of the lots. Due to them not forming a subdivision, they really cannot do that, but they could do more of a cooperative apartment type of arrangement where they can sell off shares and not actually be a subdivision and then you would have some sort of ownership and monetary contribution to the overall project but would not be a discrete ownership of each lot. The building plans have also been received and there are a lot of questions in regards to that and so Chas also put a halt to the building plan aspect to be sure that they have the funding to bring in the basic infrastructure for what was in regards to storm water, solid waste, parking, and that type of thing. Again, Chas just wanted this to be information for the Board since they were involved when there was a public hearing for the project. Again, Chas' recollection is that the Board recommended an MDP/PUD, and not a subdivision, and this was confirmed by Mr. Villasenor.

**Public Comment:**

None

### Request for Name Change to Pioneer Concrete MDP

Chas Ariss discussed that this project was the expansion of an existing pit for an open cut mining operation and DEQ issued the open mining pit permit. They came to the county requesting the expansion and applied for a MDP and this moved forward and was approved. The way the proposal was done and the way they crafted the plat was to aggregate the old mining area to the new portion of ground that they wanted to add. We did all the right thing before DEQ actually issued the permit and since the site was aggregated, they are going back and looking at bonding that has been required of them because the State has been saddled with millions of dollars in liability through old abandoned mine sites. When Pioneer Concrete went forward with DEQ, they stated that since this was aggregated, they were going to review the bonding requirements, the bonding requirements skyrocketed and the developer decided that they wanted to withdraw the application and come back to the county to have the MDP just for the new portion of the pit and basically just do a name change. Chas responded back that he wanted this brought back to the Planning Board and also wanted to discuss with DEQ, as there is a history of trouble with this in the past and the bonding being substandard. They then came back and asked that this not be presented to the Planning Board for any decision. Chas is just basically giving the information at this time and will present to the Board for reconsideration if and when the time is necessary for this.

**Public Comment:**

None.

## Miscellaneous

### Matters from the Staff

None

### Matters from the Board

Frank Fitzpatrick just wanted to reiterate the changes made to the bylaws in regard to agendas being out five days in advance. This was confirmed by Carlye. Frank also verified that the Planning Office is fully staffed at this time.

Art also wanted to thank the staff for all their hard work and recognize the hard work that they do

### Public Comment

Marilyn Hagan-Smith and Janice Hagan-Dulaney were citizens in attendance at tonight's meeting. They just wanted to state that they liked that the spirit of the 9<sup>th</sup> member will be taken into consideration and that the board will try to keep in the spirit of the Conservation District.

### Next Meeting Date

April 8<sup>th</sup>, 2019

### Adjournment

Meeting was adjourned at 8:15 p.m.

Respectfully submitted,

Carlye Hansen

Carlye Hansen, Planning Department Secretary

Approved April 8<sup>th</sup>, 2019

2019

