



## **PUBLIC MEETING**

December 8, 2016  
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Thursday, December 8, 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 Susan Good Geise is out on vacation. Others attending all or a portion of the meeting included Eric Bryson, K. Paul Stahl, Keith Hamilton, Matt HeimeI, Lindsay Morgan, Jim Henry, Connie Cole, Dean Retz, Joyce Evans, Justin Stolp, Jay Plant, Robert Utick, Steven Utick, Nate Kopp, Jeff Ryan, Bill Gehring, Mark Floerchinge, Mary Hollow, Tony Prothero, Al Knauber, and Nadine McCarty, Recording Secretary.

### **Pledge of Allegiance**

Everyone recited the pledge.

### **Consent Action Items**

- a. Public Meeting Minutes: October 13, 18, 20, 25, 27, 2016; and November 8 and 24, 2016.  
(Nadine McCarty)

Eric Bryson reported on the consent action item 2 a 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.

### **Resolution 2016-96 Approving Funding of the Open Lands Program Gehring Ranch Conservation Easement Project (Tabled 12/1/16) (Sponsor: Prickly Pear Land Trust) (Planner: Matt HeimeI)**

Matt HeimeI, Planner I, presented the resolution approving funding in the amount of \$1,000,000.00 for the Gehring Ranch Conservation Easement. The project was presented on December 1, 2016. The applicant is requesting \$1,000,000 from the Open Space Bond funds for a conservation easement of 2,888 acres. Mr. HeimeI stated that the County Attorney's Office has reviewed due diligence items and that all items have been satisfied.

PUBLIC COMMENT –

Connie Cole, 6040 Ferry Drive, stated the Gehring Ranch property is what the Open Lands CAC had in mind when they began the program and that the CAC is very much in support of this project. She also thanked Eric Bryson for all of his work.

Mary Hollow, Prickly Pear Land Trust, recognized Bill Gehring and his efforts to conserve his family ranch.

Jeff Ryan, Lewis and Clark Conservation District, stated they are very much in support of this project.

Upon no further testimony or comment, Chairman Murray stated that the public hearing is now closed.

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

**Off-site Road Improvements Request for Saddle Rock Subdivision (Tabled 12/6/16)**  
**(Applicant: Mark Floerchinger) (Planner: Lindsay A. Morgan)**

Lindsay Morgan, Planner II, presented a request to complete improvements to a section of Tea Road from Collins Drive east approximately 1,255 lineal feet. The request was originally presented to the Commission on December 6, 2016. This request is in-lieu of the applicant paying the off-site road improvement exaction for this section of Tea road, an additional section of Tea Road, and two sections of Collins Drive as required under preliminary approval Condition No. 6 of the preliminarily approved Saddle Rock Subdivision. Because Condition No. 6 only requires the applicant to pay the exaction and not to actually complete any improvements, he is seeking permission from the Commission to instead use the money to complete all improvements necessary to bring a section of Tea Road up to County Standard.

**PUBLIC COMMENT -**

Tony Prothero, Shedhorn Engineering, representing the applicant Mark Floerchinger stated after reviewing the County's additional requirements, there aren't any issues with moving forward.

Upon no further testimony or comment, Chairman Murray stated that the public hearing is now closed.

A motion was made by Commissioner Hunthausen approval of the request with the addition of the requirements to upgrade the drainage culvert on Tea Road and to provide bonds and insurance certificates to the County Public Works Department prior to beginning work. The motion was seconded by Commissioner Murray. The motion Passed 2-0.

**Proposed First Minor Subdivision to be known as Lorac Subdivision (Tabled 12/6/16)**  
**(Applicant: Robert S. Utick) (Planner: Jim Henry)**

Jim Henry, Planner I, presented the proposed First Minor Subdivision to be known as the Lorac Subdivision. The proposed subdivision was originally presented to the Commission on December 6, 2016. The applicant is proposing to subdivide a 20.10 acre tract of land into four lots, each with one single family dwelling. The lots will range in size from 5.02 acres to 5.03 acres. All lots will be served by individual wells, individual on-site wastewater treatment systems, and utilities. Access to the proposed subdivision will be via Collins Drive to a proposed internal access road to be known as Lorac Court.

Mr. Henry addressed prior public comment regarding the impact on the Helena School District and a bus pull out. The School District has responded that this subdivision will not affect the school district and a bus pull out will not be required.

Mr. Henry addressed the off-site fire protection requirements. The applicant will have 3 options to satisfy the off-site fire protection water supply condition of approval. The first option is that water shall be supplied by a well and pump with required volume and minimum pressure of 20 PSI and an overhead fill may be required in order to fill tankers and the fill site must be usable year round. The second option is that water shall be supplied by a tank/pressurized hydrant combination. The tank must be built and installed so as to last a minimum of 30 years and must be capable of delivering the required gallons per minute at a minimum of 20 PSI from an approved hydrant and the system shall be inspected and certified by a PE. The third option is a 30,000 gallon storage with a dry hydrant. Again, this system must be designed to be usable year and accessible year round. Mr. Henry stated that the applicant is going to use option 3 with the 30,000 storage.

Commissioner Hunthausen had a question regarding whether or not the property was subject to recently adopted zoning regulations. Deputy County Attorney K. Paul Stahl responded that in this instance the application for the subdivision was submitted and deemed complete before the zoning regulations were adopted by the Commission therefore the property is not subject to the zoning regulations. The regulations for Valley View Heights Zoning District were formally adopted by the Commission on November 3, 2016 and the subdivision application was sufficient on October 26, 2016.

Commissioner Hunthausen asked who is responsible for water rights, regulation of the water on the property and the septic tanks on the property.

Kevin Hamilton, Deputy Planning Director, responded that there is a possible junk vehicle issue in the area and that staff will go out and check on the issue. With regards to the well drilling that had been done, Mr. Hamilton stated he was unable to find anything in the subdivision regulations regarding a private property owner drilling a well.

Jay Plant, Environmental Health Department, stated the County can't stop a property owner from drilling a well. A site evaluation should be done and permit must be granted before a well is drilled; however, Mr. Plant added that the County does not issue the permit, rather those come from the Montana Department of Environmental Quality. The County Environmental Health Department does issue permits for septic tanks.

Tony Prothero, Shedhorn Engineering, stated that it is not uncommon for a developer to install a test well. The test well is used to determine how much water is available, how deep the well needs to be, etc. If the developer decides to use the test well for residential use, it will have to be approved and permitted by DEQ. If it does not get DEQ approval, it will be abandoned.

#### **PUBLIC COMMENT -**

Steve Utick, 2950 Fantasy Road, stated that he has lived in the area for 19 years and that he and his neighbor share a well that is 400' deep and produces 13 gallons of water per minute. Mr. Utick added that that well is sufficient for both residences.

Justin Stolp, 2224 Tea Road, stated that during the three years of the zoning process two separate subdivisions have been pushed through and that citizen's that live in the neighborhood are upset that this subdivision is being considered. He feels it should be subject to the recently adopted zoning regulations.

Robert Utick, East Helena, stated the subdivision application has been in the works for the past year. The property has been vacant for 25 years and he should be able to make improvements if he so chooses. Mr. Utick added that they have made several improvements to the area including adding a fill site for fire protection that meets all the rules and is not available for use on this subdivision as well as the neighboring subdivisions.

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

Commissioner Hunthausen addressed the findings of fact for the variance request. The applicant has requested a variance from Chapter XI.F.9 of the Subdivision Regulations to allow for two double fronted lots. According to the findings of fact, on the preliminary plat, proposed lots 32-C and 32-D will abut both Fantasy Road and the proposed internal access road. The applicant states in the variance application that the internal access road will be constructed to County standard and will be used as the primary access road for the proposed lot minor subdivision.

A motion was made by Commissioner Hunthausen to approve the findings of fact for the variance request. The motion was seconded by Commissioner Murray. The motion passed 2-0.

A motion was made by Commissioner Hunthausen to adopt the conclusions of law that the applicant has demonstrated that the requested variance meets all four standards as listed in the Subdivision Regulations. The motion was seconded by Commissioner Murray. The motion passed 2-0.

A motion was made by Commissioner Hunthausen that primary access to each lot shall be obtained via Lorac Court be added as a condition of approval for the variance request. The motion was seconded by Commissioner Murray. The motion passed 2-0.

A motion was made by Commissioner Hunthausen that after reviewing the findings of fact, conclusions of law and conditions of approval, the requested variance be approved. The motion was seconded by Commissioner Murray. The motion passed 2-0.

A motion was made by Commissioner Hunthausen to approve the Lorac Subdivision as submitted. The motion was seconded by Commissioner Murray.

Commissioner Hunthausen stated the the Commission has a motion on the floor for action on the subdivision application but he asked to first consider whether or not to approve the draft findings of fact.

A motion was made by Commissioner Hunthausen to approve the findings of fact as submitted. The motion was seconded by Commissioner Murray. Commissioner Hunthausen stated that the findings of fact state that the subdivision will be a benefiting property located in the North Hills RID so it will have to participate in that RID. The applicant proposes to use an off-site fire protection source located on Tea Road; and the subdivision application is not subject to zoning regulations. The motion passed 2-0.

A motion was made by Commissioner Hunthausen to approve the Conditions of Approval. The motion was seconded by Commissioner Murray. Commissioner Hunthausen stated that plans for water and wastewater systems shall be submitted to DEQ and the County for approval. Also, prior to any disturbance of soil a 5 year weed plan must be established. The motion passed 2-0.

A motion was made by Commissioner Hunthausen that after reviewing the adopted findings of fact to adopt a conclusion of law that the subdivision is not in compliance with the Subdivision

Regulations but by the acknowledgment of the adopted findings of fact and by complying with the conditions of approval, the deficiencies can be mitigated. The motion was seconded by Commissioner Murray. The motion passed 2-0.

A motion was made by Commissioner Hunthausen to amend the original motion preliminarily approving the subdivision to include the variance request approval, to accept the findings of fact, conclusions of law and conditions of approval. The motion was seconded by Commissioner Murray. The motion was approved 2-0.

**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 10:15 am.

LEWIS AND CLARK COUNTY  
BOARD OF COMMISSIONERS

  
\_\_\_\_\_  
Susan Good Geise, Chair  
\_\_\_\_\_  
Andy Hunthausen, Vice Chair  
\_\_\_\_\_  
Jim McCormick, Member

ATTEST:

  
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Paulette DeHart, Clerk of the Board