

**LAKE COUNTY PLANNING BOARD**  
**February 13, 2008**  
**Meeting Minutes**

**MEMBERS PRESENT:** Fred Mueller, Jack Meuli, Joyce Funda, Ken Miller, Clarence Brazil, Steve Hughes, John Fleming

**STAFF PRESENT:** Sue Shannon, Joel Nelson

John Fleming called the meeting to order at 7:00 pm.

**Motion by Fred Mueller and seconded by Steve Hughes to approve the January 9, 2008 meeting minutes. Motion carried, all in favor.**

**SMYTH ESTATES MAJOR SUBDIVISION INTRODUCTORY**

Joel Nelson presented the introductory staff report, and discussed sections with the Board.

With respect to roads, Joel corrected on pg. 5 that Pinsoneault Road is not paved, and is 22 to 24 feet in width. John noted the access referred to on pg. 4 is a different point. John asked about past situations where a proposed increase in traffic has led to asking a developer to chip-seal or upgrade a county road. Joel replied some subdivisions have required developers to do county road improvements. John asked what Cimarron was asked to do. Joel said the recommendation was to upgrade 1.9 miles of the county road. Steve said it was done on an RSID, assessing landowners roughly \$900 per lot. The County was to provide materials. It was to be widened and rechip-sealed. Approximately the first half mile of it was widened. Then the decision was made that it was too expensive to widen it all the way down.

Sue thought the developer was responsible for a portion outright, and then the RID complimented with it. The condition of approval on the subdivision was met. She suggested that the Board look at this, as the developers need to have adequate access along County roads to serve the lots they are proposing, and also to maintain the existing level of service. The developers have to pay their fair shares. Joyce said when a subdivision is put in, it increases the service on the road by its very nature, so shouldn't the Board project into the future. Sue thought this was what the Board is doing in looking at the impacts and making sure the road is developed to a standard that can give these people access and maintain the existing level of service. John agreed that there should be a no-access easement strip along Pinsoneault Road as mentioned in the staff report.

Shawn Rowland outlined their approach on the road. Doing an RID came from the Road Supervisor comments. During the review, Joel thought it wasn't enough, so Shawn asked about meeting about the road issue right away. He and Joel thought it was the biggest issue in the whole project. They can't meet and negotiate with the Commissioners prior to going through the subdivision planning process, yet the Commissioners are the appropriate people to negotiate with. The applicants know some improvements need to be done to the road. He didn't believe they needed to chip-seal and widen to 26' to meet the criteria to serve the new lots and maintain

the existing level of service. He did believe that Jeff Smyth would need to do his proportional share. Sue asked what he thought a proportional share is. Shawn wasn't sure. They put the RID on the table originally. He thought that put ownership in it for everyone, where everyone paid a proportional share.

Sue asked if putting 12 homes close to Hwy 93, with increased dust and so forth, could be a potential safety issue for travelers on the highway. Shawn replied that DOT didn't think so. John asked if an RID moved the cost to the lot owners rather than the developers. Sue explained that it would be the property owners, and the developer would own the 12 lots initially. In the case of Cimarron, the developer was asked to initiate the RID. At this point, the developer is proposing to do an RID as the proposed method to fix Pineseault Road. Joel noted that they are proposing to waive the right to protest an RID. John asked who would initiate it. Jeff Smyth mentioned where the parcels are near highway 93. Shawn explained they would have a majority already formed, and that anyone can initiate it. Joyce said the issue is that no one might initiate it. There isn't any enforcement mechanism for affirmative action. Sue thought the County could initiate. Joyce asked if the Board wants someone to do this. Jack Duffey asked about the situation where an RID was initiated but didn't pass. Fred asked Jeff if it was a big problem to widen the road. Jeff replied no. He'd thought about working with the County to widen to 26' and maybe cleaning the ditches out, and doing the excavation if the County wanted to supply the materials. He didn't want to get involved in the chip-seal. Steve pointed out the 2 people across the road would be affected by the subdivision, receiving dust and helping to pay, without receiving a benefit from the subdivision, which is the rub.

John asked if this is the buffer plan referred to, on pg. 9. Joel said the plan is difficult to see; it did not show up well. Joel said the buffer plan needs to be incorporated into the covenants, and a separate buffer plan created with a map showing where the buffers are.

Joyce asked if the developer would maintain and live on the 101-acre parcel. Jeff explained that he lives on the next property to the south of the property under consideration. She asked if staff perceived other items of particular concern besides the roads. Joel listed irrigation.

Jeff spoke about the irrigation. Currently there's a pump and a mainline irrigation system on the property, and they want to continue to irrigate the 101-acre parcel with the pump irrigation. He showed locations pertinent to irrigation and what they would like to do with it on the map. Steve asked about the flood irrigation mentioned in the staff report. Jeff thought there was a mistake made. Joel said no irrigation infrastructure was shown in the application. John said that this would have to be in the plan when the Board sees it again. Steve asked if the applicants had started the process for removing 33 acres from the FIP. Jack said they've sent several letters but have not gotten a response back. There is a form to be sent, which FIP is supposed to send back. Steve said they'd have to go through the process, and he didn't think FIP would let acres go out. If it stays in, these people will be billed accordingly. Sue said Chuck Courville said they try to maintain a balance every year between the land they let out and bring in.

Sue clarified that if FIP doesn't let them out, then they'll have to have an irrigation plan for these 11 lots and come back to have the irrigation plan reviewed since it would be a change in the subdivision proposal. Fred thought they'd make them sprinkle 3-acre lots, rather than flood

irrigate. Steve explained that the owners would be assessed whether or not they were able to get the water if they were in the project. A plan can be developed and thrown out if they are able to get out of the project. Shawn thought the irrigation plan had to be complete for the final plat, per regulations. Steve said the Board is supposed to review the irrigation plan. Sue detailed that the public should have the ability to comment on the irrigation plan if they are interested. It's part of the subdivision regulations. Joel said part of their plan is to remove lots 1 through 11 from the project. John said that couldn't be part of the plan as part of the subdivision. That's their intention, but the Board needs an irrigation plan. Joel said the subdivision regulations address when the subdivider wishes to remove the land from the project. Jack could see why they wouldn't want to make a plan for each of the 3-acre lots; whether they can get out or not is another question. John thought it would be good to have a contingency plan. Jack thought it might be easier to come back in with a plan if they can't get the property out of the project. Sue said that if the plan is to remove it, that's what they can review. However, if they can't get out of the project, they can't come in with the final plat containing a plan that hasn't been through the review process.

John asked the applicants if they had a sense of what the Board will require as far as the roads. Ken asked if they've picked up estimates of cost for bringing that section of road to county standards. Jeff said just for the double shot chip-seal of what's there would be over \$45,000. That's 2,500 feet by 26 feet wide. The price of oil may change it. He mentioned a couple of people who do it. Steve asked the cost for putting the road in the subdivision. Jeff didn't have those numbers. Steve recommended the applicants sit down with the Road Supervisor and Commissioners and come up with a workable situation to widen and chip-seal the road. The applicants asked if they could do this legally. Sue suggested meeting with the Road Supervisor and get more information that way. Shawn pointed out the Road Supervisor could talk with the Commissioners. Steve said he'd also like to see an irrigation plan the next time this comes to the Board.

### **VALLEY HILLS MAJOR SUBDIVISION INTRODUCTORY**

Joel Nelson presented the introductory staff report. He gave the Board copies of comment received today from Seth Makepeace, the hydrologist for CS&KT, who thought there should be a close review of water availability in the subdivision. There are several homes in the section whose wells are deep and yields are moderate. Joel summarized additional information from the letter.

Joel said that there is not a proposal to widen Forman Road, nor has a test well been proposed, in response to Fred's queries.

John asked how close the project is to the road improvements that have been made. Joel estimated a half-mile. John asked about the general statement that the developers find some way to contribute to the road. Joel explained that right now there are people paying on the RID bonds, and they will be paying for the next 3 to 5 years. It's possible that the final plat could be filed and create additional parcels. There're still outstanding funds. It's reasonable that they pay some portion of the funds. Joel confirmed for Ken that funds are being allocated based per parcel, not parcel size. John asked if the improvement district could be altered to add more lots to this. Joel wasn't sure exactly what was possible. John asked if the money was insufficient

anyway to fix the road the way the Planning Board had recommended. Steve said they'd allocated a certain amount, and then decided they couldn't spend that much money. To do an SID all the way down the road as recommended by the Planning Board was apparently too much money per person. Joel said it was determined that in order to widen it to the Cimarron subdivision, the improvements were going to be way too much to make the developer pay. John pointed out there would be more lot owners now. Would this help? Joel said they discussed having another RID in 2008, but it might be unreasonable to force another RID on the people who were already there. Joel mentioned another situation on Tower Road where one more lot was created after the RID. In that case they figured out they needed to donate \$1,000 for that lot. Discussion continued.

Steve thought a recommendation should be made to the Commissioners to figure out what's been done to date with the SID, and decide what to do with the 16 lots coming in. John asked if it was fair to say that the Board would like to see this developer propose to participate in the RID that's already there, and add to it, in this proposal. The Board knows that the Commissioners have to do something with it. In some way they need to share in the cost of the road. Fred mentioned the whole road needs widening. Jeff Smyth confirmed for Jack that they've already chip-sealed a portion and haven't widened it. Steve thought the Road Supervisor or Commissioners should widen the road with amount of money that would be assessed by the same RID number on these 16 lots and extend the road as far as possible. The next time a subdivision comes in, extend it again. Jack pointed out it's challenging if the subdivisions are scattered. Steve referred to the Highway Patrol/DOT comments that something needs to happen with Back Road at some point. Discussion continued on the cumulative impacts. Joyce asked where the improvements stopped, and Steve showed her on the map.

Clarence asked about compliance with H and K of the subdivision regulations. Since the developers don't intend to comply, who will oversee the improvements? Joel clarified that they want to have the Road Supervisor inspect. Joyce asked under what circumstances a developer could choose non-compliance. Sue explained it's up to the governing body under state law. Unless the governing body tells them otherwise that they have to have an engineer certify it. The regulations say they have to have an engineer certify it. John said the Board could recommend either way at the next meeting, then. Jack Duffey said typically an engineer would be involved with road designs that encounter extreme curves or grades. He didn't think this had those. Joyce asked the basis for their expectation there would be multiple exceptions from the Lake County Road Supervisor. Jack D said this was based on his understanding of the standards. Joyce asked Fred if he thought this was a reasonable expectation. He did. Jeff asked if the Road Supervisor was an engineer. [Fred] thought he was. Jeff thought he'd be able to tell if it's being done right or not. Shawn said for an engineer to do it was significantly different than having the Road Supervisor do it. Ken noted this had to do with accountability and liability. Shawn said this is a significant cost.

Clarence asked about water and wells. Filling a bathtub in that area takes a long time. Will there be a test well? Shawn talked about some wells in the area listed in the GWICK (?) data from the Groundwater Information Center with the Bureau of Mines. Three are listed at less than 6 gallons a minute, and the rest are more than 30 gallons a minute. The standard is 10 gallons per minute. The information will be further scrutinized, including by DEQ. It may entail drilling a

well on the property or maybe doing a pump test on a neighboring well, because the wells are deep. Hebron Estates and Cimarron were required to do pump test and did pass. John thought it would be fair to say the Board would like to have this concern addressed in some way. Steve voiced concern about having 16 wells and 16 septic systems on 80 acres. Shawn said those concerns should be voiced to the Planning Board because those comments are forwarded to DEQ.

Jack Duffey spoke about the concern on water availability. For Ingram Estates, they have 3-party wells, which require a high yield. They've met those on all their wells there. He thought they had 4 wells, which had been put in, in the last few years. Ken asked if they'd considered shared wells. Shawn said they hadn't considered them, since the information they had didn't indicate a need for that. Now that there's a concern, they can consider it and talk about how they're going to proceed.

*Additional public comment:*

David Mercer: The Tribe drilled his well. To drill 500 feet is a lot of money. He's not going to move, so the water availability is a concern. Right now he has plenty. He identified his property on a map.

Joyce Funda: She asked if Steve's property adjoined the subdivision.

Steve Hughes: He affirmed that his property adjoined the subdivision. He thought the covenants needed to be strengthened. He wasn't prepared at the moment, but would send something to the staff.

Jack Duffey: He was concerned to get the information in advance.

Joyce F: She asked if something was omitted in the covenants, or if the suggestion was to strengthen what was there.

Steve H: He wasn't ready to get specific. He thought both strengthening and adding would help.

[David Mercer]: He asked about the availability of the staff report.

Sue S: They could get him a copy tonight.

Board member: He can request a copy of the next report to be mailed, as there will be changes.

### **OTHER BUSINESS**

Sue mentioned that next month the subdivision update review would begin. Next month, she thought LaDana might have 4 items, in addition to the 2 items that were introductory tonight and would be coming back. She asked for an indication of nights that were not good. Ken said Wednesdays were the only good night for him. Steve thought some week other than the week with the Planning Board meeting would be good. Sue wanted to check with Dave on the anticipated length for the review at the meeting. She thought if an extra meeting were needed, it

would probably be Wed, March 19<sup>th</sup>, which is the 3<sup>rd</sup> Wednesday. She asked the Board members to alert the Planning Dept if they have conflicts on that night. The next regular Planning Board meeting is Wed, March 12.

John asked if there'd been movement on the Corridor planning. Sue said that she and Janet C would be meeting on Friday.

Steve said he would send a letter to staff about dogs. As a rancher, he was concerned about them in the Valley Hills subdivision, so he wanted to recommend a requirement to put dogs in a kennel all the time. With 3 to 6 horses per person, it's going to be a weed patch. He thought they should have a community well. Ken noted the water usage would be about the same, either way. Steve thought it would make a difference. Joyce asked if there were other subdivisions around that area. John said there was one across the road. Someone pointed out the John Mercer subdivision. Steve said those were 20-acre parcels. He mentioned Ingram and Cimarron as well. Joyce mentioned the letter from lawyers representing some of the neighbors, so she presumed they were not in favor.

Joyce asked if when a Board member has an interest in a project due to proximity to their property, is the Board member supposed to recuse or vote or disclose. Sue said she leaves it to them. The Board members have taken the oath. She thought it was a personal decision. Jack said it was his choice to abstain the one time this came up for him. Joel thought that would be appropriate. Steve said he talked to the Commissioners, and Paddy Trusler told him that if he forces people to do something that he would benefit from because of his position on the Planning Board then that would be inappropriate. He said he had no benefit in this subdivision. He also has the right to protect his property, which is more restrictive covenants. He was concerned about the dogs. David M said dogs were already an issue out there with his horses. Joyce asked if there were a number of people surrounding the subdivision who are against this. Steve said he and Dave had retained the attorney, who will be at the next meeting. Sue said Mike Hutchins was involved in the Forman Road Estates subdivision, on the water and road and so forth. When that was reviewed, he said he wasn't going to vote, but he gave his comments to the Board to hear, like the public does. If there is an apparent conflict of interest that potentially impacts the review process, the Board can cover it. It wouldn't be a big deal unless a quorum was needed. Clarence mentioned that since he's on the Board of Adjustment, he resigned as president of the Finley Point Property Owners Association because too many things from Finley Point come up.

Steve pointed out another item in the covenants regarding the amendments of the covenants. After build-out, the residents of the subdivision can change the covenants if they all agree. Then he can't say anything. Joel said that the Commissioners would have a say. Steve was concerned about who the Commissioners would be 10 years from now.

**Motion by Joyce Funda, and seconded by general acclaim to adjourn. Motion carried, all in favor. Meeting adjourned at 8:40 pm.**