

**Anaconda-Deer Lodge County
Planning Board
ADLC Third Floor Courtroom
June 1, 2015 – 6:00 p.m.**

I. Call to order: Chairman Adam Vauthier

II. Roll Call: A Quorum is present.

Members in attendance: Chair Adam Vauthier, Vice Chair Jay Slocum, Annette Smith, Jason McDonald, Mary Kae Massey, Vince Labbe, Rick Hamilton, Audrey Aspholm, Mary Murphy

Members Absent: Doug Clark – Planning Director

Others Attending: CEO Connie Ternes Daniels, Carl Nyman

Guests: See sign in sheet

III. Approval of Minutes: April 20, 2015

Audrey Aspholm made a motion to accept the minutes as written. Annette Smith seconded. No further discussion. Motion carried.

IV. Preliminary Plat East Yards Frontage Minor Subdivision

Slide Presentation: Patty Hamblock, WET

- WET has put together a subdivision proposal for both the County and the state.
- Review of Plat: Work done by Tom Moodry.
- There are five commercial lots 1-A through 1-C are four acres in size.
- Tact 1-E will not be developed or reviewed at this time.
- Access will be obtained by South Polk Street and a road behind or to the south of the parcels.
- Lot 1-A will connect to water and sewer is a 15” line and 24” line respectfully.
- Lot 1-B will be connected to water and sanitary as well as 1-C.
- The county staff will need to assess capacity. Paul Puccinelli and Wayne Wendt have signed letters of approval of “adequate capacity”.
- The County Sanitarian also signed a letter approval and support for this subdivision.
- There is adequate supply for water and fire flow.
- Storm Water: This subdivision is in a waste management area and there are a lot of rules regarding storm and surface water.
- A storm water ditch runs along the access road on the south side of the parcels. The ditch has a capacity to take all water from the entire site as if it were one large parking lot.

- As soon as the final details have been determined, the Storm water plan will then be submitted to the state. DEQ has the option of not reviewing until the 60th day after submittal. DEQ will then review for deficiencies which will be outlined in a letter from DEQ to ADLC.
- There are also two minor ditches existing on the subdivision site. Storm water will diverted through those ditches as well.

Slide Presentation Staff Report – Kaitlin Leary: See Staff Report.

- Tract I: The county will construct a new county road as additional businesses are developed. “Outback” Road heading east will grant physical and legal access for all four lots to be developed.
- Slag Road – an extension of Town Pump Road would provide a boxed loop of access from MT Hwy 1.
- Existing land use is Rail Road Transition to allow for a conversion of remediated land when the opportunity arose.
- Proposed land use will be Highway Commercial. 1-A, 1-B, 1-C,1-D will be HCDD and the fifth parcel will remain in the RRDD.
- To the north is primarily Highway Commercial Development, Institutional and Light Industrial.
- To the south is open space, RRT, Pintler Rescue, storage units and State Park for the stack.
- This Preliminary Plat has to be reviewed as a major subdivision.
- Public Hearings and Commission meetings are schedule and advertised.
- Compliance with current development standards does not explicitly allow retail.
- A subdivision of this magnitude would require a zoning change. With the adoption of the DPS, the zoning will occur as needed. The four parcels will be re-designated as Highway Commercial.
The fifth parcel will be re-designated when a better use is determined.
- An environmental assessment was not required as the waste management area designation already has covenants and restrictions.
- This commercial development is not an original use of the East Yards redevelopment plan. With the updating of the 2015 GP these zoning areas and uses can be reviewed for adjustments.
- A GP is community plan and general guidance. The GP does provide justification for these proposed adjustments. See page 4-16 in the GP.
- Community interest has been positive and may stimulate continued development.
- Public Health and Safety: Legal and physical access has been established.
- The Fire Chief would like to see protection plans for each site which will be a condition of approval.
- There are no flood zones in this area

- This is not a critical wildlife area to cause impact.
- Natural environment: storm water regulation, maintenance and DEQ requirements are in place to prevent impacts on water quality standards.
- Sewer lines are in place. Lot 1-E will have a sanitary restriction for the DEQ plan submittal.
- Lots 1A – 1D will have no impact on municipal sewer.
- Roads: County is requesting roads be constructed as development occurs.
- Roads, storm water, infrastructure will have a mechanisms to hold the County legally obligated to provide these items as development occurs through sale of land or if the developer wants to construct infrastructure to county standards.
- The County is requesting the existing Fillmore Street be used as it was in previously recorded instruments (1917). *Outback Road* will be an Avenue rather than a “road”.
- Traffic impacts may require improvement at Polk Street and MT Hwy 1 due to increased truck traffic.
- Roads: An addition of one new road as development occurs.
- Improvements to Polk Street.
- No negative impacts were reported by ADLC department per the required routing slips.
- No negative impact on school, no park dedication needed, no concerns from Law Enforcement. Fire would like fire protection plans for each business
- Refuse is a private service.
- Medical Services would be provided by the hospital and EMT’s which reported no impacts.
- All the 25’ easements should be adequate for all utilities.
- This is a Waste Management Area is not suitable for agriculture so it will have no impact.

Photos of various views were reviewed to gain perspective of the actual terrain.

Summary of findings:

This application is for a subsequent minor subdivision and, as such, it is reviewed as a major subdivision in accordance with ADLC Sub Reg §16-121(b) and pursuant to §16-131.

Neighborhood Comments Received:

- Notices for the public hearing were published on Friday, 5/15 and Wednesday 5/27. Notices for the Commission hearing were published on Friday 5/29 and Wednesday, 6/3. Notices to to all adjacent property owners were sent certified letters for both public hearings and notices were posted on-site at the new control box for the street lighting system on Polk Street.

- As of Thursday, 5/28, Planning Staff has not received any public comments regarding this subdivision proposal.

Compliance with the Anaconda Deer Lodge County Zoning Regulations:

- The proposed subdivision area is currently a Railroad Transitional Development District (RTDD), which would require a MDP for change of land use, but does not allow for commercial retail which is what Highway Commercial Development District (HCDD) allows. Rather than re-zoning this property, the DPS update will address the four northern parcels, 1-A, B, C and D, as HCDD, and leaving Tract 1-E as RTDD. The uses will then include commercial uses that will require only an ADP and will be subject to the Development Permit review process.
- In addition, this subdivision was reviewed according to DPS Article XXVIII, Division 2. Note that **§24-1194 (as well as §16-162(b)(1)(2)) provides that any subdivision that is consistent with the standards of the DPS shall not be required to submit an environmental assessment.**

Conformance with the Growth Policy:

- This property is in the East Anaconda Reuse Plan Area (“the Reuse Plan”) which was adopted in 2008 as a neighborhood plan and was referenced as an extension of the 2010 Growth Policy. This plan outlined land use development concepts for areas east of town including the Red Sands area, Mill Creek, Opportunity Triangle, and East Yards. Because of interest in the area, the Reuse Plan is likely to be re-visited to account for the actual interests ADLC has received. The Reuse plan may be revisited during the during the 2015 Growth Policy Update.
- East Yards portion of the 2008 Reuse Plan did not account for retail commercial interests, but the larger Reuse Plan did account for some commercial development in the Mill Creek area. The East Yards plan did include open and community space, recreation opportunities, light industrial and possibly warehousing opportunities along the railroad tracks. The Mill Creek area did not necessarily focus on open space or recreation, but on business space and office and light industrial.
- Again, current development interests have caused Staff and other property holders to reconsider the scope of the Mill Creek and East Yards areas and whether uses could be shifted between areas. The Reuse Plan is largely a bigger-picture general guidance document that is specific to certain areas and can be re-visited and adjusted. The County Commission, the CEO, Staff and

stakeholders believe that because the plan is nearly 8-years old, and the County is required to update our Growth Policy, this project provides a good opportunity to start reshaping some of the policies in the Reuse Plan.

- The Planning Board is mandated to participate in that process. And with the encouragement of the Commission, CEO, and other property and business owners in the Community, Staff is asking that this project be allowed to proceed as a catalyst for that change and re-evaluation even though it does not strictly follow some of the policies outlined in the current Reuse Plan.
- The current Growth Policy provides justification for making these adjustments. Page 4-16 of the Growth Policy provides a summary of the goals of the Reuse Plan, some of these include:
 - Increasing employment in the community
 - Keeping area youth in the community after graduation
 - Set the stage for economic diversification and growth

Effects on Public Health and Safety:

Access: The new parcels will be accessed primarily from Polk Street, which can be accessed from both the east and westbound lanes of MT HWY 1, or which can also be accessed from Smelter Road via Fourth Street. Lots 1-A, 1-B, 1-C, 1-D and Tract 1-E will have direct access to an adjacent county road right-of-way, future Outback Road, along the southern border of the four lots and northern border of Tract 1-E. The County will construct a new County Road, Outback Road, coming off of Polk St and extending east, to provide physical and legal access to all parcels. The County anticipates that, eventually, these lots would also be accessible by the proposed extension of Slag Road through the East Yards, as was planned for in the East Yards PER adopted by the County in 2011. This proposed road would also add another encroachment on to MT HWY 1 and complete a crossing North to Town Pump. This proposed road eventually would be accessible from both the east and westbound lanes of MT HWY 1 and Smelter Road via Fourth Street.

The roads and right-of-way and easement should provide sufficient access to Lot 1-A, 1-B, 1-C, 1-D, and Tract 1-E; **Consequently, Staff finds that this subdivision meets County standards for sufficient access.**

Fire: Chief Tocher indicated that there is adequate water flows for fire protection and water hydrant locations will be identified. He suggested individual plans for each business. **Staff finds that this proposal will not create a significant impact on fire safety.**

Flooding: This subdivision is not in a designated flood zone. **Staff finds that this subdivision is not impacted by federally identified floodplain hazards and will create no flood related impacts within the subdivision or on surrounding properties.**

Topography: This parcel is relatively flat with some minor undulation throughout. Note the Preliminary Survey (see Attachment B) shows that this property generally slopes to the east and south. **Staff finds that the topography of this site creates no significant constraints for this proposal and that this subdivision will not create any new and/or significant impacts on the site topography.**

Effects on Wildlife and Wildlife Habitat:

This property is not known to be in a critical habitat area for any critical species including elk, aquatic habitats, streams, rivers, ponds or lakes within the boundaries of this subdivision. **Staff finds that this subdivision will not result in any new and/or significant impacts on wildlife and wildlife habitat.**

Effects on the Natural Environment:

Water quality: The proposed subdivision is located within a Superfund Waste Management Area (WMA) and is part of the County's 1994 conveyance properties, which include restrictive covenants that run with the land. Development in this area must comply with Atlantic Richfield Company (AR) 1994 Real Property Conveyance/Transfer Agreement, and Anaconda-Deer Lodge County (ADLC) storm water management regulations. As stated in the Real Property Conveyance/Transfer Agreement: "The Property owner shall maintain all caps and drainage control structures installed by Grantor (AR) or its agents on the Property in good condition and repair and shall not interfere with their operation as described more specifically in the O&M Plan for the Property." Storm water easements have been designed into the subdivision design and will require Montana Department of Environmental Quality (MTDEQ) approval. In order to achieve local permit compliance, future developers will be required to provide the County Planning and Superfund Departments a temporary storm water management plan during construction and a permanent storm water design for post-construction storm water management. Additionally, future developers will be required to adhere to a Superfund Institutional Controls Work Plan (ICWP) when developing individual Lots. This plan, provided by the County, serves to protect existing remedial structures and engineered covers during the earth moving phase of construction. It will also provide guidance and direction on how to re-vegetate disturbed areas post construction to existing Superfund standards.

If storm water management is approved by MTDEQ, future developers comply with local permitting and ordinances, and the County's ICWP is followed, then environmental impacts are not anticipated. No other significant environmental impacts were identified during subdivision review. **Staff finds that this proposal will have no significant impact on water quality standards.**

Sewage Disposal: The proposed new parcels will be served by Anaconda's municipal sewer system which will be accessible to each lot per the existing sewer main lines that run across each lot. Per a system analysis conducted by engineer Ed Janney, DOWL, the Anaconda municipal system has ample capacity to allow for the proposed subdivision and anticipated commercial uses, as well as capacity for further development in the East Yards. Lots 1-A, B, C and D will have service connections to the existing sewer main on the northern border of the lots. The proposed new lots will not create any significant impacts on this site or on surrounding properties related to sewage disposal.

Pending verification of compliance by the MT DEQ, Staff finds that the sewage disposal requirement will be adequately satisfied and will result in no new or significant impacts related to sewage disposal.

Effects on Local Services:

Water: The proposed lots will be served by the existing municipal water supply and future developers/property owners will be required to connect to this system. There is currently a 14-inch water main that runs east to west across just north of Lots 1-A, 1-B, 1-C, and 1-D. Lots 1-B, 1-C, and 1-D will be able to connect to the 14-inch water main. In addition to this large main, there is also a 6-inch water main located within the alignment of Polk Street Road. The 6-inch main will provide service to Lot 1-A, and could provide service to Tract 1-E. Future potential waterline users will be subject to site plan review and DP approval prior to connecting to the water line. **Staff finds that this subdivision will create no new or significant impact on the municipal water system.**

Sewer: There are two sewer main lines that run across the northern portion of each lot from east to west approximately 110-feet south of MT HWY 1. **Staff finds that this subdivision will create no new or significant impact on the municipal sewer system.**

Roads: Primary access to Lots 1-A, 1-B, 1-C, 1-D and Tract 1-E will be provided by Polk Street. As development occurs, new access to Lots 1-A, 1-B, 1-C, 1-D and Tract 1-E will be constructed by the County. Staff believes the potential development enabled by the proposed Outback Road will create many benefits for Anaconda-Deer Lodge County. Additional access will be provided by the proposed extension of Slag Road through the East Yards. This proposed road would eventually create a connection between MT HWY 1 and Smelter Road. On the original 1917 instruments, the road is referred to as Fillmore Street, keeping in tradition with the presidential naming of streets. As such, staff would request changing the name of Slag Road to reflect the original name of Fillmore Street. **Staff finds that this subdivision will not create a significant impact on County roads.**

- As this subdivision is intended to promote retail development the County is mindful of the potential future impacts that could be created by increasing traffic along Polk Street, including:
 - An increase in left hand turn conflicts from westbound traffic on MT HWY 1 turning on to Polk Street.
 - An increase in left hand turn conflicts from northbound Polk Street traffic attempting to turn left onto westbound MT HWY 1.
 - An increase in traffic onto Polk Street to and from Smelter Road.
 - An increase in truck traffic onto Polk Street and Smelter Road.
 - County Staff is recommending that turning improvements be made to Polk Street when development of the first lot occurs.

Schools: The property is located in Anaconda School District #10. Mr. Michael O'Rourke, County Superintendent of Schools did not think the development would cause any issues for the School District, and thought increased tax value and mill effect would be an overall positive for SD #10. **Staff finds that this subdivision will not create a significant and/or new impact on local schools.**

Parks: Per ADLC Codes §16-131 and 16-282(b)(1), **Staff finds that a park dedication is not required for this subdivision.**

Police Protection: The site is currently served by the ADLC Law Enforcement Department. Chief Barkell verified that there have no concerns about this subdivision. **Staff finds that this subdivision will not create a new and/or significant impact on police services.**

Fire Protection: Fire Chief RJ Tocher does not see this subdivision as creating a new and/or significant impact on district fire services. Known water flow capacity is said to be adequate in the area, though further verification is needed. Based on this feedback **Staff finds that this subdivision will create no new and/or significant impacts on fire protection services.**

Refuse Disposal: Private contract disposal services are available through Anaconda Disposal and are the responsibility of the property owner. **Staff finds that this subdivision will not create a new and/or significant impact on refuse disposal.**

Medical Services: Medical services are available within the County at the Community Hospital of Anaconda approximately 1.5-miles from the proposed development. Anaconda Fire Department provides EMS services for the entire County. Chief Tocher did review this subdivision with Staff and did not identify any concerns or impacts. Consequently, **Staff finds that this subdivision will not create a new and/or significant impact on medical services.**

Utilities: The proposed lots will be provided with two 25-foot utility access easements along the north and south borders of Lots 1-A – 1-D, in addition to the existing water, sewer and gas infrastructure. Adequate easements have been provided for existing utilities and are being provided for the expansion of new utility services, therefore **Staff finds that this subdivision will not create a new and/or significant impact on utilities.**

Effects on Agriculture and Agricultural Water User Facilities:

The existing land is not suitable for agriculture as a former smelter operations site. No previous agriculture activities have taken place on the proposed site, nor would they be allowed due to Superfund remedy. The Waste Management Area needs to maintain existing remedies including vegetation and storm water management. There will be no effect on agriculture.

Staff finds that this subdivision will be compliant with County subdivision regulations.

Compliance with the Anaconda-Deer Lodge County Subdivision Regulations: Staff finds that with the imposition of the recommended conditions this subdivision will be compliant with the County subdivision regulations.

Kaitlin Leary provided slides for review at this time.

Conditions:

1. To satisfy the requirements of ADLC Code §16-169(3) and in lieu of the model subdivision improvements agreement outlined in ADLC Code §16-92; as approved by the County Attorney the County shall include a restriction on the face of the plat acknowledging the following:

“No development may occur on Lots 1-A, 1-B, 1-C, or 1-D until
a) All required public improvements have been previously installed by the County adjacent to those parcels. OR,
b) The County, through the negotiation of sales of said lots, has entered into an agreement with a potential developer that ensures adequate resources have been guaranteed by the potential property owner and/or developer and/or County to install the required improvements adjacent to the lot(s) being developed.”

2. Pursuant to the County’s desire to forego further review and development of Tract 1-E, the County shall place on the face of the Final Plat a covenant restricting further development of Tract 1-E until the County has reviewed and approved an additional subdivision proposal for Tract 1-E, or a development proposal that satisfies all design and

development standards consistent with Chapters 16 (ADLC Subdivision Regulations) and 24 (Development Permit System) of the ADLC Code of Ordinances.

3. In order to ensure adequate fire protection per the requirements of ADLC Code §16-283(1) The County shall place a note on the face of the plat indicating the following:
“Prior to the development of any parcels within this subdivision, the developer and/or property owner shall be subject to site plan review which shall include the submittal of a fire protection plan that has been approved by the Anaconda Fire Chief and which is consistent with all adopted ADLC codes pertaining to fire protection. The County shall not issue approval or conditional approval for any development and/or building permit without the approval of the Anaconda Fire chief. The responsibility for meeting any fire protection requirements shall be the responsibility of the developer and/or property owner of the parcel being developed.”
4. To maintain consistency with existing County nomenclature and previously identified street names, as is provided for per ADLC Code §16-274(11), the Final Plat shall show the east and west road between Polk Street and Fillmore Street as “Outback Avenue” as is consistent for east and west streets in the Anaconda Urban Area, and shall show Slag Road as “Fillmore Street” in accordance with previously recorded instruments.
5. To satisfy the requirements of ADLC Code §16-271, the County shall account for the following requirements either through notes provided on the face of the plat, or through subdivision covenants accompanying and filed with the Final Plat:
 - a) Prior to the development of any lot within the subdivision that still requires physical development of County infrastructure adjacent to the lot(s) being developed, the County shall prepare and submit themselves or approve developer submitted plans reflecting properly engineered improvement designs related to the required portions of infrastructure adjacent to the lot(s) being developed.
 - b) This requirement shall apply particularly to proposed County Roads, including Outback Avenue and Fillmore Street, County storm drain, sewer and Anaconda Municipal water system, and County street lighting.”
 - c) If the County enters into any agreements to have a private developer make improvements to portions of County infrastructure or infrastructure that will be dedicated to the County (i.e. lighting, storm drain, etc.), the County shall still require that all required improvement plans be stamped by a properly licensed professional and shall be submitted and approved by the County prior to development.

Staff felt that Condition #1 lays out the legal obligation of the County to fulfill the infrastructure requirements, condition #5 provides the mechanism for the County to fulfill Condition #1 – the obligation and the mechanism.

6. Per ADLC Code §16- 275-278, The County shall submit to the Planning Department verification of DEQ approval, as required, for all drainage systems, water supply systems, sewage systems, and solid waste requirements proposed for this subdivision.
7. Per ADLC Code §16-662, any easements not currently reflected on the proposed preliminary plat, or which are currently shown on the proposed preliminary plat but which may require modification to be consistent with plans developed to meet DEQ standards as required by Condition #6 of this Staff Report, must be shown on the Final Plat consistent with the requirements of §16-662.

This is to provide flexibility to make a change to the plat if there were a DEQ comes back with a deficiency finding. This would prevent have to do a full review again due to changes.

8. To satisfy the intent of ADLC §24-688, which requires the County to make “important planning considerations in this district [including] avoiding traffic congestion...”, in lieu of pursuing additional encroachments along MT HWY 1, which would increase congestion along MT HWY 1 by creating new uncontrolled access points along the highway, the County shall provide a reciprocal access easement between Lots 1-A, 1-B, 1-C & 1-D that shall provide general right-of-passage for vehicular and pedestrian traffic to one another and to the general public along a defined area along the northern property boundaries of these lots extending from Polk Street to Fillmore Street. This easement shall be reflected on the face of the plat and shall include notes indicating the scope and intent of the easement. This easement shall also be included with any instrument of transfer related to these lots.

Staff recommends that in consultation with WET and County personnel, we simply shortened the condition to read: *“The County shall require a future development within this area, to have ADLC approved parking lot layouts. This plan will require connectivity between parking areas, address pedestrian safety and account for local walkability.”*

Staff realized that having flexibility withy parking lot layout and through traffic would be wise rather than having a set a particular spot on the norther boundary.

Recommendations: Staff recommends conditional approval of the East Yards Frontal Minor Subdivision subject to eight conditions outlined in the staff report with the additional change of the 8th condition.

Questions by Board Members:

- Audrey Aspholm clarified the change of the 8th condition that addresses approval of parking lot layout, connectivity between parking area, pedestrian safety and account for local walkability.
- Rick Hamilton was a formal traffic study done for the east yards? Several years ago there was a traffic formal study done for the east yards development in general. After ADLC staff and WET speaking with MDOT they realized there would be a problem if there wasn't a way to account for the que of traffic through an additional turn lane. MDOT also desired the additional turn lane.
- Adam Vauthier: Include language to include *compliance will all other agencies*. This will be condition #9.

V. Public Hearing: Opened

CEO Connie Ternes Daniels: This is both an interesting project and a beneficial project for the community. Having a team to complete and the application and review and all the coordination. The development is going to benefit the area.

Hearing no further public comment the Public Hearing was closed.

Audrey Aspholm made a motion to approve the preliminary plat of the East Yards Frontage Subdivision as presented by staff with the correction of condition #8.

Rick Hamilton seconded the motion.

Board Discussion:

Condition #4. *Outback Road* was named by the engineer and had not been vetted through commission or staff and can be changed if desired. Due to historical instruments, Fillmore Street is an appropriate name.

As the board votes, keep in mind Section 16-14 of the subdivision regulations requires a written statement describing and justification of the requested variance. The Planning Board will consider the requested variance and recommend it approval or denial to the Commission. The Planning Board has discussed the variances as part of the public improvement agreement as part of the conditions which are #1 and #5. The Planning Board can approve the preliminary plat by noting the boards understanding of the technical procedures required and that the board understands the County is aligning itself for section 16-92 which is considered a public improvement agreement guarantee. The Planning Board will make the vetting of this variance request the responsibility of

the Commission. The Planning Board needs to make clear that they understand the variances for #1 and #5.

Audrey Aspholm amended her motion to approve the preliminary plat approval for the East Yards Frontage Minor subdivision as presented in the staff report with conditions and the addition of the 9th condition and that the Planning Board members understand the variance procedures and that the County is aligning itself to conform with section 16-92 Public Improvements Guarantee and that County Staff will continue to develop the preliminary plat for commission approval.

Rick Hamilton seconded the motion.
Motion carries unanimously.

Old Business: None

VII. Miscellaneous Matters / Public Comments

Matters from the board: Jay Slocum thanked for everyone's work on this Preliminary Plat review.

Matters from the staff:

Kaitlin updated the board on a request for a summer/temporary display of a Parklette on County right of way. Staff believes the request can be handled administratively but the board can ask for board review if so requested.

Public comment: None

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

Next meeting: No meeting scheduled for July, 2015

Respectfully Submitted,

Paula R. Arneson

Paula R. Arneson, Planning Department Secretary

2015