



PUBLIC MEETING

April 19, 2016
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, April 19, 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 Susan Good Geise and Commissioner Andy Hunthausen were present. Others attending all or a portion of the meeting included Eric Bryson, Michele Peterson-Cook, K. Paul Stahl, Kevin Hamilton, Christal Ness, Matt Heimel, Greg McNally, Ron Bartsch, Ryan Casne, Bob Drake, Jess Claassen, Ben Quionens, Jay Lyndes, Steve Moore, Bonita Gebhardt, Delvin Gebhardt, and Nichole Nisbet, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

There were no consent action items.

Decision. DeTienne Family Transfer Appeal. (tabled 4/14/16) (Christal Ness)

Christal Ness, Ombudsperson, presented the DeTienne Family Transfer Appeal Hearing. She stated the appeal hearing was held on April 13, 2016 and today is decision day.

Commissioner Geise asked Ms. Ness if she had discussed the options of Buildings for Lease or Rent with the applicant.

Christal Ness stated she did not have a conversation with the applicant on the option of Buildings for Lease or Rent as he was very determined to gift the parcels to his children to allow them to do whatever they'd like with their parcel.

A motion was made by Commissioner Hunthausen to uphold the decision of the Survey Review Committee and deny the appeal and the motion was seconded by Commissioner Geise.

Commissioner Hunthausen noted that the property is not eligible for this exemption based upon the Survey Review Committees findings. There are other options for the applicant including subdivision review and Buildings for Rent or Lease.

Commissioner Murray stated that the applicant indicated it was his intent to see that his children would build homes and rent them out when not in use. He stated it was clearly a commercial venture. He stated that a subdivision review is the appropriate action in this circumstance.

Commissioner Murray stated that the motion on the floor is to uphold the decision of the Survey Review Committee and deny the appeal. The motion Passed on a 3-0 vote.

Public Hearing on the proposed Red Fox Meadows Water and Sewer District. (Matt Heimel)

Matt Heimel, Special Districts Planner, presented the proposed Red Fox Meadows Water and Sewer District. A petition to create the Red Fox Meadows Water and Sewer District was received from an authorized signatory on behalf of the Hamlin Family Revocable Living Trust and the Hamlin Construction and Development Co. Resolution 2016-19 was presented to the Commission for adoption and today was the public hearing on the petition. No comments were received. Staff has determined that all provisions have been met and recommended approval.

No public comment was received.

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

Public Hearing on Proposed Modifications to the Preliminary Plat, Conditions of Approval and Variance Application for the Preliminary Approved Lot A-1A Amended of the H.W. Smith Minor Subdivision (Heron Creek, Phases I-VI) (tabled 4/12/16) (Applicant: Ron Bartsch) (Planner: Greg McNally)

Greg McNally, Planner II, presented the proposed modifications to the preliminary plat and conditions of approval and the variance requests for the preliminary approved Lot A-1A Amended of the H.W. Smith Minor Subdivision. The public hearing was continued and no additional written comments have been received.

PUBLIC COMMENT-

Steve Moore, 3740 Eames Lane, stated there are three houses on the property and two are illegally situated. Mr. Moore stated his opposition to the variance request as he feels it infringes on public safety.

Bonita Gebhardt, 3605 Eames Lane, stated her concerns in regards to the travel time and congestion on Canyon Ferry Road, the home sizes being built on the lots, the responsibility of the developer to follow the regulations and her overall opposition to the variance and extension requests.

Jay Lyndes, 5349 Kier Drive, stated his opposition to the request and noted that surveyors were on the property this last weekend.

Ron Bartsch, the applicant, stated he would address any comments received in the public testimony as needed.

Commissioner Murray asked Mr. Bartsch if surveyors had been out on the property.

Ron Bartsch stated they have a new survey company in order to get the new survey plat submitted to the County. The surveyors intend to resurvey the property.

Commissioner Hunthausen asked Mr. Bartsch if numbers 5 and 6 from the modification requests were approved, if it would make the variance request and modification number 4 unnecessary?

Ryan Casne, the applicant's engineer, stated that is correct as the variance would not be needed to reduce the easement width from 10 feet to 8 feet.

Commissioner Hunthausen asked for clarification if the amendment is to reduce the easement width between Lots 79 and 80.

Ryan Casne stated that is correct.

Greg McNally stated since there is a plan to have the utility easement you can reduce the size of the easement as long as a utility easement still exists.

Commissioner Hunthausen asked if by reducing the easement between Lots 79 and 80 to sixteen feet, the eaves would not be encroaching.

Ryan Casne stated that is correct.

Commissioner Hunthausen clarified if the width of the easement on Lot 79 was reduced it would remove the eave from the easement for Lots 78 and 79.

Ryan Casne stated you could reduce the size of the easement by 9 feet on the north side of Lot 79 or you can adjust the pin location to fix the encroachment by moving it a foot to the South. It would be easier to move the pin to have a standard 10 foot easement on the lot.

Commissioner Hunthausen stated he is not interested in reducing easements and he feels they are doing the minimum to protect the houses and noted the fact that there are limited resources to protect homes from fire. Commissioner Hunthausen asked the applicant if modification number 1 and 2 were approved, if the applicant would be willing to add a condition that the applicant will work with the local fire department to agree on access to ensure it is adequate for local fire services to access the area.

Ron Bartsch stated their practice is to work with the fire departments. He noted that they have installed residential fire sprinklers to provide a greater level of safety and stated that the addition of the requested condition is fine.

Commissioner Geise asked Commissioner Hunthausen if it is his intention is to leave the encroaching structures as they are.

Commissioner Hunthausen stated the testimony from the fire chief stated they could live with the existing structures. He discussed his discontent at being in this place and that the encroachment should have never happened. The subdivision has been approved and the Commission needs to find a way to complete the subdivision in the best way possible to protect future residents.

Commissioner Geise stated when she reflects on this as a whole now and into the future she notes that the project has struggled with fire protection for a long time. She noted Chief Drake's comments submitted on April 5, 2016 that stated, they should not sacrifice the safety of the future residents of this subdivision by allowing increased density into the easement to allow for larger homes. Either the developer should make the houses fit in the lot or make the lots bigger to allow for larger houses. Pushing the houses closer together directly impedes our ability to protect them. She further noted that under the subdivision regulations the criteria for granting a variance include that costs are not a valid reason for a variance. Neither are hardships that are self-imposed. She concluded that the memo from Ryan Casne dated January 21, 2016 stated that the developer was unaware that building eaves cannot encroach upon building setback limits. She reiterated that this is the County and they have those regulations. She noted that she would like to approve requests number 5 and 6 to modify the lots by removing 9 lots from Phase II and moving them into Phase 4 and 5, but will not support leaving the structures the way they are. Her intention is to have the two homes modified and the remaining lots be extended.

Ron Bartsch stated the buildings are over 21 feet apart, the eaves are the part of the buildings that are encroaching and he stated he has not seen a written rule that clarifies the fact that eaves cannot encroach. From a fire safety prospective these houses are safer as they have concrete siding, and fire sprinklers. The fire protection systems are redundant systems that will help protect these structures. He noted that he feels the issue has less to do with fire and more to do with access.

Jeff Claassen, 5545 Kier Lane, stated there is no regulation or condition that the fire sprinklers be in place other than a gentleman's agreement from the developer.

Upon no further testimony or comment, Commissioner Murray stated that the public comment was closed.

Commissioner Hunthausen asked Mr. McNally the process to move forward and if the variance and condition number 4 may be moot if condition 5 and 6 were approved. Greg McNally stated the requested modifications can be considered in any order, the variance could also be withdrawn at any point. He did note that the variance request includes condition number 3 and 4 as they are to eliminate the utilities easements.

Commissioner Geise asked for counsel on the process moving forward.

Michele Peterson-Cook stated the Commission can proceed with a global motion but should take the modifications individually.

Commissioner Murray stated in regards to the fire suppression system that was installed, the County is prohibited from considering or requiring fire suppression systems as ruled by Judge Sherlock and noted that due to additional testimony being received today he recommends postponing a decision until Thursday.

A motion was made by Commissioner Hunthausen to render a final decision at the regularly scheduled meeting on April 21, 2016 and seconded by Commissioner Geise. The motion Passed on a 2-1 vote with Commissioner Geise voting against.

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

Jeff Claassen recommended that all sprinkler systems placed in homes within subdivisions should be looked at for potential issues such as water build up and flow.

Commissioner Murray stated the County cannot consider sprinkler systems per Judge Sherlock's order.

Commissioner Hunthausen advised Mr. Claassen to visit with Chief Drake in regards to specifications of sprinkler systems.

Adjourn

There being no further business, the meeting adjourned at 9:54 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