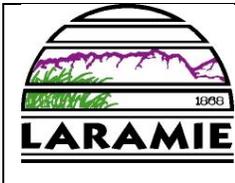


CITY OF LARAMIE COUNCIL REGULAR MEETING September 15, 2020



Agenda Item: Subdivision Plat - Final

Title: Spring Creek Village, First Filing, Final Plat

Recommended Council MOTION:

Move to **deny** the Spring Creek Village, First Filing, as recommended by the Laramie Planning Commission based on findings of fact and conclusions of law as included in the Planning Commission Staff report dated February 10, 2020, subject to the approval criteria for Final Plats found in LMC 15.06.060.P.5.e.(iv).(1) – (5) and the Council Approved Preliminary Plat Conditions.

Administrative or Policy Goal:

Platting of unplatted property is in accordance with the goals of the Comprehensive Plan and the Major Street Plan. The proposed subdivision **does not comply** with the conditions of Council approval associated with the Preliminary Plat, Comprehensive Plan and Major Street Plan.

All regulations found within the Laramie Municipal Code (including the Unified Development Code) were approved and adopted through Ordinance by the City Council. Furthermore, conditions of approval included within the Staff Report were approved by the City Council. It is the professional obligation and responsibility of staff to follow and enforce adopted codes and decisions made by Council.

Background:

Final Plat:

On March 7, 2019 a final plat for two lots associated with the Spring Creek Village Preliminary Plat was submitted. The two lots, Lot 1 & 2, Block 7 are located south of Boswell Drive, west of 9th Street and east of the future extension of Bill Nye Avenue. Lot 1 currently is developed with a storage unit complex with Lot 2 being undeveloped. Per the condition 1 of the preliminary plat the applicant was required to submit as part of their first final plat these lots in order to correct an unlawful subdivision. In addition to the creation of two lots, this final plat is required to dedicate and construct a portion of Bill Nye Avenue south of the Boswell Drive, as well as other associated infrastructure such as sewer, and a shared use path.

The final plat as submitted does not meet the required final plat findings found in LMC 15.06.060.P.5.e.(iv). More detail regarding our denial recommendation and analysis can be found within the Staff Report. Because this Final Plat does not comply with the approved Conditions as approved by the City Council, staff cannot recommend approval.

The City of Laramie Planning Commission reviewed this item on February 10, 2020.

At the February 10, 2020 Planning Commission meeting the city provided a recommendation of **denial** for Spring Creek Village, First Filing, Final Plat due to the fact that the submitted materials

and Final Plat did not comply with the conditions of approval of the Preliminary Plat approved by Council, the layout of the Preliminary Plat was not in substantial compliance with the approved Preliminary Plat, the improvements associated with the Final Plat had not been reviewed and approved by the City, that all required public and private improvements have not been financially secured and the Final Plat did not comply with all applicable development and design standards set forth by Laramie Municipal Code. Details related to the non-compliance of the Final Plat that was presented to the Planning Commission can be found within the attached Planning Commission Staff Report.

Following discussion by the Planning Commission, the Planning Commission recommended **approval** of the Spring Creek Village, First Filing, Final Plat. The Commission recommended the City Council **approve** the Final Plat (4 yes, 3 no, 0 absent) with no stated findings of fact or conclusions of law.

Because the Laramie Planning Commission provided no finding of fact for their recommendation of approval, city staff recommended that the City Council **remand** the item back to the Planning Commission so that they may provide the required findings needed for their recommendation of approval as required by Laramie Municipal Code 15.06.060.P.5.e.(i) and 15.06.060.P.5.e.(iv).(1) – (5) as well as how the submitted plat complies with the Preliminary Plat Conditions of Approval adopted by Council. At the July 7, 2020 meeting the Laramie City Council voted to **remand** the item back to the Planning Commission for consideration and necessary findings of fact.

On July 27, 2020 the Laramie Planning Commission considered the Spring Creek Village, First Filing Final Plat and was unable to make the necessary findings for their motion of approval originally given on February 10, 2020. As a recommending body the Planning Commission did not provide the City Council any findings as to how the Spring Creek Village Final Plat met the necessary finding of fact required for approval, which was the recommendation provided by the Planning Commission. Through remandment the Planning Commission had the opportunity to provide the City Council the required findings in order to provide a recommendation of approval, but were unable to do so.

At their July 27, 2020 meeting the Laramie Planning Commission voted to **deny** the Spring Creek Village First Filing Final Plat (5 yes and 2 no).

This Final Plat is now back before the City Council for consideration. As noted above City Staff and the Laramie Planning Commission recommends that this item be **denied** based on the findings of fact and conclusions of law, due to the fact the plat does not conform to the requirement of approval for a Final Plat or the Conditions of Approval of the Preliminary Plat as approved by the City Council.

In addition to the information included in the staff report, staff has provided the following additional information related to the significant amount of discussion surrounding this project:

- Council has recommended approval of the Preliminary Plat subject to Laramie Municipal Code, Comprehensive Plan, Major Street Plan and the conditions of approval of the Preliminary Plat; the Final Plat being considered **does not meet** these requirements.
- The applicant and Council indicated a desire to “work with the developer” regarding development of Bill Nye Avenue. Staff, as we would do with any applicant, including this

one, attempted such cooperation and work with the applicant during the Preliminary Plat process, which is the appropriate time to do so. During the Preliminary Plat process an applicant can ask staff and City Council to approve items related to their development that may not meet LMC requirements. Multiple Bill Nye Avenue development scenarios (delayed construction and multiple shared costs options) were proposed by Staff to the applicant and their legal counsel as potential options for them to consider. To compare options, the full construction cost option of \$1,181,468.00 can be compared to two options presented by staff that would make the developer responsible for \$760,873 or \$597,563.00, far less than the full construction cost. The applicant chose not to pursue any of the options, nor did they bring back any alternative options for the City to consider. In situations where no alternative options are considered acceptable, no alternative options can be presented to Council for consideration. When the option of, “no construction of Bill Nye” was proposed and ultimately moved forward to Council at the applicant’s request, staff’s recommendation was to recommend full construction of Bill Nye, which is what was ultimately approved and what is required by LMC.

- Staff would like to provide further clarity to the cost of construction of Bill Nye Avenue due to the fact the cost continues to be brought up by the applicant as a major issue. Because the project has not been bid for construction, nor the design completed, exact cost of Bill Nye Avenue cannot be given by the applicant or staff. As it has been presented and estimated by staff at the time of the Preliminary Plat, total estimated construction cost of all Bill Nye improvements is \$1,181,468.00 (this also includes a sewer line). This amount is the estimated cost at full buildout, not just this Final Plat. The applicant has continued to express that the total cost of construction is \$1,772,202.00; this is misleading and instead is the amount the applicant is required to financially secure improvements as part of the subdivision improvement agreement, to due a request to delay construction. If the developer desired to construct Bill Nye Avenue in conjunction with the development and not delay improvements the required financial security would be less; a value of \$1,476,835.00.
- This Final Plat will trigger \$841,192 in improvements not the full amount of \$1,181,468.00. For this Final Plat and if it is financially secured as a delayed improvement, total security required associated with this final plat would be \$1,261,788.00. If the applicant chooses to build the road now the required financial security would be \$1,051,490.00.
- Staff notes that approximately 1,260 feet of Bill Nye Avenue is adjacent to the development. Due other agreements in place for construction of Bill Nye Avenue, this development is only responsible for approximately 714 feet or just over half of the adjacent Bill Nye Avenue.
- The applicant continues to express that Bill Nye Avenue is not needed for this subdivision nor is related to this subdivision or development. Staff believes Bill Nye is necessary for the development based on the reasons below:
 - The City of Laramie, Albany County and State of Wyoming (WYDOT) has identified the necessity of Bill Nye Avenue as an east west transportation route for the community. This route which is within this development will provide access to and from the development despite the assertion of the applicant. This route was located based on anticipated future development and needed roads for anticipated traffic volumes because of development that will occur in the area.

- The City of Laramie Comprehensive Plan also identifies Bill Nye Avenue as an east west transportation route for the community, based on the same reasons the Major Street Plan has identified this location.
- The applicant contends that Boswell Drive serves as the main access in and out of the subdivision, which is currently it does. However, as noted during the subdivision process, master plans, as well as during other development projects in the area, Boswell Drive will be closed either at Bill Nye Avenue or 3rd Street by WYDOT in the future, thus eliminating all direct access to 3rd Street, a major commercial corridor to this subdivision. With the impending closure of Boswell Drive by WYDOT, Bill Nye Avenue will provide the only direct access to 3rd Street which is needed for the proposed commercial development in the subdivision (6 lots and almost 13 acres of commercial property) as well as the high number of residential lots within the the subdivision. Traffic Studies produced by the applicant in association with the Storage Unit Complex that is already constructed, as well as Traffic Study updates provided with the Preliminary Plat subdivision, further support the need for Bill Nye Avenue when Boswell is closed. The traffic studies for this development indicate that the Boswell Drive connection to 3rd Street alleviates traffic and reduces the traffic stress placed on 9th Street (the only access if Boswell is closed). If the Boswell Drive access does not remain, significant traffic impacts will be found at 9th Street and Russel Street, likely requiring the 9th Street bridge over Spring Creek to be widened as well as 9th Street being widened to accommodate left hand turning movements headed north. Bill Nye Avenue will serve as the new “Boswell” connection identified in their own traffic studies as being needed.
- The applicant contends that the subdivision has no access to Bill Nye Avenue thus is not needed. This argument is not understood by staff considering the main street that provides access to the commercial and residential development is from Boswell Drive, which is connected to Bill Nye Avenue. Furthermore, the developers have chosen not to provide any addition roads to Bill Nye Avenue on their own accord and their subdivision design and road access to Bill Nye was not dictated by the City.
- With the impending closure of Boswell Drive by WYDOT, Bill Nye will provide the only secondary emergency service access to this subdivision. Bill Nye Avenue is essential to emergency response personal in the event access from 9th Street is prohibited.
- A multi-million dollar (\$3,394,000 per applicants numbers) storage unit complex has already been built adjacent to Bill Nye Avenue with the recognition that Bill Nye Avenue would be developed. Bill Nye Avenue was recognized by the developer as needed, considering the storage unit complex designed the site to not be located within the future road and designed the fence along Bill Nye Avenue to comply with fencing requirements for those adjacent to a Collector Street.
- It is not unreasonable to consider a development constructing approximately 714 feet of road based on the development proposal being considered. At full build out this development will be comprised of 6 commercial lots and 135 single family residential lots. Of the 6 commercial lots proposed, 4 will be just over 1 acre in size, 1 commercial lot will be 2.55 acres and the other is 5.56 acres and is already developed with a \$3,394,000 storage unit complex. The size, scale and development potential of the area is proportionate to the improvements being required by the City. Comparing this request with other recent development projects, the City has

been consistent and has required construction of the same road, Bill Nye Avenue, for a length of about 550 feet in association with a 4 lot commercial development, which is far less development than the Spring Creek Village Final Plat.

- Based on the cost estimates for Bill Nye Avenue at value of \$1,089,468.00 (value minus the \$92,000 in sewer line) an estimated value per lot can be determined. In the scenario where the commercial lots are not even considered in the evaluation, each lot in the 135 lot subdivision would be “responsible” for \$8,070.13. In the scenario where commercial lots are “responsible” to contributing to the construction costs of Bill Nye a lower per-lot value will be achieved. As an estimate for every \$100,000 in commercial lot sales put towards Bill Nye Avenue (\$16,666 per commercial lot) the price per lot for each residential lot is reduced by \$741.00. Even at low commercial lot contribution (\$100,000 for all lots), each residential lot would be “responsible” for \$7,329.00; if that contribution was doubled each lot would be “responsible” for \$6,588.
- In 2015, the City of Laramie, at the applicant’s request upzoned the commercial portion of this property from B1 (Limited Business) to B2 (Business) zoning. This increase in zoning classification allows for more intense uses, typical of those associated with major commercial areas and more traffic. Within the Staff report presented, justification of the upzoning was in part justified by the fact that these more intense uses, “...are appropriate for this area due to the proximity to other commercial zones and major streets (3rds Street Arterial, future Bill Nye Avenue extension Arterial and 9th Street Collector).” Even the applicant’s own cover letter states that the rezoning is to allow for rezoning of “...4 lots as well as adjacent right of way..” (Bill Nye Avenue and Boswell) and that it is approvable due to the Comprehensive Plan and area meeting standards of the Development Code.

The February 10, 2020 Planning Commission Staff report is attached. The staff report has not been altered after the Planning Commission meeting.

Legal/Statutory Authority:

- Laramie Municipal Code Title 15, Unified Development Code
- Wyoming State Statutes Title 15 Cities and Towns, Article 5 Planning
- Wyoming State Statutes Title 15 Cities and Towns, Article 6 Zoning
- Wyoming State Statutes Title 34 Property Conveyances and Security Transactions, Chapter 12 Platting and Dedication
- Laramie Comprehensive Plan 2007
- Major Street Plan

Note: No conditions can be modified or added. The final plat review evaluates for compliance with conditions of preliminary plat approval. (15.06.060.P.5.e.(iv))

BUDGET/FISCAL INFORMATION:

REVENUE

Source	Amount	Type
Fees/Charges for Service	\$300.00	Application Fee
Grants for Projects		
Loans on Project		
Other		
Total	\$300.00	

Responsible Staff:

Todd Feezer, Assistant City Manager,
721-5304

Derek Teini, AICP, Planning Manager,
721-5245

Future dates are subject to change

Work Session	
Advertised	
Public Hearing Held	February 10, 2020 (Planning Commission)
Public Hearing Advertised	February 10, 2020 (Planning Commission)
Introduction/1 st Reading	July 7, 2020
2 nd Reading	September 15, 2020
3 rd Reading	n/a

Attachments:

February 10, 2020 Planning Commission Staff Report