

Staff Report
Leading Tech Development/Family Dollar
Bonding Request
February 10, 2015

Applicant/Agent:
Leading Tech Development
Greg Wall
1835 S. Highway 89
Perry, UT 84302

Project Description

On November 26, 2013 the City Council issued one (1) Conditional Use Permit (CUP) to Leading Tech Development for the proposed 8,400 square foot Family Dollar store. The CUP was subject to 35 Conditions of Approval all of which were to be completed before a Certificate of Occupancy is issued.

The Red Lodge Subdivision and Zoning Regulations contemplate the allowance of bonding for incomplete Conditions and sets a bond rate of 125% of the estimated cost of said improvements.

Compliance with Conditions of Approval

1. That the use, operation and development of the property be in accordance with the plans, specifications and documents submitted for review except as modified by these conditions.

Status: The Condition has been *met in part*, but is incomplete.

2. That the developer shall obtain a building permit from the City of Red Lodge and comply with any/all requirements including obtaining a certificate of occupancy prior to opening or conducting any of the activities discussed in the application.

Status: The Condition has been *met in part*, but is incomplete.

Comment: A building permit has been issued by the City Building Inspector and compliance review is largely complete. The developer did not add a foam insulator at the base of two sides of the building and the Building Inspector has asked for that incomplete work to be bonded if a bond is agreed upon with the City. The insulation has no effect on the usability or safety of the building.

3. That the developer shall submit the building plans and use specifications to the Red Lodge Fire Department for review and approval at the time the application for a building

permit is submitted. Any and all issues identified by the Fire Department shall be resolved prior to the use and occupancy of the structure.

Status: The Condition has been met.

4. That a clear vision triangle meeting the requirements of §4.5.53 of the Red Lodge Zoning Regulations along Robinson Lane. The design speed for the clear vision triangle shall be 25 miles per hour. An approach is not to be allowed on Highway 212.

Status: The Condition appears to have been met.

Comment: The current proposed landscaping was designed to meet the requirements of the clear vision triangle. Placement of landscaping was thoroughly discussed at the Planning Board public hearing to ensure compliance with the regulation. Further proof of compliance shall occur prior to installation of landscaping.

5. The applicant may be required to participate in a Latecomer's Agreement with St. Vincent's Healthcare for Robinson Lane, curb, gutter, sidewalk, water and sewer.

Status: The Condition has been met.

Comment: The applicant made numerous efforts to participate in the Latecomer's Agreement. St. Vincent's never produced the document and staff contacted St. Vincent's about the document and never received any information that such a document was ever executed. It is not uncommon that Latecomer's Agreements, which are to be executed by the developer, are never recorded.

6. Internally illuminated signs are expressly prohibited. Any lighting associated with signs shall point downwards onto the signage.

Status: The Condition has been met.

7. A vegetative or fencing buffering plan as modified by the conditions imposed by the Planning Board in the Site Design Review should be addressed to mitigate the impacts of light and noise on surrounding properties and residences.

Status: *The Condition has not been met.*

Comment: The final agreement called for 300 feet of a solid vinyl fence with 150 feet of fence along the west property boundary and 150 feet along western most portion of the northern boundary. The applicant has stated that they intended to install the fence in the summer/fall of 2014, but property pins were disturbed during construction and they were unable to have the property surveyed before snow fell. Staff has discussed the fence with the neighbor to the west and they have expressed their desire for it to be installed once weather permits. Concrete must be poured for the fence posts. The landscaping is incomplete, but the landscaping plan is in compliance with regulations. The landscaping plans call for 10 Autumn Blaze Maple trees along and within the parking lot. Grasses and shrubs are to be installed along the eastern portion of the property.

8. The vegetation plan shall be submitted to the Zoning Administrator for approval prior to the start of construction.

Status: The Condition has been met.

9. All construction on the property shall be governed by Table 4.3.123 (Dimensional Standards C-3).

Status: The Condition has been met.

10. The developer is required to provide shade for 35% of the parking area as measured on August 15th at noon.

Status: *The Condition has not been met.*

Comments: The developer has proposed eight of their trees to be placed along the north and south sides of the parking lot and have proposed two trees to be placed within islands in the parking lot. The landscape plan as proposed would meet the requirement.

11. The developer is required to provide a minimum of 42 parking spaces and will provide 44 parking spaces that comply with reverse frontage requirements within the Red Lodge Zoning Regulations. All parking and moving lanes within the development shall be hard surfaced with asphalt, concrete, or an approved similar surface.

Status: The Condition has been *met in part*, but incomplete.

Comments: The applicant is asking to bond for the striping of the parking lot due to paint not adhering to cold concrete. The applicant has striped the handicapped parking spaces. The size of the parking lot is sufficient for 42 parking spaces.

12. The developer is required to submit a snow removal and storage plan to the Zoning Administrator for approval prior to the start of construction. The snow removal and storage plan shall not be located in areas where damage to the required vegetation is possible.

Status: The Condition has been met.

Comments: The snow storage for the property is located directly west of the parking lot where there are no proposed trees or shrubs.

13. An evaluation of the property by the Carbon County Historic Preservation Officer shall be completed prior to the start of construction. A copy of the evaluation shall be submitted to the Community Development Department by the developer.

Status: The Condition has been met.

14. The proposed approach to Robinson Lane will need to be in accordance with the design standards of the City of Red Lodge and approved by the City Public Works Department.

Status: The Condition has been met.

15. The developer shall install a street sign for Robinson Lane at the corner of Robinson Lane and Highway 212.

Status: The Condition has not been met.

Comment: A street sign is included in the bond estimate.

16. The Conditional Use Permit is for a Retail use only. A non-retail use would require a new Conditional Use Permit.

Status: The Condition is ongoing.

17. The developer shall build the sidewalk (5-feet in width) along Highway 212 to the common property line with Barrett Joyce, to the north, and extend to Robinson Lane to south. The construction shall be in accordance with plans approved by the Public Works Director and completed prior to opening the store. The sidewalk will need to be ADA compliant.

Status: The Condition is ongoing.

Comment: The applicant contacted MDT about placement of the sidewalk, but it recommended to not install the sidewalk at this time. MDT stated, in writing, that their future work will be in conflict with a proposed sidewalk at this time. *It is recommended that Family Dollar bond for the sidewalk* as a safeguard in the event that MDT does not construct the sidewalk.

18. Should the developer desire to convert all or a portion of the structure to a use that is not permitted by the C-3 Regulations, additional zoning approvals shall be required.

Status: The Condition is ongoing.

19. That all lighting associated with the project shall be installed at a 90° cut off, shielded and directed downward onto the structure or parking area. The use of Mercury Vapor Lamps for lighting is expressly prohibited. Lighting shall not create off-site glare.

Status: The Condition appears to have been met. The proposed lighting plan meets regulations.

20. That the Commercial Building shall be connected to the City Water and Wastewater systems at the developer's expense. The developer shall pay the associated impact fees for Commercial uses at the time of Building Permit Application.

Status: The Condition has been met.

21. That all private utilities, unless already existing, shall be extended underground to the structure.

Status: The Condition has been met.

22. The storm water filtration system shall be reviewed and approved by the Red Lodge Public Works Director prior to installation.

Status: The Condition has been met.

23. The design and installation of the required storm water collection and filtration system shall be at the sole expense of the developer.

Status: The Condition has been met.

24. That the developer, their heirs, successors, and assigns will need to insure the perpetual maintenance of the storm water filtration system.

Status: The Condition is ongoing.

25. That the emission of noxious odors or gasses resulting from the use of the property as a Commercial Building shall not be detectible at the property line of adjacent residentially developed property.

Status: The Condition is ongoing.

26. That unless specifically exempted by the Red Lodge Zoning Regulations §4.5.106, all noise measured at the property line generated by the use of the property as a Retail Store shall be limited to 70 dBA from 12:00 a.m. to 7:00 a.m. and 80 dBA at other hours.

Status: The Condition is ongoing.

27. That the sign package as submitted with the Design Review and Conditional Use Applications is hereby approved.

Status: The Condition has been met.

28. That the solid waste receptacle shall be placed at a location within the subject property that is approved by Allied Waste. Further, the container shall be of a 'Bear Resistant' design.

Status: The Condition has been met.

29. That the approved Conditional Use Permits shall expire on the one (1) year anniversary date of approval if the permit is not put to use, unless an alternative timeline is

established in the development approval. If a Conditional Use is operationally discontinued or abandoned for a period of more than twelve (12) consecutive months, regardless of the removal or non-removal of furniture/equipment or any intention to resume such activity in the future, the Conditional use may not be reestablished or resumed.

Status: The Condition has been met.

30. That the Conditional Use Permits may be transferred to another party or user without prior express written consent of the City of Red Lodge provided that the conditions of this approval are binding upon all heirs, successors or assigns and is of a similar use.

Status: The Condition is ongoing.

31. The building shall be sided with LP SMARTSIDE and cement block in colors similar to what was submitted to the Planning Board for review and approval.

Status: The Condition has been met.

32. An awning shall be installed above all doors, windows and faux windows that are proposed or required to be installed as part of the design review.

Status: The Condition has been met.

33. Faux windows shall be installed on the east elevation as agreed to by the developer.

Status: The Condition has been met.

Comment: The faux windows were installed on February 5, 2015; they are a tinted glass and meet the intent of the Condition.

34. That the vegetation (shrubs and decorative grasses) shall be extended along the north elevation of the structure commencing at the northeast corner of the building to the masonry block retaining wall.

Status: The Condition has not been met.

Comment: The proposed landscape plan shows shrubs to be placed along the north elevation and the bonding estimate includes estimates for grasses and shrubs.

35. That the sign support shall be constructed/covered in materials consistent with and found on the approved materials for the primary structure.

Status: The Condition has been met.