



City-County Consolidated Planning Board



CITY OF HELENA

City-County Consolidated Planning Board

Summary – Not to be considered minutes

February 21, 2023 – 6:00 PM

City-County Building 316 N Park Ave. Room 330

Meeting Recording available upon request.

Board Members Present:

Quinlan O'Connor, Chair; Lois Steinbeck, Vice-Chair; Ken Demmons; James Sonntag; Mike McCabe; Marcia Eidel; Adrienne Cotton; Gene Walborn

Call to Order and Roll Call

(00:00:31) Meeting was called to order and a quorum was noted and Board members introduced themselves.

A. Regular Items

(0:03:05 – 0:56:25) **Item 1-** Community Development Director Christopher Brink made a presentation on the application for Craftsman Village Phase 8, 9, & 10, giving an overview of the staff report, findings of facts, and staff recommendations. The Board was given an opportunity to ask staff questions and then the applicant addressed the Board. The Board had no questions for the applicant and there was no public comment on the item. The Board briefly discussed the proposal. Mr. Demmons noted that this proposal was unique but had a concern with the language about the water storage and did not want to see the City to be short with water storage. Director Brink noted during Board discussion that condition number 5 could be struck as it was repetitive of another condition. The Board voted in unanimous support for Vice-Chair Steinbeck's motion to recommend acceptance of the findings of fact and for the conditions recommended in section 8 of the staff report, except for condition 5 which was seconded by Ms. Cotton and Mr. Demmons.

(0:57:25) **Item 2** – Director Brink made a presentation on the application for Westside Woods Major Phased Subdivision, giving an overview of the staff report, findings of fact, and staff recommendations. The Board was given an opportunity to ask staff questions following the presentation. Chair O'Connor asked Ms. Dockter questions about the standards of review for the requested exceptions for street block lengths and dead-end streets. Ms. Dockter stated that the standard of review for exceptions is provided for in the City Code. Chair O'Connor proceeded to ask if the lack of the need being "self-inflicted"

is the same for a variance and an exception. Ms. Dockter stated that is distinct to the variance process and not to be considered with an exception.

(1:36:42)

The applicant made a brief presentation about their proposed project and Board members were able to ask questions of the applicant throughout the presentation. There were questions asked about the road designs within the proposed subdivision relating to connectivity of the various roads and the possibility of avoiding the need for some of the dead ends. The applicant noted topographical challenges in meeting city standards for roads, primarily grade requirements. There were other questions about some of the proposed conditions and mitigation of traffic concerns; conversations the applicant had with the school district to discuss concerns about the proposed development; how the larger lots slated for condo development will be accessed; a western access point to the subdivision towards Le Grand Cannon.

(2:22:14)

The hearing was opened to public comment on this item. Public comment was heard from proponents first, five (5) individuals provided public comment in chambers and online. These individuals included a neighbor of the proposed development, the former owner of the property in question, a representative for HBIA, and others and the comments spoke to the need for more housing stock in city limits and the economic benefits of the development, including increasing the tax base for the city. Opponents to the proposed subdivision spoke next. In total eight (8) individuals spoke in opposition to the proposed subdivision. The comments from these individuals primarily centered around a request for a western access to the subdivision, evacuation concerns, and concerns around increased traffic on the unimproved roads in the area. There was only one individual who had a comment that varied from the others, and that was an attorney for Robert and Carol Kolar who took issue with the location of an easement on the north side of the preliminary plat. Of the other seven (7) commenters, three (3) represented the Save Helena Westside group, one (1) represented District #1 of the Helena Citizens Council, and another three (3) were neighbors to the proposed development. It should be noted that representatives of the Save Helena Westside group produced public comment with allegations that city staff had not done their due diligence and neglected to include comments from the Lewis and Clark County Sheriff, Leo Dutton, in the staff report.

(3:36:39)

The applicant was allowed to make a rebuttal to the opposition comments, addressing issues such as a western access as proposed by the Save Helena Westside group and the requested exceptions for block length and dead-end streets. After the applicant was finished with their rebuttal, the Board asked questions. Vice-Chair Steinbeck asked if city staff would speak to the feasibility of a western entrance to the subdivision. Transportation Systems Director David Knoepke stated that there are some challenges to a western access, primarily the grade requirement, the number of switchbacks, and that it would be problematic for city emergency vehicles to make the turns, and the size of the easement being a bit too narrow to meet standards. Additionally, he noted that the access would need to be annexed. Vice-Chair Steinbeck followed up with a question about the financial responsibility for the western access. Director Knoepke stated that if that were to be conditioned by the City Commission then the financial responsibility would

be dependent on how the condition is written and that there are other alternatives that can be explored. Ms. Cotton asked if it is within the Planning Board's authority to require the developer to build on private land. Ms. Dockter stated that it is not within the authority to require a private landowner to grant an easement or sell property. Ms. Cotton followed up with a question about the impact on property owners that are tapped into city services but not yet annexed if the subdivision moves forward and is annexed. Public Works Director Ryan Leland stated that those who are already connected to city services have waived their right to petition annexation, so the city could annex them as it is, and most have a waiver of SID on the roads. Director Leland also informed the Board that those not annexed but on city services pay the same rate as those inside city limits. Mr. Walborn asked when Granite St would be improved if the subdivision does not move forward. Directors Leland and Knoepke answered the question stating there is a priority list for improvements, and Director Knoepke stated Granite St is not in the 5-year plan. Mr. Walborn also asked about a westside access, and if it was granted and the property was acquired from the storage unit business who would initiate annexation as it is not the applicant's property and if annexation needs to happen prior to the city building a road. Director Brink stated that the property owner would need to petition the city to annex the property, not the applicant. Mr. Walborn asked if there was a difference between city and county road standards. Director Knoepke explained the differences between the two standards, highlighting non-motorized and parking. Mr. Walborn asked if there was any way to use county road standards to make it work. Director Knoepke stated if the city is requiring the access, then it should be held to city standards for construction. Mr. Walborn asked about the possibility of an emergency access only, and Director Knoepke spoke about the challenges and questions that arise with that such as ownership, maintenance, and meeting standards. Mr. Sonntag asked about emergency access during phase 1 and what the requirements are for that road. Jeremy Fadness of WWC stated that with phased developments emergency access is allowed, and an all-weather gravel surface meeting fire code requirements is allowed, and the developer would maintain the road during construction.

(4:08:16)

Mr. Walborn asked Mr. Robert Farris-Olsen about the Save Helena Westside public comment, and Sheriff Dutton's concern and if the email provided by Save Helena Westside was the only documentation of the concern or if more was said on the record somewhere. Mr. Farris-Olsen deferred to Ms. Sarah Perry as he received the email from Ms. Perry, but stated his understanding was that nothing more was asked of Sheriff Dutton. Ms. Perry stated that he asked to have those concerns to be addressed, and those concerns had been communicated to her organization, and noted several other organizations in the community that had approached her stating they had not been asked for their comments by the city. Mr. Walborn posed the question as to why Sheriff Dutton is just now coming forward with his concerns. Ms. Perry stated that Sheriff Dutton wasn't asked on the first application, but that he was asked in an email dated December 27th for his comments on the current application with a deadline of January 13th. Ms. Perry stated she is of the understanding that Sheriff Dutton was advised by members of the county government to not comment as the proposed subdivision meets all design requirements, and the Save Helena Westside group encouraged him to send in his concerns, and he did after speaking to them and that Sheriff Dutton did not feel as though his comments were going to be listened to or considered, and that

the response from City Community Development Department in the email that was provided to the Board (by Ms. Perry) appear to discourage him by telling him he was too late for it to be included in the findings of fact even though by Ms. Perry's estimation they could have been included as the findings of fact had not been distributed to the Board at that point. Mr. Farris-Olsen stated that this is an example of how there is an unknown impact to the safety of the area as these comments were not included. Director Brink addressed the allegation that was brought up by Ms. Perry, stating that the actions of the City Community Development Department have not been accurately portrayed. Director Brink stated that a letter was sent to various outside agencies asking for comments on December 27th with a deadline of January 13th with the intent to have a staff meeting to review those comments, which happened on January 18th. On February 8th Director Brink received the email from Sheriff Dutton stating he had some concerns without providing any detail about the concerns and that he would appreciate an opportunity to discuss those concerns. Director Brink read into the record his unanswered email to Sheriff Leo Dutton sent on February 10th inviting him to have a discussion about his unnamed concerns and allowing them for inclusion in the comments that would be forwarded to boards and commissions. Director Brink stated that the comments could not be included in the findings of fact as they had already been drafted and city staff was sitting down with the developer to review those as per state statute the next day after the Sheriff's email, February 9th. After that no other comments could be considered for the findings of fact or it would trigger a restart of the internal review process, but Sheriff Dutton was encouraged to submit comment. Vice-Chair Steinbeck stated that in her opinion this is potentially a finding of fact, and wanted to know how these are incorporated when materials have already been sent out. Director Brink stated throughout the process the city can receive comment with the mindset that the findings of fact are in draft form and that the Planning Board will be sending draft findings of fact onto the City Commission, and only they can approve and formalize those. Up until that meeting additional draft findings of facts, which would be triggered by additional conditions, those findings of fact can be revised up until the City Commission takes their final actions. Vice-Chair Steinbeck asked if the Board could direct staff to include something like this as a finding of fact and recommend conditions to address it. Director Brink stated if there were valid findings, and that in the communications with Sheriff Dutton, there is no data to back up a finding, it could not be included because there is no data. Chair O'Connor noted that the Board could move to amend the findings of fact and add conditions. Ms. Dockter asked if she could clear up the record by asking the question to Director Knoepke and Fire Chief Campbell if the westside access had been considered. Chief Campbell stated that there was discussion through the fire marshal's office what the westside access possibility would be including a discussion about a fire dedicated emergency access, and as Director Knoepke had noted the restrictions on those access points just aren't if it's gated and who can drive on it, but it is width, turning radius, and all-weather drivable surface that comes into play in terms of emergency access. Director Knoepke stated there were discussions on the western access and there are a lot of challenges to accomplish that, and the city looked at it from the aspect of emergency services and what would be required, hence width, grades, etc. Ms. Dockter clarified that in the staff report and on the record, there was discussion about code requirement of 2 access points into and out of the subdivision, and there are 4 access points into and out of the subdivision and

concludes the city's required look into access into and out of the subdivision and the conclusion by the city that it was met. Ms. Cotton made the comment about Sheriff Dutton's email and Vice-Chair Steinbeck stated that she understood about the email but is basing her concern on other testimony and her understanding of wildfire, expanding that the concern is not just problematic for the subdivision, and the applicant has a point that it is a community problem.

(4:24:19)

Ms. Eidel commented on the discussion about the western access and the word challenges and asked if "challenges" was code for impossible and wondered if a western access is going to be impossible or just very difficult. Mr. Ron Bartsch stated that anything is possible, it just depends on how much you put into it, how many existing buildings need to be torn down on private property, and all of it is possible, but gets to the conversation of what is the city's priority, and this portion of the development is in later phases and allows for time to work through these challenges, and the development can proceed without this being decided on. Mr. Bartsch also noted that Le Grand Cannon provides an access, and the city would need to change the easement for that route to allow for public motorized access, and they as the developer are willing to continue working through these challenges. There were no additional questions for the applicant or staff.

(4:29:30)

Mike McCabe stated that he did not feel that the City had provided enough information to satisfy state statute and, in his opinion, he did not feel communications between the city and the developer had been effective, and that there are existing conditions that need to be addressed by the city before he would consider this proposal and chose to abstain from the vote. Mr. Walborn stated he heard that the developer has worked hard in addressing issues with city staff and community stakeholders, and while not everyone may be happy but hopefully some middle ground has been found. Mr. Walborn also noted his understanding is that even with a westside access traffic on Granite St is going to be more than what it is today, and it will change with or without this development as there are many lots that will likely be infilled on this side of town, and he has heard up to 100 vacant lots and asked where the plan is for that and when will Granite St get improved, and it will be improved long before the city intends to get to it with this plan and that is a benefit. Mr. Walborn expressed his sympathy for the westside residents for the situation they now find themselves in with children walking on the streets, and if someone came in with the opportunity to have safer conditions, he would jump at it. Mr. Walborn also expressed that he felt a westside access could help alleviate some of the traffic concerns, and as far as safety goes, there will be more people there so evacuation will be slower, but in a wildfire situation we are already in that position and if a new development comes in and removes fuels and installs more fire hydrants that could potentially help some of the safety issues and is confident the fire department will utilize Le Grande Cannon in the case of a fire. Mr. Walborn stated that the city has to start somewhere making the streets safer, getting more housing, increasing the tax base, and reading through the staff report he felt the city staff met their legal obligations in reviewing the application. Ms. Cotton stated that Helena is in a housing crisis and residents should not be put in a situation where their safety is compromised but doesn't feel that this proposal does that although things could be better, and empathizes with the residents, and the streets need improvements and appreciates the opportunity to work with the developer to make some of those improvements

for the safety of the community. Mr. Sonntag stated that he has a concern with Floweree Ct and that access point as it is going to be the only connection to the condo block which is going to extend the street quite a bit, and while it is not part of the items that the Board is considering, it still concerns him. Vice-Chair Steinbeck stated she thought the applicant did a good job and addressed a lot of issues and will be looking at cul-de-sacs differently in the future and a lot of the problems in the area will exist if the subdivision goes in or not, however the subdivision will aggravate those as well as the infill lots in the area. Vice-Chair Steinbeck referenced the question she asked about the city's role in the western access and perhaps it will be brought forward again at future meetings, but it is not solely on the developer as the city cannot force them to build on private land and the city has to be involved in the process, but she thinks that access is important and does not want to let it be forgotten. Ms. Eidel stated that she agrees about the housing crisis and is worried about the fire issues and wonders if it is possible to look at the need for housing and revisit the five-year plan for which streets get attention, and balancing a housing crisis and potential fire is difficult, but housing is important. Ms. Cotton asked if it would be possible to add a condition to the annexation conditions that request an ongoing conversation after the completion of each phase and prior to moving to the next as there are pieces of legislation that offer significant funding to municipalities for infrastructure development and perhaps moving forward there will be an opportunity to provide that access from the west. Chair O'Connor noted that it was in the annexation and the Board was only considering the preliminary plat. Mr. Walborn was thinking the same thing and moving to accept the findings of fact and recommending to the City Commission that conversation about the western access be required, but it sounded like the City Commission is going to have to make some decisions about some of the city standards in city code to loosen it up or fix to allow some of the design changes. Director Brink stated this would be an appropriate condition for preliminary plat, but the Board needs to keep in mind that this is a phased subdivision, and each phase goes through a new process of review and finding of fact that goes to the City Commission and if there is new information or new findings then new conditions can be applied. Vice-Chair Steinbeck suggested that if the Board recommends approval, they ask the staff introduce another condition that it gets looked at again with each phase and that the western egress would be a good thing for the whole neighborhood and that the city must be involved and it cannot be put all on the developer. Chair O'Connor stated that he was concerned that the Board is holding existing problematic infrastructure against the developer and any development will put strain on the neighborhood's infrastructure, and he would like to look at the exceptions and to his opinion the self-inflicted conditions, and went through the text of city code, and questioned if the property was suited for development and was concerned about allowing for exceptions and thought perhaps it would be better suited to another design with fewer housing units. Mr. Walborn stated that in new development around town there are perhaps variances or exceptions but they still get built, and it needs to be fixed, but when does it start and is it with this development or is it the next one. Chair O'Connor stated he is fine with exceptions, but he isn't convinced that there are compelling circumstances. Ms. Cotton said that her understanding there are extreme topographical restrictions. Chair O'Connor stated that he believes that there are topographical restrictions but feels not all land is suitable for development and that this design encounters those and perhaps you can't build there to the extent being proposed.

(5:03:11)

Mr. Walborn made a motion to recommend accepting the findings of fact, accepting that there will be impacts, and that staff recommendations will mitigate those impacts. Ms. Cotton seconded the motion. Vice-Chair Steinbeck stated she could vote for this motion if they could also vote on a motion to include a condition to look at a western access going forward. Chair O'Connor suggested she wanted to make an amendment to encourage conversation about the western access as staff had previously given the impression that it was something that could not be conditioned. Vice-Chair Steinbeck stated she wanted it to be a separate motion to make it strong and she had not meant to cast focus on past mistakes. There was some conversation about Mr. Walborn withdrawing his motion and it was decided to continue with his motion, Mr. Sonntag asked if this motion included acceptance of the exceptions. Chair O'Connor confirmed that it did. Mr. Sonntag stated he was uncomfortable with the exceptions and motioned for an amendment to exclude exceptions for the dead-end roads. Vice-Chair Steinbeck seconded the motion. Ms. Cotton asked if the exceptions were excluded if that meant an entirely new design would have to be done. Chair O'Connor stated that he suspected it would be speculation but yes, a redesign would be needed. Ms. Cotton stated that the Board needs to recognize that local government is in a quandary when we are in a housing crisis and we ask developers to come up with a solution and subdivisions are approved all the time with dead ends and she isn't sure that it is enough to ask this developer to scrap this development, and there is a lack of clarity and uniform application. Chair O'Connor stated that he didn't disagree and that it isn't the Board's place to say the City Commission got it wrong and that it isn't applied, and that current code should be applied even if they think it is wrong, but ultimately it is a recommendation to the City Commission based on their code. A vote was taken and the motion for amendment failed 2:5. Mr. Walborn's motion was brought to a vote, the motion passed 6:1. Vice-Chair Steinbeck made a motion to forward concerns about western egress to city commission and for the staff to convey the Board's hope that the city be part of creating the access. Mr. Walborn seconded the motion. Vice-Chair Steinbeck clarified her intent for the motion to be incorporated as a recommended condition and finding of fact for public safety and emergency services. Ms. Dockter stated that such a motion was out of order as it was already recommended to accept the subdivision without this condition and that she held concerns on the Planning Board proposing conditions that are out of their authority to actually adopt and would argue this is a condition to consider something. Vice-Chair Steinbeck withdrew her motion and moved the Board forward to the City Commission that there is no western egress and urge the city to work with the developer to add that to the plat. Mr. Sonntag seconded the motion. Vice-Chair Steinbeck expressed her opinion that the western egress would help alleviate some of the main concerns heard in public testimony. The motion passed 7:0.

(5:21:33)

It was noted next meeting will be informational only. There was no general public comment, and the meeting was adjourned.