

# MINUTES OF THE CITY COUNCIL OF LAUREL

SEPTEMBER 14, 2021

A regular meeting of the City Council of the City of Laurel, Montana, was held in the Council Chambers and called to order by Mayor Tom Nelson at 6:30 p.m. on September 14, 2021.

COUNCIL MEMBERS PRESENT:

	Heidi Sparks
Bruce McGee	Richard Herr
Scot Stokes	Irv Wilke
Richard Klose	

COUNCIL MEMBERS ABSENT:

Emelie Eaton	Don Nelson
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OTHER STAFF PRESENT:

Nick Altonaga, Planning Director

Mayor Nelson led the Pledge of Allegiance to the American flag.

Mayor Nelson asked the Council to observe a moment of silence.

**MINUTES:**

- **Approval of Minutes of August 24, 2021.**

Motion by Council Member McGee to approve the minutes of the regular meeting of August 24, 2021, as presented, seconded by Council Member Klose. There was no public comment or Council discussion. A vote was taken on the motion. All six Council Members present voted aye. Motion carried 6-0.

- **Approval of Minutes of September 7, 2021.**

Motion by Council Member Sparks to approve the minutes of the regular meeting of September 7, 2021, as presented, seconded by Council Member McGee. There was no public comment or Council discussion. A vote was taken on the motion. All six Council Members present voted aye. Motion carried 6-0.

**CORRESPONDENCE:**

- **Laurel Airport Authority Minutes of July 27, 2021.**
- **Fire Monthly Report – August 2021.**
- **Police Monthly Report – August 2021.**
- **Building Department Monthly Report – August 2021.**

**COUNCIL DISCLOSURE OF EX PARTE COMMUNICATIONS:** None.

**PUBLIC HEARING:**

- **Public Hearing: Budget Amendment Resolution Amending Appropriations And Revenues For The Federal Equitable Sharing Fund For Fiscal Year 2020-2021.**

Mayor Nelson stated this is the time and place set for the public hearing on the City of Laurel's Budget Amendment Resolution Amending Appropriations And Revenues For The Federal Equitable Sharing Fund For Fiscal Year 2020-2021.

Mayor Nelson opened the public hearing and asked Staff to present the item.

Mayor Nelson stated this is the money we get for our work on the Drug Task Force with the Federal Government. We have an officer who works with that task force when they work on a case, and items are confiscated when those items are sold; the City receives a portion of those monies. We are

not allowed to budget for any of that since we do not know what those funds will be. At the end of the year, we do a budget amendment for those funds received.

Mayor Nelson opened the floor for public comment and stated that copies of the rules governing the public hearing were posted in the Council chambers.

Mayor Nelson asked three (3) times if there were any proponents. There were none.

Mayor Nelson asked three (3) times if there were any opponents. There were none.

Mayor Nelson stated that he would not have Staff respond to questions as there were none.

Mayor Nelson closed the public hearing.

- **Public Hearing: A Resolution Adopting An Official Schedule Of Fees And Charges For The City Of Laurel Repealing All Previous Resolutions That Set Fees Or Charges That Conflict With The Schedule Attached Hereto.**

Mayor Nelson stated this is the time and place set for the public hearing on the City of Laurel's A Resolution Adopting An Official Schedule Of Fees And Charges For The City Of Laurel Repealing All Previous Resolutions That Set Fees Or Charges That Conflict With The Schedule Attached Hereto.

Mayor Nelson opened the public hearing and asked Staff to present the item.

Nick Altonaga, Planning Director, briefly reviewed the changes to the Schedule of Fees. There were significant changes to the Building and Planning Departments Fees. Those fees have not been changed in a very long time. These fees more closely match Billings and various towns across the State.

Mayor Nelson opened the floor for public comment and stated that copies of the rules governing the public hearing were posted in the Council chambers.

Mayor Nelson asked three (3) times if there were any proponents. There were none.

Mayor Nelson asked if there were any opponents.

David Atkins, 7 3<sup>rd</sup> Avenue, stated that they are taking about raising taxes without asking what they think of that. I think it should be put up to a vote of the citizens if they want to raise taxes.

Mayor Nelson asked two (2) additional times if there were any opponents. There were none.

Mayor Nelson asked Staff if they would like to respond to the comments.

Nick Altonaga, Planning Director, clarified these are fees and do not have anything to do with taxes. These are fees for permits and things like that.

David Atkins stated that any fee the Government charges is a tax; that's just how it is; if you want to charge citizens money, that's a tax.

Mayor Nelson closed the public hearing.

- **Public Hearing: A Resolution Of The City Council Approving An Application For Special Review For Project Telephone Authorizing The Construction Of A Fiberoptic Hut At 1013 8th Avenue, City Of Laurel.**

Mayor Nelson stated this is the time and place set for the public hearing on the City of Laurel's A Resolution Of The City Council Approving An Application For Special Review For Project Telephone Authorizing The Construction Of A Fiberoptic Hut At 1013 8th Avenue, City Of Laurel.

Mayor Nelson opened the public hearing and asked Staff to present the item.

Nick Altonaga, Planning Director, briefly reviewed the attached Staff report.

Mayor Nelson opened the floor for public comment and stated that copies of the rules governing the public hearing were posted in the Council chambers.

Mayor Nelson asked if there were any proponents.

Troy Unrein, Worden, stated he is the local area manager for Nemont doing business as Project Telephone. He stated that what they are doing is building a transport fiber from Absorakee to Billings to tie in our network and provide redundancy. He stated he does have a building maintenance person on Staff. He goes around to all the buildings making sure all the sites are up to date. Grass is mowed, snow is removed, that kind of stuff. This site is just a transport site; they are not providing service out of it. They have a fiber coming in; it runs through some equipment and then expresses out. It is more of a transport at this point. He asked if there were any questions that he could answer.

Mayor Nelson asked an additional two (2) times if there were any proponents. There were none.

Mayor Nelson asked three (3) times if there were any opponents. There were none.

Mayor Nelson stated that he would not have Staff respond to questions as there were none.

Mayor Nelson closed the public hearing.

- **Public Hearing: Resolution Of Intent To Approve The Application For Bitterroot Grove Townhomes, A Sixty Unit Planned Unit Development As An Addition To The City Of Laurel With Changes.**

Mayor Nelson stated this is the time and place set for the public hearing on the City of Laurel's Resolution Of Intent To Approve The Application For Bitterroot Grove Townhomes, A Sixty Unit Planned Unit Development As An Addition To The City Of Laurel With Changes.

Mayor Nelson opened the public hearing and asked Staff to present the item.

Nick Altonaga, Planning Director, briefly reviewed the attached Staff report.

Mayor Nelson opened the floor for public comment and stated that copies of the rules governing the public hearing were posted in the Council chambers.

Mayor Nelson asked if there were any proponents.

Travis West, Great West Engineering, stated they are the engineers on this project. They are in favor of this project. They are available if there are any questions.

Mayor Nelson asked an additional two (2) times if there were any proponents. There were none.

Mayor Nelson asked three (3) times if there were any opponents. There were none.

Mayor Nelson stated that he would not have Staff respond to questions as there were none.

Mayor Nelson closed the public hearing.

- **Public Hearing: Resolution Of Annexation And Zoning For Nutting Brothers Subdivision, Block 6, Lots 1-12 And Block 7, Lots 1-12 And The Abandoned Portion Of Hazel Avenue And Alleyways Located Between Blocks 6 And 7 And Adjoining Rights Of Way, As An Addition To The City Of Laurel, Yellowstone County, Montana.**

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Mayor Nelson asked an additional two (2) times if there were any proponents. There were none.

Mayor Nelson asked three (3) times if there were any opponents. There were none.

Mayor Nelson stated that he would not have Staff respond to questions as there were none.

Mayor Nelson closed the public hearing.

- **Public Hearing: A Resolution Of Annexation And Approval Of Zone Change For The Cherry Hills Subdivision, Third Filing, An Addition To The City Of Laurel, Subject To Conditions Imposed By The City.**

Mayor Nelson stated this is the time and place set for the public hearing on the City of Laurel's A Resolution Of Annexation And Approval Of Zone Change For The Cherry Hills Subdivision, Third Filing, An Addition To The City Of Laurel, Subject To Conditions Imposed By The City.

Mayor Nelson opened the public hearing and asked Staff to present the item.

Nick Altonaga, Planning Director, briefly reviewed the attached Staff report.

Mayor Nelson opened the floor for public comment and stated that copies of the rules governing the public hearing were posted in the Council chambers.

Mayor Nelson asked if there were any proponents.

Marty Gagnon, Morrison Maierle, stated they are in favor of this project. He stated there is one item he would like to state on the record. It is item number four on the conditions. It is if public improvements are not constructed at the time of annexation, they should post a bond. But in the improvements agreement, it explicitly states that no financial guarantees are anticipated for the required infrastructure. Which makes sense; the developer is going to put the infrastructure in the ground. And prior to final plat, it will be constructed, but not prior to annexation. He will have some time to put it in the ground prior to final plat. He is assuming it is going to be annexed prior to that. He would like a clarification of that if we could.

Mayor Nelson asked again if there were proponents.

Angela Klein-Hughes, 2641 Buffalo Horn Drive (Montana Meadows Subdivision), stated she is a real estate broker and owner of A Haus of Reality. She has been in real estate for about 20 years. She has been part of this project for the last past year now; as you know that with this current market, with this Covid, we are experiencing the most limited inventory of housing, we have ever seen. Having a housing shortage for people that are desiring Laurel. Laurel has become a community that many would like to move to. They love our schools; they love our community. We just have nowhere to put them. This subdivision will be very beneficial to allow additional housing for families who are wanting to Laurel. She is a proponent of this development.

Mayor Nelson asked one (1) additional times if there were any proponents. There were none.

Mayor Nelson asked three (3) times if there were any opponents. There were none.

Mayor Nelson stated that he would have Staff respond to questions.

Nick Altonaga, Planning Director, clarified that point number four is directly lifted from the annexation policy. Council can choose to strike down that condition when voting on the item.

Marty Gagnon, Morrison Maierle, stated that it is not a big thing. One of the things with developers is they like predictability. It is a little bit unclear what is going to be required of them. The improvements agreement doesn't require a bond. So he is not planning on posting a bond. But this condition requires a bond. How do we want to move forward with that? That is all we need tonight.

Nick Altonaga, Planning Director, stated we do not even need to include that condition of approval and can strike it from the resolution and the staff report it mentions. We can remove it and go by the annexation agreement and use it as the guiding principle.

Mayor Nelson clarified Council would need to strike that condition under scheduled matters when that item comes up for a vote.

Nick Altonaga, Planning Director, further clarified that Planning Board is a statutory body, but they recommend things to Council. Council can amend the conditions of approval.

Mayor Nelson closed the public hearing.

- **Public Hearing: A Resolution To Approve The Preliminary Plat Of Cherry Hills Subdivision, Third Filing, An Addition To The City Of Laurel Subject To Conditions.**

Mayor Nelson stated this is the time and place set for the public hearing on the City of Laurel's A Resolution To Approve The Preliminary Plat Of Cherry Hills Subdivision, Third Filing, An Addition To The City Of Laurel Subject To Conditions.

Mayor Nelson opened the public hearing and asked Staff to present the item.

Nick Altonaga, Planning Director, briefly reviewed the attached Staff report.

Mayor Nelson opened the floor for public comment and stated that copies of the rules governing the public hearing were posted in the Council chambers.

Mayor Nelson asked if there were any proponents.

Marty Gagnon, Morrison Maierle, stated that he thinks we have covered everything. I think we are squared away. The only clarification, something I want on the record, is item number one. The reference in that July 8<sup>th</sup> letter that refers to the booster station and a proposed utility lot. That booster station now resides in an existing utility, public utility, and right-of-way easement. That's kind of a non-issue that has been solved. He thinks both the Planning Director and himself are on the same page there. He wanted to make sure it is on the record.

Mayor Nelson asked again if there were any proponents.

Angela Klein-Hughes, A Haus of Realty, stated one more time that she is a proponent of this subdivision. As many of us know, right now, we are out of residential lots to build on. The Monterro subdivision has completely filled. The Elena subdivision is completely sold out. We have no place for growth. So if we want Laurel to grow for residential lots, we need to get this subdivision approved.

Mayor Nelson asked one (1) additional times if there were any proponents. There were none.

Mayor Nelson asked three (3) times if there were any opponents. There were none.

Mayor Nelson stated that he would have Staff respond to questions.

Nick Altonaga, Planning Director, has no additional clarifications.

Mayor Nelson closed the public hearing.

- **Public Hearing: A Resolution Of The City Council Granting A Variance From Certain Sections Of Chapter 17 Of The City's Sign Code For The Property Located At 202 SE 4th Street To Allow The Removal And Replacement Of A Freestanding Pole Sign With An Electronic Controlled Sign Which Is Currently Prohibited.**

Mayor Nelson stated this is the time and place set for the public hearing on the City of Laurel's A Resolution Of The City Council Granting A Variance From Certain Sections Of Chapter 17 Of The City's Sign Code For The Property Located At 202 SE 4th Street To Allow The Removal And Replacement Of A Freestanding Pole Sign With An Electronic Controlled Sign Which Is Currently Prohibited.

Mayor Nelson opened the public hearing and asked Staff to present the item.

Nick Altonaga, Planning Director, briefly reviewed the attached Staff report.

Mayor Nelson opened the floor for public comment and stated that copies of the rules governing the public hearing were posted in the Council chambers.

Mayor Nelson asked if there were any proponents.

Ken Fitchner stated he is a long-time Laurel resident. He is the prior owner of Fitchner Chevrolet. Sold the dealership, Jan made a decision against my will, and you all know how that turned out. That business is no longer a business in Laurel and has been repurchased by Mr. Jones of Ashland, Oregon, who also owns Laurel Ford and 13 other stores. He now owns Laurel Chevrolet and asked him to come back and operate the dealership for him. Nick has been great to work with. It was a pleasurable experience to go through the Planning Committee. We agreed to these conditions. And to be able to operate that sign in its existing location to be used by the City, School, and Civic groups for other public announcements. We are happy to do that. As he told the Planning Committee, for us to ever think that we can display marketing messages that would really sell a car or sell a service. That isn't the case. Our intent is to use that to promote Laurel and welcome folks to the City of Laurel. He is happy to answer any questions that anyone might have.

Mayor Nelson asked two (2) additional times if there were any opponents. There were none.

Mayor Nelson stated that he would not have Staff respond to questions as there were none.

Mayor Nelson closed the public hearing.

#### **CONSENT ITEMS:**

- **Claims entered through September 10, 2021.**  
A complete listing of the claims and their amounts is on file in the Clerk/Treasurer's Office.
- **Approval of Payroll Register for PPE 8/22/2021 totaling \$194,748.46.**
- **Approval of Payroll Register for PPE 9/5/2021 totaling \$207,090.58.**
- **Approval of Retro Pay for Union 316 totaling \$7,075.36.**

The Mayor asked if there was any separation of consent items. There was none.

Motion by Council Member McGee to approve the consent items as presented, seconded by Council Member Sparks. There was no public comment or Council discussion. A vote was taken on the motion. All six Council Members present voted aye. Motion carried 6-0.

**CEREMONIAL CALENDAR:** None.

#### **REPORTS OF BOARDS AND COMMISSIONS:**

- Budget/Finance Committee Minutes of August 24, 2021.
- Park Board Minutes of September 2, 2021.

#### **AUDIENCE PARTICIPATION (THREE-MINUTE LIMIT):**

David Atkins, 7 3<sup>rd</sup> Avenue, stated first he would like to apologize to Councilmen Stokes for annoying you with my opinion earlier. I saw you roll your eyes. That's only the first... that's just the latest in the contempt that I have experienced from this Council and from City Officials who are dictators. We've been trying to get our parking fixed for 15 years. Oh, transparency, last week, you guys started at 6:30; you posted on your website that you start at 7:00. So you basically had a secret

meeting from 6:30 to 7:00. Pretty sure that's not legal. Last, my wife emailed all of you guys and the Mayor. The one that went to the Mayor came back, saying, you're blocked. Seems like the Mayor doesn't want to hear from citizens. Maybe he just blocked my wife; maybe he blocks everyone. I don't know. I am ashamed that the two from Ward 1 are ... I don't know why I have to fight this battle. My Council people who represent me should be fighting this battle. The Central Business District is languishing because we do not have enough parking. So as you know ... well, I also want to address that at last week, I don't know if the Police Chief was lying or just mistaken, but he stated to you guys that we had been asked to remove the parking lines. We have not been asked that until we got a letter from your attorney today. Another thing about transparency, we are not able to find a lawyer to represent us in your malicious lawsuit against us because they keep telling us that we're the City of Laurel's attorney. We can't represent you and the City. I don't know why you need more than Sam Painter. It seems it kinds of leads me to believe that you guys bought up all the lawyers so no one could stand up for themselves. As far as the safety issues that the EMT Director and the Fire Chief brought up about it being too narrow, less safe, we're the same width as other Avenues. Colorado and Pennsylvania Avenues, they have nose in parking exactly what we're wanting. I have measured those streets; they are exactly the same width. I am curious to know how many additional accidents happen on those Avenues to ours. I think this is all political. I think City Officials don't like it when people stand up to them and refuse to be bullied. Thanks.

#### **SCHEDULED MATTERS:**

- **Resolution No. R21-97: Budget Amendment Resolution Amending Appropriations And Revenues For The Federal Equitable Sharing Fund For Fiscal Year 2020-2021**

Motion by Council Member Herr to approve Resolution No. R21-97, seconded by Council Member Wilke. There was no public comment or Council discussion. A vote was taken on the motion. All six Council Members present voted aye. Motion carried 6-0.

- **Resolution No. R21-98: A Resolution Adopting An Official Schedule Of Fees And Charges For The City Of Laurel Repealing All Previous Resolutions That Set Fees Or Charges That Conflict With The Schedule Attached Hereto.**

Motion by Council Member Wilke to approve Resolution No. R21-98, seconded by Council Member Klose. There was no public comment or Council discussion. A vote was taken on the motion. All six Council Members present voted aye. Motion carried 6-0.

- **Resolution No. R21-99: A Resolution Of The City Council Approving An Application For Special Review For Project Telephone Authorizing The Construction Of A Fiberoptic Hut At 1013 8th Avenue, City Of Laurel.**

Motion by Council Member Klose to approve Resolution No. R21-99, seconded by Council Member McGee. There was no public comment or Council discussion. A vote was taken on the motion. All six Council Members present voted aye. Motion carried 6-0.

- **Resolution No. R21-50: Resolution Of Intent To Approve The Application For Bitterroot Grove Townhomes, A Sixty Unit Planned Unit Development As An Addition To The City Of Laurel With Changes.**

Motion by Council Member Stokes to approve Resolution No. R21-50, seconded by Council Member Wilke. There was no public comment or Council discussion. A vote was taken on the motion. All six Council Members present voted aye. Motion carried 6-0.

- **Resolution No. R21-51: Resolution Of Annexation And Zoning For Nutting Brothers Subdivision, Block 6, Lots 1-12 And Block 7, Lots 1-12 And The Abandoned Portion Of Hazel Avenue And Alleyways Located Between Blocks 6 And 7 And Adjoining Rights Of Way, As An Addition To The City Of Laurel, Yellowstone County, Montana.**

Motion by Council Member Stokes to approve Resolution No. R21-51, seconded by Council Member Wilke. There was no public comment or Council discussion. A vote was taken on the motion. All six Council Members present voted aye. Motion carried 6-0.

- **Resolution No. R21-100: A Resolution Of Annexation And Approval Of Zone Change For The Cherry Hills Subdivision, Third Filing, An Addition To The City Of Laurel, Subject To Conditions Imposed By The City**

Motion by Council Member McGee to approve Resolution No. R21-100, seconded by Council Member Wilke.

Marty Gagnon, Morrison Mairele, stated he thought we were going to strike condition number four. The requirement for a bond.

Council stated they thought that was in regards to Resolution No. R21-101.

Motion by Council Member McGee to approve Resolution No. R21-100 striking condition number four, seconded by Council Member Wilke. There was no additional public comment or Council discussion. A vote was taken on the motion striking condition number four requiring a bond. All six Council Members present voted aye. Motion carried 6-0.

- **Resolution No. R21-101: A Resolution To Approve The Preliminary Plat Of Cherry Hills Subdivision, Third Filing, An Addition To The City Of Laurel Subject To Conditions**

Motion by Council Member McGee to approve Resolution No. R21-101, seconded by Council Member Wilke. There was no public comment or Council discussion. A vote was taken on the motion. All six Council Members present voted aye. Motion carried 6-0.

- **Resolution No. R21-102: A Resolution Of The City Council Granting A Variance From Certain Sections Of Chapter 17 Of The City's Sign Code For The Property Located At 202 SE 4th Street To Allow The Removal And Replacement Of A Freestanding Pole Sign With An Electronic Controlled Sign Which Is Currently Prohibited.**

Motion by Council Member Sparks to approve Resolution No. R21-102, seconded by Council Member Wilke. There was no public comment or Council discussion. A vote was taken on the motion. All six Council Members present voted aye. Motion carried 6-0.

**ITEMS REMOVED FROM THE CONSENT AGENDA:** None.

**COMMUNITY ANNOUNCEMENTS (ONE-MINUTE LIMIT):** None.

**COUNCIL DISCUSSION:**

Council thanked Mayor Nelson and all the Department Heads who spoke at the 9/11 Ceremony this past Saturday.

The third Friday of September is the National POW/MIA Recognition Day. At 10:00 a.m. Friday, a POW/MIA ceremony will be held at the Thomson Park shelter. Last year many students were able to attend.

Public Works Committee will meet Monday, September 20, 2021, at 6:00 p.m. in Council Chambers.

Council requested Emergency Services Committee review the parking issues brought forward at this meeting.

**MAYOR UPDATES:**

Mayor Nelson noted that he does not block anyone's emails. That is an IT issue.

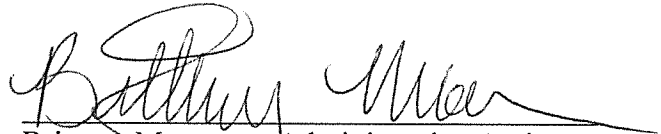
**UNSCHEDULED MATTERS:** None.

**ADJOURNMENT:**

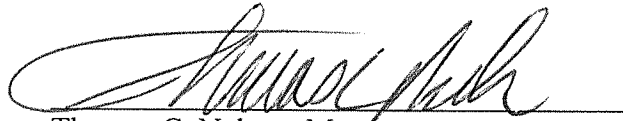
Motion by Council Member Herr to adjourn the Council meeting, seconded by Council Member Wilke. There was no public comment or Council discussion. A vote was taken on the motion. All six Council Members present voted aye. Motion carried 6-0.

There being no further business to come before the Council at this time, the meeting was adjourned at 8:00 p.m.




  
Brittny Moorman, Administrative Assistant

Approved by the Mayor and passed by the City Council of the City of Laurel, Montana, this 28<sup>th</sup> day of September 2021.

  
Thomas C. Nelson, Mayor

Attest:

  
Bethany Langve, Clerk/Treasurer



## LAUREL CITY-COUNTY PLANNING DEPARTMENT

### STAFF REPORT

TO: Laurel City-County Planning Board  
FROM: Nicholas Altonaga, Planning Director  
PROJECT: Project Telephone Fiberoptic Hut Special Review  
DATE: August 25, 2021

#### DESCRIPTION OF REQUEST

An application for Special Review was applied for by Project Telephone for the installation and operation of a fiberoptic utility hut within a residential district. The proposed location of the hut is 1013 8<sup>th</sup> Avenue. This property is located within the Laurel City Limits. Project Telephone has entered into a lease agreement with the property owner of 1013 8<sup>th</sup> Avenue to install and operate the fiberoptic utility shed.

The Laurel Municipal Code Chapter 17.21 states directly that utility operators should work to locate telecommunications infrastructure away from residential areas whenever possible. It further states that any Telecommunications huts and support buildings to be approved by Special Review if they do not meet the requirements of that chapter. An approval of this special review application would enable Project Telephone to install and operate a fiberoptic utility shed within a residential district.

Owner: Karl Morledge  
Legal Description: S09, T02 S, R24 E, C.O.S. 68, (.77 ACRES)  
Address: 1013 8<sup>th</sup> Avenue, Laurel, MT  
Parcel Size: 0.77 Acres (Special Review to include only 50'x50' of southern portion of property)  
Existing Land Use: Residential, vacant/unused southern portion of property  
Proposed Land Use: Residential, Fiber optic utility tract on southern portion of property  
Existing Zoning: Residential 7500 (R-7500)

#### BACKGROUND AND PROCEDURAL HISTORY

- Initial conversations between Planning and Jim Tuell, the representative for the applicant, began on January 19, 2021

- Planning Director met with Jim Tuell on June 14, 2021, to visit sites to possibly locate the proposed fiberoptic utility hut.
- July 29, 2021: Planning Director provided information regarding the Zoning Code regulations on Telecommunications facilities and the Special Review Process.
- July 29, 2021: Applicant requested a Special Review application be placed on the Laurel City-County Planning Board and Laurel City Council agenda.
- The Applicant provided a Special Review application to the Planning Department on August 10, 2021.
- The Special Review Application has been placed on the agenda for the Planning Board meeting on August 18, 2021
- August 18, 2021 – Planning Board voted to approve the Special Review application for Project Telephone with the stated staff conditions.
- The Special Review Application has a public hearing scheduled in front of City Council on September 14, 2021. The City Council shall approve, conditionally approve, or deny the special review request.

#### STAFF FINDINGS

The Planning Director determined that while the fiberoptic utility facility does not fully conform to the requirements of LMC 17.21 – Telecommunications Towers and Antennae, it closely aligns with the spirit of the code in the type, scope, and scale of the specific projects regulated within said code.

A Special Review process is required as the proposed development is located in close proximity to residential parcels, as well as does not meet the requirements of

- 1) LMC 17.21.030 – Standards for Wireless Communications Facilities,
  - a. Part A, 1 states: “Encourage the location of antenna support structures in non-residential areas and minimize the total number of antenna support structures throughout the community;”
  - b. Part A, 3 states: Require wireless communication facilities to be located, to the extent possible, in areas where the adverse impact on the community is minimal;”
  
- 2) LMC 17.21.030.D – Commercial Antenna Support Structures and Antennae located in Residential Zoning Codes, Part 1 states: “Antenna support structures and antennae shall be permitted as an allowed use in all residential zoning districts provided they meet all of the following criteria:
  - a. Alternative antenna support structures conforming to all applicable provisions of this chapter and roof-mounted antennae that do not add more than twenty feet to the total height of the building on which they are mounted shall be permitted as an allowed use only when located on school, government-owned utility, and other government sites.

Proposed antennae or antenna support structures that are contrary to this section are subject to the special review requirements of these zoning regulations. After the special review hearing and reaching its decision, the city-county planning board shall forward its recommendations to the city council for its decision.”

The proposed fiberoptic utility shed is not located on a school, government-owned utility, or other government site.

The proposed fiberoptic utility shed is within a residential zoning district.

The Applicant has provided a Special Review application including:

- Justification and Scope of Work letter
- Building Site Map
- Utility hut Location drawing

The applicant has paid the required fee for the Special Review application.

The public noticing provisions of LMC 17.68 have been met.

#### PLANNING BOARD AND GOVERNING BODY REVIEW CRITERIA

LMC 17.68 – Special Review Procedures, contains the review criteria for the decision-making process for Special Review applications.

- A. After presentation to the zoning commission of the request for special review by the applicant, the zoning commission shall make a recommendation to the city council to:
  1. Grant the application for special review;
  2. Deny the application;
  3. Delay action on the application for a period not to exceed thirty days; or
  4. Grant the application subject to conditions and recommendations and give the reasons therefor.
- B. Before approving a special review use, the zoning commission shall find that the contemplated use(s):
  1. Complies with all requirements of this section;
  2. Is consistent with the objectives and purposes of this title and the Laurel comprehensive planning process;
  3. Is compatible with surrounding land use or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects;
  4. Further the zoning commission shall consider and may impose modifications or conditions concerning, but not limited to the following:
    - a. Street and road capacity,
    - b. Ingress and egress to adjoining streets,
    - c. Off-street parking,
    - d. Fencing, screening and landscaping,
    - e. Building bulk and location,
    - f. Usable open space,
    - g. Signs and lighting,

- h. Noise, vibration, air pollution and similar environmental influences.

The following actions are to be taken by City Council:

17.68.50 - City council action.

- A. Before taking action on an application for special review, and after presentation of the zoning commission's report, the city council may hold a public hearing on the application.
- B. The zoning commission may recommend to the council whether to hold a public hearing or not. In the event the city council holds its own public hearing on the application, then the recommendations of the zoning commission and the notice of public hearing before the city council shall both be published twice in the newspaper of general circulation in the jurisdictional area of the Laurel-Yellowstone city-county planning board with the first publication being at least fifteen days prior to the hearing.

### RECOMMENDATIONS

The Planning Director recommends the Planning Board and Zoning Commission approve the Special Review with the following conditions:

1. Any applicable permits, including but not limited to building permits must be applied for within six (6) months of special review approval.
2. Construction of the structure and site must be completed within one (1) calendar year of special review approval.
3. The operation of the site shall not be done in such a manner as to be a nuisance.
4. The site shall be screened by an appropriate landscaping or site obscuring material as approved by City Staff.
5. Any use of the property not specifically included in this approval or allowable within its underlying zoning district shall be deemed a violation of the laurel Zoning Code.
6. Any subsequent use or change of use associated with this special review shall submit additional documentation to the City for subsequent processing and approval or denial.
7. Curb, gutter, and sidewalk shall be constructed along the road frontage of the 50'x50' area developed as part of the special review.

### ATTACHMENTS

1. Project Telephone Justification Letter
2. Special Review Application Form
3. Site Overview
4. Landscaping Plan
5. Adjacent Property Owners List (300ft)
6. Adjacent Property Owners Map (300ft)
7. LMC 17.21 – Telecommunications Towers and Antennae
8. LMC 17.68 – Special Review Procedures



## LAUREL CITY-COUNTY PLANNING DEPARTMENT

### STAFF REPORT & FINDINGS OF FACT

TO: Laurel City-County Planning Board  
FROM: Nicholas Altonaga, Planning Director  
RE: Planned Unit Development – Bitterroot Grove Townhomes  
DATE: August 25, 2021

#### DESCRIPTION OF REQUEST

A Planned Unit Development (PUD) application and supplemental was submitted by Forrest Mandeville of Forrest Mandeville Consulting and Engineering West on behalf of Darrel Dyer for the parcels at 1304 E. 8<sup>th</sup> Street, between Fir and Juniper Avenues. The Applicant has proposed the Bitterroot Grove Townhomes, a 60-unit Planned Unit Development with age-restricted units for those 55 and older. This PUD application also includes a request for annexation and a variance. The Application contains all the necessary components of the PUD, Variance, and Annexation applications. The property is currently owned by Elvira and James Cotter, with purchasing agreements in place. The property currently has a great deal of personal property, debris, and materials on site and is an overgrown state.

The Planning Board shall consider the Annexation and zoning of the parcels in question, as well as the preliminary plan approval of the PUD application with the related variance for project size.

Owner: James Cotter, Elvira Cotter (Under Contract for sale)  
Legal Description: NUTTING BROS SUBD, S10, T02 S, R24 E, BLOCK 6, Lots 1 - 12, BLOCK 6, Lots 1 - 12  
Subdivision size: 4.68 Acres  
Existing Land Use: Residential, Vacant  
Proposed Land Use: Residential Planned Unit Development

#### BACKGROUND AND PROCEDURAL HISTORY

1. A pre-application meeting for the Planned Unit Development took place on June 23, 2020 between the Applicant, their engineers, and City Staff.

2. The Application for the Planned Unit Development, Annexation, and Variance and their supporting documentation was submitted on March 15, 2021.
3. The City Staff Design Conference took place on April 27, 2021.
4. The Planning Director transmitted a letter of findings to the Applicant and their developer on May 7, 2021.
5. The Applicant and their developer resubmitted documents to the Planning Department on May 17, 2021.
6. The Planning Board held a public hearing on the proposed Planned Unit Development, Annexation, and Variance applications on May 19, 2021.
7. The Planning Director worked with the Applicant and their contractor to update the Annexation Agreement and HOA Bylaws as discussed at the May 19<sup>th</sup> meeting.
8. The Planning Board has scheduled a second public hearing on the proposed Planned Unit Development, Annexation, and Variance applications for June 16, 2021.
9. The Planning Board lacked a quorum at the scheduled public hearing on June 16, 2021.
10. The Planning Director forwarded the materials and documentation for the Bitterroot Grove Townhomes Annexation, Variance, and Planned Unit Development to the City Council on June 25, 2021.
11. The City Council held a public hearing on the Planned Unit Development, Annexation, and Variance applications on July 13, 2021.
12. The City Council decided that the information provided was insufficient to approve the application and returned it to Planning Board for further review.
13. August 18, 2021 – Public Hearing Held for Planned Unit Development at Planning Board. Planning Board Members recommended the approval of annexation and preliminary approval of the Bitterroot Grove Townhomes Planned Unit Development with the stated conditions of approval.
14. September 14, 2021 – Laurel City Council shall hold a public hearing on the applications for Annexation and Zone Change, Planned Unit Development, and Variance.

#### STAFF FINDINGS

1. The Application for PUD, Annexation, and Variance contain all the necessary items.
2. Annexation has been requested to hook the property into the municipal water and wastewater system, as well as garbage pick-up.
3. A variance has been sought for the minimum size requirements of a Planned Unit Development stated in the Laurel Municipal Code.
  - a. Laurel Municipal Code requires a minimum of 5 acres for a PUD
  - b. The proposed PUD is 4.68 acres.
4. The Applicant has proposed private interior streets with gated entrances.
5. Gated entrances shall be accessible by all Laurel EMS, Fire, and Police departments, as well as code enforcement and public works where necessary.
6. The Applicant has proposed private internal water and sewer connections.
7. The Applicant has proposed a water meter building, to manage the interior water system of the development.

8. The proposed project would improve a largely vacant, blighted lot with a dense residential development.
9. The application includes bylaws for a townhouse association to manage the property.
10. The subsequent submittal of documents on May 17 included a landscaping plan and weed management plan.
11. An Annexation Agreement was provided with the application which specifies adjacent public improvements, development standards, and other requirements for annexation into the City of Laurel.
12. Updated site plans were submitted to the City detailing the water and sewer lines to be installed.

#### PLANNING BOARD AND GOVERNING BODY REVIEW CRITERIA

LMC 17.32.020 – Review and Approval, Part D states:

“Within thirty days after the design conference, the application shall be reviewed by the city-county planning board and recommendations based on the comments from the design conference and the criteria contained in the subdivision regulations shall be forwarded to the zoning commission. The comments from the design conference shall be forwarded to the planning board, zoning commission and developer within five working days after the conference.”

#### RECOMMENDATIONS

The Planning Director recommends approval for the Annexation and Zone Change to PUD – 1 Planned Unit Development 1 with the following conditions.

1. The property and adjacent rights-of-way shall be cleared of personal property, debris, and refuse within 90-days of annexation approval.
2. The Annexation Agreement, Waiver of Right to Protest, and the City Council Resolution approving annexation shall be filed with the Yellowstone County Clerk & Recorder within 90-days of annexation approval.
3. All construction and installation of public improvements must be completed within two years of annexation.
4. If the public improvements are not constructed at the time of annexation, the property owner shall provide the city a bond or letter of credit that equals 125% of the estimated engineering costs for the construction of improvements. If the property owner fails to construct the improvements or to obtain the agreed upon engineering, the city shall utilize the bond or letter of credit to pay for the construction, including engineering; In accordance with GASB-34, the Developer of Landowner shall provide the city the total cost and/or value of the improvements including, but not limited to, parks, sidewalks, curb and gutter, lift stations, and sewer and water lines, that are conveyed to the city.

The Planning Director recommends that Planning Board grant preliminary approval to the Planned Unit Development plan and variance with the following conditions:



1. The Property shall be cleared of personal property, debris, and refuse prior to final approval of the PUD and Variance application.
2. A landscaping and maintenance plan shall be submitted to and approved by the City after it finds the plan sufficient enough to ensure the development does not operate or become a nuisance.
3. The proposed Water system shall be approved by the contracted city engineer, KLJ Inc. and the Laurel Department of Public Works.
4. The proposed Wastewater system shall be approved by the contracted city engineer, KLJ Inc. and the Laurel Department of Public Works.
5. The proposed Stormwater system shall be approved by the contract city engineer, KLJ Inc. and the Laurel Department of Public Works.
6. Weed Management Plan shall be completed and approved by the Yellowstone County Weed District.
7. The alleyways within Blocks 6 and 7 of the Nutting Brothers Subdivision shall be abandoned via a petition to abandon.
8. Utility access easement documents shall be filed for the abandoned portions of Blocks 6 and 7 of the Nutting Brothers Subdivision.
9. A survey shall be filed aggregating the lots within Blocks 6 and 7 of the Nutting Brothers Subdivision.
10. Details on the legal description of the lots in the northwest corner of Block 6, Nutting Brothers Subdivision, shall be provided to the City in order to determine the scope of project.

#### ATTACHMENTS

1. PUD Written Statement
2. Annexation Application
3. Annexation Agreement (updated)
4. Waiver of Right to Protest (updated)
5. Variance Application and Request Letter
6. PUD Layout/Design
7. PUD Landscaping Plan
8. Bylaws of Bitterroot Grove Townhomes Association (updated)
9. Images of proposed townhome design
10. Planner Letter to the Applicant (dated 5/17/2021)
11. Comments from Ryan Welsh, Engineer at KLJ, on proposed Water/Sewer expansion (dated June 8, 2021)



## LAUREL CITY-COUNTY PLANNING DEPARTMENT

### STAFF REPORT

TO: Laurel City-County Planning Board  
FROM: Nicholas Altonaga, Planning Director  
RE: Annexation and Preliminary Plat of the Cherry Hills Subdivision, 3<sup>rd</sup> Filing  
DATE: August 25, 2021

#### DESCRIPTION OF REQUEST

Morrison-Maierle has submitted an annexation application and preliminary plat application for the Cherry Hills Subdivision, 3<sup>rd</sup> Filing on behalf of the property owner/developer. The proposed Cherry Hills Subdivision 3<sup>rd</sup> Filing is a 28-lot residential subdivision located on property west of Cherry Hills Drive and W. Maryland Lane in north-west Laurel. Approval of annexation and zone change would bring 9.37 acres of land into the City of Laurel and enable the proposed Cherry Hills Subdivision, 3<sup>rd</sup> Filing to connect to the City water, wastewater, and street system.

Owner: Goldberg Investments LLP  
Legal Description: S08, T02 S, R24 E, C.O.S. 3034, PARCEL 1, IN N2 (01)  
Address: Approximately 1850 East 8<sup>th</sup> Street  
Parcel Size: 9.37 acres  
Existing Land Use: Agricultural, vacant.  
Proposed Land Use: Residential Subdivision  
Existing Zoning: Residential Tracts  
Proposed Zoning: Residential 7500 (R-7500)

#### BACKGROUND AND PROCEDURAL HISTORY

- December 18, 2021 – Morrison-Maierle submit documents for annexation and subdivision pre-application meeting.
- January 7, 2021 - Pre-Application meeting with Morrison-Maierle and City Staff
- January 12, 2021 – Staff transmitted Pre-Application meeting summary letter to Morrison-Maierle staff.
- May 25, 2021 – Cherry Hills Subdivision, 3<sup>rd</sup> Filing Annexation application and preliminary plat application submitted to the City.

- June 11, 2021 – Laurel Planning Department transmitted the Element Review letter to Morrison-Maierle. All elements required by LMC Chapter 16, Appendix F were present in the application.
- July 8, 2021 – Laurel Planning Department transmitted the Sufficiency Review letter to Morrison-Maierle. All elements required by LMC Chapter 16, Appendix F were deemed sufficient to move the application forward. Certain comments were noted by the Planning Director from city various departments.
- August 18, 2021 – A Public Hearing was held at Planning Board. The Planning Board recommended the approval of the Annexation and Preliminary plat approval of the Cherry hills Subdivision, 3<sup>rd</sup> filing with the presented staff conditions.
- September 14, 2021 – Public hearing scheduled at City Council to review the annexation application and preliminary plat application to approve, conditionally approve, or deny the applications.

#### STAFF FINDINGS

1. Applicant has submitted an application for annexation and preliminary plat containing all the necessary components needed for both to move forward.
2. Applicant has provided additional details of subdivision plans and documents where necessary.
3. Applicant has worked with multiple city departments to determine effectiveness of the proposed utilities for the property.
4. Applicant has provided updated documents whenever required by City departments.
5. City staff determined that the applications for annexation and preliminary plat were sufficient to move forward to Planning Board and City Council.
6. City staff have found only minor issues with the applications that require conditions of approval prior to the final plat approval stage.
7. The public noticing requirements of LMC 16.03.030 have been met.

#### PLANNING BOARD AND GOVERNING BODY REVIEW CRITERIA

##### LMC Chapter 16.03.040 - Staff and Agency Review:

- A. Review Procedure Schedule. Upon receipt of a complete and sufficient major preliminary plat application, the planning director or designee shall schedule the plat before the city-county planning board.
- B. Submittal Distribution. Planning staff shall distribute the application to all affected city and county departments, local, state, and federal agencies, school districts and public utilities for review as appropriate and indicate the review timeframe. Failure of any agency to complete a review of a plat will not be the basis for denial of the plat by the AGB.
- C. Plat Review. The planner shall review the major subdivision plat submittal and make a staff report of issues, concerns, conditions, or recommendations and send out the list to the

planning board members with the agenda of the meeting at which the plat is to reviewed; a copy must also be sent to the subdivider or his representative.

- D. **Hearing Notice.** The planning board shall hold a public hearing on all major and applicable subsequent minor preliminary plat applications, placing a notice in a newspaper of general circulation in Laurel not less than fifteen days prior to the date of a public hearing. The planner shall also notify the subdivider and each property owner of record, and each purchaser under contract for deed of record of property immediately adjoining land included in the plat and located within three hundred feet of the proposed subdivision by certified mail not less than fifteen days prior to the date of hearing (MCA § 76-3-605(3)).
- E. **Planner's Report.** The planner shall prepare a draft findings of fact (the effect on agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and public health and safety as per MCA § 76-3-608(3)(a)) for review by the planning board. The planner shall also forward the recommendation of the planning board to the AGB including basis for such recommendation and its compliance with adopted Growth Management Plan, the Bike/Ped Plan, and other adopted city and county plans and policies in writing no later than ten days after the public hearing (MCA § 76-3-605(4)).
- F. **Subsequent Hearing.** Before acting on the subdivision application, the AGB shall determine whether, subsequent to the public hearing, new information has become available or information that the public has not had a reasonable opportunity to examine. If so, the AGB may act on the subdivision application in accordance with this chapter or schedule a subsequent public hearing for consideration of only the new information that may have an impact on the findings and conclusions that the AGB will rely upon in making its decision on the proposed subdivision. The AGB may chose to hold the subsequent public hearing or may direct the planning board to hold it. In either case, the subsequent public hearing shall be held at the next scheduled meeting for which proper notice for the public hearing on the subdivision application can be provided.

If a subsequent hearing is held, the sixty- or eighty-day working day review period is suspended, and the new hearing must be noticed and held within forty-five days of the AGB's determination to hold a subsequent public hearing. The sixty- or eighty- working day review period will resume from the date of the subsequent public hearing. The governing body may not consider any information that is presented after the subsequent hearing (MCA § 76-3-615).

- G. **Subdivider's Preference.** The AGB shall give due weight and consideration to the subdivider's expressed preferences if the AGB requires mitigation of significant adverse impacts (MCA § 76-3-608(5)(b)).

In reviewing a subdivision and when requiring mitigation, the AGB may not unreasonably restrict a landowner's ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the plat (MCA §76-3-608(5)(a)).

The AGB shall send the subdivider written notice of its decision and the reason therefore. (MCA § 76-3-608(4)).

## RECOMMENDATIONS

The Planning Director recommends approval for the Annexation and Zone Change of the proposed Cherry Hills Subdivision, 3<sup>rd</sup> Filing to Residential R-7500 with the following conditions.

1. The Annexation Agreement, Waiver of Right to Protest, and the City Council Resolution approving annexation shall be filed with the Yellowstone County Clerk & Recorder within 90-days of annexation approval.
2. All construction and installation of public improvements must conform to the standards of the Laurel Department of Public Works and Montana Public Works standards.
3. All construction and installation of public improvements must be completed within two years of annexation.
4. If the public improvements are not constructed at the time of annexation, the property owner shall provide the city a bond or letter of credit that equals 125% of the estimated engineering costs for the construction of improvements. If the property owner fails to construct the improvements or to obtain the agreed upon engineering, the city shall utilize the bond or letter of credit to pay for the construction, including engineering; In accordance with GASB-34, the Developer of Landowner shall provide the city the total cost and/or value of the improvements including, but not limited to, parks, sidewalks, curb and gutter, lift stations, and sewer and water lines, that are conveyed to the city.

The Planning Director recommends that the Planning Board approve the preliminary plat for the Cherry Hills Subdivision 3<sup>rd</sup> Filing with the following conditions:

1. Preliminary Plat shall be updated with the comments noted in the Sufficiency letter dated July 8, 2021 prior to recording.
2. Subdivision Improvement Agreement shall be updated with the notes from the Sufficiency letter dated July 8, 2021, and the annotated SIA provided to the applicant prior to recording.
3. The Preliminary Plat and supporting water and wastewater design will be approved by Montana Department of Environmental Quality (MDEQ).
4. The Preliminary Plat, Subdivision Improvements Agreement, and City Council Resolution granting approval shall be filed with the Yellowstone County Clerk & Recorder within 90-days of preliminary plat approval.
5. The Roadways and Right-of-Ways shall be constructed to the specifications presented in the plat plan and supporting documentation.
6. This Preliminary Approval shall be valid for 3 calendar years.
7. Hydrant flow tests must be approved by the City and its contracted engineer.
8. Verification must be provided to the City for the water modelling noted by the engineer in the field
9. Water model exhibits must be provided to and approved by the City showing the system characteristics and modeled properties compared to measured properties
10. Wastewater/Sewer analysis must be provided to and approved by the City.

11. A map of pre-developed stormwater conditions including the boundary, routing, and calculations must be provided to and approved by the City.
12. Water quality storm volumes and calculation sheets shall be provided to the City.
13. Confirmation is provided that the developer is willing to take on the liability of the recommendations of the Geotechnical Report dated 2006.
14. The conditions of the Geotechnical report shall be followed during the construction of the public infrastructure.
15. A Weed Management Plan shall be prepared for the project and approved by the Yellowstone County Weed District.

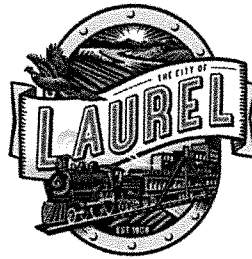
## ATTACHMENTS

### **Annexation and Zone Change:**

1. Annexation Application cover Letter
2. Annexation Application Form
3. Annexation Agreement
4. Waiver of Right to Protest

### **Cherry Hills Subdivision, 3<sup>rd</sup> Filing:**

1. Cover Sheet
2. Preliminary Plat Application
3. Adjacent Property owners list
4. Draft Subdivision Improvements Agreement
5. Environmental Assessment
6. Traffic Impact Study
7. Lot Layout
8. Geotechnical Report
9. Subdivision Bylaws
10. Homeowners Association Bylaw
11. ROW Easement documents
12. LMC 16.03 – Subdivision Review Procedures
13. LMC 16.04 – Development Requirements
14. Element Review letter - Cherry Hills Subdivision, 3<sup>rd</sup> Filing (June 11, 2021)
15. Sufficiency Review letter – Cherry Hills Subdivision, 3<sup>rd</sup> Filing (July 8, 2021)
16. KLJ. Inc Preliminary Plat Review Comments letter (July 6, 2021)



## LAUREL CITY-COUNTY PLANNING DEPARTMENT

### STAFF REPORT

TO: Laurel City-County Planning Board  
FROM: Nicholas Altonaga, Planning Director  
RE: 202 SE 4<sup>th</sup> Street - Laurel Chevrolet Sign Variances  
DATE: August 25, 2021

#### DESCRIPTION OF REQUEST

Ken Fichtner of Laurel Chevrolet submitted a request for variances to the Laurel Municipal Code for the property at 202 SE 4<sup>th</sup> Street. These include requests for variances for having multiple principal signs on a parcel, sign size, and sign type (pictographic changeable copy signs).

Laurel Chevrolet was recently sold to a new owner who has worked to clean up some of the issues of the previous owner. Laurel Chevrolet previously applied for and was granted a permit to relocate the "Chevrolet" branded sign to their property with the stated condition that a variance would be applied for to clear up the three issues now under review.

Ken Fichtner has provided a variance application packet containing all the necessary items. Approval of the variances for multiple signs, sign size, and sign type are required for the continued operation of the electronic pictographic changeable copy sign.

Owner: SPARTAN LAUREL 2 REAL ESTATE LLC  
Legal Description: HAGEMAN SUBD 3RD FILING, S16, T02 S, R24 E, BLOCK 11A, Lot 1A1, AMD (12)  
Address: 202 SE 4<sup>th</sup> Street  
Parcel Size: 3.093 acres  
Existing Land Use: Automobile sales  
Existing Zoning: Highway Commercial, Community Entryway Zoning District

#### BACKGROUND AND PROCEDURAL HISTORY

- July 30, 2020 – Planning Director Met with Applicant Ken Fichtner to discuss the signage situation and proposed plans to relocate "Chevrolet" Sign back to property from off-site and the impact it would have.

- July 19, 2021 – Planning Director met with Ken Fichtner to discuss the Variance application and the process for Planning Board and City Council.
- The Variance application was submitted on July 22, 2021.
- Planning Board held a public hearing on the Variance application on August 18, 2021. Planning Board voted to recommend approval of the Sign variance with the conditions stated in this report.
- City Council has scheduled a public hearing on the variance application at the meeting on September 14, 2021.
- City Council shall receive public comment and approve, approve with conditions, or deny the variance request at the meeting on September 14, 2021.

## STAFF FINDINGS

Three variances are required to continue the operation of the pictographic changeable copy sign currently on the Laurel Chevrolet property. The variances are for LMC 17.26.052.A.2 and for LMC 17.42.050 – Table. These two sections of code are provided below.

LMC 17.26 – Community Entryway Zoning District, provides requirements for properties within the zoning district on height and size. 17.26.052 – Development Standards, Part A includes:

- **2. Only one sign is allowed per parcel of record and there shall be at least one thousand feet between signs.**
- **4. Signs shall be limited to one hundred sixty square feet in copy area.**

The table in 17.42.050 states the signs which are **Not Allowable** within the CEZD. Prohibited signs include but are not limited to:

- Animated Sign (Including Flashing, Blinking, Scrolling)
- **Pictographic Changeable Copy Signs which depict only still frames and change not less than 60 seconds**
- Pictographic Changeable Copy Signs which depict motion, flashing and blinking of any kind
- Off Premise Sign

The Planning Director has provided his direct findings on the items presented in LMC 17.60.020 – Land Use Variances Issuance and Denial – Determination Procedure.

1. Unless the denial would constitute an unnecessary and unjust invasion of the right of property;
  - The construction of the current Electronic sign was done in violation of a previous Variance application by the former owner of the property.
  - Prohibit
2. Unless the grant relates to a condition or situation special and peculiar to the applicant;



- The situation is not peculiar to the applicant, as new owners/managers obtaining properties that are out-of-compliance is common.
  - The level of mishandling by the previous owner should be noted, as there were many issues with the processing of the original sign variance, as well as the subsequent construction of the electronic sign and multiple dealings with the City.
3. Unless the basis is something more than a mere financial loss to the owner;
- The electronic pictographic changeable copy sign is seen by the owner as a community asset.
  - The applicant has stated his goal to utilize the electronic sign to announce news and information about Laurel and local events taking place.
4. Unless the hardship was created by someone other than the owner;
- The current use of the electronic pictographic changeable copy sign that is oriented for highway traffic was installed against the official decision of the Laurel City Council. A variance was applied for that requested that the Rimrock Chevrolet be allowed to install this sign, as it was not allowable under the zoning at the time. On May 5, 2015, the City Council held a public hearing and subsequently voted 6-1 against the "...granting of a variance form Chapter 15.40 of the City's Sign Code for the property located at 202 SE 4th Street to allow the removal and replacement of a freestanding pole sign with an animated sign which is currently prohibited."
  - A building permit was subsequently applied for and granted by the Building Official at that time. This building permit should not have been approved and was updated with stipulations in 2016 and the property was given a notice of violation in 2017 regarding its animation. This sign does not count as pre-existing non-conforming as it was deemed to not be allowed by City Council through the variance process.
  - I have attached both the meeting minutes in which the variance was discussed and the two notices discussing the issues with the electronic sign.
5. Unless the variance would be within the spirit, intent, purpose and general plan of this title;
- The Applicant has a proven, positive history with the Laurel community.
  - Laurel Chevrolet has been a good partner and community asset to the people of Laurel for many years.
  - The applicant has stated their desire to use the sign for displaying community news, information and other announcements by civic and local groups.
6. Unless the variance would not affect adversely or injure or result in injustice to others; and
- The sign was erected in 2016 and has operated since that time.
  - The sign has not caused any noticeable community concern or issues.
  - Granting of a variance would make official the status quo of sign operations.
7. Ordinarily unless the applicant owned the property prior to the enactment of this title or amendment.
- The applicant was the previous owner of the property prior to the 2015 variance process and eventual sign construction.
  - The applicant seeks to make right some of the existing issues with the property to ensure compliance with the City.

17.60.020 - Land use variances issuance and denial—Determination procedure.

- A. It shall be the duty of the zoning commission to authorize, upon appeal in specific cases, such land use variances from the terms of the zoning ordinances as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinances or regulations will result in unnecessary hardship, and so that the spirit of the ordinances shall be observed and substantial justice done. The zoning commission shall, after a public hearing, make a recommendation to the mayor and council concerning the land use variance application.
- B. The zoning commission shall not recommend that land use variances be granted:
  - 1. Unless the denial would constitute an unnecessary and unjust invasion of the right of property;
  - 2. Unless the grant relates to a condition or situation special and peculiar to the applicant;
  - 3. Unless the basis is something more than a mere financial loss to the owner;
  - 4. Unless the hardship was created by someone other than the owner;
  - 5. Unless the variance would be within the spirit, intent, purpose and general plan of this title;
  - 6. Unless the variance would not affect adversely or injure or result in injustice to others; and
  - 7. Ordinarily unless the applicant owned the property prior to the enactment of this title or amendment.

**RECOMMENDATIONS**

The Planning Director recommends that the Planning Board approve the variance requests with the following conditions of approval. These conditions may be amended, added to, or removed as the Planning Board sees fit.

- 1. Any future alteration of the Electronic pictographic changeable copy sign shall be reviewed and approved by the City.
- 2. The new digital sign shall only display still framed images and text. No video or motion shall be displayed. Still displays shall not change less than every 30 seconds, as per Planning Board discussion.
- 3. The variance shall only apply to the sign and location identified in the application. Any alteration will be considered a zoning violation.
- 4. The variance approval shall only apply to the sign in its current identified location.
- 5. Any alteration to the electronic pictographic changeable copy sign done without City approval shall be considered a violation of the Laurel Municipal Code.
- 6. The owner of the property shall work with local groups to advertise and/or announce events within the community. A percentage of time should be decided upon for use by local groups.

## ATTACHMENTS

1. Variance Justification Letter
2. Variance Application Form
3. 202 SE 4<sup>th</sup> Street Site Plan
4. Electronic Sign specifications
5. Adjacent property owners list (300ft radius)
6. Adjacent property owners map (300ft)
7. LMC 17.26 – Community Entryway Zoning District
8. LMC 17.42 – Sign Code
9. May 5, 2015, Laurel City Council Meeting Minutes
10. 202 SE 4<sup>th</sup> Street Notices of Violation (2016 and 2017)