

Anaconda-Deer Lodge County Planning Board Minutes April 20, 2015 – 6:00 p.m.

ADLC Third Floor Courtroom

I. Call to order: Vice Chair Jay Slocum

II. Roll Call: A Quorum is present.

Members in attendance: Mary Kae Massey, Jay Slocum, Vince Labbe, Rick Hamilton, Audrey Aspholm, Mary Murphy

Members Absent: Chair Adam Vauthier, Annette Smith and Jason McDonald

Others Attending: Doug Clark – Planning Director, Bob Horne – Planning Consultant

Guests: See sign in sheet

III. Approval of Minutes: No approval of minutes at this board meeting.

IV. Southern Cross Subdivision: John Fitzpatrick – Subdivision Application and Preliminary Plat

Review: Doug Clark:

Staff Report: Subdivision

- The parcel will be divided into two lots so that both resulting lots will be kept as open space through restrictive covenants.
- No septic review is required.
- No environmental assessment is needed as well as public hearing requirements.
- Technical assistance has been provided by David Elias for John Fitzpatrick.
- Currently there is an open cut mine permitted by DEQ on the subject property.
- Because of the grade/slope of the parcels, they would be difficult to develop even without the covenants.
- The lots will be approximately ten (10) acres and eight (8) acres.
- The lots are being divided to deed a portion of the repository back to Arco for long-term maintenance per the certificate of dedication.
- One of the standards is that each new parcel must have legal and physical access.
- Lot 3 has physical access taken from the back of St. Timothy's and both cross other SC properties.
- Physical access to Lot 2 is unsettled. Access will be a condition of approval.
- The developer is concerned that dedicated roads are for public use. SC may seek a waiver for that subdivision standard. Staff feels comfortable with the variance, but access must be guaranteed to the other parcels. If something

changes, such as sale of the property, there must be a trigger that would address the issue of access. Arco needs access to maintain remediation.

- In Montana, once a parcel is established it is considered salable.
- Both lots require a two acre minimum.

Conditions:

- 1. Weed plan is required.
- 2. Address legal and physical access so that future access is not an issue.
- 3. A formal letter requesting the variance prior to final plat approval.
- David Elias is not present, but questions can be brought back to him.
- Unresolved questions by the board can be addressed at the next meeting if needed.
- Restrictive covenants are on the face of the plat.
- Residential or commercial development will be prohibited per covenants.
- Prohibits all wells except for water quality monitoring.
- The soil cap on Lot I will not be disturbed.
- No irrigation is allowed and no excavation.
- No structures are allowed.
- The EPA and respective agencies must have access.
- Subdivision is prohibited.
- There were no restrictions on this parcel prior to this subdivision.

Audrey Aspholm made a motion to recommend conditional accept approval to the Commission with conditions listed in the staff report. Mary Kae seconded. Motion carried unanimously.

V. Public Hearing: MDP 15-03 A request by Duane Knapp for the commercial use of land for a vegetable, fruit and berry greenhouse facility and market.

- The developer wishes to create grow houses, farmers market, garden and nursery supplies and create a commercial market.
- The parcel is a 3.3 acre property. There is currently a house on the property with a well and septic.
- The property will include an orchard, market stand and hot houses.
- The orchard will provide some screening for the neighbors.
- The existing barn will be used for storage; not public access.
- The sanitarian is looking at a new septic for the house and growing operation.
- The development will be in three phases with three or four hot houses and market stand.
- In between the hot houses will be fencing for outside growing areas.
- The second phase will include enclosing the market and adding the shop and another four or five hot houses in the first phase.
- The growing portion of the plan is top priority.
- Staff is requesting 10 foot setbacks, egress and ingress as one way in, one way out. The entrance widening is being address with MDOT.
- Fire chief has no concerns as the growing facility will be organic and have no chemicals. Once the structures are complete, the developer will have to meet with the fire chief.

- Parking requires six spaces.
- Conditions of approval: sanitarian approval, fire protection standards, business license applications, and required structure permits and necessary state plumbing and electrical permits
- Medical Marijuana is expressly prohibited.
- MDOT will approve encroachment permit for the entrance expansion.
- The business is subject to a sign permit.
- Weed control is required.
- *Substantive* changes may go before the full Planning Board.
- Wind mills may possibly be introduced to the development permit and will be under the 35' height restriction.

Questions from Board Members:

- This development will be limited to produce and related items. It will not be a "perpetual garage sale." This condition may be included as a condition.
- Staff will research *shadow flicker effect* from the wind mills.
- The weed plan requirement will be solidified.

Comments from Developer:

- The developer was looking for property for himself and his daughter.
- British Columbia has a model for hot houses. This development plan is on a smaller scale. The grandchildren will be helping as well.
- Stokes, Albertson's and Butte Produce are interesting in purchase his items.
- Schools and hospitals are also being approached for the produce.
- The soil is organic and imported from a reliable source.
- Quality of the produce is the main goal.
- The developer has no plans for growing medical marijuana.
- The property will not be negatively impacted.
- Local residents will be able to access hot houses to extend the growth season.
- A bulk supply of potting soil will be sold commercially.
- The covering on the hot houses diffuses the light and is not reflective.
- Small fruit, heirloom fruit trees, herbs and small tomatoes will be the first crops undertaken.
- The ditch and floodway will be utilized with a holding tank.
- Lighting: No operations after 10:00 p.m.
- Heating will be year-round with natural gas, ventilation and solar.
- The pots will have drip irrigation.
- Wind mills and solar panels will be researched for uses in phase II after phase one is established.

Public Hearing is opened:

Lauren Casquilho: 10523 Highway One:

- Neighbor has concerns about his well that is 32 feet deep and is concerned the large water use will negatively affect his water volume. Will he have to drill a new well?

- The neighbor is concerned that the organic soil may have chemicals that will get into his well water.
- The neighbor says he will see increased activity and dust.
- Lights in the green houses will cause light intrusion into his house.
- There is currently not a fence between the two properties.
- The neighbor is requesting a privacy fence to mitigate activity and dust.
- The Pintler Scenic route is disappearing with the new developments.
- Is the dirt and Pete treated? Will chemicals get into the well water?

Rose Nyman: 121 East Third Street:

- Clarification: The soil will be used in the gardens and provided to the public for sale. The orchard would be a pretty sight.
- The thought of blueberries acclimated to this area is a wonderful opportunity for growing. She is in favor of the project.

Board Member/Staff Discussion:

- The sanitarian is responsible for well conditions; however the concerns brought up are not beyond mitigation through various methods.
- The biggest concern at this point may be privacy and dust mitigation.
- Dust can be watered and roads moistened. Trees and vegetation/plants may keep the dust in check.

Tom Rice: 110 North Leslie – 72 Lescantz Lane: Mr. Rice is supportive of the MDP. The area has historically been half commercial and half residential.

Jerry Patterson: Mr. Patterson is in favor of the development when agricultural activities in the area are already in place. He is in favor of business in ADLC.

Hearing no further public comments, Public Hearing is closed.

Board Questions and developer discussion:

- The MDP is a legal non-conforming use. The MDP runs with the land as long as it continues within the scope. The MDP is void if the use is abandoned for 24 months or longer.
- The irrigation will be drip line.
- The type of crops will determine the water use. The state determines the 35 gallons per minute water use.
- The plants will be in boxes with drip irrigation. The water use will be monitored as part of the business' learning process. The pots inside the green houses won't experience a lot of dehydration.
- The developer has offered to construct a privacy fence for the neighbor.
- The hot house light will have to go off at a certain time.
- A property owner could harvest a crop or have cows right now without a MDP.

Rick Hamilton made the motion of approval for the MDP 15-03, to the commission with conditions of needing weed plan, shadow flicker mitigation and dust mitigation. Vince Labbe seconded the motion. Motion carried.

Old Business:

VI. DPS Amendment Update: Bob Horne:

Edits and revisions were reviewed: see document.

Public Hearing Opened:

Tony Ruegamer 378 Obsidian lane: HOA covenants in his subdivision say the lot can be split twice but no smaller than 5 acres. He would like to see that remain.

Jerry Patterson 6848 Galen Road: Concerned with parcel size. He is in favor of reducing lot sizes to two or five acres in the east valley. Quonset buildings are integral in a light industrial area for storage and office space. The façade can be comparable to neighboring structures. The Quonsets can be painted. Response: The previous language was read from the wrong district. Bob Horne clarified the misunderstanding.

Neil Warner: 709 Chestnut: Section E – Keeping of animals and boarding of horses and facilities. Is this a special use in west valley and Lost Creek? Historically those areas were the only place where this was done. Maintenance standards: this doesn't belong in this section. If a non-livable structure now has no water and sewer, does it not apply to those rules? This has been an issue in Anaconda for years.

Height restrictions: Does this pertain to commercial garage/shop type facilities/ structures with offices in the upstairs. Will these structures be exempt?

Density standards: Lauderville Subdivision has 20 acre lots which is more than people can maintain. It is too difficult for people to maintain 20 acres specifically regarding weed management. People want to divide their property into smaller parcels that are more manageable; two acres would be ideal.

Carl Nyman 19 Apple Rose Drive East:

Carl has been working with planning boards since the 1990's. The issues are not easy when people attend regarding one side of an issue, and the other side of the issue is not represented by the public attendance. The east valley residents have been vocal regarding what they want. The bottom line is that there is a variance process. No one forces a person to purchase a twenty acre parcel. There are certain expectations that go with that purchase. West Valley has smaller cluster development and the east valley had wider, open area and those people should be taken into consideration.

Remediation has taken place in the east entrance to Anaconda. It is a blank slate now with remediation in place. One goal is funding targeted for that area for development. Programs are now in place to allow development to occur. Aware is a prime example. They have bought into the vision by building a structure that has raised the bar with architecture and landscaping. Some of the historical landscape will never change (slag) but there are things we can do as each development occurs. The Planning Board is the first line and superfund is also part of the process. He would like each person to strive to make Anaconda more attractive. Over that past five years there has been more in place to allow development to happen and in the right place.

The DPS process has been on a path that seems to work well for most people. The elements not heard from may also want standards that protect their area of investment. These positions are not easy. There is a lot of pressure and things can get heated. The board is on a good path and people are open to adjustments if needed.

Rose Nyman, 121 East Third Street. People historically don't come to meetings unless they are against something. The meetings are well advertised according to law. Each person has the opportunity to attend the meetings. Over the last twenty years she has seen both the board members and the public attacked. Public Hearings are advertised and people have a choice to attend or not.

Doug Clark Planning Director: Doug is fundamentally against assuming what people, who have not taken the opportunity to speak, up might say. There may be people out there that are perfectly fine with the standards. They may not come because of what Ms. Nyman said and the belief that the County will do what they want regardless of what the citizens have to say. The reality is that as someone who interacts with the public daily, is that he is not going to divine whether the silent citizens are a majority or minority. We won't know without door to door visits or surveys, what people really want. Those who do show up are passionate about their position. The county has a credibility issue with the residents in that the County doesn't enforce the laws already in place. The credibility has also increased with people obtaining required permits and more people open to basic standards. In the east valley there has been only one subdivision and it is currently active. If there were more people looking to subdivide, and there was a problem it would be time to address it. This is a solution looking for a problem. Practically speaking this is not a problem. There needs to be more conversation about what it means to conserve the rural character. Lack of coverage and lack of services in the east valley need to be considered. He is not in favor of opening it up to when there is not a high need to drop the acreage standards. He does not want to force a standard that is not needed yet. The recommendation as a planning director will be to set the standard at five acres to maintain the County's credibility to show we are listening to people. We also need to make it clear that we are trying to live up to elements of the Growth Policy. As the County begins to enforce standards, they can be reviewed incrementally and adjust areas as needed.

Public Hearing Closed: Hearing no further comment the public hearing was closed.

Board Member and Staff Discussion:

- Rick Hamilton and Mary Kae Massey agree to the five acre minimum. People bought land a long time ago. It is their investment and they should have more control over it.
- The east valley has survived all these years without a density standard. If the property owners needed to subdivide, they would have done it years ago.
- Jay Slocum stated the variance process and other procedures have been in place to deal with unusual situations, and he doesn't see going against the current standard at the eleventh hour. There can either be more conversation or give the decision to the commission.
- Rural areas have various acreage standards.
- This standard is the last item unsettled.

- Standard height regulations are area specific. Bob will create a list of exempt items has to be added to the revisions. The minimum lot size is a policy issue. The PUD and density bonus are also policy issues. The policy decision can be brought to the Commission.
- Pasturing would be allowed in the districts but providing services in all districts is not allowed without a MDP. The hoof impact issues need to be presented to the commission.

There were no other staff comments or board member comments.

Rick Hamilton made a motion to accept the DPS as presented with the exception of height restrictions, east valley parcel size and boarding and pasturing issues. Mary Murphy seconded. Motion carries unanimously.

VII. Miscellaneous Matters / Public Comments

Matters from the board: None

Matters from the staff: If board members have any editing findings, please bring them to staff.

Public comment:

Neil Warner: He relied on the planning board when he was a commissioner. He was hoping the board would have made a recommendation on the minimum lot size.
Carl Nyman: EPA is also doing editing.

Next meeting: May 11, 2015

Adjourn: A motion was made and seconded to adjourn. Motion carried.

Respectfully Submitted,

Paula R. Arneson

Paula R. Arneson, Planning Department Secretary

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