

PUBLIC MEETING
November 25, 2003

Chair Anita Varone called the meeting to order at 9:00 a.m.

Commissioners Murray and Tinsley were present. Others attending all or a portion of the meeting included Ron Alles, Sharon Haugen, Frank Rives, Brian Holling, Dean Retz, Will Selser, Jason Mohr, John Lamb, Rosemary Moe, Vern Evans, Pat Romberg, Kathy Steil, and Carole Byrnes.

Pledge of Allegiance. Everyone recited the pledge.

Proposed Major Subdivision, Preliminary Plat to be known as Fox Trot Estates.

(Applicants, Jerry & Genevieve Christison) (Frank Rives) The Commissioners will consider creating 13 lots, 8 single-family residential lots, 4 two-family lots; and a 44.92-acre remainder lot. The proposed subdivision located in the NE1/4 of Section 30, T11N, R2W; generally located approximately 1 mile north of Merritt Road and west of and adjacent to Lake Helena Drive.

The applicants requested the no access easements be removed, but retained along Lake Helena Drive.

Variance #1-Double Fronted Lots. Commissioner Murray moved to approve the variance. Comm T seconded the motion and it carried unanimously.

Variance #2. Deadened Street longer than 1000 feet. Comm T moved to deny the variance. Comm M seconded the motion and it carried unanimously.

Comm T moved to approve the proposal subject to conditions as recommended by the planning board. Comm M seconded the motion and it carried unanimously.

Comm T moved to amend cond 6, remove 2nd sentence. Comm M seconded the motion and it carried unanimously.

Comm M moved to amend cond 14.g. rewrite the condition to correct the no access restriction language.

Comm T moved to amend Cond 14.i.3. Notification of road noise, dust pollution and snow plowing activities on Lake Helen Drive. Comm M seconded the motion and it carried unanimously.

Cond 8. Comm moved to correct the name of the fire department as "East Valley Volunteer Fire Department.

Cond 12. comm M moved to remove the word mailboxes. To install a neighborhood box. Add the phrase "internal box" comm T seconded the motion and it carried unanimously.

The motion to approve the proposal as amended carried unanimously.

The following is a verbatim transcript.

Proposed Major Subdivision, Preliminary Plat to be known as the Bryant No. 3 Major Subdivision. (Applicant, Robert Bryant) (Planner, Frank Rives) The Commissioners will consider creating 56 residential lots, each for one single-family dwelling, and two commercial lots. The proposed subdivision is generally located east of and adjacent to McHugh Drive and south of Motsiff Road.

Commissioner Tinsley. Moved to approve the proposal subject to conditions as recommended by staff. Commissioner Murray seconded the motion.

Commissioner Tinsley. Moved to create a new condition #5 to read, “applicants shall reconfigure and/or redesign the subdivision to allow for the eastern access point to be on Montana Ave and eliminate the Motsiff Road access point.”

Commissioner Murray. Second. Madame Chair, Commissioner Tinsley, what I know we’re trying to do here is eliminate any access onto Motsiff Road. We’re trying to have the subdivision have two access points. One on McHugh and one directly on Montana. What I’d like to suggest is that we again allow staff and the applicants’ representative to work on this Condition, so if we conceptually agree that we want any traffic from the subdivision off Motsiff and accessing Montana and McHugh, so we don’t get caught rushing the Condition, I’d like to have it rewritten with just our concept if that’s agreeable.

Commissioner Tinsley. Madame Chair, Commissioner Murray, by no means am I architect or an engineer and I’m not attempting to suggest to them how to do it, I just suggest they do it and I agree with you that was the intent of my motion. I did however sketch out what I thought but that was the point of my motion and we can clarify my motion to say that if you’d like?

Commissioner Murray. That’s fine if you think you’ve got it in your motion I agree with the intent which is to keep all traffic off Motsiff.

Commissioner Varone. Friendly discussion if I may Commissioners. It’s been my understanding that the _____ policy but at the request of MDT that the approaches onto Montana Avenue be at best restricted because of the high level of traffic that’s on Montana Avenue and if I understand the request of the folks who live around Motsiff Avenue I am wondering what kind of reception we will receive from Montana department of Transportation in the interim to get yet another access and we’ve been very agreeable with MDT in trying to eliminate as many access points onto Montana Avenue and other areas of high traffic as possible. For example, on _____ Road with the subdivision that was on of Lincoln Road that had to do with businesses and moving into a residential area, we required that there only be one access so I’m kind of wondering why we are deviating in this instance?

Commissioner Murray. Madame Chair, Commissioner Tinsley, if I might, for the last two weeks I've spent what I considered a great deal of time in the neighborhood. I'm not willing to have this subdivision disrupt a well-established neighborhood that functions and maintained its road. For that reason I want to keep traffic off Motsiff and have them access onto Montana and I think it's up to the developer to go to the highway department and take care of this problem.

Commissioner Tinsley. Madame Chair, Commissioner Murray, and I appreciate you comments Madame Chair, Commissioner Murray hit my number 1 concern on the nail on the head with his comment regarding Motsiff. Not to mention the fact that Motsiff cannot handle in my opinion the impact that this subdivision will create. In recognizing also that Montana Avenue has been reconstructed recently and there is a turn lane in the middle of Montana Avenue that will adequately, obviously that's not going to be the only mitigation that will be needed, but I believe that given the size of this proposed subdivision and given the number of possible new trips per day that are going to occur because of this subdivision, this is the best alternative, this is the best way to access this subdivision is off Montana, which cannot handle at I believe this current state. Now, had this occurred prior to them reconstruction Montana Avenue, I don't believe it would have worked, but given the fact that it has been reconstructed and if there is a new turn lane in there, I think it can work and it will work without disrupting the lives of these folks on Motsiff Road who are going to be disrupted enough given the impact of this subdivision in their backyard. So I think this is the best alternative. I do see Brian Holling here and I don't know if anybody has any questions for him but he is our Transportation Coordinator.

Commissioner Varone. Brian, would you help us along this area, what's your thought?

Brian Holling. Madame Chair, Commissioner Murray, Commissioner Tinsley. When staff reviewed this subdivision, one of our comments was that it seemed inappropriate to have the access on Motsiff due to the amount of traffic onto Motsiff which wasn't designed as a collector, it was designed as a local street and also the fact that Montana Avenue was widened to include a left turn lane in the area. We didn't see the access points for the commercial development along side there, but it seems appropriate that they would want access off of Montana Avenue for a successful commercial development. So in that way you can combine the access to the subdivision with the commercial and due to the fact, I can't speak for MDT and what they will allow through there, I don't believe there is limited access through, I think the applicant can successfully gain access off Montana Avenue.

Commissioner Varone. Thank you very much Mr. Holling. Any other comments, all those in favor of the language change, Commissioner Tinsley recommended and I'm thinking that staff will take your language and arrange it so that the intent is there?

Commissioner Tinsley. If that's fine with the other Commissioners, that's fine with me.

Commissioner Varone. All those in favor signify by saying Aye.
Commissioner Murray, Aye.
Commissioner Tinsley, Aye.
Commissioner Varone, Aye. The motion carries.

Commissioner Tinsley. I'd like to make a motion to amend the newly approved condition #5 and take the old condition #5 and create condition 5.a. Now I understand it usually when you have an 'a' you have to have a 'b' in this particular instance we're not going to, but for the sake of keeping them together and making the same more fluid, so we don't have to add one at the very end, I would propose that we create condition 5.a which would change the old condition 5 essentially what we'd do is add after "county road department" add "and Montana Department of Transportation." And then in the second sentence, change "Motsiff Road" to "Montana Avenue." I believe that's all we need to do to that.

Commissioner Murray. Madame Chair, Commissioner Tinsley, the "a" may be moot in that I believe condition 6 can be eliminated now.

Commissioner Tinsley. I was going to amend #6 as well, but...well I was going to amend it given what we did with condition 5 but I still think it needs to be there. I don't know, I believe it does.

Commissioner Varone. Let's act on 5.a. first.

Commissioner Murray. Second.

Commissioner Varone. It's been moved and seconded to amend 5 to be 5.a and to include County Road Department and Montana Department of Transportation and to change Motsiff Road to Montana Avenue. All those in favor say Aye? Commissioner Murray, Aye. Commissioner Tinsley, Aye. Commissioner Varone, Aye. The motion carries.

Commissioner Tinsley. I make a motion and hope I get a second and then we can maybe ask Mr. Holling if this is something we still need. I believe it is. My motion is going to be that we amend condition 6. If you go to the second sentence where it says, "the applicant shall install such improvements on... and take off "Motsiff" and add "Montana Avenue and internal access road." That would be my change and I hope we get a second and then we can have some discussion about this.

Commissioner Murray. Second.

Commissioner Varone. It seems to me Commissioners that in fact I have a note here that indicates that if there is any change to the access point that item #6 can be removed and I think just simply by adding to condition #5, Commissioner Tinsley, an approach permit shall be obtained from the county road department and MDT. That might take care of it and it might say "including a traffic impact analysis and design

plans” or something like that. We’re trying to make this as simple as possible.

Commissioner Tinsley. And Madame Chair that might be the case. If it’s possible I would like to ask Mr. Holling his thoughts on this because I didn’t know how to deal with #6 and that’s the best way I figured to deal with it.

Commissioner Varone. Mr. Holling would you come forward again and give us some guidance?

Brian Holling. I believe having the access off of Montana will basically satisfy this condition. It would essentially act like any other local street through there. It probably wouldn’t require any additional storage for turning movements. I think it can be accommodated as it is.

Commissioner Murray. Madam Chair, Commissioner Tinsley, Mr. Holling, I do like your requirement that hopefully it applies to Montana that it be a right turn only off of the new street so that traffic is not trying to cross Montana headed north or making a left turn. If they way to head north they would access McHugh and head north out McHugh; you’re the traffic engineer.

Brian Holling. I think that’s a possibility. Most of those full access points on Montana help. Both turns that are allowed it probably would depend upon how far apart it is from the nearest interest that’s where most of the conflicts occur. A left turn... there’s usually enough gaps and traffic on North Montana to allow a left turn and there’s also that left turn storage lane that someone can move into in order to merge into traffic on the northbound area. This probably is more of an issue that MDT would have certain requirements that they would satisfy.

Commissioner Varone. That was going to be my question. Would this be something that MDT would take a look at because basically it’s there road and if they determine it needs to be the right turn only that we need to follow their...?

Brian Holling. Madame chair, that is correct.

Commissioner Varone. So then are you recommending or suggesting that we could delete Condition #6.

Brian Holling. Staff’s recommendation would be to keep the first sentence of the condition and eliminate the results of the traffic impact analysis will essentially explain and once it’s approved through MDT, it will explain what the conditions of that access would be.

Commissioner Tinsley. Madame chair, Commissioner Murray, I’ll amend my original motion if that’s okay. Do we have to act on the standing motion or can I amend it?

Commissioner Varone. You can amend it.

Commissioner Tinsley. I'd like to amend my original motion and amend Condition of approval #6 and eliminate the second sentence in condition #6 starting with "the applicant" and ending in "car stacking depth." Eliminate that sentence.

Commissioner Murray. Second.

Commissioner Varone. It's been moved and seconded to remove all but the first sentence in condition of approval #6. All those in favor say Aye.

Commissioner Tinsley. Aye

Commissioner Murray. Aye.

Commissioner Varone. Aye. The motion carries.

Commissioner Murray. Madame Chair, I'd like to add condition 19 and that's the agricultural notice condition that where this subdivision is going in the homeowners will be notified that they are subject to the sounds and smells of agriculture.

Frank Rives. If I might, I would recommend that that be placed in as 14.m; or to put it in condition #14 so that it would appear in the covenants so people would be properly notified.

Commissioner Murray. Madame Chair, I would adopt Mr. Rives' recommendation and I'm trusting him to do the verbage.

Commissioner Tinsley. Second.

Commissioner Varone. All those in favor say Aye.

Commissioner Tinsley. Aye

Commissioner Murray. Aye.

Commissioner Varone. Aye. The motion carries.

Commissioner Tinsley. Madame Chair, may I ask a question? I'd like to have some clarification from staff if possible. There was some discussion and I'm trying to find it right now I know I noted it regarding setbacks, proposed setbacks versus existing zoning. I believe whatever exists now the zoning requirements in that area because there was no variance requested stand, correct? I know I say that this morning and I wanted to bring it up and I wanted to make sure that I'm not missing something here.

Frank Rives. Madame Chair, Commissioner Tinsley, Commissioner Murray. Yes there are existing zoning on that parcel in Bryant Tract which I believe is 13, Special Zoning District 13-A. The setbacks are more stringent than those that were recommended by the applicant. At the Planning Board and the commission meeting, the applicants' representatives did not express that they wanted to change those so that the existing covenants rather than existing zoning setbacks would stand unless the applicant requested they be amended which at this time he's not asking that be done. I hope that answered your question.

Commissioner Varone. Commissioners, if I may, we asked staff to clarify with the Deputy County Attorney a couple of items. Condition of approval 14.e reads, “a requirement that all dwelling units within the subdivision be constructed onsite and be built to the specifications which meet or exceed equivalent provisions in the applicable state building code for this seismic zone.” The question was can we legally do this since that sort of language is not in our current subdivision regulations?

Frank Rives. Madame Chair, Commissioner Tinsley, Commissioner Murray, I cannot address this. I have not met with the County Attorney regarding those. I was out sick one day during the legal meeting and I was going to ask him yesterday and the legal meeting was canceled, so I was not able to bring that question up to him.

Sharon Haugen. Madame Chair, I did mention this to the Deputy County Attorney. The provisions of the onsite are not something that we can do. Does that answer your question?

Commissioner Varone. Yes it does. So that means that in order to be legal, we need to remove the recommendation of the planning board language that says “onsite and be built to the”?

Sharon Haugen. Yes.

Frank Rives. I believe “built to the specifications” would be retained.

Commissioner Varone. Correct. “A requirement that all dwelling units within the subdivision be constructed to specifications which meet or exceed equivalent provisions in the applicable state building code for this seismic zone.”

Commissioner Murray. So moved.

Commissioner Tinsley. Second

Commissioner Murray. What this would do if it the planning board left it, is it would prohibit modular homes from being placed on lots.

Commissioner Tinsley. Madame Chair, Commissioner Murray, and unfortunately it would also probably result in us being taken to court and losing because our subdivision regulations do not reflect that. This is just one more point of where people in the neighborhood want to do something proactive like this, we can’t do it because it is not in our regulations, unfortunately. Although I agree with it, and I can’t speak for the other two, it just doesn’t make sense for me as a Commissioner to vote for something I know we’re going to get sued on and lose.

Commissioner Varone. Thank you for that explanation, Commissioner. All those in favor in deleting the words “onsite and built to the” please signify by saying Aye.

Commissioner Tinsley. Aye

Commissioner Murray. Aye.

Commissioner Varone. Aye. The motion carries. Also under Condition of approval 14.I,

the planning board added a condition that says, “the community wastewater treatment system shall be so designed and constructed to allow future connection to city services.”

Sharon Haugen. Madame Chair, Commissioners, I did not discuss this in detail with Deputy Attorney Stahl, but in the past he has allowed the Commission to place that as a condition of approval. Using that as guidance, I would say it would be okay.

Commissioner Varone. Could we do this Sharon? Could we...I just want to make sure that when we're finished here that everything is done legally, could we approve this conditionally upon Deputy County Attorney's review and if his recommendation is that legally it can't be included, that it not be included, can we have a motion to that effect?

Sharon Haugen. Yes that would be appropriate to do it that way and we will notify the entire Commission what the Deputy County Attorney advises us.

Commissioner Murray. Madame Chair, I'm perfectly satisfied this is legal, we've done it in the past. I'm content doing this. The proposal is to hook the lots up to a public sewer system, so in developing a public sewer system on this site it naturally follows that there're going to be plumbed so that they can go from their own public system in the event the city pipe goes north in the valley that they can be hooked up to the city's sewer system. The pulling is essentially the same.

Commissioner Tinsley. Madame Chair, I concur. If we get to the point after this meeting where we find out we can't do this, I'd be perfectly willing to come back in and amend our action, but I think we're fine.

Commissioner Varone. If I could just state for the record, I agree with this as well. I think it's needed in here, it should be in here, but my concern is with the possibility of a lawsuit and my comfort level would be that we make sure we double-check with the Deputy County Attorney Stahl and since it doesn't look like I'm going to get any support here, I'll move on.

Just a clarification Commissioner Murray if I may? When we added condition of approval 14.m, that included the keeping of large animals, I have down here notification of agricultural events, if I understood you correctly, did we want one condition that discussed notification of agricultural events including the prohibition of keeping of large animals. Is that correct?

Commissioner Murray. No madame chair.

Commissioner Varone. It was just the prohibition of keeping of large animals?

Commissioner Murray. No madame chair.

Commissioner Varone. It was just the notification of agricultural events?

Commissioner Murray. That's correct. An agricultural notification of people building homes here need to be aware that they're going to enjoy the sounds and smells of agriculture.

Commissioner Varone. Thank you Commissioners, then what I would like to do is ask one of the commissioners is to please include a condition of approval 14.n that states there is a prohibition from keeping of large animals --- there is standard language to include that.

Commissioner Murray. So moved.

Commissioner Tinsley. Second.

Commissioner Varone. It has been moved by Commissioner Murray and seconded by Commissioner Tinsley. All those in favor, say Aye.

Commissioner Tinsley. Aye

Commissioner Murray. Aye.

Commissioner Varone, Aye. The motion carries.

Commissioner Tinsley. I want to bring up one point and I did a little research after our meeting an unfortunately, the subdivision regulations do not allow what I was talking about regarding requesting appraisals for parkland dedication. It seems rather apparent to me that if we're talking about a specific piece of land that is going to be dedicated to parkland, we should be able to appraise that land based on the size of that parkland and not on the entire unsubdivided land. Unfortunately, the regulations currently read that the appraisal must include the entire unsubdivided parcel, which obviously when it's included in a bigger pie like that it's going to create lower prices per acre as opposed to stand-alone park land which would have obviously bring a lot more per acre. It's just one more flaw that I've identified personally as a Commissioner that in my opinion needs to be fixed. I would hope that the developer would possibly reconsider their proposal and maybe create.... I think the best idea for this subdivision would be to create parkland for the subdivision that could double as a stormwater retention area. I think that would be the most perfect fit for this. It doesn't look like it's going to happen and I can't force it but I appreciate the concerns of the people that came up as well as the other Commissioners I'm sure they do as well and I think we did the best that we could do with this subdivision this morning. I think we fixed it in a lot of ways. It's going to make it a lot more conducive to the neighborhood. So I just want to say I appreciate all of the comments we received. They were very thoughtful and thank you very much; it's been nice working with you folks.

Commissioner Varone. All those in favor, say Aye.

Commissioner Tinsley. Aye

Commissioner Murray. Aye.

Commissioner Varone, Aye. The motion carries.

Commissioner Murray. In visiting this proposed subdivision I became aware that Phillip Street be it a public street or be it a county street, has speed bumps about every 25-30 feet which is against county standards. I would ask county planning staff to research the ownership of Phillip Street. Speed bumps are quite effective, I will admit that but if it's our liability I don't think we ought to incur it.

Frank Rives. Madam Chair, Commissioner Murray, Commissioner Tinsley, I just happen to know the answer to this because we did a subdivision close to three years ago, one of the first subdivisions I did when I came to work for the county. Phillips is a private street. We had a subdivision where someone wanted to place an additional trailer on a ½ acre lot that couldn't meet DEQ and was one of the reasons why the subdivision ultimately failed but also they could not make that a public street because the neighbors didn't want to change that. Also, Phillips is about 18 feet wide so it was practically an impossible to bring it to county standards, so Phillips is a private street.

Commissioner Murray. Madam Chair, Commissioner Tinsley, Mr. Rives. At your next legal meeting with the County Attorney, would you review this? I think he is of the opinion that any street that has three or more homes is a public street and not a private street?

Sharon Haugen. We'd be happy to review that with Mr. Stahl.

The End.

Board of Investments. Commissioner Murray moved to authorize the chair to sign the Intercap Loan documents for the Augusta RID 2001-7 bond. Commissioner Tinsley seconded the motion and it carried unanimously.

Public comments on matters within the Commission's jurisdiction. None.

There was no other business and the meeting adjourned at 10:00 a. m.