

**MINUTES
CLARK COUNTY BOARD OF COMMISSIONERS
OCTOBER 7, 2009, 1:30 P.M.**

The Board convened in the Commissioners' Hearing Room, 6th Floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington. Commissioners Mielke, Stuart, and Boldt, Chair, present.

PLEDGE OF ALLEGIANCE

The Commissioners led the Pledge of Allegiance.

**PUBLIC MEETING: ALBERS SUBDIVISION – PLD2009-00016; SEP2009-00031;
WET2009-00026**

Item Description: To consider an appeal of the Clark County Land Use Hearing Examiner's decision regarding the application for a preliminary plat to subdivide approximately 5.54 acres into 5 single-family residential lots located in the RC-1 Zoning District.

Department: Community Development

Staff Contact: Richard Daviau

The Board of Commissioners did not take public comment, written or oral, at this public meeting.

[Verbatim Transcript]

Marc Boldt: Welcome to the Board of Clark County Commissioners. Today we are hearing a land use appeal on the Alber's Subdivision...several permits. We do not accept oral testimony today and we base our decision solely upon the record that we have. So with that, I have read the pertinent parts of the record and have went out and saw the site.

Tom Mielke: I too have read the pertinent parts of the exhibits.

Steve Stuart: And I would also certify that I have read the pertinent parts of the record.

Boldt: Okay, I think we just have one appeal and it is on the condition – is it A-5? Am I right?

Richard Daviau: Yes.

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Boldt: Right. About opening 189th Street...

Daviau: I'm sorry, it's A-4.

Boldt: Okay. Would somebody like to start? I think I'll start then. I was actually more confused—most of the time I'm not after I see the site and I was more confused after I saw the site. As I understand it, the portion of 189th Street that our staff feels is substandard under 18 or 20 foot is in front of the Alber's Subdivision, which they will have to repair anyway. When that happens, in my opinion, it is a direct cross circulation problem or conversation. Both sides of the gate is a public road and I don't feel that we really have the jurisdiction to keep a gate there and the other is that if this annexes to the City of Battle Ground, they will definitely want cross circulation. So as far as my opinion, I don't believe that we have grounds to approve the appeal.

Stuart: I have a question of staff on that. Within the appeal there was a question of the factual determination of 189th being a substandard roadway and I didn't read anywhere—and I'm wondering if I missed it in the exhibits and appeal documents or in the decision—I didn't read staff saying that it was not substandard, but that the improvements within the requirements conditioning the approval of the project, that in doing those improvements it would be made standard. I got a little confused in reading that.

Daviau: I think there are a couple of different places that the appellant's are concerned about. Clearly in an older hearing case, it is documented in front of this subject site the road did not meet those 18 feet with 1-foot shoulder standards. I don't think anyone is arguing that this subdivision is going to rectify those problems. The appellants are contending though that there are other spots that don't meet the 18 foot standard. What the road standards say—and if we get into more detail I'll ask Brad to come up—that if the existing road isn't either 20 feet wide or 18 feet with 1-foot shoulders, then they have to improve them to 20 feet. So the examiner did something odd—he didn't rule one way

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or the other; he said he wanted Public Work's staff to go out and have a look at it and make that determination.

Stuart: Well and it flat out said in the Hearings Examiner's decision and one of the conditions of approval – on the Final Transportation Plan for offsite cross circulation it just put it on the county staff and said, "If after reviewing the evidence produced at the hearing the county determines that it's substandard, then applicant shall submit a plan." The bottom line I think, Mr. Chair, is that based on the evidence that we have in the record, which is all we can go on; based on the staff determination of measuring 18 feet; based on the Hearings Examiner's direction that county staff should be looking to say is this 18 feet with the 1-foot shoulders or not; and based on the conditions of approval that don't seem to be argued as far as that the development would be bringing the area that is substandard up to standards, I don't find reason to overturn the Hearings Examiner. I understand the concerns, but I don't see anything within the record to overturn the Hearings Examiner. I will say this though, and it may be a little afar field but Renee Henderson—is Renee...?

Renee Henderson: Yes.

Stuart: Renee, we get appeals from attorneys all the time. Are you an attorney at all? No? Yours is excellent. This appeal document—I know it may seem empty, but we get appeal documents from attorneys that are rambling and go through about 43 different issues that make no sense at all and you concisely laid forth your arguments, which made it much easier to actually find information to back it. I just want to say I appreciate it as being someone who has to look at these things. I understand that it may seem very empty for me to say that, but regardless.

Henderson: [Comments not audible.]

Stuart: Fair enough. Thank you.

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Mielke: There again, I have to go by what was presented to us and I think it falls short of the threshold that we need there.

Boldt: Okay. With that, can I have a motion?

Stuart: Thank you, Mr. Chair. Move to deny the appeal and **UPHOLD** the Hearings Examiner's decision on Alber's Subdivision, PLD2009-00016.

Mielke: Second.

Boldt: Thank you. It's been moved and seconded to deny the appeal and uphold the Hearings Examiner's decision on Alber's Subdivision, PLD2009-00016. All in favor say aye.

Stuart: Aye.

Mielke: Aye.

Boldt: Aye. All opposed? Motion carried.

Thank you. On another note, I think we definitely have to look at this street because it is close to being substandard so I think we do owe it to the people out there to work on that street –


Stuart: Agreed.

Boldt: – since it's in our jurisdiction. So that's kind of a message to Public Works. Okay, thank you very much.


Adjourned

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BOARD OF COUNTY COMMISSIONERS



Marc Boldt, Chair



Steve Stuart, Commissioner

Tom Mielke, Commissioner

ATTEST:



Jennie Richards
Clerk of the Board

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