

IV. BUSINESS ARISING FROM MINUTES

1. S/DAB Decision No. 52/09 – MD of Bighorn

Ms. Thompson stated that this decision has to do with an application made by the MD of Bighorn for a water reservoir and associated pump house. She said that staff had to refuse the development application because the height of the proposed structure and the setback distances to property lines exceeded those which could be approved pursuant to the Land Use Bylaw. She said that a hearing was held and the S/DAB decision was to allow the development subject to the conditions that were outlined in the decision. Following this summary, the MPC members accepted the submitted decision as information.

V. DEVELOPMENT APPLICATIONS

A. Applications Referred to the Municipal Planning Commission

1. DP Application No. 54/09 – Nickel

Joe and Denise Nickel joined MPC at the table and introductions were made. Janice Thompson outlined the background information of the application as per the Development Officer's report. She explained that the application is for a single family dwelling with an attached garage as well as an accessory building (a shop building). She described the location of the property on Highway #40. She continued to explain the highlights of the application noting that there are renderings of all the proposed buildings within the agenda material. She said that the property is sloped and a slope stability report had been submitted, but that once reviewed, staff felt that the slope stability report was vague in terms of the safe distance the buildings could be located from the slope and that the accessory building did not seem to be addressed at all. She said that she had discussed this with Mrs. Nickel who was going to arrange for a supplemental letter to be provided by the engineering firm that clarified what the "residential development" specifically was and to compare this with the submitted site plan. She said the report did not indicate what the safe distance was that the buildings could be constructed at. Ms. Thompson stated that the applicants hoped that they would have something for today's meeting but in case it could not be arranged then a condition has been added to the decision to require this prior to commencement of construction. Mrs. Nickel added that she has been very persistent in contacting the engineering company but has not been able to obtain the letter yet. Ms. Thompson continued to explain that on the submitted lower floor plan there was a "summer kitchen". She said that she had asked Mrs. Nickel if this area was to be used as a suite. Ms. Thompson said that there was this and some other questions of staff to which Mrs. Nickel very kindly responded to with a supplemental letter and pictures which has been placed in the MPC's agenda material. In short, Ms. Thompson said that the applicant does canning, cutting and wrapping meat, and blanching vegetables. Mrs. Nickel had outlined that she wanted a separate area than their kitchen to do this in. Ms. Thompson said the staff recommendation deals with this. Ms. Thompson stated that there is a "kennel" shown in the attached garage area and that this is for the applicant's own dogs and not a commercial operation. Ms. Thompson continued to explain that the applicants intend to install solar panels for power and a wind generation tower. She said the tower would be approximately 20' given the house is already to be located on top of a hill. She said that the applicants have witched a water well on the property. Ms. Thompson stated that the accessory building is quite large and again staff questioned this and was told that there is no home occupation and that the shop would be used for private personal use. She continued to state that there are washrooms in both the dwelling and shop so any sewage handling system must be designed to accommodate this. Ms. Thompson ended with stating that the applicants have access from Highway #40 then across some private land and then onto the subject property. She said that an access easement has already been signed by all parties involved and registered on the property title. She said that staff are recommending approval subject to the conditions outlined in the staff recommendation.

Chairperson Montgomery asked the applicants if they had anything further to add to which the applicants responded in the negative. Ms. Montgomery then asked the MPC members if there were any questions.

Paul Adams commented with respect to the summer kitchen and asked why it was needed. Ms. Nickel responded that she does a lot of canning and it is easier downstairs because that is where the cold storage room is.

There was a brief discussion prompted by Maria Dunki around exterior lighting and the need for these to be compatible with dark sky principles. Ms. Nickel responded that there will no yard lighting.

Ms. Dunki then asked staff why recommendation No. 12 addressed on-site excavation. She wondered if such a condition was needed. Ms. Thompson answered that the applicant wanted it acknowledged that there would be heavy equipment on site excavating, moving dirt, as part of both the development and also the driveway construction. Ms. Thompson continued to explain that the land use bylaw allows this, however, when the landowner starts to develop the access easement road up to the property she must apply for a development permit for a gravel pit on her property because the excavated material would be used off site. She said that once the material is excavated and removed from the site then a gravel pit application is needed. She said that is why Ms. Nickel wanted it acknowledged that there would be excavation for the on-site driveway work so that this did not get confused with the off-site road work in case there were telephone calls. Ms. Dunki stated that if the applicant wanted this distinction in there then she was alright with it.

Ms. Dunki continued to express that she would like, in recommendation No. 14, the words “for uses such as canning, blanching vegetables, and cutting and wrapping meat” to be removed and that a new condition be added requiring the landowners to undertake weed control measures both during and after construction and second new condition outlining the need for any exterior lighting to be compatible with the dark sky lighting principles.

Rhody Litschke asked if this supplemental letter from the engineering firm had been received yet. Ms. Nickel responded not as yet but she is still working on it. Ms. Thompson added that if MPC feel the report is satisfactory then they could strike the need for it (as outlined in staff recommendation No. 7).

There was a discussion prompted by John Haasen and the applicants regarding contours of the property, that two to six metres of material would need to be excavated to create building sites over an approximate five acre building area. Mr. Haasen calculated that this would be approximately 99,000 m³ and some 13,000 dump truck loads. The discussion continued about excavated dirt and how it can create instability if just dumped over the side of the slope. The applicants stated that the excavated material would be used for the on-site driveway creation.

Rhody Litschke asked if the applicants had found gravel on the site. Ms. Nickel stated that there was and that a future gravel permit would be applied for as this would be used in the development of the easement road from Highway #40 to the subject property boundary. Ms. Nickel showed on a site plan submitted where the gravel was discovered and that a crusher would be brought to the site.

Maria Dunki stated she was prepared to make a motion to approve the application as per the staff recommendation with the following modifications: to add two new clauses, one to address the need for exterior lighting for the project to conform to the dark sky principles and another clause to require that

weed control measures be undertaken both during and after construction and a modification to staff recommendation No. 14 to remove the words “for uses such as canning, blanching vegetables, and cutting and wrapping meat”.

MOTION 03.01.10 DUNKI THAT

the Municipal Planning Commission **APPROVE** Development Permit Application No. 54/09 subject to the following amended conditions:

1. All construction shall conform to the Alberta Building Code.
2. All electrical wiring and plumbing, all natural gas or propane connections, and all sewage alterations and installations shall be approved by Alberta-registered Safety Codes Officers.
3. Prior to commencement of construction, the developer shall provide the municipality with evidence that a permit from an accredited agency has been obtained for the installation of a new private wastewater sewage system that has been designed for the volumes anticipated from both the Dwelling and the Accessory Building (shop) in accordance with the Alberta Private Sewage Systems Standard of Practice 1999, or more current Provincial standard.
4. The wash bay located in the Accessory Building (shop) shall be connected to the proposed on-site sewage handling system or other separate holding tank so that contaminated water is contained and not discharged onto the ground.
5. Pursuant to Section 4.3.4. (a) of the MD of Bighorn Land Use Bylaw, the Municipal Planning Commission grants a 20% front yard setback variance thereby allowing the Accessory Building (shop structure) to be as close as 32 m from the front property boundary and the developer shall ensure that no development encroaches beyond this distance.
6. Pursuant to Section 12.5.8 of the MD of Bighorn Land Use Bylaw, the Municipal Planning Commission grants a variance to the normal 30 m setback distance from a slope based on a Slope Stability Report prepared by Curtis Engineering Associates Ltd., dated December 21, 2007 for both the new Dwelling and the Accessory Building (shop).
7. Prior to commencement of construction, the developer shall provide a supplementary letter prepared by Curtis Engineering Associates Ltd. confirming that the slope stability report dated December 21, 2007 is an analysis on both the proposed new dwelling with attached garage and the proposed shop building as shown on the submitted site plan and shall also include the safe setback distance for each of the proposed buildings from the slope which exists on the subject property.
8. In accordance with Bylaw 15/05, the developer shall install low-water-use plumbing fixtures only. As applicable, these fixtures shall have the following features:
 - a. toilets shall have a capacity no greater than 6.0 litres per flush; and
 - b. shower heads shall have a flow capacity of not more than 9.5 litres per minute.
9. Pursuant to Council Bylaw 01-Z/07, in order to allow for recycling the applicant shall endeavour to sort the waste generated as a result of the development prior to transporting the material to a disposal facility, such as the Francis Cooke Regional Landfill. As a minimum, the MD of Bighorn would expect to see the following material sorted for recycling purposes: metal, cardboard, and kiln-dried lumber.
10. The applicants should consider using Fire Smart construction materials for the exterior of the buildings and, in particular, should use a roofing materials with a Class A or B Underwriter's Laboratories of Canada (ULC) fire rating.
11. The vehicle approach from Highway #40 that will be used for access to the subject property shall be located, constructed and installed in a manner deemed acceptable to Alberta Transportation.

12. This approval acknowledges that there will be on-site excavation work and that the extraction of material from the site would be used for construction of an on-site driveway.
13. The requirements of Council Policy T-16 shall be met, as required, in a manner deemed acceptable to Bighorn's Director of Operations.
14. The "summer kitchen" shown on the lower level of the dwelling is approved for private family purposes and is not intended to constitute approval for a second dwelling unit or any form of suite.
15. The Accessory Building shall not be used for any home occupation business without first obtaining approval from the MD of Bighorn.
16. The exterior lighting for the project shall be compatible with "dark sky" lighting principles and strive to preserve the night environment through the reduction of light pollution. All light fixtures shall be designed to not emit light above the horizontal plane or cause light trespass onto adjacent properties.
17. The developer shall undertake weed management practices and control weeds on the subject property both during and after construction.
18. The developer shall enter into a Development Agreement with the MD of Bighorn that ensures, among other things, that the recommendations listed in the slope stability report prepared by Curtis Engineering Associates Ltd. are followed and that future property owners are aware of the building constraints that exist on the property.

CARRIED UNANIMOUSLY

2. DP Application No. 56/09 – Latour/Desmarais

Chairperson Montgomery outlined that the subject application was for a home occupation for a cleaning company and she wondered if a clause should be added to any approval addressing disposal of cleaning products and if there would be any staff hired. Paul Adams said that the business is a small operation and that there would not be the storage of any cleaning products on the site because the applicants use the cleaning products at their clients property. Maria Dunki stated that the application is for an office and that the application states there will be no storage of materials.

MOTION 04.01.10 ADAMS THAT

the Municipal Planning Commission **APPROVE** Development Permit Application No. 56/09 subject to the following conditions:

1. The Home Occupation shall be limited to office-type uses that generally take place at a desk and include telephone, computer, mail, scheduling, book-keeping or similar activities.
2. The Home Occupation shall be operated in accordance with Section 12.13.0 of the MD of Bighorn Land Use Bylaw.
3. This Home Occupation approval is valid only so long as the applicants reside at the subject property.
4. Any future signage shall be the subject of a separate development permit application.
5. This permit is subject to consideration for renewal but shall otherwise expire on **February 1, 2011.**

CARRIED UNANIMOUSLY

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3. DP Application No. 58/09 – Blair

Richard Blair joined the MPC members at the table.

Maria Dunki questioned why the application was before the MPC when it is a replacement of an existing fourth dwelling. Ms. Thompson responded stating that the first dwelling on a property is permitted but additional dwellings beyond the first one are at the discretion of the MPC. She said the LUB allows for additional dwellings provided the subject property is of at least 80 acres. Ms. Dunki continued to state that there was a great deal of background information, and lots of conditions and wondered why there were so many.

Paul Adams clarified that the MPC is considering an application for a temporary fifth dwelling on the property and that once the new dwelling was built then the existing Blair home would be removed from the property. Ms. Thompson confirmed that this was the case and that the end result is the same number of dwellings.

Chairperson Montgomery requested that the Development Officer outline the background information.

Ms. Thompson then began by stating that the Blair property is located near Jamieson Road and comprises approximately 140 acres of land. She reiterated that once the new dwelling is completed the current fourth dwelling, the Blair home, would be removed. She described the property, referring MPC to the submitted site plan, outlining that a first parcel out has been undertaken several years ago from the quarter section and that on the residual 140 acres there is the BATUS military camp in addition to the four dwellings and out buildings. She said that there is a sour gas pipeline crossing through the southern part of the property. She said that the applicant outlines in the application that the dwelling would be approximately 200 m from this pipeline. Ms. Thompson said that the application had been referred to the ERCB to confirm the required setback. She said no response had been received so the staff recommendation (No. 5) addresses this by requiring that the dwelling be situated in conformance with whatever setback is required by the ERCB. Ms. Thompson continued to explain that the dwelling would be two levels with an attached garage. She said that a studio is proposed over the garage area which is acceptable provided there is access to the area from the interior of the dwelling. She said that otherwise, the potential exists for the area to become a suite, which is not permitted in the AC District. She said she spoke with Mr. Blair who said he would have the drawings revised for that area. She said that Mr. Blair has brought a revised set of drawings with him today and then these were distributed to the MPC members for review. She said the studio is an area for Mrs. Blair to do her crafts. Ms. Thompson continued to outline that on the main level there were two offices shown but she said that Mr. Blair confirmed that these were for private personal use. She continued to say that the applicants would like to use the existing water well and the existing sewage handling system if possible. She said that if an engineer certifies the existing system and that it is acceptable then they can use it; otherwise a new system would need to be installed. She said this has been addressed in staff recommendation No. 3. She ended with stating that staff's recommendation is for approval subject to the staff recommendation provided.

Carolyn Montgomery asked Mr. Blair if he had anything further to add. Mr. Blair stated he had a setback question in terms of the sour gas pipeline. He said there is a condition that the dwelling be 200 m back from the pipeline. Ms. Thompson stated that the application outlined the dwelling would be that far from back from the pipeline. Mr. Blair said that was an estimate only and he would like the condition to reflect a minimum of 100 m setback because he believes that is the requirement. He said when he built his previous house that is what the setback was. This way, he said, he could have flexibility in locating the dwelling if needed. Maria Dunki added that if 100 m is the minimum could

staff not get the required distance off the website. Ms. Thompson answered that the setback is dependent on what level the sour gas line is, which is why the application was referred to the ERCB for confirmation of the appropriate setback. Ms. Dunki agreed that whatever the required setback is then it should be observed and that staff recommendation No. 5 merely state that the dwelling is to be situated in accordance with ERCB regulations and the clause not indicate a setback.

Mrs. Dunki continued to state that Mr. Blair has indicated that there will be no suite so, to her, they can have access however they wish. She then asked Ms. Thompson why there was a condition about future development of the basement. Ms. Thompson stated that no drawings were submitted showing that there was a basement area so that condition was added. She asked Mr. Blair if there was a basement and he answered in the affirmative. Ms. Dunki continued to add that in staff recommendation No. 12 she thinks the first line should be removed where it says "Careful attention shall be paid by the developer to the exterior lighting for this development in order to preserve the low ambient brightness in this area." She ended with stating that she is prepared to accept either the submitted set or the revised set of drawings.

Rhody Litschke stated that he was comfortable with a separate entrance to the studio area because that does not mean there is a suite, but, for consistency, he believes that a clause should be added that there be no kitchen or suite developed in the studio area. He said this same clause was added to a previous applicant's decision so the MPC should be consistent. It was agreed that staff recommendation No. 4 be replaced with a clause that prohibits a suite from being installed.

Mr. Blair stated that this is about the sixth set of revised drawings and he hopes that the final set is the one prepared for today.

Paul Adams added that he, too, is happy with either set of drawings submitted at this development permit stage because MPC is only approving a house and more detailed drawings would be brought forward at the building permit stage.

Carolyn Montgomery asked members if there were any other comments. Rhody Litschke asked for confirmation as to what changes are proposed to the submitted staff recommendation in addition to the replacement of recommendation No. 4 to prohibit the creation of a suite within the studio area. Maria Dunki commented that with respect to recommendation No. 5 she would like it revised to state simply that the dwelling is to be situated in accordance with the ERCB regulations and not indicate any specific setback. She continued to state with respect to recommendation No. 6 that this could remain as is, and finally, with respect to recommendation No. 12, she would like the first sentence struck, specifically the words "Careful attention shall be paid by the developer to the exterior lighting for this development in order to preserve the low ambient brightness in this area."

Chairperson Montgomery asked for confirmation from members that the foregoing comments from Mr. Litschke and Ms. Dunki are of mutual agreement to all. No further modifications were made to the staff recommendation and there appeared to be acceptance by the members of these changes.

MOTION 05.01.10 DUNKI THAT

the Municipal Planning Commission **APPROVE** Development Permit Application No. 58/09, for the construction of a new dwelling to replace an existing fourth dwelling, subject to the following amended conditions:

1. All construction shall conform to the Alberta Building Code.
2. All electrical wiring and plumbing, all natural gas or propane connections, and all sewage alterations and installations shall be approved by Alberta-registered Safety Codes Officers.
3. **Prior to commencement of construction** the developer shall provide Bighorn with a statement from a qualified professional engineer or equivalent that the existing sewage treatment system operates properly and is capable of handling the sewage expected to be generated by the new dwelling in accordance with the Alberta Private Sewage Systems Standard of Practice 1999, or more current Provincial standard. Alternatively, and again prior to commencement of construction, the developer shall provide the municipality with evidence that a permit from an accredited agency has been obtained for the installation of a new private wastewater sewage system that has been designed for the volumes anticipated from the dwelling all in accordance with the Alberta Private Sewage Systems Standard of Practice 1999, or more current Provincial standard.
4. The “studio” as shown on the upper level of the proposed dwelling is approved for private family purposes and is not intended to constitute approval for a second dwelling unit or any form of suite.
5. The new dwelling shall be situated in accordance with Alberta Energy and Resources Conservation Board (ERCB) regulations.
6. Any future development of the basement area shall be the subject of a separate development permit application. Part of any development permit application shall include proof that the sewage handling system functions properly and can handle any additional sewage volumes expected from the basement development, particularly if additional bedrooms are added.
7. The “office” areas as shown on the floor plans of the dwelling shall not be used for any commercial business operation or for any home occupation unless the applicants have applied for and received approval for such business. A separate development permit application will be required.
8. In accordance with Bylaw 15/05, the developer shall install low-water-use plumbing fixtures only. As applicable, these fixtures shall have the following features:
 - a. toilets shall have a capacity no greater than 6.0 litres per flush; and
 - b. shower heads shall have a flow capacity of not more than 9.5 litres per minute.
9. The applicants should consider using Fire Smart construction materials for the exterior of the building and, in particular, should use a roofing material with a Class A or B Underwriter’s Laboratories of Canada (ULC) fire rating.
10. The requirements of Council Policy T-16, as applicable, shall be adhered to and any associated work shall be completed in a manner found acceptable to the MD of Bighorn Director of Operations.
11. Pursuant to Council Bylaw 01-Z/07, in order to allow for recycling the applicant shall endeavour to sort the waste generated as a result of this development prior to transporting the material to a disposal facility, such as the Francis Cooke Regional Landfill. As a minimum, the MD of

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Bighorn would expect to see the following material sorted for recycling purposes: metal, cardboard, kiln-dried lumber.

12. Exterior lighting for the project shall be designed to be low glare in nature and compatible with "dark sky" lighting principles. All light fixtures shall be located, aimed or shielded so as to minimize stray light trespassing across property boundaries.
13. The existing mobile home dwelling being replaced by this subject new dwelling shall be removed from the property by **February 1, 2011** and if this mobile home is to be relocated to an adjacent site or elsewhere in the MD of Bighorn then separate development and building permits shall be obtained prior to relocation.

CARRIED UNANIMOUSLY

Following a vote on the motion Mr. Blair asked about low-flow plumbing fixtures. Maria Dunki stated that the need for these types of fixtures to be installed will be in the MD's new Land Use Bylaw as a condition of development approval for everyone.

Ms. Thompson stated that the revised submitted drawings provided by the applicant today are the drawings that will be used for the project.

Paul Adams stated that he would need to leave the meeting around 10:00 a.m. this morning as he has an appointment.

4. DP Application No. 60/09 – Pepper


Chairperson Montgomery stated that the subject application is a renewal of a bed and breakfast operation that has been in existence for several years with no complaints so felt that the Development Officer did not need to reiterate the background information. The other MPC members agreed.

MOTION 06.01.10 ADAMS THAT

the Municipal Planning Commission **APPROVE** Development Permit Application No. 60/09 subject to the following conditions:

1. The conditions regarding operation of home occupations, as set out in Sections 12.13.0 and 12.14.0 of the MD of Bighorn Land Use Bylaw, shall be followed and, in particular, there shall be a maximum of two guest bedrooms.
2. Any signage for this home occupation will be the subject of a separate development approval.
3. This bed and breakfast development approval shall not include use of the property as a retreat.
4. The applicants shall satisfy the requirements of the Alberta Health Services as necessary.
5. This approval is valid only so long as the applicants reside at the subject property.
6. This approval shall be subject to consideration for renewal but shall otherwise expire on **December 1, 2012.**

CARRIED UNANIMOUSLY

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V. DEVELOPMENT APPLICATIONS

B. Applications Processed by Development Officers

1. DP No. 55/09 – Lafarge
2. DP 57/09 – Lafarge

Ms. Thompson described each of the above approvals processed by the Development Officer. John Haasen asked why there are two different applicants for Lafarge when the buildings seem to be the same type of storage structure on the same property. Ms. Thompson responded that she does not know why that was, that the applications came in separately so that is the way she processed them. Following this summary and discussion the MPC members accepted the decisions as information.

MOTION 07.01.10 DUNKI THAT

the Municipal Planning Commission recess at 9:57 a.m.

CARRIED UNANIMOUSLY

The Chairperson called the meeting back to order at 10:15 a.m. There was a discussion as to whether the applicants had arrived with respect to item VI. 2 on the agenda. Ms. Thompson stated that it looked like they had arrived and she would go and check with them. Ms. Thompson left the room.

Paul Adams stated that he had to leave now and left the meeting at 10:17 a.m.

Ms. Thompson returned and stated that the applicants were arriving but were not quite ready. Given this, the MPC members agreed to continue with the flow of the agenda and move to item VI.1.

VI. SUBDIVISION APPLICATIONS

1. Application No. 68-23-12(13)E – MD of Bighorn

Tracy Woitenko was present and joined the MPC at the table. Ms. Thompson was not requested to outline the subject subdivision application on behalf of the MD of Bighorn and the Committee began discussing the application directly with Ms. Woitenko. John Haasen asked if the subject lands were part of a road plan joining two streets. Ms. Woitenko stated that, in fact, the subject land to be subdivided is private land. She said currently a laneway runs in an east/west direction in the Hamlet of Exshaw and where the built lane meets the subject property it is actually private land, and, in essence, people travelling in this area are trespassing. She said the MD had approached the landowner to purchase the land so that the laneway is continuous and not crossing private property. She said the subject subdivision application is to remove this land from private property and include it as part of the municipal road system. Ms. Woitenko also said that there is an existing AltaLink right-of-way within the area. Mr. Haasen asked if there is a need to realign AltaLink's right-of-way. Ms. Woitenko stated that discussions took place with AltaLink personnel and staff were told that there is no need to realign/re-establish the right-of-way because now the power line falls within a road allowance. Rights-of-ways are mostly only needed when private land is involved. In this case, the power line would fall within a public road allowance so AltaLink has no objections. Ms. Woitenko was asked if the AltaLink right-of-way would remain and Mr. Woitenko answered in the affirmative.

The Chairperson asked if there were any further questions. None were expressed.

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MOTION 08.01.10 HAASEN THAT

the Municipal Planning Commission APPROVE Subdivision Application No. 68-23-12(13)E as per the attached plan and subject to the following conditions:

1. All outstanding property taxes shall be paid or arrangements made which are satisfactory to the Municipal District of Bighorn No. 8.
2. An Alberta Land Surveyor shall prepare the subdivision plan in a manner found satisfactory to the Registrar of Land Titles.

REASONS FOR DECISION:

- The application meets the requirements of Alberta Regulation 43/2002 (Subdivision and Development Regulation of the Municipal Government Act) and is consistent with the Province's Land Use Policies.
- There were no objections communicated to the municipality with respect to this subdivision application. In particular, there are no concerns or objections from AltaLink in the creation of the laneway (public roadway) rather than having its electrical power lines in a utility right-of-way.
- The laneway physically exists, and the subdivision of this area of land ensures current and future access in the lane by making it a public roadway.
- The subdivision allows the MD of Bighorn to install underground utilities such as the water distribution system on municipal property through to the remainder of the hamlet.
- Decisions regarding ER and MR affect the larger parcel more than the small area being dedicated for road use, and are thus more appropriately dealt with in the future when the residual parcel is subdivided for residential or other uses.

CARRIED UNANIMOUSLY

2. Application No. 3106-01SW(2)R – Clement/Fedyk

Marc & Terri-Lynn Clement and William and Adeline Fedyk joined MPC at the table. Introductions were made. Chairperson Montgomery asked Development Officer Janice Thompson to outline the background information for this subdivision application. Ms. Thompson began by explaining that the subject application would have the effect of creating a fifth parcel within the overall quarter section. She said that the subject property is approximately 36.4 ha in size. She said that normally such a subdivision application would have been refused given there has already been the maximum subdivision undertaken; however, the applicants applied for and received a Land Use Bylaw Amendment (an exception to Bighorn's subdivision regulations). Ms. Thompson continued stating that a time extension agreement has been entered into with the MD of Bighorn extending the 60-day processing period for the subdivision application. She said that the 60 days was up on January 16th but the MPC did not meet until the 19th. She said that the property is situated near Fallen Timber Road on the north side and legal access to the property exists via this road. She said that an existing driveway would be used for access from the public road to the proposed new lot. She said that this driveway would need to be converted to an access easement and registered on both properties and she drew the MPC's attention to the site plan in the agenda material which shows the layout. Ms. Thompson stated that the Fallen Timber Creek flows through the subject property and it has been known to flood. She said the most recent episode was in 2005 when part of the Fallen Timber Road adjacent to the property was under water. She said staff are suggesting an environmental reserve easement be secured but said she would elaborate on this and

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municipal reserve in a minute. Ms. Thompson continued stating that the application was referred out as per the Provincial Subdivision Regulations and the responses are outlined in the members' agenda material. Ms. Thompson then stated that there is a deferred reserve caveat registered on the property so municipal reserves to a maximum of 10% of the land proposed to be subdivided (3.6 ha) can be required in accordance with the Municipal Government Act. She explained how the 10% could be required, such as land, cash-in-lieu of land, or a combination of land and cash. She said for the subject subdivision staff are suggesting that the municipal reserve requirement be deferred but that the MPC can decide. She continued to explain environmental reserve and how this can be accomplished in terms of the Municipal Government Act (MGA). She said that the applicable sections of the MGA have been provided for reference. Ms. Thompson stated that the Development Officer's Report outlined that staff would have a recommendation regarding MR and ER once a site inspection had been undertaken. She said that this has been done and that pictures were taken. She said that the site inspection pictures show the proposed building site, the access, and the environmental areas. She passed around the site inspection pictures along with additional background and staff recommendation regarding ER and MR. The Chairperson requested that the Commission be given a few minutes to review the pictures and read the additional information from staff. When the MPC members were ready, Ms. Thompson summarized saying that the staff recommendation is to defer municipal reserve proportionately to the new lot and the residual. She said that staff are suggesting that environmental reserve be taken as shown on the map she had just passed out to the members. She said that staff are suggesting that the ER be taken in the form of an easement. She said this way the land stays in the name of the landowners but an easement is registered on the property that protects the subject area from development. Ms. Thompson stated that the area depicted on the map to be provided as environmental reserve easement needs to be calculated prior to determining the municipal reserve requirement. She said this is because of wording in the MGA and drew MPC's attention to Section 666 of the MGA. She said that if the land is 36.4 ha then you subtract the area of the ER lands and then municipalities may require 10% of whatever the balance is (e.g., 36.4 less ER, say 10 ha, equals 26.4. 10% of 26.4 is 2.64 so the MR requirement would be for 2.64 ha of land, cash-in-lieu or a combination of cash and land). She said that once this is determined then new deferred reserve caveats would be prepared proportionate to area and secured at the time of subdivision registration. Once this is achieved the existing deferred reserve caveat would be discharged. She ended with stating that staff's recommendation is for approval subject to the eight suggested conditions provided.

Chairperson Montgomery asked the applicants if they had anything further to add, to which the applicants responded in the negative.

Rhody Litschke asked if the creek bank is receding towards the existing home. He said the pictures look like it is. Mr. Fedyk responded saying that the bank is not receding towards their home but as a precaution they placed rip rap along the creek in this location for stabilization.

There was no further discussion.

MOTION 09.01.10 DUNKI THAT

the Municipal Planning Commission acting as Subdivision Authority APPROVE Subdivision Application No. 3106-01SW(2)R be approved, as per the attached plan, and subject to the following conditions:

1. All outstanding property taxes shall be paid or arrangements made which are satisfactory to the Municipal District of Bighorn No. 8.
2. The developer's Alberta Land Surveyor shall prepare the subdivision plan in a manner found satisfactory to the Registrar of Land Titles.
3. The proposed new parcel shall be a maximum of 4.0 ha (9.9 acres) in size.
4. The developer shall be aware that other utility easements should be obtained, as necessary, to ensure provision of services to the new lot being created as well as to the residual parcel.
5. The existing approach from the Fallen Timber Road shall be replaced or upgraded in accordance with Bighorn Council Policy T-16 in a manner found satisfactory to the MD of Bighorn Director of Operations.
6. An access easement, for the benefit of the new lot being created, shall be registered on both the new lot to be created and the residual parcel (Ptn. SW 1, Twp, 31, Rge. 6, W5M located north of the Fallen Timber Road), concurrently with subdivision registration.
Alternatively, the developer shall install a new direct access from the Fallen Timber Road to the new lot being created with such access approach being located, constructed and installed in accordance with Bighorn Council Policy T-16.
7. Pursuant to Section 664(1) (b) and 664 (2) of the Municipal Government Act an environmental reserve easement shall be established, as per the attached plan, within the residual Ptn. SW Sec. 1, Twp. 31, Rge. 6, W5M which comprises 36.4 ha. Such lands shall be determined by an Alberta-registered surveyor and shall include all those lands from the south side of the Fallen Timber Creek to Road Plan 1155 IX (the Fallen Timber Road) as it falls within the aforementioned Ptn. SW 1. The easement shall restrict development within this area and require that the land remain in its natural state as if it were owned by the municipality.
8. Pursuant to Section 669 of the Municipal Government Act, municipal reserve shall be deferred by caveat on each of the new and residual parcels, in proportion to their respective areas, and shall be calculated at 10% of those areas after deductions for environmental reserve easement.

REASONS FOR DECISION:

- The subdivision application is consistent with the MD of Bighorn's Land Use Bylaw, specifically through amendment Bylaw No. 08-Z/09.
- The application meets the requirements of Alberta Regulation 43/2002 (Subdivision and Development Regulation of the Municipal Government Act) and is consistent with the Province's Land Use Policies.
- There were no objections communicated to the municipality with respect to this subdivision application.
- Access to the new lot will be provided in accordance with council policy and a condition requiring the applicants to comply with Bighorn policy T-16 will accomplish this.
- Municipal and environmental reserves have been addressed.

CARRIED UNANIMOUSLY

CM - RB

Following the motion Mr. Fedyk stated that he had a question about environmental reserve and wondered if this area on his property would have to become public. Ms. Thompson answered that the MPC's decision was that environmental reserve be dedicated by way of easement so it stays in the name of the Fedyk's and remains as private land. She said that had the MPC's decision been to have the land become purely environmental reserve and be transferred into the name of the municipality then the land would have become public. She said in this case, the land remains private. The Fedyk's stated that they have had trouble in the past with trespassing on this land from the campground guests located across the road. Mr. Fedyk said that they were concerned that they would now have to allow access. Ms. Thompson stated that no, the land remains private so they can restrict access as they wish.

There was a brief discussion about Federal vs. Provincial jurisdiction as it relates to water bodies and the size of ER as provided for in the MGA (which is a minimum 6 m strip on both sides of the bed and shore).

VIII. NEW BUSINESS

1. Council Minutes – Regular – December 14, 2009

The MPC members accepted the submitted Council minutes as information.

2. Action for Agriculture Workshop

Ms. Thompson stated that if any members wished to attend this session to please let her know and she will register them.

IX. CONFIDENTIAL MATTERS

MOTION 09.01.10 HAASEN THAT

the Municipal Planning Commission go in camera at 10:50 a.m.

CARRIED UNANIMOUSLY

MOTION 10.01.10 HAASEN THAT

the Municipal Planning Commission come out of camera at 11:24 a.m.

CARRIED UNANIMOUSLY

X. ADJOURNMENT

MOTION 11.01.10 LITSCHKE THAT

the Municipal Planning Commission meeting adjourn at 11:25 a.m.

CARRIED UNANIMOUSLY

C. Montgomery CHAIR

DESIGNATED OFFICER