

RESOLUTION NO. 1018

COKEDALE WEST PLANNING AND ZONING DISTRICT

SECTION 1: ADOPTION OF ZONING DISTRICT AND DEVELOPMENT PATTERN

- A. Title, Creation and Adoption of Zoning District.** This Resolution shall be known as the "Cokedale West Planning and Zoning Resolution" (hereinafter referred to as the "Resolution"). After a public hearing on October 3, 2006, the Park County, Montana Board of County Commissioners (hereinafter referred to as the "Park County Commission") created the Cokedale West Planning and Zoning District (hereinafter referred to as the "Zoning District") on October 3, 2006 as Resolution No. 949. The Park County Commission specifically adopts this Resolution for the Zoning District.

- B. Planning and Zoning Commission.** Pursuant to Section 76-2-101, MCA, and Section 76-2-102, MCA, the Park County Commission appointed a Planning and Zoning Commission consisting of seven members, including the three County Commissioners, the County Clerk & Recorder, the County Sanitarian and two citizen members. The Planning and Zoning Commission shall have all of the powers authorized by the laws of the State of Montana and this Resolution.

- C. Development Pattern.** The Planning and Zoning Commission shall make and adopt a development pattern for the Zoning District pursuant to 76-2-104, MCA. The development pattern for the Zoning District includes all of the provisions in this Resolution and the attached Zoning Map.

SECTION 2: OFFICIAL ZONING MAP

- A. Boundaries of Zoning District.** The Zoning District boundaries are shown on the attached Zoning Map, which together with all explanatory matter thereon, is adopted and incorporated into this Resolution by reference. The Planning and Zoning Commission's jurisdiction over the Zoning District includes the property within the Zoning District as shown on the attached Zoning Map. The official zoning map recorded in the Park County Clerk and Recorder's Office shall be the final authority as to the zoning status of property within the Zoning District.

- B. Access to Official Zoning Map.** The Official Zoning Map, and any amendments or replacements thereto, shall be available in the Park County Clerk and Recorder's Office and shall bear a certificate with the signature of the Chairman of the Park County Commission which is attested by the Park

County Clerk and Recorder. The certificate shall include the date that the Planning and Zoning Commission adopted this Resolution.

- C. **Replacement of Official Zoning Map.** In the event that the Official Zoning Map, or any amendments thereto, become damaged, destroyed, lost or difficult to interpret because of the nature or number of changes or additions thereto, the Chairman of the Park County Commission may adopt and certify a replacement official zoning map which shall supersede all prior official zoning maps. The replacement official zoning map, shall be available in the Park County Clerk and Recorder's Office and shall bear a certificate with the signature of the Chairman of the Park County Commission which is attested by the Park County Clerk and Recorder. The certificate shall include the date that the Planning and Zoning Commission adopted this Resolution.

SECTION 3: PURPOSE

The purpose of the Zoning District is to guide growth and development within the boundaries of the Zoning District while at the same time preserving the traditional and distinctive quality of life enjoyed within the Zoning District. This Resolution is intended to ensure that the built elements of the area within the Zoning District complement the natural beauty and public safety of the area within the Zoning District. This Resolution shall regulate the development of the Zoning District, within some of which it shall be lawful and within other of which it shall be unlawful to erect, construct, alter, or maintain certain buildings or to carry on certain trades, industries, or callings or within which the height and bulk of future buildings and the area of the yards, courts, and other open spaces and the future uses of the land or buildings shall be limited and future building setback lines shall be established.

SECTION 4: DEFINITIONS

- A. **Building.** "Building" shall mean and refer to any structure which has a roof supported by columns or walls and is intended for and/or used as the shelter, housing or enclosure of any individual, animal, equipment, goods or materials of any kind or nature.
- B. **Cluster Development.** Cluster Development shall mean and refer to the clustering of a group of five or more lots that is designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities, while allowing other lands to remain undeveloped.
- C. **Collective Stable and Pasture Area.** "Collective Stable and Pasture Area" shall mean and refer to one stable and pasture area within the Zoning

District which collectively serves the entire Zoning District. The Collective Stable and Pasture Area may include a stable, pasture area, barn and a Dwelling for a caretaker, the size of which is not subject to the requirements of Section 5(C) of this Resolution. The location of the Collective Stable and Pasture Area is shown on the Official Zoning Map. The existence of the Collective Stable and Pasture Area shall not preclude other areas in the Zoning District from being used as Individual Stable and Pasture Areas.

- D. **Commercial Use.** "Commercial Use" shall mean and refer to any use involving the sale, rental, distribution and/or manufacture of goods, services or commodities, either retail or wholesale, or the provision of recreational facilities or activities for a fee.
- E. **Dwelling.** "Dwelling" shall mean and refer to a building which is exclusively used as a single-family residence. An attached or detached garage shall be included as part of the Dwelling.
- F. **Guest House.** "Guest House" shall mean and refer to a building which is used by guests and invitees on a temporary basis not to exceed 90 consecutive days.
- G. **Individual Stable and Pasture Area.** "Individual Stable and Pasture Area" shall mean and refer to any area used for a stable and pasture which is located outside of the boundaries of the Collective Stable and Pasture Area.
- H. **Living Area.** "Living Area" shall mean and refer to all area of a Dwelling excluding garages, porches, decks and basements unless such basement is finished and fifteen percent (15%) of the wall space of such basement is daylight.
- I. **Manufactured Home.** "Manufactured Home" shall mean and refer to a residential dwelling built in a factory in accordance with the United States Department of Housing and Urban Development Code and the Federal Manufactured Home Construction and Safety Standards. A manufactured home does not include a mobile home, as defined in subsection 4(J) below, or a mobile home or housetrailer constructed before the Federal Manufactured Home Construction and Safety Standards went into effect on June 15, 1976. A Manufactured Home is not a Dwelling as defined herein.
- J. **Mobile Home.** "Mobile home" shall mean and refer to forms of housing known as "trailers", "housetrailers", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any trailer, housetrailer, or

trailer coach up to 8 feet in width or 45 feet in length used as a principal residence. A Mobile Home is not a Dwelling as defined herein.

- K. **Outbuilding.** "Outbuilding" shall mean and refer to any building which is not a Dwelling, Guest House or an attached or detached garage, including but not limited to a stable, shed or tool shop.
- L. **Permitted Commercial Use.** "Permitted Commercial Use" shall mean and refer to Commercial Use which complies with all of the following requirements:
 - 1. Commercial Use that takes place only within a Dwelling or Outbuilding;
 - 2. Commercial Use which gives no outward appearance or manifests any outward characteristic of a business in the ordinary meaning of the term;
 - 3. Commercial Use which does not increase the flow of vehicular traffic in the Zoning District by more than four (4) cars per day; and
 - 4. Commercial Use which does not cause noise, disturbance, or in any way negatively impact, change or conflict with the residential nature of the Zoning District.
- M. **Prohibited Commercial Use.** "Prohibited Commercial Use" shall mean and refer to any Commercial Use which is not a Permitted Commercial Use.
- N. **Residential Use.** "Residential Use" shall mean and refer to any use other than Prohibited Commercial Use and permitted commercial use.
- O. **Setback.** "Setback" shall mean and refer to the distance from the property line to the nearest part of the applicable Building, waterway, canal, stream, ditch, river or sign, measured perpendicularly to the property line.
- P. **Variance.** "Variance" shall mean and refer to any variations from this Resolution which the Park County Planning and Zoning Commission authorizes pursuant to 76-2-106, MCA, and Section 6 of this Resolution.

SECTION 5: ZONING DISTRICT REGULATIONS

A. Permitted Uses

- 1. Residential Use

2. Dwellings
3. Guest Houses
4. Outbuildings
5. Collective Stable and Pasture Area
6. Individual Stable and Pasture Areas
7. Grazing, Horticulture, Agriculture and the Growing of Timber
8. Cluster Development

B. Prohibited Uses.

1. Prohibited Commercial Uses
2. Industrial Uses
3. Gravel Mines and Batch Plants
4. Manufactured Homes
5. Mobile Homes
6. All Other Uses Not Specifically Listed as Permitted Uses in Section 5(A) above.

C. Density, Space and Setback Requirements.

1. **Density:** One (1) Dwelling, One (1) Guest House, One (1) Outbuilding and One (1) Individual Stable and Pasture Area per 40 acres.

One (1) Collective Stable and Pasture Area for the entire Zoning District.

2. **Dwelling Size:** A Dwelling shall contain at least 3,200 square feet, but not more than 10,000 square feet, of Living Area, except that the caretaker's Dwelling in the Collective Stable and Pasture Area is not subject to this Dwelling Size requirement.

3. **Dwelling Height:** A Dwelling, as measured at its midpoint, may not exceed 36 feet in height. A Dwelling shall be measured using one of the two building measurements set forth below:
 - a. **Absolute Height:** The vertical distance measured from the lowest finished grade adjacent to Dwelling to the highest point of the Dwelling.
 - b. **Modified Height:** The vertical distance measured as a building envelope from the lowest existing grade adjacent to the Dwelling to the highest point of a coping of a flat roof, the highest ridge of a shed roof, the deck line of a mansard roof, or to the midpoint between the highest eaves and the highest ridge of a hip, gable or gambrel roof.

4. **Outbuilding and Guest House Height:** An Outbuilding and Guest House, as measured at its midpoint, may not exceed 24 feet in height. An Outbuilding and Guest House shall be measured using one of the two building measurements set forth subsections C(3)(a) and c(3)(b) above.

5. **Setbacks:** All Buildings shall be 75 feet from any public road, private road, property line and/or utility easement.

- D. **Wildlife Requirements.** To avoid human-wildlife conflicts all garbage, pet foods, agricultural grain products and stock feed shall be stored indoors or in bear-resistant containers.

- E. **Sign Requirements.** No signs shall be erected, placed or permitted to remain within the boundaries of the Zoning District except for the following:
 1. Rural addressing signs/address numbers;
 2. Signs prohibiting trespassing;
 3. Temporary signs identifying the contractor of a building during construction; and
 4. Signs related to safety items.

SECTION 6: VARIANCES

- A. **Authorization to Grant or Deny Variances.** The Park County Planning and Zoning Commission shall have the power to authorize a variance from

this Resolution as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the decision of the Planning and Zoning Commission will result in unnecessary hardship.

B. Procedure. A variance may be granted or denied following compliance with the following procedure:

1. **Applications and Filing.** Applications for a variance may be obtained from the Zoning Enforcement Agent the Planning and Zoning Commission appoints, and completed applications shall be filed with the Zoning Enforcement Agent with payment of the fee set forth in Section 10 of this Resolution.
2. **Application Review.** The Zoning Enforcement Agent shall review a variance application to determine if the application meets the requirements of Section 6(A) of this Resolution.
3. **Notice and Public Hearing.** The Planning and Zoning Commission shall hold a public hearing on each variance application at a date, place and time the Planning and Zoning Commission sets. Notice of the public hearing shall include the subject matter, date, place and time of the public hearing. Notice shall be published once in a newspaper of general circulation within the county, and the Planning and Zoning Commission shall post notice in at least three public places within the affected area, not less than fifteen (15) days prior to the hearing date. In addition, the Planning and Zoning Commission shall send a certified letter to record owners of property located adjacent to the property for which a variance is requested. At the public hearing, the Planning and Zoning Commission shall accept testimony from the public and from the appointed Zoning Enforcement Agent.
4. **Written Decision by Planning and Zoning Commission.** Within twenty (20) days of the public hearing, the Planning and Zoning Commission shall issue to the Park County Commission a recommendation to approve or deny the variance application.
5. **Conditional Approval.** In recommending or approving a variance application, the Planning and Zoning Commission and Park County Commission may mandate such lawful conditions as will secure substantial protection for public health, safety, and general welfare and shall find the request to meet the criteria set forth in Section 6(A) of this Resolution.
6. **Written Decision by Park County Commission.** The Park County Commission shall send to the applicant written findings of fact

supporting its approval or denial of the variance application within twenty (20) days of the date that it receives the Planning and Zoning Commission's recommendation regarding the variance application.

SECTION 7: ZONING COMPLIANCE PERMIT

- A. **Requirement for Zoning Compliance Permit.** As a prerequisite to construction, alteration or enlargement of any building, the individual or entity proposing the construction, alteration or enlargement must obtain a valid zoning compliance permit issued by the Zoning Enforcement Agent the Planning and Zoning Commission appoints. The Zoning Enforcement Agent is an agent of the Planning and Zoning Commission. No zoning compliance permit shall be issued without a valid septic permit and any other permit required by the county, state, or federal government. Applications for a zoning compliance permit may be obtained from the Zoning Enforcement Agent, and completed applications shall be filed with the Zoning Enforcement Agent along with the fee set forth in Section 10 of this Resolution.

- B. **Compliance with Resolution.** Within thirty (30) days of receipt of the request for a zoning compliance permit and payment of the required fee, the Zoning Enforcement Agent shall issue a zoning compliance permit if the proposed construction, alteration or enlargement of a Building complies with the provisions of this Resolution. Zoning compliance permits authorize only the construction, alteration or enlargement set forth in the application approved by the Zoning Enforcement Agent. Construction, alteration or enlargement of a Building without a zoning compliance permit shall be a violation of this Resolution.

- C. **Expiration of Zoning Compliance Permits.** A zoning compliance permit shall expire and become null and void if the construction, alteration or enlargement of a Building authorized by the zoning compliance permit is not commenced within one (1) year from the date of issuance. If the zoning compliance permit expires, a new zoning compliance permit shall be required as a prerequisite to the construction, alteration or enlargement of the Building.

SECTION 8: APPEALS

- A. **Zoning Enforcement Agent Decision.** Any person(s) or entity(s) aggrieved by a Zoning Enforcement Agent's (a designated employee of Park County) decision may appeal his/her/its decision to the Planning and Zoning Commission. To commence the appeal process, the appellant shall file with the Planning and Zoning Commission a detailed written explanation of the basis of the appeal within thirty (30) days from the date of the Zoning Enforcement Agent's decision. The Planning and Zoning Commission shall

provide notice and hold a public hearing on each appeal in accordance with Section 6(B)(3) of this Resolution. The Planning and Zoning Commission shall send to the appellant written findings of fact supporting its approval, reversal of amendment of the Zoning Enforcement Agent's decision within twenty (20) days of the date of the public hearing.

B. Planning and Zoning Commission Decision. Any person(s) or entity(s) aggrieved by the Planning and Zoning Commission's decision may appeal his/her/its decision to the Park County Commission. To commence the appeal process, the appellant shall file with the Park County Commission a detailed written explanation of the basis of the appeal within thirty (30) days from the date of the Planning and Zoning Commission's decision.

1. Notice and Public Hearing. The Park County Commission shall provide notice and hold a public hearing on each appeal at a date, place and time the Park County Commission sets. Notice of the public hearing shall include the subject matter, date, place and time of the public hearing. Notice shall be published once in a newspaper of general circulation within the county, and the Park County Commission shall post notice in at least three public places within the affected area, not less than fifteen (15) days prior to the hearing date. In addition, the Park County Commission shall send a certified letter to record owners of property located adjacent to the property which shall include the subject matter, date, place and time of the public hearing. At the public hearing, the Park County Commission shall accept testimony from the public and from the appointed Zoning Enforcement Agent.

2. Written Decision. The Park County Commission shall send to the appellant written findings of fact supporting its approval, reversal of amendment of the Planning and Zoning Commission's decision within twenty (20) days of the date of the public hearing.

C. Park County Commission Decision. Any person(s) or entity(s) aggrieved by the Park County Commission's decision or order may appeal to the district court in the county in which the property involved is located within thirty (30) days after the Park County Commission's decision.

SECTION 9: AMENDMENTS

A. Criteria for Amendment. The Planning and Zoning Commission or the Park County Commission may amend this Resolution according to the procedures governed by Montana law and this Resolution whenever the public necessity, convenience and general welfare requires the amendment.

- B. Procedure.** This Resolution may be amended in the following manner:
1. A petition signed by the landowner(s) requesting the amendment accompanied by the fee as set forth in Section 10 of this Resolution;
 2. Resolution of Intention issued by the Planning and Zoning Commission; or
 3. Resolution of Intention issued by the Park County Commission.
- C. Notice and Public Hearing.** The Planning and Zoning Commission or the Park County Commission, as the case may be, shall provide notice and hold a public hearing on each amendment in accordance with Section 6(B)(3) (applies to Planning and Zoning Commission) or Section 8(B)(1) (applies to Park County Commission) of this Resolution.
- D. Written Decision.** The Planning and Zoning Commission or the Park County Commission, as the case may be, shall send to the applicant, if there is an applicant, or otherwise publicly issue written findings of fact supporting its approval or denial of the amendment request within twenty (20) days of the date of the public hearing.

SECTION 10: FEE SCHEDULE

- A. Establishing and Collecting Fees.** The Planning and Zoning Commission shall establish a fee schedule and a fee collection procedure for variance requests, zoning compliance permits and zoning amendments. The fee schedule in this Section shall be effective upon the Park County Commission's approval of this Resolution. The Planning and Zoning Commission may alter or amend the fee schedule in accordance with § 76-2-103 and § 76-2-108, Montana Code Annotated. However, the fee schedule in effect on the date of a request for a variance, zoning compliance permit or zoning amendment shall govern the amount of the fees the Planning and Zoning Commission may charge for the request.
- B. Payment of Fees.** The process for obtaining a variance, zoning compliance permit or zoning amendment shall not commence until the required fees are paid in full.
- C. Fee Schedule.**
- | | |
|-------------------------|----------|
| 1. Variance Application | \$500.00 |
| 2. Zoning Amendment | \$350.00 |

3. Zoning Compliance Permit:

Value of Construction:

\$5,000.00 to \$9,999.99.....	\$100.00
\$10,000.00 to \$49,999.99.....	\$125.00
Greater than \$50,000.00.....	\$150.00

SECTION 11: VIOLATION OF RESOLUTION

A. Complaint. Whenever a violation of this Resolution occurs, or is alleged to have occurred, any person may file a written complaint with the Zoning Enforcement Agent. The written complaint must describe in detail the nature of the violation. The Zoning Enforcement Agent shall then properly record and immediately investigate the complaint. After reasonable investigation, the Zoning Enforcement Officer may take the action set forth in Section 11(B) of this Resolution.

B. Penalties. If any Building is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if any Building or land is used in violation of this part or of any resolution adopted under this part, the Zoning Enforcement Officer, in addition to other remedies, may take any appropriate action or begin proceedings, including but not limited to court proceedings, to:

- 1.** Prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
- 2.** Restrain, correct, or abate a violation;
- 3.** Prevent the occupancy of a building, structure, or land; or
- 4.** Prevent any illegal act, conduct, business, or use in or near the premises.

SECTION 12: RECORDS

Reference is made to the descriptive matter contained in the petition filed in connection with creation of this Zoning District which is on file with the Secretary of the Planning and Zoning Commission and to the Official Zoning Map which is on file with the Park County Clerk and Recorder.

SECTION 13: ADOPTION

This Resolution was adopted on this 27 day of March, 2008,
by the Park County Park County Commissioners.

Tara
Larry Lahren, Chairman

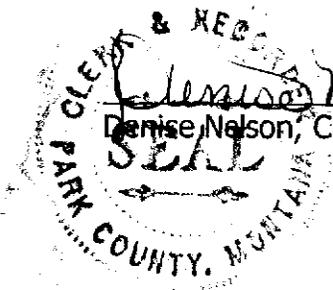
Dick Murphy
Dick Murphy, Member

ABSTAINED:

James R. Durgan
Jim Durgan, Member

ATTEST:

Denise Nelson
Denise Nelson, Clerk and Recorder

The seal is circular with the text "CLERK & RECORDER" at the top, "SEAL" in the center, and "PARK COUNTY, MONTANA" at the bottom.

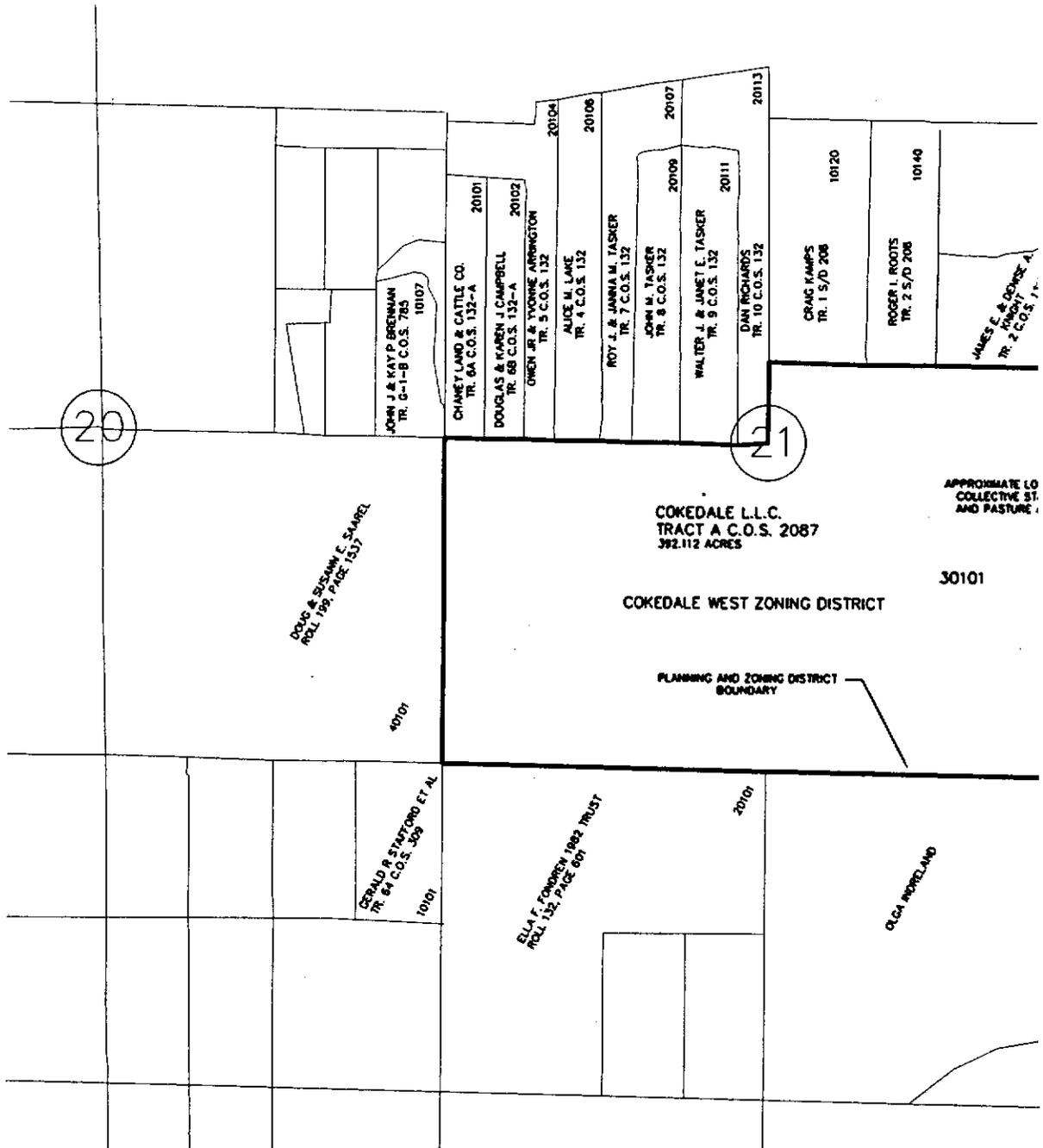
APPROVED AS TO FORM:

Tara DePuy
Tara DePuy, Civil Attorney

PLANNING AND ZONING DISTRICT MAP

TWO TRACTS OF LAND BEING ALL OF TRACT A AND TRACT B AS DESCRIBED IN C.O.S. 2087 RB
 LOCATED IN THE S 1/2 AND NE 1/4 OF SECTION 21 AND THE N 1/2 OF THE S 1/2
 OF SECTION 22, ALL IN T2S, R8E, P.M.M., PARK COUNTY, MONTANA

PREPARED FOR COKEDALE L.L.C. A MONTANA LIMITED LIABILITY COMPANY
 TO CREATE THE COKEDALE WEST ZONING DISTRICT



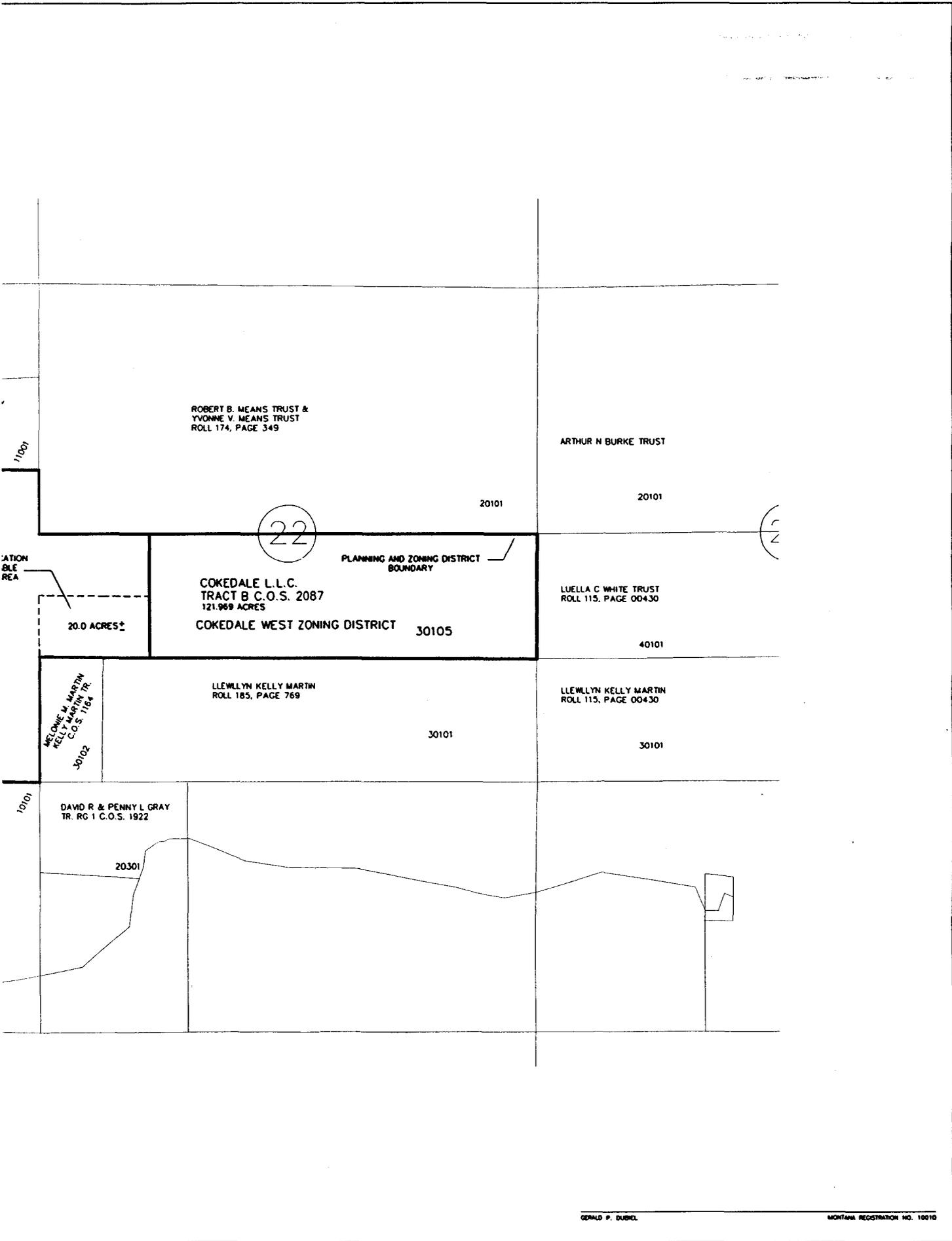
Z a

DRAWN BY: _____ PARK COUNTY COMMISSION

APPROVED BY: _____ PARK COUNTY CLERK AND RECORDER

DATE ADOPTED: _____

DUBIEL WELLS ASSOCIATES	MARCH 22, 2007
BOZEMAN - LIVINGSTON, MONTANA	PROJECT No. 06-014



ROBERT B. MEANS TRUST &
YVONNE V. MEANS TRUST
ROLL 174, PAGE 349

ARTHUR N BURKE TRUST

20101

20101

22

PLANNING AND ZONING DISTRICT
BOUNDARY

COKEDALE L.L.C.
TRACT B C.O.S. 2087
121.969 ACRES

LUELLA C WHITE TRUST
ROLL 115, PAGE 00430

20.0 ACRES±

COKEDALE WEST ZONING DISTRICT 30105

40101

LLEWELYN K. MARTIN
KELLY MARTIN TR
C.O.S. 1164
30102

LLEWELYN KELLY MARTIN
ROLL 185, PAGE 769

LLEWELYN KELLY MARTIN
ROLL 115, PAGE 00430

30101

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DAVID R & PENNY L GRAY
TR. RG 1 C.O.S. 1922

20301

GERALD P. DUBIEL

MONTANA REGISTRATION NO. 10010

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