

PLANNING BOARD  
October 9, 2013

Members Attending: Dan Gainer, Sandy Conlee, Paulette Richter, Leon Odegaard, Jeff DiBenedetto, Mike Schoenike.

Members Absent: Warene Wall

Staff: Forrest Sanderson, James Caniglia

Public: There was one person in attendance.

Approval of Minutes:

September 11, 2013 Planning Board Minutes:

Motion to Approve Sandy Conlee / Dan Gainer 2<sup>nd</sup>.

Roll Call Vote:

DiBenedetto	Yes	Odegaard:	Yes
Conlee:	Yes	Gainer:	Yes
President	Yes		
Richter	(Abstained)		

NEW BUSINESS: Statutorily Required Meeting

Call For Action Item: Design/Conditional Use Permits Haggin-Brewery Cottages

- The item has been duly noticed.
- The item has been posted at City Hall, The Library, and Post Office.
- No member of the Planning Board has a conflict of interest.
- No ex parte communication.

Mike S: Are there any board members with a conflict of interest that would cause the need for them to recuse themselves?

Sandy Conlee: Disclosed she had talked about the developer earlier in the year about the possibility of the development.

Leon O: Disclosed that he had asked the developer about the existing homes and was told about the upcoming development at that time.

Mike S: No reason recuse from what I hear, no ex parte communication.

Forrest S: It is good to disclose that information however.

Staff Report: Forrest provided a summary of the request and Staff Report RLDR-13-5 and RLCU-13-2.

Leon O: Would you recommend curb and gutter for this development on his side?

Forrest S: He's required to on his side. There was talk to strike required sidewalks in all zones since they don't all connect, but that will not be decided yet. The discussion point is, is 60 vehicle trips a day cause to require off-site improvements?

Sandy C: Why would we require improvements on the other side of the street?

Forrest S: Look at Town Pump, it was a much bigger impact, but we required them to pave all of Bonner from 2<sup>nd</sup> to 5<sup>th</sup>. We can't have a dual standard. You have to have the conversation and justify the decision.

Mike S: Are there other precedents besides Town Pump?

Forrest S: Sam's Tap Room, St Vincent's and the new hospital are commercial examples. Residentially, the cottages by Mr. Mercer and the partnership with the City did require some off-site improvements. The number of trips does make a difference. The Supreme Court Case of Nolan v. Dolan gives the ability of off-site improvements equivalent to the impacts of development. If a new minor subdivision for residences is built, a precedent will be set.

Mike S: Is 1<sup>st</sup> St currently paved?

Jim Mercer: Our half is, we paved the alley all of the way through.

Mike S: With the Town Pump issue, we made them pave Bonner because of the dust that would have occurred. Stormwater has been a big issue this year, which brings up curb and gutter.

Dan G: In looking at the plans, it looks like there is a place for them to attach to stormwater.

Forrest S: Yes, but it's just a line.

Jim M: We ran that line from Cooper to Haggin at a cost of \$24,000, plus we ran it down the alley from 2<sup>nd</sup> to 1<sup>st</sup>, otherwise there wouldn't be anything for the school. Nothing was done to mitigate stormwater at the school, which causes us issues. The property across from us is City property and I have an issue with #83 in the Staff Report, it states equitable reallocation. I don't think it's equitable, especially on 1<sup>st</sup>. Directly across the street from us on 1<sup>st</sup>, there has been a drainage area for thousands of years. If we didn't put curb and

gutter, it will continue to go there. I think that should be the cities expense. I'm already paving it.

Forrest S: The catch is that the stormwater on your development with new impervious area, can't have an increase of runoff onto other properties. The City does not have to accept runoff on their fee simple ownership land.

Sandy C: That property will be hooked up to a stormwater pipe, so it is addressed.

Forrest S: A Condition is included that an engineer must show that there will not be an increase of stormwater leaving the development.

Sandy C: In that case, why would we require curb and gutter on the other side of the street?

Forrest S: The problem is that there is no engineer's report that currently states that.

Jim M: There will be a crown on the road, so a certain percentage will go to the other side, just as there is now. If I was to develop, my responsibility, wouldn't it be to pave the parking lane?

Forrest S: That could be a discussion. We need to get to the hearing first.

Jeff D: What makes this a condominium development as opposed to single family homes?

Forrest S: Undivided ownership of the lots. He wants to take four lots, turn them into one, and have a condominium development. A buyer would get a deed to sub lot "A" which is the pad on which your house sits.

Sandy C: You get the tax bill for your structure and the tax bill for the land is paid through the HOA.

Forrest S: Three years ago the Legislature acknowledged what had been going on, which was allowing the platting of a pad under which the house sits, so the banks would finance it.

Dan G: Is there discussion in the documents about the establishment of an HOA?

Forrest S: There is discussion in the Conditions that the HOA must take care of certain requirements.

Sandy C: Generally they cover the outside of the building.

Jim M: Ours covers everything from the paint out.

Mike S: Are there any questions for the applicant?

~ There were none.

Mike S: Have you read, understand, or have any issues with the Staff Report?

Jim M: Just an issue with Condition #12.

Public Hearing Opened:

~There were no members of the public.

Sandy C: It's a nice proposal.

Jim M: I've been involved with in town for a long time and I'm proud of my developments. The people in Cabins on Cooper are happy people. We want to do that with this project. We think it's important to maintain the outside of units with the HOA, to keep all the units looking nice. We always have large reserves in our HOA, much more than what is required. When the economy turned here in 09', we were put on hold. The market seems to be coming back. Prices are now stable or increasing. There is a need for this type of housing. Me and the residents down there want to be in walking distance. Other than Island at Rock Creek, there hasn't been much development in town, just the Golf Course.

Sandy C: Will they be individually metered?

Jim M: I don't want to do that. If someone doesn't pay us, we shut their water off. The HOA is responsible for water. We had someone \$1,400 behind on their HOA fees and this way we can shut their water off. Shutting off water is the easiest way to get people to pay their bills.

Mike S: Is that allowable?

Forrest S: Yes, O-835 allows that. Jim is correct; they are never behind on their water bill.

Motion to adopt Planning Board recommendation RLDR-13-5 and RLDR 13-2 as Finding-of-Fact: Dan Gainer/Polly Richter 2<sup>nd</sup>.

Forrest S: If you're going to eliminate the off-site impacts you are going to have to amend the Findings-of-Fact, Sections 83, 85, and 86.

Jeff D: There is a stormwater drain, right?

Forrest S: There is a line and a drain. Skip said it's there, it's usable, and they can connect. The concern was sizing. In downpours we don't have enough drainage anywhere in town. They can tie into what they put into Cooper.

Mike S: Is that line big enough for normal events.

Forrest S: Yes, but the drainage all over town is insufficient. It is adequate for what we currently have.

Jim M: The only place I saw water on the 4<sup>th</sup> of July flood was across Cooper in the park, it becomes a pond. Water ran down our curbs, but the curb boxes took care of it. We have two big drains in the alley.

Dan G: That ties in to Haggin?

Forrest S: Yes

Mike S: What are people's thoughts on off-site improvements?

Sandy C: I don't think it's fair for him to do improvements on the other side of Haggin and 1<sup>st</sup>.

Leon O: I agree, especially on 1<sup>st</sup>.

Sandy C: I could maybe see curb and gutter.

Mike S: I think we're looking at four different issues. Curb and gutter on Haggin, sidewalk on Haggin, curb and gutter on 1<sup>st</sup> and sidewalk on 1<sup>st</sup> for off-site improvements.

Sandy C: I definitely think sidewalks shouldn't have to be installed across the street.

Mike S: I agree.

Dan G: They wouldn't go anywhere.

Sandy C: We didn't require Town Pump to do that.

Forrest S: Not true, the Planning Board recommended that we do that. The City Council waived that because of the Molring ownership.

Sandy C: I think that's more appropriate for commercial.

Forrest S: High density is the same classification.

Mike S: This is medium density correct?

Forrest S: Yes.

Jeff D: Another issue is dealing with runoff from this property. They are individual units and there is space to absorb on-site. An engineering report demonstrating that water on this project can be absorbed on-site or with the storm drain tells me the need for curb and gutter is not necessary. An engineering report is required. The crown of the road will also reduce the impact.

Mike S: To clarify, we are not a Board of Adjustment, and need to be aware that our decisions here set precedents.

Forrest S: You've had proper discussions so far and identified the issues.

Dan G: I think we need engineering. I could see the onsite stuff and some of the curb and gutter for a collection point at the corner of 1<sup>st</sup> and Haggin that goes to the existing drain which collects from their property.

Forrest S: The engineering report will cover most of that, but water from their property should not runoff all the way to 1<sup>st</sup>.

Dan G: The water past the crown needs a place to go.

Sandy C: That is asking him to improve something that isn't caused from his development.

Mike S: The paving of that street changes the nature of the street; the change is because of the paving required. Without an engineer's report, it is hard to say if the runoff now will be the same now as after it is paved.

Jim M: It will change.

Sandy C: Half of it will get collected and that is probably an improvement.

Dan G: Is there curb and gutter on the east side of Cooper?

Forrest S: No, the City is not in the land ownership business.

Mike S: The fact that the City is the adjoining landowner is insignificant. The impact upon neighboring property is what is important.

Sandy C: Can we make a Condition requiring curb and gutter if it is deemed a significant impact after paving?

Forrest S: The problem with that is that we then have a subjective enforcement issue. Jim may say 1,000 gallons a minute is not significant. Mountain Springs Villa was determined to not have a significant impact on the City, but we have spent large sums of money and time dealing with it. It's not high density, so the requirements aren't the same, but the impacts are there.

Sandy C: There isn't any curb and gutter to where?

Forrest S: I don't think there is any on Haggin.

Sandy C: Having him do it then seems unfair.

Mike S: The Growth Policy does state that we are moving in the direction of curb, gutter, and sidewalk. If we never require it from developers, we won't reach the goal.

Sandy C: I do think we should require it on his side, but the developer on the other side should do their side. It seems extreme to do it on both sides.

Mike S: There are latecomers agreements. On the issue of curb and gutter on the north side of 1<sup>st</sup>, is anyone in favor?

Jeff D: On the issue of drainage, are there effects on this development that will impact adjoining properties? The Condition I would place on it, is that the engineering report must demonstrate that runoff from this development is adequately contained.

Mike S: In terms of the street, our regulations require a standard street section, which means a crown on the street. In terms of an engineering study, we already know where the water will go.

Dan G: According to that definition, our code says there needs to be curb and gutter on both sides of the street.

Forrest S: It does, the question you need to answer, is that something they need to mitigate the impacts of now?

Leon O: And they don't even own the land on the other side of the street.

Forrest S: It's pretty much a guarantee that the City isn't doing any development over there.

Sandy C: No, because it's a swamp.

Forrest S: It's a swamp because water is allowed to run there.

Jim M: If you go to 2<sup>nd</sup> street where our alley is, there is a drainage that runs between 2<sup>nd</sup> and 5<sup>th</sup>. There is drainage back there when there is a lot of rain there are standing ponds. There was a piece of culvert under 2<sup>nd</sup> putting water on multiple properties. I don't know who put it there, but it was under a City street. We put a pipe in to mitigate that. It was much more than what would come off of a half of a street. I just want something equitable. We spent a lot of money on problems we didn't create. We took care of the culvert.

Mike S: Is the previous development relevant to this discussion?

Forrest S: It's being tied into the infrastructure of this development and the infrastructure is able to handle more runoff, but it is irrelevant to this application. There are a number of debatable issues.

Dan G: Is there going to be gravel in the parking section of the street?

Jim M: It will be pavement. We will have curb, gutter, and sidewalk all around us. Our garages for the houses facing Haggin will load from the alley. There are going to park in their car in the garage or alley unless they running in to get something.

Forrest S: As I looked at the off-site discussion, I didn't think paving Haggin was necessary with the construction trucks that will be coming. There will be stormwater on his side of pavement.

Mike S: If we're talking about curb and gutter on the other side, but not requiring pavement, it seems like we shouldn't require it.

Forrest S: You need to justify that by going into the 80's section and say it's a medium density development.

Dan G: If 9 in an acre is high...

Forrest S: He is just under high density.

Dan G: Where do we amend the staff report, it doesn't address the density?

Forrest S: Go to page 4, the last section of 85 needs to be struck. In 86, I would strike the last two sentences and replace that with language saying the project is medium density in R-4, 1<sup>st</sup> street needs to be built with asphalt to the crown, moving lane, parking lane, curb, gutter sidewalk. It is only platted to be 30 feet wide. Haggin needs a paved parking land, curb, gutter, and sidewalk within the development.

Mike S: Is there a motion to amend the staff report?

**Motion: Conlee/Odegaard 2nd**

Mike S: Is there further discussion?

~There was none

Roll Call Vote:

Conlee:	Yes	Richter:	Yes
Gainer:	Yes	DiBenedetto	Yes
Odegaard:	Yes	President:	Yes

Mike S: That brings us back to the original motion, to adopt the Staff Report as finding-of-fact. Is there further discussion?

~There was none.

Roll Call Vote:

Odegaard:	Yes	Gainer:	Yes
Dibenedetto:	Yes	Conlee:	Yes
Richter:	Yes	President:	Yes

Forrest S: Dan, you were looking for language for “B,” you can say I move to approve the Design Review permit for James Mercer and Robert Taylor for the Haggin Brewery properties and insert the balance, subject to the 19 Conditions and you would modify #12 to reflect the finding-of-fact. I’ll take care of the modification for you.

Motion to approve the Design Review permit for James Mercer and Robert Taylor for the Haggin Brewery cottages on property that can be described as RED LODGE ORIGINAL TOWNSITE, S27, T07 S, R20 E, RLOP LTS 8-10 BLK 93 subject to the 19 Conditions with #12 being amended to reflect the revised finding-of-fact in the Staff Report. : Dan Gainer / Sandy Conlee 2nd.

Mike S: Is there any other discussion on Design Review other than curb, gutter, and sidewalk?

Jim M: It won’t have the dormers on the front of the roof because it’s like a tunnel to the windows. They are mess to clean and get to, so we want to eliminate them. I’d rather do a shake-like siding there.

Dan G: They look like old Red Lodge houses.

Jim M: That was the intent.

Mike S: Are we clear on #12?

Forrest S: It would read that the curb, gutter, and sidewalks on the project sides of 1<sup>st</sup> and Haggin shall be built. 1<sup>st</sup> street will be paved for the whole 30 feet and the parking lane of Haggin will be paved.

Dan G: There will be a parking lane on 1<sup>st</sup>?

Forrest S: On the Mercer side, there is only 30 feet there however.

Jim M: The continuation of 1<sup>st</sup> will not be uniform at 30 feet.

Forrest S: You would need to ask the Council that question, only they can decide that issue.

Mike S: The Council would have to decide if they want to take part of their ownership and convert it to right-of-way to make a full section.

Jim M: It would look funny without.

Forrest S: On Cabins on Cooper we were dealing with de facto park, but this area has fee ownership and defined lots that are merchantable in the City.

Jeff D: On page 5, it talks about the stormwater system being approved by an engineer. I don't see that as a Condition.

Dan G: #11 talks about connecting.

Forrest S: #11 does talk about the requirements. If public works feels they need a report detailing how much runoff there will be, they can ask for it. If you're not comfortable with it, you could add a Condition.

Jeff D: It will be reviewed by the City before it connects? Should that language be added?

Forrest S: O-885 does that.

Mike S: We can add a reference to O-885.

Dan G: As a friendly amendment.

Roll Call Vote:

Motion to approve the Design Review with the 19 Conditions as amended.

Richter:	Yes	Gainer:	Yes
Odegaard:	Yes	Dibenedetto:	Yes
Conlee:	Yes	President:	Yes

Motion to recommend the Conditional Use Permit for James Mercer and Robert Taylor for the Haggin Brewery cottages on property that can be described as RED LODGE ORIGINAL TOWNSITE, S27, T07 S, R20 E, RLOP LTS 8-10 BLK 93 subject to the following amended Conditions. Sandy Conlee / Dan Gainer 2<sup>nd</sup>.

Roll Call Vote:

Conlee:	Yes	Dibenedetto:	Yes
Richter:	Yes	Odegaard:	Yes
Gainer:	Yes	President:	Yes

Forrest S: This will be on the Council agenda on the 22<sup>nd</sup>. You should bring up the discussion of fee ownership on their property. They will be prepared for the topic.

Staff Communications:

Forrest S: There will likely be another Conditional Use and Design Review in the C-3 for the November meeting. The Council has decided they want gaming and a few other items that were 4-3 votes to be more specifically addressed in the Growth Policy.

Meeting Adjourned: 7:35

Respectfully submitted,

Approved.

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James Caniglia

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Michael Schoenike, President