

MINUTES OF THE  
LAND, USE AND DEVELOPMENT MEETING  
OF THE TOWN OF CLARKSTON

September 13, 2021  
7:00 PM

Clarkston Land, Use and Development Meeting held at the Clarkston Town Hall, 50 South Main, Clarkston, UT

Attendance: Chairman: Wayne Cooper  
Commissioners: Mike Kelly, Richie Calderwood  
Councilmember: Nichole Sparks

Deputy Clerk: Holly Jones

Public Attendance: Claude and Diane Gibbons, Clark Rigby, Kenny Hammon

1. CALL TO ORDER

Chairman W. Cooper began the meeting at 7:02 pm.

Chairman W Cooper addressed the minutes from July 12, 2021. Commissioner R. Calderwood made a motion to approve the minutes from July 12<sup>th</sup> and Commissioner M. Kelly seconded the motion. Minutes from July 12, 2021, were approved.

2. NEW BUSINESS

Claude and Diane Gibbons – 379 N 200 E – Division of Parcel #15-026-0016: Chairman W. Cooper recognized Mr. and Mrs. Gibbons for discussion on a lot division. Mr. Clark Rigby, a realtor from Newton, was also present to help them. Mr. Rigby stated that they would like to split a two-acre parcel off the northwest corner of their lot. Mrs. Gibbons stated that there was interest in it, so they wanted to see what the requirements were and then make a decision. Councilmember N. Sparks asked what their intentions were with the rest of the property, because they could potentially get two more lots out of it. Mrs. Gibbons agreed and stated that they thought all their life they would split the whole thing but never had the funds to invest in it, so they just want to do one lot split to start with. Councilmember N. Sparks pointed out possible street accesses, if roads are developed. She stated that the problem Clarkston has is that if the Gibbons plans are to make three different lots that is considered a subdivision. All three, Mr. and Mrs. Gibbons and Mr. Clark, quickly said that wasn't the case they just want to split it once and further down the road they may, or may not, want to split again. Councilmember N. Sparks stated that was the sticky spot.

There was a question about whether it was okay to split a lot once, but any more than once and it was a subdivision. Commissioner R. Calderwood stated that he was under the impression that any split is a subdivision, no matter if it was one or multiple divisions. Chairman W. Cooper felt that a property owner could break a piece off if they wanted but they can't come back every year or two and keep breaking pieces off. They would just have one opportunity. If it was more than the one, it becomes a

subdivision. Mr. Gibbons stated that at his age he probably wouldn't be back too many more times. Mr. Clark said that it used to be a county rule, about ten years ago, that a property owner could only break a piece off a property once and after that it was a subdivision. He stated that the county has eliminated that rule. He said as far as he knew it was not a city rule. He said this would be a minor subdivision or a lot split, but you could do that again, as long as it meets the frontage and the setbacks. It wouldn't actually matter how many times you split. He pointed out that the current lot split would have frontage on 400 North. Eventually, if they wanted to put a lot in the back, the access would be on the new 100 East, but that is not in the plan. Councilmember N. Sparks pointed out that whoever does will have to put a lot of money into that road (100 East) to develop it. Mr. Clark asked if 300 North would need to continue through if they did, at some point, decide to do that. Councilmember N. Sparks stated that it didn't look like there was a right-of-way for it. As of now, it does not look like that road is set to go through. Mr. Clark wanted to know if this current request would be a subdivision or a lot split because every community is different. He cited Wellsville as having to go through the subdivision process every time, but North Logan is just a lot split. Mrs. Gibbons said the person inquiring was just interested in two acres. Councilmember N. Sparks read from Clarkston Code 11-1-6, which states:

*11-1-6: DEFINITIONS:*

*SUBDIVISION: Any land that is divided, resubdivided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots or other division of land for the purpose, whether immediate or future, for offer, sale, lease or development, either on the installment plan or upon any and all other plans, terms and conditions.*

Councilmember N. Sparks stated the conclusion is that it is considered a subdivision. It can be divided but it would require a little bit more paperwork. Mr. Clark asked what the Commission would need beyond what they were given tonight, which is from a surveyor. He stated that what they have is a prepared and signed, stamped plan. Commissioner R. Calderwood asked if this would be the sketch plan. Councilmember N. Sparks confirmed that it would be. Mr. Clark said it would be the sketch plan in this meeting, but it is really the preliminary plat.

Councilmember N. Sparks felt this particular lot split would be an installment plan, so they would need the plan of what they want to do down the road as well. She stated that she understood it was not their intention right now, but the town engineer would want to see surveys for the other lots for potential water and sewer concerns. She said it is also not just about availability, but if a water line has to go down that street what will it do to the water pressure of everyone downstream. Commissioner R. Calderwood suggested that the preliminary plat needed to have proposed utilities on it as well. Councilmember N. Sparks said that the Gibbons would need to get with the town engineer at their expense. She stated that, even if it sounds silly, the development of the other two lots will eventually impact the town and we have to take that into consideration. The name and number of Sunrise Engineering was given to the Gibbons.

Mr. Clark wanted to know if this would be counted as the preliminary meeting or something else. Councilmember N. Sparks said that when they get it back from the engineer the LUDM Commission would look at it like any other permit and, if there are no other questions, would forward it on to the Town Council. However, if there were questions, they would ask the Gibbons to come back for clarification. Councilmember N. Sparks told the Gibbons that they could proceed but restated that it will

need to go through a subdivision process. Mr. Clark asked if there would be a vote to approve it. The LUDM Commission restated that they aren't approving anything tonight, just letting them know they can proceed and what the next steps are. Nothing can be approved until it comes back from the engineer. The engineer will get it to the Gibbons, and they will need to bring it back to the Commission; however, they do not have to wait for a meeting they can turn it in at the office and the deputy clerk will get it to the commissioners to approve or disapprove. The commissioners will then send it on to the town council.

Ken Hammon – Parcel #15-032-0003 - Property Access from a City Road Inquiry: Chairman W. Cooper recognized Mr. Hammon to address the Commission with his inquiry. Mr. Hammon requested an updated letter that stated the approval from September 5, 2017, was still in affect and he can continue the process of getting a building permit with the county. Mr. Hammon purchased the property from Mr. John Luthy. The County said they will give Mr. Hammon a conditional use permit as long as he comes off of the Center Street right-of-way. There was an agreement with the city council September 5, 2017, that the city would provide snow removal as long as the Hammons widened the road to the current requirements, and they added a 50-foot spur for emergency access to the property. He has spoken with an excavator; there is about 30 semi loads of overburden that need to be removed to widen that road to the specifications of 22 feet. He has been in contact with Facer Construction and wanted to know what the requirements are for roads. He thought about coming off of another road (100 South), which he felt would be better for the city as there are more homes around that area that would already need snow removal. However, there is a hill in the middle of the roadway that would be 300 West which would require extensive excavation, so he wanted to stay with the original plan.

The original letter to John Luthy is dated September 6, 2017. Mr. Hammon wasn't sure if he was in the right place or if he needed to go to the Town Council. He stated he has the paperwork of all their due diligence. It was originally the Hawthorn subdivision in the county. There were two parcels – the Pages own one and the Hammons own the other one. He is currently in the process of digging a well, which is at 320 feet with no water so far. He wondered if the LUDM Commission was the body that could give him an updated letter and the required specifications of that road.

Councilmember N. Sparks stated that they asked him to come to LUDM so they could know what his plans were. It will be the Mayor that would formulate the letter. The LUDM commission can give him what is required in our code concerning the road specifications. Mr. Hammon said that he heard Clarkston was oiling all the roads now. Councilmember N. Sparks said we require double chip seal or asphalt; he could choose. Mr. Hammon expressed his desire to have an agreement with the city that if the properties along his road improvements were ever developed, he could recoup some of the cost of the road. Councilmember N. Sparks said, "No. If you want to build up there, that is your cost." She stated that Clarkston will not get involved between property owners. Mr. Hammon contended that municipalities do it all the time, they say if a property owner is going to come in and use this road, they are responsible for paying a portion of it and its upkeep. He also said it was not a deal breaker.

He would like to get started sometime in October, hopefully the week of the 4<sup>th</sup> thru the 11<sup>th</sup>. One issue that he saw when it was surveyed was there was an area that needed a culvert to handle water runoff. He wondered what size of culvert he would need. Councilmember N. Sparks specified that the code states "adequate" for drainage, so the Roads department will be the one that needs to make that determination.

She wanted to go back and address some of the questions already brought up by Mr. Hammon before going on. She clarified that, because there was a change in ownership, the agreement made with the town in Mr. Luthy's name is null and void, as it was nontransferable. The town would need to reevaluate the situation. She affirmed that he could put the road in, but Clarkston Town cannot guarantee that they can keep that road open in the winter. She said the Mayor can write a letter that says Clarkston can try to the best of our ability but we cannot guarantee it. Anything above 200 West is very difficult for the town to keep open in the winter. Different accesses into his property were discussed, but all accesses would be in need of road development, which would have to be taken to the furthest point of the property, 7-2-9(C).

**7-2-9: NEW STREET CONSTRUCTION:**

*A. Responsibility: It is the responsibility of any person, contractor or agent desiring a new street access to obtain a permit to construct a street or roadway and said individuals will assume all expenses incurred in the project. (Ord. 18-08, 11-6-2018)*

*B. Right-Of-Way: A new street shall be placed into an existing designated road right-of-way and shall be established by an independent survey. (Ord. 16-10, 10-18-2016)*

*C. Building Materials: A roadway shall be established and is required to extend to the farthest point of the property in accordance with the following specifications: roadway must be at least twenty two feet (22') wide, vegetation grubbed off eight inches (8") deep and have eight inches (8") of pit run gravel compacted to make a drivable surface, and double chip seal or asphalt bringing the road to a Class B standard. (Ord. 18-08, 11-6-2018)*

*D. Water Drainage: Adequate ditches, culverts as needed for drainage which meets reasonable standard and specifications as established by an authorized representative of the Town.*

*E. Emergency Vehicles: Any new street must have adequate space for emergency vehicles, snow removal equipment, and garbage trucks; including turning around of such vehicles. (Ord. 16-10, 10-18-2016)*

**TURNAROUNDS REQUIRED**  
(Ord. 18-08, 11-6-2018)

*F. Inspection: It shall be unlawful for any person either as owner, agent, contractor or employee to construct a street which does not conform to specifications established by the Town Engineer or other authorized representative of the Town. (Ord. 16-10, 10-18-2016)*

Mr. Hammon wanted to know what was needed from him to get started. Councilmember N. Sparks said that if he made his intent know, as to where he wanted to come off of, the town would need a sketch. She said Mr. Hammon mentioned he already had it surveyed. He confirmed that they had the right-of-way and the property surveyed when they purchased it. He stated the surveyor was willing to do a remote off-site survey because the original stakes were now in a bale of hay. Councilmember N. Sparks stated that she has been trying to get a hold of the county to see exactly what they need from Clarkston. Mr. Hammon said that the county told him that all they needed for a conditional use building permit was for Clarkston to agree to snow removal and to widen that road. Councilmember N. Sparks reiterated that Clarkston cannot guarantee that they can keep that road open. The Town does not have the equipment. Mr. Hammon asked how the other roads were kept open and was told that they are not. The plows continually get stuck. Mr. Hammon said he didn't expect anything more than what was already being done. Councilmember N. Sparks replied that is all well and good until the Hammons have a medical emergency and emergency vehicles can't get to them. Mr. Hammon said, "But if you are able to plow

the other roads and we bring it to the current level of code?" He stated that he drove the road all last winter with the exception of one month, February, when it drifted over.

Councilmember N. Sparks said that what she foresees happening is that Clarkston can give him that letter that states we will keep that road open to the best of our abilities, but we cannot guarantee that we can keep that road open in the winter. Then it is up to the County whether they will approve that permit or not. Mr. Hammon asked again about the letter to the Luthy's and it was restated that it was not transferrable. He said his attorney thought there wouldn't be any problem with it being transferrable. Councilmember N. Sparks stated that if he could get an attorney to say it was transferrable then, by all means, he could do that. Mr. Hammon said that they have owned the property for four years and they are ready to build. They want to come in and be a good patron in the community and get started on getting that road where it needs to be. He said that if a new letter were to be worded somewhat similar to the Luthy letter that he would not have an issue with that, but he had a hard time seeing why the first letter was approved September 5, 2017, but not approved now. He would have a concern with that and want to know what has changed. Councilmember N. Sparks said that there was a road put in three and a half years ago (300 West) before the change in the road requirements – it was part of the reason for the change to bring it to the end of the property and the turnarounds. She stated that we cannot get access up there in the winter. There was a medical emergency up there, and we could not get to the residents. She said that is an honest, true problem that we have to take into consideration here in Clarkston. She asked Mr. Hammon what his backup plan was if we cannot get his road open. He stated that he would just open it up himself with his tractor. He said that was what he was used to from his childhood and that he wasn't concerned with the city being Johnny-on-the-spot with snow removal. Councilmember N. Sparks said it wasn't just about the snow removal but the medical emergency. Mr. Hammon restated that he wasn't that concerned about it; he just wanted to get the letter renewed. Councilmember N. Sparks said the Mayor was willing to write a letter but specify that the Town would, to the best of their ability, try to keep that road open. It is then up to the county whether or not to proceed because ultimately it is their responsibility. Mr. Hammon stated, if that is what he can get, he will take that and would like to get started.

There is about 30 loads of overburden that needs to be taken off the road. He wondered if the city wanted it, if not he was going to pile it on his property and use it for backfill around the house. Councilmember N. Sparks stated he needed to get in contact with the roads department. She stated that the town will proceed with having the Mayor write a letter stating that we will try to keep that road open but cannot guarantee it. Chairman W. Cooper asked where he was coming into his property from. Mr. Hammon stated he would come straight in from Center St. and put a culvert in. He was also going to put a 40 ft. cross to have a hammerhead for emergency vehicles. Councilmember N. Sparks pointed out that Clarkston's main water line runs right along there. Mr. Hammon stated that he is very aware where the water line is and has discussed it with the Mayor. He asked when he might expect the letter. Councilmember N. Sparks stated possibly tomorrow.

Mr. Hammon wanted to know if accessing the property from 100 South would be more beneficial to the town because there are more homes there. Discussion ensued again about new road requirements. It was felt that it was Mr. Hammon's decision to make. He would present the sketch to the town of where his road is going to go and any requirements the county has. Mr. Hammon had the county requirements with him. The county was requiring him to establish 50 feet of 300 West and, when he spoke to the Fire Department, they said he had to have a hammerhead. After presenting the sketch, the Mayor would write

the letter and then it would be up to the county. Councilmember N. Sparks stated that it probably wasn't what he wanted to hear, but the town's position is to protect the town's resources. Mr. Hammon wanted to clarify if the city was going to provide services to the new additional road or not. Councilmember N. Sparks said they would provide services, but that is why the Commission needed to evaluate what was being said. A copy of code 7-9-2 (New Street Construction), which was updated in 2018, was provided to Mr. Hammon.

#### Other Permits:

- Thomas Palazzolo – Zoning Permit (Carport) – 497 E Center was approved.
- Vern Draney – Zoning Permit (Goat Structure) – 265 S 200 W was approved.
- Kyle and Tena Godfrey – Residential Building Permit – 285 W 100 S was approved.
- Chad and Kennie Thompson – Residential Building Permit – 41 W 200 S is pending. There were issues with the plot plan and septic plan.

### 3. OTHER BUSINESS

New LUDM Commissioner: Councilmember N. Sparks went over how the new structure of the LUDM commission will work. The new town councilmember will take the LUDM chairman position. That is why the chairman won't have voting capability on the LUDM commission; if it goes to the town council, it won't be something that the chairman approved or disapproved. There will only be three LUDM commissioners. Commissioners Kelly and Calderwood will still be serving but there will be one vacancy at the end of December.

Roads Master Plan: At the last meeting there was a discussion about needing to come up with a master plan for the roads. Councilmember N. Sparks felt it was there, the commission just needed to look at the right-of-ways that are already established. Commissioner R. Calderwood agreed. He didn't necessarily want to tell people where to build the road but to maintain a grid pattern organization, so we don't have people creating islands or other anomalies. Just looking at the two proposed roads, one tonight and the one at the last meeting, they are just beyond Clarkston boundaries but if they are ever annexed in 200 North should extend on indefinitely. Another area being developed, 100 South and 300 East should have the grid organization maintained. Councilmember N. Sparks asked how we go about that, because that is taking property from someone. Commissioner R. Calderwood pointed out that roads have to be put in. We don't have to have the land now but when someone wants to develop it, and roads are going in anyway, there should be an organized manner that Clarkston sees fit. There was discussion about other towns in the valley that have roads going all over the place because growth wasn't planned for before it happened. Different pieces of property in town were discussed that will have issues getting road access because people have built in the road right-of-way.

The LUDM Commission wants to look forward toward the next 100 years and feels it is important to update right-of-ways through the use of developing a master plan for Clarkston and its newly approved annexation area. Commissioner R. Calderwood pointed out that the grid plan is just the basic layout. The Commission would still have to deal with things that don't fall within the plan, like the properties discussed tonight, or landmarks. They would have to allow for some deviation, but a plan would help with that as well. Councilmember N. Sparks said that the annexation plan does state that the City's intent is to keep Clarkston in a grid-like manner. Commissioner R. Calderwood asked if we have the city engineer, or someone, look at that and expand on that, so the Town can have a map of it that they can

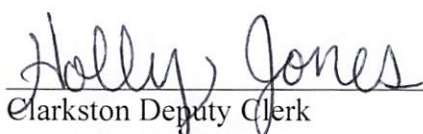
make suggestions here and there. It was decided the next step would be a sketch showing proposed future road development. If the commission were to have a map they could mark up, then they would have something to give to the engineer. Commissioner M. Kelly wondered how people might take it if they see a map with a road right-of-way through their property. Councilmember N. Sparks stated that they need to know before annexing in that it is a possibility. Chairman W. Cooper agreed that if they want to develop the property they need to know where the road needs to go; they can't just wind roads through willy-nilly. Deputy Clerk H. Jones will get a large parcel map that includes the annexation area for the next meeting. The Commission felt everything should show on the map: future roads, future water, and future utilities, etc.

City Inspect Review: There was discussion about having 'Public Works' sign off via City Inspect. It was decided to hold off training them for now. How to make a comment on City Inspect without approving a permit was reviewed, along with the fact that the councilmember is the only one authorized to approve a permit. The commissioners are still not receiving notifications from City Inspect. The deputy clerk will continue to provide email notifications to the commission.

Annexation Plan Update: Councilmember N. Sparks wanted to let the commission know what was happening on the annexation policy adoption. The Town Council will discuss it at the next meeting and then have a public hearing at the meeting after that. If there are not any objections, it will get approved at that time.

#### 4. ADJOURN

There being no further business to come before the LUDM Commission, Commissioner R. Calderwood motioned that the Clarkston Town LUDM meeting be adjourned. Commissioner M. Kelly seconded the motion. The meeting adjourned at 8:37 p.m.

  
Clarkston Deputy Clerk

