

Motion failed 2-5

RESOLUTION NO. R16-103

A RESOLUTION APPROVING THE ANNEXATION OF REGAL COMMUNITY PARK, LEGALLY DESCRIBED AS NUTTING BROS 2ND FILING, S10, T02S, R24 E. LOTS 7 AND 8, AN ADDITION TO THE CITY OF LAUREL, MONTANA, AND GRANTING VARIANCES FROM THE CITY'S SUBDIVISION REGULATIONS.

WHEREAS, in August, 2016, Regal Land Development applied for an approval of a major preliminary plan for the residential development of a "Rent to Lease Community Park" containing 54 sites on approximately 7.85 acres of land located near the city limits of the City of Laurel; and

WHEREAS, in addition to the approval of the plan, Regal Land Development requested annexation and variances from the City's subdivision regulations in regards to street access; and

WHEREAS, the City Planner prepared a staff report regarding the application for annexation and a staff report and proposed Findings of Fact regarding the major preliminary plan approval and variance requests and recommends the Council's conditional approval and adoption of the same; and

WHEREAS, the Laurel City-County Planning Board considered the requests at their September 1, 2016 meeting and recommended conditional approval of the major preliminary plan and annexation subject to the staff recommended conditions and findings of fact; and

WHEREAS, the City Council held a public hearing to gather evidence from the public regarding the approval of the major preliminary plan, annexation and variances. No objections were noted or received into the record; and

WHEREAS, the City Council reviewed the planning board minutes, the City Planner's reports and Findings of Fact, evidence in the City's file and has considered the recommendations of the Laurel City-County Planning Board in accordance with the attached Staff reports and Findings of Fact; and

WHEREAS, the City Council of the City of Laurel has determined that it is in the best interests of the City and the inhabitants thereof, and of the land owner that the major preliminary plan and application for annexation be conditionally approved as recommended by the Laurel City-County Planning Board in accordance with the attached Staff reports and Findings of Fact attached hereto and incorporated herein as part of this resolution; and

WHEREAS, the City Council of the City of Laurel hereby finds it is in the best interests of the residents of the City of Laurel to allow the requested variance since:

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, shape, or topographical condition 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 regulation or Growth Policy; and
5. The subdivider must prove that the alternative design is equally effective and objectives of the improvements are satisfied.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Laurel, Montana, that the City Council hereby conditionally approves the Major Preliminary Plan of Nutting Bros 2nd Filing, S10, T02S, R24 E. Lots 7 and 8, subject to and in accordance with all the terms and conditions contained in the attached Staff Reports and Findings of Fact attached hereto and incorporated herein; and

BE IT FURTHER RESOLVED, the City Council hereby adopts the attached Findings of Fact and Staff Reports as its own; and

BE IT FURTHER RESOLVED that the City Council hereby conditionally approves the application for Annexation submitted by Regal Land Development subject to and in accordance with all the terms and conditions contained in the attached Staff Reports; and

BE IT FURTHER RESOLVED that Regal Land Department's requested variances are hereby approved as provided in the Staff Reports and Findings of Fact and any variances are site specific to the Regal Community Park as described herein.

Introduced at a regular meeting of the City Council on October 4, 2016, by Council Member
McGee.

PASSED and APPROVED by the City Council of the City of Laurel this 4th day of October, 2016.

APPROVED by the Mayor this 4th day of October, 2016.

CITY OF LAUREL

Mark A. Mace, Mayor

ATTEST:

Shirley Ewan, Clerk/Treasurer

Approved as to form:

Sam S. Painter, Civil City Attorney



LAUREL CITY-COUNTY PLANNING DEPARTMENT

STAFF REPORT

TO: City Council
FROM: Noel Eaton, City Planner
RE: Application for Annexation
HEARING
DATE: October 4, 2016

INTRODUCTION:

Regal Land Development- Dan Wells has applied for annexation of his property located north of East 8th Street and East Maryland along Date Avenue. The property is legally described as NUTTING BROS 2ND FILING, S10, T02S, R24, LOTS 7&8.

STAFF FINDINGS:

1. Regal Land Development- Dan Wells is requesting the annexation of his property identified above. The property is zoned Residential Manufactured Homes. The property is 7.85 acres in size and is currently vacant land.
2. The application identifies the future use as a 54 site Development for Rent or Lease for manufactured homes. The applicant has also submitted an application for preliminary plan for Regal Community Park an Addition to the City of Laurel.
3. The application for preliminary plan provides a detailed Subdivision Improvements Agreement, which satisfies the development agreement improvement.
4. A letter was provided to the applicant from Great West stating the City has the capacity to serve Moore subdivision. The letter states the City has the capacity to serve 0.212cfs the proposed Regal Community Park will have less with a total of 0.0853cfs at peak flow. This is a requirement of the Annexation policy.
5. The application conforms to the goals of the City of Laurel Growth Management Plan. The Future Land Use map identifies this area as Residential Manufactured Homes.
6. This application in conjunction with the application for preliminary plan meets the requirements of the City of Laurel Annexation Policy.
7. As per the annexation policy requirements adopted by Ordinance No. O08-02, the planning board shall conduct a public hearing and forward a recommendation to the City

Council. The public hearing was advertised and scheduled at a regular Planning Board meeting to be held on September 1, 2016.

ANNEXATION CRITERIA AND REQUIREMENTS

A: The City Council shall consider the following criteria when it receives a written petition for annexation:

- The property must be located within an area identified by city staff as a location for future city annexation or annexation of the property will promote orderly growth of the city to protect the health, safety and welfare in areas intensely utilized for residential, commercial, institutional and governmental purposes.
- The city must be able to provide adequate city services within a time period mutually agreed to by the property owner requesting annexation and the city;
- Existing or proposed public improvements within the area to be annex must meet all city standards. If the public improvements are not constructed at the time of annexation, the property owner shall provide the city a bond or letter of credit that equals 125% of the estimated engineering costs for the construction of improvements. If the property owner fails to construct the improvements or to obtain the agreed upon engineering, the city shall utilize the bond or letter of credit to pay for the construction, including engineering; In accordance with GASB-34, the Developer of Landowner shall provide the city the total cost and/or value of the improvements including, but not limited to, parks, sidewalks, curb and gutter, lift stations, and sewer and water lines, that are conveyed to the city;
- All property owners within the area to be annexed must sign a Waiver of Right to Protest the creation of Special Improvement Districts for engineering and construction of improvements including, but not limited to, streets, sidewalks, curb and gutter and the creation of a Park Maintenance District, in a form acceptable and approved by the city;
- Residential densities within the area to be annexed must be rezoned at a minimum density of R-7500; and
- The proposed land use within the area to be annexed must conform to the goals of the Laurel Yellowstone City-County Planning Board Growth Policy.

B: The City Council may decide to either condition the approval of the annexation in order to meet the criteria listed in Section A herein or require an annexation agreement. The conditions of approval must be clearly stated in the resolution of annexation or if required, the annexation agreement. If the property to be annexed is not developed, the conditions of approval or annexation agreement shall include a requirement for:

- A development agreement prior to the issuance of a building permit;
- A subdivision improvements agreement at the time of final plat approval, if applicable and
- An executed Waiver of Right to Protest creation of Special Improvement Districts for engineering and construction of improvements including, but not limited, streets, sidewalks, curb and gutter and the creation of a Park Maintenance District, in a form acceptable and approved by the City.

SUGGESTED CONDITIONS OF APPROVAL

1. In the event public improvements have not been completed at the time a building permit is applied for, the applicant shall provide a development agreement.

2. A Subdivision Improvements Agreement shall be executed with Final Plan approval.
3. A waiver of right to protest shall be executed and filed with the Clerk and Recorder at the time of annexation approval.

STAFF UPDATE

1. The Planning Board held a public hearing on September 1st. There was no public attendance at that meeting.
2. The board recommended approval of the annexation request with the staff report, staff findings and conditions of approval because the application has met the requirements outlined in the annexation policy.
3. The motion carried with a 5-0 vote.



LAUREL CITY-COUNTY PLANNING DEPARTMENT

STAFF REPORT

TO: City Council
FROM: Noel Eaton, City Planner
RE: Regal Community Park an Addition to the City of Laurel
HEARING
DATE: October 4, 2016

INTRODUCTION:

In August 2016, Regal Land Development, applied for major preliminary plan approval for the Development for Rent or Lease for Regal Community Park which contains 54 sites on approximately 7.85 acres of land for residential development. The subject property is located east of Date Avenue, north of 8th St, south of Maryland Lane, West of City Park. The property is not within the City of Laurel but the property owner is petitioning for annexation.

RECOMMENDATION:

- Planning Staff recommends NON-Approval of the Proposed Resolution due to the fact the Applicant is unable to meet or satisfy the criteria required for the City Council to approve the requested Variance.
- If the City Council decides to approve the Resolution, then Staff recommends the City Council adopt the staff report, Findings of Fact, and conditions of approval as presented in this staff report for the preliminary plan and variance request for Regal Community Park, a development for rent or lease.

VARIANCES REQUESTED:

1. Site Access to Public Street section 16.24.020.B.2

The applicant has addressed the five facts of hardship to allow for access to a public street. Section 16.24.020.B.2 of LMC states that "Private streets shall be designed to provide access to all sites. No site shall have vehicular access to a public street." The applicant's response the each hardship is below.

1. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoin properties.
Granting this variance will improve public health and safety. The existing road does not meet the City standards or the standards of the International Fire Code. Allowing this variance will ensure safe and adequate access for all emergency vehicles and residents of Date Avenue.
2. Because of the particular physical, shape, or topographical condition of the specific property involved, an undue hardship to the owner would result if the strict letter of the regulation was enforced.
The physical surroundings of the property include a street that is not constructed to the City standards or standards of the International Fire Code. By allowing this variance the applicant will provide a critical easement and improve the existing road to provide safer access for all. Undue hardship would result from not approving this variance for the property owner as well as the property owners in the Mogan Subdivision along Date Avenue.
3. The variance will not result in an increase in taxpayer burden.
Granting this variance will not cost the taxpayers additional money. The applicant will maintain the section of roadway on their property. Additionally, the easement and road construction costs will be provided to the City at no cost.
4. The variance will not in any manner place the development in nonconformance with any adopted zoning regulation or Growth Policy.
Granting this variance will not place this property in nonconformance with the adopted zoning regulation or Growth Policy.
5. The subdivider must prove that the alternative design is equally effective and objectives of the improvements are satisfied.
The applicant's alternative design is the best solution for Date Avenue and provides a critical easement for the City of Laurel as well as provides improved access for the existing residents along Date Avenue. Furthermore, numerous other parks in the area have all been allowed to have sites access public streets including the Sunhaven Park to the south as well as the Pine Lane Park.

PROPOSED CONDITIONS OF APPROVAL:

Pursuant to Section 76-3-608(4), MCA, the following conditions are recommended to reasonably minimize potential adverse impacts identified within the Findings of Fact:

1. The property shall be annexed into the City of Laurel.
2. There shall be Right-of-Way of 27 feet surveyed and filed under MCA exemption 76-3-201(h) for the remainder ROW dedication for Date Avenue prior to final plan.
3. There shall be Right-of-Way of 40 feet surveyed and filed under MCA exemption 76-3-201(h) for the remainder ROW dedication for East Maryland Lane prior to final plan.

4. All public improvements shall be built to Montana Public Work Standards and to the specifications made in the Subdivision Improvements Agreement provided with the application for preliminary plan.
5. Water and sewer connections must be approved by the Public Works Director prior to final plan.
6. A stormwater management plan must be approved by MDEQ before final plan.
7. To minimize effects on local services, utility easements shall be provided on the final plan.
8. To minimize the effects on local services, a centralized mailbox unit shall be provide as coordinated by the U.S. Postal Service along the north side of East 8th Street. There shall also be a concrete pad.
9. To minimize the effects on local services, as requested from the Laurel Fire Department, no parking signs shall be provided by the developer and installed in front of all fire hydrants.
10. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Department to clarify the documents and bring them into the standard acceptable format.
11. To minimize the effects on the natural environment, a weed management plan and property inspection shall be approved by the County Weed Department, prior to final plan approval.
12. Cash in lieu of parkland shall be received with final plan approval.
13. If City of Laurel solid waste services are used, a plan must be approved by the Public Works Director.
14. The final plan shall comply with all requirements of the Laurel-Yellowstone City-County Planning Area Subdivision Regulations, rules, policies, and resolutions of the City of Laurel, and the law and Administrative Rules of the State of Montana.
15. Clarify the covenants so that it states it is the developer's responsibility to install sidewalks before final plan approval. Also clarify the covenants that there are no individual lot owners, but the development on lots 7 & 8 is owned by one indivual.

PROCEDURAL HISTORY:

- City Council approved the preliminary plat, annexation request, and Right of Way variances for Moore Subdivision in 2014 with Resolution R14-30.
- A pre-application meeting was conducted with Planning Staff for the proposed development
- The preliminary plat application sufficiency and completeness review was done and submitted to the owner's agent.
- Planning Board held a public hearing on September 1st and recommended conditional approval.

PLAT INFORMATION:

In August, Regal Land Development-Dan Wells applied for major preliminary plan approval for the Development for Rent or Lease for Regal Community Park an Addition to the City of Laurel. The proposed plan contains 54 sites on 7.85 acres of land for residential development. The subject property is located east of Date Avenue, North of 8th St, South of Maryland Lane, West of City Park. The property is not within the City of Laurel but the property owner is petitioning for annexation.

General location:	East of Date Avenue, North of 8 th St, South of Maryland Lane, West of City Park
Legal Description:	NUTTING BROS 2ND FILING, S10, T02 S, R24 E, Lot 7 – 8
Subdivider and Owner:	Regal Land Development- Dan Wells
Engineering and Surveyor:	C&H Engineering- Mike Balch, Adam Morse
Existing Zoning:	Residential Manufactured Home
Existing Land Use:	Vacant/Open
Proposed Land Use:	Residential Manufactured Homes
Gross Area:	7.85
Proposed # of Lots:	54
Lot Sizes:	Approximately 6000 sq.ft.
Parkland Requirements:	Cash in lieu of parkland will be received.

PROPOSED FINDINGS OF FACT:

The Findings of Fact for the preliminary plan of Regal Community Park an Addition to the City of Laurel has been prepared by the Laurel City-County Planning Department staff for review by the City Council. These findings are based on the preliminary application and address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the Laurel-Yellowstone City-County Planning Area Subdivision Regulations.

A. What are the effects on agriculture and agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat and public health and safety? (76-3-608(3)(a), MCA) (Section 3 (C)(3)(a), LYCCPASR)

1. Effect on agriculture and agricultural water user facilities.

The proposed Regal Community Park will have no impact on agriculture. The 7.85 acre Regal Community Park site is currently a vacant lot. It is surrounded on three sides by land that has been annexed into the City of Laurel; therefore, the site is no longer considered a viable farming unit. Areas to the South and West are currently mobile home parks and the area to the east and north are parkland.

There are no existing irrigation rights with the property and no modification to existing ditches will occur with the development.

2. Effect on local services

a. The subdivision improvements agreement has provided detailed information regarding:

- Water
- Sanitary sewer
- Storm drainage
- Streets
- Parks and Open Space

3. Effects on the natural environment

The development is proposed to contain 54 single family residential manufactured homes. The property has a zoning designation of RMH and is being annexed into the City concurrent with the preliminary plat. The proposed development will have minimal impact on local services as it is surrounded on three sides by existing city land.

4. Effects on wildlife and wildlife habitat

There are no known endangered species or critical game ranges on site. Due to the history of agricultural use near the site, and the adjacent residential use, it provides little wildlife

habitat. Wildlife species consist mainly of rodents and common birds. Little cover and shelter is available for wildlife species in the area.

5. Effects on public health and safety

The proposed development will improve the public health and safety in the City of Laurel. Cash-in-lieu donation for parkland will be able to be used to better maintain city parks. Also, the proposed development will improve access for the public by installing sidewalks along Date Avenue and a private sidewalk through the property that will connect the City Park with the sidewalk on 9th Street. This will allow residents in the area to safely walk to the park.

B. Was an Environmental Assessment Required? (76-3-603, MCA)(Section 16.9 LYCCPASR)

An environmental assessment was required and submitted with the application.

C. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? (76-3-608 (3)(b), MCA)

The development, with proposed conditions, satisfies the requirements of the Montana Subdivision and Platting Act and conforms to the design standards specified in the LYCCPASR. The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local and state subdivision regulations.

D. Does the subdivision conform to sanitary requirements? (Section 3(C)(3)(e), LYCCPASR)

A water and sewer design report has been included with the application. The Subdivision Improvements agreement identifies the developer responsibilities in connecting to City water and sewer services.

E. Does the proposed plat provide easements for the location and installation of any utilities? (76-3-608(3)(C), MCA)

Utility easements shall be provided on the face of the final plan.

F. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? (76-3-608 (3)(d), MCA)

Physical access has been provided for all lots. The applicant is requesting a variance to allow sites to access a public street within a private development.

CONCLUSIONS OF FINDINGS OF FACT

- The preliminary plan of Regal Community Park does not create any adverse impacts that warrant denial of the development.
- With the proposed conditions, Regal Community Park is in compliance with the Montana Subdivision and Platting Act, LYCCPASR and the City of Laurel Growth Management Plan.
- All public improvements shall be built to Montana Public Work Standards.

RECOMMENDATION

Planning staff recommends that the City Council make findings and should they decide to approve, include the staff report and staff recommended conditions and adopt the Findings of Fact as presented.

ATTACHMENTS

A: Preliminary Plan and Supporting Documents

STAFF UPDATE:

- There was no discussion at Planning Board regarding the requested variance. Staff recommends Council look closely at this variance as the development is dependent on the approval of the variance.
- A looped water system in a private development like this is not in the best interest of the City. A response from Kurt Markegard, Public Works Director is provided.
- The debris beyond the corner of E Maryland is in a County Park. It is believed to have had illegal dumping done in years past.
- Cash in lieu for parkland dedication is distributed by City Council to projects within city parks that are in the best interest of the City.
- Adding sidewalks along E 8th Avenue and E Maryland Lane. “Ron suggested this be something the City Council look at. Every enjoyable community has places to walk around and get to and from parks. It seems we are adding to the problem and we have a chance to add in those sidewalks now.” The applicant is providing a waiver of right to protest the creation of an SID. With there being no other sidewalks in the area along either street, creating an SID and doing the entire project at once would be the most ideal way to put in sidewalks here.
- The board voted on the motion to conditionally approve the preliminary plan application for Regal Community Park an Addition to the City of Laurel with the staff report, findings of fact and conditions of approval with Ron Benner’s amended condition that clarifies the covenants to state “it is the responsibility of the developer to install sidewalks and also clarify that there are not individual lot owners but one owner for the development on lots 7 & 8”. The motion carried 5 – 0.

- Planning Board held two public hearings on September 1st. One for the annexation request and one for the preliminary plan and variance request. The variance request is included within the staff report for preliminary plan.
- This site plan for Regal Community Park is completely dependent on the variance request being approved.
- There was no discussion regarding the variance or the criteria that needs to be met for each variance. Because there was no discussion, there was no vote or motion made that specifically dealt with the approval or denial of the variance.
- Since the motion that was made, included the staff report, Findings of Fact, and staff conditions of approval, the variance request was included with the motion to conditionally approve the preliminary plan.
- Staff recommends that Council discuss the variance in detail on account of the development being dependent on its approval. With no variance, the development will need to re submit a preliminary plan for approval.