



PUBLIC MEETING
February 17, 2015
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on February 17, 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, Jeremy Gersovitz, George Thebarger, Lindsay Morgan, Melanie Reynolds, Fred Rice, Eric Griffin, Ardis Loberg, Larry Loberg, Parker Heller, Julie Heller, Ryan Casne, Steve Garrison, Bob Abelin, Karen Marble, Steve Shirley, Al Knauber, and Nichole Nisbet, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

- a. Public Meeting Minutes: January 15, 27 and 29, 2015, February 3, 10, 2015. (Nichole Nisbet)

- b. Memorandum of Understanding between Lewis & Clark County and Montana Public Employees Association. (Fred Rice)

Eric Bryson reported on the consent action items 2 a-b and recommended approval.

No public comment was received.

A motion to Approve was made by Commissioner Murray and seconded by Commissioner Good Geise, and the motion result was Passed with a vote of 3-0

The Montana Department of Public Health and Human Services Home and Community Based Waiver Grant Award FY15 to Lewis & Clark City-County Health Department. (Melanie Reynolds)

Melanie Reynolds presented the Montana Department of Public Health and Human Services Home and Community based waiver grant award FY15 to Lewis and Clark City-County Health Department. The program is for the SDMI (severely disabled mentally ill) population in our County. The program provides case management services to those who met the following criteria: be over 18, have a physical disability and/or a severe mental illness. The service is provided to those individuals as an option to institutional care. The one time grant will cover the costs of a computer and additional training.

No public comment was received.

A motion to Approve was made by Commissioner Good Geise and seconded by Commissioner Murray, and the motion result was Passed with a vote of 3-0

Proposed Major Subdivision to be known as the 46 Degrees North Subdivision. (Applicant: Heller Development, LLC) (Planner: Lindsay A. Morgan)

Lindsay Morgan presented the proposed major subdivision to be known as 46 Degrees North Subdivision. The property is located south of Beaverhead Road, east of and adjacent to North Montana Avenue. If approved the existing land will be divided into 94 lots: 88 for single-family residential, 4 lots for commercial, 1 lot for parkland and 1 lot for wastewater utilities. Direct access will be off of North Montana Avenue and the second route would be via Beaverhead Road and Pondera Drive. A third route is proposed via Beaverhead Road and Glacier Drive. The proposed subdivision will occur in two phases: phase 1 will include all four commercial lots, 44 of the single-family lots, the park property and the wastewater utility lot. Phase 2 will include the remaining 44 single-family residential lots, the park easement will be dedicated along with trails easements and the remainder of the wastewater treatment system will be completed.

A public hearing was held before the City-County Consolidated Planning Board on Tuesday August 19, 2014 and the meeting was continued until Tuesday August 26, 2014 where the planning board made a recommendation to the Commission to approve the proposed subdivision.

There were nine project issues that were discussed in the staff report. The first item being the petroleum plume as there is a known release site-up gradient from the proposed subdivision. The plume was mapped by DEQ in 1989 and has not been formally closed. Because it has not been formally closed, no water supply wells have been proposed within the boundary. The second item being the water quality as comments from the Water Quality Protection District state that the water chemistry show elevated nitrates in an up-gradient position from the proposed subdivision. Sampling results indicate an old, degraded source of nitrates and arsenic above the water drinking level

standards. The third item being zoning as phase 1 of the proposed subdivision is located in the unzoned portion of the County and phase 2 is located in Special Zoning District No. 5a. and is zoned R-1. The proposed wastewater utility lot is located within phase II and is not a permitted use under R-1 zoning classification therefore the applicant will be required to obtain a variance. The fourth item being the extension of Pondera Drive as the proposed lot 45 would be bisected by a public road and according to County regulation, no single lot shall be divided by a public road. If both phases are final platted at the same time, a variance from this requirement will not be necessary. If, however, Phases I and II are final platted separately, either a variance will be required from this regulation or the preliminary approval for Phase 1 should include Lot 45 to avoid the bisection. The fifth item being the internal road improvements as the applicant has proposed to construct all internal roads with the exception of Heller Place, to typical Section No. 2, which is paved standard for a local road. The applicant plans to construct the road network with roadside ditches. The sixth item being the parkland proposal as in order to fulfill the parkland requirement the applicant is proposing to dedicate a park, a park easement, and trail easements on the plat, to construct those trails, and to make a cash payment should any remaining amount be left unfulfilled after the dedications and construction are completed. According to the preliminary plat, the proposed park does not abut or have legal and physical access as defined by the County Subdivision Regulations so the applicant has requested a variance. On August 6, 2014 the Parks Board reviewed the applicant's parkland proposal and made the recommendation that the applicant provide cash-in-lieu of dedicating the park, park easement, and trail easements, and constructing the trails. If the park, park easement, trail easements, and/or trails are accepted by the County Commission, an RID must be established for future improvements and/or maintenance of them. According to the application, the applicant has requested annexation into the Treasure State Acres RID.

The seventh item being variance no. 1 to the parkland requirement for the proposed subdivision and the applicant has requested a variance from Chapter XI, F.4, as each lot shall abut and have legal and physical access to a public street or road. The applicant is proposing to instead provide access through a trail network with 25-foot wide easements. In addition, a planned 30-foot wide maintenance access easement will be provided to the proposed park. The eighth item being variance no. 2, to the lot size and the applicant has requested a variance from Chapter XI: F.7, as C2 and C4 are two of the four proposed commercial lots and have an average length greater than three times their average width. The ninth item being variance no. 3 for Heller Place Road as the applicant has requested a variance from Chapter XI.H.1 as Heller Place, a proposed minor collector roadway, will have two, eighteen-foot wide travel lanes with curb and gutter that will be separated by a 30-foot wide boulevard. Because the County has no standard for a split roadway, the applicant is required to obtain a variance.

The main topic of discussion from the City-County Consolidated Planning Board meetings was the traffic impact study that was completed in May 2014. According to the Traffic Impact Study the proposed subdivision will generate 1,681 additional daily drips. Of that number, 1,513 of those trips will be added to North Montana at Heller Place and 168 of those trips will be added to the road through Treasure State Acres at Beaverhead Road. During the Planning Board Meeting it was pointed out that a traffic signal was not contemplated in the calculations in the TIS. Other topics of discussion included was how the

homeowners within Treasure State Acres would be affected if they were added to their RID, if there is a prescriptive easement to the north end of Phase II of the subdivision since properties South of Mineral Road have been using the area to access the South sides of their lots, if a 25 foot easement along the north side of the canal become its own lot, can they have a City planner attend the next meeting, who is responsible if a well goes dry in Treasure State Acres, who will pay if it has to be re-drilled, if the Fire District has requested that the fire fill site be tested and approved prior to the construction of any building, whether or not that can be a condition of approval and can they consider a way to require the developer to address wildlife on-site so that they can help maintain an environment for them.

The Planning Board did make a recommendation to the County Commissioners to approve all three requested variances in addition to the proposed subdivision. The Planning Board also amended the draft conditions of approval requiring cash-in-lieu of a parkland dedication, curb and gutters be required instead of road side ditches and to add a condition of approval that requires a signal warrant analysis be completed for the proposed intersection of Heller Place and N. Montana Ave. Since the planning board meeting confirmation from MDT was been received that a signal will not be required nor be allowed at the intersection of Heller Place and N. Montana Ave. The e-mail was received on Friday and may be considered new information. In addition to the e-mail you received in your packets you also received a letter from MDT to Ryan Casne discussing the approach permit from Heller Place onto Montana Ave., letters from DEQ, FWP and Bartos Law Office in regards to the proposed subdivision. Photos of the proposed subdivision were shown to the Commission. The traffic impact study was completed with the idea that a traffic signal would not be installed at the intersection of Heller Place and N. Montana Ave. The study was reviewed by Robert Peccia & Associates and they did not express any concerns to how the study was done. Commissioner Geise stated that they will need time to review the new information that has been received. She also questioned any potential flood issues as they were not covered in the staff report but presented in their packets today.

Commissioner Hunthausen asked if the Planning Board has seen the new information received today.

Lindsay Morgan stated that the Planning Board has not received the traffic light information that the Commissioner received today in their packets.

Eric Bryson asked Lindsay Morgan if in the Planning Board hearing did the Board and the public consider the option to install a traffic signal at this intersection.

Lindsay Morgan stated that they added the condition of approval to complete a signal warrant analysis to determine whether or not a signal should be require and if a signal was warranted it would have to be installed.

Eric Bryson stated that the question is whether the Planning Board and the Public given the ability to fully weigh all the information present at the time with or without a signal. They did not know then if a signal would be allowed, we do know now.

Commissioner Murray stated that for the record, that he had a campaign sign located on this property during his campaign and had permission from the applicant's father. The fact that he had campaign signs on this property will not prejudice his ability to judge and he intends to continue.

Ryan Casne, the applicant's representative, presented that they have been extremely happy with the staff report and conditions of approval. They are

proposing a mirror image of Treasure State Acres, the two differences are lot sizes and water supply. The reason the proposal was tabled months ago was to fully explore the option of annexation. It would be cost prohibitive to extend City utilities to this project site without substantial public Assistance however, the roads and sewer systems have been designed to facilitate future annexation.

The traffic impact study was done by Bob Abelin. The methods used for this study were reviewed by a third party and had few comments about the reports methods or conclusions. The traffic impact study was written based upon no signal and should not be considered new information in his opinion. The City-County Planning Board did ask for a signal warrant analysis to be conducted. That analysis was conducted by DOT. The parks plan includes a bus stop and a trail system that connects to the parks throughout the subdivision with trails. The parks will be County parks, usable by anyone. They would like to ask for reconsideration on the decision made from the Parks Board. The improvements to the land would equal or exceed the cash-in-lieu. The applicant's would like to install grass and an irrigation system in the parks along with 5 foot wide trails. The requested revisions to the conditions of approval are on page 2 of the conditions of approval, Phase 1, Condition No. 11.a 3., as the percentage of impact on Pondera Drive has not been calculated and they would like to have that blank filled in to provide clarity. The next revision is on Condition No. 13 of Phase 1 regarding the fire suppression system as they would like to see the required flow rate. Lindsay Morgan stated that staff did clarify Condition No. 13 in the revised conditions of approval.

Ryan Casne stated that MDT letter stated that it would not require a signal for approach onto Montana Ave. and would not consider a standalone signals since the distance to Beaverhead is to close and would cause safety and operational issues.

Commissioner Hunthausen asked if the determination from MDT would significantly change the traffic numbers.

Ryan Casne stated that the traffic study was not predicated upon a traffic signal.

Commissioner Hunthausen stated that the area falls into the Urban Growth Boundary and asked if the intent is that those areas within that zone would be a part of the City and if the intent would be to prepare for the possible future annexation.

Ryan Casne stated the intent is to prepare for possible annexation however the installation of curb and gutter right now does not mean it will be easier to modify the roadways to meet City standards in the future as the intent would be to demolish and rebuild.

Commissioner Hunthausen asked if it were a City subdivision if more lots would be allowed.

Ryan Casne stated absolutely. They could double the amount of lots if it were a City subdivision.

Commissioner Hunthausen asked why not wait until the City's study is done to see if there are other avenues and to determine if it is appropriate to extend those city services to the subdivision.

Ryan Casne stated that they feel that if they want to market and sell lots for this selling season they need to move now. They cannot afford to sit and wait to see if public funding will become available to extend those City services.

Commissioner Hunthausen stated that they will need to determine if there is significant new information with the MDT e-mail and they need to make sure that the public has every opportunity to weigh in.

Commissioner Murray stated that the regulations clearly state that when you receive new information that it goes back to the planning board, it is not to punish the applicants but to follow regulation. He asked for clarification on the subdivision and whether or not it borders the canal.

Ryan Casne stated that the canal exists on Phase 1 boundary line and the cemetery shares a common boundary.

A brief recess was taken.

PUBLIC COMMENT-

Ardis Loberg, 1343 Beaverhead Road, questioned the easement that borders Beaverhead Road properties as there is an alley that has been in use and the residents are under the impression that the 25 foot easement would remain open. The proposed parkland does not seem to have adequate parking and leaves concern for residents of Treasure State Acres to its accessibility. In regards to the curbs and gutters the applicants reasoning behind tearing up gutters to meet City standards is confusing to her. Her understanding was that the traffic study was done when school was not in session and would be altered if it was done once school began in her opinion. There is also a concern for the traffic increase that could occur including maintenance of their roads and the increase of traffic. The proposed subdivision also presents concerns to the wells and water supply for residents of Treasure State Acres. Steve Shirley, 4150 Bobcat Drive and secretary of Treasure State Acres Homeowners Subdivision, stated that their biggest concern that they hear is about the traffic increase including the traffic study and how the estimates may have been understated as it was done in the summer months. He feels that more than ten percent of the proposed subdivision residents would utilize Beaverhead Road for the safety of the light to turn left onto Montana Avenue. There is also concern to the additional use on their streets and what impact it may have on the Treasure State Acres RID. Another concern is their wells along with flooding issues that have occurred on the southern end of the subdivision. They would like to see the flood issues addressed. Another concern is the park use not only for limited parking but also for ease of use and accessibility for the public.

Karen Marble, 3504 Pondera Drive, stated that she does not agree with the traffic study as she has lived there for 30 years and prior to the traffic light turning left onto Montana Avenue was very difficult. She feels that the use of Pondera Drive will be used more heavily than the traffic study indicated. She is worried about having to incur the cost of the proposed subdivision in the event they are annexed into the City. There are concerns over the wells as they have no action to take to prevent their wells from going dry. She stated that they are not for or against the subdivision but are looking at the future problems that may occur. They have experienced flooding on their street and has seen it go down Beaverhead Drive into the storm drains and originates from the proposed subdivision.

Steve Garrison, 1361 Bighorn, expressed his concern the impact the proposed subdivision will have on Treasure State Acres. He reinstated the concerns presented by other residents that include traffic, use of the park, their RID and water issues.

Bob Abelin, performed the traffic study for this project, and stated that the study was completed in April of 2014. The calculation of only 10 percent going to Beaverhead Road came from the estimate of the development producing

1600 vehicle trips a day which includes going to and coming from. Half of the traffic would access the subdivision directly via Heller Way, 25 percent of the traffic use the light to go North on Montana Ave. At the Buffalo Road intersection there are about 60 cars an hour that make the left turn according to Robert & Peccia Associates, who performed a traffic count for the Helena Transpiration Plan. At peak hours they are only expecting about 70 cars to make that left turn. They project that only 20 cars an hour will utilize Beaverhead Road.

Commissioner Hunthausen asked if they projected any use from Treasure State Acres to utilize the new subdivision.

Bob Abelin stated that it is harder to calculate the number of potential users from Treasure State Acres to the new subdivision.

Steve Garrison stated that the information on the timing of the study was not given to the Planning Board during the testimony given by the developer.

Parker Heller, 700 W. Custer and owner of the property, stated that they have been offered a lot of money for the property and they are not interested in making a big buck as implied. The front of the property is not zoned and can be utilized however they would like but they are trying to work with their neighbors and tabled the item previously to look at public comment and see how they can utilize the property better. In regards to the parkland it was designed from 25 years of experience and the intent was not to have parking but for people to access the area via foot and bikes. Addressing the flood issues, they have not had issues on their property and stated that in a letter wrote by the Treasure State Acres Home Owners Association that a berm had been knocked down by a construction company that aided in flooding of Treasure State Acres. The intent for curb and gutters would be to include it in the RID for the subdivision to plan for the possibility of annexation. The urgency of this has come from the commercial side of things as their building has been bought and they would move their business to the land.

Commissioner Hunthausen asked the applicant about the alley and the easement.

Parker Heller stated that the alley is a limited use federal easement that allows for use by Helena Valley Irrigation.

Lindsay Morgan stated that there is a utility easement along that north boundary as well.

Ardis Loberg stated they have wells and utilities along that easement and are concerned that they would not have access to those wells or utilities.

Ryan Casne stated that the easement is not being proposed to be removed. The easement on the East half of the property is not recorded in the Clerk and Recorder's office and will ensure that the correct easement is shown on the final plat. None of the wells owned by Treasure State Acres residents are located on the proposed subdivision property. There will also be a series of storm water channels that will be intercepted by the road network and the channels will be rerouted to the eastern boundary to a storm water detention pond.

Lindsay Morgan stated that they found that the easement is located in the southern boundary of Treasure State Acres.

Commissioner Hunthausen asked if the extension for Sanders considered for access.

Ryan Casne stated that it was an option that was explored. They are working with the address coordinators to explore the option further.

Upon no further testimony or comment, Commissioner Hunthausen stated that the public comment is now closed. The information being heard today is for the first time and the signal warrant analysis is being considered as new information.

Lindsay Morgan stated that the subdivision is under a 80 day review period which will end on March 3, 2015. If this was sent back to the Board, the review period would stop and resume once the Board had a meeting. You would have to set a date specific meeting for the Commission to make a decision once a recommendation was made by the Board. The Planning Board's next meeting is being held on March 17, 2015.

Commissioner Hunthausen stated that information has not been looked at by the Planning Board so it would be considered new information.

Eric Bryson stated that there might be new information that the Planning Board and the public might want to consider. The Commission's decision is to determine if this is new and relevant information for the Planning Board to consider.

Commissioner Murray stated that he believes there is new and credible information and reluctantly they need to refer this back to the Planning Board in order to comply with their regulations.

Commissioner Geise stated that she is not convinced that this is new information as all of the discussion has been predicated on the result that emerged.

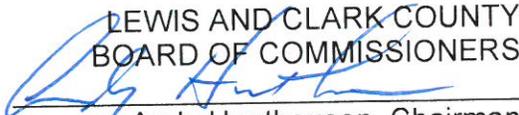
A motion to table the item until the regularly scheduled meeting on February 19, 2015 was made by Commissioner Geise and seconded by Commissioner Murray, and the motion result was Passed with a vote of 3-0.

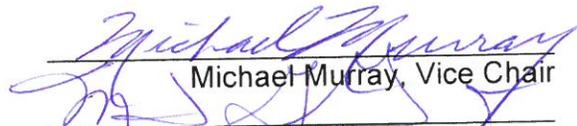
Public comment on any public matter within the jurisdiction of the Commission that is not on the agenda above.

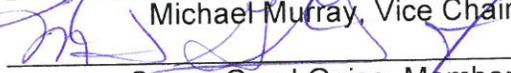
Adjourn

There being no further business, the meeting adjourned at 11:21 am.

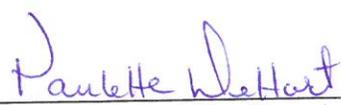
LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS


Andy Hunthausen, Chairman


Michael Murray, Vice Chair


Susan Good Geise, Member

ATTEST:


Paulette DeHart, Clerk of the Board