

**MUNICIPAL DISTRICT OF BIGHORN NO. 8**

**MUNICIPAL PLANNING COMMISSION MEETING**

**HELD JULY 20, 2011 AT THE MUNICIPAL OFFICE IN EXSHAW**

**PRESENT:** GRAHAM LOCK MPC MEMBER (Chairman)  
MIKE MILNE MPC MEMBER  
CAROLYN MONTGOMERY MPC MEMBER (Council)  
PAUL RYAN MPC MEMBER (Council)

**ABSENT:** AMANDA KELLY MPC MEMBER

**STAFF:** TRACY WOITENKO PLANNING AND DEVELOPMENT  
RACHELLE HONEYMAN ADMINISTRATION

**GUESTS:** MARGORITE RADIK, NEILS KAECH, BILL STEADMAN, KEVAN MACNAUGHTON

**I. CALL TO ORDER**

MPC Chairperson, Graham Lock called the meeting to order at 9:00 am.

**II. APPROVAL OF AGENDA**

The Chairperson asked the members and staff if there were any additions or deletions proposed for the agenda. None were requested by either the MPC members or staff.

**MOTION 01.07.11 RYAN THAT**

the Municipal Planning Commission approve the agenda as presented.

CARRIED UNANIMOUSLY

**III. APPROVAL OF MINUTES**

Chairperson Lock asked the MPC members if there were any errors or omissions to the submitted June 15, 2011 regular minutes. No errors or omissions were noted by either the MPC members or by staff.

**MOTION 02.07.11 MILNE THAT**

the Municipal Planning Commission approve the minutes of the June 15, 2011 meeting as presented.

CARRIED UNANIMOUSLY

**V. DEVELOPMENT APPLICATIONS**  
**A. APPLICATIONS REFERRED TO MUNICIPAL PLANNING COMMISSION**

1. DP Application No. 08/11

Ms. Woitenko said that the landowners' wife, Mrs. Radik, was in attendance and invited her to join the MPC members at the table. Chairperson Lock asked Ms. Woitenko to provide the background information.

Ms. Woitenko stated this application has been submitted by Norman Flann of Sterling Timber Frame Homes with approval and on behalf of the landowner, Michael Radik. She said the subject site is located in the newly subdivided area of the hamlet of Lac des Arcs at Lot 1, Block 7, Plan 0610644 (9 Mountaineer Close). She said the subject lot is located within the Hamlet Single Detached Residential District (R-1) of the Land Use Bylaw 04/10. The lot is currently vacant.

Ms. Woitenko said this development permit application is for the construction of a new single detached dwelling with a height variance. She said that single detached dwellings are a permitted use in the R-1 District. However, the applicant is requesting a height variance so the application is being brought to the Municipal Planning Commission for a decision. She said the maximum building height in the R-1 District is 9.0 m above grade. The proposed dwelling is a single-storey house with a rear walkout and due to the grades, the height of the building is 9.85 m above grade. Ms. Woitenko said subject to Section 35.3.3(a) of the LUB, the Municipal Planning Commission may approve a 10% variance of the maximum building height. Ms. Woitenko said this would allow the proposed dwelling to be 9.9 m above grade. She said the height variance would primarily accommodate a walkout basement located on the south side of the house, adjacent to Heart Creek. The view of the house from the public roadway as per the north elevation drawing A4.00 is a single-storey house. Ms. Woitenko said that the MD has received 3 letters of support for approval of the height variance from neighbours (including #1, #2, #5 Mountaineer Close) and these letters are in the agenda package. She said the proposed dwelling meets all other regulations of the Land Use Bylaw, including setbacks, site coverage, habitable floor area and architectural design guidelines.

Ms. Woitenko said that in accordance with a caveat that the MD of Bighorn has registered on title regarding requirements for a private sewage treatment system, the applicant has submitted a copy of a plumbing permit and the details of the packaged treatment system. She said that due to the small lot sizes, the soil type and the proximity to water bodies, the MD requires that all lots on Mountaineer Close must have packaged sewage systems with Secondary Treatment (aerobic treatment). She said a design has been submitted by D&S Enterprises for a Secondary Treatment Plant ProFlo 500. Ms. Woitenko said that due to the small lot size, soil type and proximity to Heart Creek, the designer also recommends the installation of a Sand Treatment Mound for further effluent treatment prior to discharge. She said the designer recommends using a 12" sand layer rather than the minimum 3" as required by the Standards of Practice of the Safety Codes Act. She said because the required 90 m from a watercourse cannot be obtained for the sand mound, the designer states that a variance may be required. She said that the setback may be reduced to 15 m if failure can easily be noticed and if there is an inconvenience to the owner. Ms. Woitenko said that the designer thus recommends that a retaining wall be installed to the south of the sand mound so if the system fails or leaks, the homeowner will be able to notice and remedy the issue sooner.

Chairperson Lock asked if there were any questions from MPC members.



Paul Ryan stated that different municipality's measure grade from different places. For instance, some measure from the crown of the road. Councillor Ryan asked Ms. Woitenko where the Municipal District of Bighorn measures from. Ms. Woitenko stated that Land Use Bylaw states height is measured straight up from grade to the highest point of the building, at any point. She stated in this case the west facing wall is above the maximum height allowance.

Councillor Ryan asked about the walkout. Without the walkout, would the height be over? Ms. Woitenko replied that the height would not be over the maximum allowance.

Chairman Lock asked that there is no basement, only a walkout? Ms Woitenko confirmed this is the case.

Councillor Ryan asked what the house looks like from the street. Ms. Woitenko replied that the subject property looks like a single story dwelling from the street side.

Chairman Lock asked if this was approved, if the septic system would be approved as well. Ms. Woitenko clarified that the Municipal District does not approve septic systems, the province does. However there is a caveat registered on title by the MD of Bighorn that states, as outlined in staff recommendation No. 3, that septic systems shall have secondary treatment (e.g. packaged plants).

Chairman Lock asked Mrs. Radik if she had anything to add. Mrs. Radik had nothing to add and thanked the members.

#### **MOTION 03.07.11 MONTGOMERY THAT**

the Municipal Planning Commission **APPROVE** Development Permit Application No. 08/11 for a Single Detached Dwelling with a height variance, subject to the following conditions:

1. All construction shall conform to the Alberta Building Code.
2. All electrical wiring and plumbing, all natural gas or propane connections, and all sewage alterations and installations shall be approved by Alberta-registered Safety Codes Officers.
3. A packaged sewer treatment plant (e.g., aerobic sewage system) in accordance with the Alberta Private Sewage Systems Standard of Practice, 1999 or subsequent Alberta guideline shall be installed and inspected by an Alberta-registered Safety Codes Officer. The system shall be installed as detailed in the development permit application or with an equivalent or superior system.
4. Any future development within the dwelling shall be the subject of a separate development permit application. Part of any development permit application shall include proof that the sewage handling system functions properly and can handle any additional sewage volumes expected from any new bedrooms to be added.
5. Prior to commencement of construction, a site grading and drainage plan shall be prepared for the site, to the satisfaction of Bighorn's Director of Operations. Storm water runoff shall be contained on-site or disposed of in an acceptable manner to the Director of Operations.
6. Pursuant to Section 35.3.3.(a) of the MD of Bighorn's Land Use Bylaw No. 04/10, the Municipal Planning Commission grants a 10% variance (0.9 m) for the dwelling thereby allowing the height of the dwelling to be a maximum of 9.9 m.
7. The existing access approach shall be utilized and any alterations to that approach shall first be

approved by Bighorn's Director of Operations and be undertaken in accordance with Council Policy T-16.

8. In accordance with Bylaw 15/05, the developer shall install low-water-use plumbing fixtures only. As applicable, these fixtures shall have the following features:
  - a. toilets shall have a capacity no greater than 6.0 litres per flush; and
  - b. shower heads shall have a flow capacity of not more than 9.5 litres per minute.
9. The applicants should consider using Fire Smart construction materials for the exterior of the building and, in particular, should use a roofing material with a Class A or B Underwriter's Laboratories of Canada (ULC) fire rating.
10. The developer shall endeavour to sort construction/renovation/demolition wastes generated as a result of the development prior to transporting the waste material to a disposal facility, such as the Francis Cooke Regional Landfill. As a minimum, the MD of Bighorn would expect to see the following material sorted for recycling purposes: asphalt shingles, brush and vegetation, metal, cardboard, drywall and kiln-dried lumber.
11. Careful attention shall be paid to the exterior lighting in order to preserve the night environment through reduction of light pollution. Exterior lighting shall be designed, located and arranged to be low glare in nature and to minimize light trespass on adjacent properties. Light fixtures with a lumen output of greater than 2,000 lumens shall be full cut-off or fully shielded.
12. Plants used for landscaping shall be hardy to the region. The use of water efficient landscaping techniques is encouraged, including drought tolerant indigenous vegetation in combination with pervious surface materials. Bear attractant vegetation and noxious or prohibited weeds or invasive plants shall not be used for landscaping.
13. The developer shall undertake weed management practices and control weeds on the subject property both during and after construction.
14. The developers shall ensure that the dwelling is 0.5 m above the 1:100 year flood elevation as established in the "Bow River-MD of Bighorn Flood Risk Mapping Study".

CARRIED UNANIMOUSLY

## 2. DP Application No. 15/11

Ms. Woitenko said that the applicant had representation in the audience and invited Niels Kaech to join the table. Chairperson Lock asked Ms. Woitenko to provide the background information.

Ms. Woitenko said this application is submitted by the landowner, Linda Kaech. The property is located in the Hamlet of Harvie Heights, at #122 Elk Street. She said the development permit application is for structural alterations to an existing accessory building which is located at the rear of the property. She said the building meets the rear yard setback regulations, however, the eaves project into the rear yard setback greater than is allowed in the Land Use Bylaw. She said the accessory building would therefore be considered to be existing non-conforming if it were to remain unchanged. Ms. Woitenko said that the landowner is beginning to undertake modifications and repairs to the existing accessory building, which include a new foundation, new roof structure, installing electricity and insulating the building. She said the owner states that they are undertaking these renovations for personal use of the building in doing crafts and hobbies.

Ms. Woitenko said that previously the accessory building was used for storage and sat on the ground. The landowner has raised the building and has installed sono-tubes for the new foundation. She said the repairs to the building are replacing the plywood on the roof and other pieces as needed. She said the design of the framed structure remained unchanged, but required the replacing of rotten boards. Ms. Woitenko said that the above work has already been commenced, but has not been completed. She said that prior to these structural alterations, the building was considered to be existing, non-conforming under the rules of the Municipal Government Act and the Land Use Bylaw, and it would have been permitted to stay in place. However, these structural alterations, including the new foundation and the replacement of structural components, require the building to be redeveloped in a manner that conforms to the regulations of the current Land Use Bylaw. Ms. Woitenko said that the walls of the accessory building comply with the required 1.5 m rear yard setback distance of the R-1 District. However, given the style of the building, the roof/eaves overhang 1.19 m (3' 11") into that 1.5 m setback area. She said Section 3.21.3 of LUB 04/10 outlines that eaves of structures can only project into a rear setback area a maximum of 0.6 m (2.0 ft). She said this eave projects an additional 0.59 m (1' 11") than it is allowed to.

Ms Woitenko said that there are 3 options of how the MPC could approach this;

Firstly, she said, the MPC could approve a variance to the distance that the eave can encroach into the setback. Pursuant to Section 35.3.3(c) of the Land Use Bylaw, the MPC could approve a 20% variance to the eave projection, so that the eaves would be allowed to project a maximum distance of 0.72m (2.4 ft) into the 1.5 m rear yard setback area. However, this would not solve the landowner's problem because the eave projects 1.19 m. Staff are not recommending that the MPC approve the variance to the eave projection for this reason.

Ms. Woitenko said that the second option, would grant approval for the accessory building but subject to the building being brought into conformance with the Land Use Bylaw. She said this would require the landowner to either move the building and the new foundation so that the eaves only project the maximum 0.6 m, or the landowner alters the roof/eaves of the building to be in compliance. Ms. Woitenko said that staff did initially meet with the applicant to discuss the above options of moving the building or altering the roof/eaves. The landowner was also notified that they could appeal the MPC's decision or any of the conditions to the Subdivision and Development Appeal Board (S/DAB). She said the S/DAB has the authority to approve the required variance so that the building would not have to be moved or the roof/eaves modified, if the S/DAB felt that the development did not affect the neighbours or the amenities of the area.

Ms. Woitenko said that the third option is that the MPC could refuse the entire application based on the fact that the MPC does not have the authority to approve the variance that is required to make the building conforming, and the refusal could be appealed to the S/DAB.

Ms. Woitenko said that staff is recommending that the MPC choose the second option requiring the building to be brought into conformance as a condition of approval, leaving the applicant with the decision to bring the building into conformance or to appeal to the S/DAB.

Chairperson Lock asked if there were any questions from MPC members.

Mr. Milne asked Ms. Woitenko if the application is appealed to the S/DAB, would the MPC be asked to make a recommendation. Ms Woitenko stated that the MPC does not make

recommendations to the S/DAB. The landowners can appeal the condition if they feel it is unreasonable however, the MPC does not give any guidance beyond the reason for their decision. Mr. Milne furthered his question and asked when the S/DBAB meets do they see the reason why the application would be refused. Ms. Woitenko replied that the S/DAB will see the reasoning for the MPC's own decision.

Councillor Ryan asked Mr. Kaech how old the logs in the building were. Mr. Kaech replied, approximately 32 years old.

Mr Ryan asked Mr. Kaech if he was not aware of the need for permits when he put in the sonotubes. Mr. Kaech responded that they did not know permits were needed. He also said that he didn't know the building was non-conforming because he thought setbacks were measured from the wall of the building.

Councillor Ryan asked whether or not the landowner was aware of setbacks at the time of beginning construction. Mr. Kaech replied that they had started construction not realizing they needed a development permit with structural changes, they were unaware of the requirements.

Councillor Ryan clarified with Ms. Woitenko that this construction began without a permit, and a permit is in fact required. Ms. Woitenko confirmed that and said there is a need for a permit when a non-conforming building undergoes structural changes, it must become conforming.

Councillor Ryan then clarified with Ms. Woitenko that the MPC does not have the ability to approve this non-conforming structure. Ms. Woitenko said this was true.

Chairman Lock asked if the commission is tied to refusal. Ms Woitenko stated that the planning commission has a couple of options. Ms. Woitenko said that staff is recommending the second option as outlined in the background information: part approval with staff recommendation No. 4, and part refusal. The variance would be refused and the applicant has the option to appeal.

Mr. Kaech asked if the S/DAB does not allow the variance, can he still finish? Ms. Woitenko replied yes, if the building is made conforming pursuant to staff recommendation No. 4.

Mr. Kaech asked if the decision is upheld by the S/DAB, does he have to apply again for a permit. Ms. Woitenko clarified that if the S/DAB does not approve the variance, the MPC decision still stands.

Councillor Montgomery asked where Mr. Kaech was living. Mr. Kaech stated he lived in Canmore. Councillor Montgomery then asked why he is here, if this is not his house. Mr. Kaech stated that he was representing his mother who could not attend.

Councillor Ryan asked for clarification on the aerial photos provided in the package. He asked for clarification the side eave shown is into the rear setback. Ms. Woitenko confirmed that.

Councillor Ryan stated that the eave did not look to him as though it overhangs that much and then asked if this is the original footprint of the building or if it ballooned out. Mr. Kaech replied that there was a step out.



Councillor Ryan stated that it seems as though the building has become more non-conforming. Ms. Woitenko stated the drawings were submitted when the application was made, and the encroachment was known at that time.

Chairman Lock asked if it encroached into the next property. Ms. Woitenko stated it did not.

Mr. Milne stated it seemed like building an upside down pyramid, with many distances to the property line. Ms. Woitenko stated that because the building is a barn style shape, the roof overhangs by 1 m.

Mr. Milne asked if the MPC recommends the second option with staff recommendation No. 4, are we not approving a variance? Ms. Woitenko stated approval is based on staff recommendation No. 4 that requires either moving or altering the building to conform.

Mr. Kaech stated that they are going to see if they can leave it.

Ms. Woitenko stated if the S/DAB refuses the appeal the permit still exists and the building will have to move or be altered.

Councillor Ryan stated that if the landowner is unsatisfied with staff recommendation No. 4 then they can appeal to the S/DAB.

Councillor Ryan asked if the sono-tubing is old. Mr. Kaech stated that it was not, the sono-tubing is all new.

Councillor Ryan asked if the building was lifted up or moved over for the installation of the foundation. Mr. Kaech stated the building was lifted. He also said that there are power lines in the area so moving the building was difficult.

Councillor Ryan asked if the building had to move, how many of the sono-tubes would have to be abandoned. Mr. Kaech stated that all of the foundation would have to be abandoned and they would start fresh.

Councillor Ryan asked if they were planning on following the process through. Mr. Kaech confirmed that was the case.

#### **MOTION 04.07.11 MONTGOMERY THAT**

That the Municipal Planning Commission **APPROVE** Development Permit Application No. 15/11 subject to the following conditions:

1. All construction shall conform to the Alberta Building Code.
2. All electrical wiring shall be approved by an Alberta-registered Safety Codes Officer, Electrical.
3. The accessory building shall not be used to provide any form of residential dwelling accommodation or for activities related to a home-based business.

4. The accessory building shall be brought into conformance with Section 3.21.3 of the Land Use Bylaw 04/10, which requires that eaves may only project into the rear yard setback a maximum of 0.6 m (2.0 ft). The developer may:
  - a. Move the entire building into a conforming position; or
  - b. Alter the roof/eaves of the building.
5. The exterior appearance of the accessory building, including roofing material, shall match or be complimentary to that of the existing structures on the property.
6. The developer should consider using Fire Smart construction materials for the exterior of the buildings and, in particular, should use a roofing material with a Class A or B Underwriter's Laboratories of Canada (ULC) fire rating.
7. In accordance with Bighorn Land Use Bylaw No. 04/10, the developer shall endeavour to sort construction/renovation/demolition wastes generated as a result of the development prior to transporting the waste material to a disposal facility, such as the Francis Cooke Regional Landfill. As a minimum, the MD of Bighorn would expect to see the following material sorted for recycling purposes: asphalt shingles, brush and vegetation, metal, cardboard, drywall and kiln-dried lumber.

**AND**

**REFUSE** that portion of Development Permit Application No. 15/11 for a variance to the eave projection into the rear yard setback for the following reasons:

1. The accessory building must be placed in a conforming position on the lot and the Municipal Planning Commission does not have the authority under Section 35.3.3 (c) of the Land Use Bylaw 04/10 to grant a variance to deem it to conform.

CARRIED UNANIMOUSLY

3. DP Application No. 17/11

Ms. Woitenko said that the applicant was in the audience and invited Bill Steadman to join the table. Chairman Lock asked Ms. Woitenko to provide background information on the development application before them.

Ms. Woitenko said that this application is submitted by Jonn Lavertu of Timberock Home Developments on behalf of the landowner, Mr. Bill Stedman. Mr. Stedman has consented to the application by way of letter. She said the subject property is located in the West Jumpingpound/Sibbald Flats area, on SW Sec. 26, Twp. 24, Rge. 6, W5M. She said the property comprises approximately 160 acres. Historically, back in 1996, SW Sec. 26 had a first parcel out subdivision taken out. She said the first parcel out lot was sold to the subject land owner. Ms. Woitenko said that when the balance of the quarter came up for sale, the subject landowner purchased it as well. She said that in the past month or so, the landowner consolidated the first parcel out lot back into the balance so that the lands are now a ¼ section again. She said there is a dwelling and a detached garage currently located on the property and last year the landowner installed a pool on the property.

Ms. Woitenko said that the subject application is for the construction of a pool house building. The structure is 53.51 m<sup>2</sup> (576 ft<sup>2</sup>) in size. She said the building is being processed as an accessory use. Accessory Uses are outlined as Discretionary Uses in the Agriculture Conservation

District. She said the reason this building is being considered as an accessory use and not an accessory building is due to the use of the building and based on the definitions outlined in Land Use Bylaw 04/10. Ms. Woitenko said in short, an accessory building includes garages, sheds or fabric covered structures. She said this building will be used for items that more closely relate to the definition of an accessory use – a use which is associated with, but secondary and subordinate to the principal use of the site, e.g., the dwelling and pool. Ms. Woitenko said that the subject pool house building complies with all required setback distances to property boundaries and the height is shown to be 23' 10" from the walk out portion to the top of the roof peak. She said there is no height restriction on an AC parcel so the height of the building is not an issue. She said the pool house is basically located in the middle of the quarter section and the application outlines that there are no slopes exceeding 15% within 20 m of the proposed building. She said that there is, however, sour gas infrastructure within 1.5 km of the pool house building.

Ms. Woitenko said that the applicant and the landowner attended at the MD of Bighorn office and had said that the proposed pool house building will be a two-storey log structure. They had floor plan layouts and had said that in the lower, walk-out, there will be a bathroom and change room, a mechanical room for both the building and the pool itself, and what is being referred to as a "flex room". The landowner stated that the "flex room" would be where all the pool toys would be stored and that there is a walk-out patio at this level.

Ms. Woitenko said that on the second, upper, level there is an open area that includes a wet bar. This upper area shows there would be furniture such as couches and chairs and games, such as a pool table or other entertainment games. She said that there is no washroom on this level or any kitchen facilities. She said a deck over the walk out patio below will be constructed with a pergola over top. Ms. Woitenko said that staff asked the applicant and landowner what the use of the building would be. She said that the answers provided were that the building is located near the existing pool and they wanted a building close by it to change in and to house the pool mechanics and pool supplies. She said it would be used by family and friends as an area to entertain in as well. She said that it was said that the reason for the washroom is because the house is not close by and they wanted a washroom for obvious reasons. She said given there is a wet bar and the building will be socialized in, a washroom would seem reasonable.

Ms. Woitenko stated that staff explained that the MD has concerns with buildings other than dwellings having plumbing features due to the concern that they might become future dwellings or living accommodations. She said the landowner stated that this is not their intent. She said that there was a discussion about the building being applied for as a second dwelling if there might be overnight accommodation desired. She said that the landowner said that they do not wish to apply for a second dwelling because it is not being designed as such. Ms. Woitenko said that staff explained that second dwellings on parcel sizes over 80 acres is something that the MD would consider, but that secondary dwellings are "discretionary" and not an automatic right and that typically second dwellings on agricultural parcels are, for example, to accommodate either hired help, or caregivers or accommodate aging parents, etc. She said that the landowner stated that if they wished to make this building a second dwelling in the future then they will apply for it. She said accordingly, the application has been treated as an accessory use – the pool house building (a multi-purpose of sorts).

Ms. Woitenko said that it should be pointed out that there is no interior access between the upper and lower areas of the building. She said in order to get upstairs or come downstairs, one must go

outside and use exterior stairs located along the side. She said when asked why this was, the answer was that the building is only 24' X 24' and installing interior stairs would take up a lot of useable space. She said the applicant and landowner were advised that staff were not sure what the MPC would think about this and there may be further discussion of this at the MPC meeting. She said that it was pointed out, again, that the MD's concern in this regard would be the ability to create separate dwelling spaces in the future. Ms. Woitenko said that it should also be pointed out that the foundation of this building has already been commenced and the sewage holding tank to service the washroom in the building has already been installed. She said the staff recommendation outlines that a copy of the sewage handling permit for the sewage tank is to be provided to Bighorn.

Ms. Woitenko said, as stated earlier, there is sour gas activity in the West Jumpingpound area. She said a search shows that there is an abandoned well near the northwest boundary. She said the staff recommendation outlines that the proposed structure must be located a minimum of 100 m from any pipeline. It would appear based on the site plan that the subject building will be in excess of that distance. She said the application has, nonetheless, been referred to the ERCB, but no response had been received as yet. She said a copy of any MPC decision will be sent to the ERCB for information purposes.

Ms. Woitenko said that there are registered easements on the property title representing legal access to the property, but any requirements of Policy T-16 will need to be met. She said there is background information attached.

Chairman Lock asked if there were any questions.

Councillor Ryan asked the landowner if the construction has begun, and if the pool is completed. Mr. Steadman said that is correct. The pool is complete and the structure for which they are applying is built near the pool.

Councillor Ryan asked if the proposed septic is for the accessory use, or the pool. Mr. Steadman said that the proposed septic is for the accessory building.

Councillor Ryan asked if the upstairs was intended for entertaining, and the downstairs is for pool equipment. Mr. Steadman said that was correct.

Councillor Ryan asked how much of the downstairs was being occupied by pool equipment. Mr. Steadman stated that approximately half to a third of the downstairs space is for mechanical equipment.

Councillor Ryan asked if there was legal road access to the property. Mr. Steadman stated that Highway 68 and a road being constructed by Shell Canada, is nearing completion.

Councillor Ryan wondered if the MPC could approve a development without legal road access. Ms. Woitenko stated that road access is not a concern for this private use. They have existing access to their dwelling.

Councillor Ryan asked if entertainment use was for private purposes, or commercial. Mr. Steadman stated that the entertainment is for the sole purpose of his family; more space for them. He stated that there is no commercial development involved.

Councillor Ryan stated there was a wet bar in the plans. Mr. Steadman replied that the wet bar is basically a sink, and that is the extent of it.

Chairman Lock stated that he perceived the application to be providing family entertainment.

Mr. Steadman stated that the building is only a 24' X 24' space for more family space room.

Councillor Montgomery asked if the pool is already in. Mr. Steadman confirmed that was the case.

Councillor Montgomery asked how they got in and out during the building of the pool. Mr. Steadman stated through Shell access roads, how they usually access their house.

Chairman Lock asked if the mechanical building for the pool exists. Mr. Steadman stated that was the case. Chairman Lock asked if the landowner had permits. Mr. Steadman stated that he did not need one for the pool, and he had conflicting advice regarding the building, and from what he understood did not need a permit on the building. Mr. Lock asked why the pool building would not require a permit. Ms. Woitenko stated that the previous LUB may not have required a permit. She asked the landowner the size of the building. Mr. Steadman stated that the building was 24' X 24'. Councillor Ryan confirmed then that the mechanical building for the pool already exists, and no building permit was issued. Ms. Woitenko stated that was the case. She said in the AC district accessory buildings are a permitted use and they would have required a permit. The new Land Use Bylaw states that only farm structures do not require a permit. Councillor Ryan asked confirmation that the accessory building in question is accessory to the residential use, not accessory to farm use. Ms. Woitenko stated that was correct.

Mr. Milne asked if the pool does not require a permit, how would anyone know about a septic system being built. Ms. Woitenko stated that the municipality does not issue septic permits; it is a provincial regulation.

Councillor Montgomery asked how the province would know, if he has a bathroom. Chairperson Lock asked the landowner if there was a bathroom. Mr. Steadman stated that was the case. He said there is an existing septic field however, the pool is below that. He said he installed the septic tank to pump up to the field; the tank however has never been used.

Chairman Lock asked how the province knows when it's required to regulate septic. Mr. Steadman said he will be applying for the septic permit. He said it had been installed by a certified plumber. Ms. Woitenko added that as per staff recommendation No. 3, the MD is requesting a copy of the permit from an accredited agency.

Councillor Ryan asked if a building has plumbing would it not require a development permit. Ms. Woitenko stated not necessarily, some accessory buildings do not require permits.

Councillor Ryan asked if those had bathrooms. Ms. Woitenko stated that yes, if deemed agricultural; many farmers value a water source where they work.



Councillor Ryan asked the landowner what Timber Rock was. Mr. Steadman stated that Timber Rock was the firm hired for the project.

Councillor Montgomery stated that Joan and Bill Steadman were the names on title however, only Bill Steadman is the name on the development permit application. Mr. Milne stated that it appears as though Joan Steadman has not applied. Ms. Woitenko stated that not all signatures are required. Councillor Montgomery disagreed, on the grounds of legal situations. Chairman Lock suggested it could be added on as a condition. Councillor Montgomery agreed that a condition should be added requiring a letter of approval from the other owner. Mr. Steadman stated that he could provide that.

Chairman Lock stated that there are 30 m setbacks for water, and asked the landowner if there is water nearby his property. Mr. Steadman said the closest water source was 300-400 yards.

Chairman Lock asked the members if there was any reason to deny this application, given that the already constructed lower level of the building was constructed without a permit.

Councillor Ryan asked if half of the building is good, how the MPC would know the electrical is good in the lower portion. Mr. Steadman stated the electrical was inspected and the report will be submitted with the development permit requirements. Ms. Woitenko stated that staff recommendation No. 2 requires all permits be obtained, it then it becomes the Safety Codes Officer responsibility, all we can do is ask for a copy. Chairman Lock asked if this would include copies for the lower and upper portion of the building. Ms. Woitenko confirmed that is the case.

Councillor Ryan asked if we will have this information eventually. Ms. Woitenko stated yes.

**MOTION 05.07.11 MILNE THAT**

the Municipal Planning Commission APPROVE Development Permit Application No. 17/11 for an Accessory Use (pool house/entertainment building) subject to the following amended conditions:

1. All construction shall conform to the Alberta Building Code.
2. All electrical wiring and plumbing, all natural gas or propane connections, and all sewage alterations and installations shall be approved by Alberta-registered Safety Codes Officers.
3. **Prior to any further construction activity**, the developer shall provide, the municipality with evidence that a permit from an accredited agency has been obtained for the installation of the private wastewater sewage system that has been designed for the volumes anticipated from the pool house building in accordance with the Alberta Private Sewage Systems Standard of Practice 1999, or more current provincial standard.
4. One washroom may be installed within the pool house building provided the requirements of Condition No. 3 above are adhered to.
5. The "recreational uses" proposed for the pool house building are approved for private family purposes only.
6. The uses described above in Condition #5 does not constitute approval for a second dwelling unit or any form of suite to be installed within the building.

7. There shall be no commercial activity held on the subject property or within the subject pool house building without additional municipal approval.
8. Any future change in use or addition to the building shall be the subject of a separate development permit application.
9. The pool house building shall be situated a minimum of 100 m from any sour gas wells, pipelines or related infrastructure, or as otherwise necessary to comply with Alberta Energy and Utilities Board (ERCB) regulations.
10. The pool house building shall be situated a minimum of 30 m back from any water body located on or near the subject property.
11. The pool house building shall be situated a minimum of 20 m back from any slope of 15% or greater.
12. In accordance with Bylaw 15/05, the developer shall install low-water-use plumbing fixtures only. As applicable, these fixtures shall have the following features:
  - toilets shall have a capacity no greater than 6.0 litres per flush; and
  - shower heads shall have a flow capacity of not more than 9.5 litres per minute.
13. The exterior finish, including roofing material, of the new building shall be complimentary to that of the existing buildings.
14. The developers should consider using Fire Smart construction materials for the exterior of the building and, in particular, should use a roofing material with a Class A or B Underwriter's Laboratories of Canada (ULC) fire rating.
15. Pursuant to Council Bylaw 01-Z/07, in order to allow for recycling the developer shall endeavour to sort the waste generated as a result of the development prior to transporting the waste material to a disposal facility. As a minimum, the MD of Bighorn would expect to see the following material sorted for recycling purposes: metal, cardboard, and kiln-dried lumber.
16. The developer shall satisfy the requirements of Bighorn Policy T-16 to the satisfaction of Bighorn's Director of Operations or designate.
17. Any exterior lighting for the project shall be designed to be low glare in nature and compatible with "dark sky" lighting principles. Additionally, all light fixtures shall be located, aimed or shielded so as to minimize stray light passing across property boundaries.
18. Letter of consent by provided by co-owner.

CARRIED UNANIMOUSLY

4. Amendment #1 to DP No. 01/11

Ms. Woitenko said that the applicant was in the audience and invited Kevan MacNaughton to join the MPC at the table.

Ms. Woitenko said that this amendment application is submitted by the landowner, Kevan MacNaughton. She said the subject property is located in the Hamlet of Harvie Heights at #240 Bow River Drive. Ms. Woitenko said to provide the MPC with some background information, the Development Officer approved Development Permit No. 01/11, subject to conditions, on February 1, 2011 and the permit was effective as of February 25, 2011. She said the approval was for the construction of a new single family dwelling with the demolition of the existing dwelling, and the relocation of the existing accessory building. Ms. Woitenko said that the landowner worked very hard to ensure that the development drawings conformed with the Land Use Bylaw and that no variances would be required. She said this was achieved and the application was approved.



Ms. Woitenko said that the subject amendment application is to request a height variance for the new proposed dwelling. She said the reason for the height variance is that during demolition of the existing dwelling, ground water was encountered. She said the landowner then met with personnel from Curtis Engineering. Curtis Engineering's advice was that the basement level of the new dwelling be elevated above the ground water level. She said in order to do this, the landowner is now in a position where he needs to request a height variance. She said he outlines in his amendment request that the house is a small size so he is relying on a functional basement that will be used primarily for storage. She said that he does not wish to have water seepage issues in the basement if built at the current depth and that revised elevation drawings are in the agenda package.

Ms. Woitenko said that staff advised the landowner that he should also speak with the structural engineer for the foundation to ensure that raising the elevation will not affect the foundation drawings. She said that the landowner agreed to contact the structural engineer as well. She said staff suggested that the landowner speak with his neighbours about the need for a variance and, if possible, obtain letters of support for the variance request. She said the landowner outlines in his amendment request letter that he has contacted his neighbours and that they will support the amendment. Mr. MacNaughton has provided MPC Members with 3 letters of support from neighbouring properties, (232, 236, and 244 Bow River Drive).

Ms. Woitenko said that the MPC has the ability to grant a 10% height variance pursuant to Section 35.3.3 of the LUB. She said prior to doing so, though, the MPC should be satisfied that the granting of any variance would not unduly interfere with the amenities of the neighbourhood or materially affect the use, enjoyment or value of neighbouring properties. She said the 10% height variance would amount to an additional 0.90 m (2.95 feet) of building height.

Ms. Woitenko said a storm water management/drainage plan has been previously prepared by McElhanney and has an engineered stamp placed on the drawings. She said that this plan has been approved by Bighorn's Director of Operations as well. She said it is recommended that the landowner contact the engineering firm to determine if any amendments are required to this plan. If any modifications are required, then a revised plan must be submitted to the MD of Bighorn for approval. Ms. Woitenko said that it should be noted that, in either event, Bighorn's Director of Operations should be notified of the height variance modification to determine if this affects the storm water management plan/drainage plan approval.

Ms. Woitenko said that there are no changes proposed to the exterior appearance or the interior floor plan as a result of the height variance request.

Chairman Lock asked how does the board obtain proof that the 9.9 m has been met as required through staff recommendation No. 2.

Mr. MacNaughton stated that he will ensure that will not happen. He stated it is his intention and goal to stay below the 9.9 m.



**MOTION 06.07.11 MONTGOMERY THAT**

the Municipal Planning Commission APPROVE an Amendment to Development Permit No. 01/11 for a 10% height variance subject to the following conditions:

1. Pursuant to Section 35.3.3 of Land Use Bylaw No. 04/10, the Municipal Planning Commission grants a 10% height variance for the proposed new dwelling thereby allowing a maximum building height of 9.9 m (32.5 ft.).
2. Following placement of the roof structure on the dwelling, proof shall be submitted from an Alberta-registered surveyor that the dwelling height, on all sides of the building, comply with the 9.9 m height maximum.
3. The developer shall contact both the engineering firm and the consultant company that stamped/prepared the June 7, 2011 "Civil Site Grading & Storm Design" plan, to determine if any modifications to that plan are necessary due to the subject amendment. If any revisions are required, a copy of the revised plan shall be submitted to the MD of Bighorn for review and acceptance by both the Development Officer and Bighorn's Director of Operations.
4. The height variance modifications shall comply with the Alberta Building Code, and the developer is responsible for contacting Bighorn's Safety Codes Officer for Building to amend the building permit (if issued) or amending the building permit application if required.
5. The remaining conditions of approval as outlined in Development Permit No. 01/11 remain in effect except as altered through this amendment request.

CARRIED UNANIMOUSLY

**V. DEVELOPMENT APPLICATIONS**

**B. APPLICATIONS PROCESSED BY DEVELOPMENT OFFICER**

**VIII. NEW BUSINESS**


1. Council Minutes – a) June 15, 2011  
The MPC members accepted the submitted Council minutes as information.


**IX. ADJOURNMENT**

**MOTION 07.07.11 MILNE THAT**

the Municipal Planning Commission meeting adjourn at 10:00 a.m.

CARRIED UNANIMOUSLY

  
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CHAIR

  
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DESIGNATED OFFICER