



PUBLIC MEETING

March 24, 2015

MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on March 24, 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 Nancy Everson, Michele Peterson-Cook, K. Paul Stahl, George Thebarga, Lindsay Morgan, Christal Ness, Cheryl Green, Bob Abelin, Ryan Casne, Parker Heller, Julie Lamb-Heller, Louise McDonnell, Cody Salo, Karen Marble, Al Knauber, and Nichole Nisbet, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

- a. Resolution 2015-49 Ordering a Refund of Taxes/Fees/Assessments Paid by Sunshine Investments, LLC in the Amount of \$1,022.67. (Cheryl Green)
- b. Resolution 2015-50 Ordering a Refund of Taxes/Fees/Assessments Paid by Sunshine Investments, LLC in the Amount of \$4,924.70. (Cheryl Green)
- c. Resolution 2015-51 Ordering a Refund of Taxes/Fees/Assessments Paid by Michael & Susan Hughes in the Amount of \$981.51. (Cheryl Green)

Nancy Everson reported on the consent action items 2 a-c 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

Proposed Subdivision to be known as DeCunzo Subdivision. (Applicant: East Helena Valley Volunteer Fire District) (Planner: Lindsay A. Morgan)

Lindsay Morgan, Planner II, presented the proposed first Minor Subdivision to be known as the DeCunzo Subdivision. The applicant is East Helena Valley Volunteer Fire District and they are proposing to divide the existing tract into two lots; a two-acre parcel for the existing fire station for the East Helena Valley Volunteer Fire Department and a four-acre parcel for the new Lewis and Clark County Search and Rescue facility. Direct access to the proposed lots is off of Valley Drive. Each proposed lot is currently served by utilities, an individual wastewater treatment system, and an individual well. Because this is a first minor subdivision and both proposed lots are non-residential, there is no requirement to dedicate parkland. There is no zoning present on the property however there are covenants in place. In addition, there is an interlocal agreement and waiver between the City of East Helena, Lewis and Clark County, and the East Helena Valley Volunteer Fire District wherein the property will be required to connect to East Helena City Services once they become available within 200 feet of the property in exchange for annexation of the property from the City Limits of East Helena. The applicant has requested a variance from Chapter XI.S, Appendix K 18-4.6 (2) of the County Subdivision Regulations, which requires that prior to final approval of the proposed subdivision, a Rural Improvements District that includes the proposed Subdivision be established for the maintenance of the off-site fire protection system. The off-site fire protection system the applicant is proposing to utilize is located in the La Casa Grande Estates Subdivision and is currently maintained under the La Casa Grande Estates Water and Sewer District. The La Casa Grande and Water and Sewer District has granted permission to the Search and Rescue facility and the East Helena Valley Volunteer District to utilize their fire hydrant for the purposes of fire suppression.

No public comment was received.

Commissioner Geise moved to render a final decision at the regularly scheduled meeting on March 26, 2015 and seconded by Commissioner Murray, and the motion result was Passed with a vote of 3-0.

Christal Ness, Project Coordinator and representative for subdivision project, stated that this is the last step in the project with the conditions placed by the Montana Environmental Trust Group relative to giving the land to County for the Search and Rescue Facility. The Environmental Trust Group required the property to be owned by the County. They did a boundary line relocation as well as the annexation process and are now seeking subdivision review to finalize the process and divide the property from the East Valley Fire Department to make it an asset of Lewis and Clark County.

Commissioner Murray stated that it is appropriate that the County to go through subdivision review just as any other property owner must go through. The County has followed their own regulations with this piece of land.

Proposed Major Subdivision to be known as the 46 Degrees North Subdivision. (tabled 3/19/15) (Applicant: Heller Development, LLC) (Planner: Lindsay A. Morgan)

Lindsay Morgan, Planner II, presented the proposed major subdivision to be known as 46 Degrees North. Last August, the Planning Board recommended preliminary approval of the subdivision. In addition the Planning Board did recommend the approval of three variance requests, one being the requirement of lots to have legal and physical access to a public street or road. Two being prohibiting lots exceeding the three to one lot length to width ratio. The third one being the design standards for a minor collector roadway. In February of 2015 a presentation was made to the Commission regarding the proposal. During this presentation new information from the Montana Department of Transportation was submitted to the Commission regarding the signalization of the proposed main entrance into the subdivision off of N. Montana Ave. Because the Commission wanted the ability to consider this new information they remanded the application back to the Planning Board for a public hearing and consideration of the new information. At the end of this hearing on March 17, 2015 the Planning Board made a recommendation of approval for the subdivision in a vote of 8-0.

Ryan Casne, applicant's engineer, wanted to go through one of the conditions of approval with Commissioner Hunthausen as he was absent during the last meeting. Mr. Casne stated that there has been a condition of approval in the staff report that was recommended to be modified. Condition no. 7 on page 35 has language added to it that requires the developer to come in for a modification of conditions of approval if, for example, the DOT requires restrictive turn movements onto Montana Ave. They are almost certain that will not happen and they are okay with this modified condition.

Commissioner Geise asked for clarification in regards to some of the variances. The first question is in regards to the parkland on page 2, rather than dedication of the parkland, the request would be to pay cash in lieu for the estimated amount of \$30,300. Would there be an advantage to give that money to Treasure State Acres for their parks improvement and maintenance and would the 46 Degrees North park be ADA accessible?

Ryan Casne, stated that there would be an advantage to Treasure State Acres residents for their park improvements but there would not be an advantage to the residents of 46 Degrees North. The parks plan they laid out is accessible to everyone in the community. The parks will be ADA accessible.

Commissioner Geise asked for clarification on page 4 of the findings and conclusions, number 13 that references the petroleum plume being formerly closed. What does this mean, will it be formerly closed, when will it happen and what if it doesn't?

Ryan Casne stated that DEQ is in charge of this release site and he has been in contact with them in regards to the petroleum plume. It is currently in the final stages of being closed. There were two rounds of samples taken from 13 of the monitored wells and the results were all negative. The subdivision was designed to work around that plume imagining it was not going to be closed.

Commissioner Geise asked for clarification on pages 5 & 6, numbers 26 and 28 in reference to curb and gutters. What will the effect be on Treasure State Acres, are they winners or losers in this scenario, can they be added later and can they be split out? According to the application, number 26, the applicant has requested annexation into the Treasure State Acres RID for maintenance of the proposed park. In number 28, if the park or trail easements are accepted by the County, an RID must be established for future improvements. If you become part of the RID for Treasure State Acres, will there be any effect on those residents of Treasure State Acres on their assessments and if there are future improvements to 46 Degrees North will that be split off from that RID or will Treasure State Acres be asked to fund the future improvements.

Ryan Casne stated that the initial improvements are on the developer. Mr. Casne clarified Commissioner Geise's question by asking if curb and gutter were added later could it be added as part of the RID?

Commissioner Geise answered yes.

Ryan Casne stated that he has never seen that done.

Lindsay Morgan stated that she would like to talk with the Special Districts Coordinator on that. Ms. Morgan explain that with an RID you have an existing scope of service and lays out what the RID is for. The first thing you could do is amend the boundaries of the existing RID, keeping the same scope of service and add 46 Degrees North to their boundary. The other thing you could do is amend the boundary to include 46 Degrees North and change the scope of service. There are two different processes to go through in order to do something like that. If you added in the curb and gutter requirements to the RID and included both Treasure State Acres & 46 Degrees North you would be changing the scope of service for that RID. That would include a petition and protest period for those processes.

Commissioner Geise stated that she wanted to make sure it is equitable for all that are involved. The next clarification needed is findings of fact on page 7, number 36 referring to the impact on surrounding areas that must be taken into account. Has this been done?

Ryan Casne stated they could definitely say yes to that.

Commissioner Geise asked for clarification on pages 8 and 9, numbers 52 & 56 which refer to the streets, curbs and gutters as they need to be in the character of the area, the density of the development and nature of adjoining properties. It is her understanding that the contemplated lots are about a 1/2 acre size in size, is that correct?

Ryan Casne stated that is correct.

Commissioner Geise stated that they are considerably smaller than the Treasure State Acres lots.

Ryan Casne stated they are considerably larger as they are double the size of what is in Treasure State Acres.

Commissioner Geise stated while curb and gutter might make sense for Treasure State Acres, it doesn't necessarily make sense for something much larger.

Ryan Casne stated that is the way he sees it.

Commissioner Geise asked for clarification on the finding of fact on page 11, number 69 referring to the fact that West Valley Fire is one and half miles away from this subdivision. What recent actions have been taken by the Commission that have varied from the current one mile designation.

Ryan Casne stated that they are not asking for a deviation from the fire system regulations, they will be installing a central fire protection system for this subdivision.

Commissioner Geise asked for clarification on page 13 to define the aquifer sensitivity rating however it was answered by the Water Quality Protection District this morning. Next clarification was on the public comment regarding groundwater and who will pay if the existing wells are affected and what affect does Sherlock's decision have and does it apply here.

Ryan Casne stated that typically those who are affected will pay. The questions about Sherlock's decision effectively grandfather this subdivision in as it was already in process prior to October 20, 2104.

Commissioner Geise asked about the public comment regarding the flood hazard. There was the letter from Bartos Law in regards to removal of the berm, what is the plan on that?

Ryan Casne stated that all the sheet flow that comes south to north will be intercepted by the road ditches and carried into the stormwater detention pond. The flooding in his opinion will be greatly alleviated.

Commissioner Hunthausen asked if the berm in question is not on 46 Degrees North's property? If it is not on 46 Degree North's property and they have nothing to do with said berm and it is not their issue, they will have to follow through with stormwater regulations.

K. Paul Stahl stated that is correct.

Commissioner Geise asked for clarification on page 17, numbers 4 and 6 that refer to the check structure that belongs to the irrigators as it states it's dangerous if plugged. Who will inspect and maintain that and is there a bond in this case if it gets plugged and surrounding properties get flooded.

Ryan Casne stated that the Helena Valley Irrigation District (HVID) is responsible for that structure.

Commissioner Geise asked for clarification about the public comment on stormwater on page 18 that refers to curb and gutters in 46 Degrees North being shifted to Treasure State Acres residents. It appears that refers to the costs and she wanted to make sure that would not happen.

Commissioner Geise stated on pages 19 and 20, numbers 23 and 25 that the traffic engineer suggests that if traffic restrictions on left turns were enacted, the level of service would be increased but the traffic would be diverted through Treasure State Acres. On number 26 it states that the County must consider what those impacts would be on the traffic corridor. It is her understanding that the traffic impact corridor includes Treasure State Acres.

Bob Abelin stated that is correct.

Commissioner Geise stated that it seems more traffic will be coming through Treasure State Acres. She asked if those impacts were included in the results of the study.

Bob Abelin stated that those impacts were not included. It boils down to the question of the left turn restriction onto Montana Ave. as it is something Peccia and Associates suggested as a possible mitigation for the level of service issues we are dealing with. In his opinion that is not a great solution. It would technically solve level service problems right there by restricting left turns however it is harder to define the impacts of additional traffic on Treasure State Acres.

Commissioner Geise asked for clarification on page 24, finding and fact number 1 referring to the survey requirements. What is the status of the survey requirements and will the conclusion of law be supportable if we find that the applicant will be in compliance.

Lindsay Morgan stated that it is very typical that the preliminary plat does not address all survey requirements. In this case they would need to meet those requirements for final approval.

Commissioner Geise asked for clarification on the public comment on page 27 regarding the provision of access. Will current residents have access to wells and services if access to the alley is eliminated.

Ryan Casne stated that yes to the west half, no to the north half. There is no existing easement on the north half of phase 2 of the development.

Lindsay Morgan stated that there is not an existing utility easement on the north half of the east side of 46 Degrees North but there is an existing utilities easement of the south end on Treasure State Acres on the east side.

Commissioner Hunthausen asked for clarification on whether or not the applicants were familiar with the urban standards boundary. Within that boundary it is the City and County's intent to work together to have similar standards and anticipate that those properties would be most likely annexed

into the City of Helena as well as have access to City services at some point. The City has said it would extend services to that area. He would like to make sure the applicants understand that there is a MOU in place between the City and the County.

Ryan Casne stated that they are well aware of the Urban Growth Boundary.

Commissioner Hunthausen stated that the property is appropriate for growth in the intent of the urban standards boundary, in his opinion this should be a City subdivision however he will follow the rules as it is currently a County subdivision. A question to the applicants was if there were a pathway to utilities and large infrastructure items that are unaffordable for one person to take on, are you or would you be interested in that?

Ryan Casne stated that they are interested in the results of the PER. The plan has already been put on hold for several months. At this point, they are charging forward with the plan they have. It is not off the table to move forward with the City of Helena if things were to move quickly.

Commissioner Hunthausen stated that he thinks the subdivision should include City standard streets along with curb and gutter anticipating it will be a part of the City at some time. He would also like to address the concern for Treasure State Acres in regards to the impact of the streets and traffic. For those streets that abut that property, it is fully intended that those streets that are dead ended in Treasure State Acres would be fully extended some day.

Ryan Casne stated that in regards to curb and gutter, if this Commission requires curb and gutter to be installed as part of County roadways in this subdivision, those curb and gutters will have to be obliterated to bring them to City standards someday. The streets would have to be dug up for water mains; however the sewer will be made to City standards.

Parker Heller, the applicant, stated that they have been working on this subdivision for 25 years. They have waited for the City to come out to them but they are no closer than they were 25 years ago. They believe this would be a great really high density subdivision and have worked with the City and the County to move forward.

George Theborge, Director of Community Development and Planning, addressed four of the questions that Commission Geise had raised. First one being the parkland as it was asked if the money would be better being given to Treasure State Acres. Mr. Theborge pointed out that the Parks Board did review the proposed park and did not feel the park would be conducive to County use and their recommendation was to not accept the proposed parkland as County parkland. If the developer wants to have that in their project they are free to do so, but they would not get credit for it. Hence the recommendation for cash in lieu of payments estimated to be about \$30,300. If that money is paid it goes into a dedicated fund for the purpose of park maintenance which would be reviewed by the Parks Board for disbursement of that money. Secondly in regards to curb and gutters, it is not just a function of the lot size, it is a function of the lot frontage and the width of a lot. What they are seeing with some of these high density subdivisions that go in with open ditches and culverts overtime the aesthetics is a problem as well as the

ditches being filled in. The other experience that they have seen is if you have open ditches in relatively flat topography, those ditches tend to be deep and steep and people tend to park away from the ditches which can block the roads for purpose of fire protection. If you are down to a 1/4 acre lot size they do need curb and gutter based on their standards. With half acre lot sizes are under the discretion and authority of the Commission. Mr. Thebarga encourages the Commission to weigh all aspects of this.

Commissioner Geise asked whether it is legal for a property owner to fill in the ditches.

Michele Peterson-Cook, Deputy County Attorney, stated no. Filling in the ditches would be something that is within the County road easement and if they obtained an encroachment permit to do so, possibly, but more than likely due to the drainage issues you could encounter, no.

George Thebarga stated that the final question they wanted to address was in terms of the payment, if in the future the residents decide they want curb and gutter, it is not clear who would have to pay. Currently, if they have an existing subdivision that does not meet City standards they are not required to put in curb and gutter as a condition for annexation however they are required to sign a waiver of right to protest.

Commissioner Geise asked if the applicants are aware of the City standard and if they were to be annexed into the City that they would have different requirements.

Ryan Casne stated they are aware of the requirement.

Commissioner Hunthausen asked about the proposed road widths and if they are same as they see in Glacier Point?

George Thebarga stated that Ryan Casne did state that the intended road width is 24 feet.

Lindsay Morgan stated that the internal road network with Glacier is 24 feet wide and when they put in curb and gutter it expanded the road width to 26 on the road that provides access.

Commissioner Murray stated that County road standards are 24 feet wide with 1 foot shoulder on each side.

Lindsay Morgan stated that in this case it is 24 foot wide with one foot on each side with curb and gutter to make it 26 feet wide.

Ryan Casne stated that the curb and gutter requirements need to be told to the developer upfront due to the financial constraints. There are two circumstances in subdivision were ditches have worked really well on smaller lots. They also have had covenants that control the width of driveways and the parking of RV's.

Lindsay Morgan stated that when an applicant submits a traffic impact analysis to the Planning Office, it is reviewed by another engineering company. In this case, Robert, Peccia and Associates did the review on the

project and stated that everything that was done by the applicant's engineer was done in accordance with industry standards.

PUBLIC COMMENT-

Louise McDonnell, 1483 Beaverhead Road, wanted to express her pleasure about the article in the Independent Record in regards to planning in the Valley as well as addressing the flood issues. Ms. McDonnell voiced her concerns about the possibility of flooding and what could happen to her property as she believes the water will come down her way from 46 Degrees North. She requested to have the issue of flooding addressed and how it will be taken care of before the subdivision is approved.

Karen Marble, 3504 Pondera Drive, stated her concern about the traffic impact on Treasure State Acres as well as on the flooding. She addressed the berm that is located on the south side of the Helena Valley Irrigation District Road between Treasure State Acres and 46 Degrees North as she believes the berm keeps the sheet flooding from coming off the field to her property.

Commissioner Geise asked Ms. Marble how high the berm was and where specifically it was located.

Karen Marble stated that the berm is probably a foot or two feet high. The berm is located on 46 Degrees North's property. She also stated her concern of the possible cost to Treasure State Acres residents as part of the conditions of approval state that roads might have to be brought up to a higher standard. Ms. Marble asked if any of those costs be put on Treasure Estate Acres residents. She also stated her confusion on the costs for the curb and gutters and who would be financially responsible for the future rebuilding of the curb and gutter.

Commissioner Hunthausen stated that there is a requirement to deal with the water that is on the property, being that you have to retain it, ditch it and move it so it does not cause problems. The storm water ditches and retention pond all relate to the issues that have been brought up. This should handle most of the issues that have been brought up regarding flooding.

Lindsay Morgan responded to the flooding questions, the draft conditions of approval that requires the developed to have a storm water drainage plan that is approved by Montana Department of Environmental Quality. They will look at any flooding in excess of what is currently occurring on the property.

Commissioner Hunthausen asked if it is regulation that storm water has to be retained on their property.

Lindsay Morgan stated, yes. In addressing the internal road network, Lindsay Morgan explained that when a project goes through subdivision review, it is looked at how the project will impact offsite roads. There is a condition of approval that is being drafted by staff that would require the developed to pay a percentage of impact to that road network within Treasure State Acres. They look at what it would cost to bring the roads up to the current County road standards. The developer would then have to pay a percentage of what that cost would be to bring the roads up from their current standard to current

County standards. That money then would be used for improvements to that road network. There is no requirement of Treasure State Acres to pay anything.

Commissioner Hunthausen clarified that when the road is worn out and is ready to be upgraded, improved or maintained, it would be said that 46 Degrees North would have paid their fair share.

Lindsay Morgan stated if the curb and gutter was required by the Commission right now it would be paid by the developer. If it was to occur in the future it would be considered as part of an RID. If the subdivision was annexed into the City limits of Helena, the residents of this subdivision would have to waive their right for protesting a special improvement district that would require upgrading the roads. The only way Treasure State Acres residents would be effected is if there was an RID formed where both properties were part of the RID and the scope of service of that RID was amended to include curb and gutters. That process would include a petition and protest period. She noted there is a berm that is located along the Helena Valley Irrigation District easement there is also a berm that was removed on a lot that is adjacent to Pondera Drive. When that berm was removed there was property in Treasure State Acres that was experiencing flooding.

Ryan Casne stated that there are quite a few subtle drainages that will be intercepted to carry the stormwater into the detention pond. He does believe that the subdivision will help with the stormwater issues of Treasure State Acre residents. They want to be clear if they do not get credit for parkland improvements, the plan shown to the Commission today will likely change. Mr. Casne addressed the berm on the topographic exhibit again and stated that it appears to be on the 46 Degrees North property. It does appear to be in the existing road easement and if it is currently in the easement it will remain in that easement.

Commissioner Hunthausen stated that he has concern with the parking for the parkland. How would the public come and attend without causing an issue with the streets.

Ryan Casne stated that the intent of the parks isn't to pull your car in and go to the park. The park was designed with emergency access however the intent of the park is to walk to the park from their front door.

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

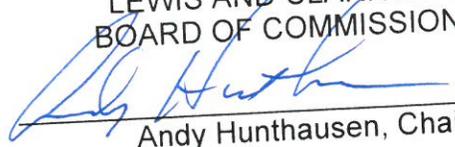
Commissioner Murray moved to render a final decision at the regularly scheduled meeting on March 26, 2015 and seconded by Commissioner Geise, and the motion result was Passed with a vote of 3-0.

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 10:36 am.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS



Andy Hunthausen, Chairman

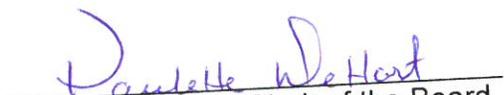


Michael Murray, Vice Chair



Susan Good Geise, Member

ATTEST:



Paulette DeHart, Clerk of the Board