

**City of Cody**  
**Planning, Zoning and Adjustment Board**  
**Tuesday, December 10, 2013**

A regular meeting of the Cody Planning, Zoning and Adjustment Board was held in Council Chambers of City Hall in Cody, Wyoming on Tuesday, December 10, 2013 at 12:00 PM

Present: Rick Brasher, Chairperson; Kim Borer; Justin Ness; Bud McDonald; Mark Musser; Bob Senitte; Steve Miller, Council Liaison; Sandra Kitchen, Deputy City Attorney; Todd Stowell, City Planner; Jolene Osborne, Engineering Administrative Assistant;

Tardy: Justin Lundvall, Vice Chairperson, joined the meeting at 1:00PM;

Absent: None;

Chairperson Rick Brasher called the meeting to order at 12:03PM, followed by the pledge of allegiance.

Kim Borer made a motion seconded by Justin Ness to approve the agenda. Vote on the motion was unanimous, motion carried.

Bud McDonald made a motion seconded by Bob Senitte to approve the minutes of the November 26, 2013 regular meeting with the addition of the word "Highway" to the Meeteetse Area description. Vote on the motion was unanimous, motion carried.

**PRESENTATION OF COMMUNICATIONS:**

Justin Ness recused himself from the following application.

Bud McDonald made a motion seconded by Mark Musser to remove the J and K Major Subdivision from the table. Vote on the motion was unanimous, motion carried.

Todd Stowell presented the staff report outlining the changes proposed by Jerry Thiel & Sons Construction for the proposed Preliminary Plat of the J and K Major Subdivision. Changes include additional sidewalk, a reconfiguration of lots 10 through 12, "no parking" and "dead end" signs, retention basin maintenance agreement, and a dust complaint contact number.

David Bergh of GDA Engineers answered questions from the board regarding the street lighting, the variances requested, and the increase in traffic.

Kim Borer made a motion seconded by Bud McDonald to recommend approval of the Preliminary Plat of the J and K Major Subdivision and the following variances, subject to the listed conditions:

Variances:

1. Waiver of installation of curb, gutter, sidewalk, and associated widening of 29th Street, subject to an agreement to support and participate in a future improvement district for such (11-4-2(Q) and (R)). (Finding that there is no place to route storm

drainage and that it is in the public interest as currently there is no agreement for participation in future improvement districts.)

2. Variance from compliance with the master street plan/dedication of right-of-way for 29<sup>th</sup> Street (11-4-2(B) and (K)), relating to dedication of additional right-of-way (Finding that the city public works determined there is sufficient room for future improvements in the existing 80-foot right of way, and the proposal meets with future master plan.)
3. Variance from providing alleys (11-4-2(P)) (Finding that there are no alleys currently in the area and an isolated alley would not be to the public benefit.)
4. Variance to permit the proposed street-cross section (based on draft master plan, with additional reduction for entrance.) (Finding that the future master plan requirements more readily reflect the public interest.)
5. Variance to permit manhole spacing of 480 feet (Finding that the city public works has approved the spacing for this development.
6. Variance to permit 46 feet of frontage on Lot 10. (Finding that it is in the public interest in order to avoid impacts on the future street alignment and the lot provides sufficient space for a single family dwelling as is the intent of the title.)

Conditions:

1. Make the following modifications to the preliminary plat, and provide a copy. The modifications are considered conditions of approval.  
Sheet 2: Update the variance language to reflect that above. Expand Note 2 to indicate the method of ownership of the tract and specify the construction details for lining the basin (2-inch minus cobble).  
Sheet 3: Modify the boundary for the note about removing all dead and dying trees to include all dead and dying trees along the far west end of the site.
2. Provide the final construction drawings with the final plat, with signature approval lines for all utility providers. The plans must be reviewed and approved by all utility providers at the time of final plat submittal.
3. Cash in lieu of public use areas shall be provided. Final calculations will be made at time of final plat submittal and payment due prior to the mayor signing the final plat.
4. A maintenance agreement and/or homeowner's association shall be established for maintenance of the storm water basin tract. The legal documents shall be submitted for review and approval with the final plat application. Also include an explanatory note referencing such on the final plat.
5. The final plat application shall otherwise reflect the preliminary plat and comply with the City subdivision ordinance.

Kim Borer, Bud McDonald, and Rick Brasher were in favor of the motion. Mark Musser and Bob Senitte were opposed. Justin Ness recused himself. Motion failed.

Discussion ensued regarding the requested variance for the reduced frontage of Lot 10.

Bud McDonald made a motion seconded by Mark Musser to table the application until the end of the meeting. Vote on the motion was unanimous, with Justin Ness recused, motion carried.

Kim Borer made a motion seconded by Bud McDonald to table item D Zoning Ordinance Amendment until the next meeting. Vote on the motion was unanimous, motion carried.

Justin Ness rejoined the meeting. Justin Lundvall joined the meeting as well.

Todd Stowell presented the letter provided to the board by Buffalo Jump Wines.

Scott Wagner and Beckie Tilden of Buffalo Jump Wines discussed their proposal with the board.

Justin Ness made a motion seconded by Kim Borer to allow Buffalo Jump wines to proceed with their proposed distillery limited to their current 60 gallon sized still. Vote on the motion was unanimous, motion carried.

Justin Ness recused himself from the following application.

Todd Stowell presented the staff report for the preliminary plat of the CLDC Subdivision for a 10-lot subdivision on Road 2AB.

Justin Ness, GDA Engineers, discussed the project with the board. He also distributed a revised plat to the board that reflects a larger frontage for Lot 6, with minimal frontage for Lot 5. He answered questions regarding the sewer proposal for Lot 10 and the 50 foot frontage for Lot 5. Discussion ensued regarding a possible building buffer on Lot 3 and 5.

Kim Borer made a motion seconded by Justin Lundvall to recommend to council approval of the preliminary plat application for the CLDC Subdivision on Road 2AB with the following variances and subject to the conditions noted below:

Variances:

1. Waiver of installation of curb, gutter, sidewalk, and streetlights along Road 2AB, subject to an agreement to support and participate in a future improvement district for such (11-4-2(Q)). (Finding that none currently exist in the area and an agreement to participate in a future improvement district is in the benefit of the public.)
2. Variance from providing alleys (11-4-2(P)). (Finding that there are no alleys currently in the area to provide connection.)
3. Variance to the block length requirement (11-4-2(v)). (Finding that the area currently has no blocks.)
4. Variance for no sewer service line to Lot 10. (Finding that the size of the property and future development intent does not lend itself to sewer service requirements.)
5. Variance to delay installation of electric services until the time of building permit on the affected lot(s). Each lot owner is responsible for actual costs of installation. (The board findings that the industrial use of the lots means the electrical service requirements are undefined until time of development.)

Conditions:

1. Provide a full title report and any other available documentation to ensure accuracy of the preliminary and final plats, including but not limited to the Rocky Mountain Power lines, gas transmission line, status of Road 2AB easement/right-of-way, and railroad turn around spurs.
2. Submit an updated copy of the preliminary plat with, or prior to, the final plat, which includes all easements of record and easements required by the city and

utility providers as necessary. All lots must have at least a 10-foot utility easement along their frontage and the 40-foot access easement must be for utilities as well. The Board reserves the right to impose additional requirements based on additional information provided with the updated preliminary plat.

3. Also include the following notes on the preliminary plat and final plat:
  - a. Change the note regarding drainage to the following: "All lot owners will be required to retain an engineer to analyze the drainage on each lot at the time of site plan submittal to the City for review and approval to assure that any proposed increase in runoff will be retained on site in an approved fashion."
  - b. Note the variances granted using the language above.
  - c. On the final plat include the standard language addressing the agreement to support and participate in a future improvement district for curb, gutter, sidewalk, and streetlights.
4. Identify that Lot 10 does not need gas at this time.
5. How the subdivision will be serviced with gas must be addressed with the final plat.
6. The final plat application shall otherwise contain and comply with the City subdivision ordinance.

Vote on the motion was unanimous, with Justin Ness recused, motion carried.

Justin Ness rejoined the meeting.

Todd Stowell presented the staff report regarding the proposed railroad loading facility to be located along Road 2AB and BNSF Railroad submitted by Legacy Reserves.

Travis Conklin of Engineering Associates spoke with the board.

Justin Ness made a motion seconded by Kim Borer to approve the site plan application submitted by Legacy Reserves for the construction of the crude oil rail loading facility to be located along Road 2AB with the following conditions:

1. Provide a copy of the BNSF operating easement and evidence of an executed lease with CLDC prior to commencing site development.
2. Use of the incinerator toilet is subject to City Council authorizing a waiver from the sewer and water utility connection requirements.
3. Provide an updated site plan with the following changes:
  - a. Show the requested drivable aggregate surface between the Road 2AB pavement and the reflectors.
  - b. Reduce the entrance width by not starting the entrance until 150 feet from Glasroc Way.
4. All necessary environmental permits must be obtained from WY DEQ prior to commencing operations.
5. The combustor must utilize the gas assist option.
6. The storm water facilities be inspected and certified by the applicant's engineer that they were completed according to approved plans, prior to operations.
7. The project must otherwise comply with the site plan and applicable building, fire, and electrical codes.

Vote on the motion was unanimous, motion carried.

Todd Stowell presented the staff report regarding the proposed amendment for a boundary between new heavy industrial zone and current properties. He asked if the

board agreed there needed to be a buffer there. If so, is it okay to do a plat restriction instead of a transitional zone?

Kim Borer made a motion seconded by Bud McDonald to table item E regarding the proposed amendment to the proposed transitional zone boundary. Vote on the motion was unanimous, motion carried.

Justin Ness recused himself from the following application.

Kim Borer made a motion seconded by Bob Senitte to remove from the table the proposed Preliminary Plat of the J and K Major Subdivision. Vote on the motion was unanimous, motion carried.

At the request of Justin Lundvall, Todd Stowell reiterated the changes proposed from the previous application of the preliminary plat of the J and K Major Subdivision.

Kim Borer made a motion seconded by recommendation to recommend to council approval of the Preliminary Plat of the J and K Major Subdivision on 29<sup>th</sup> Street and the following variances, subject to the listed conditions:

Variances:

1. Waiver of installation of curb, gutter, sidewalk, and associated widening of 29th Street, subject to an agreement to support and participate in a future improvement district for such (11-4-2(Q) and (R)). (Finding that there is no place to route storm drainage and it is in the public interest as currently there is no agreement for participation in future improvement districts.)
2. Variance from compliance with the master street plan/dedication of right-of-way for 29<sup>th</sup> Street (11-4-2(B) and (K)), relating to dedication of additional right-of-way. (Finding the city public works department has determined there is sufficient room for utility service access and the proposal meets compliance with future master plan.
3. Variance from providing alleys (11-4-2(P)). (Finding there are no alleys currently in the area, an isolated alley would not be to the public benefit.)
4. Variance to permit the proposed street-cross section (based on draft master plan, with additional reduction for entrance). (Finding that the future master plan requirements more readily reflect the public interest.)
5. Variance to permit manhole spacing of 480 feet. (Finding that the city public works has approved the spacing for this development.)
6. Variance to permit 46 feet of frontage on Lot 10. (Finding it is in the public interest to avoid impacts on the future street alignment, and as the lot provides sufficient space for a single family dwelling as is the intent of the title.)

Conditions:

1. Make the following modifications to the preliminary plat, and provide a copy. The modifications are considered conditions of approval.

Sheet 2: Update the variance language to reflect that above. Expand Note 2 to indicate the method of ownership of the tract and specify the construction details for lining the basin (2-inch minus cobble).

- Sheet 3: Modify the boundary for the note about removing all dead and dying trees to include all dead and dying trees along the far west end of the site.
2. Provide the final construction drawings with the final plat, with signature approval lines for all utility providers. The plans must be reviewed and approved by all utility providers at the time of final plat submittal.
  3. Cash in lieu of public use areas shall be provided. Final calculations will be made at time of final plat submittal and payment due prior to the mayor signing the final plat.
  4. A maintenance agreement and/or homeowner's association shall be established for maintenance of the storm water basin tract. The legal documents shall be submitted for review and approval with the final plat application. Also include an explanatory note referencing such on the final plat.
  5. The final plat application shall otherwise reflect the preliminary plat and comply with the City subdivision ordinance.
  6. A note be added to the plat stating that Lot 10 shall be restricted to single family residence, Lots 11 and 12 may be used for single owner duplexes. Vote on the motion was unanimous, with Justin Ness recused, motion carried.

Justin Ness rejoined the meeting.

Kim Borer thanked Rick Brasher and Bud McDonald for their service on the board for the last three years. Rick Brasher stated it was a pleasure working on the board and learning how the system works. He appreciates the work of City Staff and other Board members.

Steve Miller, on behalf of the Council, also thanked board members Rick Brasher and Bud McDonald for their service and staff member Jolene Osborne for her work.

Todd Stowell thanked Rick Brasher and Bud McDonald for their service on the board.

Rick Brasher made a motion seconded by Bud McDonald to cancel the December 24<sup>th</sup> meeting. Vote on the motion was unanimous, motion carried.

Mark Musser made a motion seconded by Bud McDonald to adjourn the meeting. Vote on the motion was unanimous, motion carried.

There being no further business to come before the board, Chairperson Rick Brasher adjourned the meeting at 2:41PM.

---

Utana L. Dye  
Certified Engineering Technician II