

LAKE COUNTY PLANNING BOARD
May 13, 2009
Meeting Minutes

MEMBERS PRESENT: Bob Kormann, Sigurd Jensen, Fred Mueller, Clarence Brazil, John Fleming, Lisa Dumontier (7:10), Ken Miller (7:20)

STAFF PRESENT: Joel Nelson, LaDana Hintz, Lita Fonda

Bob Kormann called the meeting to order at 7:05pm.

Motion by Fred Mueller, and seconded by Sigurd Jensen, to approve the April 8, 2009 meeting minutes. Motion carried, 5 in favor (John Fleming, Clarence Brazil, Fred Mueller, Sigurd Jensen, Bob Kormann).

GREEN ESTATES MAJOR SUBDIVISION PROPOSED AMENDMENTS

LaDana Hintz presented the staff report. (See attachments to minutes in May 09 meeting file for staff report.) She noted the amendment discussion focused upon roads and access to the subdivision lots, and that staff is not recommending approval of the proposal to amend condition #14, and recommends that the conditions of approval remain as originally approved by the Board of Lake County Commissioners.

John Fleming asked about the mitigation possibilities (dust abatement) and whether those had been received. LaDana clarified that no information had been received on this. This was listed as an added condition to include if the Board decides to approve gravel driving surfaces. John asked if the County had known plans to pave north of Watson Road. LaDana relayed that Paddy said there was nothing in the works right now.

Dan Brammer of Santiam Properties spoke on behalf of the proposed amendments. He contrasted Airport Acres and Green Estates. The road from Airport Acres comes onto Airport Road and is fairly close to the airstrip approach. Dust there could create more of a hazard for airplanes. Eight lots use that one road, whereas Green Estates would have a maximum of 3 lots using any one of the two roads they propose. The road for Green Estates is much shorter and less apt to have high speeds involved. Airport Acres road accesses a paved road, whereas their subdivision proposal comes onto Watson Road, which is not paved. Airport Acres is in a community growth area and can be subdivided further. Their subdivision has a 5-acre minimum. The biggest concern is the dust. Chip sealing was their original intent. Due to the price of oil and the price involved, they felt dust retardant would still give a good, clean subdivision instead of the double-shot chip-seal. The maintenance agreement would cover the maintenance issue that comes with dust abatement. They'd have something in there where the adjacent landowners would maintain the road to keep the dust down. They anticipated using magnesium chloride, or something else that was DEQ-compliant and acceptable to the County.

John asked if dust abatement was intended to be in the road users agreement, and if this would be done periodically or as needed, and about the wording. Dan confirmed dust abatement would be in the road users agreement, but they don't have wording or a final conclusion yet.

Jack Duffey spoke on behalf of the application. He agreed with Dan Brammer on the comparison of Airport Acres and Green Estates. Concerns about the amendment had been submitted by the Kembels of Airport Acres. He reiterated Dan's comments regarding dust abatement instead of chip-seal. He detailed that one of the roads is just over 270' long, so he didn't anticipate much speed or dust on that road. They're viewing the internal roads as glorified driveways. People would probably respect their neighbors. The other road to the north is over 500' long, serving 2 lots. The first house will have it's driveway after 200 to 300' or so. Watson Road to the west is a gravel road. Maybe some of the focus should be shifted to it for dust abatement. That's where the speeds are and where most of the dust problem would occur. There's not another gravel road besides Watson Road within a mile of this proposed subdivision.

John asked about the cost of chip-sealing. Dan said it would be roughly \$60,000 for the 2 roads. Fred Mueller asked about the cost of the magnesium chloride. Dan thought it might be about \$2400 per application. Jack said it was typically an annual application. Bob asked who would pay the \$2400. Dan said it depended on the wording of the agreement. Until they sell the lots, it would be them (Santiam). Whoever owns the lots after that would split the costs equally, depending on how many people are served on that road.

Public comment opened:

Clarence Brazil pointed out that neighbors won't necessarily not drive too fast. His experience has been that this is false.

Public comment closed.

LaDana relayed a comment from Brad Trosper, who could not attend this evening, that he did not see solid evidence that the applicant could not chip-seal the road. Brad was in favor of chip-sealing, rather than gravel roads.

Fred was concerned that as places were sold, the landowners would not apply the magnesium chloride. The chip-seal is a permanent deal. The magnesium chloride is yearly. He thought there'd be a dust problem in a few years. Clarence agreed. Jack suggested there could be wording in the condition that the application is required annually. Clarence said this was adding costs to the lot over time. He didn't think it was a great idea. Jack thought it benefited the lot. Fred asked who would police this deal after a few years. Jack said if it was a condition of approval, anybody could. Clarence said that neighbors don't want to do that, and won't. (Jack thought Clarence must live in a rough neighborhood.)

John asked how consistent it's been to ask for paved roads in this type of subdivision in the County. Joel replied major subdivisions are typically required to have chip-sealed roads. John explained when he first looked at this proposal, it seemed a little bit ironic to ask someone to do chip-seal when Watson Road is where the dust really is. He agreed with the comments heard about the speed and low number of residences. He thought an even playing field was important, however, if that's done for the other subdivisions. He was leaning in the direction of an even playing field, but was still deciding. Jack said that typically for a major subdivision, all the lots

are served off those roads. Not all the lots are accessing off these roads. Joel said they usually have one road serving the subdivision internally.

Lisa Dumontier asked if there would be more traffic on one access, whereas in this case, not everyone would be using the same road to access their lot. Joel said they've dispersed the amount of approaches to the County road. There are 4 or 5 approaches to the County road. Lisa asked how often in the past has chip-seal been required on internal roads that butt up to a gravel road like Watson Road. Joel said this had not been seen very often for major subdivisions. Lisa asked if breakdown of the chip-seal where the road meets the gravel would be a problem. Joel recalled mitigation efforts for a major subdivision going in off of a graveled road. Lisa thought these people's money would be better spent putting magnesium chloride on Watson Road. The fog of dust on those roads was bad. She realized the Board needed to be consistent, but that seemed like a strange situation, since Watson Road was bad when it's real dry and people drive fast.

Jack said they've got about a quarter mile on Watson Road, in response to Bob's question, which equaled about 1320'. Bob asked if they'd be willing to entertain the idea of magnesium chloride on the internal roads and Watson Road. He asked if the County would allow this. Joel said that would be a question for the road supervisor or the Commissioners, involving maintenance on County roads. Fred didn't know if they could legally do work on the County road. Bob asked if the County puts magnesium chloride on other roads. They do not, to Fred's knowledge. Sigurd thought the Bison Range used it. John asked if there was a problem with magnesium chloride mixing with water in streams and so forth. Fred noted it was a salt.

Dan noted that Theo and Marian Green have annually used this or a similar product on the road to keep the dust down in front of their house.

Lisa asked if people on tracts 1 through 5 would be responsible for paying for part of this abatement for the internal road. Jack replied that tracts 1 and 8 would have the north-most roadway, and 3, 4 and 5 would have the other one. Tract 2 was approved for its own approach onto the County roadway. Lisa noted people would be shelling out money for dust abatement, but the first tracts would be dusted by Watson Road anyway.

Bob thought the County and the people of this and the adjacent subdivision would be better served by dust abatement on Watson Road, as well as Concord and Union Lane, if the developer was willing to have that as part of the agreement, and perhaps talk to the adjacent landowners across the street. It's a longer stretch on Watson Road. That's where the real dust evidently comes from. In a broader context, it appears they could use a little stimulus or boost. To tack on \$60,000 when the real issue is the creation of dust, if more dust abatement could be achieved at a cheaper price, it would serve. Clarence noted he's talking about tacking on \$60,000 but by the same token, if you're building a house and having a loan for 30 years, they're paying more than that for dust abatement over 30 years. It's like adding taxes to the property. If the road is already chip-sealed, they don't have to worry about it.

Lisa said the point here is that Watson Road is still going to be a dust bowl for them. Clarence said they may eventually do something with Watson Road. If they pave Watson Road later, this

will continue to be a dirty road. Paul Lodge (Dan's agent for the property) said it's prohibitive for the people who come to inquire about the land. He said this was \$8000 off the top that's going to be interest added on to that to pay that off in those 30 years to pay for the chip-sealing. The people who care the most about the dust are the people who are living right there. Clarence agreed. People drive like crazy and make dust, but by the same token, if the road had been paved to begin with, he wouldn't be having this problem. He'd been buying and selling land for 50 years and won't buy a piece of property on a dirt road. Lisa said since her road has been paved, people drive 60 mph on the road. The washboard made the car dirty. The paving makes it seem more like a city to her. It becomes a safety issue, too, with internal roads. People drive slower on gravel roads, and there were fewer accidents in icy weather when the road was gravel.

John notes the discussion was a public health and safety issue here. He thought the bigger public health and safety issue was Watson Road. Was there a possibility of a special improvement district that they could tie in to deal with Watson Road? They will be adding 6 lots to Watson Road right on the corner. Is that a possibility? Didn't the Board have a developer improve a County road to his first access, by Round Butte? This would be much more beneficial than paving these driveways. The first time someone on lot 1 goes up the road at 30 mph, someone from tract 8 will be at his door. He didn't see a huge problem with dust on those roads, with 2 and 3 lots on those roads, respectively. He'd like to see something happen with Watson Road, which is horrible when someone goes 30 mph.

Fred said there was something that could be done with special improvement districts, such as had been done on Emory Rd. Joel said it had been put as conditions of a subdivision that the developer initiates a road improvement district. Regarding the one at Round Butte, there was some argument about road improvements. The developer eventually proposed a per lot sum of \$7000 to County road improvement. He wasn't sure why County road improvements to Watson Road weren't done on this subdivision in addition to the chip-sealed internal roads.

Joel asked Dan Brammer when he became interested in the property. Dan replied he became interested in the property before the Board approved this. Joel asked if he's known about the approval statement that the roads within the subdivision would be required to be chip-sealed as proposed by the developer previously. Dan said when they brought the application in, his understanding was they could go either way, either gravel or chip-seal. At that point in time, with road oil at \$400/ton, they thought it made sense to chip-seal this. Since the approval was given, the road oil has more than doubled and this wasn't feasible. The market wasn't supporting an increase like this.

Joel asked if the money for the yearly magnesium chloride would add to costs and take away from the value of the lots, or if taking away the chip-sealing would take away from the value of the lots and reduce the quality of the lots. Dan agreed taking away the chip-sealing would reduce the value of the lots. Joel thought maybe this was an investment. He noted the developer knew what he was getting into and what the requirement was, and this is what the County does with major subdivision, requiring chip-sealed internal roads. He couldn't recall a major subdivision where chip-sealed internal roads were not required.

Dan repeated that it was his understanding from the County that the road could be chip-sealed or graveled, and they chose to turn in the application with chip-seal, because that was their intent at that time. Then it became a condition of approval. Joel noted that this was as proposed. Jack said the intent was to have a clean subdivision. They could achieve that with the magnesium chloride, which would abate the dust and environmental hazard. Joel said there was concern that every year they'll spend the \$2400 to do the abatement. If you start with chip-sealed roads, you have chip-sealed roads. Jack said chip-sealed roads periodically need maintenance as well. Joel noted prices change, both of oil and magnesium chloride.

John returned to his question whether the developer would be willing to put in conditions to initiate a road special improvement district. Dan asked if he was referring to the whole mile. John said to Concord Lane. Jack asked what the extent of the improvement would be. John said this would have to be to County standards. Bob said it would be whatever it took to abate the dust. He thought fixing up Watson Road would bring more value to the subdivision. Lisa agreed. Typically the Board has address road width, and hasn't dealt so much with dust. Is Watson Road wide enough? Widening it would be a huge expense. Fred said if needed, it should be widened before chip-sealing. Lisa thought John's idea was good. John thought it may be more expensive than what was talked about for chip-sealing.

Clarence was concerned about driving from dirt to paved road, and that it would start to break up. He was concerned about the precedence of the Board changing its mind from an approval for chip-seal, and that more people would come in wanting to do this.

Ken said the only way that he would be okay with taking the internal roads from chip-seal to gravel would be if they were going to initiate an improvement district for Watson Road and [inaudible] and bring their portion of Watson Road to County standards with chip-seal. He thought that's where the dust problem was, and the concerns with health and human safety and the environment. He realized this would be more expensive than chip-sealing the internal roads.

Dan said he spoke to a Commissioner two years ago about being willing to participate in a program at the time, where if they could waive this here, they'd pay their portion and then Watson Road would be chip-sealed. It was different than an RID. In this program, the County would pay a certain portion of it, then they had an assessment or per footage price or whatever where an adjacent property owner would pay for basically the oil that was involved in that. Bob asked if that was still available, he would be interested in that. Dan said he would like to look at the numbers. He didn't know what the County had for contract for oil this year. Bob noted the Board had to make a decision this evening.

Fred thought they should stick with chip-seal, given that Dan wasn't clear on what he'd do with Watson Road. Dan said he couldn't make a determination on Watson Road. It wasn't his road. Bob explained from a County standpoint, it would benefit all involved to have that part of Watson Road with an RID. Dan said he would agree to that. Bob said he would probably have to initiate that. Lisa said that he would have to, and he would be the biggest land owner. Fred agreed it would go through if he initiated it.

John said if the Board stayed with the approval, since they don't really know about the special improvement district, the Commissioners could still do something in that area. That gives the County and the applicants some time to deal with it. If they allowed the change, the County has no bargaining, although the Commissioners can do as they please. He thought the possibility of dealing with Watson Road was the bigger issue. Right down the road, there's another set of lots on Watson Road. They could be involved too. He thought the Board should stick with what they had, and make a statement to the County that they want public health and safety taken care of, and they also want a little progress, too.

Bob said this appears to be going in a direction to vote to keep the chip-seal, but strongly recommend that the County help with an RID on Watson Road. Lisa asked if the developer did the RID, would the chip-seal [on internal road] would go away, as an 'either-or' thing. Bob thought that would be the negotiating chip. He thought the chip-seal ought to go away if they improve Watson Road. Lisa asked if there were expenses for the initiator of an RID. Joel said typically not. Lisa inquired about costs and the developer. Bob interpreted her inquiry as the lot owners would bear the cost and not the developer. Ultimately Watson Road would have less dust. Lisa said that would be better for everyone who drives down it. Marc Carstens said that initiating an SID is not a freebee. There's quite a bit of time and effort involved.

Jack felt that when Watson Road was taken out of the equation, he didn't feel there was a legitimate reason not to allow the magnesium chloride versus the chip-seal on the internal roadways. As for the future costs to the lot owners, so be it. Clarence said his experience was the magnesium chloride was needed more than once a year, probably twice a year. The lot owners aren't going to want to pay that. He has trouble getting them to pay for a little gravel now and then.

Lisa asked if there was a possibility of doing a Homeowners Association with this subdivision so people would pay dues. Someone would be in charge of collecting the dues that would go to fixing the road each summer. Dan said the Homeowners Association wouldn't necessarily be in charge of the road maintenance agreement. Lisa asked who would govern it. Dan said it could be assigned to a specific lot to be responsible for it. Lisa gave an analogy with irrigation. For one guy to irrigate, he has to pay up front for power and to get it up and running. The other guy may not care, but then the first guy still has to pay. There's no control over people. Clarence said if one person doesn't have the money, he'd be mad at the other party asking for it, and the other party would probably have to take him to court to get him to pay. The Homeowners Association or someone other than the neighbor should be responsible for it. Clarence had encountered this problem with weed control.

Bob reiterated that Joel said there hadn't been a major subdivision where chip-sealing the road has not been required. Jack thought those major subdivisions were served by one internal roadway. Joel said they were often times required to do County road improvements as well.

Bob suggested voting on the request. Wording to strongly recommend to the Commissioners to look at a road improvement district on Watson Road could be put in or left out. He thought dust abatement on Watson Road added value to the whole subdivision to a greater degree than just reducing and putting calcium chloride on these two roads. It added value to the entire

neighborhood. Jack asked if the improvement to the County road would be magnesium chloride. Bob said neither he nor the Board knew that. He was just trying to open up the discussion between the applicants and the Commissioners about improving Watson Road. The developer might be better served, dollar-wise, as well as increasing the value of the neighborhood and subdivision. Dan agreed with that. He didn't want necessarily to say tonight that he would pay for whatever the cost the County comes up with. Lisa thought they needed to be careful about saying Watson Road would be chip-sealed, as that might be \$150,000 and going in the wrong direction. They may even just be able to do the dust abatement on Watson Road, and that might work.

Bob reiterated that the Board recommends to the Commissioners. A motion would include what the person making the motion would like to do with this specific request about Union Lane and Concord Lane.

Motion made by John Fleming, and seconded by Fred Mueller, to approve the staff recommendation to keep Concord Land and Union Lane chip-sealed, with a strong recommendation that the Commissioners and the developer look at the Board discussion and at improving the dust situation on Watson Road; if that is addressed, Union Lane and Concord Lane could go to gravel with dust abatement. Motion carried, all in favor.

CROCKETT MINOR SUBDIVISION

LaDana Hintz presented the staff report. (See attachments to minutes in May 09 meeting file for staff report.)

Fred asked why there was no mention of the grizzly bear corridor in the report. LaDana replied there was nothing to indicate this on the application. Fred knew of a horse killed by a grizzly in the area. The grizzlies travel from the mountains to the swamp. Marc Carstens wasn't sure if they'd turned the application in to the Tribes for comment. He thought it was similar to a proposal a year or so back about 1 ½ miles northwest of this. The management plan there was to keep the grizzlies out and to encourage them in the more rugged habitat in the mountains. Fred said for as long as he knew, there had been grizzlies in the swamp west of there. Marc recalled black bears, but not grizzlies. Bob said he walked every day, just north of this and saw 4 grizzlies last summer. The people from the Tribe who came out said it was grizzly bear corridor. He also has seen a lot of black bears. John thought there hadn't been grizzlies for a time, but they could be back. Bob said the Tribetold his wife the grizzlies were there—you just don't see them. Further discussion ensued about the consumption of Jessie Clemen's (sp?) apples by grizzlies, and appearances of grizzlies at other houses. Marc noted the new houses were proposed by the County road. Maybe that would scare the bears away.

John said he thought the staff and Marc did a good job on this. It fits things and it saved some open space. Marc showed a map with photo overlay, and pointed out features. Ken asked when referring to one home site on the large set-aside parcel whether that would mean the one existing home site, and not a dwelling unit that will allow a guest house. Fred thought the house was on the 35 acres. Marc affirmed. Lisa thought there was always a guest house allowed, with restrictions for no rental. Joel agreed that this was typical. He read from the approval on pg. 21

of the staff report. The density regulations would allow for a guesthouse per lot. Joel recalled the North Cottonwood subdivision, which he pointed out. It was a similar subdivision.

Marc Carstens spoke on behalf of the applicant. The applicant wanted to clarify these wouldn't be put on the market right away. He's actively farming at current time. He'd like to bring irrigation into the lots, and put a valve on each corner of the lot. That would be the end of his installation. Since he wasn't marketing this right away, he wanted to continue farming. If he put in another main line in here, it's another set of risers he'd have to dodge. With a valve riser on each corner, it would bring water to the lots. They would have their own valves and wouldn't have to share anything. At the point the lot sells, the owner could put in 300' of main line or use 300' of hand line. It's unfortunate the installation is shown going across where Marc indicated. The applicant wants to comply with the law about putting irrigation to the lot. He just doesn't want to put a main line. He'd also like to reduce the stream setback from 100' to 50'. 100' is pretty standard.

Lisa checked that the lots are 2.5 acres. They could be irrigated with one big-squirt sprinkler. With a residence and barn, there'll only be 1.5 acres left. Marc agreed. She thought the one valve in the corner would be completely adequate.

Marc added they would like an easement so, for instance, if someone has a problem with the irrigation on lot 1 when the people at lot 2 aren't home, they have the right to go shut the water off. LaDana asked where the easement would be at. He sketched the easement on the photo map, which he offered to leave with LaDana. Joel thought it would probably just go around the risers.

Motion made by Fred Mueller, and seconded by John Fleming, to recommend approval for the subdivision, with the amendment regarding the irrigation, for 2 risers at the intersection of lot 1 and lot 2, and an easement (located as discussed) so lot 1 or lot 2 can access or shut off the water.

John asked if the diagonal easement and being able to shut off the system by party of lot 1 was a relevant issue. Marc said that was a different situation, and indicated a different easement on the map. John explained he was asking about the issue that Marc had Bob Long comment about. LaDana said she spoke to the County attorney. He didn't have time to review Bob Long's document. That's why the wording chosen was used on the plat.

Ken noted that he did not want to reduce the 100' stream setback to 50'. The applicant had requested a reduction.

Motion carried, all in favor.

OTHER BUSINESS

None.

Motion made by Ken Miller, and seconded by Fred Mueller, to adjourn. Motion carried, all in favor, at approximately 8:30 pm.