

Minutes of the Regular Meeting of the Lava Planning & Zoning Commission of the City of Lava Hot Springs, Idaho held Monday, April 22, 2019 at 6:30 p.m., Lava City Hall, 115 West Elm Street, Lava Hot Springs, Idaho.

Present: Neil Anderson, Commission Chair
Fred Hinz, Commission Member
Curtis Waisath, Commission Member
Lisa M. Toly, Commission Member
Canda L. Dimick, City Clerk

Excused: Vicky Lyon, Commission Member

Guests: None

Meeting was called to order by Neil Anderson, Commission Chair at 6:30 pm.

Approval of Minutes:

Fred Hinz, Commission Member questioned the minutes regarding the garage variance for Diane Beckstead. He did not recall discussing it at all. City Clerk reported that she had just brought it to the commission's attention that Mrs. Beckstead will be submitting an application in the near future. There were no decisions made. The City Clerk is still working with Mrs. Beckstead. The variance public hearing will be held at the next Planning and Zoning meeting but due to the Memorial Day holiday, the commission will need to schedule a date for the meeting. Fred Hinz questioned contradicting statements in the minutes under Randy Benglan's residential development, back page third line down says "that it was mentioned that if no one is living in the dwellings year around that there is no need to make the access a priority" and then down further, about the middle of the paragraph it says, "that residential lots need to try and be developed to keep the elementary school in Lava . Fred Hinz commented that the residents need to be year around if they are going to have kids attending the elementary school. City Clerk commented that she did not include the name of who made the statements but Fred had made the statement about the school and Lisa had made the comment about not needing to make the access a priority for snow removal if residents are not living in them. Lisa commented that if the residential homes are being used as second homes the access does not need to be maintained as a priority. Alleys are secondary accesses according to the ordinance. Curtis Waisath commented that a lot of houses access from the alley, one particular area mentioned were the homes South of the Chuckwagon Restaurant. City Clerk reported that some homes do access off the alleys but alleys are not plowed every day. The homes South of the Chuckwagon Restaurant are currently being utilized as second homes. Property owners in the past have had four wheel drives to access their property. Neil Anderson expressed concern with the width of the street platted South of the

residential lots. City Clerk reported that the reason the platted street is only half of the width is because the property on the South side is not subdivided and if it ever was then the other half of the platted street would be in the adjoining subdivision. In the City's zoning ordinance an alley is defined "as a public space or thoroughfare which has been dedicated or deeded to the public use in which provides a secondary and public means of access to abutting properties. An alley shall not be considered a street for the purpose of this ordinance". Mr. Benglan has been asked to return before the commission with his engineered plans. The minutes also state that off-street parking has to be developed on private property. Concerns with setting a precedent were voiced. Curtis Waisath commented that there is existing overhead power in the alley which limits developing the alley very wide. Neil Anderson brought it to the City Clerks attention that under the zoning ordinance draft there is a spelling error in the sentence which reads: "Time was taken to compare Lava's affordable housing definition to the other city's zoning ordinances definitions that the commission have been gleaming information from. Gleaming needs to read gleaning. It was mentioned the word needed to be corrected in two places in the minutes. Correction was noted. Motion was made by Curtis Waisath, Commission member and seconded by Fred Hinz, Commission member approving the minutes as corrected. All voted aye, unanimous.

Zoning Ordinance Draft:

City Clerk presented information on research and additional changes made to the draft for clarification purposes. The City of Pocatello has formed an Affordable Housing Authority Agency and they base their regulations on HUD guidelines. The revised definition in the zoning ordinance draft references compliance with HUD guidelines. The Boarding House definition was changed to update the limit of persons from no more than fifteen (15) to no more than sixteen (16) to correlate with the International Building Code. The change is referenced in prior minutes. City council meets on Thursday to review some more of the ordinance. The commission can expect some additional assignments. Regulations regarding residential and commercial building height restrictions were revisited. The commercial height restriction has been changed from five (5) stories to three (3) stories in the proposed draft. There are height restrictions in all zones. The commission is still working on establishing reference points on measuring building heights on sloped terrains. Correlating the reference points with wording from the grade definition was discussed. Grade or official grade is defined as follows: A) For buildings adjoining one (1) street only, the elevation of the sidewalk at the center of the wall adjoining the street; B) For buildings adjoining more than one (1) street, the average of the elevations of the sidewalk of the center of all walls adjoining the streets; C) For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the centers of all exterior walls of the building; D) Any wall parallel or nearly parallel to and not more than five (5) feet from a street line is to be considered as adjoining a street. No decision was made on height reference points.

Building Code Ordinance:

City Clerk reported that Bannock County's building code ordinance is not in compliance with State code. The State of Idaho has not adopted the 2015 Residential Building and Energy Codes. City Clerk has removed the proposed 2015 Residential and Energy Codes from the ordinance

and replaced those sections with the 2012 Residential and Energy Codes already enacted. City Clerk will find out if the State has adopted the 2015 Fire Code. Commission members have copies of Chapter 29 Plumbing Systems of the International Building Code to compare proposed provision changes. Each appendix was reviewed. Proposed ordinance deletes all appendix except for D regulating fire districts and E regulating supplementary accessibility requirements. City Clerk will provide commission with copies of the appendix for further review. Commission may want to consider adopting appendix G regulating flood-resistant construction and J regulating grading. International Building Code Section 2902.1 establishing the minimum number of plumbing fixtures as shown in the table were reviewed and compared to proposed changes. The proposed changes for toilet/lavatory facilities are reasonable for privacy purposes. The provision requiring toilet/lavatory facilities for outdoor seating and entertainment areas was discussed. The provision would apply to new construction and also a change of use/conversion. Drinking fountain requirements were discussed. It was questioned and unknown if drinking fountains are required in businesses that offer water. The proposed ordinance states that drinking fountains are not required for an occupant load of thirty (30) or fewer. Under 2002-1 Table drinking fountains are required in all classifications. The proposed ordinance has to be more restrictive than the code not less. Chapter 11 of the International Building Code Section 1109.5 states that where drinking fountains are provided on an exterior site, on a floor or within a secured area, the drinking fountains shall be provided in accordance with the following sections; no fewer than two drinking fountains shall be provided; one drinking fountain shall comply with the requirements for people who use a wheelchair and one drinking fountain shall comply with the requirements for standing persons; except a single drinking fountain with two separate spouts that complies with the requirements for people who use a wheelchair and standing persons shall be permitted to be substituted for two separate drinking fountains or where drinking fountains are primarily for children's use; drinking fountains for people using wheelchairs shall be permitted to comply with the children's provision in ICC A117.1 and drinking fountains for standing children shall be permitted to provide the spout at 30 inches minimum above the floor. Drinking fountains available to the public have to be wheelchair accessible. The commission agreed that provision f) drinking fountains are not required for an occupant load of 30 or fewer in Section D Chapter 29 "Plumbing Systems" amended as follows needs to be deleted because it is less restrictive than code. The proposed provision not requiring service sinks in businesses, excluding restaurants and mercantile occupancies was discussed. City Clerk will ask the building inspection about service sink requirements and report back to the commission. Adopting bonding requirements for single family residences, moved structures and new residential construction was discussed. It was questioned if bonding requirements should only apply to residential construction, why not commercial construction? Bonding requirements guarantee that the structure is completed. The governing agency would hold the bond and exercise it if needed to finish building the structure. The bond has to be approved by the City Council. A bond would protect the city. An example was the vacant lot on West Booth with a foundation on it. If a bond had been required, the city would have been allowed to take care of

the situation. It was questioned if Bannock County is even enforcing the bonding requirement in their ordinance. City Clerk will check with Bannock County to see if they are enforcing the bonding requirements. According to the ordinance, every property owner that submits a building permit to construct a new house would be required to provide a bond. Neil Anderson, Commission Chair, asked the City Clerk to provide commission members with a copy of the appendix relating to fire districts. One of the bonding requirements is that single family residences and moved structures comply with smoke detectors and CO2 monitor regulations. Neil explained that structures also need to have heat sensors. It was noted that Section 13 bonding requirements for new residential construction only applies to the approach. New development within the county has to pave their approaches if the approach connects to a county paved road. Requiring approach improvements within city limits was discussed. Most approaches are concrete. The city does have some approaches that are gravel surfaces. Section 13 provides that where an approach cannot be finalized before final inspection and issuance of the Certificate of Occupancy is issued that a bond is required. The City has a sidewalk ordinance that requires installation of sidewalks in some areas. The bond guarantees that the approach is completed at a later date or the bond is activated. City Clerk reported that the only area that she can recall that a bond may have been beneficial is Lava Mobile Estates Campground's approach. The approach is steep and washboard making it difficult for emergency services to access the campground area. The bonding requirement would cover the basis if the city every needed it. Commission agreed to leave the provisions in the ordinance as written. Lisa Toly, Commission member questioned if the bond was refunded back to the property owner. The bond would only be returned if it was in the form of a certified check, cashier's check or certificate of deposit. City Clerk will consult with City Attorney on options available to force completion of construction projects. Bonding requirements assure fire code compliance. City Clerk will review the bonding requirement provisions with the Fire Chief and report back.

Other Business (Diane Beckstead Variance):

City Clerk reported that she is working with Diane Beckstead on a variance application and that the public hearing will be scheduled on the next Planning and Zoning Commission meeting agenda.

Other Business (Kathleen Cochran Variance):

City Clerk reported that she is working on a variance application with an applicant who wants to replace stairs that encroach into the city's right-of-way along East Booth Street and a deck that encroaches into a required front yard setback. The house sits on a hill, high above the grade of the street. Kody Tillotson is the contractor.

Other Business (Diane Beckstead Variance):

City Clerk reported that the city recently found out that Diane Beckstead's contractor did not build the foundation for her home in compliance with the site plan submitted. On the site plan

the structure was to have a forty (40) foot front yard with a half-moon circular driveway and ten (10) foot front porch with landing at front door. The house has a twenty (20) foot front yard setback. Mrs. Beckstead is applying for a variance for a one car garage and also a variance for a front porch. The building inspector has issued a temporary occupancy to five time for Mrs. Beckstead to get the landing situation for her front door straightened out. It was commented that if a bond would have been required that the situation would have never happened. The contractor would have been required to tear the foundation out and move it and the city wouldn't have the problem. The situation puts the City in a predicament and should have never happened. It was felt that the building inspector should have caught the setback error on the inspection. No one has confessed on why the setback was not initially measured and or the site plan flip flopped.

Other Business (171 West Booth Parcel Split):

City Clerk reported on a parcel split situation. The property was described as a tiny blue home sitting on four lots on West Booth Street. The property was purchased by an adjoining land owner. A couple of years ago the property owner questioned if the parcel could be split. The owners wanted to tear the old house down and build a garage on two lots and the contractor building the garage was going to be deeded the other two lots. The property owner and contractor were verbally informed that once the house is torn down that splitting the parcel was an option they could do. It has recently been discovered that the property owner quick claim deeded two of the lots over to the contractor in 2017. The parcel split has made the house on the lots a non-compliant structure. The home encroaches into the lots deeded over to the contractor. City Clerk has approached Bannock County about the situation questioning why the city wasn't notified and asked why the owners weren't made to go through the process for a parcel split and that the situation had created a non-compliant structure. No permit for a demolition of the home has been submitted. Renter of the home has commented that they are no longer needing to move because the owners have decided not to build a garage due to increased construction costs. The contractor who owns two of the lots has been to the post office trying to get a mail box with the approach that he is going to place an RV on his property. It was questionable if the city can allow a new structure to be built with the encroachment situation. Bannock County claims that it is not their obligation to control parcel splits. City Clerk questioned if the property owner should be notified that the site is not a buildable site until the non-compliant structure comes to the ground. Commission agreed that a notice needs to be sent through legal counsel.

Other Business (High School Park Subdivision Development):

Neil Anderson, Commission Chair, mentioned that Tab and Karen Mendenhall are moving to Pocatello and he was wondering if the City should contact the Utah developers that expressed interest in the past to represent their proposal. City Clerk recommended that the existing zoning ordinance would not permit what the developers wants to do and that it would be best to wait until the new zoning ordinance is adopted. The new ordinance does open the door to similar residential development options.

Schedule Next Meeting

Changing the regular meeting date of the May 27th meeting was discussed due to the Memorial Day holiday. Scheduling the meeting for May 20th was recommended. City Clerk checked publication dates and time frames for a public hearing. The commission asked that Diane Beckstead's application for variance and site plan be sent to them early before the hearing date. City Clerk will email information to members. Motion was made by Fred Hinz, Commission member and seconded by Curtis Waisath, Commission member to change the meeting date to May 20, 2019 at 6:30 pm. All voted aye, unanimous.

Adjournment:

Motion was made by Fred Hinz, Commission Member, and seconded by Curtis Waisath, Commission Member, to adjourn. All voted aye, unanimous. Meeting adjourned at 7:40 pm.

Transcribed by:

Signed:

Canda Dimick, City Clerk

Neil Anderson, Commission Chair