

**PUBLIC MEETING
November 9, 2010
MINUTES**

Chairman Mike Murray called the meeting to order at 9 a.m. Commissioner Andy Hunthausen was present. Commissioner Derek Brown was out of the County and excused from the meeting. Others attending all or a portion of the meeting included K. Paul Stahl, Eric Bryson, Kelly Blake, Greg McNally, Mark Simonich, Ron Bartsch, Jeff and Terri Claassen, John Cassidy, Martin Balukas, Delvin and Bonnie Gebhardt, Steve Moore, Diana Claassen, Sid Noyes, and Rita Cortright, Recording Secretary.

Pledge of Allegiance. Everyone recited the Pledge.

Consent Action Items. None.

Proposed Modification of Conditions of Approval for the Preliminary Approved Lakeside Village on Hauser, Lot 2A Amended Major Subdivision with Request for Variance.

(Applicant: Merrit & Marie, LLC (Conrad Hale)) Planner: Greg McNally (Continued from 10-19-10) The Commissioners will consider the proposed modification of conditions of approval and requested variance from waterbody setbacks and buffer requirements. The variance request is to allow 4 of the 6 recreational vehicle spaces to remain within the 50-foot setback approximately 20 feet from the shoreline of Hauser Lake. The property is generally located on the west side of Hauser Lake and east of York Road about 10 miles from Helena. (Decision)

Greg McNally presented the staff report. The applicant has submitted three images associated with the variance and the request for a modification of the conditions of approval. These images were not included or presented until after the closure of the public hearing on October 7, 2010 and are considered new information. The images do not alter staff's recommendation for denial that was presented to the Commission on October 7, 2010.

Tyler Emmert, Stahly Engineering, 3530 Centennial Drive, Helena. Current subdivision regulations do contain notation regarding existing RV spaces. The addition of new sites after the establishment of these regulations will be required to meet the requirements. These sites are existing, non-conforming uses. Waterbody setbacks do not apply to them and the applicant can use this opportunity to improve this site without removing existing uses.

No public comments were received.

Commissioner Hunthausen moved to render a decision on Tuesday, November 23. Commissioner Murray seconded the motion. The motion carried 2-0.

Extension Request - Lot A-1A Amended of the H.W. Smith Minor Subdivision (a.k.a. Heron Creek Major Subdivision). (Applicant: Ron Bartsch) (Planner: Greg McNally)
(Cont'd. from 10-12-10)

Commissioner Murray stated that Commissioner Brown will have the opportunity to review the transcript prior to the November 23rd meeting.

Greg McNally presented the staff report. The applicant has requested an extension of the preliminary plat. There are 27 conditions of approval associated with this subdivision that was granted preliminary approval on September 18, 2007. Staff has been working with the applicant on completing those conditions.

Ron Bartsch, 184 Saddle Mountain Drive, requested an extension as long as is allowable under the statute and is allowable by the Commissioners. He elaborated on the work that has been completed and stated that the request for extension was also tied in with some amendments to the conditions of approval. Prior to the extension deadline he spoke to staff about an extension but realized he had not submitted a written letter asking for that extension and was tardy in submitting the request.

Without objection, written testimony from Sidney J. and Irene McMaster Noyes would be entered into the public record.

Jeff Claassen, 5545 Keir Lane. Presented photo documentation on what has already occurred during the three years that the permit has been in place and the regulations and laws designed to control it. He urged the commission to deny the extension request.

Steve Moore, 3740 Eames Lane. The developer should not be granted an extension. He described how the delays have affected and impacted his property as well as the neighbors' property. There has been a population explosion of gophers and weeds, large amounts of topsoil have been removed from agriculture land, and part of the pivot irrigation system was destroyed.

Martin Balukas, 5540 Keir Lane. The request for an extension should be denied. Air photos showed there was not much work done since the development began in 2008. He does not agree with changing the designation from condominium to townhomes. Deny the extension request as legally not feasible. The developer should begin with a new subdivision proposal.

There were no other public comments.

Ron Bartsch responded to the public comments relating to DEQ permit, erosion control, best management practices, and the irrigation pivot. He has been a good steward of this land and urged the Commissioners to consider the extension request.

Mr. McNally stated that an approach permit is required when the developer intends to access that property.

Commissioner Hunthausen moved to render a final decision on the extension request on November 23rd at the regular scheduled public meeting. Commissioner Murray seconded the motion. The motion carried 2-0.

Break – 10 minutes.

Request for Modification of Conditions of Approval for the Preliminary Approved Lot A-1A Amended of the H. W. Smith Minor Subdivision (a.k.a. Heron Creek). (Applicant: Ron Bartsch) (Planner: Greg McNally) The Commission will consider whether or not to consider at a future meeting a modification of conditions of approval.

Greg McNally explained the modification process. The applicant has submitted a request in writing. The applicant was present to give reasons why the commission should consider, at a future meeting, amending the conditions of approval.

Ron Bartsch, 184 Saddle Mountain Drive. It is prudent to adjust or alter as you go through something of this magnitude. The economic downturn and the financial community have changed. These were the circumstances for the request. The modification would allow phasing of this project, change the land ownership; and improvements to exterior roads.

Without objection, the Commission incorporated the testimony from the previous hearing pertaining to the request for extension with this request for modification of conditions of approval in order to form one record.

Public comments –

Diana Claassen, 5860 Gindale Road. Concerned that granting a limitless extension and modifying the conditions from condominiums to townhouses will decrease their land values.

Deputy County Attorney, Paul Stahl, stated if the developer wants to change anything in his subdivision, he should be required to go through the subdivision process with a new application and allow folks to make comment.

Terri Claassen, 5545 Keir Lane. Recommended that the commission deny moving forward with a modification hearing.

Hearing no other comments, the public hearing was closed.

Commissioner Hunthausen moved to render a final decision on November 23rd at the regular scheduled public meeting. Commissioner Murray seconded the motion. The motion carried 2-0.

Public comments on any public matter within the jurisdiction of the Commission that is not on the agenda above. None.

There was no other business, the meeting adjourned at 10:49 a.m.

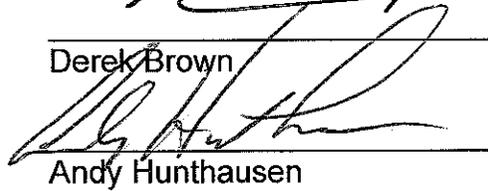
LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS



Michael A. Murray, Chairman

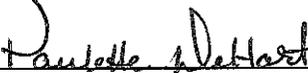


Derek Brown



Andy Hunthausen

ATTEST:



Paulette DeHart, Clerk of the Board