

LAKE COUNTY PLANNING BOARD MEETING
MARCH 9, 2005
Meeting Minutes

Members Present: Steve Hughes, Lisa Dumontier, Jack Meuli, Bob Kormann, John Fleming, Jerry Winkley, Clarence Brazil, Ken Miller, Fred Mueller

Staff Present: Jamie Ludwig, Sean Conrad, Sue Shannon

7:00 p.m. John Fleming called the March 9th Lake County Planning Board meeting into session.

Jack Meuli moved to approve minutes for the February meeting, Bob Kormann seconded.

[VOTE UNANIMOUS]

John Fleming explained the agenda, introduced Ken Miller as the newest Planning Board Member and introduced the presentation from the Salish & Kootenai Tribes concerning density. He asked if anyone in the audience was taping this meeting and no one responded.

Janet Camel introduced her constituents and discussed density and the proposed density in specific areas that the Tribe would like to see realized. She handed out a letter to the Board that highlighted the majority of their density requests. She noted that two really critical groundwater areas are to the north and east of Pablo and to the south and east of Arlee and requested density be reigned in at those places in accordance with the sewer district boundaries. She requested 1/40 density in key wildlife corridors along Post Creek, Poison Oak Creek, Crow Creek, the Jocko River and also the Grizzly Bear Management zone 2. She further requested 1/80 density in Grizzly Bear Management zone 1 and a density transition area between Ronan and St. Ignatius.

Seth Makepeace has been the hydrologist for the Salish Kootenai Tribes for about 15 years. He expressed a need for conservatism of resources that once degraded cannot be brought back. He discussed water resources, advocated more restrictive densities as a measure to protect groundwater, and illustrated groundwater and aquifer regeneration and lack thereof in the past twenty years. He further explained his concern about the availability of groundwater to support continued development. He charted the gradual decline of depth to groundwater over the past 20 years throughout Lake County.

Dale Becker has been the Tribal Wildlife Program Manager for the last 15 years. He works a lot on keeping wildlife a viable part of the picture with increasing human activity and proximity. He works with endangered species and investigates ways to minimize conflicts with people. He discussed domestic cats as predators and the Tribal input for the Highway 93 construction. "And once again, it gets to be a thing of trying to put together designs and plans where both the people and wildlife can coexist and do so relatively well here in the valley."

Janet Camel added that the Tribe wishes to see the growth boundary in Big Arm brought up a quarter mile to the north with the densities east & west of Big Arm at 1/10. The State Fish & Wildlife folks told her they wanted to see the area southwest of Ninepipes increased to the 1/40 density. The Tribe also thought 1/20 density would be better east of Polson against the mountains because of the grizzly zone.

Circle P Ranch

Sue Shannon presented the Circle P Ranch Vacation Rental subdivision, providing an overview of the Staff Report. The proposal is to create a duplex that will be rented as vacation rentals on a weekly basis. It is similar to an RV park in terms of review and licensing requirements. The Planning Staff is recommending conditional approval to the Board.

Mike Prather stated that he wished for a one-way loop asphalt road 12' wide with no parking on the 2-3 foot shoulders.

Steve Hughes moved for adoption of the staff report and allow the developer to utilize the proposed 12' roadway with a 3' shoulder on either side.

Jack Meuli seconded it as a one-way road.

VOTE UNANIMOUS to approve with 12' one-way road with 3' shoulders.

Kootenai Lodge

Sean Conrad provided a brief staff report. He gave an overview of the legal notice and the further steps that the Planning Department took beyond the statutory requirements.

Paul Milhous began the developer's presentation, gave a personal history and introduced this associates in the Milhous Group. He then gave a background overview of his interest in the Kootenai Lodge and showed what the property may look like at completion.

Charlie Seaman is concerned with finding new uses for obsolete buildings. He explained the structural rehabilitation and saving 80% of the trees. He discussed 180-foot deep wells producing about 300 gallons per minute. He addressed fire hydrants for the rural fire departments to use to recharge their tankers.

Dave DeGrandpre addressed density and questioned its meaning. He indicated that one of the ways a person could achieve a higher density is by putting in a community sewer system. He pointed out that the property is unzoned, and indicated that there is a permitting process in place to deal with boat docks for the individual homeowners.

Bob Kormann questioned the covenants on the Ridge subdivision and how they relate to the proposed sewage treatment plant. Sue Shannon reported that the Bill Astle, the developer's lawyer, determined that it wasn't addressed in the covenants, as read in their entirety, and feels sewage treatment facilities are to be construed as underground utilities.

Bob Kormann thought the covenants specified single-family use only.

Fred Mueller questioned tree removal at the Ridge lot for the sewage facility. Jay Billmeyer reported that there are very few trees there already and that the developer will eventually submit a proposal to subdivide the Ridge lot. Sue Shannon offered her opinion that trees would have to be removed to put in a septic system, and that you couldn't wind the septic treatment infrastructure around the trees.

Bob Kormann asked about precedent using the public right-of-way to get the sewer lines to the Ridge property. Dave DeGrandpre responded that the sewage system would be built to excess capacity for future public use. Bob Kormann repeated his question. Dave DeGrandpre reported Pablo, Arlee, and Polson. Every place in the County that there's a public sewer system it occurs within public rights-of-way. Bill Astle explained water & sewer districts as related to the ability to use any road in the state of Montana. He further explained that the lot that Milhous owns on the Ridge would be part of the initial sewer district and would be required to tie into the system.

Fred Mueller asked how much more room is there to grow on this sewer system? Jay Billmayer initially said that making minor adjustments could easily double capacity.

Sue Shannon questioned limiting features compared to other sewer districts – inefficient infrastructure for expansion. Jay Billmayer said that force mains are designed on the basis of velocity not capacity. He believes the system velocity could be expanded six times with the proposed features.

Ken Miller asked about nitrogen and phosphorous calculations and how they would relate to the doubling of the size of the plant. Billmayer said he could expand the absorption bed without affecting non-degradation.

John Fleming asked if the Lodge would continue to be on the Register of Historic Places? Bill Astle believes it will be consistent with the Secretary of Interior's guidelines. He doesn't know that it would be de-listed, but it probably wouldn't be eligible for any of the considerations that go along with being a National Register.

Bob Kormann wanted to know why the boat docks are not addressed in the final proposal.

Dave DeGrandpre responded that the dock permitting process is a separate issue from subdivision but conceded that more people on the lake could lead to potential conflicts. Dave asked if Bob Kormann was asking for a detailed proposal. Bob Kormann asked about the permitting process. Dave DeGrandpre responded that the County requires Lakeshore Construction permits. Charlie Seaman responded that docks would be left to the individual home owners who wished to have docks and that the developer would put in a covenant that would allow for a common dock to be constructed.

Sue Shannon asked whether the developers had designated a common access area to the river/lake? Seaman said no, all the area outside of the building footprints would be common.

Ken Miller questioned whether the lack of dedicated parkland could be construed to mean the common area. DeGrandpre said that, in his mind, if the purpose of parkland is to provide for the recreational needs of the residents of that subdivision, then this proposal more than does that. He cited river frontage, pool, clubhouse, and tennis courts as 75% of the grounds that would be left in their natural state.

Ken Miller asked Jay Billmayer where he arrived at the high water mark for Swan Lake. Billmayer arrived at that mark by using the gauging station on the river and the apparent high water line on the bank, and his employees did the work. He doesn't expect to quell the controversy about the high water mark of Swan Lake.

Ken Miller questioned if the 2 ½” pipe would functionally serve a fire truck recharging station when the homes on the water system are consuming water. His calculations did not think it would work adequately. He also questioned if there would be any additional water storage for a fire department. Jay Billmayer conceded that was good point. He expects the pump house to have a pressure hydrant or pressure tap and/or shut off valve for the houses. He also suggested that the developer was not opposed to fire hydrants.

Fred Mueller asked how they would use fertilizer on the site. Jay Billmayer responded that it’s an issue of covenants and maintenance. Dave DeGrandpre added that the covenants already say fertilizer should be avoided and indicated that if the Board wanted to beef up the language, the developer would be open to suggestions.

John Fleming opened the meeting to public comment.

Tara Harbin stated that the County Commissioners approved the Ridge for single-family residential use and that the County should defend their designation on behalf of the residents.

Joe Potoczny expressed concern for pollution from fertilizers and the high-water mark. He’s a fisherman and wishes to walk past these residences to fish.

Kathy Walsten is opposed to the development because of the historic designation, the local endangered species, and the Johnson Creek wetlands.

Bradley Worth amended his letter that Kootenai Lodge was not a historical site from the time the buildings were built, but rather the site is historical to 14,000 years ago. He expressed his concern that the proposed houses would not reflect the same flavor as the other houses in the area. He questioned whether the preservation of Charlie Russell’s works would be preserved for the totality of the neighborhood or for those who could afford it.

Joseph Biebe addressed water quality and how this project would affect Swan Lake, Flathead Lake and every other water body downstream. He is concerned with the disturbance of the native plants and soil, specifically what nutrients the construction will deposit into the water. He requested a healthy set back zone from the waterways.

Ann Morley thinks the docks need to be addressed now.

Jim Ramsey flew in from Texas. He is concerned about density and preserving the architectural integrity of the existing structures. He wants the process delayed to gather more information.

Dominick Kannoikovick is concerned that Planning Board members didn’t get his letter and feels due process was not served. He’s concerned that his neighborhood won’t remain neighborly with part-time homeowners.

Jerry Daquin is concerned that the developers may be basing their occupancy, their water use, and their sewer use and sewer disposal rate on an occupancy of 3 to 5 to 6 weeks out of a year and the figures should reflect year-round residency.

Clint Fisher is legally representing the Swan Lakers, which is a new non-profit corporation. The organization is against the Kootenai Lodge proposal and will be legally represented.

Larry Metzger likes his elbowroom and the wild animals in his yard. He doesn't think 65 condos on a 40-acre lot promote a rural community environment. He is also concerned about the effects of development on groundwater and his well in particular. His other concerns are pollution and road use increases on a road that he helped to pay to pave.

Michael Didier has spent much time in life restoring and preserving old buildings. He's not sure why a municipal sewer system can't accommodate everybody in the area, without exclusions. He wonders what the site will look like in 200 years. He wouldn't like this to end up in a courtroom.

Kirk Hansen ran all the renovations and restoration in Virginia City and Nevada City for approximately 12 years. He questions whether this proposal is the best last use. He says there are only two sites in Lake County on the National Historic Registry. He is concerned that the Milhous Group has not addressed using the 20% tax credit for restoration.

Scott Ralliea works at the Flathead Lake Biological station. He is speaking for all future sewage treatment plants and developments especially around the lakeshore. He questions where do you want our waste to end up? In our groundwater systems to be used for our drinking water supply or our surface water that we use for recreation? He strongly recommends tertiary sewage treatment plants whose effluent is pumped into our surface water.

Darrin Fredericks reminded the Board that it is the Board's duty to serve the people and not to watch out for Milhous' profit.

John Snyder builds docks and he is concerned about the potential of 100 new boat docks. He reminded the Board that they are required to consider the public health and safety. He says there are currently between 75 & 80 docks in this area. He has kept notes on the one-week rental house next door and can show that the renters cram a whole years use of the lake into one week.

Dave Ensign researches for the US Forest Service. He's concerned about the great bear that might use the bridge. He stresses that Crane Mountain has been considered a grizzly recovery area.

Janet Camel stated that the Salish Elders have concerns and will write to the Board shortly.

Justin Trodick is concerned with public safety, local fire departments, and recruiting volunteers.

Richard Davies has had problems with his well lately and is concerned with the draw down this proposal might mean to his ability to use his well.

Peter Leander says safety on the lake is important. It is deep, narrow, and shallow in places; it houses state protected goose nesting islands, is a no-wake area. Kids and elders use the lake and the roads. Increased motorized traffic on lake & road will be dangerous. He's concerned about pollution and docks. The Milhous Group refused to concede to restrict rentals to less than 30-days and disallow

timeshare units. He thinks parkland should be for all the people in that area. He would like to see set backs for the buildings, but did not suggest how far.

Pam Totten is opposed to the project, hasn't seen clear cutting on the Ridge lot, and measures the distance from the project to the sewer plat at closer to a mile. She questions their other figures based on their inability to figure distance.

Ron Malansten (belligerently) wondered why only 19 people were notified about the project. He came from California and read from the Montana Constitution about inalienable rights, etc. He said that opposition to this project could go all the way to the Supreme Court.

John Fleming opened the floor to proponents.

Brent Hall thinks the Milhous Group was good enough to present their program to the public. He encourages people to get together and work things out. He is concerned that the winter residents are not here to voice their opinion and is concerned about overloading of docks in Lakeside.

Julie Moffitt is a realtor and likes the idea of single-family homes.

Jeff Worth wanted to know the number of nights' occupancy that Milhous expects from this development.

Tom Brown encourages everyone to work together for a solution. He said we're all going to have to figure out how to make this changing valley work. He warned that instead of preserving the Kootenai buildings, someone could bulldoze them, so he considers this project was the lesser of two evils. He wished the Board good luck

Denny Kellogg announced that a realtor has another buyer for the property.

Gordon Emmeritt thinks restoring the Lodge is a good idea – a lot better than an RV park.

John Fleming closed the public hearing part of the meeting and opened it to Board discussion.

Steve Hughes requested a definition of utility as compared to sewage treatment.

Sue Shannon requested discussion on density. Jamie Ludwig remarked that the developer's figures and the Planning Department's density figures clashed. Steve Hughes recommended that the Staff get together with the developer and work out the difference. General discussion found that .6 acres was a large discrepancy

Dave DeGrandpre asked the Board what their most important issues were, what the Board needed to make a recommendation and the following items were suggested:

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|---------------------|-----------------------|
| Boating/dock | Density |
| Parkland | Roadway use |
| Sewage at the Ridge | Historic Preservation |

Parkland clarification
Scenic Views

Rental Clarification

Sean Conrad suggested a site inspection and requested the developer stake the proposed condominium sites and roadways. Ken Miller also wants to see the location of the sewage disposal facility on Lot 4 of the Ridge.

Jerry Winkley has a problem with the Ridge covenants allowing sewage treatment facility.

Bob Kormann requested clarity about the comments from the fellow at Yellow Bay Biological Station. He thought he heard that the best way to deal with the sewage was to pump it into the river? Jay Billmeyer said that Advantax is a level two, sewage treatment process. He doesn't understand all the detailed information that the Planning Board and Department are asking for at this level of the planning process. Shawn Rowland interpreted that at the Biological Station they use a tertiary sanitation treatment system and the water comes out so clean that they drink it. So, putting it back into the river is not a problem.

Bill Astle clarified that when the CCRs are amended, they will prohibit fractional ownership. He doesn't know what the final restrictions will be. He said they should be amended and available by the public hearing.

Bob Kormann wanted to know about the Charlie Russell paintings and learned that they are stick drawings in the cement.

Steve Hughes wants clarification from the logging industry that saving 80% of the trees is good or bad.

Jerry Winkley asked about the footprints and the overall height of the buildings.

Paul Milhous responded one- and two-story buildings. Dave DeGrandpre said the footprints would be expanded to accommodate today's living standards.

Tara Harbin reiterated that the developer's density calculation is incorrect. Dave DeGrandpre apologized for the mistake.

Dave DeGrandpre again questioned the definition of density? What does it mean? What is density in a case like this? What sort of things would you recommend? What enters your mind? If you think it's too dense, why? John Fleming said it's the use of the river, the use of the water, additional people who are going to be using the water at the same time. That's a real concern.

Dave DeGrandpre asked that if they address the dock issue and come up with a proposal that meets County Standards – if we address storm water runoff, setbacks, environmental degradation, I mean if we address all of the primary review criteria is there still a density issue? The general consensus was that there would be and DeGrandpre asked what that consideration is based on.

Jerry Winkley is concerned with the additional effluent that will be introduced at the Ridge subdivision from the waste of this subdivision.

Dave DeGrandpre offered to chop up the property into 40 one-acre parcels instead, and everyone would have individual septic systems. Jack Meuli expresses his preference for the off-site treatment facility.

Ken Miller questioned the total development percentage is of this property as far as impervious surface is concerned and DeGrandpre responded 25% impervious.

John Fleming introduced the Density Meeting progress report. Everyone had received minutes from the last two meetings.

Sue Shannon introduced Gehrand Bouchard who is chairing the steering committee.

John Fleming wishes the people who asked for the postponement to propose alternative instead of using the meetings as a protest session.

General discussion leads to the possibility that the protesters don't know what they want and don't understand what may be coming down the line as far as development and developers. Sue Shannon related meeting one of the density meeting attendees as a gas station and he asked her if she wished the density map were already in place. She was impressed that he might be really thinking that something needs to be done. She further related to the Board that she had heard that Dave DeGrandpre had sent a letter to the Commissioners to please adopt something because he has a client in St Ignatius with 25 acres who wants 25 units.

Unknown: Oh, shit.

Justin Troy asked if there were any precedents to the Kootenai Lodge development. He also questioned what the developers underlying compromise might be. Sean Conrad said it has to be considered under the primary review criteria.

Clarence Brazil expressed grave concern about the subdivision that this Board approved for houses only and now Kootenai Lodge developers want to install a sewer treatment plant. The commissioners didn't even approve it for a sewer treatment plant – in addition to houses and a fire station.

Jack Meuli moved to adjourn, Lisa Dumontier seconded.

[VOTE UNANIMOUS]

John Fleming stated that the meeting was adjourned.