

SEQUIM PLANNING COMMISSION

Public Meeting

**Sequim Civic Center
152 West Cedar Street
Sequim, WA 98382**

6:00 P.M.

Tuesday, May 21, 2019

MINUTES

1. CALL TO ORDER, PLEDGE OF ALLEGIANCE, AND ROLL CALL

Chairwoman Mahalick called the meeting to order at 6:00 p.m., led those present in the pledge of allegiance to the flag, and took roll call. A quorum was present.

Commissioners Present:

Jeff Carter
David Lotzgesell
Karen Mahalick
Olaf Protze
Gary Smith
Roger Wiseman

Commissioners Excused:

Thomas Ferrell

Staff Present:

Barry Berezowsky, Community Development Director
Gary Dougherty, Assistant Planner
Alisa Hasbrouck, DCD Specialist

2. APPROVAL OF MINUTES: May 7, 2019

Motion: By Commissioner Smith and seconded by Commissioner Carter to approve the minutes of the May 7, 2019 Planning Commission meeting.

Motion Carried unanimously.

3. PUBLIC COMMENT

None

4. NEW BUSINESS

a. **Public Meeting – SUB18-001 / VAR18-001 Subdivision and Variance application for “Jennie’s Meadow Phase B and C” Preliminary Major Subdivision**

Community Development Director Barry Berezowsky

Mr. Berezowsky discussed the applications, stating that the proposed subdivision meets zoning requirements; that Jennie’s Meadow Homeowners Association has asked their attorney if the applicant, Ruth Bros. Enterprises LLC (Ruth Bros.), has a legal right to use Jennies Blvd. for access to the proposed development; and, that if Ruth Bros. does have a legal right to use Jennies Blvd., a second point of access is still required per Sequim Municipal Code (SMC) 17.32.110. Staff recommends denying Request for Variance VAR18-001 because the application does not meet requirements for approval listed in SMC18.72.040 - Review Criteria. Staff recommends conditional approval of Application for Preliminary Major Subdivision SUB18-001, conditioned upon meeting all applicable requirements including providing two points of access to the subdivision.

Scott Headrick of Zenovic and Associates, Inc.

Mr. Headrick discussed the applications, stating that proposed plans have lower housing density than was proposed in 2005; that the need for an easement, bald eagle habitat, and critical areas complicate placement of an access road at the southern portion of the proposed development; that Ruth Bros. proposes to include fire sprinklers and build an emergency-only access road at the northern portion of the proposed subdivision as was suggested in a traffic study prepared by a third party; that Jennies Blvd. is designated as a "local" street although, based on the width, it qualifies as a "minor collector" street; and, that the Solana and Fairweather/Nimbus developments are examples where similar access constraints exist.

Craig Miller, Attorney

Mr. Miller, representing the applicant, stated that he wanted to make a point for the record that he objects to the current procedure because the City is holding two public meetings: one called a Public Meeting and one called a Public Hearing, that doing it twice is a violation of the Regulatory Reform Act, and that he will raise the issue if needed. Mr. Miller directed the Commissioners’ attention to exhibits PC1 - PC5 which he brought to the meeting. Mr. Miller addressed Commissioner Carter as "Jeff", whereupon Commissioner Mahalick asked Mr. Miller if he knew Commissioner Carter personally, and he stated that he has known him for many years but does not believe it is an “appearance of fairness” violation issue. Mr. Miller stated that in 2005 when the City approved Jennie’s Meadow Phase A the Sequim Municipal Code (SMC) required two points of access to the subdivision and plans showed a single road (Jennie’s Blvd) into the subdivision with a vegetative buffer separating the opposing lanes of traffic; that SMC17.32.110 has been revised multiple times; that the City needs to solve the problem by granting the Request for Variance; that Section IIB of the Covenants shows that Ruth Bros. has a legal right to use Jennies Blvd. to access the proposed subdivision; and, that when Jennie’s Meadow was approved in 2005 the plans did not meet requirements of the 2003 Fire Code.

Commissioner Mahalick asked Commissioner Carter if he believed he could be objective given his familiarity with Mr. Miller, and Commissioner Carter said that he could. Commissioner Mahalick then asked each of the other Commissioners if they believed Commissioner Carter could be objective, and the other commissioners affirmed their belief that he could be objective.

Colette Kostelec, Attorney

Ms Kostelec, representing Jennie's Meadow Homeowners Association, discussed the applications, stating that she disputes Ruth Bros. being a Declarant under the definitions in the Declaration; that Phases B and C have long since expired and there are no vested rights; that this project should be designed under existing code and SMC17.32.110 requires two points of access; that the Code provides for a variance from the required distance between the two access points, but does not provide for a variance from the requirement to have two access points; that given the loss of life and property during last summer's fires it would be criminal to grant a variance; that when the Code was adopted the Council made it clear that part of the intent was to spread traffic load out for better livability; that there is a dispute about whether Ruth Bros. has a legal right to use Jennies Blvd. as a point of access; that the Declaration defines Jennie's Meadow lots specifically as the 89 lots in Phase A, and Ruth Bros. is not a Declarant with rights under that Declaration; that legal questions are to be decided by a judge, not by the City; that the condition that Jennies Blvd. be upgraded to "Collector" standard prior to the 21st building permit is problematic given that many of her clients back out onto the street from their homes; that her client's position is that Ruth Bros. does not have a legal right to use existing utilities or open space that was established in Jennie's Meadow Phase A; that she has not seen studies deliniating current bald eagle habitat areas; that she believes staff's intention is recommend conditional approval of the application for Preliminary Major Subdivision SUB18-001 conditioned upon providing two points of access to the subdivision, and she wishes that was more clearly stated in the Staff Report on Page 4 Phase B, Page 5 Phase C, and Page 16.D.

Public Comments

Public comments were heard by sixteen members of the public who were opposed to the proposed development for reasons including: legal questions regarding Ruth Bros. right to use Jennies Blvd and private roads to access the new development, safety issues related to increased traffic, and the ability of first responders to access the development.

Further Discussion

The Commissioners and Mr. Berezowsky discussed the matter further, including: that the current point of access to the existing Jennies Meadow subdivision is non-conforming, so allowing the variance would essentially be expanding on a non-conforming use; the current community of Jennie's Meadow would benefit if a second point of access was added; and, that with pending litigation it is not known at this time whether Ruth Bros. has a legal right use Jennies Blvd. as a point of entry to the community, nor have they provided plans for a second point of access that meets requirements under SMC.

Motion: By Commissioner Smith and seconded by Commissioner Protze to deny Request for Variance VAR18-001 for "Jennie's Meadow Phase B and C" Preliminary Major Subdivision.

Motion Carried unanimously.

Motion: By Commissioner Protze and seconded by Commissioner Wiseman to deny Application for Preliminary Major Subdivision – SUB18-001 for "Jennie's Meadow Phase B and C".

Motion Carried unanimously.

5. **UNFINISHED BUSINESS**

None

6. **DIRECTOR'S REPORT**

None

7. **GOOD OF THE ORDER**

None

8. **ADJOURNMENT**

Motion: By Commissioner Smith to adjourn the meeting, seconded by Commissioner Wiseman.

Motion carried unanimously.

The meeting was adjourned at 8:16 p.m.

Next meeting: June 4, 2019 at 6:00 p.m.

Respectfully submitted,



Alisa Hasbrouck
Secretary to the Commission



Karen Mahalick
Chair