

**PLANNING COMMISSION
MINUTES
JULY 9, 2019
LOWER LEVEL – COMMUNITY ROOM
702 E. FRONT AVENUE**

COMMISSIONERS PRESENT:

Tom Messina, Chairman
Jon Ingalls, Vice-Chair
Lynn Fleming
Michael Ward
Peter Luttrupp
Lewis Rumpler
Brinnon Mandel

STAFF MEMBERS PRESENT:

Hilary Anderson, Community Planning Director
Mike Behary, Associate Planner
Shana Stuhlmiller, Public Hearing Assistant
Randy Adams, Deputy City Attorney

COMMISSIONERS ABSENT:

CALL TO ORDER:

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

APPROVAL OF MINUTES:

Motion by Ingalls, seconded by Luttrupp, to approve the minutes of the Planning Commission meeting on May 28, 2019. Motion approved.

Motion by Ward, seconded by Fleming, to approve the minutes of the Planning Commission meeting on June 11, 2019. Motion approved.

COMMISSION COMMENTS:

Chairman Messina commented that he attended a Parking Commission Meeting this afternoon, and during that meeting they referenced a link on cdaid.org/parking where there is a lot of information and maps about where you can park in the City and also questions/answers for frequently asked questions that come up regarding parking. He added that there is also an App available called "ToPark" which citizens can use to pay for parking or to extend their parking time.

STAFF COMMENTS:

Hilary Anderson, Community Planning Director, provided the following statements:

- Health Corridor - Three workshops have been scheduled and will be held at North Idaho College. The public is encouraged to stay for the entire workshop because public input is important. The workshops will be held from 6:30 to 8:30 p.m. tonight, and on Wednesday from 5:00 p.m. to 7:00 p.m. She explained that part of the plan is to help make the neighborhoods stronger.
- A boat tour invitation has been extended by Kootenai Environmental Alliance (KEA), who has invited staff and the planning commission on a Water Keepers boat tour. They have formed a

small subcommittee, including staff members, on that trip to the north shore of the Lake to look at "The Good, Bad and Ugly". She stated that this will be educational look and will relate to the Comprehensive Plan and Shoreline Ordinance. Commissioners Luttrupp, Ward and Ingalls will be attending.

- Missing Middle Housing – the city received a grant from the National Association of Realtors, and Ms. Anderson thanked the local Coeur d'Alene Association of REALTORS for helping. She added that they will be holding a forum tentatively scheduled for either August 13th or 14th.
- The Envision Coeur d'Alene Comprehensive Plan Update Project Agreement was been approved by the City Council on June 18th and they recently posted some frequently asked questions and answers on the city's website under the Planning Commission page, titled "Comprehensive Plan." Ms. Anderson said that she wanted to reassure community members that they have not yet started the process, but have been doing research and updating the Planning Commission on the demographics and school needs, and she noted that public input will be robust and they will be starting that process in the fall.
- The August 13th Planning Commission meeting has two scheduled items and includes an Annexation and Variance.

PUBLIC COMMENTS:

None.

PUBLIC HEARINGS

1. Applicant: City of Coeur d'Alene
Request: A proposed amendment to the Accessory Dwelling Unit Code
LEGISLATIVE (O-1-19)

Mike Behary, Associate Planner, said that staff is requesting a recommendation from the Planning Commission to the City Council on the proposed code amendments to the zoning ordinance regarding Accessory Dwelling Units (ADU).

Mr. Behary provided the following statements:

- In 2007, the City first adopted zoning code language that allowed ADU's within the city. Since that time, City staff has become aware of some of the issues relating to the existing ADU code restricting homeowners and builders from the ability to build an ADU above a garage. The primary reason for bringing forward the proposed code changes is to allow ADU's above garages.
- An ADU & Infill Housing Committee was formed and workshops were held together with Planning Department staff to discuss possible code changes regarding ADU's. A joint workshop was also conducted with the Planning Commission to work on the proposed ADU code amendments. The following is a list of the history and prior workshops that were held:
 - January, 2019 - Goal set to amend ADU Code
- ADU & Infill Housing Committee formed
 - February 22, 2019 - 1st Workshop
 - March 15, 2019 - 2nd Workshop
 - April 26, 2019 - 3rd Workshop
 - May 28, 2019 - 4th Joint Workshop With Planning Commission
- The purpose of the proposed ADU Code amendments is to primarily address the code issue of height restriction that did not allow for ADU's above garages in the rear yard. The ADU & Infill

Housing Committee and City Staff also agreed that there should be a side and rear yard “2nd Story Step Back” for detached ADU’s in order to provide air space and light between properties. He noted that staff believes this should also be a requirement for attached ADUs in the rear yard.

- The proposed ADU code amendments address those issues, along with others items such as lot coverage, size of ADU, design standards, allowing existing garages to be converted to an ADU, and side and rear setback requirements.

Mr. Behary concluded his presentation

Commission Comments:

Commissioner Luttrupp asked who were the members involved with the subcommittee.

Mr. Behary replied that the Infill and ADU Committee included architects, professionals, builders and realtors.

Ms. Anderson commented that Mr. Adams asked a previous question regarding the conversion of an existing garage, and for clarification she explained that if someone converts a garage they would still have to maintain off-street parking spaces. She explained that they can’t convert a garage and not have off-street parking, so the house would be required to have two off-street parking spaces and the ADU (Accessory Dwelling Unit) would require one, so the total required would be three. She added that if they have more room on their property and want to convert a garage, they can still have some surface parking.

Commissioner Mandel asked if staff had made a decision on the second story step back requirement for an attached ADU.

Mr. Behary explained that for an ADU that is attached to the principal dwelling, they would still require the second story step back and staff recommends that the word “should” be replaced and asked for clarification from the commission if that is acceptable.

Commissioner Mandel replied that she agrees with the staff recommendation for the step back requirement for an attached ADU in the rear yard.

Public testimony open.

Kevin Jester (architect and committee member) thanked staff and the members of the subcommittee. He said that he supports the request and, if approved, the change would go a long way to preserving some of the older neighborhoods, which are the ones that are impacted by the ADU’s.

Josh Suhr (Coeur d’Alene Association of REALTORS president-elect and committee member) thanked staff and noted that the committee researched all sides of the issue by involving many people from the city. He said that he supports the changes and feels that an ADU has been a desired housing product within the Downtown Core and as Infill starts to become nonexistent, the changes will preserve the integrity of the residential parts of the neighborhood and allow homeowners to use it as a tool.

Public testimony closed.

Discussion:

Commissioner Ingalls said that it is a great process when you get people involved who are designers and builders and involve them in a committee. He added that the city deserves a “pat on the back,” and said with four workshops done that is a lot of input, debate and fine tuning, and he feels it’s ready to go.

Chairman Messina thanked staff and expressed appreciation to Mr. Behary for his work coordinating all the workshops that contained a lot of visuals and information.

Motion by Mandel, seconded by Fleming, to approve the item 0-1-19 that includes the setback requirement. Motion approved.

2. Applicant: Rivers Edge Apartments, LLC
Location: 3528 W. Seltice Way
Request:
- A. A proposed 22.17 acre Planned Unit Development known as "Rivers Edge PUD" QUASI-JUDICIAL (PUD-2-19)
 - B. A proposed 29-lot preliminary plat known as "Rivers Edge" QUASI-JUDICIAL (S-2-19)

Mike Behary, Associate Planner presented the staff report and stated this is the applicant's second development proposal request at this site. The first request was heard in December, 2018 by the Planning Commission. That development proposal was for an apartment facility with a public trail located along the river. The proposed zone change was approved by the Planning Commission. The other two items, SP-11-18 and the Limited Design PUD in item LDPUD-1-18, were denied without prejudice by the Planning Commission and went to City Council on appeal. The zone change request was heard by the City Council, which was denied. The City Council made a motion not to hear the appeal hearings because the SUP and PUD were contingent on the underlying zoning being C-17.

Mr. Behary provided the following statements:

The subject site is located south of Seltice Way, north of the Spokane River, and is west of and adjacent to the Atlas Mill site. The 22.32 acre site is currently vacant and undeveloped. Prior to 2004, the subject site was once part of a large sawmill facility that was active on the site for many years. The sawmill has since closed and all the buildings have been removed from the site. The applicant's overall property was annexed into the city in early 2014 with C-17 and R-12 zoning.

- The applicant's overall proposed project has two zoning districts with R-12 zoning on the southern portion of the property along the river and C-17 zoning on the northern portion of the subject site.
- There is a 3.6 acre tract that is owned by the city that bisects the proposed development. The City's 3.6 acre site is not part of the application request. The applicant does have an access easement over the City's property for ingress and egress.
- The northern part of the applicant's proposed project is zoned C-17 and the southern portion is zoned R-12. There are approximately 7.5 acres that are zoned R-12 along the river and 14.82 acres along Seltice Way that are zoned C-17.
- The applicant has stated that he intends to develop the property with residential uses and a commercial use. The applicant intends to build a multi-family apartment complex, self-storage facility, and a private gated single-family residential community along the river. The zoning code states that "[g]ated residential developments/communities are prohibited unless approved as part of a PUD".
- The proposed apartment facility will have eight apartment buildings that will contain up to a total of 250 dwelling units and 161 garage stalls. There will be an overall total of 513 parking spaces that are associated with the apartment facility.

- The maximum building height for the apartment buildings will be 45 feet as required for multifamily buildings in the C-17 zoning district. The C-17 zoning district regulations state that multifamily uses must follow the R-17 standards in regard to building height.
- The proposed self-storage facility will have a total of 391 storage units with some units capable of storing RV's. There will be an overall total of 41 parking spaces that are associated with the self-storage facility. There are a total of 28 single family residential lots along the river and this is proposed to be a private gated community along the river.
- The applicant is also proposing to build a 6-foot height block wall along the northern part of the R-12 lots that will separate the multi-family area from the single-family residents along the river. The block wall will be built in a separate tract that is adjacent to the private road.
- The multi-family facility is located beyond the 150-foot shoreline area. However, the single-family lots along the river will be within the 150-foot shoreline area. All structures within the 150-foot shoreline area will be required to meet the maximum building height of 30 feet. The applicant has indicated that the development is proposed to be phased over many years. The applicant has submitted a Phasing Plan that depicts the proposed project phasing.
- The applicant is proposing to position the apartment buildings and private roadway on his property such that there will be two view corridors that allow views of the river looking south from Seltice Way.
- The applicant is proposing both public and private open space areas as part of this project. The open space requirement for a PUD is no less than 10% of the gross land area and the applicant's proposed project will have a total of 10% of open space. The applicant is proposing a total of 2.67 acres of open space that will consist of 1.65 acres of private open space associated with the apartment complex and 1.02 acres of public open space associated with the single-family lots located along the river.
- There are two open space tracks that are located along the river which are 60 feet wide and allow public access to the river. The applicant is proposing a native passive recreation area with a three-foot-wide pedestrian path allowing access to the river. The two open spaces can be access by pedestrians from the 16-foot trail that will traverse the property from east to west.
- The proposed sixteen-foot-wide multipurpose trail will have trail connections to the adjacent properties to the east and the west of the subject site. The applicant is proposing to locate the trail on his property that will have a platted easement for public access. The proposed trail will provide for trail connection to the east and west of the subject site.
- Mr. Behary provided various photos of the site showing the property and location.
- He provided a copy of the PUD site plan and building elevations that included renderings of the Self-Storage Building, RV Storage Building, and Recreation Building, Building Envelope Plan, View Corridor Map and Landscaping plan.
- He went through the various findings for the PUD and Subdivision
- He stated that the Comprehensive Plan designates the area as Spokane River District
- He provided a list of Comprehensive Plan Objectives that the Planning Commission would consider.
- He provided various site photos of the property.

- He included a copy of the zoning map and land use map.
- He provided a copy of the phasing plan.
- He noted that the various departments reviewed the application and that Chris Bosley, City Engineer, provided the following statements regarding Streets and Traffic: Seltice Way is a Principal Arterial Road and Seltice Way is a newly constructed street section that was designed to handle the development potential of the site and the surrounding properties. The other departments, including Wastewater, Water, Parks and Fire, stated that they didn't have any issues with the development.
- The applicant provided a copy of the Open Space Plan.
- Mr. Behary said there are 14 conditions for approval.

Mr. Behary concluded his presentation.

Commission Comments:

Commissioner Ingalls commented that the subject of open space is a big deal and that the applicant needs to provide 10% open space. He said that the PUD criteria within the findings doesn't say "public" open space; just "open space." He noted that in the previous Annexation Agreement it states, "Public access to the Spokane River is a requirement."

Mr. Behary explained that within the Annexation Agreement it does state that access to the river is a requirement and that the applicant has provided access to the river with the two open space tracts noted on the site plan.

Commissioner Ingalls said that they have to make Finding B8F that states: "Parking sufficient for users." He questioned if the public is considered a "user" and how staff determines if there will be sufficient parking for users. He questioned how he would access the two parcels to get to the water.

Mr. Behary answered that you can't access the parcels with a car and explained that the only way to access the two parcels is through the pedestrian bikeway that will allow access with either a bike or by walking.

Commissioner Fleming said that there are also gates located on the property and questioned how they would get to the public open space without using the gates.

Mr. Behary said that the applicant could address that question.

Commissioner Ingalls said that he is struggling with the Finding that states: "compatibility with adjacent properties," and explained that the city property runs through the applicant's property and is a "weed patch." He questioned how they make that finding based on not knowing what the city property will be in the future.

Mr. Behary explained that the uses allowed in the current zone, which is C-17, would be allowed in that area.

Chairman Messina said that in the staff report the property is designated as R-17 and C-17. The definition for C-17 states that, "The C-17 zoning district allows multifamily uses but must follow the R-17 requirements," and that within the R-17 requirements there is a height requirement.

Mr. Behary explained that everything in the multi-family area would have to meet the standards of the R-

17 zoning district so it would include the building height and setback requirements.

Chairman Messina said that the applicant is indicating a 45' height requirement for the apartment buildings and asked if that is allowed.

Mr. Behary said that the applicant is not asking for any modifications to go higher, so that is correct.

Chairman Messina said that single family homes are not allowed within the 150' shoreline and inquired if staff could explain.

Mr. Behary said that some of the lots along the shore are deep and would go past the 150' setback but that the lots within 150' would have a maximum height of 30'.

Commissioner Luttrupp asked where the gates are located and if people are allowed to use the gates to get to the water.

Mr. Behary said that the applicant could answer that question, but it was his understanding from talking with the applicant that the gates will not allow vehicle access but would allow pedestrian access.

Commissioner Luttrupp asked about the 6' wall and if he could get staff's opinion on the wall and if it would eliminate all views and vistas from Seltice.

Mr. Behary explained that a fence is a permitted use and that anyone can have a 6' fence on their property. He said that the property does slope and is higher on Seltice and people driving on Seltice will be able to see a view, but not from a bike.

Commissioner Luttrupp explained that the Fire Department reviewed the application for safety and the Police Department as part of their review makes sure the lighting is sufficient and safe. He asked if the Police Department had made a recommendation as to the type of lighting that would be adequate for safety.

Mr. Behary said that the Police Department will not review this plan, but part of staff's requirement is that lighting will be low-level, site specific lighting in the commercial areas.

Commissioner Fleming explained that part of their decision is to look at staff's conditions and noted that condition number 11 states to build a 16' shared path on either the city's property or on the subject property with a wall. She questioned if there has been any discussion as to whether the wall and path could be separated.

Mr. Behary explained that there is an opportunity for the trail to be moved onto the city's property.

Public testimony open.

Lanzce Douglass, applicant, provided the following statements:

- Staff did a great job explaining the project and he showed a map of what the previous uses were on the property.
- In 2006, Marshall Chesrown bought the property and tore down the pellet log manufacturing plant. Washington Trust bought the property from Mr. Chesrown, who hired Verdis, a local land use planning company, to take them through the annexation process to get the property annexed into the city. He explained that part of the process required Verdis to provide the city with a map that depicted what the property would be developed as.
- He presented a copy of the former annexation map showing how the property would be developed. The property was zoned C-17 and R-12. He noted that the property owned by the City is not part of the proposal.
- They are intending to provide sub-storage on the northwest corner of the site and will provide 250

apartments that will front on Seltice. To the east of the property is the railroad right-of-way, which they don't own.

- The trail is located on the R-12 portion of the property as required by the annexation agreement, and a provision was included in the annexation agreement that would allow the trail to be placed on the railroad right-of-way with the city's permission.
- He addressed the wall that was discussed to be adjacent to the trail and noted that located on the south side of the wall is a road that will serve as access to all the lots on the water. He said they will have two access points through public tracts 60' wide for the public to get access to the water.
- Mr. Douglass pointed out the two gate locations on a map that will be used for vehicular traffic only. Sidewalks will be placed around the gate to allow pedestrian bicycles access all the way from Seltice and they will be able to go through the gate for public access to the water, or the public can access the public access parcels along the trail that hooks to the railroad right-of-way at Mill River.
- He stated that the houses proposed on the southern portion of the site are very similar to Mill River directly to the west and that the majority of the frontage will have the wall with the road located behind the wall and the houses that front on the water.
- He said that, looking from the water, the houses will be placed within the 150' Shoreline area with the houses located 40' from the water with heights of 30'. He noted that the picture of the property shows docks that they will not be building. The docks are under a different permit from the Department of Lands and future homeowners can apply for them individually.
- He indicated that most of the homes will have a private beach.
- He said that the question of compatibility came up in previous discussion and noted that the property is surrounded by C-17 zoning.
- He referenced the letter dated July 9th from "We The People" and said that he would like to address some of the points addressed in the letter. In the letter, it stated that they were required, as part of the annexation, to do a full PUD, and that is what this application is. He also commented that it stated in the letter that they are required to create public access to the river, and they have provided public access to the river through their two tracts as required by code, in the annexation agreement. The letter also stated they are to provide open views to the river and noted that they lined up their public access points with the roads coming in to the site and said that there is no code requirement that says exactly how wide a public view has to be. He added that there are views of the river from Seltice that are unobstructed. He further continued that the letter stated that they have to provide a 16' wide trail along the R-12 parcel and they have shown the trail on their parcel adjacent to the railroad right-of-way and recently received a letter from the City Parks Department authorizing them to put the trail in the railroad right-of-way as an alternate place. He said that he is willing to put the trail in the railroad right-of-way and pay for the costs to put the trail in, but he is showing the trail on their property to show they can accommodate the trail on their parcel. He said if the city wants the trail on their property, they can accommodate that.
- In regard to providing public parking, Mr. Douglass said that there is no requirement in the code stating they have to provide public parking. He noted that the letter mentions the land swap and that the land swap was part the previous proposal.
- He said that without any permission they can put 250 units on the site and that the previous land swap portion of the property. He said in the letter they wanted the land swap which limited them to 360 units which would cut their density by 20 units, and they are not willing to lose density. The letter said that they would want them to have a 60' easement along the waterfront for public trails and at a previous City Council hearing they had that discussion, which was denied. He added that, by code, they are not required to provide a 60' trail along the water.
- The letter listed things to consider, including a riverwalk, beach access, benches and landscape maintenance that were part of the last proposal that was denied. Mr. Douglass said that the previous proposal will be up for reconsideration in September to City Council. He noted that the letter wants them to provide public parking for users of the trail and suggested that the city can allow the public to park in the city right-of-way.

Mr. Douglass concluded his presentation

Commission Comments:

Chairman Messina inquired about the public access along the river and asked if there will be access into the water.

Mr. Douglass said that people can get to the water.

Chairman Messina inquired if those two parcels will be fenced on either side for the residents on the left or right of the property.

Mr. Douglass explained that the parcels could be fenced by the City but they are not proposing a fence since they will be selling those lots.

Chairman Messina asked about the trail location on the map.

Mr. Douglass explained that the Coeur d'Alene City Park's Department provided a letter to them authorizing them to put the trail in the railroad right-of-way and the map is showing the trail on their property which was a requirement in the annexation agreement and why it was shown on their property with a note next to the trail for an alternate position.

Commissioner Ingalls questioned the use of private streets and noted that in Bellerive they have seen in recent dialogue at public meetings the request to place gates on their private streets, and that those private streets are providing an access to the public open space. He feels that the proposal is similar where they might create a problem where there is public access to get to the public beach but someone without a bicycle or walking won't be able to get to the property. He said that in the narrative it states, "This area serves a diverse population by providing a variety of spaces for recreation accessibility by people of different ages and abilities." He said that, for him, it means if he can't walk a long distance or bicycle, he won't be able to use the property.

Mr. Douglass said they are not required to provide vehicular access to the public access points to the water and it is not required in the code or the annexation agreement. He explained that they are required to have public access to the water and are providing an access through the gates for bicycles or walkers. He commented that they don't have to accommodate every person. He further commented that in Bellerive he owns the 11 lots at the west end of Bellerive which has an easement through the existing road, and that the community can't legally put up a gate since it will cut off his access, and he concurred they have a parking problem.

Commissioner Ingalls explained that when they get ready to make their findings they need to consider the usability of the parcels and he commented that he is struggling for practical reasons as there is nowhere to park to use the public spaces.

Mr. Douglass explained that the city owns a piece of property in the right-of-way that could be used for parking.

Commissioner Ingalls asked if Mr. Douglass thought that the city parcel would be used for parking.

Mr. Douglass said that is a good question and not his decision.

Commissioner Ingalls asked if the city property became parking, would it be compatible.

Chairman Messina said that he concurs that there should be a way to get to the lots other than biking or walking and said that understands what the commission is saying that if you can't get to those lots, they are not accessible. He asked if staff could provide a definition of accessibility for open space.

Mr. Adams said that the Annexation Agreement simply states “design and provide open space/and or other public access to the Spokane River”. He added that it doesn’t specify how to access a property.

Commissioner Ward asked, if the trail is moved onto the city right-of-way as the alternative location, could they still maintain the wall in the present location and instead of a trail there might be a vegetative buffer that might soften the wall and be maintained by the property owners.

Mr. Douglass said that they could move the trail to the property line.

Commissioner Fleming said that she has worked on 50% of the houses and knows the clientele. She said that those folks are not going to want the cross path of the public entering into their private street. She suggested that if it is all bike/ped, why they don’t move the green space outside on the end portion, so people have two accessible locked gates and so that the people who own the homes in that area will maintain their privacy. She agreed that by moving the trail back to the city right-of-way it might be able to provide parking in the right-of-way and could be a solution.

Mr. Douglass said he concurred, but commented that there is a requirement in the code stating that the greenspaces have to be a certain distance from each other and he would have to get permission from the Community Planning Director to allow that, which makes sense.

Commissioner Mandel stated that she had the same thought but realized it would compromise the view corridor. She explained if we would gain on public access/accessibility in parking but would the change compromise the view corridor.

Mr. Douglass said that he felt they have discussed the view corridor issue for years, and there are no standards for a view corridor. He explained that they will do a good job with landscaping by providing different types of trees that will get big and in 20 years they will have to chop down the trees to maintain the view. He said that it sounds good to have a view corridor, but in 20 years it will be gone.

Commissioner Mandel said she was having the same thought about consolidating and moving closer to where the public access is located.

Commissioner Fleming said that she feels you have to keep the general public from not going into a private community.

Chairman Messina said that if they decide to change the gate location and move the access points to the end of the property, he questioned how it could be done.

Ms. Anderson said that the applicant was correct and that they could make that decision this evening as a condition of the PUD, and that the subdivision would have to meet the requirements of the code to show that the parcels would have to be the same size and not compromised. She added that there are some challenges on the west side of the property where HARSB (Hayden Area Regional Sewer Board) has their easement and they would need their approval for the change request, which makes sense. She added that the code is not specific but the Annexation Agreement states that they have to be away from the public right-of-way, which is from Seltice. She explained that they could provide view corridors on the two ends, but would have to make sure there weren’t any obstructions like carports etc. She added that there could be a condition added to the preliminary plat with the new condition added.

Mr. Douglass said that the issue is a “non-issue” as they have an easement across property that he owns so he can sell the property but he can’t put a building on the property or any permanent structures, but a park on the property would be allowed, and just because they have an easement doesn’t give them the right to dictate to him anything he can’t put a permanent structure on.

Commissioner Ingalls said that there were some parts of the previous proposal that he liked; for example, he liked the trail placed along the waterfront, but that proposal was denied. He said that he would like to understand the positives versus the other proposal. He explained that the original proposal was going to be somewhere around 850 units and now that number has been reduced to 278 units. He added that reducing density is a positive.

Mr. Douglass explained that the 850 units proposed became 680 units when the last proposal went before the City Council. He added that it included the 130 units that are on the Stimson site that has a Special Use Permit granted, because on the last proposal the city was a "co-applicant" with him and they were doing a land swap as part of the project and if it had been approved they would have gotten the railroad right-of-way so the count would have been 408 units.

Commissioner Ingalls asked why traffic wasn't discussed this time and noted that in the previous proposal they had a lot of dialogue on traffic.

Mr. Douglass explained that Chris Bosley, City Engineer, along with Welch Comer, did a traffic study that included the previous project and this project, if approved, would not have a negative impact since they are proposing less units.

Commissioner Ingalls said that at their last hearing they had a lot of discussion regarding schools and noted that they recently received a letter from the school district stating that if the project is approved, it would not have an impact on the schools.

Commissioner Luttrupp said that he has a difficult time with a wall and believes that it wrecks the view corridor and is terrible. He added that he would prefer not to have a fence or a wall, but if there is one he would prefer to see through it. He commented that in the staff report it talks about the lots along the river complying with "some" of the Shoreline Regulations and asked why not comply with all of them.

Mr. Douglass said that he will comply with all shoreline requirements.

Commissioner Ward said that he has been doing the math and following up on Commissioner Fleming's question regarding whether it was a possibility to move the greenspaces to the ends and lineup the parking with the storage units on the east portion which would provide more views from Seltice without any interruptions.

Mr. Douglass said they could make them the same size.

Ms. Anderson commented that the reason the subdivision code is written is that the Fire Department has a requirement for a fire access and would have to work with them regarding an emergency access. She added that staff discussed the possibility of moving the two open space lots and it makes sense to move the lots on the far east side instead of putting some on the west side because it would be next to a gated community. She said it would make sense to have all the open space grouped together.

Chairman Messina asked if there could be a condition including their previous discussion regarding the placement of open space in the findings and questioned what happens.

Ms. Anderson explained that the applicant would have to work with us and then that condition would be added to the final plat and PUD.

Mr. Douglass asked if the condition, as proposed, could be approved now and added to the condition "if allowed by other departments" that the access points would either be placed on the east end/west end in a similar size or greater than they currently are, so they would not have to come back for approval. He explained that he understood Commissioner Fleming's concerns and said that she is correct, but the way the lots are now complies with all the codes. He suggested that the commission vote on the condition that is presented with a caveat, that if agreed, to place the public open spaces to the outside that he would prefer that too, but that he didn't want to have to come back and go through the public hearing process.

Commissioner Messina said that after hearing the discussion from staff they would prefer to combine the two parcels into one and place them at a much better location at the far end. He wanted not to affect the applicant so much that it would have to come back for a public hearing.

Commissioner Luttrupp said that he feels one thing that is missing is who owns the property to the east and asked if that is the ignite /property and if so, he doesn't know what the plan is for that property. He feels they are saying that the applicant's open space should be moved and noted that they should be careful not knowing what the other property will become. He commented that he thought the discussion was premature.

Todd Whipple, applicant representative, provided the following statements:

- He showed a copy of the current plan and commented that he agrees that the open space parcels can be moved.
- He explained the intent for the gate was for cars and the sidewalks with public use easements from Seltice to the open spaces would remain open.
- He provided a map showing the connectivity.
- He stated that the annexation agreement required them to do a PUD and subdivision.
- He addressed the view corridors and commented that the buildings were moved to make the access corridors and view corridors work.
- He said that they agree with all the findings in the staff report and for the most part the project meets all the findings.
- He commented that they are building to the R-12 zone and provided a map showing the configuration of the property.
- He stated that the buildings will be 45' tall which is allowed in the C-17 zone. He said that they tried to make sure to maintain the view corridors by moving the buildings apart.
- He added that they will maintain the 40' setback requirement that was discussed. The buildings will meet the 30' height of the buildings and will provide two 60' open space tracts that have to be a minimum of 600' apart.
- He said that he feels if any changes were to happen, it would have to be approved by the Fire Department.
- He said that they feel they have met all the criteria for the PUD and Subdivision.
- He said that Mr. Douglass covered all the things with the application and made sure to include all items listed in the previous annexation agreement, so they wouldn't have to come back asking for extra things.
- He explained that for traffic they will be generating 176 cars in the p.m., and 2,166 less than the 10,000 that was allowed. He added that the comment from the City Engineer in the staff report states the roads can handle the added traffic.

Mr. Whipple concluded his presentation:

Commission Comments:

Commissioner Fleming said that Mr. Douglass mentioned that he will not be constructing docks but that it will be up to future buyers. She noted in the staff report under condition number four it states, "If docks are to be constructed, the Fire Department will require access to the docks including a standpipe Sistine." She asked if the applicant would be handling that and will the HOA (Home owners Association) receive written notice that it is their responsibility to provide a standpipe.

Mr. Whipple explained that the intent will be to prepare the docks in case they will be built. They won't be getting the permits to build docks, but a standpipe will be there in case there is a fire.

Commissioner Fleming said that she feels the condition needs to be changed to state that for the provision of future dock construction they need to require that the standpipe is adequate and that the standpipes are positioned and located by the applicant.

Mr. Whipple said that he agrees with that wording.

Commissioner Luttrupp said that if that language is not provided, a dock couldn't be built because they wouldn't have fire protection.

Mr. Whipple explained that a future owner could come back and install a standpipe which will be on a private road and they would need to get permission from the HOA to dig up the road and put the standpipe in for a dock.

Commissioner Luttrupp asked if it up to the commission to determine where the trail will be located if it will be on the applicant's property or the city owner property.

Mr. Whipple said that he feels the decision to change the position of the trail is not up to the Planning Commission, who can make a recommendation where they would like the trail placed. He said that the Annexation Agreement wording says that, The applicant shall put a path on his property but can, through approval from someone else (private landowner/or city) locate it somewhere else.

Commissioner Luttrupp question whether, if the Planning Commission is silent on the placement of the trail, the trail would remain on the applicant's property.

Mr. Whipple explained that the Planning Commission can make a recommendation that it would be in the public's best interest to have the trail located in the city property and help with the approval process including a letter submitted from the City Parks Department wishing the trail be located on the city property.

Rodger Smith, representing the group, "We the People," said that this is a major decision for the City of Coeur d'Alene that could affect the city for many years and commented that it is a "once in a lifetime, once in forever" decision that will affect the citizens. He said that in 2015 the first River's Edge proposal was presented with 28 homes similar to what is being presented tonight, but it was rejected by staff for not being in compliance with the 2013 Annexation Agreement. He explained that since then the plan has "tweaked" the same 28 homes on the river.

Chairman Messina asked about the statement made that the Annexation Agreement in 2013 was not in compliance and inquired if Mr. Smith had any history why the request was denied.

Mr. Smith explained that there was a letter sent from the city to the applicant that cited the reasons why it was not in compliance with the Annexation Agreement. He added that he didn't have a copy of the letter but remembers why it was denied based on public access.

Mr. Smith continued his presentation and stated that in 2018 the applicant submitted an application for 680 apartments which was denied as an appeal, with a reconsideration hearing yet to be scheduled. He said that today the application is for 28 homes on the river, 250 apartments, storage units, and no trail along the river front. He commented that the Planning Commission should consider if the project complies with the Comprehensive Plan. He cited other things that are important such as the Shoreline Regulations, the 2013 Annexation Agreement, and the City Council resolution in 2014 that included protecting the riverfront.

Chairman Messina asked if approval of the application is based on the 2013 Annexation Agreement.

Ms. Anderson explained that staff made copies of the 2013 Annexation Agreement to review and that the applicant has made sure with the current application to consider those things stated in that agreement.

Commissioner Mandel said that they confirmed that this project meets the Shoreline Regulations.

Mr. Smith said that there are things that the project should address under the Comprehensive Plan, and that his group came up with a list of things that could be addressed such as public access to the river, open spaces, parks, public spaces, ped/bike access adjacent to the river, and open views. He added that the city council resolution approved in 2014 was drafted with the Mill property in mind and the goal was public acquisition and protection planning for the river front areas. He stated that they have suggested an alternate plan proposing retention of the trail along the river, public trail on the riverfront not 100 feet back behind the homes, and the retention of some riverfront views and amenities. He said that he feels that traffic is still a concern and any major development will have an impact. He added that the letter from the School District was misrepresented.

Chairman Messina questioned why the School District letter was misleading and commented that the letter in their packet stated that the school district did not have any objection to the proposal.

Mr. Smith explained that the original letter painted a very dim and dreary picture of the school capacity problem.

Chairman Messina inquired if Mr. Smith could reply to the current letter they had in their packet.

Commissioner Luttrupp asked if the Annexation Agreement requires a PUD and does the PUD include the entire property including standpipes and future docks.

Ms. Anderson stated that the PUD is for the entire property.

Commissioner Luttrupp said that in that event, they can make the decision to move the trail if they wanted.

Ms. Anderson answered that moving the trail could be a recommendation.

Terry Godbout said that he feels the most important thing is where the gates are located on the property will keep the city and public from accessing all of the city property. He said that he agrees that the gates should be moved to the entry into the developer's property. He further commented that he doesn't understand the C-17 and R-17 zoning and how the density of 17 units per acre works. He asked if the R-17 rules comply in the C-17 portion of the property and if all the property. He stated that doesn't make sense, because it seems like the applicant will be getting a bonus of 391 storage units.

Ms. Anderson explained that a mini-storage is a "use" so not considered residential units. She added that within a PUD it is allowed to move the density around if it is the same lot and they have done that in other projects.

Mr. Godbout thanked Mr. Douglass and said that he met with him and Mr. Smith for two hours and thinks he might understand their concerns. Mr. Godbout explained that he was going to address the letter from the School District and was not aware that there was a new letter submitted and wasn't able to obtain a copy in time for the hearing.

Elaine Price said that she is concerned about traffic and the impacts the project will have on the community.

Ken Windram, Administrator for the Hayden Area Regional Sewer Board (HARSB), said he wanted to acknowledge the City of Coeur d'Alene Wastewater Department and Planning Department who have been very conscientious in remembering that they have an "outfall" and that the developer is aware they have an outfall line that they need to have or the City of Hayden will be impacted. He stated that they would

encourage that the property along the Westside be kept open and suggested providing for a paved road for people to get their boats to the water.

Chet Gaede said that Mr. Douglass has made sure that the application follows the ordinances and codes and commented that the commission will have a hard time not approving the plan. He stated that the roads from Seltice to the right-of-way are private roads so the developer can put the gates anywhere he wants. He further commented that the Shoreline Ordinance was written to protect the shoreline using a PUD as a tool to use that benefits the applicant. He suggested that before the commission makes a decision, to please be careful. He said that he believes from looking at some of the documents that the applicant's intent is to knock down the bank where there is a cliff and in order to do anything, to prepare for docks, you will have to knock that bank down. He added that the Shoreline Ordinance says you can't do that. He suggested that the commission look at the conditions and be creative and put staff to work. He questioned the city process to enforce the Shoreline Ordinance.

Mr. Behary explained that during the PUD process, you are allowed to ask for modifications including the Shoreline Ordinance, but the applicant is not asking for any modifications.

Mr. Gaede said that in previous testimony Mr. Douglass said he was going to grade the bank and the Shoreline Ordinance says he can't.

Mr. Behary stated that is correct because there is a "no build" area in the first 40' of the shoreline.

Mr. Gaede further commented that it also says that you can't disturb the bank. He said that he doesn't want this project to be like Bellerive.

Ms. Anderson said that Bellerive has been enforced. They have a Tract A which is the sloped area with the rocks and a reduced setback, a plat meander line at 35' to measure their setbacks from less than 40', and is enforced at the time a building permit is issued. She feels that it would be a help for the applicant to speak about the process of how the shoreline will be graded.

Mike Pelissero said that they keep losing more access to the river and that he concurs with Commissioner Fleming to maybe move the public access lots to the end to provide more access to the river.

Gabriel Minor said that she recently took her kids for a bike ride along the water next to the property and the thought that it might be going away makes her sad, because they need to have the ability to enjoy the area.

Mr. Whipple provided the following statements

- He explained that the building lots will be graded to prepare for future docks.
- He stated that traffic is a big problem and that a traffic study was done that included the 870 units and, now, with this request, the numbers of units has been decreased which will reduce the traffic impacts.

Mr. Douglass said that he wanted to address the question asked regarding moving the gates and said that he would move the gates to the R-12 entrance that would allow the public to come in off of Seltice, down to the right of way and park to have access to the trail. He said that would work for him to move the gates to the R-12 property to allow public access.

Commissioner Ingalls said that it is not about moving the gate, but granting the city an easement to have access across the private parcel to get to the property.

Commissioner Fleming suggested that those "shot gun" lots are unbuildable and questioned if some of the dedicated 10% of greenspace could be that the city give that additional 16' back to the applicant to be used for his other lots and she asked Mr. Douglass if he would be able to give them some waterfront if the city would do that.

Mr. Douglass said that he would not be able to do that, but could leave the trail where it is on the city right-of-way portion.

Commissioner Fleming said that the city agreed to give Mr. Douglass land by moving the 16' into the right-of-way which would give him a bonus.

Mr. Douglass said that the 16' is a worthless piece of property and it would not make sense to give away a piece of valuable property.

Commissioner Luttrupp asked if the purpose of granting a PUD would be to benefit the property owner and the City.

Mr. Douglass said that they are not asking for any benefits with the PUD and added that the only reason they are doing a PUD is because it is a requirement in the Annexation Agreement.

Commissioner Ingalls said that in a previous discussion regarding moving the gates, it was suggested a condition to say that the City and the applicant are to explore a preferred open space plan that locates the open space parcels to the east and west ends of the R-12 properties. He said that he feels that if a condition was added saying something like that, they could approve the request as it stands. He asked if they take the easterly access point that was discussed earlier and move the gates to the north edge of the R-12, would that allow public access by a car.

Mr. Douglass said that it would allow public access to the City-owned railroad right-of-way, which is now gated off from vehicle access, because the gate is shown on the north side of the right-of-way.

Commissioner Ingalls asked if they would be open to it if the City decided to put parking along there.

Mr. Douglass said that the city owns the right-of-way property so they can put parking in there if they choose. He further commented that he thought Mr. Godbout wanted to move the gate to the south edge of the R-12 property, which would allow the City to have vehicular access along the road down to the railroad right-of-way to provide access to the right-of-way.

Commissioner Ingalls asked Mr. Douglass if he was going to be okay with the public driving through their parking lot to get to a potential city parking lot access point.

Mr. Douglass said that none of his apartments are gated, so if people go through them it happens all the time.

Ed Lawson, applicant representative, provided the following statements:

- He said that he represents the applicant as legal counsel for River's Edge Apartments.
- He said that he is an advocate for River's Edge in connection with the application and wanted to explain how it came to be. He explained that the applicant has submitted five different applications over several years, and has not had an approval from the city.
- The goal was to develop an application that met or exceeded all the applicable requirements, the Annexation Agreement, the city codes, and the subdivision/PUD provisions in the code, and they believe that they have accomplished that.
- River's Edge has submitted an application that complies with all the applicable restrictions requested from staff.
- He wanted to thank the public for their comments and noted that it is always better to have public participation to suggest some great ideas to improve the application.
- You also have to produce findings that relate to the standards of approval and expected to put aside any biases or prejudices that you have for/or against his client or this project.
- He added within this application for River's Edge look at the written standards of approval and the written requirements and looked at other projects within the shoreline district that were approved in the recent past, including Mill River and the Riverstone projects.

- He added that the only thing that is different from the other projects mentioned is that they have an Annexation Agreement that was approved in 2013 as a contract between River's Edge and the City of Coeur d'Alene.
- He said that he is confident that the application has met all the requirements and should be approved.

Mr. Lawson concluded his presentation.

Public testimony closed.

Discussion:

Commissioner Rumpler noted on a slide showing the property as vacant and agreed that it is not the best use of riverfront property. He commented that he is sympathetic to the applicant for having to come before the city six times. He added that he thinks the project looks similar to Mill River where he used to live, which includes townhomes, riverfront homes, cottage homes, storage units and apartments in the same area. He said that he is also touched that we are a community where we rule by law and by what Mr. Lawson said that the project has met all the requirements for approval.

He added that he is also sympathetic to some of the discussions but the public can't "claw back rights" that are owned by a private citizen. He commented that he understands that riverfront access and lakeshore access is important and that during discussion the City of Bend was mentioned where he previously lived. In Bend, the elected officials decided to prioritize greenspace and access to the riverfront by taking the taxes and buying the greenspace who control what will be on that property. He said that he would support the project for the PUD and Subdivision and any changes previously discussed.

Commissioner Ingalls said that he concurred with Commissioner Rumpler that a decision should be based on findings, and not emotions. He explained that the current application is less dense, less traffic, etc., but there are some quirks. He feels that if they can work on three conditions, which are the city and the applicant exploring the preferred open space plan of pushing the parcels to the outside, moving the gates with a preservation of a public access right-of-way on the public land, or the public land is land locked, and move the trail to the alternate location without a wall. He noted with those adjustments he could support the project.

Commissioner Mandel said that they do their job based on meeting the findings with no special requests or modifications and that she has only heard two of the six efforts and what was previously presented in December. There was a strong public sentiment about density concerns with the bulk of the building, height not being compatible with Coeur d'Alene and the core downtown, and concerns about the number of units. She feels that the applicant has addressed that and that the bulk and density has been addressed since they don't have a strong working definition of what access and view means. She said that she is reluctant to have conditions that they can't objectively meet. They don't specify vehicular access or handicap access and have it as public access and she thinks that to be flexible they need to maintain but not include it in any conditions since there is no way to measure it. She said that she agrees with changing the gate location, moving the open space lots, and is in support and it is reassuring to see the letter submitted from the school district that was in support of the project.

Commissioner Ward said that he supports the project and reminded everyone that the previous public hearing was denied and then appealed to the City Council, who also denied the request. He referenced the conversation between the applicant and the city regarding the land swap and explained if that project had been approved they would have had a higher density project but also direct access to the water along the corridor of land that the city owned in exchange for the right-of-way that they now own. He commented that, "We can't have our cake and eat it too" and that the previous project is behind them so tonight they are left with a viable solution that meets all the requirements stated.

Commissioner Luttrupp said that they come to the public meetings open minded. He stated that a definition of a PUD, if granted, should have benefits for the applicant and the City and that he has a concern about the wall. He explained that after reading the backup material for the project, that the applicant addressed the shoreline and talked about East Lake Shore Drive and how you could see through the fence. He commented that he lives in that area and got to thinking about West Lake Shore Drive which has views on both sides of the road. He explained that the road on East Lake Shore Drive, especially during the summer, is packed with people and cars who want to see the lake. He commented that the project is a PUD and one of the benefits the property owner has is private roads which offers some benefits. He added that if they didn't have private roads and if this was a public road what would it look like and would there be a road along the river similar to the Lakeshore Drive area. He said that they should try harder to have the trail close to the river and if he understands what a PUD is, which involves a mutual benefit for him, and believes the project if approved, will not be a benefit to the city.

Commissioner Fleming concurred that they should move the gates and the need for clarity between private and public with no crossover, or confusion, because when the public uses their trail, they want them to have very clear access to the river. She thinks that they have to have clarity that the developer will provide standpipes adequate to serve docks in the future and to keep in perpetuity the moved path that is now on city land an access to sewer lines to help maintain the parks. She stated that she would urge the applicant to look at the fencing at Mill River that has a combination of trees, block, wrought iron and not just a solid wall. She stated that the application is an improvement that compliments the surrounding property, fits well, and the storage units are a great buffer to the parking lot. They are identifying connectivity between what will become Atlas. She feels the developer has gone a long way to improve the property.

Chairman Messina said that he has seen it all and out of all the applications submitted by the applicant, this is the best one. He gave credit to the applicant to sticking in there and trying to make it work. He concurred with the statements from the other commissioners about the gates, trail and open space and said that he hopes the applicant can work with staff to come to an agreement that would benefit the city and applicant by providing the best access on the river. They are not getting a dedicated trail. They tried and it didn't work.

Commissioner Ward said they have to be careful and can't tie the hands of the City and if see that the alternate location of the trail is better on the City's property would be a recommendation.

Commissioner Mandel suggested modifying the condition to say the preferred location that optimizes public access and the condition is referring the city departments to decide where the best placement is of the private open space is and the trail and the gates so that public access is optimized.

Commissioner Ingalls said that they have to be acceptable to these "soft solutions" and is in favor of exploring moving the open space to the outsides, moving the gates, and exploring the trail, the preferred location being in the center with no wall. He asked if that doesn't work and the trail stays in its current location, could they suggest a different type of fencing.

Commissioner Rumpler inquired if the fencing provides security.

Commissioner Fleming said that the homeowners need their privacy and they could provide an ornamental fence. She added that by relocating the trail it will raise it about 10-15 feet, which will be a better location than beside a fence. She suggested that condition number four should be changed to say: "Developer to provide standpipes adequate to serve future dock construction with access for the Fire Department."

Chairman Messina inquired if staff could provide direction to the commission on how to add conditions that are not in the staff report.

Ms. Anderson explained that they need to come up with some language to provide some flexibility and she

is not sure if the applicant stated they were okay with a couple of the conditions mentioned, for example, the wall makes it more a fence with a view, and clarification on the wording to providing standpipes.

Chairman Messina reopened testimony with Mr. Douglass regarding the conditions.

Public testimony open:

Mr. Douglass provided the following statements

- He said they would put in standpipes.
- He said they would move the gate to the north side of the R-12 to allow public access to the right-of-way. He added that the trail is higher in the middle where the railroad right-of-way rises going north, so move the trail from the north edge of the R-12 of the property will elevate the trail and be higher than the fence.
- The fence needs to have some security on the site with it being either a block fence, or wrought iron for a portion or an artistic steel fence.

Commissioner Ingalls suggested that 50% should be transparent to allow a view.

Mr. Douglass said if they wanted to do a portion of the wall that was steel with trees laser cut into it or animals that would give it some interest. He added that they will be high-end houses that and it would accent the houses to make them nice.

Commissioner Ingalls asked if they wanted the alternate trail location would the wall stay where it is, and if they had some conditions that said the city and the applicant will explore a preferred open space plan that that locates the parcels to the east and west ends of the R-12 properties.

Mr. Douglass clarified that they would approve it with where it is now and he would prefer it to be on the ends. They need to talk to the Fire Department to see if that is acceptable and that part of the Planning Code is to provide a certain amount of spacing, which is up to the Community Planning Director to decide if that is ok.

Ms. Anderson said that the verbiage presented would work and clarified that they need to maintain the fire access.

Commissioner Ingalls inquired if staff was ok to move the gates to the north edge of the R-12 property, the applicant and city would explore an alternate location of the trail, and that the wall would be designed with 50% visibility.

Ms. Anderson said that is fine but commented that she likes the language in the Shoreline Ordinance that is for Sanders Beach related to a portion of the fence/wall being site obscuring. She added that if you had arborvitae that would completely obscure that open view so we need to figure out what that percentage is so the views are not obstructed.

Mr. Douglass said that the fence is offensive, but you can soften the fence with plants and when the plants grow they hide the fence which is what is needed but they don't want to have to come back and cut those plants down and start over. He would like to soften the fence up with plants.

Mr. Adams said that with respect to Sanders Beach, the fences are no more than 50% site obscuring.

Mr. Douglass asked if staff would be ok with "sheet fences" or varying the texture that is not block and doing woven steel that is textured. He said that the trail will be elevated in the right-of-way and the base of the trail could be taller the 6' fence.

Commissioner Ingalls suggested enhancing the edge of the water on those two parcels and maybe adding a beach.

Mr. Douglass said that the Department of Lands has jurisdiction at the summer pool level and the City doesn't. He suggested that whatever is done to stabilize that bank at that pool line has to be permitted through the Department of Lands. He added that part of the Shoreline Ordinance says there is a "no work" and can't grade and will not go down to the water line and pull all the dirt out. He stated that if the commission wants to grant him the ability to pull the bank back, they can do that but there needs to be some stabilization added.

Public testimony closed.

Motion by Ingalls, seconded by Fleming, to approve Item PUD-2-19. Motion approved.

ROLL CALL:

Commissioner Fleming	Voted	Aye
Commissioner Ingalls	Voted	Aye
Commissioner Mandel	Voted	Aye
Commissioner Luttrupp	Voted	No
Commissioner Rumpler	Votes	Aye
Commissioner Ward	Voted	Aye

Motion to approve carried by a 5 to 1 vote.

Motion by Ingalls, seconded by Mandel, to approve Item S-2-19. Motion approved.

Commissioner Fleming	Voted	Aye
Commissioner Ingalls	Voted	Aye
Commissioner Mandel	Voted	Aye
Commissioner Luttrupp	Voted	No
Commissioner Rumpler	Votes	Aye
Commissioner Ward	Voted	Aye

Motion to approve carried by a 5 to 1 vote.

ADJOURNMENT:

Motion by Fleming, seconded by Luttrupp to adjourn. Motion approved.

The meeting was adjourned at 9:01 p.m.

Prepared by Shana Stuhlmiller, Public Hearing Assistant