

# Think Quality - Think Future

## Blount County Planning Department

Blount County Courthouse - 327 Court Street

Maryville, TN 37804-5906

Tel (865) 273-5750 - FAX (865) 273-5759

e-mail - [planning@blounttn.org](mailto:planning@blounttn.org)

### MEMORANDUM

TO: Members of the Blount County Planning Commission

FROM: Planning Department (Tel. 273-5750)

DATE: October 31, 2008

SUBJECT: Staff reports on Jones and Sparks plat agenda item for the Monday November 10th, 2008 SPECIAL CALLED MEETING. 5:30 Hearings

#### ITEM C-2 added to special called meeting

**Lot 117 Jones and Sparks Property off Christy Lane in Laurel Valley by John Sparks and John Jones.**

**\* Italics indicate updated items since preliminary approval.**

*This is a final plat request. The preliminary plat was approved with conditions by the Planning Commission at the September 2008 regular meeting.*

*The common driveway construction to the end of Lot 117 has been completed including a paved entrance and gravel surface driveway.*

#### Background:

The proposed Lot 117 is a portion of John Sparks property and a portion of the John Jones Property. The proposed lot is to have access off of Christy Lane which is a paved private road that is owned and maintained by the Laurel Valley Property Owners Association (LVPOA).

Access off of Christy Lane for this one-lot (Lot 117) and the possibility of future tracts is contingent upon approval of the LVPOA to allow for any new lots to become part of the LVPOA.

The proposed Lot 117 has to meet the requirements for subdivision under the current regulations which includes access considerations. The approved preliminary plat included Mr. Sparks making sight distance improvements at the propose intersection with Christy Lane and to include a permanent sight distance easement on the plat and to include the maintenance responsibility for that sight distance easement into the new private covenants along with road and drainage maintenance.

*Mr. Sparks has removed several small trees and other vegetation and has made a considerable sight distance improvement which appears adequate. The plat for Lot 117 has a note indicating the maintenance of the sight distance easement, however the location is not clearly determined on the plat and staff has not received any property owners association documentation for the perpetual maintenance of the driveway or the sight distance area.*

Furthermore as mentioned, it is understood the future intent is to divide additional large tracts of 5 acres or greater tracts beyond this proposed lot 117 and to establish an easement to serve the future tracts. The attached plat submitted by the surveyor indicates that the easement is existing and is 40' wide.

The width of this easement is germane to the potential number of future tracts over five acres that could be divided and the type of road standards that would apply. For example the 40' wide easement is appropriate and does meet Section 9.01, Hillside Development Standards of the Subdivision Regulations for a paved public or private roadway in a mountain development when a variance to right-of-way width is granted. In such instances the regulations allow up to 20 lots off of roadways constructed off of a reduced right-of-way.

A 25' access easement would indicate that the shared access would be by way of a common driveway which would limit the number of potential tracts to four served exclusively off of that easement. It should be noted that a 40' easement could also be considered a common driveway easement if indicated as such.

The LVPOA has supplied a list of 6 items to be completed by Mr. Sparks in order to allow use of and access across Laurel Valley roads (see attached letter from Kizer and Black Attorneys) for this proposed lot 117 and any proposed additional lots.

Attachment begin

KIZER & BLACK, ATTORNEYS, PLLC

329 CATES STREET

MARYVILLE, TENNESSEE 37801-4903

TELEPHONE: (865) 982-7650

FACSIMILE: (865) 982-5776

September 12, 2008

DAVID T. BLACK  
MARTHA S. L. BLACK  
JOHN T. MCARTHUR  
J. KEVIN RENFRO  
MELANIE E. DAVIS  
MATTHEW C. HARALSON  
JUSTIN R. MARTIN  
SHERRI L. DECOSTA  
G. KEITH ALLEY

BEN W. KIZER  
(1920-1996)

LENOIR CITY OFFICE  
902 EAST BROADWAY  
LENOIR CITY, TENNESSEE 37771  
TELEPHONE: (865) 986-1660  
FACSIMILE: (865) 986-2609

Writer's Direct Dial: (865) 980-1625  
Writer's Direct Fax: (865) 980-1640

Mr. John Lamb  
Blount County Planning Department  
327 Court Street  
Maryville, Tennessee 37804

Dear John:

I am writing this letter on behalf of my client, Laurel Valley Property Owners Association, Inc. ("LVPOA"). I understand that John "Tater" Sparks wishes to change his subdivision plan as relates to an approximate 18 acre tract adjacent to Laurel Valley. I further understand that Tater has now decided to divide this land into lots of five (5) acres or more. He desires to access these lots over the private system of roadways owned by the LVPOA.

The Laurel Valley Property Owners Association would agree to allow Tater and his successors and assigns access for these five (5) acre lots over Laurel Valley roads on the following conditions:

1. The lots must be bound by the restrictions of record for Laurel Valley.
2. The access issue over Mt. Luke Road must be addressed and Mt. Luke Road must be closed from direct access from a public road so that the lots at issue would only be able accessible over Laurel Valley roads and security within Laurel Valley would not be breached.
3. Third party owners of at least three (3) lots adjacent to Tater's property would need to sign on to an agreement extinguishing their easement rights over Mt. Luke Road and agree to access their property instead over Laurel Valley roads and by a private driveway as applicable to be constructed by Tater.
4. Tater must construct a private drive beginning at Christy Lane and going to the affected lots which will be maintained by the owners of these lots.
5. The Laurel Valley Property Owners Association would further expect to have a right of access over this private road as needed to attend to the barrier that will be in place on Mt. Luke Road and to do routine inspections to ensure that the restrictions are being complied with by property

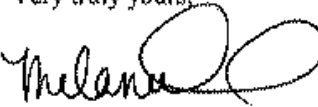
owners.

- 6. The LVPOA must be provided the final plat to o.k. prior to Tater's submission for Planning Commission final approval so that it can check the property contemplated for access over its roads based on a signed and proper survey.

If all of these conditions are met and an appropriate document can be signed by all of the relevant parties and recorded, the LVPOA will agree to the desired access.

Please let me know if you have any questions.

With kindest regards, I remain

Very truly yours,  
  
 Melanie E. Davis

MED:ps

cc: Laurel Valley Property Owners Association, Inc.

Attachment end

The attached letter states that Mr. Sparks must construct a private drive beginning at Christy Lane and going to three existing lots that access Mt Luke Road. In addition all lots are to extinguish their access to Mt. Luke and use Laurel Valley roads and Mr. Sparks would be required to close Mt. Luke and provide LVPOA access to the new road to maintain the closed road for safety purposes to Laurel Valley which is a gated community, thus not creating a cut-through situation. Additional conditions are also imposed by the LVPOA. The proposed length of the private drive has not been determined by Mr. Sparks or the LVPOA. In addition the LVPOA does not establish any standards for what type of "private drive" they are requiring.

A second letter was submitted by Ms. Davis of Kizer and Black on September 25<sup>th</sup>, 2008 to clarify and modify item 2 of attachment as such:

"A barrier must be placed on Mount Luke Road to close it from access from cars approaching from Highway 321 or Tuckaleechee Pike so that the lots at issue would only be accessible over Laurel Valley Roads and security within Laurel Valley would not be breached"

As noted for preliminary plat approval; which physical improvements are required for use of the 40' easement is subject to determination of the following:

- It is understood that the 40' easement is to meet the standards of the subdivision regulations for Hillside Development or a Common Driveway which would limit the number of future lots or tracts beyond lot 117 to four.
- What type of "private drive" is acceptable to the LVPOA and would a gravel common drive that meets subdivision standards be appropriate.
- If a common drive is the consideration and Mr. Sparks cuts 1 five acre or greater tract beyond this lot 117, and meets the criteria specified by the LVPOA, along with the three homes/lots served by Mt. Luke Road, then essentially the common driveway easement would be maxed out for one additional tract.
- State law provides that "divisions where the resulting tracts are all five (5) acres or more, all have frontage on an existing road and where no extension of utility lines are required, other than direct utility connections to individual lots" is not "subdivision" and therefore not subject to Planning Commission review or approval. Determination of whether any of the future tracts meet the criteria for exemption may require a legal opinion considering the situation with the LVPOA.

Any divisions including that for lot 117 shown that fall within the jurisdiction of the planning commission and the standards of the subdivision regulations shall contain the following items:

1. A sight distance note and easement should be added to the plat and should be noted within the private covenants for maintenance considerations.
2. Any proposed common driveway should meet the construction and road standards of the subdivision regulations for a gravel common driveway with a paved entrance including drainage considerations. All state and county permits shall be required, and acceptance of such common driveway by the LVPOA to the 3 lots served by Mt. Luke Road.
3. Meeting the 6 items listed by the LVPOA (including the updated item 2).

*Inspection shows that improvements within the easement currently DO meet the minimum requirements of a common driveway, some erosion control measures including bank stabilization to the satisfaction of the*

*Storm Water Coordinator shall be completed prior to releasing any final plat.*

*Staff does not have any updated POA documentation tying these lots to the LVPOA or for the shared maintenance of the driveway or sight distance easement at this time.*

*The environmental health department has evaluated the proposed lot 117 and has signed the one-lot plat. No other evaluation of the proposed five acre tract has occurred.*

The outstanding item of consideration for final plat approval of Lot 117 by the planning commission is access to lot 117 along Christy Lane via the consent of the Laurel Valley Property Owners Association.

*Staff does not have confirmation that the six items (and updated item 2) have been met to the satisfaction of the LVPOA. A representative of the LVPOA is expected to address the Planning Commission at the meeting.*

This one-lot subdivision is essentially a re-platting of lot lines thus creating a lot that must meet the criteria of the subdivision regulations for driveway standards and environmental health department approval. The access becomes an issue as the ownership of access is by the LVPOA. The conditions of the LVPOA are at their discretion.

Any final plat approval should consider all outstanding items to be completed as part of a conditional plat approval including the following:

1. Completion of all erosion controls and soil stabilization to the satisfaction of the Storm Water Coordinator.
2. Updated POA documentation for inclusion of this lot into the maintenance participation with the LVPOA and shared common driveway responsibility with other property owned by Mr. Sparks and the three other lots along Mt. Luke Road. Sight distance maintenance should also be noted in the covenants.
3. Sight Distance clarification on the Final plat.
4. Signature plats and a \$20 platting fee.
5. Confirmation from the LVPOA of satisfaction and completion of items listed by the LVPOA.