

Minutes of the Regular Meeting of the Lava Planning & Zoning Commission of the City of Lava Hot Springs, Idaho held Thursday, July 23, 2018 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
Vicky Lyon, Commission Member
Canda L. Dimick, City Clerk

Excused: Curtis Waisath, Commission Member

Guests: Katie Hatch

Meeting was called to order by Neil Anderson, Commission Chair.

Approval of Minutes:

Motion was made by Fred Hinz and seconded by Vicky Lyon approving the June 25, 2018 minutes as transcribed. All voted aye, unanimous.

Lot Split – Rick Hatch

Katie Hatch, Ricky Hatch's wife, was in attendance to explain their desire to split their parcel of property to allow for the development of two structures and also resolve an encroachment situation. The neighboring property on the west side of the parcel is encroaching upon their property by four feet (4'). The overhang of the neighbor's porch and fence are encroaching. The Hatch's are trying to sell the encroachment property to the neighbors. Location of the lot split is where the fence line exists. Hatch would like to split the rest of the parcel so that they could build two structures. Each parcel would be 73' wide. The depth of each parcel would stay the same. Lot 16 will need to be split to develop the two parcels. Katie reported that they will have Gem Valley Survey complete all the legal documents as required. The lot split will comply with zoning area requirements. It was questioned how the neighboring property got to build without a survey. A survey is not a building requirement. Commercial set backs were questioned. Set backs are only required in commercial zones for driveway approaches to address safety vision impairments and residential uses are set back to line up with the other residential structures on the block. The maximum curb cut is forty (40) feet for a commercial use. Safety concerns regarding the proposed parking lot perpendicular to West Main and traffic backing into the street were expressed. The steep hill slope and location pose traffic hazards. Katie reported that they were looking at a driveway off of Main Street connecting to the parking lot instead of the plan presented. The two structures will not have garages. Katie was informed that the driveway

approach will have to have at least twenty feet (20') of clear visibility before entering Main Street. The first structure will be a duplex and they plan to live in one of the units. They have not decided if the second structure will be another duplex or a larger single family dwelling. Off street parking for vacation rentals is currently one off-street parking space for every two bedrooms. An ordinance has been drafted, with plans to adopt in the near future requiring one off-street parking space for every bedroom. If calculations are right, each building site would be around 8,000 square feet. Motion was made by Fred Hinz recommending that lot 14 be split to subtract for the proper footage to be sold to the neighbor, approximately four (4) feet, and that the rest of the five lots be split in half, seventy-three (73) feet in each parcel. Discussion followed regarding possible delays with selling the encroachment property to the neighbors. The estimated amount that the encroachment property is worth is between \$2,500 and \$3,000. If the neighboring property owner does not purchase the encroachment parcel (4' x 110'), the one parcel will be slightly larger. Once the City Council approves the Planning & Zoning Commission's recommendation, then the City will issue a letter acknowledging the lot split that Hatch's can take to Bannock County. City Clerk was asked to read motion to commission from notes. Motion was seconded by Vicky Lyon. All voted aye, unanimous. Katie reported that they have a land loan and the banker was pretty upset with the encroachment issue. Neil Anderson questioned if the line between lots 18 and 19 has been surveyed because there is a current existing landscaping encroachment there. Katie reported that the line has been surveyed and they talked with the neighboring property owner before the purchase and there are no problems there. Katie was informed that the City Council will meet to consider Planning & Zoning's recommendation on August 9th at 5:30 pm.

Building Code Ordinance:

The ordinance draft proposing adoption of the 2015 International Codes was presented. City Clerk noted that the changes to the ordinance are typed in red. The copies of the proposed ordinance in the commission's packets were not color coded. Time was taken to run colored copies for each member. The proposed ordinance is being drafted similar to the provisions of Bannock County's Building Code Ordinance. Changes to Section 4 – Applicability was read. The Building Code Ordinance shall apply to all properties within the corporate limits of the City of Lava Hot Springs, Idaho. Bannock County has deleted the last sentence from the previous ordinance that read "The erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment use, height, area and maintenance of all buildings upon the land shall conform to all regulations set forth in this Ordinance. Commission members saw merit in leaving the sentence in Section 4 as previously worded. Changes made in Section 5 – Permits Required were brought to the Commission's attention. The building Official or his or her designee may grant building permits, in accordance with the City of Lava Hot Springs Building Code and Zoning Code Ordinances. It was questioned if permits for agricultural buildings needed to be listed as the city has no agricultural zone. Commission members felt that

it should be listed for possible future needs. Commission agreed to strike the wording from the previous ordinance and to word Section 5 – Permits Required like Bannock County’s Ordinance “No permit shall be granted unless the work applied for is in conformance with the codes set forth herein. No work including site preparation, erection, construction, enlargement, alteration, repair, move, remove, demolition, convert, occupancy, use equipment or agricultural building can be placed prior to obtaining a permit. No permit shall be granted unless the work applied for is in conformance with the codes set forth herein.” Section 8 – Adoption of Codes: (B) addressing the appendices of the International Building Code, 2015 addition were reviewed. The majority of the appendices relate to electrical and plumbing codes that are enforced and governed by the State of Idaho. Bannock County does not adopt many of the appendices. In the past the City has adopted the appendices relating to swimming pools. Discussion followed regarding existing swimming pools that currently do not have fencing barriers. City Clerk will run copies of the appendices for Commission members before any recommendation is made. City Clerk will research the publisher for the 1997 Uniform Abatement of Dangerous Building Code and insert info into the ordinance. Section 9 – Fees was reviewed. The fees are always established by resolution rather than ordinance so that they can be easily amended and no publication is required. The city uses the formula that the State Division of Building Safety provides to calculate fees. City Clerk will get the exact wording for the fee calculation from the State to insert into the ordinance. The State currently charges a fee for plan review. The City is currently going through a public hearing process to enact a plan review fee. The plan review fee is forty (40) percent of the building permit fee. Section 10 – Additional Fees was reviewed. City needs to review additional fee schedule with State. It was questioned and explained that the State building inspector does all plan reviews and modifications. Section 11 – Manufactured Homes provisions needs to be compared to the City’s flood plain ordinance provisions. City Clerk reported that she has not had time to compare the ordinance. Commission members were asked to compare provisions in the ordinances. The Commission has talked about bonding requirements in the past. Bannock County has provided bonding provisions in their ordinance. Section 12 – Bonding Requirements for Single Family Residences and Moved Buildings and Section 13 Bonding New Residential Construction where an approach cannot be finalized before final inspection and issuance of the Certificate of Occupancy provisions were reviewed. Bonding is a guarantee that the work will be completed. Commission members were encouraged to closely read the provisions to determine if the city should enact them or not. It was mentioned that there have been concerns expressed regarding projects that have seemed to come to a halt. An example was the footings on a parcel on West Elm Street that have never been built on. Commission members needed more time to research before making any decisions. Section 14 – Electrical Connection provisions were reviewed. The provisions as worded will require exempt structures under two (200) hundred square feet in the residential zones and one hundred twenty (120) square feet in the commercial zones to obtain a zoning permit so that the structure is documented. The provisions in the zoning ordinance regarding permits need to be reviewed. There are provisions in the zoning ordinance that restrict placement of exempt structures. They

must be placed in a rear yard. Requiring a zoning certificate would document the placement of the structure. No decision on the exempt structure certification was made. Section 15 – Driveway and Private Road Requirements were reviewed. City Clerk will present provisions to the Fire Chief to make sure that they are acceptable. Section 16 – Appeal of the Building Official or City Engineer Decision provisions were reviewed. The City Council is the appeal body. The City does not have a designated city engineer but at some point the City may contract with one. Appeals filed would be against the building official's decision. Notice of appeals need to be filed at City Hall and not with a City Engineer. Not more than thirty (30) days following the notice filing, the City Council shall meet to consider the appeal. The Commission agreed that the appeal process should be worded like the appeal provision in the City's zoning ordinance. The Building Official shall take immediate action in accordance with the decision of the City Council. Section 17 – Enforcement and Penalties provisions were reviewed. The penalties have always been misdemeanors in the past. Bannock County has included an infraction provision. It was questioned how a violation can be an infraction and a misdemeanor. Each day that an offense occurs is a separate offense. Neil Anderson expressed that he does not see any problem with keeping the infraction and misdemeanor provisions as written because some violations are not as serious as others. A violation that can be corrected within a day should be an infraction. A refusal to correct a violation should be handled as a misdemeanor. City Clerk will get a legal opinion from the City Attorney to clarify the enforcement and penalties provisions. Section 18 – City of Lava Hot Springs Amendments to the 2015 International Building Code were reviewed. Provision 101.4.4 deletes the property maintenance section from the code. There is an International Property Maintenance Code that the City could adopt. Vicky Lyon questioned if maintenance of property is addressed in another section of the code or ordinance. The City adopts the International Existing Building Code that governs the repair, alteration, change of occupancy addition to and relocation of existing buildings. The City also has an ordinance addressing weeds and fire hazards. Bannock County's Ordinance changes to provision 102.6 addressing existing structures were reviewed. The International Code reads "The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as otherwise specifically provided in this code, the International Existing Building Code, the International Property Maintenance Code or the International Fire Code. Bannock County has deleted the wording and replaced with the following: "The legal occupancy of any structure existing on the date of the adoption of this code shall be permitted to continue without change, except as is specifically covered in this code, or is deemed necessary by the building official for the general safety and welfare of the occupants or the public. City Clerk questioned if the specific codes need to be referenced. Commission supported Bannock County's wording for 102.6. Deleting International Building Code provision 104.8 regarding liability was discussed. The provision protects the building official, member of the board of appeals or employee from personal liability. Commission members questioned why Bannock County deleted the section and desired to seek legal opinion on the code provision before deleting it. Requiring surveys for all new construction was discussed and supported by

the Commission. A provision requiring surveys will be included in the building code ordinance. City Clerk questioned if surveys are required for fences. Vicky Lyon stated that once the property is surveyed for a new house it shouldn't have to be resurveyed to install a fence or build a shed. All four corners of properties should be established by survey. A survey protects the property owner. Errors and omission policy for decision making bodies are insured under the City's ICRMP policy. Bannock County did not delete Section 104.8.1 regarding legal defense. City Clerk will have City Attorney review both 104.8 and 104.8.1. International Building Code provisions of 105.2 – Work Exempt from Permit were reviewed. Bannock County has exempted prefabricated swimming pools 48" deep. The Code exempts prefabricated pools less than 24", do not exceed five thousand (5,000) gallons and are installed entirely above ground. The Commission felt that there were safety issues with the 48" depth and preferred to follow the International Code as written. Hot tubs should be permitted and all commercial hot tubs should be protected with barriers. Bannock County exempts flag poles. The Commission has already decided to require permits for all flag poles over twenty-five (25) feet high. The purpose of the flag pole permits are to address proper installation procedures so that the pole does not fall over and damage neighboring properties. The International Building Code exempts one-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed one hundred twenty (120) square feet. Bannock County has amended the accessory structures to exempt up to two hundred (200) square feet and no higher than twelve (12) feet. The City has been permitting accessory structures to be two-story (not more than twenty-five feet) high. The one hundred twenty square feet limits the use of the accessory structure. The Commission supported keeping the wording for the one-story detached accessory structures as written in the International Building Code. City Clerk proposed to change provision 105.2 to amend the International Building Code work exempt from permit as follows and then list exemptions. Commission agreed. The International Building Codes states that swings and other playground equipment, detached are exempt from permits. Requiring permits for attached swings and playground equipment were discussed. The Commission agreed to exempt swings and other playground equipment whether they are attached or detached. Bannock County deleted International Building Code provision 105.2.2 regarding repairs. The provision reads as follows: "Application or notice to the building official is not required for ordinary repairs to structures, replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles. Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electrical wiring or mechanical or other work affecting public health or general safety." The Commission expressed that they felt that the provision is logical and did not wish to delete it. The provision controls repairs from turning out to be additional construction. International Building Code

105.3.2 regarding Time Limitation of Application provision was reviewed and read. The Commission agreed to leave the provision as written in the International Building Code for uniform enforcement since the City has contracted with the Idaho Division of Building Safety for building plan review and inspection services.

Other Business:

It was noted that the City had received and commission members were aware of the public notice from Bannock County Planning and Development Services regarding Stony Yakovac's three parcel, residential home site, subdivision proposal which is located outside of the city's impact area west of city limits along Highway 30.

Schedule Next Meeting

Next regular meeting is scheduled for August 27, 2018 at 6:30 pm, Lava City Hall.

Adjournment:

Motion was made by Fred Hinz, Commission Member, and seconded by Vicky Lyon, Commission Member, to adjourn. All voted aye, unanimous. Meeting adjourned at 8:20 pm.

Transcribed by:

Signed:

Canda Dimick, City Clerk

Neil Anderson, Commission Chair