

MUNICIPAL DISTRICT OF BIGHORN NO. 8

MUNICIPAL PLANNING COMMISSION MEETING

HELD DECEMBER 21, 2010 AT THE MUNICIPAL OFFICE IN EXSHAW

PRESENT: GRAHAM LOCK MPC MEMBER (Chairman)
AMANDA KELLY MPC MEMBER
CAROLYN MONTGOMERY MPC MEMBER (Council)
MIKE MILNE MPC MEMBER

ABSENT: PAUL RYAN MPC MEMBER (Council)

STAFF: JANICE THOMPSON DEVELOPMENT OFFICER
ULRIKA GILLESPIE MANAGEMENT ASSISTANT,
PLANNING & DEVELOPMENT

GUESTS: Arnd Salinsky and Marina Krainer. Attendance varied throughout the meeting.

I. CALL TO ORDER

The Chairman called the meeting to order at 9:03 a.m.

II. APPROVAL OF AGENDA

Chairman Lock asked the members and staff if there were any additions or deletions proposed for the agenda. Being none requested by MPC members or staff, Chairman Lock requested that there be one addition to the agenda under item VIII as a number 2 to discuss the MPC meeting dates for the months of January and February 2011.

MOTION 01.12.10 MONTGOMERY THAT
the Municipal Planning Commission approve the agenda with the following addition:

VIII. 2 MPC Meeting Date in January and February of 2011

CARRIED UNANIMOUSLY

III. APPROVAL OF MINUTES

Chairman Lock asked the MPC members if there were any errors or omissions to the submitted November 17, 2010 regular minutes. No errors or omissions were noted by either the MPC members or by staff.

MOTION 02.12.10 KELLY THAT
the Municipal Planning Commission approve the minutes of the November 17, 2010 meeting as presented.

CARRIED UNANIMOUSLY



IV. BUSINESS ARISING FROM MINUTES

1. Withdrawal of DP Application No. 03/10

Ms. Thompson explained that this item had been on the November, 2010 agenda. She said that following an explanation of the status of the file, that MPC had passed a motion requesting that prior to the MPC formally removing the item from the agenda that an investigation be conducted to ensure that the bed and breakfast operation had ceased given the applicants had been given ample opportunity to confirm the verbal withdrawal of the application but had not done so. Ms. Thompson stated that staff have conducted what they feel is a thorough search on the internet of: bed and breakfasts in Alberta, the prior name of the bed and breakfast operation, as well as any links to the operation from other websites the applicants had at the time. She said that no results were found. She said that she also contacted Alberta Health Services and notified the Canmore Office that the applicants had withdrawn the bed and breakfast renewal application and that no municipal approvals were now in place. She reported that she asked Alberta Health Services to notify the MD of Bighorn if the applicants applied to renew the food services permit for the B & B. Ms. Thompson ended with stating that staff are requesting that MPC formally pass a motion to remove the withdrawn application from the agenda given it had originally been tabled by the previous MPC at the February 17, 2010 meeting. There was a very brief discussion.

MOTION 03.12.10 KELLY THAT

the Municipal Planning Commission accept the verbal withdrawal of Development Permit Application No. 03/10, which such application was tabled at the February 17, 2010 Municipal Planning Commission meeting, thus formally removing the renewal application from the Municipal Planning Commission's agenda.

CARRIED UNANIMOUSLY

2. S/DAB Decision – Refusal of DP Application No. 52/10

Ms. Montgomery commented that the information that was before the MPC and the information that went before the S/DAB were different. She said that the applicants at the hearing reduced the application to be a second single family dwelling and only four accessory buildings from the five that were originally applied for. Following a brief discussion of the refused application and the subsequent approval by the S/DAB, the MPC members accepted the submitted decision as information.

V. DEVELOPMENT APPLICATIONS

A. APPLICATIONS REFERRED TO MUNICIPAL PLANNING COMMISSION

1. DP Application No. 56/10

Ms. Thompson outlined the background information as per the Development Officer's Report. She reiterated that the application is to hold chickens on a country residential lot in the Ghost River Subdivision. She said the property is located near Highway #40. She reported that the keeping of chickens is a new use to the Ghost River Country Residential (GRCR) District regulations given that it had been added as a new Discretionary Use when Land Use Bylaw No. 04/10 was adopted this past October. She said that the community had actually brought this request to Council at the public hearing prior to the LUB adoption. She continued to describe the application stating that although a specific number had not been requested by the applicant, advice



from Bighorn's Environmental Fieldman was that there were no real concerns with holding under 10 chickens. Ms. Thompson stated that the District regulations outline that the keeping of chickens can only be done on a private basis and no commercial activity is allowed. She further stated that the regulations outline that odours, disease and that the animals not become a wildlife attractant must be controlled. Ms. Thompson stated that the chickens would be housed within an existing accessory building on the property and drew the MPC members' attention to the site plan provided in the agenda material. She said the regulations outline that the entire coop and run area must be fully enclosed to prevent both escape and predators getting into the enclosure. She noted that the existing building is shown to comply with both the setback distances to property lines and with the maximum height for accessory buildings according to the GRCR District regulations. Ms. Thompson continued to explain that the application outlines that the previous owner of the property used to house pheasants in this accessory building and there were never any issues with wildlife. She said that while no letters were submitted from adjacent landowners, the keeping of chickens in the GRCR District was recently supported as a use to be allowed in the subdivision so there is implicit consent. Regardless though, keeping chickens is listed as a Discretionary Use in the District so any decision is appealable. She ended with noting there are regulations in terms of storage of manure and manure management, in particular there can be no storage of such within 30 m of a water body or course, that the Agriculture Operation & Practices Act regulates the keeping of livestock on properties and, given that this is the first application to keep chickens in the subdivision, conditions should be imposed so there is a clear understanding of the approval and under what circumstances.

Ms. Kelly asked if when the community put this request to allow chickens forward, did they discuss noise implications because roosters can be quite noisy. Ms. Thompson responded that she did not know for sure, but added that the application is to keep chickens only, not roosters. She asked the members if they wished to clarify this in the staff recommendation.

Mike Milne and Carolyn Montgomery felt that it would be a good idea to address roosters because in their minds, chickens means chickens or laying hens and not roosters. He then asked Ms. Thompson for clarification that there was general support for the use to be added at the public hearing for the LUB adoption. Ms. Thompson responded that it was her understanding it was discussed by residents at the open houses and then at the public hearing Council was asked to add the use formally to the GRCR District regulations.

At the request of the MPC, Ms. Thompson then read out loud a possible condition to be added to the staff recommendation that there shall be no roosters kept on the property unless a prior separate approval had been first obtained from the MD of Bighorn. The members were satisfied with the stated wording being added, with Ms. Montgomery noting that it should be a separate numbered condition.

MOTION 04.12.10 MILNE THAT

the Municipal Planning Commission **APPROVE** Development Permit Application No. 56/10 subject to the following amended conditions:

1. A maximum of 10 chickens may be kept on the subject lands in accordance with Land Use Bylaw No. 04/10 and in accordance with the application, unless a prior separate application has been approved by the MD of Bighorn No. 8. Any application for additional chickens shall include a recommendation from Bighorn's Environmental Fieldman as to capability of

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the subject lands to accommodate additional chickens.

2. Responsible disease control and manure management shall be utilized, including the possibility of composting, and, in particular, there shall be no manure storage within 30 m of any water well or water course.
3. The applicant shall ensure that the animals are kept in accordance with the Agricultural Operations Practices Act (AOPA) and related Alberta Government legislation and regulations and do not become a wildlife attractant.
4. The application outlines that fencing of the chicken coop area will be installed, and such fencing shall be maintained on an as-needed basis. Any fence enclosure for the chickens shall be completely enclosed, including roofing over the run area.
5. Notwithstanding this approval, the MD of Bighorn reserves the right to reduce the number of chickens allowed on the property in the future if the keeping of animals becomes an issue within the Ghost River Country Residential (GRCR) District generally, or on the subject lands specifically, due to noise, manure handling, odours, surface or groundwater contamination or other concerns.
6. If necessary due to complaints that may be received, the applicant shall work with Bighorn staff to mitigate any noise or odour concerns or other complaints, and this development approval is subject to cancellation if complaints cannot be resolved.
7. It is understood that the keeping of chickens is for private family purposes, and this Development Permit does not constitute approval to carry on any commercial business operation with respect to the keeping of chickens on this property unless a prior, separate development approval from the MD of Bighorn is obtained.
8. There shall be no roosters kept on the property unless a separate, prior approval is obtained from the MD of Bighorn.

CARRIED UNANIMOUSLY

Chairman Lock asked Ms. Thompson if the applicants for this next item had arrived. Ms. Thompson left the room briefly to check the lobby area. She returned a short time later stating that they had not arrived as yet. The MPC then had a brief discussion as to whether to continue with review of the application in the applicants absence or move to the next item on the agenda. Ms. Thompson stated that from a staff perspective she felt the MPC should agree to move to the next item on the agenda and wait for the applicants, given it was known that they were planning to attend and speak to the matter.

The MPC members agreed to move to item V.A.3. on the agenda.

3. Extension to DP 61/09

Ms. Thompson reported that the previous Municipal Planning Commission approved this subject development permit. She said that Trittech Group was awarded the contract to build the Exshaw municipal water reservoir and associated buildings. She said with respect to this contract that Trittech had made a deal with Lafarge, which owns this subject residential lot, to utilize the property for a staging area and for site office trailers. She said that once Trittech secured this arrangement it applied for the subject development permit. She said the development permit was issued for a one year period, which expired on November, 30, 2010 (Condition No. 7 of DP 61/09). She said that while the project is nearing completion there is still a fair bit of work to be completed including reclamation and re-seeding both the reservoir site and the subject site. She said that Trittech likely did not factor in this reclamation and re-seeding work when it applied for



the extension. She said that staff are suggesting for efficiency reasons that the MPC allow a longer extension than requested; that is until July 31, 2011. She said this way, re-seeding can be accomplished in the spring without the need for Trittech to come back once, perhaps twice more for extensions once it realizes the oversight.

Chairman Lock stated that this further time frame would seem to be in the best interest of those involved. The other members agreed. Amanda Kelly asked if adjacent landowners had been notified of the extension. Ms. Thompson stated that they had not been, but that the LUB allows, at MPC's discretion, notification of adjacent landowners of Bighorn decisions. Additionally, she stated, that the extension would be advertised in the newspaper. Ms. Kelly then asked if, when there is a discretionary use, adjacent landowners are notified a head of time? Ms. Thompson stated that at the onset the adjacent landowners were contacted, door by door, personally by Trittech staff, but not at this extension process.

MOTION 05.12.10 MONTGOMERY THAT

the Municipal Planning Commission **APPROVE** an extension to Development Permit No. 61/09 as follows:

1. Condition No. 7 of Development Permit No. 61/09 is amended through the extension of the expiry date from November 30, 2010 to July 31, 2011.
2. All other conditions of approval as outlined in Development Permit No. 61/09 remain in effect.

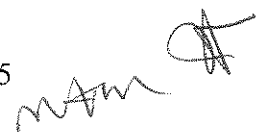
CARRIED UNANIMOUSLY

There was another discussion amongst MPC members as to whether to proceed with the agenda or move back to item V.A.2 on the agenda. It was decided to continue with the flow of the agenda and return back to item V.A.2 when the applicants arrived. Prior to doing so, though, Arnd Salinsky and Marina Krainer arrived at the meeting.

2. DP Application No. 57/10

Arnd Salinsky and Marina Krainer joined MPC at the table and introductions were made. Chairman Lock asked the applicants to give some background on their proposal. Arnd Salinsky then stated that he and Marina rent the subject property. He said that since they began renting they have built an accessory building for a wood-working shop for which they have a home occupation permit for. He said that they changed the business from an antique car repair business to wood-working. He said that because he likes to do that kind of work, the subject proposal is to replace the existing cabin building on the property with a new accessory building. He said the exterior appearance of the new building would be a great improvement for the community.

Marina Krainer added that it is their and the landowners desire to improve the appearance of the property. She said, jokingly, the Benchlands Fire Department has proposed to use the existing structure as a fire exercise. She said that the building would be used as a quiet space and described the conditions within the existing dwelling, noting that it is quite small and not sound-proofed at all. She said it was designed for one person. She said that they have been in the community for a while now and that she sits on the Ghost Watershed Alliance committee and the Benchlands Community Association.

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Chairman Lock then asked Ms. Thompson to provide the background information on the proposal. Ms. Thompson began by stating that the property is located in the Hamlet of Benchlands at No. 2 Furthur Drive. She said the proposal is to demolish the existing accessory building and rebuild an accessory building in the same footprint. She explained that the setback distances to property lines and the height of the proposed structure comply with the R-1B District regulations and drew the MPC members' attention to the location and site map within the agenda material. She said, however, that the setback distance that the proposed new building would be from the existing slope on the property has not been achieved. She said that the LUB requires a 20 m setback distance from an escarpment having a slope of 15% or more. She said that this escarpment near the property is in excess of a 15% slope and, accordingly, the applicants have contacted a geotechnical engineering company, Curtis Engineering and Associates Ltd. She said that Curtis Engineering has provided a letter outlining that it has visited the site and has determined that the accessory building may be situated a minimum setback distance of 3.05 m from the top slope while still achieving a 1.5 or greater factor of safety to instability. The letter outlined that there has been previous work in the area and outlined the technical stability calculations in making this determination. She said, however, if MPC are considering varying the required slope setback distance, it needs to be comfortable with the evidence being provided. Ms. Thompson continued stating that currently on the property there is one single family dwelling and approximately five accessory buildings. She said additionally that the applicants have prior approval for a home occupation for two businesses on the property, one of which has mostly come to a conclusion. She said the primary occupation is a wood-working/contracting business. The other, almost inactive, business is vehicle import and repair. Mr. Salinsky confirmed that that business is not really active any more. Ms. Thompson stated that in terms of timing the old accessory building will be demolished and the new one built. She drew MPC members' attention to the pictures of the existing accessory building within the agenda package. She said that with the demolition of the existing accessory building and the rebuilding of one in the same footprint there is no change to the site coverage, which, she said, is well below what it could be. She ended with stating that the applicants wish to use the accessory building for uses such as a quiet area to sit, read or play an instrument in. She said that as was heard earlier from Marina Krainer, the existing house does not lend itself to these activities given its size and thin partition walls. She said that MPC heard that the existing cabin was designed for one person and is small in size.

Chairman Lock asked MPC members if there were any questions of Ms. Thompson or the applicants.

Mike Milne asked the applicants if the existing chimney would be salvaged for the new construction. Arnd Salinsky stated that there is no real fireplace in the existing structure to save and that a new chimney would be constructed.

Chairman Lock asked the applicants to expand on the use of the building. Mr. Salinsky stated that they would like to build and display a visually appealing structure using wood exterior finishes as that is what he enjoys doing. He said the structure is in a highly visible location so wants it to look nice for the community. He said that the existing dwelling has very thin walls and is an open space concept. He said that they would use the new building as a gathering space for when visitors came and also for a quiet reading space or to play a musical instrument in, such as a piano. He said that when Ms. Krainer is working in the dwelling for office purposes that it is distracting so a separate place for these other activities would be helpful. Marina Krainer added that the

dwelling is more like a small cabin and quite small for two people and that you can hear everything.

Carolyn Montgomery asked if the tenants moved out, and given the large distance between the existing dwelling and the new accessory building, could the owner create a new dwelling? Ms. Thompson answered that the definition of a dwelling in terms of the LUB describes as containing sleeping, cooking, eating and sanitary facilities. She said modifications to the building would have to be installed in order for the structure to be classified as a dwelling. Ms. Montgomery added that the perception might be by future landowners that this would make a great second dwelling and then make modifications to it. Ms. Thompson stated that modifying this accessory building into a dwelling would not be allowed pursuant to the LUB as only one dwelling per lot is required in the R-1B District so if such transition occurred, the municipality would immediately issue a stop order. She said that the structure would be approved as an accessory building and that is the only use that would be allowed. If it was used for any residential dwelling accommodation then enforcement measures would be taken by the municipality. She drew MPC members' attention to the staff recommendation where it is outlined in a condition that this structure not be used to accommodate any second suite or dwelling. Marina Krainer added that the district regulations also outlined that no further subdivision is allowed in the Hamlet of Benchlands so there can only ever be one dwelling on the lot.

Amanda Kelly asked Ms. Thompson if staff were comfortable with the engineering letter from Curtis Engineering and Associates, adding that ten feet is not very far. Ms. Thompson stated that the engineering firm has attended the site, determined that the slope is stable for the purposes of this particular building and have placed their professional stamp on the letter so she does not have any qualifications to challenge that.

Amanda Kelly then asked the applicants if there will be any excavations. Marina Krainer answered that they need to replace the foundation but that they will be taking care when developing to not disturb the soil, adding that they had to take the same care when they built the other accessory building on the property. The existing vegetation would be retained to maintain the stable slope. She said the Benchlands Fire Hall was also built close to this slope.

Amanda Kelly asked about the use of slope stability reports for the Hamlet of Benchlands. Ms. Thompson stated that each site is assessed based on its specific site characteristics, but, that over the years there have been many slope stability reports prepared and previous MPC's became comfortable accepting a letter from those engineers stating site stability on a site specific basis.

Chairman Lock added that the engineer has put his name and seal on the letter so he is satisfied.

Mike Milne stated that he is not sure that 1.5 is a good factor of safety or not. He said the engineering letter indicates that it is. Chairman Lock drew Mr. Milne's attention to the third paragraph of the letter where it is outlined the building will be satisfactory and will have a factor of safety against instability greater than 1.5. Mr. Milne then indicated his satisfaction with the statements being made by the engineer.

Ms. Montgomery commented that the LUB requires a building setback of some 65 feet and the MPC are considering granting a variance down to only 10 feet. Chairman Lock commented that



this is a large variance but the engineer has provided written confirmation that the development can be achieved safely.

Amanda Kelly asked why the proposed structure is not being moved further away from the slope. Ms. Krainer stated that they wanted to keep the big trees around the building but had never really thought about moving it because it is currently in a nice spot. Ms. Thompson added that there is some but not a lot of room to move the proposed structure to the north as the existing building is currently 10 m from the front boundary and the requirement is a minimum of 7.5 m so there is a little room to move. It was added by MPC that the property narrows to a point in this location as well.

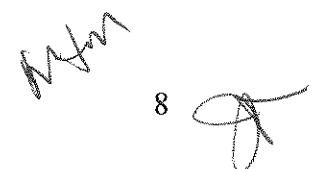
Ms. Thompson then outlined the staff recommendation is for approval and, point by point, described each condition. When finished she asked the MPC if there were any amendments or alternatives proposed.

Chairman Lock stated he heard the word “storage” as a possible use in the accessory building, but noticed that there were not any conditions addressing storage. Ms. Thompson stated that a statement could be added should MPC wish, however, storage is something that one would expect would be allowed in an accessory building but that this is just staff’s opinion. Chairman Lock stated there was no need to add anything regarding storage, that he was satisfied with this.

MOTION 06.12.10 KELLY THAT

the Municipal Planning Commission **APPROVE** Development Permit Application No. 57/10 subject to the following conditions:

1. All construction shall conform to the Alberta Building Code.
2. All electrical wiring and all natural gas or propane connections shall be approved by Alberta-registered Safety Codes Officers.
3. The Accessory Building shall be situated a minimum of 3.05 m (10.00 feet) from the top of the slope that exists on the property as outlined in a slope stability letter prepared by Curtis Engineering & Associates Ltd. dated December 15, 2010.
4. There shall be no washroom or toilet facilities installed within the Accessory Building.
5. The uses proposed for the Accessory Building as outlined in the development permit application (a gathering room for visiting friends, a quiet room for reading, drawing, writing or playing a musical instrument) are approved for private family purposes only.
6. The uses described above in Condition #5 above do not constitute approval for a second dwelling unit or any form of suite to be installed within the Accessory Building.
7. There shall be no commercial activity or any home occupation within the subject Accessory 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 exterior finish, including roofing material, of the new Accessory Building shall be complimentary to that of the existing buildings.
10. 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.

Handwritten initials 'MM' and a signature.

11. 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, 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: metal, cardboard, and kiln-dried lumber.
12. 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.

CARRIED UNANIMOUSLY

V. DEVELOPMENT APPLICATIONS

B. APPLICATIONS PROCESSED BY DEVELOPMENT OFFICER

1. DP 55/10
2. DP 49/10

Following a brief explanation of each of the above items, the Municipal Planning Commission accepted the above referenced decisions as information.

VIII. NEW BUSINESS

1. Council Minutes – November 9, 2010

The MPC members accepted the submitted Council minutes as information.

There was a brief discussion on how the MPC meetings should be run. Items such as: should questions be through the chair or not, when questions should be entertained, and where the development officer's verbal background information on the various proposals fits in. The members decided that all questions should go through the chair, and that questions should be addressed following the development officer's background information. It was further decided that the applicants should be given an opportunity to add or correct any of the background information that was outlined prior to any questions being asked.

2. MPC Meeting Dates – January and February 2011

Chairman Lock explained that due to commitments he is unable to make the MPC meetings on the scheduled dates in January and February, 2011 and asked the MPC members if they would be agreeable to change the meeting date for those two months. Mike Milne stated that he did not have any concerns with that but both Carolyn Montgomery and Amanda Kelly stated that they did not have their day timers with them to check their schedules to determine an alternate date. It was noted that Paul Ryan was not in attendance for consultation of alternate dates either. Ms. Montgomery added that she likely will not be in attendance at the February 2011 meeting. There was a discussion that three members would constitute a quorum so as long as there were three members present then the meetings can commence as scheduled. Following discussion, the members decided that the January 2011 meeting would remain unchanged (at January 19th) and the February 2011 meeting be changed from the 16th to the 23rd.

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MOTION 07.12.10 MILNE THAT

the Municipal Planning Commission meeting scheduled for Wednesday, February 16, 2011 be changed to instead be Wednesday, February 23, 2011.

CARRIED UNANIMOUSLY

IX. ADJOURNMENT

MOTION 08:12.10 MONTGOMERY THAT

the Municipal Planning Commission meeting adjourn at 10:35 a.m.

CARRIED UNANIMOUSLY



CHAIR



DESIGNATED OFFICER