

**FLATHEAD COUNTY PLANNING BOARD  
MINUTES OF THE MEETING  
APRIL 11, 2012**

**CALL TO ORDER**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Marie Hickey-AuClaire, Greg Stevens, Frank DeKort, Jim Heim, Jeff Larsen, Ron Schlegel. Charles Lapp had an excused absence. Gene Shellerud and Robert Faulkner were absent. BJ Grieve and Bailey Minnich represented the Flathead County Planning & Zoning Office.

There were 12 people in the audience.

**APPROVAL OF MINUTES**

DeKort made a motion, seconded by Heim to approve the March 14, 2012 meeting minutes.

The motion passed by quorum.

**PUBLIC COMMENT**  
*(not related to agenda items)*

None.

**GREEN VALLEY RANCH, LLC**  
*(FCMU 11-02)*

A request by Green Valley Ranch, LLC for a Major Land Use Review for the expansion of an existing commercial activity area to allow for the development of a zip line and ropes course tour. The proposal includes eight parcels containing approximately 475 acres and is partially located within the Middle Canyon Region of C.A.L.U.R.S (Canyon Area Land Use Regulatory System) Zoning District. The property is located east of U.S. Highway 2 and has current access to the highway via Desert Lodge Road.

**STAFF REPORT**

Bailey Minnich reviewed Staff Report FCMU 11-02 for the Board.

**BOARD QUESTIONS**

Hickey Au-Claire asked for clarification on who the managing member was of the LLC and a summary of why the application had been postponed from a previous meeting.

**APPLICANT PRESENTATION**

The applicant stated they were available for questions.

**BOARD QUESTIONS**

None.

**AGENCY  
COMMENTS**

None.

**BOARD  
DISCUSSION**

Hickey-AuClaire asked if the members of the board would like any additional time to review the written comment received at the meeting.

**PUBLIC  
COMMENT**

Scott Hagel, 431 1<sup>st</sup> Ave W, attorney represented 3 members of Green Valley Ranch LLC, Turner Smith, Townsend Smith and Celia Carol, and was against the application.

Ken Kalvig, 1801 3<sup>rd</sup> Ave E, attorney for Green Valley Ranch LLC, was for the application.

Josh Steel, 300 Desert Lodge Rd, member of Green Valley Ranch LLC, was for the application.

**APPLICANT  
REBUTTAL**

Cris Coughlin, co-applicant, clarified the tower heights and explained what the difficulty in coming up with the exact heights for the towers were. She also explained their work with Environmental Health concerning septic parameters. She also spoke about the existing uses on the property which included cross country ski trails and horse outfitting and nearby businesses which were in favor of the application.

**BOARD  
QUESTIONS**

Stevens and Coughlin discussed what the reaction of the Middle Canyon LUAC was.

**STAFF  
REBUTTAL**

Grieve explained at length the process applicants went through with an application, staff's review process, the 35' height issue concerning a structure, what qualified as a structure according to CALURS, if the proposed use created conflict for existing uses on the property and renderings for the towers.

Minnich discussed possible ways to remedy the 35' tower issue, commercial activity on a shared access road, the Environmental Health letter, and the comment about wildlife corridors and how it related to the application.

**BOARD  
DISCUSSION**

Grieve and Stevens discussed how the county defined structure in both the Flathead County Zoning Regulations and CALURS.

Hickey-AuClaire and Minnich discussed how a food application related to the application and if it affected the findings of fact.

Heim and Kalvig discussed briefly some of the specifics of the Green Valley Ranch, LLC.

**MAIN MOTION  
TO ADOPT  
F.O.F.  
(FCMU 11-02)**

Stevens made a motion seconded by Heim to adopt staff report FCMU 11-02 as findings-of-fact.

**BOARD  
DISCUSSION**

Grieve and the board discussed the appropriate process which needed to be followed concerning this application.

Stevens recounted his experience on past boards concerning motions. He also spoke to a couple of concerns in the staff report which concerned the view shed, the poles for the zip line, the outdated status of CALURS, and the compatibility of existing uses.

Stevens and Steel briefly discussed the possibility of logging on the property.

Stevens continued to speak about the wildlife corridor, the disjointedness of the application, if the members of the Middle Canyon LUAC helped to devise the 35' height for the support poles of the zip line and the vote of the Middle Canyon LUAC.

The board discussed at length the height of the poles relative to the grade of the land.

Stevens asked Coughlin her thoughts on condition #13 about the height of the poles.

Coughlin, Steel, Grieve and the board discussed the pros and cons of how to measure the poles to the topography of the property and how tall the towers could be. They also discussed options to the condition, the height of the existing trees, what the regulations stated concerning structures and the option of applying for a variance.

**SECONDARY  
MOTION TO  
(Amend  
Condition #3)**

Heim made a motion to amend condition #13 to read:

13. The maximum height of any structural element (excluding decking but including poles, towers or other elements permanently attached to the ground) shall not extend more than 35 feet ~~above the highest topographic point~~ *above the established*

*grade* on the subject property considered by this review.

**BOARD  
DISCUSSION**

The board, Grieve and Steel continued to discuss how the measurement of the pole was taken, and the fact CALURS did not define building but did define structure, the highest elevation on the property, if the board needed to quote regulations in conditions and the proper process the board needed to follow.

**Heim withdrew his motion.**

The board and Grieve continued to discuss proper procedure.

**SECONDARY  
MOTION TO  
(Add F.O.F. #15)**

Heim made a motion seconded by DeKort to add finding of fact #15 to read:

**Finding of Fact #15** – *After public testimony received by the Board, the proposal can be made to conform with standard 4.1(F)(4) CALURS because a condition can be imposed that no structures may be over 35 feet in height.*

**BOARD  
DISCUSSION**

Stevens said he would not vote for the motion and went on to give his reason which was CALURS was 30 years old, had not contemplated anything like a zip line and needed to be revised.

Larsen was going to vote for the motion even though he felt wrong about it because of the way it was worded. He agreed the people who wrote CALURS had not thought about a zip line application.

The board briefly discussed the fact neighborhood plans needed to be updated.

Schlegel said if they had a big enough tree they should put a platform on it and call it good. He understood the regulations, but he also thought the situation was ridiculous. He would have to go along with it even though he thought it was ridiculous.

The board and Grieve discussed if a manufactured tree was a structure.

**ASK THE  
QUESTION**

DeKort asked for the question.

**ROLL CALL TO  
(Add F.O.F. #15)**

On a roll call vote, the motion passed 5-1 with Stevens dissenting.

**BOARD  
DISCUSSION**

Schlegel and Grieve briefly discussed if the applicant could still go ahead with the project if they made the structures 34’.

The board discussed what would qualify as a structure.

Hickey-AuClaire clarified procedure with staff.

Grieve suggested wording for a finding.

The board and Grieve discussed performance standards and performance guidelines.

**SECONDARY  
MOTION TO  
(Add F.O.F. #16)**

Larsen made a motion seconded by Stevens to add finding of fact #16:

**Finding of Fact #16** – *After public testimony received by the Board, the recommendation of the Board is not based on the performance guidelines in CALURS but rather on the performance standards.*

**BOARD  
DISCUSSION**

None.

**ASK THE  
QUESTION**

DeKort asked for the question.

**ROLL CALL TO  
(Add F.O.F. #16)**

On a roll call vote, the motion passed unanimously.

**BOARD  
DISCUSSION**

The board and staff discussed height of various structures and updates to the staff report.

**ASK THE  
QUESTION**

DeKort asked for the question.

**ROLL CALL TO  
ADOPT F.O.F.  
(FCMU 11-02)**

On a roll call vote the motion passed unanimously.

**MAIN MOTION TO RECOMMEND APPROVAL OF CONDITIONS (FCMU 11-02)**

Stevens made a motion seconded by DeKort to adopt Staff Report FCMU 11-02 and recommend approval to the Board of County Commissioners.

**BOARD DISCUSSION**

Larsen was not concerned about the legalities of the organization of the LLC or the DEQ requirements and conditions.

**SECONDARY MOTION TO (Amend CONDITION #13)**

Heim made a motion seconded by DeKort to amend condition #13 to read:

**Condition #13** – *The maximum height of any structural element (excluding decking but including poles, towers or other elements permanently attached to the ground) shall not extend more than 35 feet above ~~the highest topographic point~~ **the established grade** on the subject property considered by this review, **per Section 4.1(F)(4) CALURS.***

**BOARD DISCUSSION**

None.

**ASK THE QUESTION**

Larsen asked for the question.

**ROLL CALL TO (Amend CONDITION #13)**

On a roll call vote the motion passed unanimously.

**BOARD DISCUSSION**

The board and staff discussed if they needed to amend any other conditions, what staff recommended for conditions, procedures for the application, CALURS performance standards and visibility above the ridgeline.

**ROLL CALL TO RECOMMEND APPROVAL OF (FCMU 11-02)**

On a roll call vote the motion passed unanimously.

**BOARD DISCUSSION**

Hickey-AuClaire reviewed the process the application would follow after the board's decision.

The board discussed the concept of 'asking the question'.

**COMMITTEE  
REPORTS**

The board asked the agenda item of committee reports be removed from the agenda.

Hickey-AuClaire said there would be a Growth Policy workshop held on April 25, 2012.

**OLD BUSINESS**

None.

**NEW BUSINESS**

Kalispell Planning staff did not attend the meeting to update the board on their Growth Policy.

Grieve said he would contact the Kalispell Planning office and see if they wanted to be on the 5/9/12 planning board agenda.

Grieve updated the board, with detail, on the Planning Office's proposed budget for the next fiscal year.

The board and Grieve discussed possible replacements for an open position at the Planning Office and the process with an interview committee which Hickey-AuClaire was a member of.

Stevens suggested Grieve ask the commissioners to take \$75,000 out of the county attorney's budget and put it into the planning budget that would cover an attorney and the office could get some enforcement done. He had heard the county didn't have time to do enforcement. If the office had an attorney, then they could get legal advice on planning matters, and the attorney could come to the meetings to be available for questions the board may have.

Grieve thanked Stevens for his input and would forward the suggestion at his earliest convenience.

Grieve talked about county departments being short staffed and he wanted his request, when made, for more staff to be taken seriously. He gave examples of when more staff would be beneficial.

Grieve and the board discussed if there were any local applicants for the open planning position and where the final applicants were from. They also discussed at length the fiscal year '13 strategic plan and briefly discussed definitions of structures.

**ADJOURNMENT** The meeting was adjourned at approximately 8:49 pm. on a motion by Heim. The next meeting will be held at 6:00 p.m. on May 9, 2012.

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Marie Hickey-AuClaire, Chairman

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Donna Valade, Recording Secretary

*APPROVED AS **SUBMITTED**/CORRECTED: 5 / 9 / 12*