

MINUTES

ADAMS COUNTY PLANNING & ZONING COMMISSION

Public Hearing, Valley Knolls Preliminary Plat

August 10, 2020, New Meadows Community Center

7:00 p.m.

Members Present: Al Becker, Julie Burkhardt, Kip Kamerdula, Dennis Nau, Mark Peterson

Members Absent: Joe Warner

Others Present: Jeff Batten, Southwest District Health; Deputy Prosecutor Jedediah Bigelow via teleconference; Sheriff Ryan Zollman; Road & Bridge Supervisor Kraig Spelman; Meadows Valley Fire Chief Jeff Luff; Consulting Engineer Trevor Howard; P&Z Administrator Wendy Green

Public Present: Applicants Heidi & Ryan Schneider; Applicants' Legal Counsel Josh Leonard; Drew Dodson, *Star-News*; Ed & Joyce Brown; Mary Boone; Brad Sayers; Applicants' Engineer Jim Fronk; Applicants' Surveyor Rod Skiftun; Micki Eby; Linnea Hall; Kevin & Judy Muir; Kim & Terrie Helmich; Mike Adkins; Rod Kesler; Cynthia Holbrook; Josh Davis via teleconference

1. **Call to Order:** Chairman Dennis Nau called the meeting to order at 7:04 p.m.
2. **Review Agenda:** Julie Burkhardt moved to approve agenda as presented; Kip Kamerdula seconded; passed.
3. **Approval of Minutes:** Julie Burkhardt moved to approve the minutes of the July 20, 2020 regular meeting and public hearing; Kip Kamerdula seconded; passed.
4. **Old Business:** Chairman Nau opened the continuation of the public hearing on the Valley Knolls preliminary plat for a 12-lot subdivision north of New Meadows and south of Bally Mountain Road. He set a 5-minute time limit for each speaker and asked for public comment. There was none in favor. **Kraig Spelman** spoke as a neutral party:
 - According to county road ordinance, private roads in a subdivision must be built to county specifications, including testing and documentation of the materials used in road construction.
 - If the county grants a variance on two points of egress, Spelman recommends Valley Knolls Road be 24-feet wide with a 3-foot shoulder on each side.
 - Improvements shall be completed prior to recording of final plat or financially guaranteed per subdivision regulations.**Kevin Muir** spoke in opposition to the application:
 - His property is adjacent to Schneiders along a 2000-foot boundary.
 - He feels strongly that the two points of egress are an important safety consideration.
 - Supports less housing density than proposed for Valley Knolls; lower density would make protection easier for emergency responders.

- Believes the applicants began making improvements prior to approval by the county commissioners, contrary to county subdivision ordinance.
- Questioned whether denial of the variance would pose a hardship to applicant; believes variance application fails to satisfy #1, #2, #3, or #5 of variance criteria.
- Allowing two residences per lot as stated in draft CC&Rs would double the number of houses from 12 to 24.

Julie Burkhardt reminded attendees that written comments are part of the public record and available for public inspection.

Kim Helmich adjoins Schneiders on two sides of his property. He wished to speak; Chairman Nau explained that tonight's comments were limited to those who had previously submitted comments. Al Becker noted he would like to hear what Helmich has to say. Jedediah Bigelow advised that the discussion could be limited to new information presented during tonight's hearing. Chair recognized the applicant to respond to comments.

Heidi Schneider introduced applicants' attorney, Josh Leonard of Clark-Wardle law firm in Boise. Leonard addressed the request for variance on two points of egress:

- From a legal standpoint, granting a variance does not set a precedent for future applications; each request for variance has to be considered on its own, based on the land, location and circumstances in question.
- Schneiders and future applicants must meet requirements for a variance.
- International Fire Code says two points of access are required if a subdivision includes 40 or more homes.
- Granting a variance does not alter safety standards in the code.
- Hardships are not limited to finances. Other considerations include terrain limitations that prevent the applicant from meeting the requirement for second egress.
- County has "sovereign immunity" for acts done by the county under code and established standards and county could not be held financially liable for losses due to wildfire or other hazard.
- Opponents argue that the need for variance is self-inflicted by the applicants. Leonard disagrees. The location of the property creates the need for a variance.
- While county road supervisor recommends 2 12-foot travelways on the road; Leonard argued that 2 10-foot travelways would be adequate to pass two emergency vehicles side-by-side. Fire trucks are 8'4" wide.

Chair asked the administrator to read from the July 20th minutes the list of missing or incomplete submissions:

- Site report from Southwest District Health
- Utilities, irrigation ditches, etc. to be shown on preliminary plat
- Study of impacts to public schools and emergency services
- Plans that address ongoing funding for maintenance of shared facilities
- Plans for language in deeds to protect water rights and irrigation ditches
- Additional professional input from Trevor Howard, county consulting engineer, after his review of hydrology, drainage and grading plans
- Identification of water supply to maintain 60,000 gallons of water on site for firefighting

Chair explained that applicants have submitted a letter and supporting documents that they believe address the list of incomplete items. Those materials were forwarded to the commissioners prior to this

meeting. Nau suggested the commission go through those items that appear to satisfy the requirements of the ordinance first and then consider those that may not.

- II-C-4-m: Preliminary plat has been amended to show proposed easements for utilities; Chair asked whether commission found this acceptable; there was no disagreement.
- II-C-4-p: Study of anticipated impacts to public schools and other services. Applicant submitted letters from school superintendent, fire chief and sheriff; there was no request for more information from commission.

Deputy prosecutor Jedediah Bigelow suggested commission go through the checklist to see if materials had been submitted. Then the commission can review and decide whether it needs more time or information. Al Becker agreed that commission can consider completeness and acceptability of materials after the public hearing closes. Chairman Nau expressed his opinion that items that could not be adequately addressed tonight could be considered at a future meeting after allowing the applicant sufficient time to submit additional documentation.

Julie Burkhardt noted the proposed language that “owners shall not use water from ditches,” but that language does not cover actions such as to divert, pump or impound water without a valid water right. Mark Peterson noted that he just received the materials from the applicant today and had not had time to review. He asked to hear from Jeff Batten with Southwest District Health regarding the status of groundwater monitoring and suitability for septic systems.

- **Jeff Batten, SWDH**, stated he does not use the term “site report.” SWDH requires an Engineering Plan Review prior to approval of a final plat. Batten met with applicants on site in 2018 and looked at test holes and informed the applicants they would need to have an engineer submit soils report and soil profiles, groundwater monitoring results, documentation of slope stability and other items required in the Engineering Plan Review. The applicant recently submitted soil profiles that still need work to be acceptable. The groundwater monitoring data they recently submitted shows one lot that would not support a septic system. Batten has not received septic design plans from the applicant; those will be required before SWDH can sign the final plat. Based on the incomplete information he has received, 11 of the 12 lots should be able to support a septic system. Lot #9 would not; it has very high groundwater. A site requires at least 15 inches of soil above groundwater. Not even a specially designed system would be usable on Lot 9. SWDH will not approve a final plat with sanitary restrictions on one lot.
- **Jim Fronk, engineer for applicant**, stated the applicant would be willing to combine Lot 9 with another lot or identify it as unbuildable and reduce the number of developed lots in the subdivision to 11.

Item II-C-4-q: Plans that provide for funding of ongoing maintenance of shared facilities.

Applicants prepared a draft road maintenance agreement. Chair believes this addresses the requirement for the preliminary plat; more specifics may be needed prior to final approval.

Josh Leonard asked to record an objection to procedure, based on interruption by staff. He asked that administrator’s comments regarding the draft maintenance agreement be disregarded. Chair noted the commission has not seen the draft road maintenance from applicant.

Administrator noted the sample road agreement sent in by applicant in 2018 included specific instructions not to share the contents of that agreement.

Chair asked consulting engineer **Trevor Howard** if he was satisfied with geotechnical data submitted to date. Howard asserted he is comfortable recommending approval of the preliminary plat with conditions, based on the data he has reviewed.

Chair noted item II-C-4-r requires language to protect holders of water rights. **Josh Leonard** stated the applicant would agree to add a note to the final plat to protect water rights holders. He

believes plat notes protect those rights better than a deed restriction, as the final plat is a recorded document and plat restrictions are enforceable by the county. Deed restrictions are only enforceable by the beneficiary of the restriction. He believes the plat note is a better and more effective means of accomplishing the goals of the county, but applicant will draft language for deed restrictions. Chair asked that the language identify the source of the water rights on Merit Creek. Leonard noted that water rights can change and asked if more general language, such as “all water rights on Merit Creek,” would suffice. **Jim Fronk** agreed that notations on the plat are the best way to accomplish what the commission is trying to achieve. **Heidi Schneider** asked that the exact language of the water rights protection be handled prior to final plat approval rather than in the preliminary approval stage so that this item can be resolved tonight. **Julie Burkhardt** questioned whether a deed restriction was the optimum solution to protecting water rights. For purpose of preliminary plat, we may not need to get that technical.

Re: International Fire Code, applicants laid out two options for providing water for firefighting in their response letter; one would require residential sprinklers, the other would not. **Josh Leonard** noted that it wouldn’t make sense to get quotes for costs of the two options until preliminary plat is approved. Chair read fire protection section of applicants’ letter and asked Fire Chief Jeff Luff to respond. **Jeff Luff** reported that he’d met with the applicants to review requirements of fire code. The 60,000-gallon amount is the minimum based on Type V construction of homes up to 3600 sq ft without sprinklers. He added that a single-access road longer than 750 feet would need to be 26 feet wide, according to fire code. Chair asked for commitment in writing to address water for firefighting prior to approval of preliminary plat.

Josh Leonard asked that the statements made on the record in this hearing be considered a formal commitment; Chair reiterated request for formal written commitment.

Chair reviewed list of items yet to be accepted:

- II-C-4-q, Draft maintenance agreement for road, water source, and other shared facilities; applicant noted it has been submitted; commissioners did not have time to review prior to this meeting.
- Lot #9 does not meet standards for septic; how will applicant deal with that?
- II-C-4-r: Applicant has agreed to submit language for deed restriction and plat notes to protect water rights.
- Formalize plans to meet requirements of IFC through one of two options.

Chairman Nau asked if applicant understands the items still incomplete or missing. Josh Leonard asserted they did.

Chairman Nau introduced the request for variance on the requirement that all new subdivisions have at least two points of ingress/egress and reviewed relevant criteria. After discussion and input from each commissioner, Chairman Nau moved to deny the request for variance; Al Becker seconded; motion to deny variance passed with 5 in favor, none opposed.

Mark Peterson asked for clarification of applicants’ plans to construct Valley Knolls Road. Heidi Schneider stated they were planning to build a 20-foot roadway with 3-foot shoulders if variance is denied. Josh Leonard agreed that applicant would send a letter stating road width, depending on whether there is a second point of egress. Leonard clarified procedure to appeal the commission’s denial of variance to the Board of County Commissioners. Applicant needs to know what the Board’s decision is on appeal before applicant will know how to proceed on road construction. Chairman asked applicants how much time they need to respond to the list of items.

Applicant stated they could be ready by the September 21st P&Z meeting, provided they can ask for an extension. Chair agreed that additional time could be granted.

Chair noted other issues that weren't discussed tonight could be included in conditions of approval of preliminary plat, including maximum square footage of dwellings; number of dwellings per lot; further division of lots; IDFG recommendation letter. Mark Peterson noted ITD approach permit was based on maximum of 13 dwellings and asked about applicants' plans for the remainder of unplatted land. Chair noted ordinance requirement that remainder cannot be developed for five years after development of this plat.

Chairman closed public hearing at 9:05 p.m..

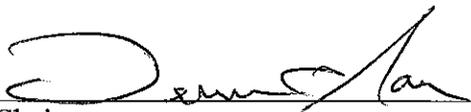
Following advice of counsel, Chair asked for a motion to approve with conditions, deny, or table the application. Dennis Nau moved to table consideration of Valley Knolls preliminary plat until September 21, 2020; Kip Kamerdula seconded; passed.

5. Upcoming Meetings:

Next Regular Meeting: August 17, 2020 at 7:00 p.m. at the Adams County Courthouse

6. Adjournment

Meeting adjourned at 9:10 p.m.


Chairman

Date

