Minutes of the Special Meeting of the City Council of the City of Lava Hot Springs, Idaho held on Thursday, April 25, 2013 at 6:30 p.m., Lava City Hall, 115 West Elm Street, Lava Hot Springs, Idaho.

Present: Marshall Burgin, Mayor
Rita Anderson, Councilperson
Carl Brown, Councilperson
Newt Lowe, Councilperson
Canda Dimick, City Clerk
George Linford, Planning & Zoning Chairman
Allison Hinz, Planning & Zoning Secretary

Excused: Cathy Sher, Councilperson

Guests: Steve Jones, Pam Slaughter, Randall Brown, David Maguire, Pam Maguire, Joel Dickson

Mayor Burgin called the meeting to order at 6:30 p.m.

Lava Planning & Zoning’s recommendation and clarification regarding Steve Jones proposed plan to construct six nightly cottages – George Linford, Chairman

George Linford reported on Planning & Zoning’s recommendation regarding Steve Jones proposed plan. He stated that everyone had questions regarding water, sewer and parking which were all adequately addressed. Planning & Zoning questioned whether the project fell under the Subdivision, Planned Unit Development or Vacation Rental Ordinance. George explained that the Planning & Zoning Commission felt that it did not fall under any of them and Dave Sanders made the motion to recommend the plan to City Council for approval.

Mayor Burgin questioned why Dave Sanders felt that the subdivision was already in place.

George Linford stated that it was their understanding that Mr. Jones bought two lots in the Hall City subdivision so it was already divided.

Mayor Burgin stated that Mr. Jones wants to take the two lots and divide them into six different businesses.

George Linford stated that Mr. Jones is going to make them into three separate businesses on each lot which would be similar to what he would be doing if he made it into a six motel rooms. Each one would remain in Mr. Jones name. He stated that he made it as clear as possible to Mr. Jones that these could only be sold as a business and could never be used as a private residence. He stated that Mr. Jones told them that he was aware of that and that he would disclose that to anyone he sold to.

Councilperson Lowe asked what “Fee Simple Title” means.
George Linford stated that it is a real estate term and that it is just like the title to your home.

Councilperson Brown questioned why Mr. Linford does not think that this falls under the Subdivision Ordinance.

George Linford stated that he doesn’t recall. It was already divided into Hall City subdivision. He suggested talking to the attorney to interpret the ordinance.

Councilperson Lowe questioned the developers financing.

Mayor Burgin stated that the city doesn’t really know about the developers financing. The plan is to build two and see how it goes.

George Linford stated that the plan is to build one initially and the sticky point is that he does plan to sell them.

No other questions. Mayor Burgin turned time over to Mr. Jones.

Plan to construct six nightly cottages presentation and consideration – Steve Jones

Mr. Jones presented the site map, aerial view and concept drawings. There will be six separate cottages with river stone and different hues of vinyl. The dimensions are 24 feet by 16 feet. There is access from the alley and the street and two parking stalls for each unit. He presented the preliminary plat and stated that he will build two out, one would be a model and one for sale. The excavation for utilities will all be done at once. They will be held in Fee Simple Title in his name and will be transferred to the buyer when they purchase the nightly rental business.

Councilperson Brown asked how Mr. Jones would ensure that they would not be used as a residence.

Mr. Jones stated that is part of the inquiry process when someone wants to purchase them and they would disclose that information to the buyer. He stated that the zoning ordinance prohibits them from using it as a residence.

Councilperson Brown asked what the distance is between the units.

Mr. Jones stated that there is 3 feet between each unit from east to west. He has preliminary commitments on two units. They have not made any contracts or taken any payments. They are waiting until they get approval from the City and they will be built based on their success. He may keep some of them and have some of his local tenants manage them for him.

Councilperson Anderson asked if he was planning on having full time rentals.

Mr. Jones stated that he has tenants currently that would manage them as nightly rentals for him.

Councilperson Brown asked if he was going to have a condominium association.

Mr. Jones stated that this does not require that. They are free standing units.
Councilperson Brown asked if each unit has its own utilities and maintenance.

Mr. Jones stated that they each have their own utilities and each owner is responsible for their own maintenance.

Councilperson Brown asked Mr. Jones why he does not think this qualifies as a subdivision.

Mr. Jones deferred the question to his attorney, David Maguire.

David Maguire introduced himself. He stated that he feels that the project is consistent with other developments in the area. He has talked to the City’s attorney about this and he stated that the City’s attorney is correct that the project falls in the parameters of the Subdivision Ordinance. He feels that complying with all of the ordinances is burdensome for a small developer and that the Subdivision and PUD ordinances are consistent with the development mentality 15 years ago where there were larger developments that required a lot of planning. He doesn’t feel that they fit this proposal because it is such a small project. To accomplish their goal and be in compliance with the laws he suggests a variance proposal. He stated that Mr. Jones is doing everything he can to be in compliance with the commercial zoning ordinances and there are similar developments in the area. He stated that the City’s attorney thinks that he will have to meet the residential requirements, but he disagrees since the plan is to make them vacation rentals. He stated that the ordinance is very clear that a vacation rental cannot be occupied more than thirty days. He addressed the concern of future residential use. He stated that Mr. Jones can put a restrictive covenant in the deed stating that they cannot be used as a full-time residence and that you have to be in compliance with the zoning ordinances. He stated that once Mr. Jones sells and moves on, he won’t be around to enforce that and the responsibility will fall back on the City. He understands the City’s concerns but does not think that will be a problem.

Mr. Jones stated that it is required to have a posted sign on each property with the name and phone number of the property owner or management and that it is highly unlikely that anyone who sees that will consider it anything other than a vacation rental.

Mr. Maguire stated that if Mr. Jones were to keep the units under a single owner that he could still run into the same problem of someone using them as their residence. He doesn’t feel that dividing them will change the complexity of that problem.

Mr. Jones stated that building six nightly rentals in town enables people who live here to be part of the growth and expansion of Lava. They are building six individual businesses that are an affordable way for locals to add to their prosperity.

Councilperson Lowe asked about rates.

Mr. Jones stated that a fair rate would be $125 to $150 per night and they would have seasonal rates.

George Linford asked if the development falls under the Subdivision Ordinance.

Mr. Maguire stated that he feels that it does and that the ordinance is pretty clear that if you divide any property in two that you are in the parameters of the Subdivision Ordinance.
Mayor Burgin stated that he is going by the advice of the City’s attorney that they need to submit a Subdivision Application and go back to Planning & Zoning. City Council is not going to give any preliminary opinions at this time. They will need to submit a proposed seller’s agreement with the application.

Councilperson Brown made the motion to go with the advice of the City’s attorney to submit a Subdivision Application and to submit a proposed seller’s agreement with the application. Councilperson Anderson seconded the motion. All voted aye, unanimous.

**Adjournment**

Councilperson Lowe made a motion to adjourn. Councilperson Brown seconded the motion. All voted aye, unanimous. The meeting adjourned at 7:02 p.m.

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Allison Hinz – Transcriber                       Marshall Burgin, Mayor

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Canda Dimick, City Clerk