

Minutes
Regular Meeting
Albany County Planning and Zoning Commission
August 9, 2017

Albany County Commissioners' Room

A regular meeting of the Albany County Planning and Zoning Commission was held on August 9, 2017, at 7:00 p.m. in the Albany County Commissioners' meeting room in the Albany County Courthouse.

I. PLEDGE OF ALLEGIANCE

II. CALL TO ORDER/ROLL CALL -

Members present: David Cunningham, Keith Kennedy, Carl Miller and Shaun Moore. John Spiegelberg absent.

Staff present: David Gertsch, County Planner

County Clerk: Jackie R. Gonzales

County Engineer: None

Albany County Attorney Liaison: None

Board of County Commissioners' Liaison: None

III. Excuse Absent Members: Chairman Cunningham indicated he would entertain a motion to excuse absent member John Spiegelberg. MOTION by Miller, seconded by Kennedy to excuse Mr. Spiegelberg. Motion carried on voice vote.

IV. APPROVAL OF AGENDA –Chairman Cunningham requested to pull item number B, Planning Project list/prioritization to allow Mr. Moore opportunity to further review. MOTION by Moore, seconded by Kennedy to APPROVE the August 9, 2017 Agenda with the REMOVAL of Item number B, Planning Project list/prioritization. Motion carried on voice vote.

V. APPROVAL of MINUTES – Chairman Cunningham indicated he would entertain a motion to approve the minutes of the Planning and Zoning Commission meeting of July 12, 2017, as presented. MOTION by Miller, seconded by Kennedy to APPROVE the July 12, 2017 Minutes as presented. Motion carried on voice vote.

VI. DISCLOSURES – None

VII. PUBLIC APPLICATIONS

A. Sprint (Welsh Lane) Tower Application LUCT-01-17

David Gertsch, County Planner gave the staff report. He indicated that this is a tower permit. The applicant is Pinnacle Consulting, Inc. (Gayle Yeiser) at 4352 Welsh Lane. An approach permit has been submitted to the Road and Bridge Department to establish an access from Welsh Lane (CR55) for the tower site. The approach permit will be submitted to the Board of County Commissioners' for approval if this tower permit is approved. No concerns were issued by Laramie Rivers Conservation District, Wyoming Game and Fish and the Sheriff's Office. Bill Gorman County Engineer commented that the fall zone radius is 60 ft. The regulations say the set back to the property line or lease line should be equal to the tower height (or in this case the fall zone radius). He thinks the applicant needs to increase the size of the lease to a square 120 ft. x 120' (ie. 60'x2 each direction). Notice has been provided by posted sign, publication and certified mailing as required.

Findings Necessary for Approval (Albany County Zoning Resolution, Chapter 5 Section 9, E):

1. The proposed tower shall not adversely affect the public interest.
2. The Applicant has provided the required site plans and/or survey. *Staff Response: Provided.*
3. The applicant has addressed the following impacts:
 - a. Visual Impacts
Applicants Response: “The proposed Tower will not interfere with any natural scenic vista, historic building or monument, or major view corridor and is far from any residentially zoned areas.”
 - b. Environmental Impacts
Applicant Response: “The leased Property is located in a relatively flat, undeveloped land used primarily for ranching and is not in an environmentally sensitive area.”
 - c. Co-Location Requirement
Applicant Response: “There are no available Towers in the coverage area available for collocation. The closest cell facilities are in the city limits of Laramie and are rooftop facilities with maximum heights of 60’.”
 - d. Exterior Lighting
Applicant Response: “Lighting will not be used on the Tower, but only on the Equipment located on the ground for security or access purposes.”
 - e. Screening and Buffering
Applicant Response: “Appropriate screening will be consistent with the fencing already located on the ranching property.”
 - f. General Nuisances
Staff Comment: The only potential nuisance noted by the applicant was lighting which was addressed above.
 - g. Air Traffic Safety
Applicant Response: “An investigation with the FAA has determined that registration of the proposed Tower is not necessary, and determination of such is enclosed.”
4. Statement allowing Albany County right to install communication antenna on the tower if requested. *Staff Response: Provided.*

Minimum Standards for a Tower (Albany County Zoning Resolution, Chapter 5 Section 9, G)

The applicant has met the minimum standards for a tower, except for the setbacks from property lines. The applicant, as per our regulations, is requesting a waiver from the setback requirement. The tower is required to have a setback of 120 feet. However, the site plan indicates that one of the property lines is only about 106 feet away from the base of the tower. The setback standard may be waived by the Board of County Commissioners if a Professional Engineer certifies in the event the tower collapses, a waiver of the setback would not threaten the health and safety of the adjacent property owners. The applicant has provided a letter from a Professional Engineer that estimates that in the event of collapse due to extreme conditions, the tower fall zone radius would be about 60 feet, which would not impact surrounding property owners.

Findings of Fact:

- The Findings Necessary for Approval, as listed in this report, are incorporated herein as Findings of Fact.

- The property is currently zoned Agricultural.
- The applicant has provided a complete application.
- The standard setback requirements will not be met and a waiver has been requested.
- The applicant has provided a letter from a Professional Engineer certifying that a waiver of the setback requirement will not impact adjacent property owners.
- The foundation design must be submitted and approved by the County Engineer prior to construction.

Conclusions of Law:

The provisions of the Albany County Zoning Resolution, Chapter 5, Section 5 and Chapter 5, Section 9 have been met.

Staff Recommendation

Approve the Tower Permit Application (LUCT-01-17) based upon and incorporating the Findings of Fact and Conclusions of Law as stated in the Staff Report above.

Shawn Moore asked about the size of the leased ground.

David Gertsch informed Mr. Moore that the size is 40' x 40'.

Keith Kennedy asked if the size of the lease is 120' or 140'.

David Gertsch indicated it is 120' at this point.

David Cunningham asked if there had been any discussion to the tower about these issues or complaints or issues from surrounding properties.

David Gertsch indicated only inquiries.

Brendan Thompson representing the applicant addressed the fall radius and indicated that they were leasing from Kelly Kennedy. The parcel will be used for grazing. As far as something falling, we extended the tower to meet all of the standard wind loads. The extra 40' is designed to be an extendable tower.

Carl Miller asked how far it exactly is from the overhead power lines.

Brendan Thompson was not sure and will ask his engineer and let the Commission know.

David Cunningham asked Brendan if he had any idea of the voltage of the overhead lines.

Keith Kennedy responded that it isn't a 3 phase line, it is single phase. It runs along the highway right-of-way.

Public comment commenced at 7:17 p.m. regarding this application.

Lee H. Schick questioned whether or not the engineering studies covered the period of construction or just the completed tower?

Brendan Thompson indicated that the foundation will need to be tested by the Engineering Department prior to the erection of the tower.

Lee H Schick also commented that in the letter to the Commission from the Staff, there was something about fencing as far as a buffering, but I can't remember the other word used. I believe it said it was to be consistent with the fences used on the other ranching property. Does it mean to keep cattle, or shielding the lights?

Chairman Cunningham commented that he understood it to be consistent with the fencing for livestock. The amount of light at this location would be very minimal only to allow the tower to be serviced.

David Gertsch informed Mr. Schick that information came from the applicant's application.

Brendan Thompson indicated that the fencing is basically similar existent on property. The lighting is for surface lights if it has to be maintained nightly. We meet all the standards so the equipment does not need to be lit unless the technician needs to come out and work.

There being no further public comments, Chairman Cunningham closed the Public Hearing at 7:21 p.m.

MOTION by Moore, seconded by Miller to APPROVE the Sprint (Welsh Lane) Tower Application LUCT-01-17 to the Board of County Commissioners incorporating the Findings of Fact and Conclusions of Law as listed in the staff report contingent upon increasing the lease area for the tower to 120' by 120' to address the 60' radius fall zone. Motion carried on voice vote.

Carl Miller wants to know the distance between the tower and the current power lines.

Keith Kennedy wondered whether the foundation needs to be approved by the County Engineer.

David Gertsch indicated that our regulations allow it to be turned in after.

B. Lazy J Estates Subdivision Preliminary and Final Plat SD-03-17 –Staff Report David Gertsch, County Planner gave the staff report. The applicants are Jeremy and Rachel Johnston at 3817 Satanka Road requesting the approval of Preliminary and Final Plats and Subdivision Permit. The property is accessed off of Satanka Road and Ramble A Road. The Fire Warden and Albany County Fire District #1 had no comments. Rob Fisher, Road and Bridge Superintendent noted that the County maintenance of Satanka Road ends at the end of the pavement. County Engineer, Bill Gorman recommended that covenants specify that lot 1 must be accessed from Ramble A Road to ensure that the existing driveway does not become a defacto road.

Laramie Rivers Conservation District Direct, Tony Hoch had no natural resource concerns, although he recommended quick reseeded of disturbed areas with native grasses. Scott Smith, Deputy Director from Wyoming Department of Game and Fish recommended restricting the planting of non-native shrubs and trees. Subdivision covenants should explain that wildlife in the area may damage vegetation and fencing and that damage claims will not be accepted by Game and Fish. Supplemental feeding of wildlife should not be permitted. Domestic pets should be restrained to prevent harm to wildlife. Wildlife friendly fencing is recommended and wildlife corridors should be preserved.

Applicable County Land Us Plans

Albany County Comprehensive Plan

The proposed subdivision is located in Priority Growth Area (PGA) 3. PGA 3 is considered “relatively growth efficient”.

Casper Aquifer Protection Plan

The proposed subdivision is partially within the Casper Aquifer Protection Area (CAPA). The western boundary of the CAPA crosses the southeast corner of the proposed subdivision. The area within the CAPA is considered part of the Casper Aquifer recharge area and potentially sensitive and vulnerable to contamination.

Albany County Zoning Regulation, Aquifer Protection Overlay Zone (APOZ)

The southeast corner of the proposed subdivision is within the APOZ which is identical to the CAPA. This subdivision is not required to complete a site specific investigation. If the property was zoned residential prior to adoption of the site specific investigation requirement (which the subject property was), future subdivisions are not required to complete this study. The future lot owners will be subject to the Prohibited Use Table for the portion of property within the APOZ and installation of a wastewater system in the APOZ will require additional standards be met prior to approval and installation of a new system.

Summary of Subdivision Permit Requirement

Subdivision Type: This subdivision meets the criteria to be considered a small subdivision and will be reviewed and approved under these standards.

Water: Water will be provided by individual wells for each lot permitted through the State Engineer’s Office.

Sewer: Each lot will be serviced by a wastewater system permitted through the Albany County Wastewater Engineer. If any part of the system will be located in the Aquifer Protection Overlay Zone, the system must be designed and installed in accordance with plans provided by a Professional Engineer.

Storm Drainage: A storm drainage plan was submitted by the applicant and reviewed by the County Engineer.

Utilities: The applicant notes electrical power can be provided by Rocky Mountain Power.

U.S. Postal Service: The applicant notes that postal service exists in the area and individual lot owners will have their own boxes.

Roads: The applicant is not proposing any new roads.

Fire Protection: Fire safety standards may be waived by the Fire Warden for small subdivisions.

Findings of Fact:

- Notice has been provided as required.
- This application is being reviewed as a Small Subdivision.
- The applicant has provided a complete application including preliminary and final plats.
- A portion of the southeast corner of this subdivision is in the Aquifer Protection Overlay Zone (APOZ). Any development or use of this portion of the properties will be subject to the standards associated with the regulations of the APOZ.
- Water will be provided to each lot by individual wells.
- Sewer will be provided by on-site water systems.

Conclusions of Law:

The requirements of the Albany County Platting and Subdivision Regulation, Chapter I-VIII for the Final Plat have been met and will be complied with.

Keith Kennedy inquired if this was all in Lot 3

David Gertsch indicated maybe a sliver of Lot 2. The applicant has plenty of room to develop these lots without infringement of the aquifer.

Staff recommended approval of the preliminary and final plats and a subdivision permit for the Lazy J Estates Subdivision (SD-03-17) based upon and incorporating the Findings of Fact and Conclusions of Law as stated above.

Carl Miller inquired how Lot 3 was being accessed.

Dave Hammond indicated that a new road would have to be built.

Public Comments - None

There being no further public comment, Chairman Cunningham closed the Public Hearing at 7:32 p.m.

MOTION by Miller, seconded by Moore to APPROVE the Lazy J Estates Subdivision Preliminary and Final Plat SD-03-17 to the Board of County Commissioners incorporating the Findings of Fact and Conclusions of Law as listed in the staff report. Motion carried on voice vote.

VIII. CURRENT PLANNING PROJECTS

A. Zoning Resolution Amendment ZA-02-17, Item #2

David Gertsch, County Planner informed the Commission that this particular amendment was returned by the Board of County Commissioners to the Planning and Zoning Commission on basis of complaints voiced at the Board's last meeting.

David Gertsch explained to the Commission the concerns regarding density. When an applicant applies for a sub-division permit they will have to go through the same standards. Currently the only place for an additional dwelling or for another cabin on a property is on a rural residential property which requires a conditional use in a rural residential and must meet the density standards of 1 dwelling per 5 acres. Under the proposed regulations, in rural residential, you can go down to a smaller density of how many residents per lot. It has to be a rural lot. We took the minimum lot sizes and doubled it. The one line that came up in the meeting that was discussed didn't have to do with that, it had to do with lots in the aquifer protection zone. You could have one multi-dwelling with 10 acres. The different from today, you can still do that, if you have 10 acres you can put 2 dwellings, you wouldn't have to do the conditional use process if you had 10 acres with 2 residential lots, you would need DEQ to determine if it is acceptable. This will allow an extra set of eyes.

David Cunningham questioned whether this strengthened the requirements.

David Gertsch explained that when the requirement was added, that created an additional standard.

Keith Kennedy indicated that the requirement is for rural residential and is more restrictive. He asked whether that would apply for any area outside of the Aquifer Protection Overlay Zone (APOZ), which would be required anywhere.

David Gertsch indicated that the applicant would still have to consult with the wastewater engineer.

David Cunningham asked if it still applied if an applicant was within 10 acres of the APOZ.

David Gertsch indicated yes. We can require more if the Wastewater Engineer wants to review. From what I got from the meeting, they wanted to remove the opportunity of a second dwelling. They wanted to limit it to one residence per parcel. Maybe the conditional use should be part of the process so that the public has a say.

Sarah Gorin, former Planning and Zoning Commission member and Chair commented that she still maintains an interest in planning and zoning issues especially when they pertain to the APOZ. She indicated she should have commented at the first discussion and didn't. She indicated she spoke in

opposition to the proposed changes. She has concerns of removing the conditional use permit requirement out of the whole process. Allowing a second dwelling without a conditional use permit could be a small thing, but it may not be. We wouldn't have any way of knowing how many people might want to do this, and it's possible that it could completely change the character of an areas, especially if the second dwelling was a rental. Zoning is in large part about density, with noise and light from your neighbors. Ms. Gorin was particularly concerned about the proposed section of Chapter 6, B.3., which reads, "An additional dwelling or a multi-family dwelling shall not be permitted if the property is within the Aquifer Protection Overlay Zone, unless the parcel is at least then (10) acres." She indicated that if the Commission choose to adopt the rest of the proposed changes to the zoning resolution, that she respectfully request that you put a period after "Zone" and simply prohibit an additional dwelling or a multi-family dwelling within the APOZ. Under the proposed language, if you had a relatively small lot, just over 10 acres, you could add a second dwelling, effectively making it even smaller with no notice, no Planning and Zoning Commission hearing and no County Commissioner hearing.

Sarah Gorin indicated that she was excited about the proposed county land purchase, the Pilot Peak project. The proposed purchase covers only about 13% of the APOZ. It will be important to demonstrate to potential donors that the aquifer protection effort, in combination with accessible outdoor recreation, is unified and consistent, that is we're not strengthening aquifer protection in one place and weakening them in another.

Sylvia Bagdonas, representing Albany County Clean Water Advocates expressed that they are concerned when there is talk about increasing the density of the aquifer and indicated that this should not have an increased number of dwellings in this area.

Hearing no further comments, discussion was closed at 7:51 p.m.

Shaun Moore requested more time to think about it and the effects the change may have either way. The 10 acres suggested is nice, but you see people building houses, if they build a shop that has a bathroom, is that going to be more harmful to the aquifer than someone who builds a house with 6 bathrooms and a bar area. Isn't it the same amount of wastewater coming out of the house? I like what you recommend, but I'd like to give it some thought.

David Cunningham indicated that the Wastewater Engineer would take that into account in the beginning of the process.

David Gertsch commented if more thought needs to be given, that's fine. Only the density issue has to be dealt with. Items one and three and the process to withdraw were approved by the Board of County Commissioner's.

MOTION by Kennedy, seconded by Miller to TABLE this matter until the next meeting when we can hear comments from the Wastewater Engineer. Motion carried on voice vote.

B. Planning project list/prioritization – WITHDRAWN

C. Warren Livestock land purchase

David Cunningham informed the Commission that there is a public hearing tomorrow and Monday and then there will be a vote on Tuesday. He indicated that he's gone forward to support this process publicly. If any members of the Commission want to discuss their support, he encourages them to do so by e-mail.

X. OTHER ITEMS/ANNOUNCEMENTS -

David Cunningham informed the Commission that anybody is welcome and should attend the hearings on the proposed land purchase. He indicated that Alan Frank put up a poll on the County's website. Out of 600 responses, there are 40 negative. I've never seen a response of that nature. To get 600 people to make comments is un-heard of. I think this is a positive thing for the County and the Commissioners' should proceed.

XI. CITIZEN COMMENTS – Non-Agenda Related Topics – None

XII. ADJOURNMENT

MOTION by Miller, seconded by Moore to ADJOURN the August 9, 2017 Planning and Zoning Commission meeting at 8:05 p.m. Motion carried on voice vote.