

Minutes of the Regular Meeting of the Lava Planning & Zoning Commission of the City of Lava Hot Springs, Idaho held Monday, May 20, 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  
Vicky Lyon, Commission Member  
Canda L. Dimick, City Clerk

Guests: David Pearson, Richard Guthrie, John Taylor, Kaden Taylor, Afton Diane Beckstead and Randy Benglan.

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

### **Approval of Minutes:**

City Clerk is still working on minutes. No minutes were presented for approval.

### **Parcel Split – Lava Mobile Estates & Campground – Richard Guthrie**

Richard Guthrie presented a map showing the boundary property lines of the parcel he desires to split. He would like to break the North portion of the parcel where the trailer park is from the south portion where the campground is. The divider line would be North of Hwy 30 which runs through the parcel. The parcel has one tax number. The campground and trailer park have separate addresses and services. Richard reported that the trailer park/campground is separated into three different parcels on record now. One parcel is where the stick built house is on the west side of the park and the other is a parcel on the east side of the trailer park. City limits run along the west side of the trailer park. Neil Anderson questioned future development/expansion plans. Richard stated that the acreage of the parcel does not add up; there is supposed to be seven acres in the trailer park and four acres where the campground is. Richard stated that they do not have any plans to change anything; they just want to separate the uses in case they want to do something with one and not the other. He mentioned possibly having his daughter take over one. The parcel split will need to be surveyed. Richard is willing to survey and plans to hire Gem Valley Survey if the commission favors his proposal but does not want to spend the cost for the survey if the commission sees any reason the split would be denied. Commission members can't see any problems with the request. Richard will proceed with survey and will bring the survey plat back to the commission for consideration. City Clerk mentioned that one issue that was brought to her attention is that one water meter services both uses and that the city's

ordinance does not allow joint connections. Richard will look into the possibility of installing a meter for the campground below the road. He stated that currently they are not using any city water at the campground that they are utilizing a private well. Richard will address the water meter situation before going to the cost of a survey. Matter will be brought back before the commission.

### **Approval of Minutes:**

Motion was made by Fred Hinz, Commission Member and seconded by Curtis Waisath, Commission Member to table the minutes. All voted aye, unanimous.

### **Public Hearing – Diane Beckstead variance to build a one (1) car attached garage on North side of property and an eight (8) foot porch along east side of property.**

Motion was made by Fred Hinz, Commission Member and seconded by Lisa Toly, Commission Member to open the public hearing. All voted aye; unanimous.

City Clerk presented staff report. Public hearing notice was published in the Idaho State Journal on May 5, 2019. Mailings were mailed to property owners/residents within 300' of exterior boundaries on May 6, 2019. Regular mailings were mailed to all property owners/residents within the zip code area. Certified mailings were mailed to all property owners/residents outside of the zip code area. Mailing to Jennifer Stewart was returned undeliverable on 5/14/19 and re-mailed by regular mail that same day then followed up with a certified mail on 5/16/19 because address is outside of the zip code area. Certified return address notices have been received from everyone except the following: 1) Layne McFarland – Tracking shows that letter has been out for delivery since May 9, 2019, 2) Century Link – Tracking shows that letter has not been claimed and will be returned on May 23, 2019, 3) Charles Ray Evans Estate – Tracking shows that letter was delivered today at 2:31 pm, 4) Jennifer Stewart – Tracking shows that letter is available for pickup. Sign was posted with the notice of the public hearing on site May 13, 2019.

Diane Beckstead, Applicant was asked to make a presentation on her variance request. Diane explained that she recently placed a double wide mobile home at 165 South 3<sup>rd</sup> West and that somehow between her and the excavator the house was not set according to the site plan. She reported that she would like to construct a one (1) car attached garage on the North side of her house and that she has talked to Rocky Mountain Power and feels that she has adequate space to maintain the twelve and one half (12 ½) feet clearance from the power pole as required. Diane explained that the porch will be all the way across the front of the mobile home with a roof and pillars and that improvements will be appealing. Fred Hinz questioned the distance from the city right-of-way to the front of the proposed porch. Distance will be twelve (12) feet. Curtis Waisath questioned the allowed set back from the alley. The Commission has established a ten (10) foot allowable set back from the alley for a garage if the garage access is not off of the

alley. If access is from the alley the garage must set back twenty (20) feet. Diane is asking for a four foot variance from the alley to include eave overhang. The garage gable will slope the same direction as the house. Neil Anderson, Commission Chair, reported that he visited the site and that before he makes a decision on the variance he would like Rocky Mountain Power's approval. Diane reported that she has spoke with the power company twice and that she will have her contractor work with the power company to make sure the garage does not interfere with the power pole. The clearance concern is not only with the power pole but also with the overhead lines. Diane mentioned that the power company has told her that she can have the pole raised for six thousand dollars (\$6,000) which she is not willing to pay. The power company is concerned with access for their boom truck. Diane stated that if need be she would install a retaining wall along her property line to give the power company easier access to the pole. Curtis Waisath, Commission Member, can't see any problems. Diane assured the commission that she will not attempt to build a garage until everything with the power company is worked out. Lisa Toly, Commission Member questioned clarification on the note on file that states Jim Burton notified City Clerk on May 10, 2019 that twelve (12) foot clearance must be maintained. City Clerk reported that the clearance has to be maintained from pole and overhead lines. Diane explained that the power company representative that met with her explained that the power lines were extended to prevent birds from being electrocuted. City Clerk reported that the porch across the front does require a variance. The set back requirement from the street is twenty (20) feet. The front porch will encroach into the front yard eight (8) feet.

#### OPPOSITION INPUT RECEIVED IN WRITING:

Email from Dave Ramsey was read for the record. "To Whom It May Concern: Regarding the application for a variance on Lots 18-20, Block 11 Parcel# RLAH 3003902. At the present time, I would oppose this application. I will be in Lava within the next two weeks and would be better suited to make a final opinion then." Diane Beckstead questioned Dave Ramsey's opposition and location of his property in relation to hers. The Commission explained that Mr. Ramsey's lots are west of hers. Mrs. Beckstead would like to meet with Mr. Ramsey if it is possible. She would like to know what he is objecting to.

#### OPPOSITION INPUT WHO WISHED TO TESTIFY:

Greg Stevens stated that he does not have a problem with the variance. He objects because he was before the commission a year ago asking for the very same thing and was turned down. He stated that he had to push his garage that he put up all the way behind his house where he didn't want to place it at the time but appreciates the commission for their decision now. He is happy with the location. Greg stated that he can't believe that the Commission is going to allow something now that he was refused. Vicky Lyon, Commission Member, asked Mr. Stevens to refresh her memory on Mr. Steven's proposal and the reason for the commission's decision. Mr. Steven's explained that he paid ten thousand dollars (\$10,000) for his garage and he purposely had to cut three (3) inches off of it because he was told by the City Code

Enforcement Officer that the garage couldn't extend out towards the street any further than his house. Mr. Stevens was thanked for his input.

Vicky Lyon, Commission Member, recommended reviewing the minutes from the meeting regarding Mr. Steven's garage situation and to obtain information in writing from the power company clarifying what meets the twelve (12) foot clearance before a decision is made. Commission discussed continuing public input or closing the hearing.

Motion was made by Vicky Lyon, Commission Member to close the public hearing and to table any decision until the commission has gotten further information. Curtis Waisath, Commission Member seconded the motion. All voted aye, unanimous.

Mrs. Beckstead will contact the power company tomorrow and get the City the clarification in writing and submit it to the City Clerk. Mrs. Beckstead asked if she could commence construction on the porch. Commission advised Mrs. Beckstead not to start any construction until after a final decision is made and a variance is granted.

Greg Stevens questioned why the city doesn't vacate all alleys because he feels nobody maintains them or uses them. Commission members explained that alley's are platted for utilities and secondary access and also provide an alternative access for emergency services.

Mrs. Beckstead questioned time frame on when the commission will meet to make a decision on her variance. Mrs. Beckstead asked the commission to consider scheduling a special meeting so that the Commission's recommendation can be sent to City Council for final decision at their June 13, 2019 regular meeting.

**Proposed RV Park Development/Annexation, S21-T9S-R38E TR SW4SW4 TAX 43 4.81 ac  
– Shawn Welch, Onwer**

David Pearson, was in attendance representing Shawn Welch. He presented packets of their development plans to commission members. The property is historically known as the McNeil property outside city limits south of Rock Mountain Power. The need for a Comprehensive Plan map change was discussed. The map bound in the City's Comprehensive Plan shows the area as medium density residential. Mr. Pearson brought it to the Commission's attention that the City's Comprehensive Plan map available online, on the city's website, shows the area commercial. Color codes from the online version were reviewed and it was clarified that the area on the conflicting map shows residential/professional. Mr. Pearson felt that residential/professional would put Rocky Mountain Power in the wrong kind of zoning. Rocky Mountain Power could be considered a professional service. A residential medium density zone within city limits is an R-2 zone. It was noted that the discrepancy issue with the maps will need to be researched. Mr. Pearson stated that the concept plans are to give commission members an idea of what they are proposing and that they realize that public hearings and notifying neighboring property owners

will be required and the normal process. Mr. Pearson explained that he is the contractor that will be putting everything together for Shawn Welch. He will be doing the footwork and design plans for the development. The existing house is not changing except for updating it. The property is in bad need of love and that is what they are currently doing. Plan is to convert the existing barn into an office complex for check ins and check outs. Existing city water and sewer services the McNeil Cabin. The sewer line from the house runs down towards the barn and then out towards the parking area. An ADA bathroom will be constructed in the barn/office complex. The barn is two stories. Upstairs will be used for storage with no public access. A kitchen will be added off the backside of the barn for onsite catering services for weddings, family reunions, etc. The cooking facilities may be rented. A pavilion will be constructed west of the barn. The pavilion will have walls with a double sided gas fireplace and accommodate thirty (30) to forty (40) people. Shawn plans to build herself a house west of the McNeil Cabin and will be letting her sister use the McNeil Cabin. Mr. Pearson stated that the back four (4) acre parcel on the west side is a rough area to build on and may be utilized for urban farming/commercial gardening. Retailing gardening may require commercial zoning. Professional businesses are normally offices that provide professional services, like engineering, medical, etc., and operate Monday through Friday, 9 am to 5 pm. Mr. Pearson stated that they want to be up front with all their ideas and plans. He also mentioned that he may build himself a vacation home and possibly one for his son. The development will require parcel splits. Rocky Mountain Engineering will be assisting with developing plans. The proposed development will be multi use: commercial, residential and commercial agricultural. The first thing that needs to be done is verify the comprehensive map and proceed with a public hearing on a map change to accommodate the uses proposed, then proceed with a public hearing for annexation. The Commission expressed appreciation for entertaining the commission's input on initial ideas and plans. Mr. Pearson commented that he understands that the City is working on a water project and that the City will probably have concerns regarding the developments water consumption impact. Mr. Pearson foresees right now one water line servicing the existing house, and paying for another connection to service Shawn's new house connected off West Fife Street. Lisa Toly, Commission Member, suggested proceeding with a parcel split through Bannock County before applying for any additional water service. The existing barn sits on two parcels. Plan is to move the parcel line over so that RV park, office complex and pavilion is all on one parcel for financial reasons. Mr. Pearson is currently working with Rocky Mountain Engineering to determine water consumptions and water line service size needs. A two (2) inch water service is anticipated. Engineer is concerned with pressure loss. Easements and right-of-ways for utilities and access(s) to homes will need to be platted. Mr. Pearson questioned if the City would require developing Fife Street further West and extending water and sewer mains in anticipation of future development on the hill owned by Lava Estates, LLC or would the city permit the access as a private drive. Commission members stated that the road development and extensions will needed to be considered latter based on development impacts. The proposed RV Park will be approximately five (5) acres and will ingress/egress through a single entrance off of South 6<sup>th</sup>

West. There will be twenty-five (25) spaces. Spaces are thirty-five (35) feet wide which will give an eleven (11) foot grass area between spaces where there will be privacy shrubs and a ten (10) foot concrete picnic area with a BBQ grill. There will be no fire pits. There will be fourteen (14) pull through spaces along the Rocky Mountain Power fence. The spaces will be the same size but RV's will have to be backed in. All the ingress and egress will be through one approach. Mr. Pearson stated that an additional approach can be constructed along the Rocky Mountain Power fence if required. The reason for one approach is that it makes it easier to control park guests. The road widths through the park will be twenty-four (24) feet wide. The corner radius will be twenty (20) feet to accommodate fire trucks and larger vehicles. They will be working with Rocky Mountain Power to develop a privacy screen fence with trees between properties. Probably one hundred twenty (120) trees will be planted along the fence line and then in the middle of the park there will be shrubs and native trees to keep the character of Lava. Developer would like to see a City preferred tree list or recommendations from the Commission. The park will be more like an RV resort. Each pull through area will have additional parking on the side to accommodate guest vehicles, boats, etc. Each space will have its own electrical, water and sewer hookups. There will be a walking path around the park for guests and also anyone in the neighborhood to use. The path along the backside of the parcel, between where the privacy fence is on the plans and Rocky Mountain Power's fence will serve dual purposes for maintenance and utility easements. The path surface will be two (2) inches of asphalt. Plan right now is to operate during the summer season, not year around unless guests demand it. Snow removal will need to be addressed if operating year around. Comments were made about need for a parking garage development within city limits. Developers are also thinking about renting bicycles. An overflow parking area will need to be developed for catered events. Overflow parking could be developed by the proposed home sites. Property owners want the City to know that they want to be good neighbors and they want their property to be annexed. City limits border the property on two sides. Mr. Pearson stated that he has worked with the fire department to design a remodel of the fire station in the past but funding was never approved and that he understands that the department may be thinking about possibly moving or expanding to a larger location and if that happens they would be aggressive to buy the city's property to develop an alternative access. Commission members were supportive of the concept plan and ideas. Mr. Pearson will get plans in place and bring them back before the commission for an official decision.

### **Sewer and Water Main Extensions to Residential Development (South 1<sup>st</sup> and 2<sup>nd</sup> West Street) – Randy Benglan**

Randy Benglan presented an aerial map showing water and sewer main extensions for the development of four (4) residential sites on ten (10) city lots between South 1<sup>st</sup> West and South 2<sup>nd</sup> West near the Lava Elementary School that he has under contract to purchase. He mentioned that he is approaching the Commission for preliminary approval for the water and sewer main

extensions as proposed on the plan. The ten (10) lots are currently separated into three parcels. A parcel split will need to be considered to create four residential sites. Lisa Toly, Commission Member questioned the location of the private service lines and location of hookups. Randy explained that the solid lines on the map are main lines and the dotted lines are private service lines. Lisa Toly, Commission Member, mentioned that the private service connections can't be in the middle of the city's right-of-way. Property owners are responsible for their service lines. A main sewer line would need to be installed through the alley. State standards require main lines based on the number of hookups connected to the line. Randy reported that he met with Tony Hobson, City Maintenance Supervisor, and they discussed options of installing a sewer main down the alley and also installing separate private service lines down the alley and that Tony was ok with the private service line option as long as DEQ approves. Randy discussed both options with his engineer and he prefers to install individual private service lines for cost purposes. Plan shows individual private water service lines installed in a ten (10) foot public utility easement on private property along the north side of the lots. All water meters will be on property line. Property owners will be responsible for the entire private service lines. Water meters will have to be located on South 1<sup>st</sup> West and South 2<sup>nd</sup> West Streets. Fire protection concerns were addressed. Developer will be installing a new fire hydrant at the developer's expense on South 2<sup>nd</sup> West. Street development plans for access and fire protection was questioned. Randy stated that he doesn't plan on developing any street and that the four homes will access off of the existing alley. It was questioned how fire protections works for structures with only an access off of the alley. Alleys are not as wide as streets. The portion of the platted street south of the lots will not be developed. Curtis Waisath, Commission Member, commented that with the public utility easement along the alley that the width of the access would be thirty (30) feet. Randy stated that the easement is for public utilities, no road. Widening the alley was brought up at the last meeting. Randy stated that other new developments like Alpaca Inn and Evelee's motel have access off the alley. The Alpaca property adjoins a developed street, East Elm Street. Randy expressed willingness to work with the Commission and respond to concerns. Concerns were expressed that if there was a fire on the backside that it would difficult to access because the lots would be land locked. Randy asked if the main concern is fire protection. Lisa Toly, Commission Member, expressed concerns with granting easements for private service lines through a city right-of-way and recommended that Randy check with the State Building Inspector on requirements. Randy is willing to research the private service line issue for the Commission. Randy explained the preliminary plat approval process. It is his understanding that once he gets preliminary plat approval from the commission and city council, then he has to get engineered plans that will address all concerns. Extending the sewer main from Merle Street at one location depending on the gravity of the flow and running a main down the alley rather than extending sewer mains from both Merle Street intersections was suggested as an option to consider. Installing the main line down the alley would eliminate the private service line concerns. Randy suggested that if it is just a question on what he can do that if he could get preliminary approval for both options and take it before City

Council pending approval and then take it to the engineer and have the actual plans engineered. Commission members did not feel that they could make a recommendation on the preliminary plans. Randy understands that the process he has to go through is preliminary and then final and that if he can get preliminary approval on the two proposed designs then he can pay for the engineering and present an actual engineered plan. Commission expressed hesitation on approving anything with all the unknowns. It was questioned if the City can change the use of an alley to a main access. The City's zoning ordinance defines the use of an alley. Obtaining support from neighboring property owners by personal contact or public hearing process regarding the primary access proposal off the alley was suggested. Randy reiterated that other new developments that have been approved have primary access off the alley and they have more traffic volume. Commission members responded that those developments are in a commercial zone not a residential zone and that the use of the alley was not changed. Randy felt that constructing a street south of the lots would take away from the development. Vicky Lyon, Commission Member explained that the development of the portion of the street south of the lots would add to the cost but it would keep in step with the rest of the town. The proposed house design was presented. Vicky Lyon, Commission Member, mentioned that when the property owners north of the alley bought their house that they bought it with the assumption that the alley wouldn't become a primary access. Several property owners access their properties from the alley. Randy stated that he is not requesting the change of use of the alley that he is only requesting access to the homes through the alley which is done in a lot of places. It was mentioned that John Taylor, who was in attendance, accesses his house through an alley. Randy understands the commission's concern and is hoping that things can be worked cooperatively out. There is a housing shortage in town and he would like to add some new homes. Randy explained that if he has to develop a street, the development would be cost prohibitive. Cutting in a fire break along the South side was mentioned as possibly a solution to look at. Randy was asked if he plans on paving the alley and he stated no. The Commission expressed the need for more time to research and review codes before making any decision. Randy mentioned that his engineer has seen residential developments access off of an alley but they have to obtain the city's permission to do it. The commission would like the fire department to sign off on the plans, obtain insight from DEQ and state building inspector on proposed water and sewer mains and possibly checking with lending agencies on mortgage stipulations on homes with no access off of a street. Randy questioned if the alley access issue becomes only a city decision if the commission would be for or against it. Commission members stated that it would be based on the Fire Chief's recommendation. Randy stated that if the fire department's position looks good and DEQ looks good on principle the commission does not have any objection to accessing the homes off of the alley. Vicky Lyon, Commission Member stated that she wants the input from the neighboring property owners as well. Randy agreed to work on variables and report back. The Fire Chief will be asked to put together a letter.



### **Solar System – John Taylor**

John Taylor informed the commission that he has had a salesman convince him on installing a solar system so he talked with the City Clerk about getting a permit to install it and found out that the city ordinance does not allow solar system uses yet so he is in attendance to see what is needed to push something through. Neil Anderson, Commission Chair, reported that the commission is in the process of amending the ordinance to permit solar system uses. Mr. Taylor mentioned that timing is an issue for him because of the federal tax rebate that is supposed to drop next year. The rebate is mandated to drop three (3) percent but that could be extended. Mr. Taylor plans on installing the system himself and he doesn't want to be installing solar panels in December. City Clerk reported that she prepared the proposed ordinance amendment that is before the commission from provisions pulled from the zoning ordinance draft that they been working on. The ordinance amendment allowing solar systems could proceed with public hearing if recommended by commission and approved by the city council. The Commission discussed revising the definition in the ordinance. In the definition it states that all ground mounted systems shall meet all required dimensional standards for accessory structures. The Commission agreed to delete dimensional from the sentence and to require all ground mounted systems to meet all required standards for accessory structures. The proposed ordinance amendment permits solar systems in all zones. Motion was made by Lisa Toly, Commission Member and seconded by Fred Hinz, Commission Member to send the proposed ordinance amendment onto City Council as revised. All voted aye, unanimous.

### **Parcel Split – Lots 1-6, Block 9, W.J. Fife's Addition to Hall City – John Taylor**

John Taylor addressed his desire to split off two (2) lots from the six (6) lots parcel that he owns to have a separate parcel to build a home on. The area requirement for a home in the middle of a block is five thousand five hundred (5,500) square feet. Setbacks will be required. Motion was made by Curtis Waisath, Commission Member and seconded by Fred Hinz, Commission Member to recommend approval of the lot split to City Council. All voted aye, unanimous. Mr. Taylor is working on design plans and expressed concerns with height restrictions. He wants the house to match the house that he lives in and is working on a design similar to the A-frame recently built on West Fife Street which he understands had a hard time with meeting the twenty-five (25) foot requirement but was able to make modifications to comply. The height of the house design he is working on is twenty-three (23) feet to peak but with a walk out basement and the slope of the lot he is having a hard time complying with the twenty-five (25) foot requirement. Mr. Taylor mentioned that the ordinance is confusing because it reads that the height regulations is not to exceed two and one-half (2 ½) stories or twenty-five (25) feet. The home that he proposes to build will not exceed two and one-half (2 ½) stories. The new home will not be as high as his existing home. The Commission will need to look at the building plans before making any decision. Commission members recommended Mr. Taylor to survey lot lines before building. He stated that he is working with Gem Valley Survey. Mr. Taylor will continue

working with his drafters. The measuring point for determining height of structures on sloped lots was questioned. City Clerk explained that in the average height is measured from finished grade from the center of all four sides and divided by four.

**Other Business (Comprehensive Plan Map):**

Comments regarding the comprehensive plan map issue were voiced. City Clerk will research issue and report findings.

**Schedule Next Meeting**

Commission discussed scheduling a special meeting to accommodate Mrs. Beckstead's variance request. Fred Hinz will contact Dave Ramsey to see when he will be in town and let the City Clerk know. As soon as the City Clerk gets the information from Mrs. Beckstead she will contact the commission and a special meeting will be scheduled. The next regular meeting will be held June 24, 2019.

**Other Business (Candidate for Commission):**

Fred Hinz mentioned that Jim Page is willing to serve on the commission when a vacancy opens.

**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 8:38 pm.

Transcribed by:

Signed:

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Canda Dimick, City Clerk

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Neil Anderson, Commission Chair