

LAKE COUNTY PLANNING BOARD
November 12, 2008
Meeting Minutes

MEMBERS PRESENT: Bob Kormann, Clarence Brazil, Brad Trosper, Lisa Dumontier (7:05), Sigurd Jensen (7:10)

STAFF PRESENT: Joel Nelson, Lita Fonda

Bob Kormann called the meeting to order at 7:02 pm.

Motion made by Brad Trosper, and seconded by Clarence Brazil to approve the Oct. 8, 2008 meeting minutes. Motion carried, all in favor (Clarence Brazil, Brad Trosper and Bob Kormann, and Lisa Dumontier and Sigurd Jensen when polled).

BUCKSKIN MAJOR SUBDIVISION

This is scheduled to go to the Commissioners on December 4th. Joel Nelson presented the staff report. He pointed out on pg. 15 that the 3' x 60' easement along lot 9's NE boundary is no longer shown on the preliminary plat. He noted a correction on pg. 40 for 'multi-family' rather than 'multi-residential'.

Joel referred to a note from Ken Miller, who had no concerns that were not adequately addressed by staff in the packet or proposed conditions of approval, nor did he object to the proposed variance.

Bob asked if the road surfacing was an issue. Joel said it seemed that he and Marc Carstens were in agreement on the road.

Marc Carstens spoke on behalf of the applicant. He brought up items for the Board to consider, beginning with condition #5 regarding stormwater. They had no issue with certification by a professional engineer, but he was hoping the requirement for as-builts could be removed, given that this hadn't been asked for before, and they would prefer not to incur that cost. He thought the certification would adequately protect the public. Bob asked him to define as-built plans. Marc replied a plan is made, DEQ approves it, a contractor builds this plan on the ground, and when it's all done it's resurveyed to show the plan actually constructed which should be what was planned to be constructed after DEQ review. He further described the process for stormwater management plans. He repeated that they felt the certificate would be sufficient.

Marc referred to #14 on pg. 33. He felt the issue here was the language. Connectivity was a part of the documents to be adhered to. He asked the Board to help him ask the governing body to generate the appropriate legal language to serve the ability to use this connectivity at some future point and still protect the individual land owner's rights. He read the section in condition #14 he was concerned about, that puts the onus on the developer to develop the legal language to protect the county's regulation, the future rights for ingress and egress for connectivity and also for his client.

Marc moved on to #20 and the road approaches to the frontage road. They will need a Montana Dept of Transportation approach permit. He felt it would be more appropriate for them to allow MDT to design the approach and to meet MDT standards, rather than the Lake County subdivision standards, since MDT was not obliged to hold with those standards.

On #29, Marc had concerns about the requirement to locate utilities between the roadways and the right-of-ways, particularly with easements in the subdivision. They'd like to add "or as designed by Mission Valley Power" to this, after 'repair of lines'. He also wanted to modify the requirement for the timing of the installation of the underground utilities, to read 'power to be installed prior to road construction', so the surface would hold up better. They need to rebuild the road as it is now, since it is not to standard.

Bob asked Joel about the 'as-built' concern in #5. Joel noted it had been required for another Pablo subdivision. He thought 'as-built' wasn't needed, as long as there was the requirement for certification by a professional engineer that it was installed according to the approved plans.

On #14, Bob thought it made sense for the County to write language. Joel replied there was a similar subdivision with similar language. The language submitted with the application was a good place to start. They can work with the County attorney and the developer to figure out how exactly it's going to work. Bob thought Marc was trying to make sure he doesn't design a non-complying standard. Joel said they have to start with something, and what they have is what Marc proposed. Marc said in the absence of language, he gave a stab at it, but it's actually very involved and he's a surveyor, not a lawyer or a title person. Lisa recalled that this came up a few months ago. Sue was going to check with the County attorney on the language. Lisa thought the language needed to exist. Bob suggested they make sure in tonight's recommendation that there's an addendum to the County Commissioners to address this issue, and to make sure that this comes to their attention to look at this. He didn't know if it should be in the conditions or elsewhere but he wanted to be sure the Commissioners hear this. Joel thought this discussion could go in the Commissioner report. Brad agreed that the Commissioners should address this.

Marc reiterated on #20 that he didn't want to accept a condition where there were 2 sets of standards. Joel said he spoke with an MDT engineer regarding if there was a problem when they have to adhere to standards that are greater than their own, and the engineer indicated he'd be willing to work with the developers to make sure they develop to whatever standards are out there. Joel explained the condition reflects County standards for approaches to public road, and they're probably greater than MDT standards. MDT would be the permitter for the approach. Bob checked that no County road was involved. He thought Marc was concerned that this wouldn't be what the State wanted. Clarence asked if they could say to go with whichever standard was greater. Joel replied that the County standard was greater, and Marc wanted to go with the MDT regulations. Clarence said as long as the County standards met or was better than MDT, he thought the better standard could be used. Bob asked if this would cost a lot more money. Marc said he was concerned about regulations from two government agencies. Bob thought since no county road was involved, the MDT standards ought to apply. Marc added that MDT won't formalize an approach permit until they have in hand the County approval statement for subdivision. Clarence reiterated that he still thought it was okay to go with whichever

standard is greater. Marc said MDT wasn't answerable to the County standard, and might not think they were better, and he was concerned about how MDT would want it built for their road.

Bob asked about the staff perspective on #29 and the underground utilities placement. Joel read the language from the subdivision regulations. Marc said he didn't want to limit Mission Valley Power's design capability, and there were lots of easements. Joel said the intent of the wording was to avoid having them in the middle of the road. Marc suggested revised wording for #29, inserting "or as designed by Mission Valley Power" after 'repair of lines', and replacing the last sentence with 'Utilities to be installed prior to road construction, so as to not disturb finish or grade [inaudible]'. Joel suggested saying 'designed by service provider' instead of specifying Mission Valley Power. Bob and Joel discussed wording for the end of the next sentence so as to not disturb base or finish grade.

Bob asked if the Board had questions on the variance.

Lisa asked if when plans were sent to DEQ, what happens if there were issues requiring changes to the plan. Marc replied that meeting DEQ review was a condition of approval. If changes were substantive, he'd check with Planning staff to determine if it needed to go back to the Board. More typically, it's nuts and bolts mechanics to make the plan work.

Public comment opened:

Rosemarie Strope: She's a neighbor to the north, and saw no reason to object. It seemed like a fine plan.

Dan Allred: He agreed it was a good plan. His property was just south of the subject property.

Public comment closed.

Clarence asked about the variance. Marc explained that they tried to improve the radii from a previous subdivision for rent or lease.

Bob referred to the Ponderosa pine on the property, and asked if those would be clearcut. Marc replied the Homeowners Association requires a tree to be planted somewhere when one was taken out. Marc had no problem with that being in the perpetual conditions. Bob suggested that might be an additional condition #52. Joel thought it could be a condition of preliminary plat approval Marc said it could be in both places. Bob suggested it could be an additional condition #35 and also #52.

**Motion made by Clarence Brazil, and seconded by Brad Trosper to accept the variance.
Motion carried, all in favor.**

Motion made by Lisa Dumontier, and seconded by Clarence Brazil to recommend approval of the project with the conditions as recommended by staff with the following revisions:

- **An additional condition in conditions for preliminary plat approval and an additional perpetual conditions regarding planting a tree when one is taken out.**
- **Revise condition #5 to remove 'the as-built plans'.**

- **For condition #14 and the legal language, have the Commissioners review this. The Board recommends the County develop legal language for connectivity easements.**
- **For condition #20, at the road's approaches to the state-maintained frontage road, the approaches shall meet MDT standards.**
- **Condition #29, after 'repair of lines,' shall have added, 'or as designated by service provider'. Also the condition shall be revised to read that power and utilities shall be installed prior to road construction, so as to not disturb base or finished grade.**

Joel checked with the Board about the correction on pg. 40, to change multi-residential to multi-family. The Board acknowledged the correction.

Motion carried, all in favor.

OTHER BUSINESS

The number needed for a quorum for the Planning Board, next week's subdivision update meeting and board expirations and renewals were touched upon.

Motion made by Lisa Dumontier, and seconded by general acclaim to adjourn. Motion carried by general acclaim. Meeting adjourned at 8:22 pm.