

LAKE COUNTY PLANNING BOARD
October 14, 2009
Meeting Minutes

MEMBERS PRESENT: Bob Kormann, Sigurd Jensen, Lisa Dumontier, Harlan Gipe, Brian Anderson

STAFF PRESENT: Sue Shannon, LaDana Hintz, Lita Fonda

Bob Kormann called the meeting to order at 7:03 pm. A quorum was not present.

Motion by Sigurd Jensen, and seconded by Lisa Dumontier, to approve the September 9, 2009 meeting minutes. All in favor.

BOUCHARD TRACTS MINOR SUBDIVISION

LaDana Hintz handed out updated covenants and presented the staff report. (See attachments to minutes in October 09 meeting file for staff report and for covenants update handout.) She highlighted a concern with high ground water.

Jack Duffey spoke on behalf of the applicants. Condition #36 was a concern, regarding the high ground water and informing future landowners of the ground water monitoring that has occurred. They didn't have a problem with doing that, but he wasn't sure about the wording that it should be the responsibility of the owner or agent. He didn't know how that could be enforced. He wondered if there was a simpler way, such as a statement on the plat and also in the covenants. He didn't feel it was appropriate for the owner or designated agent to have that responsibility.

Bob asked who should be responsible. Jack responded he didn't know how it would be enforced if it was put on the owner or agent. He'd rather see it in black and white on the plat, or somewhere where it's right there, in case someone forgets to tell somebody. Sue mentioned that a lot of surveyors don't like the County to require things to be put on the plat. She encouraged him to do so, if he'd like to do that. She asked if he was concerned that it was in the perpetual conditions. The County wants to make sure the future landowners are aware of this study and where the ground water was determined to be high on their lot, and it doesn't get buried in the files. Jack agreed with that, but questioned the means. He didn't mind putting it on the plat.

LaDana asked Lisa, as a real estate agent, how things like this typically disclosed to buyers. Lisa replied that if it's represented by an agent, they ask for the covenants and plat right away. The buyer will always want to look at the covenants, so the agent would see that. If it were in both of those places and on the plat, she thought it would cover it. Sue said ground water monitoring is 5 or 6 pages attached to the document that shows the map of where the monitoring locations were. Would the whole thing be attached to the covenants? Lisa suggested alternatively putting something in the covenants as more of a disclosure. She thought this was similar to what LaDana suggested. It would be something to make them aware. If they are concerned, they can look into it further.

Bob asked about Sue's point. Sue said if owners build it and suddenly have problems, they'll be calling the County. To avoid that, we want to say that here are the results of the study done in 2006 and 2007, which will give you some information about where the ground water is high on your lot, but also you might want to do independent testing before you build, because it's a concern here.

Lisa thought it would just have to be there as a disclosure: this study was done, and this is what was found. She asked how the permit process worked along with this. Sue said the Planning Department would look at the conditions of approval and make sure they were in compliance. We don't want to require them to do something, but want to say they may want to consult with someone before they dig a basement, or do slab on grade. It's not something the County wants to impose. Lisa reiterated that a disclosure that they need to look into it if they're concerned may be all you could do. From year to year, it's going to be different.

Bob summarized for #36, it would go on the plat and in the covenants. Lisa added that it would also be a perpetual condition. She agreed with Jack that it shouldn't be placed on the owner. LaDana was concerned about a few owners down the road. Lisa agreed that it needed to be in the record somewhere.

Public comment opened:

Renee Loehr: She and her husband wrote an opposing letter. They have since read the covenants, and they have no objection to the development. The covenants look good. Their main concern is the water level. There's been a lot of analysis done on that. Also, they were concerned about noise pollution. The dust concern is helped by Bouchard Road being paved. All the water drains to Spring Creek, so they were most concerned with the water quality.

Bob K: He asked if she was familiar with how DEQ works now with this.

Renee L: She's learning.

Bob K: Sue or Jack could give her more information. Whatever the Board recommendation is tonight, and then if the Commissioners pass this, DEQ does their review. If they red flag something, it kind of stops at that point until something is done.

Sue S: They'll review it for their standards. If ground water is within a certain distance from the surface, then you can't put a drainfield in that location, and so forth. They'll review it. The purpose here tonight is to conduct a public hearing. We accept public testimony regarding concerns with ground water, sewage, or storm water. Those concerns are then forwarded to DEQ as part of their review process.

Renee L: She and her husband wrote a letter so they're on record as to what their concerns are.

Public comment closed.

Sue noted the way the staff report and recommendation is written, it includes that same language be put in the covenants, requiring the landowner to notify potential buyers. She asked Jack if he was not opposed to putting it in the covenants. Jack thought the human element should be taken out and have it written in the documents, to inform about the groundwater study. If some owner down the road forgets to tell the next person, then it's covered. Lisa said it was possible to put something in the covenants about basements, perhaps to determine whether or not a basement is appropriate in the area because of previous high ground water. It would be a red flag for people who would be building. Jack thought it could have its own section in the covenants or in the section that addressed building sites. Bob thought the Board was probably looking to staff to be able to help the Board out with that.

Bob asked Jack about his experience with FIP, and if FIP ever got back with him. Jack replied that FIP did not respond in writing. They'll talk to him on the phone and the water masters will meet him out on site.

Sue suggested some phrasing for perpetual condition #36: Future lot owners are informed that at the time of the County subdivision review, groundwater monitoring occurred and is on file in the County offices. She suggested keeping the language already there (second sentence): Lake County encourages future lot owners to conduct additional ground water monitoring and to consult with a soil scientist or engineer prior to constructing on the subdivision tracts. She asked if something about basements was wanted in there. Lisa said no, but possibly in the covenants. LaDana asked if Lisa had seen something like that in covenants in the past. Lisa hadn't, but she had seen subdivisions where the groundwater became a problem after the houses were built and the developer was already in Florida. There were huge law suits.

Renee L. pointed out that the phasing doesn't bring attention to the high groundwater. It just says there's a study that's been done. Jack suggested they could say a potential for high groundwater exists in this area of the County.

Bob verified with LaDana that the covenants handed out tonight are in place of the ones in the staff report.

Jack noted they did get some action from FIP, and they reestablished the delivery point.

Lisa noted with the groundwater study done in 2009, if they're buying it in 2011, it's going to be different. It's their responsibility, and there's going to be some risk. Bob said it protects the seller and it protects the buyer if it's on record.

Regarding cattle guards or gates required, Jack said he wasn't opposed but wondered if that was the standard for the County. Sue explained in any area where cattle move down the road, even out of a herd district, they've been requiring cattle guards or gates.

Sue suggested reworked language for #36: **Potential for high groundwater is a concern in this portion of Lake County. Future lot owners are informed that groundwater monitoring occurred between 2006 and 2008, and this information was included in the subdivision application, on file at Lake County. Lake County encourages future lot owners to conduct**

additional ground water monitoring and to consult with a soil scientist or engineer prior to any construction on the subdivision tracts.

Lisa thought this language was pretty straightforward, and basements may not need to be put in there.

Motion made by Lisa Dumontier, and seconded by Sigurd Jensen, to recommend approval with staff recommendations, with the changes to condition #36 as given by Sue above, and the addition to covenants.

Sue clarified at Lisa's request that the previous language of #36 would be replaced with what Sue read above. The language would also be taken out of the covenants section of the staff report and findings, and be replaced with what she read. Jack asked if #36 would require it to be on the plat. Bob and Lisa thought it should be.

Lisa Dumontier accepted a friendly amendment to the motion to also require the language on the plat. Motion carried, all in favor.

OTHER BUSINESS

Lita F mentioned that Board membership for 2010 would be done similarly to last year, where everyone who is up for expiration will receive a letter asking the member to let the office know about interest in serving again. People could tell her what they would like to do by November 19. Bob Kormann and Brian Anderson both received letters and indicated interest in serving.

Lita reminded about the move of the November meeting from Wednesday, Nov. 11th to Wednesday, Nov. 18th due to Veterans Day holiday.

Regarding the Hidden Canyon Lookout site visit, Lita pointed out that the Board members have a handout about the visit. Sue described the meeting point at the entrance to the subdivision. She explained that it was publicly noticed and would be a public hearing, so an agenda was attached to the packet. Sue highlighted that during the time traveling in vehicles between stops, she asked that Board members do not discuss the subdivision. Comments would be limited to when the group was all together and the public can participate. She thought the group would meet, and explain to the public what the group would do. The intent is to have an orientation. She suggested asking questions and getting oriented, but to save remarks until the meeting the following month. Bob verified with Sue that the Board and the public could ask questions. Bob asked if this had been sent to the Rollins fire chief. Sue said it had not, but it was a good idea to include him. Logistics of finding the site and transportation were touched upon. Sue confirmed for Bob that Marc Carstens would be there.

Bob K asked for an update on Arrowhead. Sue gave a brief update.

Motion made by Lisa Dumontier, and seconded by Sigurd Jensen, to adjourn. Motion carried, all in favor at 7:43 pm.