

**PLANNING COMMISSION
MINUTES
JUNE 14, 2022
LOWER LEVEL – LIBRARY COMMUNITY ROOM
702 E. FRONT AVENUE**

COMMISSIONERS PRESENT:

Tom Messina, Chairman
Jon Ingalls, Vice-Chair
Lynn Fleming
Phil Ward
Peter Luttrupp
Sarah McCracken

STAFF MEMBERS PRESENT:

Hilary Anderson, Community Planning Director
Shana Stuhmiller, Public Hearing Assistant
Randy Adams, City Attorney

COMMISSIONERS ABSENT:

Brinnon Mandel

CALL TO ORDER:

The meeting was called to order by Chairman Messina at 5:30 p.m.

APPROVAL OF MINUTES:

Motion by Luttrupp, seconded by Ward, to approve the minutes of the Planning Commission meeting on May 10, 2022. Motion approved.

STAFF COMMENTS:

Hilary Anderson, Community Planning Director provided the following statements.

- Ms. Anderson stated that staff is not sure if we will have a meeting in July because one item has been tabled and staff is waiting to receive additional information. The Coeur Terre annexation is scheduled to come before the Planning Commission in August.
- She stated that staff will be working on a Request for Qualifications “RFQ” for a consultant team to update the City’s development impact fees. Staff will be working with our city departments to get their input and compiling information for the effort. She noted that during the process the Planning Commission will be getting together as the Development Impact Fee Advisory Committee. We will let you know when those future meetings will be.
- She commented that the Regional Housing and Growth Issues Partnership (RHGIP) is continuing to have monthly/working group meetings with weekly updates posted on the website (www.rhgip.com). She added one thing that has been discussed was to have a joint workshop with other cities’ commissions and Kootenai County to give an update on what this group has been doing and to explain the tool kit, allowing open discussion and dialogue with the commission members and RHGIP working group. She noted that the public will be able to attend but will not be part of the discussion.

COMMISSION COMMENTS:

Chairman Messina announced the applicant has withdrawn the Birkdale Commons PUD and Subdivision, so that hearing is cancelled.

PRESENTATION:

15th Street Improvements- Chris Bosley, City Engineer

Mr. Bosley provided a Power Point presentation explaining the upcoming improvements to 15th Street.

- He stated the design starts now from Harrison to Best with work being done to the pavement that is in bad shape
- He provided a map showing the area of where the floodplain is located and looking at some grant opportunities to help with the improvement of this area.
- He explained the highlights of the project which will include a three-lane section with one lane in each direction, plus a center turn lane, sidewalks on one side, with the possibility of sidewalks on both sides, with a shared use path on the east side from Cherry Hill Park to Best Avenue.
- He added that there is proposed on-street bike lanes with no on-street parking and they will be looking at stormwater management ideas that will provide a larger swale near Cherry Hill Park.
- He explained the project schedule with a contract with T.O. Engineers to be completed this fall.
- He added that the final design would be completed in 2023 because we don't have any funds available, but will be looking at grant opportunities to maybe provide those extra funds that can be used.

Mr. Bosley concluded his presentation.

Commission Comments:

Commissioner Fleming inquired if there will be any crosswalks in this area. Mr. Bosley explained that we are putting in a crosswalk near Cherry Hill Park with Rectangular Rapid Flashing Beacons (RRFBs) so people can cross safely.

Commissioner Fleming inquired about the backup of cars getting on the freeway during the business hours and if there have been any complaints. Mr. Bosley stated we have had complaints and a few years ago, the City restriped 15th Street to better define the turn bays to mitigate that problem. He stated that he has been in a week-long workshop with Idaho Transportation Department (ITD) who is looking at the future widening of I-90 including in that that reconstruction all bridges and interchanges will be impacted along that corridor.

Commissioner Luttrupp commented at the last hearing heard a lot of comments how development isn't paying for itself and could you explain how funding will be generated to pay for the improvements on 15th Street. Mr. Bosley explained that the funding comes from Impact Fees which are outdated, but that staff is starting to work on updates to the fees. The money we currently have in our have in our impact fee account will be used as match money and maybe a Grant will fund the rest of the project.

Commissioner Luttrupp commented as we approve future PUD's sometimes, we require that they do improvements to the road. Mr. Bosley stated that is correct. A typical requirement is for a developer to make improvements to the road, if unapproved, and the City will require the developer to make those improvements like curb, gutter, sidewalk etc. Commissioner Luttrupp inquired who is responsible for the cost of the improvements. Mr. Bosley stated the applicant is fully responsible for those costs.

Chairman Messina inquired if we can get an update on the work being done on Kathleen and Northwest Boulevard. Mr. Bosley explained the work on Kathleen should be completed soon with the addition of a

second eastbound lane between US 95 and Government Way. A lane has been installed and other improvements include sidewalks and some additional landscaping on the shoulder, and stormwater mitigation. When finished, the new lane will be open for traffic. He continued that ITD has planned a second south bound left turn lane going onto Kathleen, which will help with congestion. He explained the Seltice Way/Northwest Blvd intersection where the slip lane was removed will be directed to go southbound on Northwest Boulevard that will be done by a developer through an agreement with the city that they would reconstruct our slip lane to make it a safer with merging traffic coming to a stop, which will be safer.

PUBLIC COMMENTS:

None.

1. Applicant: City of Coeur d'Alene
Request: The City is proposing a new chapter titled Development Agreements within Title 17 (Zoning) of the Municipal Code to provide for the creation, form, recording, modification, enforcement, and termination of development agreements. This Chapter is pursuant to section 67-6511A, Idaho Code, and is intended to authorize development agreements to the fullest extent of the law.
LEGISLATIVE, (0-2-22)

Presented by: Hilary Anderson, Community Planning Director

Hilary Anderson, Community Planning Director, provided the following comments on behalf of the City as the applicant for the proposed code.

- The purposed of the proposed Development Agreement Ordinance is for the City to create, form, record, modify enforce and terminate development agreements.
- Development agreements would be required when it is determined that it is in the best interest of the public.
- This ordinance is pursuant § 67-6511A, Idaho Code.
- A Development Agreement may be required as a condition of a zone change and map amendment, to include annexations in conjunction with zoning, planned unit developments, conditional zoning, special use permits for density increases, and associated subdivisions.
- The City of Coeur d'Alene has long entered into various agreements with developers and land owners for limited purposes through Annexation Agreements, Memorandum of Agreements, Encroachment Agreements, Easement Agreements, and other such binding agreements. However, the City does not have a process for making specific requirements concerning the use or development of a parcel as a condition of a zone change. Neighboring jurisdictions do have authority to enter into Development Agreements. Idaho Code § 67-6511A allows a city to enact an ordinance to create that process.
- It would be done as a condition of approval. It is a binding agreement between the City and land owner/developer.
- The governing body can require certain favorable features, such as *“restrictions on use, design of the development, conservation requirements, provisions for roads and other infrastructure, open space, workforce housing, and other benefits.”*
- Ultimately the City Council will approve the use and terms of a development agreement.
- Development agreements are voluntary; however, the City could deny the zone change unless the conditions were accepted.
- She explained the benefits and gave an overview of the Ordinance components.
- She gave an overview of the changes to the draft ordinance responding to feedback from the Planning Commission's May workshop.
- She discussed outreach efforts with the Regional Housing and Growth Issues Partnership (RHGIP), North Idaho Building Contractors Association (NIBCA), and Coeur d'Alene Regional Realtors.

- Staff believes that the Council should enact the required ordinance to enable the City to require Development Agreements as a condition for a zoning decision, to include annexations in conjunction with zoning, planned unit developments, special use permits for density increases, conditional zoning, and associated subdivisions in select cases.

Ms. Anderson concluded her presentation.

Commission Comments:

Chairman Messina said he understands not every project will be required to have an agreement but if a PUD comes forward and staff didn't recommend an agreement and the commission felt that maybe an agreement is needed, he asked how that process would work. Ms. Anderson explained that the commission could also add it as a condition of approval. Whoever initiates the findings would require a development agreement as a condition. She added that when talking with other communities who currently use these agreements, they can be onerous. She added that small projects won't trigger a development agreement since it will require some tracking over time, which is why staff will determine early on if a Development Agreement should be required. Commissioner Fleming feels that it would be "longevity based" for example a project like Coeur d'Alene Place would be a good example since it took years to complete.

Chairman Messina inquired what is the timeline that we will be able to start using this agreement understanding that it needs to go before Council. Ms. Anderson replied that this will go before Council in July for approval. Mr. Adams clarified that it needs to be published in the paper for it to go into effect. He said, we expect to be able to use it in August.

Commissioner Fleming inquired if there will be any additional costs associated with the preparation of this agreement. Ms. Anderson explained that the fee will be the same amount we use when preparing an Annexation Agreement. If the Development Agreement is part of an Annexation, the preparation fee would be combined together and not a fee based on two different agreements.

Commissioner Ward commented this is a great idea which gives us another tool to provide some flexibility we don't find in the zoning code. He noted after reading through the document stated in the beginning of the agreement it states, "That the agreement can be required as a condition of approval." He said he has concerns if this agreement is being required and questioned if the language is not changed to "voluntary," if will we be setting ourselves up for a rejection by the courts because we are doing contract zoning. He explained that this was an issue in the past in other jurisdictions where he has worked.

Mr. Adams explained in Idaho the Development Agreement Statute 67-6511A allows cities to require Development Agreements which its voluntary in the sense that the developer can say "No I don't like that Development Agreement" but then he doesn't get the zone change. He added if a developer wants to go forward with the zone change, the City does have an option to say they require this and that. The ordinance gives the applicant a second chance with Council to say that he disagrees with the conditions in the Development Agreement. He added there is plenty of protection for the developer, but also protection for the City.

Commissioner Ward commented when reading though the body of the requirement for the agreement, which is very detailed, he cited as an example if a site plan is approved and someone wants to do an amendment, he questioned if staff has the authority to make those changes. He said if he had a client ready to sign this agreement, he would caution them that it is "overkill" and not to sign the agreement. He noted in the document it states many times "If any change must revert back to the prior zoning." He doesn't understand why we would make that a requirement.

Ms. Anderson explained the proposed code has a list of what shall be included and a list of what may be included, and the State Statutes allow for reverting back to the original zoning or deannexation. She stated if the commission feels there needs to be changes to the ordinance, those can be made. She

addressed the question of the zoning being reverted. For example, someone comes in non-compliant and the City can't stop work because there isn't a violation yet but it makes sense to revert the property back to the original zoning or suggest de-annexation, but if the project is halfway through development, it wouldn't make sense to go back to the original zoning. She explained there are other ways to enforce the code without reverting back to the original zoning.

Commissioner Ward inquired if the city is a "signatory" to the agreement and explained if I had property and wanted to sell it and send a release to the clerk's office requesting that the City releases the agreement. Ms. Anderson explained that our agreement is designed to be signed by the developer and the City, and then recorded.

Commissioner McCracken appreciates all the comments from the workshop and how staff incorporated them into the draft. She questioned how will these agreements be tracked. Ms. Anderson explained staff is researching a better system for tracking and that right now through our critical notices list and our building permit program can send alerts. Commissioner McCracken suggested that the Coeur d'Alene Realtor's share this with the Title Companies so they can alert people about this new process.

Motion by Ingalls, seconded by McCracken, to approve Item 0-2-22 Motion approved

ROLL CALL:

| | | |
|------------------------|-------|-----|
| Commissioner Fleming | Voted | Aye |
| Commissioner Ingalls | Voted | Aye |
| Commissioner McCracken | Voted | Aye |
| Commissioner Luttrupp | Voted | Aye |
| Commissioner Ward | Voted | Aye |
| Chairman Messina | Voted | Aye |

Motion to approve carried by a 6 to 0 vote.

3. Applicant: Aspen Homes & Development, LLC
Location: 1808 N. 15th Street
Request:
 - A. A proposed +/- 5.9-acre annexation from County Ag to R-5
LEGISLATIVE, (A-2-22)
 - B. A proposed 25-unit multifamily development PUD Known as "1808 N. 15th Street Apartments/Townhomes"
QUASI-JUDICIAL, (PUD-2-22)

Hilary Anderson, Community Planning Director, provided the following comments

- The subject property currently has a single-family residence on it and is located in the unincorporated area of the county on 5.9 acres.
- The subject site obtains its access off of 15th Street.
- The subject site is adjacent to the city limits on the west and south sides.
- The property is currently zoned County Ag-Suburban and is located within the city's Area of City Impact (ACI).
- The subject site is located at the base of Best Hill and has some significant sloping topography on the northern and eastern part of the property. If annexation is approved, the 5.9-acre property will

be subject to the Hillside Ordinance regulations.

- The applicant is proposing to build a 25 multifamily unit facility that will consist of three buildings.
- The applicant intends to build on the gently sloping area portion of the property that directly abuts 15th street.
- The applicant has indicated that the area they intend to build on has slope that less than 5%. The remainder of the property has significant slope and the applicant is proposing to keep this as an open space area.
- The overall density of the proposed development is 4.23 units per acre.
- She stated that the Comprehensive Plan states this area as Single-Family Neighborhood
- If approved there are 14 conditions for consideration.

Ms. Anderson concluded her presentation

Commission Comments:

Commissioner Ingalls inquired about the height of the building as 38 feet, but the elevation on the rendering has 29 feet. Ms. Anderson stated that the applicant is here to answer that question. Commissioner Ingalls referred to the width of the landscape buffer for the northern property and questioned what is the width. Ms. Anderson stated she is not sure about the scale and said that is another good question for the applicant. Commissioner Ingalls commented the last time this request was before us, one of the issues was the open space on the hill which caused some uncertainty. But since they submitted a PUD, he asked it if could be used as a tool to lock in the 75% open space area, so months down the line etc. we won't notice a building in that area and questioned if the open space is locked in forever. Ms. Anderson stated that is correct with a condition stating that open space needs to be through an easement or a tract. Commissioner Ingalls questioned if we could use the Development Agreement, would this project be considered to be a candidate. Ms. Anderson explained this project might fall "in between" where we could do one, but since this is a PUD and Annexation, there are conditions that need to be met prior to issuing a building permit that can be attached to the project without a Development Agreement.

Commissioner Fleming stated that she is concerned this project has only one entrance and suggested placing a Knox box on Cherry Hill Drive in case there is a fire or car is blocking the entry ensuring that everyone will be stopped and not able to get out if there is an emergency. She explained that this development will be by a hill with every now and then there is a risk of fire, and feels there needs to be another exit out of the project. Ms. Anderson explained that the Fire Department was ok with one entrance and that the applicant can clarify, but does know that the applicant wasn't able to get permission to access Cherry Hill Drive.

Commissioner Luttrupp inquired under the current zone how buildings can be constructed on the property. Ms. Anderson commented that she is not sure of the number under County zoning, but know that they can get more than what they are asking for with the proposed zoning. Commissioner Luttrupp inquired if it was zoned R-5 can they get more units on the property. Ms. Anderson explained looking at the density from the whole site would be closer to 30 units and they are asking for 25 units. Commissioner Luttrupp inquired if the 25 units would include the open space. Ms. Anderson explained since this is a PUD, they are allowed to cluster the houses together in order to provide more housing in one area, and preserve open space on the other portion. Commissioner Luttrupp questioned if they weren't asking for a PUD, could they put more than 25 units. Ms. Anderson stated that they would only be able to have eight units on the property if the calculation is for the 1.5 acres versus with the PUD 5.9 acres would allow 30 units.

Chairman Messina commented the applicant has requested R-5 zoning and noted on page 7 of the staff report it states the principal permitted uses which are townhouses. He questioned if that falls under the single detached housing category. Ms. Anderson explained that is on the deviation side where they are

asking for a housing type become multifamily townhouses. Chairman Messina inquired if this type of housing is allowed under the new Comp Plan. Ms. Anderson that is correct and was also included in the old Comp Plan because the use of the PUD allows a developer to deviate the housing types if the underlying zoning density remains.

Commissioner Ward estimated that many of the cars coming out of the project will be going towards the freeway and inquired what is across the street in case there might be conflicting driveways. Ms. Anderson explained that shouldn't be an issue because as stated by Mr. Bosley 15th Street is proposed to have a center turn lane.

Commissioner Ward inquired about the open space and if the density in the area that isn't buildable, would it count as gross acreage for their open space and density count. Ms. Anderson explained that they property would need to be first annexed and zoned before it can be counted.

Commissioner Ward noted in the staff report it states that the fire department reviews for water extensions etc. He questioned is that already done or to be done if this project is approved. Ms. Anderson explained the Water Department reviewed the plan and didn't have any concerns but if there are other issues will be addressed at the time of development.

Commissioner McCracken questioned why the applicant chose R-5. Ms. Anderson explained that staff met with the applicant and the R-5 zoning made sense since its consistent with the Comprehensive Plan, the R-5 density worked, and with a PUD they could get the housing types allowed in an R-17 zone.

Commissioner Luttrupp explained the last time we heard this request we had public testimony from a property owner who wasn't in favor of the project and inquired if they knew about this hearing. Ms. Anderson stated that staff did another mailing with the same citizen included in the mailing. She added that the citizen did have a meeting with the applicant team after the hearing which Mr. Dobler could clarify.

Public testimony open.

Gordon Dobler, Dobler Engineering, applicant's representative, provided the following statements:

- He commented that the applicant appreciated the input from the first meeting and able to present a revised proposal that addresses all those previous concerns.
- He explained this project is different and now includes a reduction in density from R-17 to R-5 plus a PUD that has a site plan that locks in the open space
- He explained after the last meeting me with the Parks Department they decided that the open space wouldn't be a benefit to the City.
- He explained the R-5 was chosen based on how many units we could get on the property and before we hadn't done that exercise and assumed we could get 30-34 units. But after doing that exercise, realistically we could only get 25 units because of the the site setbacks restraints and the size of the area.
- He added that the open space is unbuildable and Aspen Homes will keep it in a natural state.
- He noted on the site plan we aren't asking for anything special and additional trees are proposed as a buffer along the north side of the property at staff's recommendation.
- He commented that they did have discussion after the meeting with the neighbor that was mutually beneficial and that they stated that they were thinking about moving on.
- He noted that the trash enclosure location was changed to be sensitive to the neighbors to the north.
- Mr. Dobler stated we don't have access to Cherry Hill Park and approached the Eagles and they said no, so we have no ability to put in a second access with our primary access off of 15th Street.
- He added for a second access the Fire Department would need over 100 units before that is a requirement.
- He noted that water and sewer is in 15th Street which is adequate to serve the 3 buildings.

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Commissioner Ingalls inquired about the architecture is 29 feet so at 38 feet are a very conservative request so this won't be a tall building. Mr. Dobler stated in the past the building height is measured from the adjacent average grade and that we have some "relief" on this project that goes into a little valley and don't want to get caught missing a foot or two because the grade varies and why we chose not to go as high as 45 feet because we are only proposing two stories but cautious about the adjacent grade measurement that has been a problem in a few projects in the past.

Commissioner Luttrupp inquired about the layout of the buildings. Mr. Dobler explained that we have done the layout of the buildings but haven't finished grading the site to determine the elevations based on the grades of the property. Commissioner Luttrupp stated his concerns are the 20% increase in height and in the past people are concerned with have a "wall" of apartments and reduced the height and has concerns with Building "A" with the extra height causes an impairment to the adjacent property owner. Mr. Dobler explained the building height is locked in through the PUD and the issue is the measurement and don't know how to change the building height. Commissioner Luttrupp commented his concerns are how this property will fit in. Mr. Dobler explained the building won't be any taller but how it's graded and lift the side up to fill it since it sits in a hole.

Commissioner McCracken inquired if the height for a multi-family is 45 feet. Ms. Anderson answered that is correct and that we measure height from the average finish grade because if the property is sloped would affect how its measured and why they are asking for additional height to have that leeway.

Mr. Dobler stated there were some conditions related to sewer that we don't think apply because we aren't putting in public sewer and we are not putting in many lots so the "to and through" policy doesn't apply. At the time of the annexation agreement, we would want to refine those conditions dealing with sewer because they don't apply. But if the Council wants to leave them in, no problem.

Chairman Messina explained we have to make findings and inquired if now is the time to make those changes. Mr. Dobler commented not a big deal.

The applicant concluded his presentation.

Public testimony closed.

Discussion:

Commissioner Ingalls stated this is a better project and sees the improvements made. He likes that the City protects the hillside and likes the reduced height and reduced units. He added that this project might be classified as missing middle housing. He added this is a piece of property that is in the city and belongs in the city which helps close the "doughnut holes".

Commissioner Ward stated the housing is essential and type of housing we need and that the location is great. He commented that he likes that we have open space and want to maintain and with having only five units per acre is great and that fire can get in safely and improvements to 15th Street will help.

Commissioner McCracken appreciates everyone's time and tying up the loose ends and now this project seems more complete with all the questions answered.

Commissioner Luttrupp stated that we have had past discussions on workforce housing and this project will provide more housing and will support this project

Motion by Ingalls, seconded by Luttrupp, to approve Item A-2-22. Motion approved.

ROLL CALL:

| | | |
|------------------------|-------|-----|
| Commissioner Fleming | Voted | Aye |
| Commissioner Ingalls | Voted | Aye |
| Commissioner McCracken | Voted | Aye |
| Commissioner Luttrupp | Voted | Aye |
| Commissioner Ward | Voted | Aye |
| Chairman Messina | Voted | Aye |

Motion to approve carried by a 6 to 0 vote.

Motion by Fleming, seconded by McCracken, to approve Item PUD-2-22. Motion approved.

ROLL CALL:

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|------------------------|-------|-----|
| Commissioner Fleming | Voted | Aye |
| Commissioner Ingalls | Voted | Aye |
| Commissioner McCracken | Voted | Aye |
| Commissioner Luttrupp | Votes | Aye |
| Commissioner Ward | Voted | Aye |
| Chairman Messina | Voted | Aye |

Motion to approve carried by a 6 to 0 vote.

ADJOURNMENT

Motion by Fleming, seconded by Ward, to adjourn the meeting. Motion approved.

The meeting was adjourned at 7:15 p.m.

Prepared by Shana Stuhlmiller, Public Hearing Assistant