

**CITY OF BOISE**  
PLANNING & ZONING COMMISSION MEETING

MINUTES • October 10, 2016

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City Hall – Council Chambers

6:00PM

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FINAL

**COMMISSION MEMBERS PRESENT**

- ☒ Rich Demarest, Chair
- ☒ Milt Gillespie, Vice-Chair
- ☒ Stephen Bradbury
- ☒ Douglas Gibson
- ☐ Jennifer Stevens
- ☒ Tamara Ansotegui
- ☒ Eileen Thornburgh
- ☒ Paul Faucher (Student Commissioner)

**PDS MEMBERS PRESENT**

Scott Spjute, Cody Riddle, Todd Tucker, David Moser, Susan Riggs, Brent Moore, Céline Acord, David Moser, Leon Letson, Whitney Montgomery, Teri Thompson and Andrea Carroll (Legal).

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**I. CONSENT AGENDA**

**SUB16-00054 / Dallas Harris Estates No. 17**

Location: [2560 S. Shady Lane](#)

Preliminary Plat for a residential subdivision comprised of 12 buildable and 1 common lot on 20.6 acres in an SP-01 (Harris Ranch Specific Plan) zone. [Todd Tucker](#)

*The applicant is present and in agreement with the terms and conditions of the project report. There is no opposition to this item.*

**SUB16-00053 / Riverwalk Condos #6**

Location: [3000 S. Bown Way](#)

Preliminary and final plat for a 10-unit condominium of a building on 0.45 acres in a C-1D (Neighborhood Commercial with Design Review) zone. [David Moser](#)

*The applicant is present and in agreement with the terms and conditions of the project report. There is no opposition to this item.*

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**CUP16-00066 / Growing Little Minds Preschool**

Location: [7751 W. Goddard Road](#)

Conditional use permit to operate a childcare facility for up to 20 children within an existing church building in an A-1 (Open Land) zone. [Celine Acord](#)

*The applicant is present and in agreement with the terms and conditions of the project report. There is no opposition to this item.*

**CUP16-00067 / Autosource of Boise, LLC**

Location: [1745 N. Five Mile Road](#)

Conditional use permit for an auto sales lot on a 1.95 acre parcel in an C-4D (Planned Commercial with Design Review) zone. [Celine Acord](#)

*The applicant is present and in agreement with the terms and conditions of the project report. There is no opposition to this item.*

**CVA16-00056 / Lori Ruman**

Location: [1619 N 18th Street](#)

Variance to reduce the street-side setback to approximately 8 feet for an addition to a single family home in an R-1CH (Single Family Residential with Historic Overlay) zone. [Leon Letson](#)

*The applicant is present and in agreement with the terms and conditions of the project report. There is no opposition to this item.*

**SEPTEMBER 12, 2016 MEETING MINUTES**

**SEPTEMBER 19, 2016 MEETING MINUTES**

**COMMISSIONER BRADBURY RECUSED HIMSELF FROM VOTING ON ITEM O ON THE CONSENT AGENDA.**

**MOTION: COMMISSIONER GILLESPIE MOVED TO APPROVE THE CONSENT AGENDA WITH THE FOLLOWING ITEMS: XXXXX AND MEETING MINUTES FROM SEPTEMBER 12, 2016 & SEPTEMBER 19, 2016.**

**SECONDER: COMMISSIONER GIBSON**

**ALL IN FAVOR, NONE OPPOSED, MOTION CARRIES.**

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**I. DEFERRAL & RECONSIDERATION AGENDA**

**PUD16-00024 / Warm Springs Enterprises, LLC**

Location: [2570 E. Warm Springs Avenue](#)

Conditional use permit for a planned residential development comprised of 57 detached single family homes on 14.45 acres in an R-1C (Single Family Residential) zone. [Cody Riddle](#)

**SUB16-00052 / Warm Springs Village**

Location: [2570 E. Warm Springs Avenue](#)

Preliminary plat for a residential subdivision comprised of 57 buildable and 7 common lots on 14.45 acres in an R-1C (Single Family Residential) zone. [Cody Riddle](#)

**MOTION: COMMISSIONER BRADBURY MOVED TO DEFER PUD16-00024 & SUB16-00052 TO A DATE CERTAIN OF NOVEMBER 7, 2016.**

**SECONDER: COMMISSIONER GILLESPIE**

**ALL IN FAVOR, NONE OPPOSED, MOTION CARRIES.**

**CVA16-00043 / Dan Cobb**

Location: [245 S. Capitol Boulevard](#)

Sign variance to exceed the size and number of signs allowed through the Capitol Boulevard Sign Ordinance for The Grove Hotel and Century Link Arena in a C-5DDC (Central Business District with Downtown Design Review and Capitol Boulevard overlay) zone. [Sarah Schafer](#)

**MOTION: COMMISSIONER GILLESPIE MOVED TO recommend RECONSIDERATION OF: CVA16-00043 TO THE NOVEMBER 7, 2016 HEARING.**

**SECONDER: COMMISSIONER GIBSON**

**ALL IN FAVOR, NONE OPPOSED, MOTION CARRIES.**

**NONE IN FAVOR, ALL OPPOSED, MOTION DOES NOT CARRY.**

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### III. ADOPTION OF FINDINGS

[CAR15-00029](#), [CPA15-00008](#) & [SUB15-00055](#) / **Corey Barton Homes Inc.**

Location: [6298 S. Cole Road](#)

Revised recommended conditions of approval for the Planning and Zoning Commission's recommendation of approval to the City Council for a preliminary plat. [Todd Tucker](#)

**MOTION:** CHOOSE COMMISSIONER MOVED TO APPROVE THE REVISED FINDINGS FOR ITEMS: CAR15-00029; CPA16-00008 & SUB15-00055.

**SECONDER:** CHOOSE COMMISSIONER

### IV. REGULAR AGENDA

[CAR16-00025](#) / **Phoenix Commercial Construction**

Location: [2370 S. Maple Grove Road](#)

Rezone of 5 acres from R-1A (Single Family Residential) to M-1D (Light Industrial with Design Review). [Susan Riggs](#)

**Susan Riggs (City of Boise):** Good evening Commissioners. The project before tonight is a request for a rezone of five acres located at 2370 S. Maple Grove Road, from R-1A to M-1D. The site's located on the east side of Maple Grove Road between Targee Street and Victory Road. This property is developed with one home and the remainder is in pasture. The parcel is surrounded by primarily rural residential uses with R-1C and R-1A zoning on the west side of Maple Grove, and R-1A north, south and east of the parcel. There is M-1D zoning approximately 490 feet southwest of the site. Although the land use map and Blueprint Boise identifies this site as industrial, due to the predominance of single-family homes in the vicinity, the Planning Team is recommending the rezone be accompanied by a development agreement. The applicant indicated that a storage facility might be a possibility and that was discussed in a pre-application meeting; however, the applicant is not willing to commit to that use at this time. They'd like to have a little bit of flexibility. Planning understands that residential development may not be appropriate on the property, as it's in the airport influenced area zoned B-1 which limits the density to three dwelling units per acre. Staff recognizes that a storage facility could be an appropriate use, however, without a development agreement, the Planning Team cannot recommend approval of the proposed rezone. Here's a picture of the site. And then again, another one. So, a quick review of some of the M-1D uses that could be appropriate are as follows. A trade-school, vocational school, office, medical, professional, animal hospital,

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printing and publishing and self-storage. These are just some of the uses that came to mind as I read through the allowed and conditionally allowed uses in the M-1D zone. I felt perhaps with a development agreement and design review, these uses may be appropriate. Additionally, some of the uses would require a conditional use permit. The uses listed on the overhead in front of your I felt could be questionable. Based on this, Planning recommends the applicant either return to the P&Z which would have to be another noticed hearing with a development agreement, with a recommendation from P&Z onto the Council, or a recommendation of denial to the City Council. Thank you.

**Chairman Demarest:** Thank you Ms. Riggs. Okay, is the applicant here? Come on up. So, for everybody who does come up to testify publicly, what we need from you is your name and address clearly stated in the microphone for the record. Alright? So, sir if you would do that for us and then we'll talk right after about timing.

**APPLICANT TESTIMONY**

**Devon Robnett (3818 Newby Street #101 Nampa ID 83687):** My name is Devon Robnett and my address is 3818 East Newby Street #101, Nampa 83687.

**Chairman Demarest:** Mr. Robnett, so you're entitled as the applicant for up to 30 minutes. However, you know, I'm thinking that we probably don't want to start with thirty. We want to come in lower. If need be, we can go higher. So, can we start with 10 minutes? Try to keep it to that if we can?

**Devon Robnett (3818 Newby Street #101 Nampa ID 83687):** Hopefully I can do that. Would I actually be able to log in? I've got pictures here, but I printed them all out because when I went to Nampa, they didn't have a plug in for my computer. They only had an overhead projector.

**Chairman Demarest:** So you'd like to be able to show?

**Devon Robnett (3818 Newby Street #101 Nampa ID 83687):** I would like to be able to show my images, yes.

**Chairman Demarest:** Can we get somebody to help him? Go ahead. We're not going to time you for that. That's alright. Okay sir. Now we're going to start timing.

**Devon Robnett (3818 Newby Street #101 Nampa ID 83687):** Awesome. A few of my pictures are out of order. Good evening Chairman and Commissioners. I'm here to discuss the proposed rezone of parcel number S1124325570, located at 2370 S. Maple Grove.

I've lived in Boise for all my twenty years. My family has been involved in real estate and development for a better part of 35 years now. My goal is to make sure this future project is a win/win for everyone. We see this as an opportunity to bring a productive use to the area instead of having it continue in its current state.

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The reason we are here to discuss the rezone of the current use of the land because it does not coincide with the surrounding area, the City Comprehensive Plan, or the Airport Overlay zone. On July 12<sup>th</sup>, we met with Bruce Eggleston to have our pre-application meeting. He stated Staff would not support development of residential units based on the Comprehensive Plan and the Airport Overlay.

The parcel is currently zoned an R-1A. Because the parcel sits in a B-1 Airport zone, as you can see here, you can see that it is directly over our project. Over 120 commercial flights a day take off and land at the Boise Airport between the hours of 4AM and 2AM. It has become a point of great strife for the existing residents who then complain to the City even though the airport has been there since 1936. So, I think we understand what Bruce and Staff and the Comprehensive Plan are trying to eliminate, more complaints.

With the proposed rezone to the M-1D zoning, it transforms the parcel into a more conducive use. The current zoning is R-1A which allows for accessory structures, single-family dwellings, one single dwelling per lot or 2.1 lots per acre. Professional offices on a lot bordering a commercial or industrial zone, in-home child care facility up to five children and enhanced manufactured homes. The Comprehensive Plan shows the area is planned to be industrial, and every business located to the east is using the industrial zonings to its full extent.

We have completed all the steps that are required to be considered for a rezone. We have had a pre-application meeting with Staff, a neighborhood meeting with the surrounding land owners, and are in complete agreement with the Staff and the Comprehensive Plan. These three reasons further reiterate the underlying plan for the area. Number one, the Comprehensive Plan shows an industrial overlay in this area because of the lack of density and the access to major transportation like the freeway and the airport. Two, it is already at work in the neighborhood and all of these current uses within as little as 100 feet of existing residential and the lack of planning for any more residential in the area, according to the Comprehensive Plan. These current businesses are causing little or no disturbance to the surrounding residents due to their hours of operation. I think we can all agree that the current uses listed don't compare to the inconvenience of a regional jetliner landing at 11:45 on a Monday night.

The current allowed uses of an M-1 zoning are typically only to service, only in service during normal business hours, 7 AM to 7PM, meaning that most of the businesses do not provide services later than 9 PM. The rezone we are proposing is an opportunity to move more businesses into the area as well as the opportunity for others already here to grow. They are not in a high density residential area, and even with these current uses, they offer little or no disturbance to the surrounding population by comparison.

Our future project at this location would adhere to the same rules and regulations as all other businesses that are located in the M-1D overlay. We plan to keep the public's best interest in mind when looking for businesses to fit the location and the neighborhood. We have met all the requirements for approval and have done so in a timely manner.

I would like to take a moment to point out the surrounding businesses as they relate to the M-1 zone. These businesses are all within two miles of the parcel and as you will see, almost all of the uses stated in the zoning code are currently in use. I apologize my photos will be out of order, but there are three animal

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facilities. There is Simply Cats which is strictly cat shelter. There's Ada Animal Hospital and **unknown word**, which is an indoor and outdoor dog daycare center. We have Eldon's auto repair which specializes in auto servicing and is located on Cole Road. Irish Auto Repair is within the two miles as well as DG Auto Body. Bill's Bike Works has frontage on Cole Road. R&S Supply Company sells roofing materials as well as has a large contractors yard where they can keep all their roofing supplies behind a screen fence. And Bolen's Control House, who warehouses and sells electrical supplies. There is a wholesale and retail business in Lumber Liquidators, that sells flooring. Frito Lay has a food processing center that is connected to a trucking terminal as well as Peninsula Truck Lines and UPS. They both have a trucking terminal within a mile of the parcel. Boise Print has frontage on Cole Road and there is also Quality Doors and Millwork, a manufacturer of doors and wood products and the same goes for Western Idaho Cabinets.

So, the thing that I would like to address is the decision to not support the application. I have an email from Susan Riggs stating that she was unable to recommend our proposed rezone based on the fact that we did not submit a development agreement. She stated that the point of the development agreement is to keep the public's best interest in mind and keep high impact business from moving into the area. But, according to the application process, we are not required to submit a development agreement. And since the Comprehensive Plan states that it is in an industrial zone, I'm a little confused at why were recommended for denial. As you can see, we had preliminary support from Staff, but when we are not willing to sign a development agreement, we were notified by Susan that she would not support this rezone.

The trouble I am having with the development agreement is that it's is not required. I believe we have demonstrated that in this particular zone, at this particular location, it's not really necessary. We could put in there that we would not construct a radio or TV tower, but I think the FAA would already tell us that we can't do that being in the B-1 Airport zone. Or we could limit a Blacksmith from coming in, but does Boise even have a Blacksmith around anymore? As you can see, every other use is fairly compatible with the surrounding area and is already in use. We would understand if you had asked us for a development agreement for a C-3 zoning based on the fact that there are over 30 allowed uses in a C-3 zone without a conditional use permit. In an M-1 zone, there is 19 uses without a conditional use permit.

We have come without a development agreement today because it is not required and as a developer, we would like to ensure that we can be as accommodating as possible to the purchasing public and our neighbors. But the fact of the matter is, if it isn't currently causing a problem, most likely a problem will not arise if the allowed uses are extended less than mile away. Thank you for your time and I will stand for questions.

**Chairman Demarest:** Thank you Mr. Robnett. Why don't you stay right there? We'll get Susan up here. Let's see if we have any questions from the Commissioners. I've got one. Susan would you just clarify the applicant's comment. I read in the Staff report, you know it says a development agreement may be necessary from your report, will help assure other **unknown word**. But clarify that versus what we've heard from the applicant that it's not required.

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**Susan Riggs (City of Boise):** Mr. Chair, members of the Commission, he is correct, a development agreement is not required. However, it's desirable. We often see these projects getting to the City Council where they really do want to see a development agreement. I do believe there are uses that if well designed could be appropriate through a development agreement; however, I think that when you have a five-acre parcel, you want some assurance of what might be developed.

**Chairman Demarest:** So, I think what you're saying is as a way of protecting surrounding neighbors, ensuring that nothing that wasn't on that big list, you showed, happens. Right? That's the assurance of that. Thank you. Any other questions from the Commissioners?

**Commissioner Ansotegui:** Mr. Chairman.

**Chairman Demarest:** Commissioner Ansotegui.

**Commissioner Ansotegui:** I have a question for Susan. Susan, in this zone, in the Airport Overlay piece of this, do you know are there industrial uses that are not acceptable in the 65 to 70 DNL contour?

**Susan Riggs (City of Boise):** Mr. Chair, Commissioner Ansotegui, I do not believe there are.

**Commissioner Ansotegui:** You don't believe, all industrial is acceptable there?

**Susan Riggs (City of Boise):** I think all industrial uses are probably acceptable in the B-1 zone.

**Commissioner Ansotegui:** I have another question. Mr. Chairman. In the development agreement, is it possible to have a call-out appropriate uses in that area, or you would like to see one or two uses, or limit uses to these particular uses and not others?

**Susan Riggs (City of Boise):** Mr. Chair and Commissioner Ansotegui, I think that the development agreement can be as open as he wants, we would just like to have the uses defined whether it's one use or five.

**Chairman Demarest:** Commissioner Gillespie.

**Commissioner Gillespie:** A quick question for the applicant and Staff. Do you have a close up photo of the parcel and what's around it? So, when I look at the ground right, you know we're saying well there's uses within 500 feet or a mile, but as we all know, the impact is really for the people who are really close like the surrounding neighbors and uses. And I'm looking at this parcel and right across on Maple Grove, it looks to me like there's two or three houses. I can't tell what's to the south. It doesn't look residential. It doesn't look residential to the east. The other side of Targee, there looks like there's a house. So, there's some residential uses pretty close and with respect to those residents, I don't see anything really industrial really close at all. Am I reading that correctly? Can we get a little more granular on what is right around this property?



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**Susan Riggs (City of Boise):** Certainly. Mr. Chair, Commissioner Gillespie. On the west side of Maple Grove Road, there are a contiguous row of single-family homes. The parcel that you see to the south is a single family home with a lot of outdoor storage. There is residential up and down Maple Grove. This is a flag lot that goes back to looks like an industrial area over here. This is a single-family home with quite a bit of outdoor storage in back of the home. A single-family home here and then single-family to the east. This parcel (east) is also owned by the applicant, however, it's suburban on the land use map so it doesn't qualify for the rezone. There is residential to the east as well and further east is the Airport.

**Chairman Demarest:** Any other questions for either the applicant, Mr. Robnett, or Ms. Riggs from the Commissioners? Okay, thank you both. So, I believe that this is the Southwest Ada County Alliance. Is there anybody here from the Southwest Ada County Alliance this evening? Okay, hearing none, we don't have anybody signed up. We have Mr. Robnett, but he's already had his time. Is there anybody that wanted to speak or address item number 2 CAR16-25 this evening? Come on up. So, since we don't have you on the sign-up sheet, please fill out the sheet of paper before you leave the hearing this evening and bring it to somebody up front here. Okay? Don't worry about doing it right now. And then remember, you're entitled to up to three minutes. That's going to be flashed right here.

**Shannon Robnett (5103 Zamora Meridian):** My name is Shannon Robnett. I am the father of that fine young man. My address is 5103 Zamora in Meridian. One of the things that I wanted to point out was that we did have a neighborhood meeting and nobody showed up. We had another one. They didn't show up either. So, there are approximately seven residences that either are across the road on Maple Grove or across the road on Targee. The big white parcel that's down the flag lot is a power station. So, it's Idaho Power with a huge power station. What they're not showing is that everything below the red arrow is already developed. It's already developed as industrial. So, I guess what I'm asking, what we're trying to scratch our heads and figure out is, is there some hours you want to limit? Do you want it to be from six in the morning until nine at night? This is where we kind of ran into a problem because we're not opposed to doing the good neighbor thing, you know. We're just not aware of what that should be. So when we asked Staff, they said well, what would you want to do. Well, I don't want to necessarily limit my options, but I want to be a good neighbor. Now if I look at the M-3 zone, I could put an asphalt plant in. Well, obviously that's not going to fit with the neighborhood. But would mini-storage fit? Would professional office fit? Maybe some warehouse? Those would all do well there. But, it's not particularly called out. So, as we both know, you guys are the recommending board for City Council. And, I don't want to take this that we're flying in the face of Staff and saying we're not going to do a development agreement. We just want to know what would that look like. What would you say would help us to be the best neighbor we could be to do the project? So that when City Council looks at it, they can say hey, you did your job. Thank you Susan for doing your job. And you guys did your job and we approve this project. We like this project because we worked together. That's really kind of what we're asking. And I appreciate Susan for not telling us what we have to do. But we're kind of stuck in the middle where we don't know what we should do because we don't see how the uses around us are any different than the uses that we may want to do. And I'm sorry that that map doesn't show all the infill development. I probably built 12 buildings within a mile of there. We just, we would like some help and we want to participate in this community. We've been doing it for a long time and we want to continue to do that.

**Teri Thompson (City of Boise):** Time.

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**Shannon Robnett (5103 Zamora Meridian):** So I'll stand for questions.

**Chairman Demarest:** Well actually no, no you won't actually. I don't think there are any. So you're three minutes are up. Thank you sir. Anybody else that wanted to speak out on this item? Okay, so actually the applicant is entitled to a period of rebuttal. Not a whole lot to rebut, but it's still your five minutes if you want it. You can say no. Okay? Alright, thanks. Okay, so we're going now to turn it over to the Commissioners to render a decision on this one, item number 2, CAR16-25. So a recommendation to City Council for a rezone. The City recommends denial.

**Commissioner Bradbury:** Mr. Chairman.

**Chairman Demarest:** Commissioner Bradbury.

**Commissioner Bradbury:** In order to get a conversation started, I'm going to make a motion that we defer action this item until our second meeting in November which is the 14<sup>th</sup> in order to permit the applicant to consider proposing a development agreement along the lines of suggested by Staff prior to this body making a recommendation to the City Council.

**MOTION: COMMISSIONER BRADBURY MOVED TO DEFER CAR16-00025 IN ACCORDANCE WITH THE PROJECT REPORT AND CONDITIONS OF APPROVAL THEREIN to November 14, 2016.**

**Chairman Demarest:** Let's see if we've got a second for the motion to defer.

**Commissioner Gillespie:** Second for discussion purposes.

**SECONDER: COMMISSIONER GILLESPIE**

**Chairman Demarest:** Of course. That's what a second does. Alright. So we're got a motion to defer to November 14<sup>th</sup> that's been seconded. Discussion?

**Scott Spjute (City of Boise):** Mr. Chairman. Pardon me for interrupting. Just a procedural thing if I could before you get further along. The code says that if the Commission wants a development agreement, it should do as you've suggested and defer it so we can re-advertise and have another hearing. But if the applicant chooses to go forward to City Council without a development agreement, then you send it on to City Council with a recommendation for denial. So, before a decision is made to defer, you should check with the applicant and see if he'd rather go to City Council with that recommendation.

**Chairman Demarest:** So, we can do that. Want to come back up Mr. Robnett? You've got an option and we'd like to hear from you on that one. What would you prefer?

**Devon Robnett (3818 Newby Street #101 Nampa ID 83687):** I would prefer not to be recommended for denial. With the development agreement, we would consider removing a few of the higher impact uses. Trucking terminal is one of the things that may not be the best possible option for that five-acre parcel.

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But what we didn't want to do is, we didn't want to disqualify ourselves. So, we have no future plans for that parcel, but we would greatly appreciate some insight on what you would like to see taken off and not allowed for that parcel.

**Chairman Demarest:** The first thing I heard you say was you would prefer not to be recommended for denial.

**Devon Robnett (3818 Newby Street #101 Nampa ID 83687):** I would prefer not to be recommended for denial, yes.

**Chairman Demarest:** Okay. We have a motion to defer which is actually not recommending denial. So, it sounds like what we've got going on here is what you'd like. Well, not what you'd like.

**Devon Robnett (3818 Newby Street #101 Nampa ID 83687):** I would not like to be bumped to November 14<sup>th</sup> because I could probably type you out a development agreement before all of this is over. Because of the fact that there are only 19 uses without a conditional use permit, I think we could probably eliminate four or five of them and it would probably look pretty good for everyone. So, we would like to hear what uses are not preferable for that area because that was one of the problems we were having. We have no idea what anybody wants over there. We didn't have anyone show up to our neighborhood meeting. No one came to speak out against us here. So, we still don't know what is not wanted on that parcel. We need a little bit of insight. But, I could get you a development agreement by the end of this meeting if I had the opportunity.

**Chairman Demarest:** I think that if we defer it, then you're going to get that additional time. But as Mr. Spjute said, the other option for you is, all we're doing is making a recommendation or not to the City Council. The other option for you would be, then you go to the City Council meeting with the development agreement. So that's another possibility.

**Devon Robnett (3818 Newby Street #101 Nampa ID 83687):** I'd prefer not to be recommended for denial, but I would not like to be put on the November 14<sup>th</sup>, so I will take that recommendation for denial and I will show up with a development agreement when it's time to meet with the City Council.

**Chairman Demarest:** Okay. I think we've heard what the applicant wants.

**Scott Spjute (City of Boise):** Sorry to keep popping up, Mr. Chairman. If you recommend denial to the City Council, it'll go there for a hearing. Should the City Council want that development agreement, then they've got to send it back to you to re-advertise for a development to start all over again. So, there's that risk.

**Chairman Demarest: Okay.** So, did you hear what he said? There's a risk there. Alright. So the question is what's the, well I think you've told us as much as you probably can. Right? So thank you.

**Commissioner Gillespie:** Mr. Chairman.

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**Chairman Demarest:** Commissioner Gillespie.

**Commissioner Gillespie:** I feel like voting against the deferral and also denying the rezone. I think Staff fairly eloquently stated that the City has broad discretion on rezones to act in what it feels is the public interest. They're not automatic as say a subdivision in an R-1B would be. I think the City has substantive reason for concern with respect to the allowed uses in an M-1 parcel. Particularly because there are seven or eight residences that appear to be located right next to this parcel. It's clear that those residences bought their homes when this was zoned R-1 so the change from a low density residential zone to an industrial zone is a significant zoning change. I think the City has every right to expect a development agreement and frankly it's not the obligation of this board or the City to draft that real time in a hearing. So, I'm fairly clearly on no, you can't have a rezone without a development agreement. Go forth and do one with the City. The Staff is extremely good at that. I, as a commissioner, am not prepared to go through the use regulation table one by one which is an exceedingly difficult exercise and is not really appropriate in this hearing. That's where I'm at. I will be voting against the motion to defer, and if successful, would propose a denial.

**Chairman Demarest:** Okay. Further discussion. Remember, we do have a motion seconded for deferral.

**Commissioner Bradbury:** Mr. Chairman.

**Chairman Demarest:** Commissioner Bradbury.

**Commissioner Bradbury:** So, I agree to a great degree with Commissioner Gillespie and perhaps the applicant didn't fully appreciate my attempt to help them out here. Perhaps the applicant would have taken a slightly different approach had they understood that what I was attempting to do was to give them an opportunity to perhaps get their rezone accomplished, but limit the uses that might be permitted under that zone. I still think that perhaps we should give the applicant the opportunity to do that. I agree with Commissioner Gillespie, I don't think we should go through the process of saying you can have this use and not that use. But, I think we should give the applicant, now that the signal has been sent, the opportunity to bring to Staff, a proposal. You see, and I'm talking a little bit to the applicant more than the Commission at this point, what we typically see is a development, a specific development proposal coupled with a rezone request. Or, sometimes we see a rezone request that doesn't have a specific development proposal coupled with it. And in that case, almost universally this Commission will require a development agreement. And I think that's what you guys are facing tonight. So, it's going to be one or the other. I think that if you want to take a swing at a development agreement, you should, I would still support the opportunity to do that, but I don't think you're going to get it done tonight. Certainly not going to get it done tonight and to make sure it's don't correctly, I think it's probably going to take until the meeting of November 14<sup>th</sup> to get it in front of us. And Mr. Spjute is leaning forward again and might be correcting me procedurally on something. I'm not sure.

**Chairman Demarest:** So we couldn't do it tonight. Period. Commissioner Gillespie.

**Commissioner Gillespie:** With respect to the applicant's request for guidance, there's a slide right there. So, it says right there. So, I think the City has a fairly clear idea how to do this so I don't see really any

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procedural problems moving forward. I can stipulate in the record that the denial, I've said its because there's no development agreement and if they can go to Council and say we respectfully request, we've solved the problem that resulted in the Commission's recommendation. That's certainly a good way to handle it in my opinion.

**Chairman Demarest:** Any further discussion? I've got a question for Staff actually. Can you give me some sense of, for this applicant, to help him? So, if it did go to Council, if we denied it and went to Council, how long would that take typically. I know that's probably a long shot for you. A month? Two months?

**Susan Riggs (City of Boise):** Mr. Chair, Commissioners, it would probably be at least six weeks before it gets on the Council agenda. Four to six weeks. Somewhere in there.

**Chairman Demarest:** It is going to go to Council, but it would be six weeks before the Council would take it up versus the one month that we're talking about roughly. Commissioner Gillespie.

**Commissioner Gillespie:** Their fastest route is to go to Council as quickly as possible with a recommendation, whatever we decide. If we defer, it slows them down. Period. Because once we then hear it, then it has to still go to Council. It goes to Council no matter what. So, the fastest way to get this done is for us to make a decision tonight one way or the other. It's just a recommendation and then it goes to Council in six weeks and they bring whatever they want to Council to respond to what we do tonight.

**Chairman Demarest:** Is there further discussion? We have a motion seconded. Commissioner Faucher.

**Commissioner Faucher:** Should we make it clear and put it on the record that our only problem with the application is that they do not have a development agreement such that when they go to Council, Council when they have a development, Council will be more likely to approve it?

**Chairman Demarest:** I think that's in the Staff report already. Pretty well underlined in there.

**Susan Riggs (City of Boise):** Mr. Chair, if I may? Going to Council with a recommendation for denial I don't think would be necessarily the fastest track for this applicant. I would imagine, based on my experience, there's a good chance that the Council will remand it back to the Commission for a development agreement and so, that is not the fastest track for this applicant.

**Chairman Demarest:** Thank you. Further discussion from the Commissioners? Before we vote. We've got a motion to defer until the 14<sup>th</sup> of November. Last call for discussion. All those in favor of the motion to defer, please signify by saying aye. Any opposed? It appears to me that the aye's have it on this one. Looks to me like it's one no. So, it is deferred until the 14<sup>th</sup> of November.

**FIVE IN FAVOR, ONE OPPOSED, MOTION CARRIES.**

**Scott Spjute (City of Boise):** Mr. Chairman, I'm sorry. Perhaps I wasn't clear before. You can't defer it for a development agreement without the applicant's consent. You can send it on to Council with a

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recommendation for denial without the applicant's consent. In fact, that's all you can do without the applicant's consent.

**Chairman Demarest:** Okay. Come on back. We need to hear right from you. We can't do what we just did without you being okay with it. I appreciate the clarification, by the way.

**Devon Robnett (3818 Newby Street #101 Nampa ID 83687):** Well, what it sounds like is a development agreement will clearly help this project. So, if I come back with a development agreement on the 14<sup>th</sup>, it sounds like I'll have better luck with this. So, I will defer until the 14<sup>th</sup> and I will bring back a development agreement.

**Chairman Demarest:** We are good to go I think. Alright, thank you. Thanks so much for your time.

**FIVE IN FAVOR, ONE OPPOSED, MOTION CARRIES.**

**CUP16-00065 / Kaiser Company, LLC**

Location: 1415 W. Franklin Street

Conditional use permit to convert an existing building into a mixed use project comprised of approximately 1,600 square feet of office space and 3 residential units. The 0.14-acre site is in an R-3HD (Residential Multiple-Family with Historic Design Review) zone. A parking reduction is included in the request. Brent Moore

**APPLICANT TESTIMONY**

**Kimberly Kaiser (2604 Polk Street Caldwell ID 83605)**

**NO NEIGHBORHOOD ASSOCIATION TESTIMONY**

**PUBLIC TESTIMONY**

**Bob Maynard (2036 Ridgecrest Drive Boise | Fireweed Investments, LLC 1403 W Franklin Street)**

**George McLean (1424 W Franklin)**

**Abigail McLean (1424 W Franklin Street)**

**Jack Challenger (2596 S Monto Vista Avenue Boise)**

**PUBLIC TESTIMONY CLOSED**

**NO APPLICANT REBUTTAL**

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**MOTION: COMMISSIONER BRADBURY MOVED TO APPROVE CUP16-00065 IN ACCORDANCE WITH THE PROJECT REPORT AND CONDITIONS OF APPROVAL THEREIN**

**SECONDER: COMMISSIONER ANSOTEGUI**

**ALL IN FAVOR, NONE OPPOSED, MOTION CARRIES.**

**CUP16-00068 / BRS Architects**

Location: [4708 W. Greenbrier Drive](#)

Conditional use permit for an expansion to an off-site accessory parking lot on a 0.34-acre parcel in an R-1B (Single Family Residential) zone. A variance from the front, street side and side yard setbacks for parking is requested with this application. [David Moser](#)

**COMMISSIONER GILLESPIE RECUSED HIMSELF BECAUSE HE IS A MEMBER OF HILLCREST COUNTRY CLUB WHICH IS THE APPLICANT.**

**APPLICANT TESTIMONY**

**Andrew Davis (BRS Architects 1010 S. Allante Place Boise)**

**NO NEIGHBORHOOD ASSOCIATION TESTIMONY**

**PUBLIC TESTIMONY**

**Robert Konkol (4716 Greenbrier Drive)**

**Iris Putnam (4722 Greenbrier Drive)**

**PUBLIC TESTIMONY CLOSED**

**APPLICANT REBUTTAL**

**Andrew Davis (BRS Architects | 1010 S. Allante Place Boise)**

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**MOTION:           COMMISSIONER BRADBURY MOVED TO APPROVE CUP16-00068 IN ACCORDANCE WITH THE PROJECT REPORT AND CONDITIONS OF APPROVAL THEREIN WITH ONE CONDITION TO ENHANCE VEGETATION BETWEEN THE PARKING LOT AND THE HOUSE DIRECTLY TO THE WEST.**

**SECONDER:       COMMISSIONER ANSOTEGUI**

**ALL IN FAVOR, NONE OPPOSED, MOTION CARRIES.**

**IV. MEETING ADJOURNED**