

RESOLUTION NO. R23-74

**A RESOLUTION OF THE CITY COUNCIL APPROVING RUTT VARIANCE
REQUEST LZV-23-01.**

WHEREAS, on July 30, 2023, property owner Jon Rutt submitted a Variance Request (hereinafter “the Variance” or “Rutt Variance Request LZV-23-01”) on behalf of his business (Culligan) (hereinafter “the property”) to expand the storage/warehousing component of the business to vacant property located at 614 West First Street (hereinafter “the Application”);

WHEREAS, the legal description of the property is YOUNGS SECOND SUBDIVISION, S09, T02 S, R24 E, BLOCK 6, EAST 90 FT LTS 11-15 (17);

WHEREAS, historically, the City of Laurel Central Business District (hereinafter “the CBD”) allowed for storage/warehousing, but the Laurel Municipal Code has since been modified to remove storage as a conforming use in the CBD;

WHEREAS, the Application and supporting Information was submitted by the Property Owner on July 30, 2023;

WHEREAS, the Application was heard by the Planning Board and Zoning Commission (hereinafter “the Zoning Commission”) on August 16, 2023;

WHEREAS, the Zoning Commission found that the Application and supporting documentation were sufficient for review;

WHEREAS, the Zoning Commission found that the history of the ownership, expansion of the business, and the Laurel Municipal Code (as amended) are relevant to this situation;

WHEREAS, the Zoning Commission found that the denial of the variance request would constitute an unnecessary and unjust invasion of the right of property; this is based upon the fact that there are a number of other businesses in the CBD that have a warehousing/storage components that cross lot boundaries;

WHEREAS, the Zoning Commission found that the grant relates to a condition or situation special and peculiar to the applicant; this is based on the history of the growth and expansion of the business at the location and crossing lot and public right-of-way boundaries;

WHEREAS, the Zoning Commission found that the basis is something more than a mere financial loss to the owner as the standard (if applied to all similar properties in the CBD) would have devastating impacts on all of the owners in the CBD;

WHEREAS, the Zoning Commission found that the hardship was created by someone other than the owner;

WHEREAS, the Zoning Commission found that the Variance is within the spirit, intent, purpose, and general plan of the LMC; the intent of the LMC is to ensure compatible land uses that are mutually beneficial;

WHEREAS, the Zoning Commission found that the Variance would not affect adversely or injure or result in injustice to others; in fact, approval of the Variance restores rights enjoyed by others in the CBD that are denied this owner;

WHEREAS, the Zoning Commission found that the property owner did not own the property prior to the amendment of the Regulations prohibiting warehousing/storage;

WHEREAS, the Zoning Commission has conducted a Public Hearing on the Application, weighed the evidence, prepared Findings and Conclusions as required by the LMC; and

WHEREAS, the Zoning Commission has concluded that the preponderance of the evidence standard associated with the Rutt Variance Request LZV-23-01 rises to the level of the DO APPROVE recommendation and forwards the same to the Laurel City Council for FINAL DECISION and recommends approval of the Variance.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Laurel, Montana that the Rutt Variance Request LZV-23-01 is hereby approved.

Introduced at a regular meeting of the City Council on the 12th day of September 2023 by Council Member Mackay.

PASSED and APPROVED by the City Council of the City of Laurel, Montana on the 12th day of September 2023.

APPROVED by the Mayor on the 12th day of September 2023.



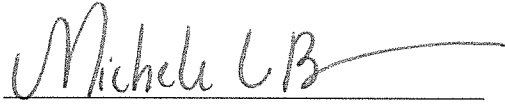
CITY OF LAUREL

Dave Waggoner, Mayor

ATTEST:


Kelly Strecker, Clerk-Treasurer

APPROVED AS TO FORM:


Michele L. Braukmann, Civil City Attorney

CITY HALL
115 W. 1ST ST.
PUB. WORKS: 628-4796
WATER OFC.: 628-7431
COURT: 628-1964
FAX 628-2241

City Of Laurel

P.O. Box 10
Laurel, Montana 59044



Planning Board and Zoning
Commission

ZONING COMMISSION REPORT LZV-23-01

Rutt Variance Request

August 24, 2023

Background:

On July 30, 2023, Jon Rutt submitted a variance request on behalf of his business (Culligan) to expand the storage/warehousing component of the business to vacant property located at 614 West First Street. Historically, the Laurel Central Business District (CBD) allowed for storage/warehousing, but the Code was modified, and storage was removed as a conforming use in the District. The property was acquired on October 30, 2015.

Legal Description:

YOUNGS SECOND SUBDIVISION, S09, T02 S, R24 E, BLOCK 6, EAST 90 FT LTS 11-15 (17).

Applicable Sections Laurel Zoning Regulations, Title 17 LMC.

17.04.030 - Scope.

- A. This title applies to all lands in the incorporated limits of the city; and any additional territory authorized by either state statutes or the county commissioners.
- B. In their interpretation and application, the provisions of this title may be regarded as the minimum requirements for the protection of the public health, safety, comfort, prosperity and welfare;
- C. This title is not intended to abrogate or annul any building permit, certificate of occupancy, variance or other lawful permit issued prior to the effective date of the ordinances codified in this title.

17.08.720 - Lot, record.

"Record lot" means land designated as a separate and distinct parcel on a legally recorded subdivision plat or in a legally recorded deed filed in the records of Yellowstone County, Montana.

17.08.740 - Lot, zoning.

"Zoning lot" means a tract of land occupied or to be occupied by a principal building and its accessory buildings, together with such open spaces and yards as are required under the provisions of this title, having not less than the minimum area required by this title for a zoning lot in the district in which such land is situated and having its principal frontage on a street or a permanent, exclusive, nonobstructed easement of access or right-of-way to a street, not less than twenty feet wide. A "zoning lot" need not necessarily coincide with a "record lot" as herein defined.

17.08.790 - Nonconforming use.

The use of a building or other structure or of a tract of land which does not conform to the use or regulations of this title for the district in which it is located, either at the effective date of the ordinance codified in this title, or as a result of subsequent amendments which may be incorporated into this title.

17.08.880 - Principal use.

"Principal use" means the primary or predominant use to which the property is or may be devoted, and to which all other uses on the premises are accessory.

17.08.1200 - Variance.

"Variance" means an adjustment in the application of the specific regulations of this title to a particular piece of property which property, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the same vicinity or zone.

17.20.020 - Zoning classified in districts.

Zoning for commercial — industrial use is classified in and subject to the requirements of Table 17.20.020.

Table 17.20.010

	AG	RP	NC	CBD	CC	HC	LI	HI	P
Accessory buildings or uses incidental and customary to a permitted residential use and located on the same parcel as the permitted residential use	A	A	A	A	A	A	A	A	A
Airports	A								A
Alcoholic beverages manufacturing and bottling (except below):							A	A	
1,500 to 5,000 31-gallon barrels per year				SR	SR	SR	A	A	
Less than 1,500 gallon barrels per year				A	A	A	A	A	
Ambulance service			A	A	A	A	A	A	
Antique store				A	A	A	A		
Appliance - (household) sales and service			A	A	A	A	A		

Table 17.20.010

	AG	RP	NC	CBD	CC	HC	LI	HI	P
Assembly halls and stadium					SR	SR	SR		SR
Assembly of machines and appliances from previously prepared parts					SR	SR	SR		SR
Auction house, excluding livestock				SR	SR	A	A	A	
Auction, livestock	SR								
Automobile sales (new and used)				A	A	A	A		
Automobile - commercial parking enterprise				A	A	A	A	A	
Automobile and truck repair garage				A	A	A	A	A	
Automobile service station			A	A	A	A	A	A	
Automobile wrecking yard								SR	
Bakery products manufacturing					SR	A	A	A	
Bakery shops and confectioneries			A	A	A	A	A		
Banks, savings and loan, commercial credit unions			A	A	A	A	A		
Barber and beauty shops			A	A	A	A	A		
Bed and breakfast inns	A		A		A	A			
Bicycle sales and repair			A	A	A	A	A		
Blueprinting and photostating			A	A	A	A	A		
Boarding and lodging houses	A		A		A	A			
Boat building and repair						A	A	A	
Boat sales new and used					A	A	A	A	

Table 17.20.010

	AG	RP	NC	CBD	CC	HC	LI	HI	P
Boiler works (manufacturing servicing)								A	
Boiler works (repair and servicing)							A	A	
Book and stationery store			A	A	A	A	A		
Bottling works							A	A	
Bowling alleys				A	A	A	A		
Brick, tile or terra cotta manufacture								A	
Bus passenger terminal buildings local and cross country				A	A	A	A		
Bus repair and storage terminals						A	A	A	
Camera supply stores			A	A	A	A	A		
Camps, public					SR	A			A
Car washing and waxing					A	A	A		
Car wash - coin operated			A	A	A	A	A		
Cement, lime and plastic manufacture								A	
Ceramics shop		SR	A	A	A	A	A		
Chemical and allied products manufacture								A	
Child care facilities	A		A		A	A			
Churches and other places of worship including parish houses and Sunday school building	A	SR	A	A	A	A	A	A	
Clinic, animal	A		A	A	A	A	A		
Clinics, medical and dental		SR	A	A	A	A	A		

Table 17.20.010

	AG	RP	NC	CBD	CC	HC	LI	HI	P
Clothing and apparel stores			A	A	A	A	A		
Coal or coke yard								A	
Cold storage					A	A	A		
Colleges or universities			A	A	A	A			A
Commercial recreation areas			SR	A	A				A
Commercial food products, storage and packaging						SR	A	A	
Communication towers (commercial)	A	A	A	A	A	A	A	A	SR
Concrete mixing plants and manufacturing of concrete products							A	A	
Construction contractors:									
Office			A	A	A	A	A	A	
Open storage of construction materials or equipment						SR	A	A	
Community residential facilities:									
Adult foster family care home	A		A		A	A			
Community group home	A		A		A	A			
Halfway house	A		A		A	A			
Youth foster home	A		A		A	A			
Youth group home	A		A		A	A			
Nursing, homes, convalescent homes, orphanages, and charitable institutions	A		A		A	A			
Crematorium						SR	A	A	SR

Table 17.20.010

	AG	RP	NC	CBD	CC	HC	LI	HI	P
Creameries, dairy products manufacturing							A	A	
Creosote manufacturing or treatment plants								A	
Department stores				A	A	A	A		
Drug stores			A	A	A	A	A		
Dry kiln								A	
Dwellings: single-family Manufactured home	A	A	A	A	A				
Class A, Class B, Class C									
two family			A	A	A				
multiple family			A	A	A				
row housing			SR	SR	SR				
Eating and drinking establishments:									
Cocktail lounge, restaurants, bars and taverns				SR	SR	SR	SR		
Restaurants (without the sale of alcoholic beverages)				A	A	A	AA		
Drive-in restaurants					SR	SR	SR		
Extractive industries - excavations of sand and gravel		SR					SR		
Farm implements, sales and service						A	A	A	
Fat rendering or production of fats and oils								SR	
Feedlots - livestock	A							SR	
Feed and seed processing and cleaning for retail purposes									
Feed and seed - farm and garden retail sales					A	A	A		

Table 17.20.010

	AG	RP	NC	CBD	CC	HC	LI	HI	P
Gases or liquified petroleum gases in approved portable metal containers for storage or sale						A	A	A	
Grain elevators	A					SR	SR	A	
Greenhouses	A				A	A	A	A	
Hardware, appliance and electrical supplies, retail sales				A	A	A	A		
Hatcheries	A						SR	SR	
Heliports				SR		SR	SR	SR	SR
Hobby and toy stores			A	A	A	A	A		
Hospitals (for the care of human patients)			A	A	A	A		A	
Hospital, animal		A		SR	SR	A	A	A	
Hotels				A	A	A			
Industrial chemical manufacture except highly corrosive, flammable or toxic materials								SR	
Irrigation equipment sales and service					A	A	A	A	
Jails and penal institutes									A
Janitor service				A	A	A	A		
Jewelry and watch sales			A	A	A	A	A		
Kennels - commercial	A				SR	A	A		
Laboratories for research and testing						SR	A	A	
Landfills - reclamation or sanitary									A
Laundries, steam and drycleaning plants							A	A	

Table 17.20.010

	AG	RP	NC	CBD	CC	HC	LI	HI	P
Laundries, steam pressing, drycleaning and dyeing establishments in conjunction with a retail service counter under 2500 sq. ft. in size			A	A	A	A	A		
Laundries, pick up stations			A	A	A	A	A		
Laundries, self-service coin operated			A	A	A	A	A		
Libraries, museums, and art galleries			A	A	A	A	A		A
Lock and gunsmiths			A	A	A	A	A		
Lodges, clubs, fraternal and social organizations provided that any such club establishment shall not be conducted primarily for gain				A	A	A			
Lumber yards, building materials, storage and sales						A	A	A	
Machine shops						SR	A	A	
Manufacturing - light manufacturing not otherwise mentioned in which no excessive fumes, odors, smoke, noise or dust is created						SR	A	A	
Heavy manufacturing not otherwise mentioned or blending or mixing plants						SR	SR		
Meat processing - excluding slaughter plants						SR	A		
Meat processing, packing and slaughter								SR	
Medical marijuana cultivation facility or cultivation facility							A	A	
Medical marijuana dispensary or dispensary							A		
Metal fabrication						SR	SR	A	
Motorcycle sales and repair				A	A	A	A		

Table 17.20.010

	AG	RP	NC	CBD	CC	HC	LI	HI	P
Mortuary			A	A	A	A	A		
Motels and motor courts				A	A	A			
Music stores			A	A	A	A	A		
Office building, professional government and private office buildings in which no activity is carried on catering to retail trade and no stock of goods is maintained for sale	SR	SR	A	A	A	A	A	A	SR
Office equipment, supplies and service			A	A	A	A	A		
Optician and optical supplies and sales			A	A	A	A	A		
Oxygen manufacturing and/or storage								A	
Paint and body shops				A	A	A	A	A	
Paint and retail sales			A	A	A	A	A		
Parking, public		SR	A	A	A	A	A	A	A
Parks, playgrounds, playfields and golf courses, community center buildings - operated by public agency, neighborhood or homeowner's association	A	SR							A
Pawn shops				A	A	A	A		
Pet shops			A	A	A	A	A		
Photographic studios		SR	A	A	A	A	A		
Planing or saw mills								A	
Post-secondary school	A	A	A	A	A	A			A
Prefabricated building materials assembly and manufactures						SR	A	A	
Preschool	A	SR	SR	SR					

Table 17.20.010

	AG	RP	NC	CBD	CC	HC	LI	HI	P
Printing, publishing, reproduction and lithography				A	A	A	A	A	
Processing of previously slaughtered meats, including cutting, wrapping, and freezing by freezer and locker provisioners					A	A	A	A	
Public utilities service installations	SR	SR	SR	A	A	A	A	A	SR
Public utilities storage yard						A	A	A	SR
Radio and TV broadcasting stations				A	A	A	A	A	
Radio and TV tower						A	A	A	SR
Railroad yard							A	A	
Real estate office			A	A	A	A	A		
Rental service store and yard					A	A	A		
Repair and servicing of industrial equipment and machinery						A	A	A	
School, commercial			A	A	A	A			A
Scrap yards - storage and processing								A	
Secondhand stores and/or antique store				A	A	A	A		
Sheet metal shops and processing							A	A	
Shoe repair				A	A	A	A	A	
Sign manufacturing, painting and maintenance						A	A	A	
Sign									
Billboards	SR					SR	SR	SR	
On premises	A	SR	A	A	A	A	A	A	

Table 17.20.010

	AG	RP	NC	CBD	CC	HC	LI	HI	P
Off premises	SR			SR	SR	SR	SR	SR	
Slaughterhouse	SR							SR	
Sporting goods sales				A	A	A	A		
Storage, compartmentalized storage for commercial rent							SR	SR	
Storage and warehouse and yards							SR	A	
Stone cutting, monuments manufacturing and sales							SR	A	
Sugar and sugar beet refining								SR	
Swimming pools or beaches, public									A
Taxi stands				A	A	A	A		
Theaters, cinema, opera houses				A	A	A			
Drive-in theaters						SR			
Tire recapping and retreading						A	A	A	
Trailer and recreational vehicle sales area					A	A	A		
Travel trailer park (transient)						SR			
Truck terminals, repair shops, hauling and storage yards						A	A	A	
Water and sewage treatment plant	A								A
Wholesale and jobbing establishments						SR	A	A	
Woodworking shops, millwork						SR	A	A	
Zoo, arboretum	SR								A

"Variance" means an adjustment in the application of the specific regulations of this title to a particular piece of property which property, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the same vicinity or zone.

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

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

17.76.030 - Planning director—Powers and duties.

- A. The planning director shall supervise and facilitate the processing of applications for amendments to the official zoning map, special review applications, and requests for variances. Further, it shall be his responsibility to present any applications or requests to the appropriate board or commission.
- B. It shall further be the responsibility of the planning director to aid the various boards, commissions and departments in transmitting recommendations, records and reports to the city council and to otherwise promote procedural regularity in the administration of this title.
- C. The planning director shall not have authority to act in any final reviewing capacity and any question as to interpretation or enforcement shall be determined by the appropriate board, commission or department.

Process:

- The Application and supporting Information was submitted on July 30, 2023
- The application was heard by the Planning Board and Zoning Commission on August 16, 2023.

- The Application is forwarded to the City Council with a “DO APPROVE” recommendation based on the following findings and conclusions:

Standard of Review:

- The Zoning Commission Finds that the application and supporting documentation are sufficient for review;
- The Zoning Commission Finds that the history of the ownership, expansion of the business, and the Laurel Municipal Code as amended are relevant to this situation;
- The Zoning Commission Finds that the denial of the variance request would constitute an unnecessary and unjust invasion of the right of property. This is based on the fact that there are a number of other businesses in the CBD that have a warehousing/storage component that cross lot boundaries;
- The Zoning Commission Finds that the grant relates to a condition or situation special and peculiar to the applicant. This is based on the history of the growth and expansion of the business at the location and crossing lot and public right-of-way boundaries;
- The Zoning Commission Finds that the basis is something more than a mere financial loss to the owner as the standard if applied to all similar properties in the CBD it would have devastating impacts on all of the owners in CBD – The regulations should be amended to correct this injustice;
- The Zoning Commission Finds that the hardship was created by someone other than the owner. In fact, the change to the LMC was initially intended to prohibit mini storage warehousing not storage associated with a conforming business in the CBD. Unfortunately, the text of the regulations does not support the stated intent of the amendment.
- The Zoning Commission Finds that the variance is within the spirit, intent, purpose and general plan of this title. The intent of the LMC is to ensure compatible land uses that are mutually beneficial. The Zoning Change that prohibiting storage/warehousing in the CBD associated with a conforming business was an UNINTENDED consequence.
- The Zoning Commission Finds that the variance would not affect adversely or injure or result in injustice to others. In fact, approval of the variance restores rights enjoyed by others in the CBD that are would be denied this owner;
- The Zoning Commission Finds that the property owner DID NOT own the property prior to the amendment of the Regulations prohibiting warehousing/storage. The Zoning was changed in 2015 and the property was acquired in 2016. It was noted that the property has been used as accessory to the conforming business for several years and the issue only identified when a new structure was proposed to house the ongoing use of the property for storage.

- Conclusions:

- The Laurel Planning Staff and/or Contracted Staff have complied with their duties and authorities under the LMC.
- The Zoning Commission has conducted a Public Hearing on the Application, weighed the evidence, prepared Findings and Conclusions as required by the LMC.
- The Zoning Commission concludes that the *Preponderance of Evidence* associated with the Rutt Variance Request LZV-23-01 rises to the level of the DO APPROVE recommendation and forwards same to the Laurel City Council for FINAL DECISION.

Respectfully submitted,

Judy Goldsby, President
Laurel – Yellowstone Planning Board and Zoning Commission