

FREMONT COUNTY PUBLIC HEARING

Date: November 9, 2010

Time: 2:00 pm

Location: Fremont County Annex Building

Attended by: Commissioners Paul Romrell, Skip Hurt, and Lee Miller

Also attended by: Clerk Abbie Mace, Deputy Clerk Cathy Conger, Hearing Officer Blake Hall, Prosecuting Attorney Joette Lookabaugh and Interim Planning and Building Administrator Stephen Loosli

Commissioner Romrell called the hearing to order at 2:02 p.m. and welcomed the public.

Commissioner Romrell introduced those in attendance.

Hearing Officer Blake Hall

Mr. Hall welcomed everyone. He stated that this is the time and place for the hearing for River's Edge Subdivision per advertised. The property in question was posted with notice of the hearing. The appropriate parties were given written notice of this hearing. This meeting is appropriate in publication. He explained that the public comments will be kept to five minutes each. He will give a signal as they get down to one minute. Mr. Hall read through the sign in sheet for those in attendance.

OPENING COMMENTS:

Mr. Lee Radford (420 Memorial Drive, Idaho Falls, ID)

Mr. Radford is representing the developers. He referred to the Amended Findings of Fact and Conclusion of Law which is public information. Mr. Radford reviewed the history of the case and how this arrived at today's meeting.

Mr. Radford presented Exhibit 1 River's Edge Proposed Settlement (2 pages).

Mr. Radford explained the process that the developers will go through in securing a park, recreational trails, access to the river and a scenic overlook for that area.

Mr. Hall asked Mr. Radford what he believed the outcome would have been if the Fremont County Commissioners had not appealed to the Supreme Court. Mr. Radford responded that they believe the county would have had to approve the application and subdivision as it was originally prior to these modifications. Additionally the county would have had to pay the developers attorney fees as was ordered by Judge Moss.

Drake Munson (4194 Sunset View Drive, Salt Lake City, UT)

Mr. Munson thanked the commissioners for their time and effort on this project. He presented information on the modifications to the subdivision. Mr. Munson reviewed what currently exists and what the modifications would bring to that area. Mr. Munson explained that the area does not have

adequate parking for fisherman nor does it have effective access to the river. The scenic outlook that he is proposing would be a permanent fixture as would the park and recreational trails.

Mr. Hall questioned Mr. Munson about the parking area and the maintenance of the area. Mr. Munson clarified that the property would be deeded to the county however it would be maintained by the homeowners association.

Paul Fitzer (950 West Bannock, Boise, ID)

Mr. Fitzer is representing the county on this issue. Mr. Fitzer explained what can be discussed in the hearing today as per Judge Moeller's decision. He stated that the moving of the road is not something that can be discussed in today's hearing as it has no part in Judge Moeller's decision. His understanding is that the only items to be discussed are the modifications to the subdivision – the park, scenic overlook and recreational trails.

Mr. Hall asked Mr. Fitzer to answer the same questions that he had asked of Mr. Radford. Mr. Fitzer agrees that if the county had not appealed the decision the county would have had to approve the plat as it was submitted.

Mr. Fitzer continued to state that the public did not intervene at any juncture of the appeals. The purpose of this hearing is to discuss the proposed settlement. A waiver of attorney fees was also part of the resolution. The waiver of attorney fees has no impact on the subdivision plat. The original plat as the proposed settlement was modified with the public park and that is what will be heard on today.

PUBLIC COMMENT:

Mr. Hall stated that the comments are to be pertinent to the modifications from the original plat to the proposed plat.

Mr. Radford referred to the relocation of the road within the modifications presented.

Paul Bowen (2893 W 6960 S, Rexburg, ID) In favor of the development.

Mr. Bowen believes that the modifications from the developer will be a huge improvement. The road is not currently safe.

Jim Dalton (2880 N 55th W, Idaho Falls, ID) Opposed

Attorney Dalton is representing Natural Guardian and Frank Vandersloot. He believes that the posting of the hearing was not done correctly. Their primary objection is the relocation of the road. He believes that this modification is a new subdivision. He believes that with this significant modification the board should reconsider the whole application.

Mr. Hall questioned the publication of this hearing. Clerk Mace stated that a typographical error on the notice stated the wrong date but that it was actually published on October 26th which would comply with the 15 day requirement.

Mr. Hall questioned Mr. Dalton if his clients disagree with Judge Moeller's decision to have another public hearing. Mr. Dalton reiterated that they believe the change is significant and should be remanded back to Planning and Zoning.

Mr. Hall questioned if Mr. Dalton's clients feel that the modifications are beneficial. Mr. Dalton stated that his client feels that this creates a safety concern.

Mr. Hall questioned if Mr. Dalton's client understood that these would be maintained by private money for the public. Mr. Dalton expressed that they believe that there would be other costs to the public. He stated that there is an additional concern for the wildlife if there are trails in that area.

Mr. Dalton stated that his client has concerns about the location of the road. His client believes that with the modifications it would attract excess public and increase the safety concerns. Some of these safety concerns can be addressed with speed zones and width. His client believes that it can't provide for the safety of children on the road which is also the current problem.

Gwen Lee (165 Marianne Dr., Rexburg, ID) Opposed

Ms. Lee agrees with the decision that the public should be heard at a new hearing. We are opposed to the moving of Fisherman Drive at the same hearing as the subdivision as they are separate issues. She believed that this is the first time that there has been a proposal to move a road. She questioned the size of the public park. Ms. Lee presented a letter from herself as exhibit 2.

Mr. Munson stated that the park is over 2 acres.

Jeff Dufault (PO Box, Ashton, ID) Opposed

Mr. Dufault expressed concerns with increased traffic on the road. He believes that the view from the river will be obstructed with housing. He believes that the homeowners association will not be able to keep up the maintenance of the proposed modifications.

Beverlee Thomson (1475 N 3619 E, Ashton, ID) Opposed

Ms. Thomson questioned who would be liable for accidents in this park. Mr. Hall stated that the county would be liable. She expressed concern that there still would not be access to the river because of the rockiness of that area.

Dick Seeley (1601 N 3475 E Ashton, ID) Opposed

Mr. Seeley expressed that he has no opposition to the development but he does oppose moving the road. He expressed concern that they are setting a precedent of being able to move the road whenever they want. He wants the road to remain where it is because of the scenic beauty of the road. He feels that the access to the river is minimal at best because of the rocky bluffs at that location.

David Munson (339 Cherry St., Ashton, ID) In Favor Of

Mr. Munson is a property caretaker in that area and drives that road frequently. This hearing is not about moving the road it is about the modifications to the subdivision. The road has already moved once therefore we are not setting a precedent. He also believes that the road is a prescriptive easement so we have the right to move the road as a land owner. He expressed concern for those

that walk that road now and the safety concerns the current road has. He feels that with the new modifications it will be safer for families to enjoy that area.

Ryan Lerwill (1216 Stocks Ave., Rexburg, ID) In Favor Of

Mr. Lerwill feels that there is a great deal of safety concern with the road as it currently is. He believes that a parking area is a benefit to the public and those that choose to access that area recreationally. He stated that this is in the best interest of the public and the county.

Jeff Lerwill (957 N 16 E, Sugar City, ID) In Favor Of

Mr. Lerwill supports the changes. He feels that this would be a great asset to the public. He is concerned about individual property rights being violated by others with more money and power.

Debra Mickelsen (657 n Yellowstone, Rigby, ID) In Favor Of

Ms. Mickelsen feels that this is a positive addition for the community. She feels that the public is not owed or entitled anything.

Lora Munson (4194 Sunset View Drive, Salt Lake City, UT) In Favor Of

This project is 256 acres. This has been changed to less than 1%. What has been changed is inconsequential.

Gwen Lee (165 Marianne Dr., Rexburg, ID) Opposed

When we bought the ranch we had quite a bit of river frontage on the other side of the road. We donated that to the county for public access. It is probably a ¼ of a mile.

CLOSING COMMENTS:

Mr. Lee Radford (420 Memorial Drive, Idaho Falls, ID)

The amended findings of facts have restrictions so that maintenance is completed and enforceable.

Drake Munson (4194 Sunset View Drive, Salt Lake City, UT)

Mr. Munson stated that he understands the feelings that neighboring land owners have. Mr. Munson explained the property that he currently owns that he has built a cabin on. He has tried to maintain the integrity of the area and to lessen what could be a largely populated area.

Written comments would have to have been submitted 8 days prior to the hearing at the County Clerk's Office.

Commissioner Romrell stated that they have 60 days to make a determination.

The hearing was closed at 4:02 p.m. by Commissioner Romrell.

Commissioner Romrell thanked everyone for the comments and their attendance.

There being no further business to come before the board, the hearing was adjourned.

Paul Romrell, Chairman
Fremont County Commission

Attest: _____
Abbie Mace, Clerk