



WASHOE COUNTY

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STAFF REPORT

BOARD MEETING DATE: November 13, 2018

DATE: Thursday, September 13, 2018

TO: Board of County Commissioners

FROM: Roger Pelham, MPA, Senior Planner, Planning and Building Division,
Community Services Department, 328-3622,
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THROUGH: Mojra Hauenstein, Architect, AICP Planner, LEED AP, Director of
Planning and Building, 328-3619, mhauenstein@washoecounty.us

SUBJECT: Public Hearing continued from September 11, 2018: Appeal of the May 1, 2018 denial, by the Washoe County Planning Commission of Tentative Subdivision Map Case Number WTM18-004 (Lemmon Drive Estates) for a 98-lot single-family residential, common open space subdivision. Front yard setbacks may be reduced from 20 feet to 10 feet adjacent to a public street or common driveway, except for garages. Rear yard setbacks may be reduced from 20 feet to 10 feet. Side yard setbacks may be reduced from 8 feet to 5 feet. Required lot widths may be reduced from 80 feet to 75 feet.

The proposed project is located on the east side of Lemmon Drive, approximately 700 feet south of its intersection with Military Road. The Assessor's Parcel Number is 552-210-18. The subject property has a regulatory zone of Medium Density Suburban (MDS) (3 dwellings/acre). The total number of residences allowed, based upon the existing zoning, is 101. The applicant has requested to create 98 residential lots. The property owner and appellant is Chuck Bluth/Lakes at Lemmon Valley LLC.

The Board may affirm, reverse, or modify the decision of the Planning Commission. In doing so, the Board may remand the matter back to the Planning Commission with instructions, or may directly grant all or part of the appeal and approve the tentative subdivision map.
(Commission District 5.)

AGENDA ITEM # _____

SUMMARY

The applicant, Chuck Bluth / Lakes at Lemmon Valley, LLC applied for a tentative subdivision map to create a 98-lot single family residential subdivision. That request was denied by the Washoe County Planning Commission on May 1, 2018. The Planning Commission expressed concerns in several areas including traffic and drainage. Among the testimony provided by the public at that hearing included information and photos showing that areas of the subject site proposed to remain as undisturbed on the tentative map had been graded. Subsequent inquiry by Staff and the applicant's representative determined that "Major Grading" (grading that requires approval of a special use permit) had been done without permits.

The applicant applied for a special use permit to allow the previous grading. That request was denied by the Washoe County Board of Adjustment on July 11, 2018.

The applicant appealed the denial of the tentative subdivision map to the Board of County Commissioners, but chose not to appeal the denial of the special use permit for grading, by the Board of Adjustment. The applicant seeks approval of the tentative subdivision map.

The applicant provided staff with a letter detailing the desire to work directly with Code Enforcement to come into compliance with the grading code.

Washoe County Strategic Objective supported by this item: Stewardship of our Community

PREVIOUS ACTION

On May 1, 2018, the Washoe County Planning Commission (PC) held a duly-noticed public hearing on Tentative Subdivision Map Case Number WTM18-004 (Lemmon Drive Estates). The PC denied that request based upon the inability to make the findings of fact as required by Washoe County Code Section 110.608.25. (see Attachment C to this report)

On May 11, 2018, the applicant, Chuck Bluth/Lakes at Lemmon Valley, LLC, filed an appeal of that denial, but also requested that the appeal hearing be delayed, "to provide sufficient time to address property owner created issue of grading without a permit."

On June 11, 2018, the North Valleys Citizen Advisory Board held a meeting on the special use permit request. After considerable public comment the NVCAB recommended approval with conditions which include restoration of vegetation, drainage and blocking access to the graded area (see Exhibit C to the Planning Commission Staff Report dated 6/14/2018).

On July 11, 2018, the Washoe County Board of Adjustment (BOA) held a duly-noticed public hearing on the special use permit request. The BOA denied that request based upon the inability to make the findings of fact as required by Washoe County Code Section 110.810.30. (see Attachment F to this report)

On July 20, 2018, the applicant, Chuck Bluth/Lakes at Lemmon Valley, LLC, provided a letter to staff indicating that no appeal would be filed, for the special use permit, and expressing that their desire is to work directly with Code Enforcement to come into compliance with the grading code. That letter is included at Attachment I to this report.

BACKGROUND

The applicant is appealing the decision, made by the Washoe County Planning Commission on May 1, 2018, which denied the requested tentative subdivision map. The applicant is not appealing the decision made by the Washoe County Board of Adjustment on July 11, 2018 which denied the requested special use permit for grading.

The minutes of both meetings are included as attachments to this report.

Regardless of the outcome of the appeal hearing on the tentative subdivision map, the applicant must obtain proper Washoe County permits for grading before undertaking any grading activity to correct the grading violations on the subject site. The required grading permit also includes the requirement to obtain a special use permit, which was denied by the Board of Adjustment. Because the applicant did not appeal the denial by the Board of Adjustment, the choices remaining to the applicant to correct the grading violations are limited to either reapplying for the special use permit or not correcting the grading violations on the subject property. Failure to correct the grading violations will result in further enforcement action by the County. Enforcement action may include such measures as administrative, criminal or civil enforcement with the possibility of County or Court ordered abatement to correct the violations.

Staff would like to emphasize that correction of the unpermitted grading must be accomplished. Prior to correction of the grading violations, Washoe County will not be in a position to be able to issue any other permits for development on the subject site.

The Planning Commission stated that they could not make the finding that appropriate access is provided to the proposed subdivision. In the appeal application, the property owner / appellant contends that the Regional Transportation Commission reviewed the application and provided appropriate conditions of approval including two “right-in, right-out only” intersections and that appropriate improvements to Lemmon Drive would be made so that appropriate access is constructed. (see Attachment G to this report)

FISCAL IMPACT

No fiscal impact.

RECOMMENDATION

It is recommended that the Board of County Commissioners affirm the decision of the Planning Commission and deny Tentative Subdivision Map Case Number WTM18-004 (Lemmon Drive Estates), being unable to make the required findings of fact.

POSSIBLE MOTIONS

Should the Board agree with the decision of the PC on Tentative Subdivision Map Case Number WTM18-004 (Lemmon Drive Estates) a possible motion would be:

“I move that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Board of County Commissioners affirm the decision of the Planning Commission, and deny Tentative Subdivision Map Case Number WTM18-004 for Lakes at Lemmon Valley, LLC, being unable to make all ten findings in accordance with Washoe County Code Section 110.608.25, including:

1. Plan Consistency. That the proposed map is consistent with the Master Plan and any specific plan;
2. Design or Improvement. That the design or improvement of the proposed subdivision is consistent with the Master Plan and any specific plan;
3. Type of Development. That the site is physically suited for the type of development proposed;
4. Availability of Services. That the subdivision will meet the requirements of Article 702, Adequate Public Facilities Management System;
5. Fish or Wildlife. That neither the design of the subdivision nor any proposed improvements is likely to cause substantial environmental damage, or substantial and avoidable injury to any endangered plant, wildlife or their habitat;
6. Public Health. That the design of the subdivision or type of improvement is not likely to cause significant public health problems;
7. Easements. That the design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through, or use of property within, the proposed subdivision;
8. Access. That the design of the subdivision provides any necessary access to surrounding, adjacent lands and provides appropriate secondary access for emergency vehicles;
9. Dedications. That any land or improvements to be dedicated to the County is consistent with the Master Plan; and
10. Energy. That the design of the subdivision provides, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.”

Should the Board disagree with the decision of the PC on Tentative Subdivision Map Case Number WTM18-004 (Lemmon Drive Estates) a possible motion would be:

“I move that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Board of County Commissioners reverse the decision of the Planning Commission, and approve Tentative Subdivision Map Case Number WTM18-004 for Lakes at Lemmon Valley, LLC, with the conditions of approval as included at Attachment J to this report, being able to make all ten findings in accordance with Washoe County Code Section 110.608.25, including:

1. Plan Consistency. That the proposed map is consistent with the Master Plan and any specific plan;
2. Design or Improvement. That the design or improvement of the proposed subdivision is consistent with the Master Plan and any specific plan;
3. Type of Development. That the site is physically suited for the type of development proposed;
4. Availability of Services. That the subdivision will meet the requirements of Article 702, Adequate Public Facilities Management System;
5. Fish or Wildlife. That neither the design of the subdivision nor any proposed improvements is likely to cause substantial environmental damage, or substantial and avoidable injury to any endangered plant, wildlife or their habitat;
6. Public Health. That the design of the subdivision or type of improvement is not likely to cause significant public health problems;

7. Easements. That the design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through, or use of property within, the proposed subdivision;
8. Access. That the design of the subdivision provides any necessary access to surrounding, adjacent lands and provides appropriate secondary access for emergency vehicles;
9. Dedications. That any land or improvements to be dedicated to the County is consistent with the Master Plan; and
10. Energy. That the design of the subdivision provides, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.”

Attachments:

A: PC Action Order for WTM18-004

B: PC Staff Report for WTM18-004

C: PC [draft] minutes of 5/1/2018

D: BOA Action Order for WSUP18-0012

E: BOA Staff Report for WSUP18-0012

F: BOA [draft] minutes of 7/11/2018

G: Appeal Application for WTM18-004

H: Letter requesting delay in hearing for WTM18-004 Appeal

I: Letter indicating no appeal to be filed for WSUP18-0012

J: Possible Conditions of Approval for WTM18-004

cc:

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Dave Solaro, Assistant County Manager

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Nate Edwards, Deputy District Attorney