



## **PUBLIC MEETING**

October 18, 2016

### **MINUTES**

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, October 18, 2016, at 9:00 AM in Commission Chambers Room 330.

#### **Roll Call**

Vice-Chair Susan Good Geise called the meeting to order at 9 a.m.

Commissioner Michael Murray and Commissioner Andy Hunthausen were present. Others attending all or a portion of the meeting included Eric Bryson, K. Paul Stahl, Laura Erikson, Jason Danielson, Lindsay Morgan, Dean Retz, Thea Sperline, Steve Tennant, Joyce Evans, Vern Evens, Brian Coplin, Bob Utick, Jeff Tichenor, Mark Floerchinger, and Jennifer McCullough, Recording Secretary.

#### **Pledge of Allegiance**

Everyone recited the pledge.

#### **Consent Action Items**

There were no consent action items.

#### **Resolution 2016-92 Naming Denali Road. (Jason Danielson)**

Jason Danielson, Address Coordinator, presented resolution 2016-92 naming Denali Road. The road is generally located .45 miles north of Prairie Road traveling east from O'Reilly Drive. On October 4, 2016 the City-County Addressing Office received a petition from Mr. Craig LaFond II to name the road Denali Road. Staff recommended approval of the resolution.

No public comment was received.

A motion to Approve was made by Commissioner Hunthausen and seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

**Contract Amendment 1 Between Lewis and Clark County and Restoration Engineering, Inc. (Laura Erikson)**

Laura Erikson, Community Development Coordinator, presented amendment number 1 to the Restoration Engineering contract for the Poorman Creek Project. The amendment will extend the end date of the contract to November 30, 2016. Poorman Creek has been impacted by historic placer mining. Staff recommended approval of the contract amendment.

No public comment was received.

A motion to Approve was made by Commissioner Hunthausen and seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

**Extension Request. Saddle Rock Subdivision. (Applicant: Mark Floerchinger) (Planner: Lindsay A. Morgan)**

Lindsay Morgan, Planner II, presented the request for extension of preliminary subdivision approval for the Saddle Rock Subdivision. The property is located east of Collins Drive, south of and adjacent to Tea Road and is 20.18 acres in size. The preliminarily approved subdivision will create four lots and will be served by individual wells, individual on site wastewater treatment systems, and utilities. Access to the lots is off of Tea Road via a proposed internal access road to be known as Saddle Rock Court. The subdivision was granted preliminary approval on October 1, 2013. The applicant has met most of the conditions of preliminary approval and anticipates completion of the remaining improvements by December 30, 2016.

Dean Retz, 155 All Sports Court, project manager for the subdivision, testified that all but 2 of the conditions of approval have been met. Mr. Retz added that he believes the unfinished items should be completed by the end of the year.

No public comment was received.

A motion to approve was made by Commissioner Hunthausen and seconded by Commissioner Murray. The motion passed on a 3-0 vote.

Commissioner Murray was excused at 9:50 for personal business.

**Resolution 2016-94 Creating Zoning Regulations for Special Zoning District No. 49 (Valley View Heights Planning and Zoning District) (Planner: Lindsay A. Morgan)**

Lindsay Morgan, Planner II, presented Resolution 2016-94 creating zoning regulations for Special Zoning District Number 49, Valley View Heights Planning and Zoning District. The statutory process for Part I Zoning consists of three steps: creating the district boundaries, adoption of a development pattern or neighborhood plan for the district, and adopting the regulations for the district. The boundaries were created on January 28, 2014. The boundaries of the District include properties located east of Collins Drive, south of Snowdrift Road, north of Fantasy Road and west of Fairy Drive. On October 5, 2016 the Planning and Zoning Commission held a public hearing regarding the neighborhood plan development pattern and adopted that plan by Resolution 2016-93. The Planning and Zoning Commission also held a public hearing on October 5, 2016 regarding the regulations for the District and recommended approval of the draft regulations with a 4-0 vote. The purpose of this morning's meeting is to present the draft regulations and to allow for a public hearing regarding the regulations. The draft regulations as recommended include 4 different

sections: general provisions; zoning and district map; administration; and, definitions. The purpose of the regulations is listed under the general provision. The purpose is to implement the development pattern for Valley View Heights consistent with the adopted Valley View Heights Neighborhood Plan and Development Pattern and the policy recommendations of the Lewis and Clark County Growth Policy and the Helena Valley Area Plan. Additionally, the regulations are intended to accommodate and protect the use of low density, single family dwelling units, promote groundwater protection, limit increases in traffic on the road network to the capacity of the road, limit increases in demand for rural fire protection, preserve the rural-residential character of the area, enhance the aesthetic character, and protect public health, safety and welfare. The regulations apply to the creation of parcels of land and to uses of land and structures within the Valley View Heights Zoning District. There is also a section defining vested rights. A vested right is the right to proceed with the creation of one or more new parcels of land in compliance with previous regulations or approvals. Also outlined in the general provisions are the continuation of nonconforming parcels and uses. All parcels and uses of land that exist at the time of adoption of these regulations continue in conformance with all local, state or federal laws and regulations. Expansions of non-conforming uses are expressly prohibited.

The second section is the Zoning District and Map. This District is going to have one classification, there aren't any different classifications within the district. The outer boundaries essentially follow the centerline of the above mentioned roads. With regards to zoning district regulations, the minimum size for new parcels of land in the Valley View Heights Zoning District is 10 acres. There is also some land uses that are allowed as requested by residents of the district and proposed by staff. Those allowed uses include single family dwellings, agricultural uses, accessory uses, group homes, home daycare and home occupations. Also listed in this section is cluster development. Cluster development would allow for the creation of lots smaller than the minimum lot sizes established in these regulations in order to minimize or eliminate the need to create new roads to provide physical and legal access. The minimum size of each new parcel to be developed in a cluster development is 5 acres. No park land dedication is required due to the minimum lot size of 10 acres or 5 acres for cluster development.

The third section is the administrative section. This section explains how a landowner may request a variance, the appeal process for determinations from the Zoning administrator and how the regulations may be amended.

A motion was made by Commissioner Hunthausen to incorporate the record of the October 5, 2016 Planning and Zoning Commission meeting into the public record for this meeting. The motion was seconded by Commissioner Murray. The motion passed 3-0.

#### PUBLIC COMMENT -

Dean Retz, 155 All Sports Court, spoke about LORAC subdivision. The proposed subdivision is within the boundaries of Special Zoning District Number 49. Mr. Retz requested that the Board of Commissioners extend the comment period for the Special Zoning District.

Commissioner Hunthausen pointed out that this hearing is for the Special Zoning District, not for the LORAC Subdivision and that all public comment should be about the Zoning District.

Dorothea Sperline, testified in favor of the Special Zoning District. Residents of the area are concerned about retaining the quality and characteristics of the area. Residents support the zoning district as presented and support the minimum lot sizes being proposed.

Joyce Evans, 2276 Tea Road, supports the Special Zoning District as presented. She commended the Planning and Zoning Commission and County staff on coming up with a compromise that everyone agrees with.

Steve Tennant, 2376 Tea Road, stated that he purchased his 20 acre lot years ago with the intention of being able to divide it in the future for his children. He does not support the zoning as presented but does support the original covenants.

Bob Utick, East Helena, stated that he sold the original lots with the understanding that landowners could further divide their lots into 5 acre lots. The zoning upsets him because it goes against his original intent when he sold the lots years ago. He is against the zoning for this reason.

A motion was made by Commissioner Hunthausen to close the public hearing and take public comment and the record from the Planning and Zoning Commission under advisement and render a decision at the regularly schedule November 3, 2016 public meeting. The motion was seconded by Commissioner Geise. The motion passed 2-0.

**Two Variance Requests in Special Zoning District No. 3 (Applicant: Jeff Tichenor)**  
**(Planner: Lindsay A. Morgan)**

Lindsay Morgan, Planner II, presented two variance requests for property located between 2300 Cannon Street and Euclid Avenue. The property lies with the boundaries of Special Zoning District No. 3 and is currently zoned as R-2. The first variance is a use variance and the second is an area variance. The use variance authorizes the property owner to establish a use of land that is otherwise prohibited under zoning and an area variance allows for a deviation from the dimensional requirements of a district's regulations. The applicant is seeking a use variance to allow for the construction of a garage on a property without a single family residence (principal use) located on-site. The second variance request is to allow for the proposed garage to be constructed 3 feet from the front and side property boundaries and 2.5 feet from the rear property boundary, instead of meeting the required setbacks. As part of the application submittal, the applicant provided four written comments from property owners in the neighborhood expressing support for the variance request. As of September 28, 2016 staff had received one comment in opposition to the request.

The applicant purchased the undeveloped .06 acre property in March 2016 after buying the adjacent parcel to the south. The southern parcel contains a single family dwelling along with a 400 square foot, detached, single car garage. The residence is connected to the City of Helena's municipal water system and utilizes a separate septic system for wastewater disposal. The two properties are separated by a 14-foot wide alley.

There are two criteria the Commission can use to evaluate these requests: a literal enforcement of the zoning regulations will result in an unnecessary hardship to the applicant; and, that the variance request is not contrary to the public interest. On October 5, 2016 the Planning and Zoning Commission held a public hearing regarding both of these variance requests. After the hearing was closed, they recommended approval of the first request to allow for the garage to be constructed without having a principal use. They found that the literal enforcement of the regulations would result in an unnecessary hardship and they also found that approving the variance would not be contrary to the public interest. They also recommended approval of the second variance request but they did set some stipulations. They specified that the property owner could not further encroach into the setback than what the applicant is specifically asking for in this application. Ms. Morgan stated that there should not be any further encroachment requests.

A motion was made by Commissioner Hunthausen to incorporate the record from the Planning and Zoning Commission meeting into the record for this meeting. The motion was seconded by Commissioner Geise. The motion passed 2-0.



There was no public comment.

A motion was made by Commissioner Hunthausen moved to accept the recommendation of the Planning and Zoning Commission and approve the variance requests as presented by staff. The motion was seconded by Commissioner Geise. The motion passed 2-0.

Commissioner Hunthausen further moved to approve variance request number one for the use request allowing a garage to be constructed without a principal use on the land. A literal enforcement of the regulations would result in an unnecessary hardship on the applicant and that the variance is not in contrary to public interest. The motion was seconded by Commissioner Geise. The motion to approve the first variance request was approved 2-0.

A motion was made by Commissioner Hunthausen to approve the second variance request. The motion was seconded by Commissioner Geise. Commissioner Hunthausen stated that a literal enforcement of this variance would cause an unnecessary hardship on the applicant and that the variance is not in contrary to public interest. The motion to approve the second variance request was approved 2-0.

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


No public comment was received.

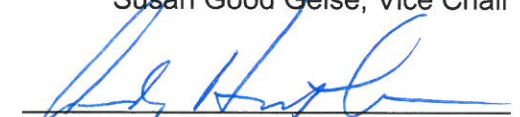
**Adjourn**

There being no further business, the meeting adjourned at 10:12 a.m.

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