



PUBLIC MEETING

January 28, 2016
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Thursday, January 28, 2016, at 9:00 AM in Commission Chambers Room 330.

Roll Call

Chairman Mike Murray called the meeting to order at 9 a.m.

Commissioner Andy Hunthausen was present. Commissioner Geise was excused on business. Others attending all or a portion of the meeting included Eric Bryson, Michele Peterson-Cook, K. Paul Stahl, Laura Erikson, Greg McNally, Marni Bentley, Jeff Claason, Terri Corrigan, Al Knauber, and Nichole Nisbet, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

- a. Vendor Claims Report for Week Ending January 29, 2016. (Marni Bentley)
- b. Public Meeting Minutes: January 14 and 19, 2016. (Nichole Nisbet)

Eric Bryson reported on the consent action items 2a-b and recommended approval.

No public comment was received.

A motion to Approve was made by Commissioner Hunthausen and seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Agreement Modification Between Lewis and Clark County and the Community Transportation Association of America. (Laura Erikson)

Laura Erikson, Community Development Coordinator, presented the request to extend the current contract term date to the contract CTAA/ACL 90TC0001/03 with the Community Transportation Association of America to April 30, 2016. The extension request is due to two items not being completed in round three planning of this project.

No public comment was received.

A motion to Approve was made by Commissioner Hunthausen and seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Project Agreement Between Lewis and Clark County and the Community Transportation Association of America. (Laura Erikson)

Laura Erikson, Community Development Coordinator, presented the Project Agreement (CTAA/ACL 90TC0001/04) with the Community Transportation Association of America in the amount of \$10,500 for mentoring services for future projects. The contract date begins May 1, 2016 through April 30, 2017.

No public comment was received.

A motion to Approve was made by Commissioner Hunthausen and seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Request to Extend Preliminary Plat Approval for Lot A-1A Amended of the H.W. Smith Minor Subdivision (Heron Creek Major Subdivision, Phases 1-6). (Applicant: Ron Bartsch) (Planner: Greg McNally)

Greg McNally, Planner II, presented the request to extend the preliminary plat approval period for a subdivision located east of and adjacent to Eames Lane and south of and adjacent to Kier Lane. On September 18, 2007, the Lewis and Clark County Commission granted preliminary plat approval for a 70 lot subdivision. This preliminary approval period was not to exceed three calendar years, and would have expired on September 18, 2010. On November 23, 2010, the Commission granted a one-year extension request until September 18, 2011. On September 13, 2011, the Commission granted a second one-year extension request until September 18, 2012. On November 29, 2012, the Commission granted a third extension request for three years until September 18, 2015. This will be the fourth extension request on this project. The request from the applicant is a five year extension request however staff has provided a draft extension request for three years. It was noted that the County currently lacks a clear and consistent policy for determining the lengths of preliminary approvals and recent extensions have run from six months to five years. Mr. McNally provided the three options for granting an extension of preliminary approval for this project and noted the first option as requested by the applicant which will amount to a total preliminary approval period of 13 years. He noted that a shorter extension time frame provides the Commission with the opportunity to review the applicant's performance and require corrective action if warranted. Agency approvals may expire, such as those issued by the Department of Environmental Quality (DEQ) or the Weed District. The neighboring property owners have expectations for prompt construction and mitigation of impacts identified with the original and modified preliminary approvals and public improvements installed in the present may not operate or function as required in the future for final platting of additional phases if they are not properly maintained. The second option as proposed by the Planning Department is that preliminary approval extensions provide no more than a three-year extension at a time. This reflects the current statutory framework of providing initial preliminary approval periods for three years. If the subdivision is not fully platted within three years, the Commission can consider another application for extension from the applicant. He further noted that a three-year extension would equate to a total preliminary approval period of 11 years. The third option presented was the option for two years for the first three phases and five years for the last three phases and the third option would end the preliminary approval on September 18, 2020 provided that a final plat application, review fees, plat, and evidence of completing each of the conditions of approval for the applicable phases is submitted in compliance with the following schedule of Phase 1-3: September 18, 2017; and Phase 4-6: September 18, 2020.

Commissioner Hunthausen asked why there was another extension request before the Commission.

Greg McNally noted the extension did expire this past September and the Planning Department did receive the request to extend prior to that expiration date.

Commissioner Murray asked if any phases of the Subdivision could now be developed.

Greg McNally noted that there is a final plat application for the first 3 phases that the applicant had hit a road block and final plat has not been granted. He noted that road block is the next agenda item before the Commission and if that roadblock is taken care of, the applicant could go forward with final plat on the first 3 phases.

Commissioner Hunthausen asked if any permits have expired to Mr. McNally's knowledge.

Greg McNally noted that the DEQ approval expired on January 4, 2016 and the weed management plan will expire on August 8, 2018. He noted that the applicant will have to go back to DEQ for approval since this is a community system.

Ron Bartsch, the applicant, stated the subdivision has presented a lot of challenges and feels confident that they are very close to final plat so they can move forward with this project.

Commissioner Hunthausen asked Mr. Bartsch why the extension is needed.

Ron Bartsch stated given the size and scope of the project the time frame of five years makes more sense. He noted that the last option proposed by Mr. McNally seems sensible.

Commissioner Hunthausen asked about the DEQ permit expiring.

Ron Bartsch stated since it is a community wastewater facility they will have to resubmit the system information to DEQ for approval and noted that the process has begun and anticipates having approval shortly.

Commissioner Murray stated the applicant has blamed the County for the delays over the years yet the applicant is asking for another extension.

Ron Bartsch stated this development has a lot of moving parts and pieces and this has been a challenging subdivision.

Commissioner Hunthausen asked the engineer, Ryan Casne, about DEQ permit process.

Ryan Casne stated that part of the community wastewater system has been installed and tested. It is the phases that have not been built yet that need to be re-permitted.

Commissioner Hunthausen asked Mr. Casne if there are any other permits that need to be reviewed to his knowledge.

Ryan Casne stated DEQ and the weed management plan are the only ones he is aware of.

Commissioner Hunthausen asked Mr. McNally the timeframe for the project.

Greg McNally suggested that the Commission act on it as soon as possible.

No public comment was received.

A motion was made by Commissioner Hunthausen to table the item until the regularly scheduled meeting on February 9, 2016 and seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Request for Modifications of Conditions of Approval for the Preliminarily Approved Lot A-1A Amended of the H.W. Smith Minor Subdivision (Heron Creek Major Subdivision, Phases 1-6). (Applicant: Ron Bartsch) (Planner: Greg McNally)

Greg McNally, Planner II, presented the request to go forward with the procedure for modifying conditions of approval and the preliminary plat for a preliminarily approved subdivision located east of and adjacent to Eames Lane and south of and adjacent to Kier Lane. He recommended tabling this request until after the extension request is addressed. Mr. McNally noted the previous modifications to the development. The applicant has submitted a letter requesting modifications to the preliminarily approved Heron Creek Subdivision, Phases I-VI. Preliminary approval for this Subdivision was granted on September 18, 2007. The preliminarily approved plat and conditions were modified on November 6, 2008, February 23, 2012, and September 10, 2015. The applicant is proposing to modify the conditions of approval to accomplish the following: modify the lot line between proposed Lots 79 and 80, modify the utility easement width between Lots 79 and 80 to a total of sixteen feet, where utilities are not present,

modify the 10-foot side yard utility easements to a 10-foot side yard building setback that would allow roof eaves to extend into the setbacks, where utilities are not present, modify all 10-foot utility easements located along side and rear lot lines to 10-foot building setbacks that would allow roof eaves to extend into the setbacks, modify the lot layout in Phase 2 by removing 8 lots; and modify the lot layout in Phases 4, 5, and 6 by adding 8 lots (2 lots in Phase 4, 5 lots in Phase 5, and 1 lot in Phase 6).

Commissioner Hunthausen asked the applicant about the change in the utility easement lines to a setback. He asked what role will the utility company play in this and if there is utility easement issues with the new proposed lots and if so, how it will be addressed.

Ron Bartsch, the applicant, stated his frustration as the extension was requested back in August and the Commission is just now hearing the request. He stated the modifications being requested at this time are in regards to the distances of the two buildings already built. The other modifications were suggested by staff and they agree with those modifications. He stated the surveyor made an error in staking the easement line and the error was found days before final plat. He stated the eaves are a new issue to him as the City refers to the foundation not the eaves with an encroachment. He stated the engineers at the time only removed utility easements that required setbacks on the plat and noted that the plat is now unreadable. He addressed the fourth request made and stated less lots in phase 2 will benefit the development by aggregating some of these lots and relieve some problems they are encountering with setbacks.

Ryan Casne showed the Commission a photograph of a fire truck between two homes to show that the request still works in terms of distance between the homes. He stated the lot rearrangements will work with the utilities already installed and stated there are no utilities installed in the future phases so they do not have to work around utilities existing.

Commissioner Hunthausen read testimony from a previous meeting where the applicant stated his confidence that an encroachment will not happen. Commissioner Hunthausen further noted his concern with encroachments happening. He reiterated it is a builder's responsibility to ensure they are building in the correct area.

Ron Bartsch stated he will take a hundred percent responsibility as he hired the company who staked the lot and said it was an error.

PUBLIC COMMENT –

Terri Corrigan, 5545 Kier Lane, stated she does not believe the Commission is being listened and also noted her opposition to building more homes along her property line. No further public comment was heard.

Commissioner Murray stated it was his understanding that eaves are used for fire protection in the County and the City uses foundations and asked for additional information from legal for the next meeting to confirm the facts.

Greg McNally noted that eaves can be considered in the City but still would have to be reviewed by the City.

Michele Peterson-Cook, Deputy County Attorney, stated staff can provide a memo to the Commission with the information requested in regards to City code.

Commissioner Hunthausen stated it is his understanding that the County regulations have been in the current form for quite a while, it should not be confusing nor is it a hidden regulation.

Michele Peterson-Cook stated that is also her understanding.

A motion was made by Commissioner Hunthausen to table the item until the regularly scheduled meeting on February 9, 2016 and seconded by Commissioner Murray. The motion Passed on 2-0 vote.


Public comment on any public matter within the jurisdiction of the Commission that is not on the agenda above.

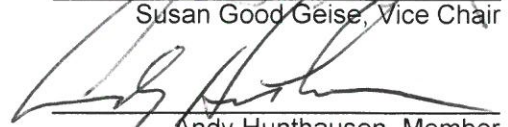
Adjourn

There being no further business, the meeting adjourned at 10:09 am.

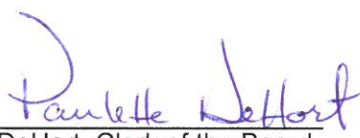
LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS


Michael Murray, Chairman


Susan Good Geise, Vice Chair


Andy Hunthausen, Member

ATTEST:


Paulette DeHart, Clerk of the Board