

January 12, 2010

Jack in the Box  
Chris Smith  
604 Oakesdale Avenue SW #103  
Renton, WA 98055

Re: **CUP09-00087 & CVA09-00044 / 1124 S. Vista Avenue**

Dear Mr. Smith:

This letter is to inform you of the action taken by the Boise City Planning and Zoning Commission on your request for a conditional use permit to construct a restaurant with a drive-thru window on  $\pm .31$  acres located at 1124 S. Vista Avenue in a C-2D (General Commercial with Design Review) zone. This application includes a request for a variance from the front setback requirement.

The Boise City Planning and Zoning Commission, at their hearing of January 11, 2010, **approved** your request, based on compliance with the attached Reasons for the Decision and Conditions of Approval. Findings may be reviewed at the PDS department. A regulatory takings analysis may be requested by the landowner.

May we also take this opportunity to inform you of the following:

1. This approval will not take effect until after the appeal period has lapsed.
2. The decision of the Boise City Planning and Zoning Commission may be appealed to the Boise City Council within ten (10) calendar days from the issuance of this decision. The Appeal must be written, accompanied by the appropriate fee, and submitted to the Boise City Planning and Development Services Department prior to the deadline set forth herein. Appeal application forms are available in the Planning Department or online under Applications at:  
**[www.cityofboise.org/pds/](http://www.cityofboise.org/pds/)**  
or **<http://www.cityofboise.org/pds/index.aspx?id=apps>**
3. All appeals of this permit must be filed by **5:00 P.M., on January 21, 2010.**
4. If this Conditional Use Permit is not acted upon within eighteen (18) months, it will become null and void without further notification from this Department.

This letter constitutes your Conditional Use Permit. If you have any questions, please contact this department at 384-3830.

Sincerely,

Susan Riggs  
Planning Analyst  
Boise City Planning and Development Services Department

SR/bjc

Attachment

cc: Stantec Architecture / 12034 134<sup>th</sup> Court NE #102 / Redmond, WA 98055  
DBNA / John Gannon / 1104 Johnson St. / Boise, ID 83705

## **Reasons for the Decision**

The drive-thru restaurant and variance is compatible with the neighborhood as the site is located within an existing shopping center, located on two arterial streets and at the edge of the residential neighborhood. Comments from ACHD indicate the surrounding traffic system has the capacity to support the additional trips generated from this development. Both Vista Avenue and Kootenai Street are operating at a Better than "C" level of service. With the exception of the variance for the building setback, the site is large enough to accommodate the requested use. The 20 foot wide landscape buffer and the requirements for the decibel level for the communication system will help assure the drive-thru will not adversely impact other properties of the vicinity. The proposed use is in compliance with and supports the goals and objectives of the *Comprehensive Plan*. *Policy 8.1.12.3* states that mixed residential and commercial uses and New Urbanism designs shall be promoted in the North Orchard commercial area and along Vista Boulevard and Overland Road. The applicant has placed the building and outdoor seating area at the front of the building with the parking located at the rear of the site, supporting this policy. The drive-thru will not cause an increase in commercial traffic in nearby residential neighborhoods. The driveway on Kootenai Street has a median which limits access to right-in, right-out only which prevents commercial traffic from traveling through the neighborhood. A textured crosswalk and signage will allow patrons to safely traverse the waiting line to enter the lobby. The waiting lane is located within the shopping center which provides sufficient stacking space for 7 vehicles and a 10 foot wide escape lane. This design is intended to reduce wait time and minimize air pollution. There is an exceptional circumstance associated with the intended use of the property. The Vista Shopping Center has several non-conforming setbacks, one of which is the required 20 foot gateway setback along Vista Avenue. Although the applicant's original design layout met the 20 foot setback, the design placed the drive-thru in front of the building and did not allow for a New Urbanism design as encouraged by the policies in the Comprehensive Plan for the Central Bench Planning Area. The variance will allow compliance with the Comprehensive Plan and is supported by the Depot Bench Neighborhood Association.

## **Conditions of Approval**

### **Site Specific**

1. Compliance with plans and specifications submitted to and on file in the Planning and Development Services Department dated received October 27, 2009 and site plan dated November 20, 2009, except as expressly modified by Design Review or by the following conditions:

### **Planning**

2. The applicant shall comply with all conditions outlined in DRH09-00294.
3. The applicant shall place a "yield to pedestrian" sign at the cross walk traversing the drive-thru lane.
4. The cross walk shall be textured and be reviewed by Design Review.

5. The building's lighting shall be downward facing and not exceed 2 footcandles as measured one foot above the ground at property lines shared with residentially zoned or used parcels.
6. All lights and other illuminated materials shall be designed to prevent glare from falling on adjoining properties.
7. Communication system shall not exceed 55 decibels at the property line of any residential use.
8. Landscaping shall screen drive-up windows from the public right-of-way and shall be used to minimize the visual impacts of vehicular lights, readerboard and directional signs.
9. Applicant shall coordinate with Public Works Solid Waste on a dumpster design that conforms to City standards.
10. Prior to the issuance of a building permit, the applicant shall enter into a non-build agreement with Vista Shopping Center to locate the door proposed on the north elevation 1'-4" from the property line.
11. Revised plans indicating compliance with the above conditions shall be submitted to Planning Staff for approval prior to application for any construction permits.
12. Provide a raised curb at the southeast entrance to the drive-thru lane in the area that is currently striped.
13. Provide a fence for visual screening between the Jack in the Box property and the office building to the east. The fence shall be designed in such a manner so as to prevent vehicles from crossing over the landscape strip located at the northwest corner of the office parcel. This fence requires design review approval.

#### **Standard Conditions of Approval**

14. The applicant shall comply with the requirements of the Boise City Public Works Department (BCPW) for drainage, sewers, Solid Waste/Ground Water Manager, and street lights per the memo dated **November 27, 2009**. Please contact BCPW at 384-3900. All items required by BCPW shall be included on the plans/specifications that are submitted for a Building Permit. Please note that any changes or modifications by the owner to the approved Storm Water Plan must be resubmitted to BCPW for approval.
15. Compliance with requirements as requested by the Ada County Highway District (ACHD) per the attached comments dated **December 9, 2009**.
16. The applicant shall comply with the standards and conditions of the City of Boise Solid Waste Commercial and Multi-Family Centralized Trash Requirements per attached email from Peter McCullough dated **November 25, 2009**.

17. The applicant shall comply with the Boise City Fire Department comments dated **December 4, 2009**. Contact Mark Senteno at (208) 570-6567 with any questions regarding fire requirements.
18. Comply with standards and conditions of Boise Project Board of Control per letter dated **December 2, 2009**.
19. All landscaping areas shall be provided with an underground irrigation system. Landscaping shall be maintained according to current accepted industry standards to promote good plant health, and any dead or diseased plants shall be replaced. All landscape areas with shrubs shall have an approved mulch such as bark or soil aid.
20. All landscape trees shall be pruned in accordance with the American National Standards Institute's Standard Practices for Tree Care Operations (ANSI A300 - latest edition). No trees on the site shall be topped, headed back, rounded over or otherwise disfigured. Contact Boise City Community Forestry at 384-4083 for information regarding tree care operations.
21. Swales/retention/detention areas shall not be located along the streets, unless it can be shown that landscaped berms/shrubs will screen the swales.
22. In compliance with Title 9, Chapter 16, Boise City Code, anyone planting, pruning, removing or trenching/excavating near any tree(s) on ACHD or State right-of-ways must obtain a permit from Boise City Community Forestry at least one (1) week in advance of such work by calling 384-4083. Species shall be selected from the Boise City Tree Selection Guide.
23. Deciduous trees shall be not less than 2" to 2 1/2" inch caliper size at the time of planting, evergreen trees 5' to 6' in height, and shrubs 1 to 5 gallons, as approved by staff.  
All plants are to conform to the American Association of Nurseryman Standards in terms of size and quality.
24. Vision Triangles as defined under Section 11-1-3 and Section 11-10-4.4G of the Boise City Code shall remain clear of sight obstructions.
25. All signs will require approval from the Planning and Development Services Department prior to installation.
26. Trash receptacles and on-grade and rooftop mechanical fixtures and equipment shall be concealed from public view by use of an approved sight-obscuring method. All screening materials shall be compatible with the building materials/design.
27. Utility services shall be installed underground.
28. Loading facilities shall be provided in conformance with Section 11-10-4.6B of the Boise City Code and located so as not to interfere with required parking or fire lanes. These areas shall provide adequate maneuvering area for trucks and be located to minimize the visibility of loading activities from public view.

29. An Occupancy Permit will not be issued by the Planning and Development Services Department until all of these conditions have been met. In the event a condition(s) cannot be met by the desired date of occupancy, the Planning Director will determine whether the condition(s) is bondable or should be completed, and if determined to be bondable, a bond or other surety acceptable to Boise City will be required in the amount of 110% of the value of the condition(s) that is incomplete.
30. No change in the terms and conditions of this approval shall be valid unless in writing and signed by the applicant or his authorized representative and an authorized representative of Boise City. The burden shall be upon the applicant to obtain the written confirmation of any change and not upon Boise City.
31. Any change by the applicant in the planned use of the property, which is the subject of this application, shall require the applicant to comply with all rules, regulations, ordinances, plans, or other regulatory and legal restrictions in force at the time the applicant, or successors of interest, advise Boise City of intent to change the planned use of the property described herein, unless a variance in said requirements or other legal relief is granted pursuant to the law in effect at the time the change in use is sought.
32. Failure to abide by any condition of this Conditional Use Permit and/or variance shall be grounds for revocation by the Boise City Planning and Zoning Commission.
33. This Conditional Use Permit and Variance shall be valid for a period not to exceed eighteen (18) months from the date of approval by the Planning and Zoning Commission. Within this period, the holder of the permit must:
  - a. Acquire construction permits and commence placement of permanent footings and structures on or in the ground. The definition of structures in this context shall include sewer lines, water lines, or building foundations; or
  - b. For projects that require platting, the plat must be recorded within this period. The Commission may also fix the time or period within which the permit shall be completed, perfected or bonded. If the conditions of approval shall not be completed or bonded within such period, said permit shall lapse.
34. Prior to the expiration of this conditional use and/or variance, the Commission may, upon written request by the holder, grant a one-year time extension. A maximum of three (3) extensions may be granted.
35. All development authorized by this Conditional Use and/or Variance approval must be completed within 5 years (60 months) from the date of the Commission's approval or the applicant will be required to submit a new conditional use and/or variance application.

**36. Construction Site Practices**

- a) Prior to the issuance of a building permit and prior to the commencement of any construction on-site, an Erosion and Sediment Control (ESC) permit must be obtained from the Planning and Development Services Department. No grading, demolition or earth disturbing activities may start until an approved ESC permit and the associated site work or grading permits have been issued.
  - b) A minimum height of six foot (6') rigid security fencing, either wood or metal, shall be installed around the construction site within 30 days of the date when the first city permit is issued on projects where construction activity shall exceed 90 days.
  - c) Exterior lighting and other illuminating equipment or materials shall be positioned, shielded, directed and located to not reflect or impact adjacent residential property and streets.
  - d) Applicant shall comply with Boise City Fire Department requirements for water, access, and/or other requirements as determined by the Fire Marshal.
37. Any conditions to be enforced during construction shall remain posted at each street abutting the construction site for the duration of the project. In addition to the posted conditions the permit holder shall also post an 11"x 17" laminated sign containing a project contact phone number, name of project contact and the Boise City contact number, 384-3845, to address issues as they arise.
- Failure to abide by any conditions set forth shall be grounds for revocation of Conditional Use Permit and/or Building Permits and may be subject the owner or owner's agents to fines and criminal citations.
38. Failure to abide by any condition of this approval may be grounds for revocation by the Boise City Planning and Zoning Commission.