



Anaconda-Deer Lodge County

PLANNING BOARD MINUTES

Monday, November 18th, 2019 ADLC County Courthouse Courtroom

Meeting called by Rose Nyman, Vice-Chair

Type of meeting Monthly Meeting

Minutes taken by Carlye Hansen

Members Present: Rose Nyman, Vice-Chair; Frank Fitzpatrick; Mary Kae Massey (arrived at 6:07 pm); Bob Wren; Craig Sweet; John Lombardi; Annette Smith

Excused Absence: Art Villasenor, Chairman

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 Rose Nyman, Vice-Chair. Roll call was done.

Approval of Minutes

Motion was made by Bob Wren to approve the minutes from July 8th, 2019, with corrections as noted by Frank Fitzpatrick; seconded by Frank Fitzpatrick. Motion passes 6-0.

Old Business

None

New Business

Red Sands Arbiter Parcel - Joel Heppler

Joel Heppler stated that his proposal to the Planning Board is to build a commercial garage space (4500 sq. ft.) with three separate garage doors and possibly lease several of those out and use the existing space for his own facility. He is planning on opening an automobile towing company and the state requires that you have storage and secured garage space to impound cars. Joel has been in the car towing business for 21 years. This is just something else they are doing to generate more income and if there is a need for more rental spaces, then they would move forward, in additional phases, to the project which would entail more buildings to be available to the public. They have already discussed the infrastructure with the fire department and the licensed



Anaconda-Deer Lodge County

contractors, so the project end line right now is to get the property purchased, get the fencing up, the road completed, and then proceed with the remaining infrastructure, the building package, and the foundation. He has talked to Jordan Contracting who will be a surrounding neighbor, as well as Anaconda Local Development, about the project and about the greenway that will be installed, the buffering of the trees, and the infrastructure issues and design have been discussed extensively. Today, he also has provided a letter from the commercial officer at the bank that states that he is financially capable and will be approved on funds for this development project.

Chas Ariss, PE, Planning Director, stated that there is still a list of conditions that will need to be met and it is articulated in the staff report. There is basically a process for doing the water and sewer connections, entrance to the site, with the construction, the obtaining of a storm water permit through the State of Montana. Mr. Heppler is aware of all of these requirements. The areas for connections to the municipal services seems to be compatible. Mr. Heppler is aware of the restrictive covenant that is on the property as a result of this being placed in the Red Sands Area.

Bob Wren asked that if on the recommendation of approval, should there be an acknowledgement somewhere in regards to the Red Sands Area. Mr. Ariss stated that Mr. Heppler has been provided with the covenant, but they can articulate this as a condition, and the information has already been provided to Mr. Heppler.

Gayla Hess, Planner I, stated that there is an extensive list of information, as Mr. Ariss had mentioned, that will be required from Mr. Heppler, however, she would like to remind everyone that this is a unique situation in that Mr. Heppler does not own the property and he has submitted his proposal, he has filled out the subdivision application towards his goal, but that this proposal will need to go through the advertising process. However, it was noted that the Planning Board be aware of this potential project down the road. There is information missing and Mr. Heppler has been to the office multiple times to try and work towards satisfying his requirements.

Mr. Ariss stated that the action that would be taken tonight is that of understanding the type of development that Mr. Heppler is trying to accomplish, which in the Planning Department's opinion is compatible with our Growth Policy and existing land uses in that area, along Arbiter Road, and based on that, the recommendation of the Planning Department is to support the project and will remand this to the Commission to determine whether or not they want to do the land transfer. Once the land transfer is done, then Mr. Heppler can continue with the subdivision application, in which he thinks they have a lot of the information generated and Mr. Heppler knows what he needs to provide in writing and he will be coming before you once again for the review of the subdivision application prior to this going to the Commission for final subdivision approval, and then of course, the project would be subject to building permits and all of the other requirements to actually build the site out.



Anaconda-Deer Lodge County

Rose Nyman stated that she needs to stay objective as the Vice-Chair, but said that she was contacted the evening prior with a concern of how this project will look from the highway. She is just passing this along as it was brought to her attention. Mr. Heppler stated that with the program they have set forth for the future, there should be buffered trees through this area. At any rate, they are going to be building a dimensional type of building with a one-sided roof, so this will be not standard, and this will look really nice. They are planning on doing a store front on the face of this building. At this time, he also took a minute to note that he has also paid for a survey to have this property surveyed.

Craig Sweet asked if from time to time, there will be vehicles stored there that have been towed, that may be inoperable, something that would eventually go to a car crusher and asked if Mr. Heppler saw this in the future as having a dozen cars, 100 cars, etc. Mr. Heppler stated that no, he is not into the automobile junk business and nor does he want to be. Once he starts to have too many vehicles there, he would call someone like Mr. Zimmerman to come and get them. He does not want any sort of junk yard there whatsoever. He only wants a storage facility and a commercial rental facility.

Frank Fitzpatrick asked if there would be slats in the fence so that the vehicles could not be seen by the highway. Mr. Heppler stated that if this is required, they would do whatever it takes. Mr. Ariss stated that the requirement would be for privacy fencing. This was a requirement for all of the development along Arbiter Road, but with the past administration, it was never enforced. At this time, a grant was recently given to the Tree Board to have a green fence, an actual vegetation fence along Arbiter Road, so there should not be visibility of any of the activities on Arbiter Road.

Mr. Wren asked if any part of the historic trail is near this property and is there any storm drainage for the lot itself. Mr. Ariss stated that Mr. Heppler will be required to retain his storm water on site. There is no current subservice disposal system or anything. He will tie into municipal sewer and municipal water. None of this will cause any problem with the cap that is already present on this property.

Motion is made by Craig Sweet that the Planning Board recommend to the Commission that they approve the land transfer of the Red Sands, NW ¼ Section 1, T 4N, R 10W, COS 98D, portion of Parcel D, to Mr. Joel Heppler. This was seconded by Bob Wren. Motion passes 7-0.



Anaconda-Deer Lodge County

Request for Removal of the Rural Special Improvement District (RSID) fee from property in the Pintler Overlook Subdivision - Randy O'Leary

Randy O'Leary stated that he purchased his property and he found out recently that Shoot the Moon Lane has been decommissioned or has been removed, so he now has no access to the Elk Meadows RSID, and he has to go back out to the highway to get to this piece of property. He is also has been charged for RSID's on his taxes for a few years now and states that if he cannot drive from this spot, then he feels that he should not have to pay these fees.

Chas Ariss, PE, Planning Director, stated that what Mr. O'Leary has stated is accurate, but he feels that the overriding issue is that the property that Mr. O'Leary purchased is actually the dedicated open space park land for the subdivision where the property resides. For some reason, the Homeowner's Association for this area had not been paying the taxes on the property and the County was only aware of the existing CCNRs for the subdivision which set aside that property to not be developed and to be kept as open space and park land. Mr. O'Leary purchased the property on back taxes and the County and Mr. O'Leary are in an odd position here where even though it would normally be a piece of property that the other homeowner's in the subdivision would pay a proportional share of the taxes for and now that has not happened due to how the County managed this from a tax standpoint and this came back up on the tax rolls. Now we have the situation where the CCNRs are still valid and the property is not able to be developed. Mr. Ariss posed this to Mr. O'Leary as how did this purchase come about from his perspective, and what does he plan to do with the property in the future.

Mr. O'Leary stated that the Homeowner's Association refused to pay the taxes after 2011. Mr. O'Leary paid the second half of 2011 and have paid them up through current. When he went through the tax deed process, he first notified the Homeowner's Association at the address that was listed as they had a GEO code and tax I.D. code. He sent them letters in regards to this and they refused to pay them. He had sent a total of 27 certified letters to all the homeowners at the time and none of them redeemed the letters. Chas asked that from the point of managing the county lands as we do, it is an obligation that those homeowners should have paid and for it to come up on tax rolls for Mr. O'Leary to purchase, Chas asked if he understood that he would not be able to develop the property in any way? Mr. O'Leary stated that there is a process to go through to quiet title the property. Chas said the he could purchase the property, but due to the restrictive covenant and the CCNRs that are on this because of the subdivision standpoint... Mr. O'Leary interrupted that with them failing to make payment and that with it not being brought up to county standards, that they failed to maintain the covenant and CCNR's. However, Chas states that this does not void the CCNRs. He states that really there should be a tax lien on each one of the individual homeowners who were failing to pay on that lot. Mr. O'Leary stated that they refused bring this up to County standards. Chas stated that this is a very unusual situation.



Anaconda-Deer Lodge County

Craig Sweet stated that after hearing all of this, he thinks this is some sort of a legal issue that Mr. O'Leary has to deal with himself and he doesn't see the Planning Department removing the Special Improvement District or anything until this is resolved between Mr. O'Leary and whoever put the restrictive covenant on his property. Mr. O'Leary again stated that he bought this property through the County and went through the tax process.

Gayla Hess, Planner I, feels that there are two separate issues here. First, is the RSID and then there is also the potential to leave this as a park space or, as Mr. O'Leary would like to do, develop the lot itself. As far as the RSID, we are not consistent as a County in how we charge the park and open spaces, even with the neighboring subdivisions. The Elk Meadows Subdivision to the north, their open park space is not charged the RSID, whereas other owners within the subdivision are charged. To the west, that subdivision does pay the RSID for road improvement in addition to each parcel. She stated that if we are going to be discussing the RSID, she just asked the Board to consider that we don't always consistently tax them, but additionally, the buildable part is a separate issue. Chas stated that she is correct and that there were numerous issues in how our predecessors handled these sort of issues, so in general the Planning Department's position is for the immediate purposes of Mr. O'Leary's request, we don't see that there is a benefit to the county to retain that fee, as we are not maintaining any of the roads that he uses to access that property. From that standpoint, he would support giving him relief from that fee. The bigger question is what can he do with the property going forward and unfortunately, based on the CCNR's for the subdivision and the requirements that were placed on that subdivision at the time the subdivision was approved, that land currently cannot be developed and Mr. O'Leary would have to apply for a variance in order to move forward to do anything with that property from this point forward.

Mr. O'Leary noted another point that the lot has been described as several different lots over the years. He said the surveys have been done several times due to errors by a land company. This lot has been approved in several subdivisions. Chas states that he understands and reiterated that he understands that Mr. O'Leary is not getting the benefit of any county services to maintain the road access to the property and therefore, he is paying a fee for no services, but you own the property, you are paying the balance of the taxes on the property, and he has the ownership aspect of this, but he doesn't have an ability to develop this based on the CCNR and the County conditions.

Mr. Sweet asked if the RSID fee would be applied if he did develop this area and if this would be maintained by the County. Chas said that the property would need to be reassessed after development and the tax assessor would make determination at that time based on how the approach would be off of that. Mr. O'Leary stated that all of the surrounding lots except one of them aren't on the RSIDs.



Anaconda-Deer Lodge County

Mr. Wren verified that he accesses the property from Sun Child Lane right now and that this is not maintained and that the only road that is maintained is Elk Meadows Road. He also asked that if the HOA is not paying the taxes on this parcel, are they paying the taxes on the road, and if they are not, doesn't the County take that over after three years. Mr. O'Leary stated that the lots currently overlap the roads, so there is no real dedicated road, just easements. Chas said there has been no consistent treatment of the private roads in that fashion either.

Mr. O'Leary did state that he talked to Chad Lanes, County Sanitarian, about a water well and he said that as this was involved with all of the other subdivisions that were approved before, that he would give a permit when the time comes, and then he talked to Myrna Green, with the Department of Revenue, and she stated that if he got a permit from Chad, they would remove the non-buildable quotation on Montana Cadastral. Chas again reiterated that there will need to be a variance applied for to remove the non-buildable quotation.

PUBLIC COMMENT:

Marilyn Hagen-Smith, for Charlene Hagen, 1708 Copper Road, Anaconda
Mrs. Hagen-Smith just wanted to ask where the location of the property owned by Mr. O'Leary is located and Chas stated that this property is located in the Pintler Overlook Subdivision, out west of town, north of the Brown Derby.

Motion is made by Bob Wren that the Planning Board recommend to the Commission that they remove the RSID fee from his property in the Pintler Overlook Subdivision as access is from Sun Child Lane. This was seconded by Rose Nyman. Motion passes 7-0.

Review of the "Stumptown Addition to the rarity Mountain Wildlife Management Area (Draft Environmental Assessment)"

This was a discussion about a handout that was sent to the Planning Department and the Planning Director. We have not heard anything personally in regards to this. This is apparently just a Draft Environmental Assessment and Carlye included it in the packet.

Chas Ariss states that the property is on the west end of Stumptown Road and Highway 1. This is a large area that sits north of Stumptown Road and south of Highway 1, from the last developed property east to the last developed property on the west. This has come available for purchase and Fish, Wildlife, and Parks wants to obtain this so they have some good bottomland to augment the Garrity Wildlife Management Area. They are just wanting to maintain more open space within that corridor.

Gayla Hess wanted to point out one error on the report, it states that the property is adjacent to County Government Land in the report, but in actuality the land is actually adjacent to land owned by Butte-Silver Bow.



Anaconda-Deer Lodge County

Bob Wren asked about how long the wait would be for them to get the funding. He states that it looks like they have right around \$100,000.00 to get the project started. He is wondering when the purchase would happen. Chas clarified this is the first information that he has received and that it does not state this in this packet. Mr. Wren thinks they are looking at about \$3000.00 per acre. Chas states that this seems to be the going rate unless you get into the higher elevations.

Miscellaneous

Matters from the Staff

1. Gayla Hess wanted to follow-up on a project that was brought forward to the Planning Board in February of 2019, there was a variance request in Opportunity where owners were sharing a septic system. She has since heard back from the owners. They have redrawn the lines and are proposing a split now where each parcel can have their own septic system. This variance request will be going before the Board of Adjustment on December 5th, 2019.
2. In follow-up on the West Barker Creek Subdivision, the final plat is being routed for signatures so that we can present it to the Commission for their approval, so that is still in the works.
3. A new item that Gayla would like to share is that the Historic Resources Board has been working for some time to get Heffner's Dam on the National Register of Historic Places and this individual nomination has been accepted as a draft by the State Historic Preservation Office, so that will go before the State Review Board in January. That will be up for public comment and public input in the near future.

Matters from the Board

1. Frank Fitzpatrick asked if Chas got together with the County Attorney about getting the fire prevention plan on the plats. Chas state that there is an endorsement on the Barker Creek Subdivision Plat and it has been signed by the Georgetown Lake Fire Chief. He stated that the subdivision regulations will not need to be changed.

Public Comment

None

Next Meeting Date

December 9th, 2019

Adjournment



Anaconda-Deer Lodge County

Meeting was adjourned at 6:40 p.m.

Respectfully submitted,

Carlye Hansen

Carlye Hansen, Planning Department Secretary

DRAFT