

BROADWATER COUNTY PLANNING BOARD MINUTES

November 9th, 2021

Chairman, Ed Shindoll, called the meeting to order at 1:20 PM. Once seated, all rose for the Pledge of Allegiance.

Other board members present were Mary Heinemann and Dallas Diehl. Trinity Vandenacre was not present.

Board member, Mary Heinemann, made a motion to accept the Planning Board Public Hearing minutes, dated October 27th, 2021, with the correction to the name "JB Howick" in public comment. Board member, Dallas Diehl, seconded the motion. All board members voted in favor and the motion carried. Board member, Mary Heinemann, also made a motion to accept the minutes from the Planning Board meeting, dated October 27th, 2021. Board member, Dallas Diehl, seconded the motion. All voted in favor and the motion carried.

No new business to discuss.

Old Business: To solidify the Horse Creek Hills Major Subdivision recommendation in writing. Planning and Development Director, Nichole Brown, provided the board with a copy of the letter that was discussed during the previous meeting. Deputy County Attorney, Jania Hatfield, approached the podium, to review the letter and to discuss a few items with the board members. Jania Hatfield noted statute #76-3-605, which stated there needs to be a recommendation that's submitted by the Planning Board to the Commission. Also, to be discussed was the reasons a subdivision can and cannot be approved or denied, or conditionally approved. Jania noted statute 76-3-608, sub section 3A, which highlighted specific categories the board will be looking at, including documentable and clearly defined impact on agriculture, agricultural water use or facilities, local services, the natural environmental, wildlife, wildlife habit, and public health and safety. Board member, Mary Heinemann, stated that the safety issue with the road is the primary concern. There was open discussion regarding the safety concerns with Confederate Road and Lower Duck Creek Road. Jania Hatfield noted that the developer of this subdivision has offered to mitigate the road safety issue. The other concern discussed was the impact on wildlife. The emergency service response was also mentioned as a concern. The water supply was a concern as well. Jania Hatfield stated that as part of the process, the subdivision will be submitted to DEQ. A conditional preliminary plat will be granted, requiring the developer to get a DEQ approval prior to final plat. The section of statute required as part of the preliminary plat regarding water was 76-3-6-2.2. Jania Hatfield stated that the cattle issue was not a defensible position. County Attorney, Cory Swanson, approached the podium to introduce Jania Hatfield as the Deputy County Attorney, and himself.

Cory announced that he has taken a back seat on this case, as he has been associated with the Galt family, owners of the proposed Horse Creek Hills Subdivision. Cory addressed the Planning Board to assure that the decision made was based on specific and factual bases, stating that it will be challenged in court. It was noted that the Commission decides on the Planning Board's recommendation. If the Commission follows the Planning Board's recommendation, that is the "Record". The case would be taken to court, based on the Record. Cory Swanson addressed the water supply issue. Planning and Development Director, Nichole Brown, confirmed that each lot of the proposed subdivision is expected to have an exempt well and the average acreage for each lot was 7 acres. Because the wells are exempt, there is no review required by DNRC. The Planning Board stated the water aquifer is a concern, due to irrigation. Cory Swanson advised that if the Commission makes a final decision based off of the Planning Board's recommendation to deny approval, it must be based off of criteria that have substance. The criteria also need to be mitigatable for the developer. There was open discussion regarding a traffic study and safety concerns with Lower Duck Creek Road. Jania Hatfield stated that there were independent issues on Lower Duck Creek that needed to be addressed. Cory Swanson mentioned the phasing issue. Nichole Brown stated that the preliminary plat noted phases one through four, but there was no schedule submitted. Jania Hatfield noted statute # 76-3-617, requiring that the phase development application included the phase schedule and each phase requires a public hearing. In regards to the fire, ambulance and sheriff's response issue, Cory Swanson advised the Planning Board to review the response times and compare those times to other subdivisions within the county. Cory Swanson then advised the board that all of the facts need to be gathered, to defend the case in court. There was a 30 working-day extension granted to the county. (Cory departed, due to prior obligations.)

The Planning Board held an open discussion with Nichole Brown and Jania Hatfield regarding the recommendation letter to the Commissioners. The Planning Board agreed to amend the recommendation letter, to add the following, "However, due to the information received from the Broadwater County Attorney's office at the Public Planning Board meeting on 11-9-21, the Planning Board requests that the Commissioners remand the Horse Creek Hills Subdivision previously submitted recommendation back to the Planning Board. ". Board member, Mary Heinemann, made a motion to submit the recommendation letter to the Commissioners with the revision inserted. Board member, Dallas Diehl, seconded the motion. All voted in favor and the motion carried.

Items to discuss: Board member, Mary Heinemann, requested classes regarding the Regulations. Nichole Brown agreed to check in to this. Mary Heinemann also asked about the subdivision draft new regulations. Nichole Brown stated that they had been sent to Jerry Grebenc, at Great West Engineering, for any additional edits. They will then be sent to the Commissioners. Mary Heinemann requested a notice when these are received. Mary Heinemann also requested information regarding the county roads. Deputy County Attorney, Jania Hatfield, advised the Planning Board that the statutes online had been updated. The codes regarding land use have been revised and updated.

No Reports to discuss.

The next Planning Board meeting was scheduled for December 14th, 2021 at 1:00 PM.

Board member, Mary Heinemann, made a motion to adjourn the meeting at 2:30 PM. Board member, Dallas Diehl, seconded the motion. All voted in favor and the motion carried.

Approved Ed Shindler Date 11/30/21