



PUBLIC MEETING
October 27, 2015
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, October 27, 2015, at 9:00 AM in Commission Chambers Room 330.

Roll Call

Chairman Andy Hunthausen called the meeting to order at 9 a.m.

Commissioner Susan Good Geise and Commissioner Mike Murray were present. Others attending all or a portion of the meeting included Eric Bryson, Michele Peterson-Cook, K. Paul Stahl, Kevin Hamilton, Lindsay Morgan, Jim Wilbur, Cheryl Green, Lorraine Schneider, Mary Dhane, Walter Dhane, Justin Stefanik, Jason Crawford, Frank Gruber, Andy Adamek, Joe Nistler, Kim Smith and Nichole Nisbet, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

- a. Resolution 2015-152 Ordering a Refund of Taxes/Fees/Assessments Paid by Randall S Kaminsky in the Amount of \$430. (Cheryl Green)

Eric Bryson reported on the consent action item 2a and recommended approval.

No public comment was received.

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

Joint Funding Agreement Between Lewis and Clark County and U.S. Geological Survey. (James Wilbur)

Jim Wilbur, WQPD Coordinator, presented the Joint Funding Agreement between the Lewis and Clark County Water Quality Protection District and the U. S. Geological Survey in the amount of \$7,150 to fund the operation and maintenance of the streamflow-gaging station on Tenmile Creek near Rimini.

No public comment was received.

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

Amended Plat of Lots 30, 32, 36, 41, and 60 - Broadwater Estates Subdivision. (Applicant: Frank Gruber) (Planner: Lindsay A. Morgan)

Lindsay Morgan, Planner II, presented the proposed amendments to the final plat of the Broadwater Estates Subdivision. The applicant is proposing amendments to a filed subdivision plat, to be known as the Amended Plat of Lots 30, 32, 36, 41, and 60 – Broadwater Estates Subdivision; remove a portion of the drainage easement on Lot 30 of the Broadwater Estates Subdivision; remove and relocate one of the drainage easements on Lot 32 of the Broadwater Estates Subdivision and expand the on-site building envelope; remove a portion of the drainage easement on Lot 36 of the Broadwater Estates Subdivision and expand the on-site building envelope; remove a portion of the drainage easement on Lot 41 of the Broadwater Estates Subdivision; and amend the drainage easement on Lot 60 of the Broadwater Estates Subdivision. In addition to the proposed amendments, the applicant has submitted a variance request from the Lewis and Clark County Subdivision Regulations for the following requirement: Chapter XI:W.2.d which is in regards to drainage easements for lots 30, 36, 41 and 60. One comment was received as of today specifically in regards to lot 60. The subject properties are located northwest of the junction of Old Broadwater Lane and U.S. Highway 12. The subject properties range between 1.28 and 2.11 acres in size, are approved as single-family residential lots, and are currently undeveloped, with the exception of Lot 41, which has already been developed with a single-family residence. Since the time of preliminary approval for this Subdivision under the 1999 Subdivision Regulations, the regulations regarding grading and drainage have changed; however, a majority of the regulations still remain the same. One new addition to the Subdivision Regulations is Chapter XI.W Waterbody Setbacks and Buffer Areas. Because amendments to the existing drainage easements have been proposed on these five properties, the proposal is now subject to the review process for an amended plat under the current Subdivision Regulations. Since the applicant is seeking to remove or relocate the existing drainage easements in order to expand the buildable area on-site, he has requested a variance from these Regulations to not be required to dedicate setbacks from the edges of the drainage easements as he does not want to lose some of the additional buildable area he would gain on-site by removing or relocating the existing drainage easements. As a requirement of approval for the Broadwater Estates Subdivision, it was reviewed by the Montana Department of Environmental Quality (DEQ) for stormwater. According to the DEQ approval, stormwater runoff was required to consist of individual on-site detention ponds, culverts, roadside ditches, and two public detention ponds to be located on Lot 9 and the common area. In addition, two culverts were required under Smallwood Court, as a part of the DEQ approval, to connect the drainage between Lots 60 and 38. According to the application, the applicant plans to establish a new, 20-foot wide drainage easement on Lot 32 along the northwest property boundary, between Smallwood Court and the existing 40-foot wide drainage easement located on-site. Approximately 10 feet of this new, 20-foot wide drainage easement will lie within the existing utility easement shared by Lots 32 and 33. According to the covenants placed on the subdivision, any development within the drainage easement that would restrict or alter the pattern of channel flow has been expressly prohibited. Lot 41 is currently developed with a single-family residence that was placed within the east half of the 40-foot wide drainage easement located on-site. In addition, these covenants also provided a notice to each property owner that they are responsible for providing on-site retention of all stormwater run-off generated from their lot in excess of historical volumes. According to the private covenants placed on the subdivision, there are stipulations regarding the construction of the on-site stormwater detention ponds. In this case this would have been done prior to building a house, driveway, or other impermeable structures. According to comments received from the County Public Works Department stating that the drainage from Lot 30 and 32 could adversely affect lower lots on Ten Mile View Road, and the easement on Lot 32 accepts most of the stormwater run-off from the west side of upper Smallwood Court through the middle of the lot. In addition, they state that the natural drainage from Lot 36 will drain into Lot 35's approach culvert; the drainage easement for Lot 41 drains directly into the back side of a home constructed on that Lot; and Lot 60 will not be affected by the alteration of the drainage easement, as it is located on the uphill side, even though decreasing the natural drainage will affect all properties within the same drainage down-gradient. Comments forms were received from NorthWestern Energy, the Floodplain Administrator/Disaster and Emergency Services Coordinator, and the City-County Health Department – Environmental Division have all provided statements of no comment. After a full review of the proposal, no circumstances have changed since preliminary plat

approval was granted other than the addition of specific setback requirements from the edge of the natural drainages. The Planning Department requested comments from numerous agencies regarding the proposed amendments and variance request. Although the Broadwater Estates Subdivision plat required drainage easement dedications on-site for Lots 30, 36, and 41, the DEQ approval for the Subdivision did not require culverts under the roadway to allow the water in the drainage to continue from the head of the drainage on Lot 36 down-gradient to Lots 41 and 30. In addition, the DEQ approval required individual detention ponds and typically, these detention ponds are constructed prior to final subdivision approval; however, it appears that these ponds were instead required to be completed prior to the on-site construction of a house, driveway, or other impervious surface. According to the application, detention ponds have been proposed on all lots, as all stormwater run-off generated from these lots in excess of historical volumes must be detained on-site so that properties down-gradient will not be adversely affected. The proposed detention ponds on Lots 30, 32, 36, and 60 appear to be located in or near the DEQ approved location; however, the proposed detention pond on Lot 41 will be relocated further up-gradient of its DEQ approved location. The applicant plans to establish a new, 20-foot wide drainage easement on Lot 32 within the existing utility easement this Lot shares with Lot 33, and we have received no comments from utility providers on whether or not they will be affected. In addition to this utility easement, there is a utility easement located within the easement for Smallwood Court, which abuts and provides the access to this Lot, and along all other property boundaries within the Subdivision.

Commissioner Geise asked about the building that was constructed in the easement and asked if that is standard practice and if Ms. Morgan knew when the house was constructed.

Lindsay Morgan stated the building is in violation of the private covenants since the house is located in the easement. She further stated that is why they are seeking an amended plat and noted that the house was recently constructed.

Commissioner Hunthausen asked about onsite stormwater detention being required on the individual lots.

Lindsay stated a stormwater plan was approved for the entire subdivision; in addition there are individual stormwater ponds for each lot. DEQ approval will be required if you change the capacity, orientation or if the pond is relocated.

Jason Crawford, KLJ Engineer, stated the biggest overall item is they do not have the ephemeral drainage that affects the lots connected together. The water runs along the natural drainage on Lot 30 closer to the amended drainage. In regards to Lot 41, the builder was not able to visibly see the easement online when looking at the plat.

Commissioner Geise asked about the thought process for building the home on the lot.

Jason Crawford stated there is not a lot of water collection on this lot. The builder graded the site so the water would flow around the house.

Commissioner Murray asked for clarification if there was a ditch built around the house on Lot 41.

Jason Crawford stated that the Lot was graded so there is a ditch around the house.

Commissioner Hunthausen asked why the individual onsite detention ponds were not completed prior to final plat.

Jason Crawford stated to his understanding it is required in the covenants for the individual homeowners to build an onsite detention pond.

Lindsay Morgan stated the planner check the larger detention ponds but did not check for the individual onsite detention ponds prior to final approval. This was final platted in 2006 and prior to her start.

Commissioner Hunthausen asked if the new drainage proposal will need to be reviewed by DEQ.

Lindsay Morgan stated that it is likely all five properties would need to be reviewed by DEQ but a review will be required for the detention pond being relocated on Lot 41.

Jason Crawford stated the proposed plan is better on Lot 32 than the current plan from an engineering perspective.

PUBLIC COMMENT-

Andy Adamek, 5080 Smallwood Court, stated his concerns with the stormwater drainage plan as the Home Owner's Association would be responsible for the maintenance of the public areas in the subdivision. His concerns are with the water flow and the integrity of the roads in the subdivision. It was noted that an onsite water pond would help with the potential water volume in a storm event as long as they assist in the current flow of the water. He noted he has never seen water flowing on Lot 41 and having a stormwater detention pond above the home would take care of any potential issue. He has concerns with the water flow in to Lot 30.

Joe Nistler, builder of Lot 41 home, stated he plans on building on lot 36 and 60 as well. Water does flow into the cul-de-sac at Lot 40 and could have improvements to the ditch. The plat he received from WWC Engineering and did not show the easements. The easements are only reflected on the plat filed with the Clerk and Recorder's Office. In his opinion once the vegetation is restored on the Lot any water will be retained in the natural vegetation.

Lindsay Morgan stated in the past the final plat mylars would be cut with black writing and dark gray areas which does not copy well. That has been corrected and all the plats are now done in black.

Commissioner Hunthausen asked about Lot 60 and the proposed changes on how it could impact the downstream houses, specifically Lot 38.

Joe Nistler stated the water comes down the property line and directly into the culverts and is sufficient in getting water down from Lot 38. The proposed change is to keep the drainage along the property line, not across diagonally. A detention pond is required on the Lot and is being proposed. DEQ had approved the ditch on Lot 41 as an approved stormwater detention pond.

Commissioner Hunthausen clarified if the plan was approved by the Commission it would then go to DEQ for approval.

Lindsay Morgan stated there is a draft condition that requires DEQ approval of the changes. She further noted the review period ends on November 9th.

Jason Crawford stated the developer does still own Lot 33 and there is an opportunity to improve the drainage along the cul-de-sac.

Commissioner Murray asked if the detention ponds were required in the original approval.

Lindsay Morgan stated DEQ approval was required for the detention ponds and further noted that Planning Staff would inspect the site for installation of the detention ponds prior to final approval.

Upon no further testimony or comment, Commissioner Hunthausen stated that the public comment is now closed.

A motion was made by Commissioner Geise to table the item until November 5, 2015 at the regularly scheduled meeting and seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

Proposed Garden Valley Subdivision. (tabled 10/13/15) (Applicant: Kim Smith Properties, LLC) (Planner: Lindsay A. Morgan)

Lindsay Morgan, Planner II, presented the proposed 37-lot, single-family residential Subdivision located south of and adjacent to John G. Mine Road, and west of and adjacent to North Montana Avenue. Lindsay stated that in the past when nothing beyond a special use permit has been required for a County road easement within an HVID or BOR easement.

A motion was made by Commissioner Geise to approve the subdivision as outlined by staff and seconded by Commissioner Murray.

Commissioner Geise stated the Commission has reviewed the 7 findings of fact on the variance request in regards to the lot length to width ratio stating the granting of the variance will not be detrimental to public health, safety, or general welfare or injurious to other adjoining properties, because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would not result if these regulations were enforced, the granting of the variance will not cause a substantial increase in public costs, the approval of the variance will not place the subdivision in non-conformance with any adopted zoning regulations or applicable, adopted plan. A motion was made by Commissioner Geise to adopt the findings of fact after considering public comment and to adopt a conclusion that the requested variance complies with the four criteria for granting variances from the standards and requirements of the Subdivision Regulations and to approve the granting of the variance as outlined. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

Commissioner Geise stated the Commission has reviewed the 5 findings of fact on the variance request in regards to the double-frontage lots and stating the granting of the variance will not be detrimental to public health, safety, or general welfare or injurious to other adjoining properties, because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would not result if these regulations were enforced, the granting of the variance will not cause a substantial increase in public costs, the approval of the variance will not place the subdivision in non-conformance with any adopted zoning regulations or applicable, adopted plan. A motion was made by Commissioner Geise to adopt these findings of fact and after considering public comment and to adopt a conclusion that the requested variance complies with the four criteria for granting variances from the standards and requirements of the Subdivision Regulations and moved to approve the granting of the variance as outlined and seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

Lindsay Morgan presented the findings of fact in regards to the impacts on Agriculture and Agricultural Water Users and Facilities.

Commissioner Geise stated the findings are very specific, well thought out and constructed and noted the special use permits do state in the future the permit could be revoked. She asked the applicant if they understand the permit is revocable.

Ryan Casne, the applicant's engineer, stated they understand the permit is revocable.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on impacts to agriculture and agricultural water users facilities and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will have adverse impacts on agriculture and agricultural water users facilities and those impacts can be mitigated through the conditions of approval. The motion was seconded by Commissioner Murray.

Lindsay Morgan presented the conditions of approval in regards to the conclusion of law on agriculture and agricultural water user's facilities.

A motion was made by Commissioner Murray to reword to "will acknowledge" and to include all future references to that language be changed throughout the document and seconded by Commissioner Geise. The motion Passed on a 3-0 vote.

The Chair restated the main motion to adopt the conclusion of law subject to the conditions of approval as stated. The motion Passed on a 3-0 vote.

Lindsay Morgan presented an overview of the findings of fact for impacts on local services.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on impacts to local services and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will have adverse impacts on local services and those impacts can be mitigated through the following conditions of approval as outlined by staff. The motion was seconded by Commissioner Murray.

Lindsay Morgan presented the conditions of approval in regards to the conclusion of law on local services.

The Chair restated the main motion to adopt a conclusion of law that the proposed subdivision will have adverse impacts on local services and those impacts can be mitigated through the conditions of approval as outlined by staff. The motion Passed on a 3-0 vote.

Lindsay Morgan presented the findings of fact in regards to the impacts on the natural environment.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on impacts to the natural environment and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted by staff. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will have adverse impacts on the natural environment and those impacts can be mitigated through the conditions of approval as outlined by staff. The motion was seconded by Commissioner Murray.

Lindsay Morgan presented the conditions of approval as recommended by the Planning Board in regards to the conclusion of law on the natural environment.

The Chair restated the main motion to adopt a conclusion of law that the proposed subdivision will have adverse impacts on the natural environment and those impacts can be mitigated through the conditions of approval as outlined by staff. The motion Passed on a 3-0 vote.

Lindsay Morgan presented the findings of fact in regards to impacts on wildlife.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts to Wildlife and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will have adverse impacts on wildlife and those impacts can be mitigated through the conditions of approval. The motion was seconded by Commissioner Murray.

Lindsay Morgan clarified that the Planning Board recommended removal of the following condition; prior to filing the final plat, in consultation with the Montana Department of Fish, Wildlife, and Parks (FWP), the applicant shall prepare, submit, and implement a plan for mitigation of the impact on the Black-tailed Prairie Dog colonies located within the subdivision or prior to filing of the final plat, the applicant shall submit a letter from FWP stating that the subdivision will not impact the Black-tailed Prairie Dog colonies. It was further noted that the following condition was recommended by the Planning Board in regards to the restrictive covenants being placed upon the property and shall provide for the following; the storage of foods, garbage or feeding domestic pets outdoors or other activities may create an

attractive nuisance for wildlife species, that gardens, fruit trees and compost piles should be fenced with deer-proof fences, domestic pets should be restrained or penned on the property at all times and that property owners should contact Montana Fish, Wildlife, and Parks for fencing standards and learning about living with wildlife in general.

The Chair restated the main motion to adopt a conclusion of law that the proposed subdivision will have adverse impacts on wildlife and those impacts can be mitigated through the conditions of approval as outlined by staff. The motion Passed on a 3-0 vote.

Lindsay Morgan presented the findings of fact in regards to the impacts on wildlife habitat

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts to wildlife habitat and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted and seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will have adverse impacts on wildlife habitat and those impacts can be mitigated through the conditions of approval. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

Lindsay Morgan stated the Planning Board recommended to remove the following condition, prior to filing the final plat, in consultation with the Montana Department of Fish, Wildlife, and Parks (FWP), the applicant shall prepare, submit, and implement a plan for mitigation of the impact on the Black-tailed Prairie Dog colonies located within the subdivision or prior to filing of the final plat, the applicant shall submit a letter from FWP stating that the subdivision will not impact the Black-tailed Prairie Dog colonies. It was further noted that the following condition was recommended by the Planning Board in regards to the restrictive covenants being placed upon the property and shall provide for the following: the storage of foods, garbage or feeding domestic pets outdoors or other activities may create an attractive nuisance for wildlife species, that gardens, fruit trees and compost piles should be fenced with deer-proof fences, domestic pets should be restrained or penned on the property at all times and that property owners should contact Montana Fish, Wildlife, and Parks for fencing standards and learning about living with wildlife in general.

The Chair restated the main motion to adopt a conclusion of law that the proposed subdivision will have adverse impacts on wildlife habitat and those impacts can be mitigated through the conditions of approval as outlined by staff. The motion Passed on a 3-0 vote.

Lindsay Morgan stated the findings of fact in regards to impacts on public health and safety in regards to flood hazards, drainage ditches and canals, radon, earthquakes and stormwater.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts to Public Health and Safety and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise after reviewing the adopted findings of fact, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will have adverse impacts on public health and safety and those impacts can be mitigated through the conditions of approval. The motion was seconded by Commissioner Murray.

Lindsay Morgan stated the conditions of approval as recommended by the Planning Board in regards to the conclusion of law for public health and safety in regards to flood hazards, drainage ditches and canals, radon, earthquakes and stormwater.

The Chair restated the main motion to adopt a conclusion of law that the proposed subdivision will have adverse impacts on public health and safety and those impacts can be mitigated through the conditions of approval as outlined by staff. The motion Passed on a 3-0 vote.

A motion was made to recess until 3:00 pm by Commissioner Hunthausen and seconded by Commissioner Geise. The motion was passed on a 3-0 vote.

Break/reconvene.

Lindsay Morgan presented the findings of fact in regards to the impacts on cultural resources.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on impacts to cultural resources and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will not have adverse impacts on cultural resources. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

Lindsay Morgan presented the findings of fact on compliance with subdivision regulation.

Commissioner Geise stated that the County is in the process of redoing our Growth Policy which should be completed by the beginning of the New Year and further stated the Commission approved the variance requests earlier.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact regarding compliance with the Subdivision Regulations and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will not be in full compliance with the subdivision regulations but compliance can be achieved through the conditions of approval. The motion was seconded by Commissioner Murray.

Lindsay Morgan presented the conditions of approval as recommended by the Planning Board in regards to the conclusion of law for subdivision regulations.

A motion to modify Condition No. 21 to add the percentage of impact fee for offsite roads to and that addition to be added the language where applicable was made by Commissioner Geise and seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

The Chair restated the main motion to adopt a conclusion of law that the proposed subdivision will have adverse impacts on subdivision regulations and those impacts can be mitigated through the conditions of approval as amended. The motion Passed on a 3-0 vote.

Lindsay Morgan presented the findings of fact in regards to survey requirements.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact regarding compliance with survey requirements and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will not be in

full compliance with survey requirements but compliance can be achieved through the conditions of approval. The motion was seconded by Commissioner Murray.

Lindsay Morgan presented the conditions of approval in regards to the conclusion of law for survey requirements.

The Chair restated the main motion to adopt a conclusion of law that the proposed subdivision will have adverse impacts on survey requirements and those impacts can be mitigated through the conditions of approval as outlined by staff. The motion Passed on a 3-0 vote.

Lindsay Morgan presented the findings of fact in regards to provision of utilities.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact regarding compliance with utility provisions and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will not be in full compliance with utility provisions but compliance can be achieved through the conditions of approval. The motion was seconded by Commissioner Hunthausen.

Lindsay Morgan presented the conditions of approval as recommended by the Planning Board in regards to the conclusion of law for utility provisions.

The Chair restated the main motion to adopt a conclusion of law that the proposed subdivision will have adverse impacts on provision of utilities and those impacts can be mitigated through the conditions of approval as outlined by staff. The motion Passed on a 3-0 vote.

Lindsay Morgan presented the findings of fact in regards to provision of access.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact regarding compliance with access requirements and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will not be in full compliance with access requirements but compliance can be achieved through the conditions of approval. The motion was seconded by Commissioner Murray.

Lindsay Morgan stated the conditions of approval as recommended by the Planning Board in regards to the conclusion of law in regards to access requirements.

The Chair restated the main motion to adopt a conclusion of law that the proposed subdivision will have adverse impacts on access requirements and those impacts can be mitigated through the conditions of approval as outlined by staff. The motion Passed on a 3-0 vote.

Lindsay Morgan presented the findings of fact in regards to compliance with zoning and other regulations.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact regarding compliance with zoning and other regulations and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray. The motion Passed on a 3-0 vote.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will not be in full compliance with zoning and other regulations but compliance can be achieved through the conditions of approval. The motion was seconded by Commissioner Hunthausen.

Lindsay Morgan presented the conditions of approval as recommended by the Planning Board in regards to the conclusion of law for zoning and other regulations.

The Chair restated the main motion to adopt a conclusion of law that the proposed subdivision will have adverse impacts on zoning and other regulations and those impacts can be mitigated through the conditions of approval as outlined by staff. The motion Passed on a 3-0 vote.

Based on these findings of fact and conclusions of law for each criterion, the Commission concluded that the proposed Subdivision is supported under the criteria and standards of the Lewis and Clark County Subdivision Regulations.

Commissioner Geise stated if a party is aggrieved by this decision, they may appeal the decision to the district court in Lewis and Clark County; such appeal must be filed within thirty days of the Commissions' written decision. The preliminary approval is for 37, single-family residential lots, located in the NE ¼ of Section 30, T11N, R3W, P.M.M., Lewis and Clark County, Montana. In order to mitigate identified adverse impacts, this approval is subject to the conditions as stated.

Commissioner Murray excused himself to attend County business.

The Chair restated the main motion conditionally approve the subdivision with the amendments as stated. The motion Passed on a 2-0 vote.

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

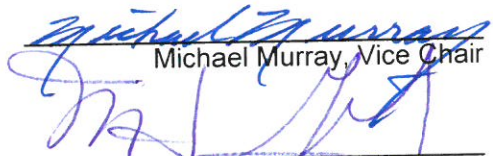
Adjourn

There being no further business, the meeting adjourned at 3:42 pm.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS



Andy Hunthausen, Chairman



Michael Murray, Vice Chair



Susan Good Geise, Member

ATTEST:



Paulette DeHart, Clerk of the Board