

August 19, 2020

The Lincoln County Board of Commissioners met for a regular session on August 19, 2020 in the Lincoln County Annex, Eureka, Montana. Present were Commissioner Peck, Commissioner Bennett, Commissioner Letcher and Clerk and Recorder Robin Benson. County Administrator Patrick McFadden was present via phone conference.

Commissioner Peck opened the meeting with the **Pledge of Allegiance**.

10:30 AM **Administrative Issues:** Present was Nikki Meyer.

- Robin presented the minutes for August 12, 2020 regular meeting for approval. **Motion** by Commissioner Bennett to approve minutes with one correction. Second by Commissioner Letcher, motion carried unanimously.
- Robin said she will move forward with the hiring process of a full-time employee for the Clerk and Recorder's Office. There is an open position and is budgeted for FY 20/21.
- The commissioners signed a letter of support for the USFS's Forest Legacy Program (FLP) and its use in Lincoln, Flathead, and Sanders Counties to conserve privately managed forestland and to increase access for hunting, fishing and other recreational activities, specifically on the Montana Great Outdoors Conservation Project. The Commissioners signed a letter of support for the establishment of the proposed Lost Trail Conservation Area. Commissioner Bennett commented that historically these lands have been open to hunting, fishing and timber and expressed these lands should not be locked up.
- Commissioner Peck mentioned the U-Serve Tennis Club will be writing a new agreement for shared maintenance, approximately \$1,500 annually is expected as the county contribution. Commissioner Peck will bring in the draft agreement for review. There is currently \$6,500 in the account held at the county. Commissioner Peck suggested the county close the account and give the money to the tennis club. No decisions were made at this time.

10:45 AM **Public Comment Time:** There were no public comments.

1:30 PM **NorthStar Landing Public Hearing / High School Auditorium:** Present were Developer Larry Stewart, Nikki Meyer, Kirsten Holland, Chris Neill, Pamela Selby, Brandon Banks, Robert Haidle, Jonathan Wakem, Jaqueline Robinson, Wyatt, Cindy Ruth, John Ruth, Alecia Davis, Joe Purdy, Holt Stewart, Royden Caldwell, Rick Vredenburg, Curtis McBride, Greg Hanson, Larry Parmiter, Kay Wright-Handy, Randy Wikon, Lety S. Frey, Paul and Debbie Tribble, Jeremy Cook, Rich Valcore, Robert Sloan and Justin Davis.

Commissioner Peck opened the public hearing and thanked everyone for attending. Commissioner Peck informed the people in attendance that there would be time for comments of 3 to 4 minutes and asked people to walk up to the stage and talk next to the microphone and state name for the record.

Kristin Smith introduced herself as a planning consultant. Kristin said in July 2017 preliminary plat was approved with 29 conditions.

Larry Stewart talked about the history of the subdivision and explained reasons why he is asking for an extension. Larry gave an overview of the long and arduous process, especially regarding water and sewer issues. Larry gave a brief overview of the wells and clarified the fluoride elimination process and drain field changes to achieve good water. Larry explained that DEQ approval is the final process. Larry talked about road approaches, access, and emergency exit to serve safety of the community. Fire was a concern; it was thinned, and he worked with a certified fire agent by the county. Larry explained that if a slope is steeper than 30%, we cannot build on it, so he recreated the lot configuration, understanding that the subdivision would lose lots and he did eliminate all 30% slope lots and panhandle lots except for 2 lots adjacent to the common area. Larry commented that he has been in this community for 38 years and this is his 7th business and has been an employer for approximately 35 of those years.

Curtis McBride talked about how the subdivision has negatively affected his property and surrounding community. Curtis said he has worked with many developers and agrees with all the neighbor safety concerns addressed, aquifers, fire dangers, noise, traffic, and high density. Curtis said the developer has had 3 years to meet conditions and is unable to do so. Requesting commissioners to not extend and questioned why the developer would do all this work without conditions of approval.

Larry Stewart explained that you meet conditions through the process. During the process you must prove road geology, water quality, and address fire safety concerns. The process is to get those approval processes involved. Larry clarified that if he does not meet those requirements, he will not receive approval. Larry explained that he has worked with the DNRC regarding water quality, and he will need to meet appropriate septic system process and he is currently in the process addressing all those conditions.

Curtis McBride expressed concern regarding the density use of the property as part of the problem.

Commissioner Peck stated that we are not here to rehash the original preliminary plat. Those meetings have taken place, realizing there was opposition. It was approved with 29 conditions. We are here to listen to the reasons for asking for an extension.

Larry Stewart clarified that one of the factors in septic system determination is the number of lots. Larry said the subdivision started with over 140 lots, now down to 125. DEQ will determine if the septic field/system is approved.

Curtis McBride talked about the level 2 septic treatment system which is not required, but with a tank and filter system would be less toxic, effluent and would minimize impact. Special filtering system at each lot would be a safer treatment and higher quality.

Larry Stewart said the level 2 septic system is a higher quality and better system. Larry informed everyone that he does have a current map available showing current status of the subdivision.

Kristin said the preliminary plat application included all DEQ information to identify the water and sanitation information.

Curtis McBride asked for clarification regarding permanent mobile home structures.

Larry Stewart said the application is for residential property. There is an RV clause and there is no intention to make the subdivision an RV park. People may live in a trailer prior to home building, but it is intended to be a residential home subdivision. People may set up a camper while home building. Working on the covenants which will need to be approved.

Rich Valcore asked about historical records.

Larry Stewart said that historical data has been researched and reviewed and it is the hydrologist and DNRC's job to determine water system approval. DEQ and DNRC make scientific determination from pump tests, looking at old data, capacity flow of water testing, new wells and other scientific data.

John Ruth asked Larry to clarify the 3 new wells in the subdivision.

Larry Stewart said the system is comprised of mathematical science. There are pumps in all 3 wells to keep water fresh. That is how it works in subdivisions depending on demand which will take years for a high demand. Larry explained a math equation of 2 wells pumping at the same time, is enough for the entire subdivision and clarified that the subdivision is for 3-bedroom homes.

Robert Sloan commented that he had to have comprehensive water testing on his property. His water had fluoride, salty water and said the system at his house was inadequate and he had to install a near commercial system to treat that water. Robert expressed concern about the subdivision water issues and said it cost him \$15,000 to fix his home water issues. Robert said there is potential the taxpayer could end up paying for a water treatment system.

Larry Stewart said we started with wells with fluoride and he does not know what goes on underground, but the wells were moved to get out of that water. That is a DNRC and hydrologist specialty; that is why I pay them. If I thought I was going to run anyone out of water, I would not be doing this and the DNRC would not be involved. Extensive research and studying have been done.

Commissioner Peck explained that there are questions that fall under the purview of DEQ and DNRC.

Kristin suggested the public to contact Mark Pitman for water/sewer concerns at the state agency DNRC.

Public Comment Time:

Brandon Banks read a letter explaining his family's concern with fears of fire, noise, water/sewer issues and the potential for campers and mobile homes. Brandon said he is asking for denial of the extension request.

Katherine Wright-Handy expressed concerns about the 3 new wells, saying she is finding silt for the first time in her hose at their home. There has been very little information provided to adjacent homeowners. Katherine said she has concerns for increased fire risk and commented that the Eureka fire department feels a hydrant system needs to be placed. Katherine talked about her concerns regarding Douglas Hill road density. The road is already showing signs of erosion.

Cindy Ruth said she has been fighting this subdivision for 3 years. Cindy expressed that the neighbors have done more research and showed old documents over the past 3 years indicating more than 1,000 signatures on documents in opposition of this subdivision. Minutes for 3 planning board meetings have never been found. Cindy gave a history of the wells that were put in and said nothing has been submitted to the DEQ and those 29 conditions have not been met. Cindy indicated there are violations of this subdivision by DEQ and there have been filed complaints. Cindy said If the commissioners continue to move forward, she feels it is a blatant disregard for statutes and public health. Cindy told a story of discussions she has had with another professional developer and realtor, Paul Wachholz, and how his process differs from Larry's. Cindy said she will not sell real estate in this subdivision or in Mariners Haven. Cindy said she is respectfully asking commissioners to listen to the public, hear the facts, and deny request.

A person from the audience asked when and how the commissioners plan to make a decision. Commissioner Peck said there will be no decision today.

Sarah Doble commented that she is in favor of the subdivision and requests commissioners to approve extension

Royden Caldwell commented that if the developer meets the legal process through DEQ and DNRC, the subdivision should be approved. Royden gave a history of his work and explained that he does work with neighbors regarding access and has conducted extra work required to ensure secondary power. Fire danger is always a concern in this area and the subdivision was thinned and revegetated. There will be 3 fire hydrants that can also be used for wildland fire hookups.

Lety S. Frey commented that her tenant has complained of not having access on her legal easement.

Chris Neill said he can attest to the fact of the time it takes to get through the DEQ process and agrees with Larry that it takes an incredible amount of time.

Debbie Tribble commented that she moved here to get away from development and is asking that the application for extension be denied. Debbie expressed concern about density and fire danger and said she appreciates the DEQ and DNRC process. Debbie said the fire risk assessment from the local fire department stated fire danger concerns. Debbie said there is a real concern for risk of fire and concern for human life. Debbie said that if the extension is passed as proposed and a fire tragedy occurs, the residents will feel awful, but the commissioners will bear a heavier burden.

Greg Hanson spoke about his experience with development and spoke of his involvement with Mariners Haven Subdivision. Opposition is painting a bleak picture of Northstar Subdivision and Greg expressed his approval of the subdivision and its use of the 90 acres. Greg said that clearly, it's not an RV community and will be difficult to build more than 4 or 5 homes per year. Traffic will be spread out over a long period of time. Impact on wildlife and forest is minimal. Douglas Hill Road will increase in use, but the covenants are important and that is where focus needs to be. Greg said the subdivision supports economic development and will bring jobs and money to the community. The HOA will be

important to determine how the subdivision grows and expands for health and safety. Greg said that he trusts Northstar will be a sound investment in our community.

John Ruth read from a letter that he prepared. The extension should be denied for a myriad of valid reasons and it was poorly conceptualized and evaluated by the planning board. Planning board member Josh Letcher recused himself and should recuse himself now. After 3 years, the public input was accurate, it was a mess in the beginning and is a mess now. John said he has had zero communication with developer Larry Stewart. John expressed frustration with the lack of communication, destroying historical sites, lack of site evaluation, and pushing the application through the planning process. John said the subdivision violates the county growth policy. It was approved with 29 conditions with 3 years to meet those conditions. There is no dust control, lack of stormwater requirements, developer did whatever he wanted and eventually the developer abandoned 5 wells and developed 3 in an area that changed what was preliminarily approved. The list of reckless actions is too many to even talk about in the time allotted, indicating impotence of LoadStone. John said it would be irresponsible for the commissioners to approve extension for the Northstar subdivision which is now completely different than what was preliminarily approved. The work of Loadstone was poor planning and execution. John expressed frustration of the lack of concern by commissioners, saying it would be a travesty by commissioners to approve extension.

Holt Stewart said he spent 3 months conducting fuels reduction and now the subdivision is a fairly safe area. There is no such thing as a zero percent fire hazard, now we have fire hydrants that were not there before.

Jeremy Cook said he is supportive of business, growth, and understands privacy. Douglas Hill Road is narrow and feels that 125 homes would be too dense but likes the idea of 15 acre lots. There are businesses and employees who do need housing. Darren said he is in favor of the development but does not believe the 125 homes is appropriate.

Randy Wilson said the 3 new wells now in the drain field share the same aquifer as his well. Testing on the first well was done in February and the water pumped testing had a significant effect on his well and questioned if the county was informed of changes applied to water and sanitation. Randy questioned where the new drain field will be and asked if Northstar is still planning all septic pumps to one drain field? These questions need to be considered before any decision by the county. Randy recommended the commissioners to read statutes pertaining to governing body approval laws and requirements. There should be a new application to the planning board especially since changes were not approved by the county.

Paul Tribble said he is not against the development but does have density concerns. Need a common-sense subdivision, rethought and engineered to fit the community. Paul expressed frustration about more blow down and decreased water quality that he did not have 3 years ago.

Robert Sloan said he salutes job creation; this community needs it for transient people and tourist people. Robert said he is not against development, but this has created too many issues. Douglas Hill Campground is a hard used and abused place, more people are not good for anybody.

Commissioner Peck commented that he would like time to read and analyze all the information and would like to meet with Larry Stewart to go through the water rights and water piece of it.

Commissioner Bennett agreed that time is needed to go over the information.

A person asked Commissioner Letcher for his opinion regarding his conflict of interest since he is a realtor. Commissioner Letcher said the MCA's are clear on what a conflict of interest is, and he also plans to read through all the information.

Commissioner Peck commended the public and developer for their attendance today.

Hard copy comments that were submitted will be filed in the Clerk & Recorder's Office. To hear the audio of the entire public hearing, please contact the Planning Department.

3:45 PM Meeting Adjourned

LINCOLN COUNTY BOARD OF COMMISSIONERS

Mark Peck, Chairman

ATTEST: _____
Robin A. Benson, Clerk of the Board