

MINUTES OF THE CITY COUNCIL OF LAUREL

November 10, 2020

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 November 10, 2020.

COUNCIL MEMBERS PRESENT: Emelie Eaton Heidi Sparks
 Bruce McGee Richard Herr
 Scot Stokes
 Richard Klose

COUNCIL MEMBERS ABSENT: Irv Wilke Don Nelson

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:

Motion by Council Member McGee to approve the minutes of the regular meeting of October 27, 2020, 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.

CORRESPONDENCE:

- Airport Authority Minutes of August 25, 2020.
- Airport Authority Minutes of September 22, 2020.

COUNCIL DISCLOSURE OF EX PARTE COMMUNICATIONS: None.

PUBLIC HEARING:

- **Public Hearing – A Resolution To Approve The Conditional Use Of The Property Located At 1009 East 6th Street In Laurel For The Construction And Operation Of A Union Meeting Hall At Such Address Within The 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 To Approve The Conditional Use Of The Property Located At 1009 East 6th Street In Laurel For The Construction And Operation Of A Union Meeting Hall At Such Address Within The City Of Laurel.

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

Nick Altonaga, Planning Director, read 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 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.

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- **Public Hearing – Goldberg Sporting Estate Variance #1 – Street Connectivity.**

Mayor Nelson stated this is the time and place set for the public hearing on the City of Laurel's Goldberg Sporting Estate Variance #1 – Street Connectivity.

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

Nick Altonaga, Planning Director, read 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 three (3) times if there were any proponents.

Scott Aspenlieder, Performance Engineering, stated he is representing the Developer, Goldberg Investments. He stated they feel they have put forward what they believe is a pretty solid case in relation to why they feel the variance is supported, why it meets the requirements of the City, and why they feel it is the best long-range situation as far as this development is concerned. The big thing with the alignment of Mullberry is a one block long street that does not connect to anything at this stage of the game, off of E. 8th. Mr. Altonaga noted in his staff report that there may be future plans off of E. 7th, but from a development standpoint, it is impossible for us to know what the City may or may not see for development for that end of the City when there is not a capital improvement plans in place, and nothing noted to us. And quite frankly as we modified our layout to try and create connectivity and connect to the commercial portion of the development. And modify that plat so that the commercial part ties to the residential part. So you have a tie from Yard Office Road through the development to E. 8th. We have done everything that we can. The alignment from our standpoint, just strictly from a technical standpoint, you want to minimize intersections and minimize traffic conflicts. It's even acknowledged in Staffs Report that this alignment would align with a more utilized approach into Cotter's Sewer Service. That is used by a commercial business. It is used quite frequently; there is a lot of traffic there. It's a more safe situation to align this intersection with Cotter's Sewer Service than it is to align with a dead-end road that services four residential lots. Maybe sometime in the future could tie into E. 9th or E. 7th. Even at that point, if E. 7th is built out ten years down the road, you still have a safe intersection there where people can come off the subdivision, turn onto E. 8th and down Mullberry and go onto 7th if they want to try and spit traffic on their way into the City of Laurel. There is no real good argument to dispute the fact that it is a safer intersection if we can align our road to the commercial entrance to Cotter's Sewer Service. From our perspective, this is the best situation; it creates a better situation for the existing house that is located in the Southwest corner of that is going to stay. You won't have a residential road coming right down your kitchen window to that house, which ends up staying there. We have put forward what we think/feel is a good safe proposal for the community to consider. And something that frankly is going to help from a traffic standpoint for the residents of the area and the residents of East Laurel. That's the case he guesses he would make on this variance. He thinks this is the best they can do. It fits and meets all the requirements, and he doesn't think it is justified at this stage of the game to try to align this with a road that dead ends and serves four residential lots, on the off chance that maybe someday in the next decade E. 7th ever gets built out.

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 – Goldberg Sporting Estate Variance #2 – Right-of-way, Dedication, Road Width.**

Mayor Nelson stated this is the time and place set for the public hearing on the City of Laurel's Goldberg Sporting Estate Variance #2 – Right-of-way, Dedication, Road Width.

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

Nick Altonaga, Planning Director, read 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 three (3) times if there were any proponents.

Scott Aspenlieder, Performance Engineering representing the Developer Goldberg Investments, stated Nick covered a whole lot of ground there, and as you can see, this 10 foot of right-of-way along Yard Office Road can be a little bit confusing. Ten feet to most people doesn't sound like a lot, but as you're taking 10 feet through a commercial corridor. The value of that starts to add up significantly. He stated he wanted to touch on a whole lot of points here with respect to this 10 foot of dedication on Yard Office Road. The first thing he would say is, as a Developer and as an applicant, the only thing they can do is to try to submit to meet your, the City of Laurel, your standards. Yard Office Road, as you annexed it in has 80 feet of right-of-way. Yard Office Road in your Transportation Plan developed in 2014, is designated as a commercial collector requiring 80 feet of right-of-way. When we had this conversation early on, he stated he doesn't want this to be misconstrued or miss represented, but when we had this conversation early on with Forrest Sanderson, the contract planner at the time. What we talked about very, very explicitly and specifically with he and Kurt was that we would considering giving some additional right-of-way along Yard Office Road; however, I don't feel like technically we need to submit a variance because Yard Office Road already has the right-of-way width required by your plans and by your standards. So we would consider it given that there is a disputable you have 30 to 40 feet of that right-of-way that is used for a drainage ditch. We would consider giving you an additional 30 feet, giving you a 70-foot-wide, even considering as stated in Mr. Altonaga's staff report a 40 feet of that 80 feet is used for a drainage ditch, which again is not my issue; we meet your standards as designated in your own documents. We would consider going ahead and dedicating an additional 30 feet to make sure we could incorporate sidewalks, any kind of widening, an additional turn lane on Yard Office Road if it determined that was required by the traffic study as we go through the design on this. That's how we ended up here. I don't feel professionally; technically, we even have this as a variance request because technically, we meet your requirements as stated in your own standards and documents. So as we talk about donating an additional 30 feet, we still give you; if you take that 40 feet off that Mr. Altonaga has said is used for drainage, we still have 70 feet. That road is already built, if we are being honest, Yard Office Road may be widened, and that extra 30 feet would definitely help in the widening of that road. But you are not going to see a complete destruction and reconstruction of Yard Office Road even at an arterial width; in the worst-case scenario, we have to put a center turn lane in to get in and out of the layout we've provided, and we've proposed for Yard Office Road to get into the commercial portion of our development. In the worst-case scenario, we put a turn lane in, a center turn lane. That's a three-lane wide road with a sidewalk on our side that we would be responsible for building. Seventy feet, taking into account for what's already there is more, more, more sufficient width to be able to accomplish that and make that happen. The additional 10 feet, to be able to see it align with what may have been dedicated 50 years ago to the north on a County subdivision which is not going to be annexed into the City of Laurel in anytime in the near future. Should not be the reasoning for asking for an additional 10 feet. Again remember, we are giving you an additional 30 feet that personally and professionally I don't think we necessarily need to dedicate to meet your requirements as they are written in your own documents. But we are willing to dedicate the 30 feet because it will make it a little easier and a little better and more presentable for our own development. But the additional ten feels arbitrary and capricious; it doesn't feel like it is based on any sound math, science, or any firm logic on how that road would ever be developed. So that's why we are here talking about 10 feet of right-of-way. Ten feet on commercial property adds up to a significant amount of money. If we are responsible, and as we develop this out, we are going to be responsible for paying for the improvements to do the things we need to make sure traffic can get in and out sufficiently as dictated by the traffic study as part of the subdivision process. We are confident that if we dedicate another 30 feet of right-of-way, giving 110 feet of right-of-way along the frontage of our development on Yard Office Road, we will easily be able to handle, and guess what? if we can't, we can always dedicate another 10 feet of right-of-way at that time. It seems arbitrary and capricious to be asking for that at this point without any justification and without us, even at this point, to go through the traffic study to say this is what this would look like to safely travel the development. So I guess that's how I would address; there is a lot to unpack there, that's how I would address our variance request number two. The fact that I don't think we should have even been here with a variance request is first and foremost. With respect to the 56-foot right-of-way width internal for commercial on Perazzi Way, 56-foot width for a right-of-way dedication for an interior commercial street is standard in the City of Billings; it's standard in a lot of other jurisdictions. It's more than enough to allow for parking on the street plus allow for two lanes of traffic to traverse that easily; with that being a private road at this point in time, we can easily make sure that the sidewalks are incorporated and fit with a boulevard walk. We are not intending to

deviate from a boulevard development. We also, as the Developer, I guess I would ask you all remember, we also as the Developer want to make this easily traversable. We want to make this user friendly because the business we are trying to attract here are not going to want cars pulling in or pulling over so another car can go by so they can traverse cars parked on the street. These widths are proven their true; they are easily navigable in multiple jurisdictions surrounding the City of Laurel. I think we can that very easily and very comfortably in this development. I don't see this as any kind of hardship, I don't believe it creates any kind of burden for the residents, and I don't see that it is anything that we as a Developer can't navigate to make this a user-friendly development and not only friendly for the residents and citizens but also for the traveling public. So that's the case I would make. The only other thing that I want to make sure that we address and this pertains to variance 1, 2, all three of the variances. There was a note in there with respect to a recommendation coming from the Planning Board that there needs to be a three-month cooling-off period per se. We have talking to Mr. Altonaga offline after the Planning Board. There is nowhere in any kind of statute both at the City level or at the State level that requires a cooling-off period. There is no need for that. If the variances are approved, then we can obviously easily move forward. If anyone of the three, two of the three, or all of the three are denied, we can make the adjustments very quickly and be right back in with our subdivision application. The only thing that we are up against at that point is making the modifications to the plat and get it back in to keep the subdivision process going. I guess I want to make sure that that is not something that is under consideration by the City Council. I would ask Mr. Altonaga to address that as well. We don't feel that is appropriate, nor is it necessary.

The Planning Director stated that, like Scott had mentioned, we had previously discussed that. Those recommendations, I had written those in just as a place holder; I believe both the Public Works Director and Contract Planner had thought that there were caveats in our code. He stated that he had checked and did not see anything. He had just included it as a place holder. As Scott had mentioned, it's not necessary for a cooling-off period, a minimum timeline for resubmittal. Like Scott said, whether denied or approved that we could move forward within the next month or so with the next Planning Board cycle. He thanked both Scott and Tony for calling in tonight. There was a little bit of confusion for Planning Board for the public hearing. Scott and Tony were not in attendance. There was some confusion with the public notice and the correspondence we had back and forth. I am happy they were able to tune in tonight to provide that extra information and response.

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

Mayor Nelson asked Staff if they needed to respond to any additional questions.

The Planning Director stated he understands all of Scott's responses, especially to the right-of-way dedication widths. What we have on the books is what we have on the books. Technically that's what we are going off of. They meet a lot of those requirements. From my point of view, looking at futureproofing about getting that 10 feet to make sure it's on the books and we have it ready to go down the line. We have gone back and forth for months on this, on different designs and alternative plans and things like that. That's my one thing I know specifically what is in and on the books is there, and I definitely understand those concerns, that that is what they have gone off of for months prepping their plans and prepping their plats. But just from our point of view, looking at going past that a little bit as to what's going to be adopted soon for our growth policy update and possible future developments along Yard Office, which we see as a major area of the City to seek new development and annexations into the City. I am hoping that at some point in the near future, that High Point Subdivision will annex, but that will be a whole another development process. As Scott said, that's nothing that would happen very soon. We are planning on different situations—Thanked Scott for being here and providing his responses to my findings.

Mayor Nelson closed the public hearing.

CONSENT ITEMS:

- **Claims entered through 11/6/2020 in the amount of \$303,579.97 for October 2020; in the amount of \$3,413.96. for November 2020**
A complete listing of the claims and their amounts is on file in the Clerk/Treasurer's Office.
- **Approval of Payroll Register for PPE 11/1/2020 totaling \$198,495.03.**

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

Motion by Council Member Eaton to approve the consent items 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.

CEREMONIAL CALENDAR: None.

REPORTS OF BOARDS AND COMMISSIONS:

- Cemetery Commission Minutes of September 29, 2020.

AUDIENCE PARTICIPATION (THREE-MINUTE LIMIT):

It was questioned if Council would be voting on the three variance requests tonight or if those will come back at a later date. It was clarified that Council would not be voting on those tonight. That those would come back once Staff is not denying those or if Council decides they would like to bring something forward against Staff and City/County Planning Boards recommendation. It was further questioned if no action is taken, the variances are denied. It was stated that was correct. It was further questioned that wasn't the process that was understood as Council was the governing body. It was asked if the Council could give a response, so the Developer knows how to proceed. Mayor Nelson stated he would follow up with the Developer in the morning.

SCHEDULED MATTERS:

- **Resolution No. R20-76: A Resolution Of The City Council Adopting The Updated 2020 Yellowstone County Hazard Materials Response Plan.**

Motion by Council Member Sparks to approve Resolution No. R20-76, 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. R20-77: A Resolution To Approve The Conditional Use Of The Property Located At 1009 East 6th Street In Laurel For The Construction And Operation Of A Union Meeting Hall At Such Address Within The City Of Laurel.**

Motion by Council Member Klose to approve Resolution No. R20-77, seconded by Council Member Eaton. 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:

The November Public Works Committee meeting has been canceled.

Veteran's Day is tomorrow. There will be a ceremony at 2:00 p.m. at the Laurel Cemetery by the VFW and American Legion. The ceremony will be brief.

Council Members thanked all veterans for their service.

MAYOR UPDATES: None.

UNSCHEDULED MATTERS: None.

ADJOURNMENT:

Motion by Council Member Eaton to adjourn the council meeting, 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.

There being no further business to come before the Council at this time, the meeting was adjourned at 7:50 p.m.


Brittney Moorman, Administrative Assistant

Approved by the Mayor and passed by the City Council of the City of Laurel, Montana, this 24th Day of November 2020.


Thomas C. Nelson, Mayor

Attest:


Bethany Langve, Clerk/Treasurer



LAUREL CITY-COUNTY PLANNING DEPARTMENT

STAFF REPORT

TO: Laurel City-County Planning Board / Zoning Commission
FROM: Nicholas Altonaga, Planning Director
RE: Conditional Use Permit – USW Local 11-443
DATE: October 28, 2020

DESCRIPTION OF REQUEST

A Conditional Land Use application was submitted by Steve Jansma on behalf of the United Steelworkers Local 11-443. USW Local 11-443 proposes to demolish the existing union meeting hall and construct a newly designed and updated structure in its place. An approval of a conditional land use is required to rebuild and continue the use of the site as a union meeting hall because this use is not described or defined within the zoning district it resides in.

Owner: Pace Pioneer Local 8-443
Legal Description: NUTTING SUBD, S10, T02 S, R24 E, BLOCK 6, Lot 13 - 24
Address: 1009 East 6th Street
Parcel Size: 42,000 sqft.
Existing Land Use: Union Meeting Hall
Proposed Land Use: Union Meeting Hall
Existing Zoning: Residential Limited Multi-Family

BACKGROUND AND PROCEDURAL HISTORY

- Resolution 13-50 was approved on August 6, 2013 which granted a three-year window for the Union to enlarge, update, and reconstruct the existing Union Hall which was then classified as a nonconforming use within the RLMF zoning district.
- Planning Director met with the Applicant on September 9, 2020 to review the application form and required documentation.
- Planning Director met with the Applicant on September 23, 2020 to receive the Application Fee and conceptual design images of the proposed conditional use.
- A public hearing for the Conditional Land Use took place at the October 21, 2020 Planning Board meeting.

- The Planning Board voted on October 21, 2020 to approve the Conditional Land Use application with the suggested staff conditions.
- A public hearing for the Conditional Land Use has been placed on the November 10, 2020 City Council meeting agenda.
- The public hearing requirements of 1762.030 have been met.

STAFF FINDINGS:

The Applicant is requesting approval of a conditional land use to reconstruct and operate a union meeting hall on the property of 1009 East 6th Street in Laurel. This use is not specifically delineated or defined within Chapter 17 of the Laurel Municipal Code. As such, a Conditional Land Use Application was required to conduct the proposed rebuild of the site and continue to operate the property as its existing use as a union meeting hall. The following findings have been noted by the Planning Department after reviewing the Conditional Land Use application and supplementary documents.

- USW Local 11-443 has operated a union hall at 1009 E 6th Street for many years without an interruption in its use.
- The long-term operation of the union meeting hall at 1009 East 6th Street has had little to no known impact on the quality of life of surrounding residents.
- The reconstruction of the union meeting hall will include improved paved parking areas and landscaping.
- The current meeting hall building dates back to the 1920s and is in dire need of repairs.
- The current Union Hall building would require significant repairs and revitalization to continue functioning as it stands.
- The current Union Hall building and associated parking areas and landscaping are not aesthetically pleasing.
- The current use of the building and its lack of definition under the LMC as a union hall does not allow the Union to perform improvements or upgrades to the site.
- The Applicant has prepared conceptual plans to include adequate access and off-street parking.
- The demolition of the current structure and proposed new union meeting hall will include updated landscaping and parking on site.

PLANNING BOARD AND GOVERNING BODY REVIEW CRITERIA:

“17.62.020 – Requirements” contains the review criteria for the Zoning Commission to discuss and recommend actions on conditional land uses. The text of this subchapter is included below.

No structure or land use may be used for any purpose other than those allowed within a zoning district as specified in the zoning ordinance unless either a variance has been granted (under Chapter 17.60 or 17.64 of this code) or a conditional land use permit therefor has been provided. The zoning commission may recommend and the city can require any information that will allow the decision makers to comprehensively evaluate and decide on applications for conditional uses brought before them. The zoning commission may recommend and the city can require, after consideration of the application for

conditional use, those conditions under which such land use may be allowed to include but not be necessarily limited to the following:

- A. Adequate ingress and egress with concern for vehicular and pedestrian safety and convenience, traffic flow and control, and emergency access as reviewed and approved by the city public works director;
- B. Adequate off-street parking and loading with attention to vehicular and pedestrian safety and traffic flow;
- C. Conditions that control, specify, or plan for the generation of odors, noise, hours of operation, signage, or impact on the neighborhood of natural systems;
- D. Adequate landscaping, screening, mitigation of impact on adjacent property and buffering; and
- E. Compatibility with adjacent and neighborhood land uses and Laurel's GMP.

STAFF SUGGESTED CONDITIONS:

The Planning Director recommends the approval of the Conditional Land Use application to operate a union meeting hall at 1009 East 6th Street in Laurel. The Planning Director suggests the Planning Board/Zoning Commission and City Council consider the following conditions of approval.

Condition seven (7) was added by request of Planning Board members and the applicant was notified of this new condition.

- 1. No land uses shall be established on site that are not specifically included in this approval.
- 2. Any land use not specifically included in this approval shall be considered a violation of the City of Laurel zoning ordinance.
- 3. New construction regarding the approved conditional use shall apply for building permits when applicable.
- 4. The approved land use shall comply with the zoning requirements of the district the property falls within.
- 5. The approved land use shall comply to the City of Laurel Sign Code
- 6. The approved land use shall comply with the City of Laurel off-street parking requirements
- 7. Landowner will work with the city if noise abatement becomes an issue for the surrounding neighborhood

ATTACHMENTS:

- 1. Conditional Land Use Application
- 2. Map of 1009 E 6th Street with 150ft buffer
- 3. List of property Owners within 150ft of 1009 East 6th Street
- 4. Public Hearing Notice
- 5. USW Union Hall Concept Plan
- 6. USW Union Hall Concept Image
- 7. LMC 17.16 – Residential Districts
- 8. LMC 17.62 – Conditional Land Uses
- 9. Resolution R13-50



LAUREL CITY-COUNTY PLANNING DEPARTMENT

STAFF REPORT

TO: Laurel City-County Planning Board
FROM: Nicholas Altonaga, Planning Director
RE: Variance 1 – Goldberg Sporting Estates Subdivision
DATE: October 27, 2020

DESCRIPTION OF REQUEST

Three variances to the Laurel Municipal Code are being requested supporting the proposed Goldberg Sporting Estates Subdivision. Performance Engineering is acting as the representative of Tony Golden and Goldberg Investments LLP. Justification letters for the variance requests were submitted on July 31, 2020.

The Applicant has applied for a variance (Variance 1) to Laurel Municipal Code regarding roadway alignment and continuity in order to keep the proposed roadway for Krieghoff Loop as it is currently designed on the proposed subdivision plat. The current design does not conform to Laurel Municipal Code due to a lack of connection and continuation of the existing adjacent roadway. The Applicant would need to redesign the subdivision plat in order to conform to the Laurel Municipal Code unless a variance is approved.

Owner: Goldberg Investments LLP
Legal Description: S10, T02 S, R24 E, Nutting Bros 2nd Filing Lot 18, Nutting Bros 3rd Filing Lots 19-25
Address: Approximately 1850 East 8th Street
Parcel Size: 38.73 Acres
Existing Land Use: Agricultural, single dwelling unit.
Proposed Land Use: Residential and Commercial Subdivision
Existing Zoning: Residential Tracts

BACKGROUND AND PROCEDURAL HISTORY

- Subdivision Preapplication Meeting took place on February 2, 2019.
- Pre-Application Meeting Summary letter provided to Performance Engineering on February 7, 2019

- Annexation Agreement – Major Components email sent to Performance Engineering on February 15, 2019.
- Annexation of Lot 18, Nutting Bros 2nd Filing and Lot 19-25 Nutting Bros 3rd Filing approved by Resolution of Laurel City Council on August 20, 2019
- The Zoning requested during the annexation process will be updated to Residential Limited Multi-Family (RLMF) and Community Commercial (CC) upon filing of the final annexation agreement.
- Preliminary Plat Pre-Submittal comments email sent to Performance Engineering on October 30, 2019.
- Preliminary Plat Meeting Notes 11.08.19 comments follow-up email provided to Performance Engineering on November 21, 2019.
- Preliminary Plat application document Packet submitted to the Planning Department on December 17, 2019.
- Element Review Letter provided to Performance Engineering on December 24, 2019
- Sufficiency Review Letter provided to the Applicant on January 16, 2020.
- The Applicant and City Staff and City Engineers met to discuss the details of the sufficiency review letter on January 31, 2020.
- Submittal of updated documents by Applicant on July 31, 2020.
- Planning Board received public comment, discussed the variances, and made recommendations at the Public Hearing on October 21, 2020.
- Planning Board voted to recommend denial of the variances after the Public Hearings on October 21, 2020.
- A Public Hearing is scheduled at the City Council meeting on November 10, 2020 to receive public comment and approve, approve with conditions, or deny the variance requests.

DETAILS ON MAJOR CORRESPONDENCE DURING PROCESS

Pre-Application Meeting Summary letter provided to Performance Engineering on February 7, 2019. This letter included:

- Project summary
- Current and proposed zoning
- Public review process overview
- Discussion points including:
 - Fire coverage
 - Lot layout
 - Water and sewer systems
 - Right-of-way requirements
 - Solid waste provision
 - Parking
 - Parkland dedication
 - Off-site improvements

Annexation Agreement – Major Components email sent to Performance Engineering on February 15, 2019. This email contained further information regarding:

- Roadway dedication requirements
- Engineering estimates for public infrastructure improvements
- Annexation and plat approval process
- Water rights
- Zoning changes

Preliminary Plat Pre-Submittal comments email sent to Performance Engineering on October 30, 2019. Items identified in pre-submittal review included:

- Street connectivity within the Subdivision
- Street and intersection design
- Road continuity with the adjacent Laurel street system
- Parkland Dedication/Cash-in-Lieu
- Road Dedication
- Phased development

Preliminary Plat Meeting Notes 11.08.19 comments follow-up email provided to Performance Engineering on November 21, 2019. Items identified in this correspondence included:

- Utility and access easements
- Roadway connectivity
- Parkland dedication
- Review and submittal of previously discussed documents (Annexation and Waiver)

STAFF FINDINGS

The Applicant is requesting a variance to LMC 16.04.060.B.8 which states: "Street Continuity. Streets that are a continuation of streets in contiguous territory shall be so aligned as to assure that their centerlines shall coincide and shall have matching names. In cases where straight continuations are not physically possible, such centerline shall be continued by a centerline offset of not less than one hundred twenty-five feet."

A denial of this variance request will require the applicant to redesign the subdivision plat to meet the requirements of the Laurel Municipal Code.

The Applicant has provided a letter with details justifying the Variance request addressing the five (5) findings noted in LMC 16.11.010. These responses, as well as planning department findings are presented below:

- 1) **The granting of the variance will not be detrimental to the public health safety, or general welfare or injurious to other adjoining properties**
 - **Applicant Response:** Granting of this requested variance will have no detrimental effects to the public health, safety, or general welfare or injurious to other adjoining properties. Granting this variance will benefit the public health, safety, and general

welfare of the surrounding area by aligning higher volume traffic entrances across from each other. The proposed alignment will minimize traffic conflicts during turning movements along East 8th at both the subdivision and the commercial property located south of the proposed project.

- **Planning Department Response:** The Planning Department accepts the stated reasoning that it will not be detrimental to the public health, safety, or general welfare or injurious to adjoining property owners.
- **Planning Department Finding:** The standard of the Laurel Municipal Code for Chapter 16.11.010.1 has been met.

2) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of the regulations was enforced.

- **Applicant Response:** The proposed development is designed to keep the entrance across from a higher traffic commercial entrance and preserve the existing lot and infrastructure across from the dead-end Mulberry Avenue. This design prevents the offset of the subdivision alignment from conflicting with the higher volume of commercial traffic across the street. Should the road be aligned with Mulberry Avenue it would require modification of the existing property, access, and personal property intended to stay intact throughout the development of the property. This does create an undue and unnecessary hardship on the developer and the resident within the existing residence. Additionally, Mulberry Avenue cannot be developed further to change its status as a dead-end road due to location of commercial businesses along East Main Street at the end of Mulberry Avenue.
- **Planning Department Response:** The Planning Department does not accept the stated reasoning of the applicant's response to the second point.
- **Planning Department Finding:** The standard of the Laurel Municipal Code for Chapter 16.11.010.2 have not been met. The following information supports this claim.
 - Lot 1 and Lot 2, Block 4 of Goldberg Sporting Estates do not currently exist.
 - The existing residential structure is located on the Western portion of the currently platted Lot 18, Nutting Brothers Subdivision 2nd Filing.
 - The existing residential structure and its accessory buildings located on the current Lot 18 Nutting Bros Subdivision 2nd Filing and would be unaffected by the realignment of Mulberry and Krieghoff Loop.

- The existing residential structure on the current Lot 18 Nutting Bros 2nd Filing has multiple points of access to the site which would be unaffected by the roadway alignment.
- The existing access to this parcel that partially aligns with Mulberry Avenue is used to access an undeveloped farm field which includes Lot 18 of Nutting Bros 2nd Filing and Lot 19 of Nutting Bros Subdivision 3rd Filing.
- There is no known access and/or encroachment permit for the lot access located immediately across from Mulberry Avenue filed with Yellowstone County Public Works Department.
- The proposed Goldberg Sporting Estates Subdivision will be changing the use of the current land from agricultural use to residential use.
- There are no permanent structures, infrastructure, or personal property erected on the proposed Lot 2, Block 4 that could not be relocated in case of roadway alignment.
- The alignment of Mulberry Ave and Krieghoff Loop would only require the owner and/or resident of the residential structure on the current Lot 18, Nutting Bros Subdivision 2nd Filing to remove any fencing and stored personal items from the proposed right-of-way.
- Mulberry Avenue is physically a dead-end roadway. Despite this current condition, Mulberry Avenue connects to the currently undeveloped but fully platted East 7th Street at its southern terminus.
- The currently undeveloped but fully platted East 7th Street could be a major east-west connector within the city limits which covers approximately nine (9) blocks of residential-zoned property.
- Conversations have begun between the Planning Department and Public Works Department about this undeveloped roadway and the possibility of development in order to complete a major east-west travel corridor.

3) The variance will not result in an increase in taxpayer burden;

- **Response:** The result of granting the variance for alignment of the proposed western entrance of the subdivision with Mulberry Avenue will have no effect on the taxes of the proposed development, adjoining land or the taxpayers of the town of Laurel and Yellowstone County.
- **Planning Department Response:** The Planning Department accepts the reasoning that the granting of the variance would not increase the tax burden of the adjoining taxpayers and landowners.
- **Planning Department Finding:** The standard of the Laurel Municipal Code for Chapter 16.11.010.3 has been met.

4) The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations or growth policy; and

- **Applicant Response:** This requested variance will not in any manner place the subdivision in nonconformance with the adopted zoning regulations.
- **Planning Department Response:** The Planning Department accepts the reasoning that the granting of a variance would not place the rest of the Subdivision in nonconformance with the adopted zoning regulations and growth policies.
- **Planning Department Finding:** The standard of the Laurel Municipal Code for Chapter 16.11.010.4 has been met.

5) The subdivider must prove that the alternative design is equally effective and the objectives of the improvement are satisfied.

- **Applicant Response:** The proposed design still aligns with an ingress/egress directly across the street that experiences higher traffic volumes than the dead-end Mulberry Avenue which only provides access for four (4) residential lots. In addition, the proposed entrance maintains street continuity with the commercial access across the street, preserves the existing Lot 1, Block 4 of the subdivision, and mitigates against potential traffic alignment issues between the subdivision entrance and the commercial access across the street while maintaining more than 125-feet of centerline alignment separation from Mulberry Avenue as set forth in Section 16.04.060.B.8 of the City of Laurel Subdivision Regulations.
- **Planning Department Response:** The Planning Department does not accept the reasoning to the 5th point that the alternative design is equally effective.
- **Planning Department Finding:** The standards of the Laurel Municipal Code for Chapter 16.11.010 have not been met. The following information supports this claim.
 - The proposed Lot 1, Block 4 is currently Lot 18, Nutting Bros 2nd Filing would not be impacted by a roadway alignment of Mulberry Avenue and Krieghoff Loop.
 - The Proposed Lot 2, Block 4 does not currently exist.
 - There are no permanent structures, infrastructure, or affixed personal property present within the proposed aligned right-of-way besides fencing.
 - The code states that "In cases where straight continuations are not physically possible, such centerline shall be continued by a centerline offset of not less than one hundred twenty-five feet."
 - The Planning Department does not find any physical obstruction to connecting Krieghoff Loop to Mulberry Avenue.

- The terrain and topography is flat and open creating no impediments to the alignment of Krieghoff Loop and Mulberry Avenue
- The existing access to Lot 18 Nutting Bros 2nd Filing and lot 19 Nutting Bros 3rd Filing is to an undeveloped farm field.
- There is no known access and/or encroachment permit for the existing field access immediately north of Mulberry Avenue.
- Mulberry Avenue is connected to the currently undeveloped but fully platted East 7th Street. This undeveloped route traverses up to nine (9) blocks of Laurel.
- East 7th Street would provide a major east-west travel corridor if constructed.
- The alignment of Krieghoff Loop and Mulberry Avenue would provide additional road continuity to the wider road network once East 7th Street is constructed.

ADDITIONAL INFORMATION

The Applicant also provided four (4) reasonings for the Variance request in addition to the specific justifications to the Laurel Municipal Code.

1. Mulberry Avenue is a dead-end road with access for only four (4) residential Lots
2. There is approximately 225 feet of separation between centerline alignments for Mulberry Avenue and the proposed western entrance of Goldberg Sporting Estates Subdivision (minimum required offset is 125 feet).
3. The Proposed subdivision entrance is aligned instead with a commercial lot entrance having more traffic volume than the dead-end road along Mulberry Avenue.
4. In addition, Lot 1, Block 4 of Goldberg Sporting Estates Subdivision is an existing lot that physically prevents the alignment of the western entrance (Krieghoff Loop) from aligning across from Mulberry.

Planning Department Response to Point #1.

- Mulberry Avenue is currently a dead-end roadway but is connected to the currently undeveloped but fully platted East 7th Street.
- East 7th Street is a fully platted right-of-way for nine (9) blocks.
- East 7th Street could provide a major improvement to East-West travel within Laurel as well as development opportunities.
- The City is in the process of finalizing the Growth Management Policy which contains goals regarding the installation and improvement of current roadways and important possible roadways adjacent to the city.
- The Planning Department and Public Works Departments have held discussions about how future build-out of East 7th Street could enhance and improve transportation on the East side of Laurel.

Planning Department Response to Point #2.

- The requirements for non-alignment are partially met, but there is no physical, topographic, or geographic reason for the lack of alignment with the existing road network.

Planning Department Response to Point #3.

- The Planning Department agrees that the alignment of a public-right-of-way to a private commercial entrance with higher traffic will reduce traffic conflicts.
- The Planning Department would also like to note that this ignores the need for public right-of-way to connect to existing public right-of-way to ensure road continuation and connectivity.

Planning Department Response to Point #4.

- The Planning Department does not agree that there is a physical obstruction to connecting the proposed Krieghoff Loop to the existing Mulberry Avenue.
- The proposed Lot 2, Block 4 of the Goldberg Sporting Estates is the area in question.
- The proposed Lot 2, Block 4 is not an existing lot.
- The proposed Lot 1 and Lot 2, Block 4 is currently made up of a portion of Lot 18, Nutting Bros 2nd Filing, and Lot 19, Nutting Bros 3rd Filing.
- The stated area is part of an undeveloped farm field.
- The existing residential structure on the current Lot 18, Nutting Bros Subdivision 2nd Filing has an existing driveway access.
- The existing residential structure currently on Lot 18, Nutting Bros 2nd Filing is not located within the area where any proposed right-of-way would be located.
- The existing access to the proposed Lot 2, Block 4 is for field access to the undeveloped parcel.
- There are no physical structures or obstructions which would preclude alignment of the proposed Krieghoff Loop to the existing Mulberry Avenue.

PLANNING BOARD AND GOVERNING BODY REVIEW CRITERIA

LMC 16.11.010 – Variances provides the review criteria for the Planning Board and Governing Body to review, consider, and decide on variances. The text of this subchapter is provided below:

The AGB may grant reasonable variances from only the design and improvement standards of these regulations when strict compliance would result in undue hardship and the result would not negatively affect public health and safety. The granting of a variance shall not have the effect of nullifying the intent and purpose of these regulations. The AGB may not approve a variance that would permit structures within the one hundred-year floodplain, as defined in MCA § 76-5-101.

The planning board shall conduct a public hearing on any variance requested for all subdivisions prior to taking action on the preliminary plat application.

- A. Requesting a Variance. The subdivider shall include with the submission of the preliminary plat a written statement describing the facts of hardship upon which the request for the variance is based. Each requested variance shall be deemed a separate application, for which a fee shall be required, to be processed concurrently with the preliminary plat. Information addressing each of the following findings shall accompany the application to be approved by the AGB. The latter shall not approve variances unless the subdivider has demonstrated that the request satisfies the following findings:
 - 1. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;
 - 2. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of the regulation was enforced;
 - 3. The variance will not result in an increase in taxpayer burden;
 - 4. The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations or growth policy; and
 - 5. The subdivider must prove that the alternative design is equally effective and the objectives of the improvements are satisfied.
- B. In granting variances, the AGB may require conditions of approval that will, in their judgment, secure the objectives of these regulations.
- C. When any such variance is granted, the motion of approval of the proposed subdivision shall contain a statement describing the variance and the facts and conditions upon which the issuance of the variance is based.
- D. An application for a variance is not necessary where planned neighborhood developments are proposed, as modifications to the standards and requirements of these Regulations may be approved by the AGB.

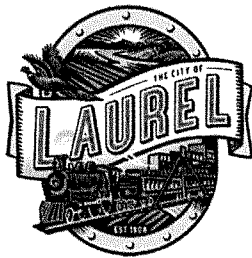
RECOMMENDATIONS

The Planning Director recommends that the Planning Board deny the variance request. The Planning Director has prepared drafted conditions of denial which are presented below.

1. Waive Chapter 16 variance review fee.
2. Waive Chapter 16 requirement to rename any aligned/continued roadways through subdivisions
3. Set the waiting period for Preliminary Plat resubmittal to three (3) months.
4. Applicant submittal of updated subdivision design to Planning Department prior to official resubmittal

ATTACHMENTS

1. Variance Request Letter 1
2. List of Adjacent Property Owners from Parcels Requesting Variance
3. Preliminary Plat for Goldberg Sporting Estates Subdivision
4. Pre-application meeting summary letter dated February 7, 2019
5. Annexation Agreement – Major Components email sent to Performance Engineering on February 15, 2019.
6. Preliminary Plat Pre-Submittal comments email sent to Performance Engineering on October 30, 2019.
7. Preliminary Plat Meeting Notes 11.08.19 comments follow-up email provided to Performance Engineering on November 21, 2019.



LAUREL CITY-COUNTY PLANNING DEPARTMENT

STAFF REPORT

TO: Laurel City-County Planning Board
FROM: Nicholas Altonaga, Planning Director
RE: Variance 2 & 3 – Goldberg Sporting Estates Subdivision
DATE: October 27, 2020

DESCRIPTION OF REQUEST

Three variances to the Laurel Municipal Code are being requested supporting the proposed Goldberg Sporting Estates Subdivision. Performance Engineering is acting as the representative of Tony Golden and Goldberg Investments LLP. Justification letters for the variance requests were submitted on July 31, 2020.

The Applicant has applied for a variance (Variance 2) to the Laurel Municipal Code regarding the dedication of right-of-way. The Applicant is applying for this variance in order to retain an additional ten (10) foot portion of property along Yard Office Road within the proposed lots and not dedicated to the public as right-of-way as city staff had previously discussed with the Applicant. The Applicant would need to update the subdivision plat in order to conform with the requirements of Laurel Municipal Code and the many requirements discussed by Laurel staff through meetings and correspondence.

The Applicant is requesting a variance (Variance 3) to the Laurel Municipal Code regarding roadway and right-of-way widths. The design of the proposed Goldberg Sporting Estates subdivision contains a fifty-six (56) foot wide private road which does not meet the right-of-way requirements of the Laurel Subdivision Code. The Applicant would need to redesign the subdivision plat in order to conform to the Laurel Municipal Code

Owner: Goldberg Investments LLP
Legal Description: S10, T02 S, R24 E, Nutting Bros 2nd Filing Lot 18, Nutting Bros 3rd Filing Lots 19-25
Address: Approximately 1850 East 8th Street
Parcel Size: 38.73 Acres
Existing Land Use: Agricultural, single dwelling unit.
Proposed Land Use: Residential and Commercial Subdivision

Existing Zoning: Residential Tracts

BACKGROUND AND PROCEDURAL HISTORY

- Subdivision Preapplication Meeting took place on February 2, 2019.
- Pre-Application Meeting Summary letter provided to Performance Engineering on February 7, 2019
- Annexation Agreement – Major Components email sent to Performance Engineering on February 15, 2019.
- Annexation of Lot 18, Nutting Bros 2nd Filing and Lot 19-25 Nutting Bros 3rd Filing approved by Laurel City Council on August 20, 2019
- The Zoning requested during the annexation process will be updated to Residential Limited Multi-Family (RLMF) and Community Commercial (CC) upon filing of the final annexation agreement.
- Preliminary Plat Pre-Submittal comments email sent to Performance Engineering on October 30, 2019.
- Preliminary Plat Meeting Notes 11.08.19 comments follow-up email provided to Performance Engineering on November 21, 2019.
- Preliminary Plat application document Packet submitted to the Planning Department on December 17, 2019.
- Element Review Letter provided to Performance Engineering on December 24, 2019
- Sufficiency Review Letter provided to the Applicant on January 16, 2020
- The Applicant and City Staff and City Engineers met to discuss the details of the sufficiency review letter on January 31, 2020
- Submittal of updated documents by Applicant on July 31, 2020
- Planning Board received public comment, discussed the variances, and made recommendations at the Public Hearing on October 21, 2020.
- Planning Board voted to recommend denial of the variances after the Public Hearings on October 21, 2020.
- A Public Hearing is scheduled at the City Council meeting on November 10, 2020 to receive public comment and approve, approve with conditions, or deny the variance requests.

DETAILS ON MAJOR CORRESPONDENCE DURING PROCESS

Pre-Application Meeting Summary letter provided to Performance Engineering on February 7, 2019. This letter included:

- Project summary
- Current and proposed zoning
- Public review process overview
- Discussion points including:
 - Fire coverage
 - Lot layout

- Water and sewer systems
- Right-of-way requirements
- Solid waste provision
- Parking
- Parkland dedication
- Off-site improvements

Annexation Agreement – Major Components email sent to Performance Engineering on February 15, 2019. This email contained further information regarding:

- Roadway dedication requirements
- Engineering estimates for public infrastructure improvements
- Annexation and plat approval process
- Water rights
- Zoning changes

Preliminary Plat Pre-Submittal comments email sent to Performance Engineering on October 30, 2019. Items identified in pre-submittal review included:

- Street connectivity within the Subdivision
- Street and intersection design
- Road continuity with the adjacent Laurel street system
- Parkland Dedication/Cash-in-Lieu
- Road Dedication
- Phased development

Preliminary Plat Meeting Notes 11.08.19 comments follow-up email provided to Performance Engineering on November 21, 2019. Items identified in this correspondence included:

- Utility and access easements
- Roadway connectivity
- Parkland dedication
- Review and submittal of previously discussed documents (Annexation and Waiver)

STAFF FINDINGS

The Applicant is requesting a variance to LMC 16.04.060.B.7 which states: “Right-of-Way and Street and Road Developments. In all cases, the right-of-way must be provided when developing the property. If the property is being developed on only one side of an existing or proposed road or street and dedicated right-of-way or a road easement is required, the property owner developing must secure the additional right-of-way or easement from the adjacent property owner. If the additional required right-of-way or easements cannot be secured, the developer must provide the full width of right-of-way on the subject property.”

The Applicant is also requesting a variance to LMC 16.04.060.C.8 which states: “Right-of-Way and Street Widths. Street right-of-way and surface widths for all roads, public or private, including those located in the Laurel zoning jurisdiction with the exception of those zoned Agricultural Open and Residential Suburban shall be provided as shown in Table 16.4.C.1 below.”

The Applicant has provided a letter with details justifying the Variance requests addressing the five (5) findings noted in LMC 16.11.010. These responses, as well as planning department findings are presented below:

1) The granting of the variance will not be detrimental to the public health safety, or general welfare or injurious to other adjoining properties

- **Applicant Response:** Granting of the variance will have no detrimental effects to the public health, safety, or general welfare or injurious to other adjoining properties. Granting this variance will still provide more than the minimum required ROW width for the projected road use along Yard Office Road as classified by the City of Laurel Long Range Transportation Plan.
- **Planning Department Response:** The Planning Department does not accept that the roadway widths will not be detrimental to the general welfare of the City of Laurel.
- **Planning Department Findings:** The standard of the Laurel Municipal Code for Chapter 16.11.010.1 has not been met. The proposed width of Yard Office Road and Perazzi Way will not provide adequate services or provide for the general welfare of the city.
 - The current Yard Office Road right-of-way is made up of approximately fifty (50) feet of area dedicated to a drainage ditch. This area should not be considered as viable for vehicular or pedestrian traffic.
 - The eighty (80) feet of the Yard Office Road west of the Section line was dedicated on Village Subdivision 1st Filing.
 - Village Subdivision First Filing identifies these eighty (80) feet of right-of-way as containing a drain ditch.
 - If the area currently containing a drainage ditch is planned as part of a roadway, the applicant must prepare engineering and construction costs as well as funding to cover the build out of this portion of right-of-way.
 - City staff specified during the Pre-application period that a connection between East 8th Street and Yard Office Road was necessary for the cohesive growth of Laurel.
 - The proposed subdivision contains 88 buildable lots. It is important to ensure traffic coverage with an adequate ingress and egress point to Yard Office Road.
 - The proposed fifty-six (56) foot private road Perazzi Way is not sufficient at meeting the needs of Laurel residents.
 - Adequate traffic connection between East 8th Street and Yard Office Road was specifically mentioned in the Subdivision pre-application meeting on February 2, 2019 and the following email correspondence.

2) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of the regulations was enforced.

- **Applicant Response:** The 30 Feet of proposed ROW aligns with surrounding property and satisfies the required ROW width outlined by City of Laurel Subdivision Regulations while allowing for future development of Yard Office Road that is consistent with long-range planning.
- **Planning Department Response:** The Planning Department does not accept this reasoning for hardship due to topographic conditions.
- **Planning Department Findings:** The standard of the Laurel Municipal Code for Chapter 16.11.010.2 has not been met. There are no topographic or physical conditions present that create an undue hardship to meet roadway standards. The following information supports this claim.
 - There are no physical or topographic conditions which create an undue burden on the applicant to dedicate the additional ten (10) feet of right-of-way to meet the requirements stated by the city.
 - The right of way directly north of the area designated as Yellowstone County parkland makes up approximately 123 feet of right-of-way.
 - This one-hundred-twenty-three (123) foot width was established when High Point Subdivision provided forty (40) feet of dedicated right-of-way west of the section line on its subdivision plat in 1970.
 - The Planning Department and Public Works Department anticipate Yard Office Road to act as a major transportation route for future development on the East side of Laurel as the immediate area develops.
 - It is important that the city obtain a consistent right-of-way width to ensure that future roadway development and improvements have uniform dimensions.
 - The proposed thirty (30) feet of right-of-way is insufficient to align the area of Yard Office Road along the proposed Goldberg Sporting Estates with the right-of-way along High Point Subdivision to the north.

3) The variance will not result in an increase in taxpayer burden;

- **Response:** The result of granting the variance for providing 30 feet of ROW to the west of the section line along Yard Office Road will have no effect on the taxes of the proposed development or adjoining undeveloped land. Keeping the 30-feet under private ownership will increase the tax base for the City and the County providing benefit the taxpayer base.
- **Planning Department Response:** The Planning Department does not accept that the variance would not result in an increase in taxpayer burden.

- **Planning Department Findings:** The standard of the Laurel Municipal Code for Chapter 16.11.010.3 has not been met. The following information supports this claim.
 - Yard Office Road is expected to become a major transportation corridor as properties on the East side of Laurel develop and annex into the city.
 - The dedication of the additional ten (10) feet of right-of-way at the time of subdivision is advantageous for the city of Laurel and its citizens.
 - The purchase of this right-of-way at a later date would represent an astronomically high price for the city and its residents if additional right of way were needed to accommodate an increase in traffic in the future.
 - It was stated in correspondence between the contract planner and engineer that this dedication of right-of-way would be taken care of at the time of SIA and Subdivision. This correspondence is attached.

4) The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations or growth policy; and

- **Response:** The requested variance will not in any manner place the subdivision in nonconformance with the adopted zoning regulations.
- **Planning Department Response:** The Planning Department does not accept the stated reasoning that this variance will not place the subdivision in nonconformance with the adopted zoning regulations or growth policy.
- **Planning Department Findings:** The standard of the Laurel Municipal Code for Chapter 16.11.010.4 has not been met. The following information supports this claim.
 - The updated 2020 Laurel Growth Management Policy which will be officially approved in November 2020 highlights the need for consistent roadway widths as a transportation system goal.
 - The current proposed thirty (30) feet of right-of-way dedication does not align with the right-of-way directly north of the Yellowstone County Park.
 - Inclusion of the additional ten (10) feet of right-of-way will align with the roadway adjacent to High Points Subdivision which was established in 1970.

5) The subdivider must prove that the alternative design is equally effective and the objectives of the improvement are satisfied.

- **Response:** The proposed ROW dedication width not only aligns with the surrounding ROW widths, but also provides more total width along Yard Office Road than is necessary for the projected road classification of a collector road as outlined in the City of Laurel Long Range Transportation Plan – 2014 and the

Required ROW as outlined in Table 16.4.C1 within section 16.04.060.C.8 of the City of Laurel municipal code.

- **Planning Department Response:** The Planning Department does not accept that the proposed design is equally effective as the requirements of the Laurel Municipal Code.
- **Planning Department Findings:** The standards of the Laurel Municipal Code for Chapter 16.11.010.5 have not been met. The following information supports this claim.
 - The email dated February 15, 2019 from Interim Planner Forrest Sanderson to Scott Aspenlieder outlined requirements for platting and design that followed from the Pre-Application meeting.
 - This includes “Dedicate additional ROW for Yard Office (Where you can) to the City of Laurel as Commercial Collector (80’) ROW.”
 - The existing right-of-way East of the Section Line is made up of at least forty (40) feet of area dedicated to a drainage ditch identified on the plat for the Village Subdivision First Filing.
 - This portion of right-of-way should only be considered as useable if the developer is willing to prepare and execute the engineering and construction of this portion of right of way.

ADDITIONAL INFORMATION

The Applicant also provided Two (2) reasonings for the Variance request in addition to the specific justifications to the Laurel Municipal Code.

The Developer is requesting to dedicate 30 feet of ROW from the section line along Yard Office Road west toward the proposed subdivision in-lieu of a 40-foot-wide ROW width. The variance is requested for the following reasons:

1. A 30-foot ROW dedication on the west side of the section line along Yard Office Road aligns and is consistent with the existing ROW directly to the north of the proposed subdivision.
2. The City of Laurel Long Range Transportation Plan – 2014 classifies Yard Office Road as a collector, which by section 16.04.060.C.8, Table 16.4.C.1 “required Dedications and Street Improvements for Subdivision” only requires an 80-foot ROW. There is already 80 feet of ROW dedicated on the east side of the section line along Yard Office Road and the additional 30 feet of ROW dedicated on the west side would give a total of 110 feet of ROW which is more than required ROW for a collector road, it would even provide more than is necessary for a minor arterial road (100 ft) per Table 16.4.C.1 within section 16.04.060.C.8

Planning Department Response to Point #1:

High Point Subdivision, which is directly north of the Yellowstone County Park, provided a total of forty (40) feet of right-of-way west of the section line to Yard Office Road on its subdivision plat which was created in March 1970. Consistent right-of-way widths are key to ensuring traffic management. Providing this additional road dedication at this time is proper and financially responsible for the City of Laurel. The cost to acquire these ten (10) feet of right-of-way due to increased traffic flow at a later date would be a major financial burden for the city and its taxpayers.

Planning Department Response to Point #2:

It is anticipated that Yard Office Road will be a major transportation route for future development on the east side of Laurel. Approximately fifty (50) feet of the existing right-of-way for Yard Office Road east of the section line is made up of a drainage ditch. This ditch and right-of-way was identified on the plat of Village Subdivision First Filing. This portion of right-of-way should not be considered viable for roadway development unless the developer is prepared to finance and construct adequate infrastructure above the Ditch along its length of the subdivision.

The property directly to the south of the proposed Goldberg Sporting Estates subdivision is unplatted and outside of Laurel city limits. If this situation were to change, either through subdivision or annexation, the City of Laurel would require the dedication of forty (40) feet of right-of-way west of the Section line to provide consistent road widths from East Main Street to the culvert of the Nutting Drain Ditch north of East Maryland Lane.

PLANNING BOARD AND GOVERNING BODY REVIEW CRITERIA

LMC 16.11.010 – Variances provides the review criteria for the Planning Board and Governing Body to review, consider, and decide on variances. The text of this subchapter is provided below:

The AGB may grant reasonable variances from only the design and improvement standards of these regulations when strict compliance would result in undue hardship and the result would not negatively affect public health and safety. The granting of a variance shall not have the effect of nullifying the intent and purpose of these regulations. The AGB may not approve a variance that would permit structures within the one hundred-year floodplain, as defined in MCA § 76-5-101.

The planning board shall conduct a public hearing on any variance requested for all subdivisions prior to taking action on the preliminary plat application.

- A. Requesting a Variance. The subdivider shall include with the submission of the preliminary plat a written statement describing the facts of hardship upon which the request for the variance is based. Each requested variance shall be deemed a separate application, for which a fee shall be required, to be processed concurrently with the

preliminary plat. Information addressing each of the following findings shall accompany the application to be approved by the AGB. The latter shall not approve variances unless the subdivider has demonstrated that the request satisfies the following findings:

1. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;
 2. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of the regulation was enforced;
 3. The variance will not result in an increase in taxpayer burden;
 4. The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations or growth policy; and
 5. The subdivider must prove that the alternative design is equally effective and the objectives of the improvements are satisfied.
- B. In granting variances, the AGB may require conditions of approval that will, in their judgment, secure the objectives of these regulations.
- C. When any such variance is granted, the motion of approval of the proposed subdivision shall contain a statement describing the variance and the facts and conditions upon which the issuance of the variance is based.
- D. An application for a variance is not necessary where planned neighborhood developments are proposed, as modifications to the standards and requirements of these Regulations may be approved by the AGB.

RECOMMENDATIONS

The Planning Director recommends the Planning Board deny variance request 2 and 3 with the following conditions.

1. Set the waiting period for Preliminary Plat resubmittal to 3 months
2. The applicant provide an updated redesign of the subdivision to the City prior to resubmittal
3. Provide for curb, gutter, sidewalk, and stormwater drainage on designs

ATTACHMENTS

1. Variance Request Letter 2 and 3
2. List of Adjacent Property Owners from Parcels Requesting Variance
3. Preliminary Plat for Goldberg Sporting Estates Subdivision
4. Pre-application meeting summary letter dated February 7, 2019
5. Annexation Agreement – Major Components email sent to Performance Engineering on February 15, 2019.
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7. Preliminary Plat Meeting Notes 11.08.19 comments follow-up email provided to Performance Engineering on November 21, 2019.