



Anaconda-Deer Lodge County Planning Department

PLANNING BOARD MINUTES

Monday, November 9th, 2020

ALDC Third Floor Conference Room

Meeting called by Rose Nyman, Chairperson
Type of meeting Public Hearing / Monthly Meeting
Minutes taken by Carlye Hansen

Members Present: Rose Nyman, Chairperson; John Lombardi, Vice-Chair; Frank Fitzpatrick; Bob Wren; Craig Sweet; Mary Kae Eldridge (arrived at 6:09 pm); Art Villasenor

Members Present via Telephone: Colleen Riley

Members Absent: Annette Smith

Staff: Carl Hamming, Planning Director; Gayla Hess, Planner I; Carlye Hansen, Planning Department Secretary, Ben Krakowka, ADLC County Attorney

Guests Present: See sign-in sheet and electronic call-in log

AGENDA TOPICS

Call to Order

Meeting was called to order at 6:00 pm by Rose Nyman, Chairperson, with Roll Call done by Carlye Hansen, Planning Department Secretary.

Approval of Minutes

September 14th, 2020

Motion was made by Art Villasenor to approve the minutes from September 14th, 2020, with changes as noted; seconded by Bob Wren. Motion passes 7-0. Mrs. Eldridge was not present at this time for the vote

At this time, Ms. Nyman wanted to make a remark regarding abstaining from a vote. Anyone is allowed to abstain from a vote, but you need to make this known and abstain at the time that the agenda item comes up at the meeting. You cannot participate in any of the discussion and you are not allowed to comment in any way on that particular agenda item.



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Public Hearing

A PUBLIC HEARING on a Major Development Permit (MDP) request by Marc Vidulich to construct an accessory residential unit in the rear of his property. An MDP is required as an accessory residential unit is considered a special use in the medium density residential development district in which the subject property is located. The proposed unit will be located on the north side of the subject property at 308 E. 4th St. in Anaconda. Property is legally described as:

ANACONDA ORIGINAL TOWNSITE, S03, T04 N, R11 W, BLOCK 59, Lot 8 - 9, E 5 FT LT 8, W2 LT 9

Staff Report

Carl Hamming, Planning Director, reviewed and presented the staff report put together by he and his office. There are recommendations of approval being asked for by the Planning Department (*please see attached*).

Questions from the Board

Craig Sweet wanted to know if parking is allowed in the alley. Mr. Hamming stated that if you are getting to your property from the alley that the only parking allowed is within the alley right-of-way.

Ms. Nyman asked about the footprint that is there. She noted that before the demolition and afterwards it appeared to her that there was perhaps a bathroom added onto the south side of this building and that it was not on a foundation, just on the earth. She states that she was always told that you could rebuild without a variance, but that you need to follow the footprint that is there. She is asking if the property owner needs to follow the foundation that is remaining. Mr. Hamming sees this as the applicant is going through the process to secure a Major Development Permit for this new special use. From his understanding, this will follow the same footprint, and he states that Mr. Vidulich can speak to the details of that, however, he would feel that by going through the process, he lost the original nonconforming status, in which case if you were doing remodeling or improvements, then yes, you would be limited to that original footprint as you cannot expand a nonconforming use. He feels that once you have the footprint, you can expand beyond that and do additions, however, they demolished the entire structure and now this is a new special use situation.

Ms. Nyman stated that they talked about the address and she stated that there are no half (1/2) addresses in Anaconda anymore. She said that this is something the Planning Department will need to work out with Mr. Vidulich.

Ms. Nyman did bring up that on the Project Description Checklist in the MDP application, under the heading of Landscaping, down to Revegetation, Mr. Vidulich had marked both yes and no and she just wanted to confirm what this means. Mr. Vidulich states that they will probably do some landscaping in the back area of the house. He feels they will leave the trees and the lilac bush. They would like to pull up the rock and perhaps plant flowers and some grass.

Mr. Sweet asked about this being an area zoned for a tourist home or AirBNB/VRBO, and if this is an allowable use for this. Mr. Hamming stated that this would be a special use. Mr. Sweet asked that if this



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were to become an AirBNB/VRBO, would it require another Special Use Permit. Mr. Hamming stated that once you build the accessory residential unit, then you have your special use, and then you have the permission to move forward.

Applicant Report

Mark Vidulich is the owner of the property. He states that he has no real presentation and Mr. Hamming has covered this really well. He did want to note that they are not expanding the footprint and that just so everyone is clear, there is a concrete pad that is maybe 20' x 24, and they have left that. There was also a bathroom that was added to the south side and there was no concrete under this. He has torn that down and they are not going to build there. They are going to fill this in and landscape this with the rest of the yard. They will not be expanding the footprint at all, in fact, if anything they will be making this footprint smaller.

Mr. Vidulich then went on to state that they have absolutely no intention of turning this into an AirBNB/VRBO. This is not something that they need to do. The reason that they purchased this property is because it was a very reasonable price and they would like a place to stay so that they are not always having to stay with their son and daughter-in-law, who moved to Anaconda a year ago. They have their own place, and hoping eventually to have kids. They have a menagerie of dogs, and they would just like their own place to stay rather than a hotel. Again, they have no intention of turning this into and AirBNB/VRBO at this time.

Questions from the Board

Frank Fitzpatrick asked if the property was remediated by ARCO. Mr. Vidulich stated that Dale, his next door neighbor, he thinks that this was remediated and that is why the red rock is there, but Mr. Vidulich has not found out if that is actually true or not.

Mr. Wren inquired about the email that was sent to Mr. Vidulich from John Markin, ADLC Building Inspector. He is wondering if those questions had been addressed, or will they be covered after approval of this. Mr. Vidulich stated that he and Mr. Markin had talked to him in regards to these questions and are working on a building plan.

Gayla Hess confirmed that she had spoken with Mr. Markin this afternoon and he had reviewed the plans and should this be approved by the Planning Board and ultimately the Commission, then yes, this Building Permit will be ready to be issued.

Ms. Nyman asked Colleen Riley, who was on the phone if she had any questions or comments, as well as Ben Krakowka, ADLC County Attorney, and neither had any questions or comments.

Ms. Nyman opened the Public Hearing and asked for both Proponents and Opponents for this project.

Proponents to the Project

None

Opponents to the Project

None



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Seeing neither Proponents nor Opponents, the Public Hearing was then closed.

Motion was made by Art Villasenor to approve the recommendations of the Major Development Permit request by Marc Vidulich, and to forward this on to the Anaconda-Deer Lodge County Commission for approval with the conditions listed in the staff report prepared by the ADLC Planning Department; seconded by Craig Sweet. Motion passes 8-0.

New Business

Sidewalk Ordinance – Ben Krakowka, ADLC County Attorney

Ben Krakowka explained that this ordinance is designed with the purpose and idea behind it to have landowners take care of the sidewalks in front of their residences and ultimately be responsible for injuries that occur when they don't maintain that sidewalk. As it is now, many communities have specified that the land owner has the responsibility and that basically they need to hire a county employee who does nothing but drive around and inspect sidewalks, even for potential cracks or a chip in the sidewalk that would make this raise even one (1) inch. By setting a sidewalk ordinance it makes each land owner responsible for their sidewalk and they are in a much better position to be able to supervise the sidewalk in front of their own residences.

At this point, there was a very extensive conversation, in the excess of close to one hour. There were questions regarding programs to rebuild sidewalks with low interest loans, there were questions in regards to vehicles parked on sidewalks, or in driveways blocking sidewalks, trees and hedges blocking sidewalks, and how to handle snow removal, which was not addressed at all in this ordinance.

Mr. Sweet feels that this ordinance is lacking and is not complete and not ready to move forward in any way. He asked about violations and the penalties for folks who do not abide by this ordinance. There was then a long discussion in regards to how the County plans to enforce the ordinances and that eventually, in nonconforming to his ordinance, there would be a prosecution of the violators.

Many of the board members are upset over both the interpretation of the Penalty Portion of this ordinance, and the fact that some folks just don't have the resources to fix their sidewalks and that with the penalty, this only multiplies the financial burden on some of these individuals, and the increased hardship that would take place on these folks, especially if a lien had to be put on the property. Mr. Fitzpatrick stated that he feels that it is terrible to put a lien on someone just due to their sidewalk.



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There was talk about whether or not the police department could do more with enforcing a lot of this in regards to vehicles being parked in the driveway and encroaching onto the sidewalk, and whether or not they could increase patrolling and hire perhaps another Code Enforcement Officer. Ben didn't see the other Code Enforcement Officer as a reality, and he is looking forward to sitting down with Chief of Police Elect, Bill Sather, when he takes office in January, and address some of these issues.

Mr. Wren asked about the potential ADA Transition Plan. Mr. Hamming stated that we do not have that plan at this time, but just recently did submit a grant application to secure funds so that the county can begin to work on that, both ADA inventory of street corners in the urban area and then coming up with the ADA Transition Plan for our county. He asked about the modifications and the costs for folks if this is needing to be done and when this is done, who will be responsible?

Mr. Krakowka stated that the language of the ordinance proposed was borrowed from the City of Billings Sidewalk Ordinance and so it has been a tried and tested ordinance that has been utilized in a much larger community where there are sidewalks virtually everywhere.

Again, very extensive conversation was held regarding this topic.

Ms. Nyman asked Colleen Riley if she had any questions or comments regarding this ordinance. She had no questions or comments.

Motion was made by Art Villasenor to make the recommendation and move this on to the ADLC Commissioners as presented; seconded by Bob Wren. Motion was rejected 2-6.

(Art Villasenor-for; Bob Wren-for; Frank Fitzpatrick-against; Rose Nyman-against; Mary Kae Eldridge-against; Craig Sweet-against; John Lombardi-against; Colleen Riley-against)



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Signage Ordinance

Mr. Hamming noted that the document before everyone this evening is essentially unchanged. There was some editing done by Ms. Nyman and some formatting issues addressed. They are just needing this to be moved on to the Commission, however, he does want to draw their attention to Section 15, under fees. He is thinking that we want folks to work with the Planning Department and the County and to just understand what the signage ordinance is and what it entails. They removed the fee for sandwich board signs as well as signs being attached or painted onto a building. The thought is that this would increase or improve participation with the Planning Department.

There was some extensive conversation in regards to this.

Ms. Nyman asked Ms. Riley if she had any questions or comments regarding this ordinance. She did have a comment regarding flashing "open signs" that have become very prominent since the outbreak of Covid. She states that right now we are living in extreme times and her hope is that there is an exception for this exceptional time and with businesses being closed for long periods of time they are finally letting us know when they are open with these signs. What she didn't see was the option for temporary signage that could be used during this period of time to let folks know that the businesses are open and also that the open signs that are not blinking can blink, and that we do allow these to happen.

*Motion was made by Craig Sweet to make the recommendation and move this on to the ADLC Commissioners as presented, seconded by John Lombardi.
Motion passes 8-0.*

Floodplain Regulations – Carl Hamming, Planning Director

Carl Hamming just wanted to make the Planning Board aware of this and to give information and to allow the Board to have the time to go review this and read this if they would like.

When he started with ADLC, the first week he actually received a call from the DNRC Floodplain Division and they are the ones who, at the state level, administer the floodplain regulations for anytime that they are doing any sort of development, stream bank erosion projects, things that could potentially raise the base of flood elevation for an upstream or downstream neighbor. All of this is orchestrated by FEMA and then each state at the state level has a different agency or organization that is administering the flood plain program. Locally, Carl is the flood plain administrator for Anaconda-Deer Lodge County, and then we run this through the DNRC at the state level. The call from the state that he received informed him that we have been out of compliance for the last several years and that we have not really been doing any record keeping that states we are adhering to the floodplain permitting process and that is something that if we reach such a



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critical point or if something were to happen, FEMA dollars wouldn't be eligible to come to Deer Lodge County for that disaster, even if there was a governor or presidential declaration for that disaster, so it is a tool that they have that reminds us that we had better stay in compliance so we don't shoot ourselves in the foot. We need to keep the program up and running and DNRC alerted us that we are not on the right path and if we continued down that path there could be repercussions, one being that they could kick us out of the National Insurance Floodplain Program, which is what subsidizes floodplain insurance for those who have an older structures that is within a floodplain, and something that was built long before floodplain maps were ever drawn up or adopted by FEMA. In ADLC, these were adopted in 1985 so they are a bit dated, but to just think about how many structures were still pre-existing at the time of the 1985 adoption date.

What he wants to do is to just get ADLC back on track with DNRC and FEMA and DNRC offers a template for just general guidelines and floodplain regulations that would help us to be back in compliance. He has catered this to ADLC and this is available online. It is a longer document at just over 50 pages. We can email this out to the board members or this is available online, we could have a hard copy available in the department, but he just wants to give the board a chance to take a look at it and review it and see what they think and hopefully move this on to the Commission with a recommendation for approval at our next meeting.

At this time, this agenda item will be tabled until the next meeting and this will give the board the chance to review this.

Miscellaneous

Matters from the Staff

Gayla Hess just wanted to do a quick update on some recent agenda items.

- She just wanted to touch on the Elias easement request. We did send him a letter and at this time the County has no immediate plans to change any of the water lines in that neighborhood, so there is nothing to offer Mr. Elias at this time. There are also no immediate plans for any sort of park development there either. There is no plan to utilize this property other than open space in the foreseeable future.
- The Polk Street abandonment is moving forward and is on tomorrow night's Commission Agenda.



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Matters from the Board

Mr. Sweet just wanted to mention that he feels the project that Mr. Vidulich is undertaking is kind of exciting. He feels that this is a great idea, but especially when it removes a dilapidated and abandoned building from a piece of property and stated that those who live in Goosetown know that there is a nice house on the front of the property, and behind it will be an old dilapidated garage or just a pile of junk that someone has piled up. He feels that Mr. Vidulich should be applauded for this proposal and he hopes that we see more of this through the community. Mr. Hamming appreciated this comment and states that in the Growth Policy, we want to encourage this sort of innovative housing and use the alternative options. Some development districts again allow these as a permitted use and there would be need to go through the Planning Board with an MDP and this is something that the Planning Board should think about and inform he and Gayla regarding thoughts on this so that they could possibly reword the DPS so that this is a permitted use. He states that there is a process to go through whenever we amend this, but if the Board would like to see this as a permitted use and encourage this rather than make someone jump through hoops and take an extra few months, at minimum, to go through the process for their project. He asks that the Board let them know if they want to see this as a drafted edit of the DPS and we can bring this forward this to the Commission in the future.

Art Villasenor would like to get an update on the Smelter City Recreation Complex in regards to the 5-year plan that they had and to where they are at with this at the next meeting.

Public Comment

None

Next Meeting Date

TBD

Adjournment

*Motion was made to adjourn the meeting by Art Villasenor; seconded by John Lombardi.
Motion passes 8-0.*

Meeting was adjourned at 7:59 p.m.

Respectfully submitted,

Carlye Hansen

Carlye Hansen, Planning Department Secretary

Approved 12/14/2020