

CASCADE COUNTY
PLANNING BOARD

9/20/2022

9:00 AM

Hybrid Online/Zoom Online Video Meeting

Board Members: Dexter Busby, Richard Liebert, Elliot Merja, Bruce Moore, Sara Murphy, Beth Schoenen and Rob Skawinski.

NOTICE: PURSUANT TO MCA 2-3-212(1), THE OFFICIAL RECORD OF THE MINUTES OF THE MEETING IS IN AUDIO FORM, LOCATED AT CASCADECOUNTYMT.GOV AND THE PLANNING OFFICE. THIS IS A WRITTEN RECORD OF THIS MEETING TO REFLECT ALL THE PROCEEDINGS OF THE BOARD. MCA 7-4-2611 (2)(B). TIMESTAMPS ARE INDICATED IN RED, WITHIN EACH AGENDA ITEM BELOW, AND WILL DIRECT YOU TO THE PRECISE LOCATION SHOULD YOU WISH TO REVIEW THE AUDIO SEGMENT.

THESE MINUTES ARE PARAPHRASED AND REFLECT THE PROCEEDINGS OF THE CASCADE COUNTY PLANNING BOARD AND ARE CONSIDERED A DRAFT UNTIL FORMALLY APPROVED BY THE PLANNING BOARD.

STAFF ATTENDEES: Kevin Angland, Raina Leavens, Phoebe Marcinek, Alisha Osborne, Kienna Owen-Quinata [Online] and Charity Yonker.

PUBLIC ATTENDEES: Dave Bertelsen, Levi Lee, Panther Lee, Loren Smith, Ronda Wiggers.

1. CALL TO ORDER: Elliot Merja called the meeting to order at 09:00 AM [00:01:43].

2. ROLL CALL:

BOARD MEMBERS PRESENT: Dexter Busby, Richard Liebert, Elliot Merja (Online), Bruce Moore.

BOARD MEMBERS ABSENT: Sara Murphy, Beth Schoenen, and Rob Skawinski.

3. APPROVAL OF THE MINUTES :

A. Draft Minutes for August 16, 2022 [00:02:27]

1. Board Discussion & Decision

Elliot Merja: Asks for changes or corrections.

Richard Liebert: Says he has one correction.

Elliot Merja: Says yes, Mr. Liebert.

Richard Liebert: Says on page eight it should say 'brother-in-law' instead of 'brother', and he is not sure whether he did not elaborate but he wanted to correct it for the record.

Elliot Merja: Says okay and asks if there are any other corrections. Hearing none, he would entertain a motion to approve.

Dexter Busby: Says so moved.

Elliot Merja: Asks if there is a second.

Bruce Moore: Seconds the motion.

Elliot Merja: Asks if there is any further discussion. Hearing none, he calls for the vote.

All in Favor, motion carries 4 – 0.

4. OLD BUSINESS: None.

5. NEW BUSINESS:

A. Zoning Change Application, ZC # 2022-002, Submitted by Levi & Panther Lee [00:04:03]

1. Kevin Angland presents the Staff Report.

Motions Presented for the Board’s Consideration:

A: I move that the Planning Board recommend to the County Commission, after consideration of the Staff Report, supporting materials, public testimony, and written comments, that the map amendment requested by Levi and Panther Lee to rezone the Subject Property known as Parcel No. 2490500 having Geocode: 02-3015-29-1-01-01-0000 and located in Section 29, Township 20 North, Range 03 East, P.M.M., Cascade County, Montana, from the Light Industrial District to the Suburban Residential 1 District be denied.”

or

B: “I move that the Planning Board recommend to the County Commission, after consideration of the Staff Report, supporting materials, public testimony, and written comments, that the map amendment requested by Levi and Panther Lee to rezone the Subject Property known as Parcel No. 2490500 having Geocode: 02-3015-29-1-01-01-0000 and located in Section 29, Township 20 North, Range 03 East, P.M.M., Cascade County, Montana, from the Light Industrial District to the Suburban Residential 1 District be approved.”

2. **Board Discussion** [00:12:02]

Elliot Merja: Says thank you and asks if there are any questions for Staff.

Richard Liebert: Asks how many dwellings can go on the parcel now.

Kevin Angland: Says there are actually five individual lots, and each lot can have one single family dwelling per lot with a Location Conformance Permit, if the rezone is approved, and any more than one dwelling unit would require a Special Use Permit.

Richard Liebert: Asks for confirmation that five lots means five dwellings.

Kevin Angland: Says there could be, however, all five lots are owned by the Applicant and so they are intending to put one single family dwelling on one ten (10) acre lot, which is lot fifteen (15) with a possibility in the future of putting a second one on lot seventeen (17) but that is still undetermined at this time.

Richard Liebert: Asks if the two lots would have dwellings then there would be room for three (3) more.

Kevin Angland: Says yes.

Richard Liebert: Says in that fifty (50) acre parcel.

Kevin Angland: Says yes.

Richard Liebert: Says now he understands.

Elliot Merja: Says if he reads it right, all the parcels are slightly over ten (10) acres.

Kevin Angland: Says that is correct.

Elliot Merja: Says okay and asks if there are any further questions for Staff. Hearing none, he asks whether the land owner is present.

Panther Lee: Says they are there.

Charity Yonker: Invites the Applicants to the podium.

Panther Lee: Says yes.

Kevin Angland: Says for the record, please state your name and address.

Panther Lee of 726 US Highway 87, Belt, MT.

Elliot Merja: Asks if there is anything the Applicants would like to say, as he assumes they are proponents.

Panther Lee: Says they are proponents of the rezoning and explains that they intend to build a single-family dwelling one lot and in the future they may build a small home on lot seventeen for her father-in-law to be closer and that they do not intend to build any more homes for any other family members now or in the future.

Elliot Merja: Says okay and asks if any of the Board has questions for the Applicants.

Richard Liebert: Asks if they intend to have two dwellings at the most.

Panther Lee: Says yes, two dwelling at the most; one (1) for sure.

Richard Liebert: Asks if they ever sold that parcel if the next owner would be able to build additional dwellings on the other lots.

Kevin Angland: Says yes, they would be, with a Location/Conformance Permit.

Richard Liebert: Says if they ever got sold, but your [Applicants] intentions are as you have said.

Panther Lee: Says yes, but this will be a generational boon to the family, and we intend to give it to our daughter after we die and imagine she will want to keep it as is.

Richard Liebert: Says thank you Mr. Chairman, that is all.

Elliot Merja: Says thank you and asks if any other Board members wish to talk to the Applicants. Hearing none, he thanks the Applicants and asks if there is any other public comment.

3. Public Hearing opens at [09: 16 AM], [16:45].

Public Proponents:

Dave Bertelsen of 5100 49th St SW: Says he and his wife Vickie own the property to the east side, but this parcel constitutes our West boundary and our South Boundary, and it is my understanding that if this rezoning is allowed, they can only break it down to five (5) lots. We have an over the road trucking company there with refrigerated units running twenty-four (24) hours a day and so am curious where the residences would be located. He asks if there is a slide that shows where the residences would be.

Kevin Angland: Asks if we can pull up the Certificate of Survey.

Richard Liebert: Says we have the technology.

Kevin Angland: Says Lot (15) and Lot (17) possibly in the future.

Dave Bertelsen: Says we are quite a way away from the Applicants and hope the noise will not bother them, and we are not opposed to I just needed clarification. He asks if the water system is Tri-Hill.

Panther Lee: Says they intend to use cisterns.

Dave Bertelsen: Asks if access would be from the west.

Panther Lee: Says it is off of 58th Street.

Dave Bertelsen: Says he has no more questions.

Elliot Merja: Asks if there is any other public comment.

Loren Smith of 5001 58th St SW, Great Falls: Says he owns the property to the North and the Northwest of the Applicants and met them and enjoy talking to them and wants the Board to pass the rezoning.

Elliot Merja: Asks if there is any further public comment. Hearing none, he asks if there is anything the Board would like to ask of the Planning Department or any of the public who presented.

Richard Liebert: Says he would like to make a comment.

Elliot Merja: Says yes.

Richard Liebert: Says that it is good for any Applicants to go and meet neighbors face to face versus text and email as it helps community development.

Elliot Merja: Asks if there is anything else from the Board or the Staff.

Panther Lee: Says she would like to add one more comment that we have lived the last four years on Gore Hill and is approximately two blocks from the property they just bought and are used to living next to the interstate and the airport and took it into consideration when deciding where to place the house. We had sent out letters with family photo and numbers to the neighbors as we want to build neighborhoods and communities.

Richard Liebert: Says so C-130s do not bother you.

Panther Lee: Says she does not even hear them anymore.

Public Opponents: None.

General Public Comments Regarding ZC # 2022-002, Rezone Application: None.

Public Hearing closes at 09:23 AM.

4. Board Discussion & Action: [00:23:09]

Elliot Merja: Says he would entertain a motion at this time.

Richard Liebert: Moves to recommend the rezone be approved.

Dexter Busby: Seconds the Motion.

Elliot Merja: Asks if there is any further discussion. Hearing none, he calls for the vote.

All in Favor, motion carries 4 – 0.

B. Maeder Addition Minor Subdivision Preliminary Plat Application and Rezone [00:24:14]

1. Raina Leavens, Planner presents the Staff Report.

Motions Presented for the Board's Consideration:

A: I move that the Cascade County Planning Board recommend, after consideration of the Staff Report and Findings of Facts, denial of the Maeder Addition Minor Subdivision Preliminary Plat and rezone of proposed Lots 1 and 2 from Suburban Residential 2 to the Light Industrial District;

or

B: I move that the Cascade County Planning Board recommend, after consideration of the Staff Report and Findings of Facts, adoption of said Staff Report and Findings of Facts, and approve Maeder Addition Minor Subdivision Preliminary Plat and rezone of proposed Lots 1 and 2 from Suburban Residential 2 to the Light Industrial District subject to the following conditions:

1. A provision in the Homeowners' Association's (HOA) Covenants, Conditions, and Restrictions (CCRs) or covenant filed with the final plat must provide that a 100-foot open space buffer must be established between any structures and adjacent prime agricultural lands.
2. Include a "Notice of Agricultural Activities" on the final plat stating in effect: "This subdivision is in the vicinity of existing agricultural activities which may affect a purchaser's use and/or enjoyment of his/her property."
3. Cause to be recorded in conjunction with the final plat, a statement of waiver placed on the final plat requiring property owners of each lot in the subdivision to take part in any Rural Special Improvement District (RSID) for the reconstruction, improvement or perpetual maintenance of any county road in the vicinity used to access the minor subdivision, or any other road that can be used to access these lots as determined by Cascade County, provided that all other property owners served by said road share equitably in such an RSID. This waiver shall expire 20 years after the date the final plat is filed with Cascade County.
4. Provide safe and adequate access including all internal private roads and cul-de-sacs, street signs, and stop signs, must be designed, constructed, installed, inspected, and certified by a licensed professional engineer that they meet at a minimum the Cascade County Subdivision Road Specification.
5. Include on the final plat a statement certifying the status of the internal subdivision roads.
6. Provide a copy of the approved Approach Permit for Vaughn Road from Montana Department of Transportation.
7. In the event a Rural Improvement District is not approved, Developer shall cause to be recorded in conjunction with the final plat, a covenant that runs with the land or HOA CCRs with provisions granting sufficient authority and procedural mechanisms to administer, enforce, and fund the perpetual maintenance and discretionary improvement of the public rights of way created by and indicated on the final plat.
8. A statement shall be included on the Final Plat stating: "Lot owner(s) shall comply with the required Noxious Weed Management Plan, approved by the County Weed Supervisor."
9. Submit a written Weed Management Plan to the Cascade County Weed Board specifying the methods for weed management procedures with regards to this development and incorporate it into the HOA CCRs or file with the Clerk & Recorder's Office along with the Final Plat.
10. All vegetation disturbed during construction shall be reestablished with vegetation types that have been recommended by the MSU Extension Office.

11. A copy of the MDEQ General Discharge Permit for Stormwater associated with construction activity in order to subdivide shall be submitted prior to final plat approval, if the disturbed area will exceed one (1) acre.
12. Inclusion in the HOA or on the Final Plat a covenant restricting structure height of no greater than five hundred (500) feet in height.
13. For lots under 20 acres, the Montana Department of Environmental Quality's (MDEQ) Certificate of Subdivision Approval (COSA) must be provided prior to final plat approval.
14. For lots 20 acres or more, the City-County Health Department's Certificate of Subdivision Approval (COSA) must be provided prior to final plat. Sanitary exemptions, when utilized, shall be placed on the final plat.
15. The Final Plat must contain the following statement: "The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, wired broadband, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever."
16. Correct any errors or omissions on the preliminary plat prior to final plat approval.
17. Submit with the Final Plat submittal and file with the Final Plat a certificate of a title abstracter showing the names of the owners of record of the land to be subdivided and the names of lienholders or claimants of record against the land and the written consent to the subdivision by the owners of the land, if other than the subdivider, and any lienholders or claimants of record against the land.
18. Complete required improvements within the proposed subdivision prior to approval of the Final Plat, unless a bond or other reasonable security approved by the County Commissioners is obtained prior to Final Plat.
19. Include in the HOA CCRs or Final Plat a restriction limiting livestock in accordance with the Cascade County Zoning Regulations for Lot 3.
20. Cause to be filed on the final plat, a Declaration of Covenant declaring that all of the properties described shall be held, sold, and conveyed subject to the following covenant which shall run with the real property and be binding on all parties having any heirs, successors, and assigns, and shall bind each owner thereof and the covenant may be revoked for any or all parcels within the subdivision only by mutual consent of the owners of the parcels in question and the governing body of Cascade County.

2. Board Discussion [00:36:45]

Elliot Merja: Asks if there are any questions for the Staff.

Richard Liebert: Says yes, and asks the Staff to please project an image that identify the lots so he can articulate the next question. He asks if Lot one (1) would be used for business.

Raina Leavens: Affirms.

Richard Liebert: Says that is for the repair and maintenance on mobile homes.

Raina Leavens: Says yes, mobile homes.

Richard Liebert: Says he has been there before and asks Mr. Maeder whether it was Covid that halted the planning process for him.

Michael Maeder: Says no, none of that had anything to do with it and explains he had a partner and it was not working out financially.

Richard Liebert: Says so that is why we are here again; the next question relates to a Rural Special Improvement District. He asks how that is implemented, and whether there is money involved in that managed by some other element or the developer.

Raina Leavens: Says what they are asking that we take on independently the County road, but they will administer an additional tax to the property owners, and that goes to the County Commissioners for approval.

Richard Liebert: Says so the County government has to be involved in that if it is granted.

Raina Leavens: Says yes, they have to decide to accept the road.

Richard Liebert: Asks what the maximum number of dwellings is that can be built on all three lots on this parcel.

Raina Leavens: Says for the Suburban Residential-2 district, they can have one (1) principal dwelling. *[Inaudible]*.

Charity Yonker: Says they can have a second dwelling with a Special Use Permit.

Richard Liebert: Asks whether Lots one (1), two (2) and three (3) are all single family.

Charity Yonker: Says Lot 1 and 2 are being proposed to be zoned in the Light Industrial District, so those two (2) Lots would only allow for a residence incidental to the business.

Richard Liebert: Asks if she is talking about Lot 1.

Charity Yonker: Says Lot 1 and Lot 2 have that.

Richard Liebert: Says and Lot 3 would be just for that.

Charity Yonker: Says Suburban Residential-2 allows for one (1) primary single-family dwelling and they could have a second dwelling with a Special Use Permit.

Richard Liebert: Says he is looking at it and it is twenty (20) plus and another ten (10), and that leads to the last question and whether a Homeowner's Association must have a minimum number of people to be in a Homeowner's Association. He asks if it can be three (3) people or twenty (20) or thirty (30). Mr. Busby has the follow up.

Dexter Busby: Asks if they are permitting one residential at this point why the Homeowner's Association (HOA) is being referenced and why we are going to the expense if there is one (1) residence.

Charity Yonker: Says the conditions are written so that the restrictive covenants are either put into an HOA CCR document or placed on the plat or filed with the plat. She states as far as the Department is aware, they are not considering an HOA. She states that if you recall the legislative changes, and rationale behind drafted those conditions, they are drafted so in situations where there are HOAs, that condition also applies without changing wording on it and is an either or situation.

Dexter Busby: Says so they do not have to have an HOA.

Charity Yonker: Says that is correct.

Dexter Busby: Says it has to be recorded on the plat either way.

Charity Yonker: Says yes.

Dexter Busby: Says okay.

Elliot Merja: Asks if there are any further questions for Staff. Hearing none, he asks if the twenty (20) conditions imposed are standard in regard to situations like this if not, he wonders how they are developed.

Raina Leavens: Says they are based off the Staff Report, which goes off of the Findings of Fact and the regulations that we need to follow for our subdivision, so they are standard and we go through the Findings of Fact and it is more tailored to each subdivision.

Elliot Merja: Say okay, thank you, are there are further questions for the Staff from the Board. Hearing none, he says he assumes Mr. Maeder is there and asks whether he would like to present anything.

Phoebe Marcinek: Says let us open it up to Public Comment.

Elliot Merja: Asks if we open it up to the Applicant first.

Phoebe Marcinek: Says it is because you are hearing from the developer.

Elliot Merja: Says the developer, yes.

Phoebe Marcinek: Says you want to formally open the public hearing, you should do that now.

Charity Yonker: Affirms and says if the Applicant would like to come to the podium and state his name and address for the record.

3. Public Hearing opens at 09:46 AM, [00:44:06].

Public Proponents:

Michael Maeder of 2407 Central Ave W, Great Falls: Says he would like to go through it as it is a little complicated for him to understand and so has been relying on engineers and the Planning Department and he really appreciates everything they have done. He explains he originally looked at the land and asked himself how it could benefit Cascade County and Great Falls, with it made sense to keep it heavy industrial on one side, light industrial on the other, and keep the rest of it residential. He says originally, he had plans to have a mobile home maintenance and repairs and possibly sales, but it was not working. He says he has been getting inquiries and the Vaughn Volunteer Fire Department wants an acre, and he appreciates the work they have done, and he hopes it passes and he will answer any questions that need asked. Thank you.

Elliot Merja: Asks if anyone has any questions for Mr. Maeder.

Richard Liebert: Says he has a question for Mr. Maeder and says welcome back, I remember going through this process last time and we have much better technology and a full Staff and everything this time so we can effectively get this done, I hope. Regarding Lot 1, the Light Industrial he asks if Mr. Maeder is trying to market it for industrial use.

Michael Maeder: Says yes.

Richard Liebert: Asks if in the Findings of Fact the smaller ten (10) acres is to be used for repairing and remodeling of mobile homes and a shop and opines that it is admirable as there is a need and then the economy facilitates those.

Michael Maeder: Says he is too old to be doing the work in it.

Richard Liebert: Says it is from the old Findings of Facts, things change obviously if you have businesses interested in that property then you have prospects. It is your property to use and I do not know the market for people wanting to repair and recycle as I am not making business decisions.

Michael Maeder: Says there is a need out there and a market.

Richard Liebert: Says and people are just trying to find someplace to live. He says that is all, Mr. Chairman.

Elliot Merja: Says okay and asks if anyone else from the Board have any questions. Hearing none, he asks if there is anyone from the public that would like to comment.

Public Opponents: None.

General Public Comments Regarding Maeder Addition Minor Subdivision Preliminary Plat Application and Rezone :

Michael Ries of KLI: Says he is representing Mr. Maeder and has done an engineering report for him. He says he has been surveying for over thirty (30) years, and explains that some of the Rural Improvement Districts can be done offline. He says the taxes do go up some to maintain roads, although a lot of the time the County does not maintain the roads, which is the problem he has with Rural Improvement Districts. We are finding this out in smaller counties, he says he thinks there are two (2) snow removals as that is up to the public works and I do not know if the Public Works got our engineering report. He asks if anyone knows.

Charity Yonker: Says she forwarded it to them to see if it had gone to them and I believe it had been the first time they had seen it or it could have been submitted awhile ago and they just do not recall it, but the Rural Special Improvement District Application was submitted to Public Works approximately two weeks ago.

Michael Ries: Says okay and explains that the engineers put numbers on there and asked if the Public Works would want another engineering report on that, as he knows some counties do require that. He says he is not saying to change the County rules.

Charity Yonker: Says we have not had a Rural Special Improvement District Application come through for a while, and the Resolution for the County is a bit outdated so we are in the process of going through that right now and will get it to Commission and will be mainly the Planning Department's purview in presenting those recommendations to the Commission for a Resolution of Intention.

Michael Ries: Says he saw the twenty (20) conditions placed on the recommendation and have no problem with that, I am willing to draft a plat. He says he thinks there is a mention of having the RID on the plat.

Charity Yonker: Says the waiver.

Michael Reis: Says yes. That would be on the plat, but we would file an RID with the Clerk and Recorder.

Charity Yonker: Says that is correct.

Michael Reis: Says he just wants to make sure that is in there as well so we are aware there will be some recording fees as well. He asks if Cascade County has their own standard of covenants.

Charity Yonker: Says we do not, but I would advise you take these conditions if they approved by the Commission and use that as your framework. There is some specific language that comes directly out of the regulations such as the utility language, which should be a cut-and-paste exact language, because if you change the language, we are going to go back and forth. I can tell you it gets hung up in the plats because they do not include wired broadband on it, and we will kick that back to you.

Michael Ries: Says he does have a set of covenants that I have a preliminary of, so if this is approved, we will work with you on this. This has been a long process for my client, so we want to make this as easy as possible. Now it is up to the County to make that decision, because I have had people who have lived in a subdivision who have contacted Public Works and inquired on the

roads being plowed and were told emergency services were the priority. He asks if there are any questions.

Elliot Merja: Says thank you very much and asks if there is any other public comment. Hearing none, he closes the Public Hearing.

Public Hearing closes at 09:52 AM.

4. Board Discussion & Action: [00:53:44]

Elliot Merja: Asks if there are any other questions for Staff.

Richard Liebert: Says he has a question for Staff and asks about item number seven (7) in the Conditions, and whether as an advisory Board, they simply recommend to the County Commissioners.

Charity Yonker: Says that is correct.

Richard Liebert: Asks if the Commission will make the command decision about how it is all integrated with Public Works, to include the Cost Benefit Analysis, the small versus larger development.

Charity Yonker: Says that is correct.

Richard Liebert: Says obviously with Public Works' input.

Charity Yonker: Says yes.

Richard Liebert: Says very valid concerns regarding snow removal and calls to Public Works. He asks what the greatest number of dwellings for the property is.

Unk: Says three (3).

Charity Yonker: Says three (3), possibly (4).

Richard Liebert: Says three (3) or four (4) people calling Public Works, we are just advising and gather public input. That is it, Mr. Chairman, thank you.

Elliot Merja: Says thank you, and asks if anybody else from the Board has questions. Hearing none, he would entertain a motion.

Dexter Busby: Moves to recommend approval to rezone to Light Industrial.

Richard Liebert: Says well said.

Elliot Merja: Says moved and seconded, any further discussion.

Charity Yonker: Asks if we have a second.

Bruce Moore: Seconds the motion.

Elliot Merja: Says I am sorry, I though he said "second". He asks if there was a second, then.

Bruce Moore: Says yes.

Elliot Merja: Says moved and seconded, and asks if there is any further discussion.

Richard Liebert: Says he hopes we get final resolution for Mr. Maeder as there have been a lot of disruptions. Thank you, Mr. Chairman.

Elliot Merja: Asks if there is any further discussion. Hearing none, he calls for the vote.

All in Favor, motion carries 4 – 0.

6. BOARD MATTERS [00:57:05]

None.

7. PUBLIC COMMENTS REGARDING MATTERS WITHIN THE BOARD 'S JURISDICTION [00:57:21]

Elliot Merja: Asks if there is any public comments and says there is probably no public present from what he can see.

Richard Liebert: Says the public is here, Mr. Chairman.

Elliot Merja: Says the public is still here.

Richard Liebert: Says there is a citizen here.

Elliot Merja: Says okay and asks if they have any comments for us. Hearing none, he would entertain a motion to adjourn.

8. Adjournment at 09:56 AM [00:57:55]

Dexter Busby: Says so moved.

Richard Liebert: Seconds the motion.

Richard Liebert: Calls for the vote.

All in Favor, motion carries 4–0.

DRAFT