

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

MINUTES • November 7, 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, Céline Acord, Susan Riggs, Leon Letson, Meagan, Teri Thompson and Andrea Carroll (Legal).

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**I. CONSENT AGENDA**

**SUB16-00051 / Travis Hill Subdivision**

Location: [1085 E Krall Street](#)

Preliminary and final plat for a residential subdivision comprised of a single buildable lot on 0.12 acres located in an R-2 (Medium Density Residential) 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.*

**SUB16-00056 / Dallas Harris Estates Townhomes No. 3**

Location: [4055 E. Parkcenter Boulevard](#)

Preliminary plat for a residential subdivision comprised of 33 buildable lots on 4.3 acres in an SP-01 (Harris Ranch Specific Plan) zone.

*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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**SOS16-00014 / Johnny Hampton**

Location: [3852 N. Eagle Road](#)

Waiver of the Record of Survey Standards in the Boise Development Code requiring the construction of a new sidewalk for a Record of Survey (Property Line Adjustment) in an A-1 (Open Land) 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.*

**CUP14-00066, CVA14-00056 & DRH14-00386 / Broad Street Properties, LLC**

Location: [400 S. 4th Street](#)

Conditional use, variance and design review approvals associated with an approximately 158,000 square foot, six-story mixed-use building on a 0.84 acre site in an R-ODD (Residential Office with Downtown Design Review) zone. [Cody Riddle](#)

*(TIME EXTENSIONS ONLY) The applicant is not present and with the Commission's agreement this item was placed on the consent agenda. There is no opposition to this item.*

**CUP16-00073 / Golden West Signs**

Location: [4195 N. Eagle Road](#)

Conditional use permit for a monument sign with electronic message display proposed in an N-OD (Neighborhood Office with Design Review) zone. [Céline Acord](#)

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

**CAR16-00028 / Peter Ashwin**

Location: [1414 N. 16th Street](#)

Rezone of 0.14 acres from R-1CH (Single Family Residential with Historic Overlay) to R-3HD (Multi-Family Residential with Historic Design Review). [Susan Riggs](#)

*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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**CUP16-00071 / Bishop Kelly High School**

Location: [7009 W. Franklin Road](#)

Conditional use permit for an approximately 25,000 square foot classroom addition north of the existing school building in an A-1 (Open Land) zone. [Susan Riggs](#)

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

**MOTION: COMMISSIONER BRADBURY MOVED TO APPROVE THE CONSENT AGENDA WITH THE FOLLOWING ITEMS: SUB16-00051, SUB16-00056, SOS16-00014, CUP14-00066, CVA14-00056, DRH14-00386, CUP16-00073, CAR16-00028 & CUP16-00071 ALL IN ACCORDANCE WITH THEIR STAFF REPORTS AND CONDITIONS OF APPROVAL.**

**SECONDER: COMMISSIONER GIBSON**

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

**II. DEFERAL AGENDA**

**CAR16-00030 / Vista Village, LLC**

Location: [2350 W. Kootenai Street](#)

Rezone of 7.39 acres from R-1C (Single Family Residential-8 Units/Acre) to R-2D (Medium Density Residential with Design Review). [Leon Letson](#)

**PUD16-00027 / Vista Village, LLC**

Location: [2350 W. Kootenai Street](#)

Conditional use permit for a 91 unit planned residential development on 7.39 acres in a proposed R-2D (Medium Density Residential with Design Review) zone. [Leon Letson](#)

**MOTION: COMMISSIONER BRADBURY MOVED TO DEFER CAR16-00030 & PUD16-00027 TO A DATE CERTAIN OF DECEMBER 5, 2016.**

**SECONDER: COMMISSIONER GIBSON**

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

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### III. REGULAR AGENDA

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

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

Conditional use permit for a planned residential development comprised of 60 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 60 buildable and 7 common lots on 14.45 acres in an R-1C (Single Family Residential) zone. [Cody Riddle](#)

**Cody Riddle (City of Boise):** Thank you Mr. Chairman, Commissioners. The item before you this evening is a conditional use permit and preliminary plat for a subdivision comprised of 60 detached single-family homes. The 14.5-acre site is located across Warm Springs Avenue from the City's golf course in east Boise. In addition to the homes, approximately seven acres, or about half of the site, will remain open space.

The R-1C zone, as you know, allows development of up to eight units per acre and has a minimum lot size of 5,000 square feet. This project is just under four units per acre and lots range from approximately 5,000 up to 12,000 square feet. The majority of the lots do exceed the ordinance standards in terms of area. However, at 40 feet-wide, some of the lots along Warm Springs Avenue are narrower than the ordinance minimum of 50 feet. That reduction is permitted through the planned development process as are the reduced interior setbacks that are proposed. I would note that all perimeter setbacks are being met or exceeded and the project includes no variances this evening.

As outlined in your packet, the project has been the subject of a number of applications over the years. That was summarized in your report. Most recently, it was annexed with the R-1C zoning that is in place today.

Now there are a few environmental concerns that I'd like to address briefly. The property itself is relatively flat but does abut areas of substantial slope. The property to the north is part of the Tablerock Reserve owned by Boise City. There are a number of exposed boulders at risk of rolling down the slope on to the project site. As detailed in your report, the Applicant has worked with their own engineers as well as Public Works on the design. Essentially they're providing a channel at the toe of the slope to prevent those loose rocks from entering the site.

An additional concern is the presence of contaminated soils. Similar to the previous item, the Applicant has worked with both Public Works and the Department of Environmental Quality

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prior to submitting of the application. Both agencies included conditions that will need to be addressed prior to any construction on the property.

A final environmental concern is the impact on mule deer that use the site to travel between the Foothills and the Boise River. The Fish and Game, as you know, has been actively involved in the planning of the Barber Valley, and often include a set of standard conditions related to fencing and landscaping to apply to projects in that area. They've reviewed this project and included those recommendations for this project as well. They've also asked that the area, outlined in red, be preserved to allow deer to move through the site. Finally, we have required their final written approval of the project prior to construction. This will ensure that the final landscaping and fence design is consistent with their standards.

A final issue or concern from our perspective is a need for a pedestrian connection through the site. We are recommending a walkway connection from the upper street to Warm Springs Avenue. This will accomplish a couple things in our opinion. It'll provide everyone access to the parking lot, or open-space area located near the center of the site. It will also break up, in terms of the aesthetics to the public, break up the block length along Warm Springs Avenue. So, we've recommended a single connection, generally along one of those two alignments, be provided.

With those concerns addressed, we believe the project is consistent with the findings for approval. The project is compatible with the surrounding uses that include open space, other single family homes, and a golf course. The site is large enough to accommodate the project. Again, there are no variances. The density is roughly half of that allowed in the zone. I should clarify the conditions will require some minor adjustments to things like alley width and lot depth. But all perimeter setbacks will have to comply with the standards of the zone.

Finally, no public agency has voiced opposition to the project. That includes the Ada County Highway District, who approved the development, and indicated there'd be no undue burden on the transportation system, including Warm Springs Avenue.

I believe you will hear opposition this evening. A lot of that is going to be focused on common concerns with projects like this, specifically traffic and density. I'd remind you that the density is well under the limit of the zone and no public agency has opposed the project. I believe you will also hear concerns regarding wildlife, specifically the deer, and the other environmental issues mentioned. Regarding the deer, the project is in an area that the deer do use to move between the river and the Foothills. Obviously any development of the site will impact wildlife. We don't want to downplay those concerns. However, the fact is, it is a private piece of property with zoning that provides some degree of development right. In these situations, we rely on comments from public agencies to best mitigate those concerns and those have been included in our recommendation this evening.

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Finally, we did receive some late comments from Ada County Parks, and our own Parks Department, essentially with the same concern. That's regarding trail access and associated parking. The Tram Trail Head is located at the northern portion of the site. Parking, by default, occurs at the golf course across the street and then the gravel shoulder adjacent to the development. That existing crossing is unsafe and with development of this site, the parking on that gravel shoulder will be removed. So, our Parks Department is coordinating, as you can see, an expansion to the parking lot as well as a new cross-walk location that ACHD has agreed to in concept. We believe it makes sense as it aligns with the entrance to the project. Parks is also asking for a public pedestrian access, shown on the upper corner there, be provided for the easement for that trail head. Part of that access does cross the development property, so there is a significant benefit in granting access to a trail that's been historically used by the public. It's our understanding the Applicant is in agreement with that requirement, or that recommendation. We are recommending that if the project is approved this evening, an additional condition be provided requiring that easement show up on the plat before it's heard by City Council.

With those conditions, and our own, we believe the project meets the objective criteria of the ordinance and are recommending approval this evening. As a reminder, the approval criteria, or findings, are provided on the screen. Thank you.

**Chairman Demarest:** Thank you Cody. Okay, let's hear from the Applicant. Sir, if you would tell us your name and address for the record please.

**APPLICANT TESTIMONY**

**Bill Clark | Clark Development (420 Main Street Suite 204):** Sure. I'm Bill Clark of Clark Development. I'm the managing partner of Warm Springs Enterprises. My address is 420 Main Street, Suite 204 here in Boise.

**Chairman Demarest:** Mr. Clark, you're entitled, as the Applicant's rep, to up to 20 minutes, well I think it's 30 minutes actually. So, but you know we've got a very full agenda and we usually work more efficiently when we lower that number. So, let's start with 10 minutes. How about that?

**Bill Clark | Clark Development (420 Main Street Suite 204):** I'll beat that.

**Chairman Demarest:** Better yet, thanks.

**Bill Clark | Clark Development (420 Main Street Suite 204):** I'll mostly stand by for questions, but just very briefly, about this property. We've owned it for over 10 years and have worked with the City and the two adjoining neighborhood associations and neighbors in informal communications over that period of years and we have not been in a rush to develop it. Of course

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that was our intention from the beginning and we've looked at different concepts, understand the property better and waiting for timing in the market. Although it is zoned as, was being described to for about eight units an acre on this property, that would require, if we're to try and build out to the allowable density, there'd be attached multi-family housing. It's been our conclusion in talking with people and thinking about it ourselves, that really isn't appropriate for this site. As much as the City likes infill development, this has been known for many years as one of the prime infill development sites in Boise, we just didn't think, given the neighborhood context, that that was an appropriate use. So, that's why we put forward this plan. The concept behind the plan is, well all single family homes. We believe that most of them will be single level, smaller homes and it's again, we feel an appropriate location for that kind of use; close to town, across the street from the greenbelt, at the base of Foothills trails, across from the golf course. So, anyway we have worked closely also with City Staff, Planning, Public Works, Parks and Rec and as Cody said, with Fish and Game. We're supportive of the conditions that they're proposing with one exception which is, as Cody was describing a little bit ago and we can talk more about it if you have questions, which is the additional pedestrian connection to Warm Springs as they're suggesting and an additional one where those two red arrows... and there are, right now in our plan, five access points to Warm Springs starting at the east at Windsong drive and then going to the western end of the property. If the access to the trail is relocated, as suggested by Parks and Rec, which we're supportive of, that will do away with a crossing which is considered somewhat dangerous but will still keep that access point out on to that pathway on Warm Springs. If one were to count both sidewalks at our two primary entries, that makes seven points of entry to this site as we're proposing. So, in any event, we think it's maybe excessive to have another one, that it wouldn't do anything really constructive to the appearance of the project. There's going to be quite as, you may know that I really pay a lot of attention to the design and the frontage on Warm Springs Avenue has alley support in the back, is going be, have a lot of variation to it in terms of home design, street trees, landscaping. It is not going to be just bang bang bang at all. I'll conclude my presentation with that and see if you have any questions at this point.

**Chairman Demarest:** Thank you Mr. Clark. Okay let's see if we have any questions from the Commissioners for either you or for Mr. Riddle.

**Commissioner Stevens:** Mr. Chair.

**Chairman Demarest:** Commissioner Stevens.

**Commissioner Stevens:** Before I get to the questions I have for Staff, I'll just ask for clarification Mr. Clark, if I could? Or maybe it's Cody I need clarification from. But the sidewalk entrance that you're talking about, if I'm not mistaken, that you're taking exception to, if we could just have that pointed out. Is that the one that's going to connect to the new parking lot? Okay. And so, could you just clarify your objection is to the entire pathway through the division or just on to Warm Springs where it connects? If you could just clarify for us?

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**Bill Clark | Clark Development (420 Main Street Suite 204):** Yes, Commissioner Stevens. What Cody has outlined there is two possibilities that he and Staff believe might be made to provide another connection from Warm Springs through this site to the rear where our circulation road goes through. And what I'm saying and disagreeing with is, do we need another pedestrian point of connection to Warm Springs when we already have five or there's two on each primary entry because of sidewalks and different sides of the streets. So whether you call it five or seven is of question.

**Commissioner Stevens:** Okay. Now Mr. Chair, totally different direction if I could Cody? There was letter in our packet that came in on Friday regarding a question about the mule deer and I'm wondering if you were able, by any chance, to get some clarification from Idaho Department of Fish and Game as to why the width that was recommended back in 2005 when the rezone went through, is so different than what is being proposed today?

**Cody Riddle (City of Boise):** Mr. Chairman, Commissioner Stevens, I did not, they didn't specify why that changed. I believe I saw somewhere 600 to 1000 feet, that would be 3/4ths of the frontage of this entire parcel so I think they were trying to, I'm speculating that they were trying to find a compromise there.

**Commissioner Stevens:** Okay, thank you.

**Chairman Demarest:** Any other questions from the Commission?

**Commissioner Gillespie:** Mr. Chairman.

**Chairman Demarest:** Commissioner Gillespie.

**Commissioner Gillespie:** So, the area east of Windsong which is in the Boulder Heights Estates, it looks pretty open for a good distance as you move east. It's pretty steep as I recall. But that remains fairly open all, that's not going to be developed is basically my question.

**Cody Riddle (City of Boise):** Mr. Chairman, Commissioner Gillespie, no. There's quite a substantial slope there.

**Bill Clark | Clark Development (420 Main Street Suite 204):** May I add a comment Mr. Chairman?

**Chairman Demarest:** You may.

**Bill Clark | Clark Development (420 Main Street Suite 204):** Concerning the question about wildlife, we have had several communications with Fish and Game, met with Fish and Game



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staff along with Cody. We originally thought that the wildlife corridor ought to be on the western side of the property. There is a lot, and has been noted by Fish and Game, there is a lot of movement during the winter right in that location and directly across the street is the green of the golf course and a fairly steep slope with cover coming down and we thought that augmenting that would be the best idea. Fish and Game thought otherwise which is to allow another corridor on the east side, as was being discussed a moment ago, along with that hillside on Windsong and that that would provide an additional corridor for game moving through and we said okay. We'll do that. So that's why we chose to include it that way in our application.

**Chairman Demarest:** Any other questions?

**Commissioner Bradbury:** Mr. Chairman?

**Chairman Demarest:** Commissioner Bradbury.

**Commissioner Bradbury:** First for Cody. Could you just talk a little bit about Staff rationale for the pedestrian connections that you've proposed through the center of this site that the Applicant is concerned with?

**Cody Riddle (City of Boise):** Certainly Mr. Chairman, Commissioner Bradbury. Couple reasons. These lots here with the reduced width, the block length here I think is about 700 feet. So the connection through here, somewhere, would help break up that block length which would be an aesthetic benefit. There'd be an additional opportunity for pedestrians to move through the site from Warm Springs perhaps if visiting someone on the upper, I say upper but it's relatively flat to this point, to the back portion of the site. Then it also provides a connection there, you can't see it on the screen, but there's guest parking located right here. So, if someone used that guest parking, say from one of these back lots, it's a more direct pedestrian connection instead of walking entirely around the block. I suppose aesthetic and pedestrian connectivity was the reasoning.

**Commissioner Bradbury:** Another question Mr. Chairman. I can maybe ask you Cody and maybe Mr. Clark, I'm not sure which of the two of you wants to take it but, one of the recommendations, or maybe it was maybe another way to say it is suggestion from the Department of Fish and Game was the elimination of the most southeasterly lot in the project. Is that part of the conditions that we would be approving tonight? Was that suggestion accepted by Staff and the Applicant?

**Cody Riddle (City of Boise):** Mr. Chairman Commissioner Bradbury, that's not my understanding or the intent of our recommendation. It was a suggestion by the Fish and Game that could perhaps further mitigate impacts on wildlife. If the Commission chose to head down that road, I'd ask that you be very specific regarding the loss of that lot.

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**Commissioner Bradbury:** Okay, great.

**Bill Clark | Clark Development (420 Main Street Suite 204):** May I add to that? Commissioner Bradbury, it was discussed with Fish and Game and we originally had a larger lot in that location on the east end and they asked us would we be willing to reduce the dimensions of that lot, which we did to allow for that corridor. So we thought that we were meeting their request in that way and my understanding from our discussions with her is that that was a satisfactory compromise.

**Commissioner Bradbury:** Okay, thank you. And Mr. Chairman one more?

**Chairman Demarest:** Commissioner Bradbury.

**Commissioner Bradbury:** Mr. Clark, just to make sure that what Staff has indicated is acceptable to you is, are you okay with the proposed easement connection over to the Tram Trail Head as proposed by Parks and Recreation?

**Bill Clark | Clark Development (420 Main Street Suite 204):** Yes, we are. Details to be worked out Commissioner, but yes we think it's a good idea and we agree that the current location of that crossing, because of site distance and travel along there, is not safe. It also is something where, at least in the past, that ACHD was unwilling to consider a signal there because they thought that it would give an artificial sense of safety to pedestrians. If I may go back to the question about the passage through to Warm Springs, as Cody pointed out, in response to your question a few minutes ago, there is a rationale for a connection of the guest parking area that we have to the homes on the north and one thing that we might work out would be, and I understand what Cody was suggesting, is to make a connection between the parking area, which is at the bottom of that green, that's an opening to an internal park from there and the parking that's adjacent to that to those homes on the north. That could make some real sense.

**Commissioner Bradbury:** Thank you.

**Chairman Demarest:** Okay, further questions?

**Commissioner Thornburgh:** Yes, I have a question Chair.

**Chairman Demarest:** Commissioner Thornburgh.

**Commissioner Thornburgh:** I believe I'm directing this to you Mr. Clark. When I'm looking at the deer corridor, wildlife corridor, excuse me, it has a very narrow segment to it. Can you tell me how wide that is and how you plan on keeping the wildlife from climbing right up onto the road surface there? It looks like its pushing into the road.

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**Bill Clark | Clark Development (420 Main Street Suite 204):** Yes, Commissioner. A couple things. One is, it's between 30 and 40 feet wide at that most narrow point. I don't have an exact dimension. In talking about it with Fish and Game, there are two things that would affect that. One is that they want to have, the entire perimeter of the project, a six-foot-high **inaudible** metal fence which is what we would use, a steel fence. It can be no wider than three and half inches vertically and that there'd be several gates in locations to be determined that only Fish and Game would have access to in case animals did get stuck. But anyway, around that eastern side where you were talking about specifically, there would be a fence along there and we, as I think Cody mentioned in the conditions of approval, that that would be subject to approval by Fish and Game. They've also provided us with recommendations about vegetation that is not so, you know, setting a smorgasbord for the animals. Trying to avoid that as much as possible. Also, as was commented about the, and was mentioned by Fish and Game, is that that slope on the east side of Windsong there is an open slope so that would also essentially be part of the corridor.

**Commissioner Thornburgh:** My fear is they would be funneled right on to Windsong. But you're saying that there would be fence the entire length.

**Bill Clark | Clark Development (420 Main Street Suite 204):** There would be a fence on our perimeter for that corridor, yes.

**Commissioner Thornburgh:** But not separating the corridor from the road surface.

**Bill Clark | Clark Development (420 Main Street Suite 204):** No. Fish and Game did not want to have any, I didn't understand anything from them about that. You mean creating a fence pathway that fences on both sides? Was that your question?

**Commissioner Thornburgh:** Well it seems like if your property is fenced and Windsong is on the other side of the corridor, that the animals would be directed to that corridor right next to the roadway. If I were driving down Windsong in the snow when the animals would be there, I think I'd be a little anxious that they're on my roadway.

**Bill Clark | Clark Development (420 Main Street Suite 204):** As I've said, it was my belief that it should have been on the west side but Fish and Game thinks otherwise. That it would be better for the animals to be on this side.

**Chairman Demarest:** Any other questions from the Commissioners?

**Commissioner Stevens:** Mr. Chair?

**Chairman Demarest:** Commissioner Stevens.

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**Commissioner Stevens:** I don't think I look like Steve. Cody I'm going to ask you a traffic question and I know that's like just inherently unfair, but I'm going to do it anyway. So, I'm looking at the traffic counts, I'm looking at ACHD's report regarding the count on Warm Springs. A couple of questions. Number one, do you know when that number is from and what I'm getting at is, is this a number that precedes the completion of the Park Center Bridge, or is it a more current number?

**Cody Riddle (City of Boise):** Mr. Chairman, Commissioner Stevens, it looks like the average count was taken in the end of September 2015. So that would have been after the bridge.

**Commissioner Stevens:** Okay great. The second part of that question, if I could Mr. Chair, what is the threshold, the ceiling to remain inside an E service level? Do you know?

**Cody Riddle (City of Boise):** Mr. Chairman, Commissioner Stevens, it looks like 690 vehicle trips per hour. We're at 520 now with the development that puts us at 580. So there is additional capacity. We will hear testimony this evening about projects approved further out east on Warm Springs, but I think it's important that we keep in mind that once you get out further east, you have the option of the other route across the river. We carefully considered all of that.

**Commissioner Stevens:** Okay. That's exactly what I was getting at, so thank you for anticipating my question. I guess, I think what I'm trying to do is understand if we have any actual quantification of how many approved units there are right now east of this site. I know that we can't sit here and look at every single car trip from every single division but when ACHD is only looking a mile, I think that is, it's sort of problematic in terms of really trying to take in account the full impact of this development when we are trying to, when we're in a period of development and there's a lot of other things going on. Is there a number that you can give us that's east of this development up to around the bend, if you will, before we hit Harris Ranch?

**Cody Riddle (City of Boise):** Mr. Chairman, Commissioner Stevens, as far as from Windsong in, there's very little. You have a letter in your packet from one of the neighbors that talks about other development. Again, out further east. It wasn't included in ACHD's analysis and not in ours. I think we're relying on their expertise and again the fact that there's the other connection across the Park Center Bridge and that all of those trips wouldn't be, it's a very indirect route to come down Warm Springs, this segment of Warm Springs rather than the bridge in to Park Center.

**Commissioner Stevens:** Okay. So the majority of that development is then going to be east toward the Harris Ranch area is what you're saying. Okay thank you.

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**Chairman Demarest:** Okay, any other questions for either the City Staff or our applicant? Seeing none. Thank you both. So we're going to go on. I know we've got somebody from the East End Neighborhood Association this evening with us. So, I'm going to recognize you first. Tiffany Robb, come on up mam. Just tell us your name and address. We already know your name, but tell us anyway for the record, into the microphone.

**Tiffany Robb | East End Neighborhood Association (1195 Shaw Mountain Road):** Well hello Commissioners. My name is Tiffany Robb, representing the East End Neighborhood Association.

**Chairman Demarest:** Your address mam?

**Tiffany Robb | East End Neighborhood Association (1195 Shaw Mountain Road):** 1195 Shaw Mountain Road.

**Chairman Demarest:** Okay, so you're also eligible for up to twenty minutes. But the applicant took 10. So we like to kind of keep those roughly equal. So, let's start with 10.

**Tiffany Robb | East End Neighborhood Association (1195 Shaw Mountain Road):** Fair enough. First of all, I'd like to apologize for our delay in our response to this. The reason why the East End Neighborhood Association did not get our suggestions in before packet deadline was because we wanted to make sure that we were working with the developer. We did host a meeting with Mr. Clark and our volunteer board needed to come together with some suggestions, so we needed to collaborate those. I do have those. May I pass out copies? Is that okay? Or is that not appropriate?

**Chairman Demarest:** So that, let's see. It wasn't in by the deadline. Correct?

**Tiffany Robb | East End Neighborhood Association (1195 Shaw Mountain Road):** Correct.

**Chairman Demarest:** So what we need is, what we would have needed was a reason in writing. What was the deadline?

**Tiffany Robb | East End Neighborhood Association (1195 Shaw Mountain Road):** It was Thursday.

**Chairman Demarest:** Thursday, okay. And we didn't have that. So, the answer, unless the Commissioners want to consider it separately, the answer is going to be no. But you get your testimony time. Alright?

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**Tiffany Robb | East End Neighborhood Association (1195 Shaw Mountain Road):** That's perfect because I'll just read what I was going to give you anyway.

**Chairman Demarest:** Okay, that will also do the same thing.

**Tiffany Robb | East End Neighborhood Association (1195 Shaw Mountain Road):** Okay, so EENA as a board voted unanimously to recommend some additions or changes to the design of the project. These recommendations are for the City of Boise as well as to Mr. Clark and his development team. For the City, we were recommending that there is an ensure of design that will allow parking on Warm Springs Avenue for greenbelt and river users, which actually was shown as a suggestion already, as we are likely losing informal parking that exists today by this development.

The second one was to encourage the developer look at Harris Ranch and Barber Valley wildlife mitigation for examples of wildlife mitigation. There was something that the East End Neighborhood Association, we did not vote to make as a formal suggestion, but we were in agreeance with Mr. Clark with looking at a possibility of bringing wildlife corridor or doing some sort of mitigation to where it would actually be on the, as he had stated, the west side of the development or the north side of Warm Springs Avenue instead of just the south side of Warm Springs Avenue near Windsong.

Our third suggestion, even though that this project has been removed from the Foothills Overlay, that you please pay special attention to the Foothills policies that are still in effect that would still affect this property and also the Foothills policies that the development of this property would impact.

Although, again another one that we wanted to bring up that was not formally voted on, the board had highly suggested that at bus pull out be put in around that development or be considered. There are homes being added to the Mesa in addition to these 60 homes, so the City needs to look at providing options of public transportation potentially alleviating some of the traffic that will be hitting Warm Springs.

For Mr. Clark and his development team, we had suggestions of providing at least one or better two breaks within the 17 homes that are lining Warm Springs Avenue. These breaks would be 20 to 30 foot pathways between the homes and the reason for that is to allow residents access to their parking from front-wise getting through and also to break up the home wall that would be happening with these homes to allow adequate or usable pedestrian passage to the guest parking and also so that it provides a visual break to the row of homes. I apologize.

The second suggestion was the front yard setbacks of the homes fronting Warm Spring Avenue; those homes should be articulated by 10 feet or more to break up the wall effect. Set front yard

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setbacks to 20 feet or more for specific percentage of homes along Warm Springs Avenue. Although these things were not voted to be formal suggestions, the board did have concerns and or suggestions about making wildlife accessible from again, as I have mentioned, the north side of the property in addition to the south access. Again, as Mr. Clark had said the west side versus the east. On there when we're talking north and south, we're talking Warm Springs Avenue when it runs that north south way.

Second, widening the south wildlife's access, since the access is on a two to one or greater slope and is most likely taken up by storm water detention basin.

Third, provide curb and gutter along Warn Springs Avenue since the row of homes along Warm Springs Avenue on a 40-foot-wide lot, is an urban design. And that pretty much is our suggestions.

**Chairman Demarest:** Thank you, mam. Okay. Alright. Thank you very much. Alright so we're going to go on to public testimony now. Right down the list. I realize some folks came in later and we'll give you your time as well. So the first person on the signup sheet is Heather Crane. So folks, remember that we're going to flash 3 minutes right up here. We do ask you just complete your comments at the 3-minute mark. It's a not a number we make up. It's a number that comes to us from The Code. So, come on up. Tell us your name and address for the record.

**PUBLIC TESTIMONY**

**Heather Crane (2005 Scyene Way):** Thank you Commissioners. My name is Heather Crane. My address is 2005 Scyene Way. I appreciate this opportunity to address you. I live on the Warm Springs Mesa and had some concerns that I outlined in written comments that were included. I think one of the things that I'm curious about and which Mr. Riddle touched on, is talking about the zoning of this. Talking about up to eight units per acre and both Mr. Riddle and Mr. Clark have said that they've significantly reduced the number of units to four units per acre. Reviewing the City Council agenda from January 31, 2006, they approved it for only four dwelling units per acre and with my math, 60 actually exceeds that by a couple of houses. So I'm trying to understand exactly how they came up with that number and making sure that the number of houses on the property are kind of appropriate for the property, appropriate for the slope behind the property and appropriate for the neighborhoods both to the east and to the north of the property. That's one of my concerns. Obviously I share the traffic and wildlife concerns of someone who drives up and down Windsong multiple times a day and sees the deer crossing Windsong and crossing Warm Springs Avenue. It sounds like there's still, it's not quite clear what the best plan is for the wildlife corridor and I think that's something that really should be looked into in more depth before any decision is made on the proposed development. I think I'll conclude my comments with that because I know there's a lot of other people who have comments. But I do appreciate the time and thank you very much.

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**Chairman Demarest:** Thank you Ms. Crane. Okay, next person is Phyllis Slifer. And I hope I said your name correctly.

**Chairman Demarest:**

**Phyllis Slifer (2478 Warm Springs Avenue):** You did very well, thank you. My name is Phyllis Slifer. I live at 2478 Warm Springs Avenue which is adjacent to the City property that is adjacent to this development. Our main concern with the development are; fire safety, the traffic, parking, and trail head access and the wildlife corridors amongst other things that we had included in written comments.

One is the fire safety. The 30-foot defensible space was commented on about from the Fire Department. This first exhibit is the perimeter of the Tablerock Fire that was in the paper this past month. I have an exhibit. I don't know if I can get to it. Sorry, Cody. I might need some help.

**Chairman Demarest:** Take your time. We'll give you, because this is not your testimony, this is technical stuff. We'll give you a little extra time.

**Phyllis Slifer (2478 Warm Springs Avenue):** Thank you. What I did is, the white circled area is the blow up of the development. Could you move to page two on that? Thank you. So here's an overlay of the 60 lots and you can see how many lots were in that fire perimeter this summer. We question if the common space, on the north end of the property, lot number 2, if that's 30 foot or not. It looks to me about 15 foot when I look at the scale that was provided on the plat. So we really need to have 30 foot of defensible space around the entire perimeter.

The other, as mentioned before, is the traffic parking and trail head access. We think that that has been pretty much alleviated with the recent suggestion of the City to realign the trail head, which is partially because we have an irrigation pump in the right of way at that location. And the unsafe crossing that is currently to the trail head. So we appreciate Mr. Clark's willingness to grant an easement there.

The last thing I want to talk about is the wildlife crossing. Fish and Game suggested it beyond the southern edge of the property. Cody could you go to the last slide please? There is a retention pond. I think somebody mentioned that earlier. I don't know that Fish and Game was aware that this retention pond is at the corner of Windsong and Warm Springs Avenue. That could be a hazard to the deer that are trying to cross. It's more full of water, there's an upslope to Warm Springs that may make deer visibility difficult for drivers and everybody else here has suggested that the northern edge of the property is maybe more appropriate. We do see an awful lot of deer



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at that crossing point. Thank you for your considerations and I hope you get a chance to read all of our request in our packet that we provided.

**Chairman Demarest:** Thank you Slifer. Okay, next person on the list is Melissa Pratt.

**Melissa Pratt | President Warm Springs Historic District Association (Warm Springs Avenue):** I'm Melissa Pratt and I'm president of the Warm Springs Historic District Association so I can imagine you know I'm here to talk to you about traffic. We have an issue, obviously, we have Saint Luke's Boise where we've been approved. We'll see Jefferson closing. We know that will have a definite effect on traffic on Warm Springs Avenue. As well we're seeing further subdivisions, thank you Commissioner Stevens for looking out for us, going on further out and not everybody chooses to take the Broadway Bridge. I wish they would go ahead and go off Park Center, I'd love it. But they're not all choosing to do that. I think some people prefer coming in on a route that they're doing down Warm Springs. So, for a historic neighborhood, I know in the past when we thought Harris Ranch, there were some limits put on traffic at that time and I need to go back and find those, that they had looked at a historic neighborhood as only being able to bear so much. We probably need to work further with ACHD on that. But one of the issues is that we're concerned that the character of the neighborhood will change. I've been there for just over 20 years and it's really phenomenally changed. The bridge did help, but it's like it's loading right back up. It's almost impossible for me to cross the street to just go visit my neighbor across the street. It takes literally forever to get across a simple street. So, we do need to work harder on that and hopefully, I'm hoping in all of these different subdivisions that you're looking at, that you ask the question and have a heightened consideration of the traffic on Warm Springs Avenue. It's one of our favorite historic streets in the area and we'd like to keep it the way it is. Thank you.

**Chairman Demarest:** Thank you Ms. Pratt. Last person on the signup sheet is Donna Burns.

**Donna Burns | Warm Springs Mesa Neighborhood Association | 2241 Ridgeview Way:** Thank you. My name is Donna Burns and I am president of the Warm Springs Mesa Neighborhood Association. We are echoing several of the comments that have been expressed today about safety both for animals and residents of Warm Springs Mesa and future developments along Warm Springs.

First of all, I'd like to address fire and safety and evacuation. As you know, the fire was extensive and included a lot of property which included Warm Springs Mesa closer to the Village and on toward the City. At one time during the fire, the Mesa was literally trapped. All of us residents were trapped. The fire actually burned to the east and the west sides of the Mesa and that included, as you've seen by some of the pictures, part of the Village. We're asking you to imagine thousands of vehicles, possibly, trying to escape a fire along narrow winding Warm Springs Avenue. And not only that, we imagine animals are going to be trying to escape that fire.

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So we're asking that emergency plans be thought of before these continued developments are included in any City planning and we would also ask that you continue, as already stated, some of the Fire-Wise planning in building codes and landscaping. I think landscaping is a huge piece of this and I know that the Fire-Wise community in Boise is willing to assist in landscape development of any properties that are going to be developed Warm Springs Corridor.

Secondly, I do want to address the traffic issue again. As stated, ACHD has approved the building of the Village, but it only included one development called Falling Brook with a 10 lot townhouse development included. As stated earlier, and according to ACHD, adjacent property includes anything within a mile. According to our numbers, we figure Privada Estates is developing 18 sites and that is just to the east of Warm Springs before we get into Harris Ranch. Vista Ridge is planning 65 units. Antelope Springs has already begun development and they're planning an additional five sites plus a commercial lot and 17 units they have. Warm Springs Mesa itself is adding 125 properties and that brings us to over 600 units. We're figuring at least 750 residences just within the property of the Mesa toe. That's a lot of development and that number does not include Harris Ranch and I will say that I do not believe that many of these people will choose the Harris Ranch bridge.

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

**Chairman Demarest:** Mam your time is up.

**Donna Burns | Warm Springs Mesa Neighborhood Association | 2241 Ridgeview Way:** I'm the president.

**Chairman Demarest:** It's not the same neighborhood association. We've already heard from the representative of the East End Neighborhood Association. Okay? So your time is up. Thank you. Okay, so as I've said, that's the signup sheet, but anybody else is entitled to three minutes as well. So, if you haven't had a chance to sign up, just come on up and then you'll find a little white tab somewhere up there. Before you leave the room, we do need to have you fill that out and leave it with one of us up here so we have your contact information. So again, you're also eligible for up to three minutes. Hang on. Let's get that up first before we start timing you. Just hang on one sec. There we go. Now your three minutes starts.

**Tom Burns (2241 Ridgeview Way Boise ID):** My name is Tom Burns. I live at 2241 Ridgeview Way Boise Idaho. I am the Fire-Wise Chair for Warm Springs Mesa. I'd like to continue a little bit as it's been said, development east of the slot of the Village might not be pertinent, but of course it is. That is all property that is town side of Barber Drive. It is possible that people will go west to the eventually come back east, but that isn't going to happen. So we purposefully cut off our count at Barber Drive which connects to the Parkcenter Bridge. So, I just wanted to put that out in front of you. If you look at the slide, you're looking at the only

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intersection, traffic intersection, for the entire eastern Boise front. There's not two. There's one. What we've got is, as a Fire-Wise Chair, I'm very interested in the evacuation process from Warm Springs Mesa. I have no problem with the planned development that we're talking about, but I ask you to envision not 60 homes, as is in the count of ACHD of the Village, but the 750 homes. When we're talking about numbers, there is a critical factor that's very close to being a problem at that area. I'd like the numbers just to reflect what the reality is. It's just good common sense. So, looking at evacuation processes as we come out of Warm Springs Mesa onto Warm Springs Drive, if we add in those numbers, take that into a little bit of consideration if we need more information from ACHD. Also about the wildlife mitigation zone, it's almost to the point where to talk about a mitigation zone or a wildlife corridor is a misnomer. If everything is a wildlife corridor, then where are we standing. There's really no sense in declaring wildlife corridor any longer. It goes from the 2005 testimony which said that a wildlife corridor has to be between 600 and 1000 feet in order to be effective. We're now down to 30 to 40 feet. I would ask what is the science? I would ask what is being done on the Mesa Reserve to prepare the wildlife coming down from the WMA and I'm not sure how these decisions are getting made. 30 feet is a long cry from the 600 or 1000 feet that was recommended in 2005. So I would ask that we consider moving that wildlife corridor recommendation back to the west of the property.

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

**Chairman Demarest:** Sir thank you. Okay who else? Come on up. You know the drill. Fill out the little white paper. Mr. Burns don't forget to get that back to us before you leave. That little white. Should be a little white tab right up there. So anybody that didn't sign up, that's everybody from Mr. Burns onward, just fill out one of those little white things before you leave this evening. We don't need it right this moment. Sir.

**Richard Carter (2343 S Ridgepoint Way):** I'm Richard Carter at 2343 S Ridgepoint Way which is a part of the Mesa. To pick up on Tom's point about the Mesa Reserve, the Mesa Reserve abuts the backside of this development and the comment was made earlier about people with their property have rights to develop it in their own particular way. So, the Mesa developers back with the Boulder Heights agreement in '02 made sure that that property that's now part of the Mesa Reserve, is set aside particularly for the flora and fauna enhancement and mitigation. So, these mule deer (aint) aren't just the Mesa mule deer, they're everybody's mule deer. So, I'd like to follow up and congratulate Fish and Game and Chris particularly in her language to you. I'd like to recommend and make it a point that the conversation that you all had with Krista about that lot number 38, which is at the very edge next to, it's going to be right adjacent to the catch basin. If Krista said just to make the lot smaller, I really think that should be put in writing. I was a part of the HRWMA (the Harris Ranch Wildlife Mitigation Association) board, secretary and treasurer for four years, I worked with Krista on that board. I know that she feels very strongly about their mandate which is taking care of those wildlife coming down the hillside. So, to the degree that Mr. Clark is adopting the Fish and Game concept for the fencing, you

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mentioned the three and a half inch spaces and I know (inaudible) which is adjacent, you know it's the Hillside Neighborhood running up on the other side of Windsong. We have that now as a part of our mandate. I know Harris Ranch does as well to make sure that there's room for, because we've seen the bucks and we've seen the does but we also see the fawns going up and down the hillside coming up out of the river. So make sure that there's room for the fawns to get under the fence if possible. There's room for the bunnies but make sure that there's room available also for the babies. To the degree that there are gates in that fence at the back side, I would like somebody on the premises to be monitoring and opening those gates instead of some Fish and Game persons who's over on Highway 21. Finally, some signage. Some wildlife corridor signage on Warm Springs. Thanks a lot.

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

**Chairman Demarest:** Sir thank you so much. Okay, who else? Seeing no hands go up, I'm going to close the public portion and the applicant now has up to five minutes to rebut.

**PUBLIC TESTIMONY CLOSED**

**APPLICANT REBUTTAL**

**Bill Clark | Clark Development (420 Main Street Suite 204):** Mr. Chairman, Commissioners. Bill Clark again. I have just a couple of comments and then maybe you have some questions concerning some of the testimony that's been given which I appreciate.

Two things. One is on the Wildlands Urban Interface. I actually helped write those regulations and those policies quite a few years back. But anyway, I'm quite aware of them and we're absolutely committed to abiding by those as they've been refined over time and I think that's one of the requirements, conditions that Cody mentioned. Concerning wildlife, as I said a little earlier, we are trying to follow what Fish and Game is requesting and thinks best. And as concerning the fencing, we've said that we will follow what Fish and Game requires. Expect they have some fairly specific recommendations about that and so we anticipate abiding by those and that, as Cody mentioned, that they would have to sign off on it. I personally don't have the background and experience to contradict them. As I told you before, I may have a different opinion but that's it. So those are my only responses and rebuttal. If you have questions of me.

**Chairman Demarest:** I think we're past the Q & A part. We did that before. Alright? So that was your time to answer anything that came up. Okay, so it is now before the Commissioners to render a decision. Item number 1, PUD16-00024 & SUB16-00052.

**Commissioner Gillespie:** Mr. Chairman?

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**Chairman Demarest:** Commissioner Gillespie.

**Commissioner Gillespie:** I'll take first PUD, I move that we approve PUD16-00024 for the reasons stated in the Staff report and with all the terms and conditions with the additional requirement that per the Idaho Fish and Game's letter, we delete lot 40 and that we do, well it's already in the recommendations, that we require at least one path through the center of the subdivision.

**Chairman Demarest:** So, do we need that one in since it's already in the report? The second one?

**Commissioner Gillespie:** It's in. I'm sorry. Re-associating.

**Chairman Demarest:** You're just underscoring.

**Commissioner Gillespie:** The big one is I think.

**Chairman Demarest:** Delete lot 40.

**Commissioner Gillespie:** To delete lot 40 per IDFG.

**Chairman Demarest:** Part of your motion. Let's see if we've got a second for that, Commissioner. Is there a second for Commissioner Gillespie's motion?

**Commissioner Bradbury:** Second.

**MOTION:**            **COMMISSIONER GILLESPIE MOVED TO APPROVE PUD16-00024 FOR THE REASONS STATED IN THE STAFF REPORT AND WITH ALL THE TERMS AND CONDITIONS WITH THE ADDITIONAL REQUIREMENT THAT PER THE IDAHO FISH AND GAME'S LETTER DELETE LOT 40.**

**SECONDER:**        **COMMISSIONER BRADBURY**

**Chairman Demarest:** Okay. So we've got a motion moved and seconded to approve the PUD with all the terms and conditions in the Staff report adding the deletion of lot 40. Is that correct?

**Commissioner Gillespie:** Yes.

**Chairman Demarest:** Okay good. Alright. Let's debate that. Or discuss that.

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**Commissioner Gillespie:** Mr. Chairman?

**Chairman Demarest:** Commissioner Gillespie.

**Commissioner Gillespie:** So I agreed with the basic conclusions of the Staff report. I'm not convinced that the traffic issue is a disqualifying issue for this particular development at this time. There's been a lot of careful thought on the traffic flow throughout this area and it was clear that this has been envisioned as R-1C for some period of time. I think the developer has generally made a good faith effort to comply with the Fish and Game issues, the spacing and setback issues, and I think generally the project is going to be a good addition. I think with respect to the Idaho Fish and Game letter, it's pretty clear that Fish and Game would like to see lot 40 gone and to widen that toe for wildlife to get through. I think that's a very reasonable point and the developer's already said that they'll comply with all the IDFG recommendations. So really what we're just trying to do here is make that more clear. With respect to the approval. That's all I've got.

**Chairman Demarest:** Further discussion?

**Commissioner Thornburgh:** Chairman?

**Chairman Demarest:** Commissioner Thornburgh.

**Commissioner Thornburgh:** Along with the elimination of lot 40, would there also be, as this on gentleman said, either flashing lights like we see along the highway or some signage that says deer corridor? It would seem to me that that would need to be included but I don't know at what point.

**Chairman Demarest:** Let's ask Staff about that. Is that already a part of what we're talking about or not?

**Cody Riddle (City of Boise):** Mr. Chairman, no. Any additional signage would be subject to Fish and Game and Ada County Highway District approval. You could certainly include that subject to their approval, but if they say no, it's no.

**Chairman Demarest:** We could supersede them on that.

**Cody Riddle (City of Boise):** No.

**Chairman Demarest:** Okay. It's somewhat moot actually. It'd be a good recommendation but it's not part of what we've got before us right now. Alright. Further discussion?

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**Commissioner Stevens:** Mr. Chair?

**Chairman Demarest:** Commissioner Stevens.

**Commissioner Stevens:** I just want to say that I'm going to be supporting the motion but I do want to say a couple more things about the traffic. I was here a long time ago before the Park Center Bridge was put in. I know that traffic through the East End was a real problem back then. I think that the ACHD report and the comments that our own staff made make it clear to me that at least for right now, this development, the traffic can support this development. I think for the reasons that staff put in our staff report with regard to how the rest of this particular development fits into our Comprehensive Plan, I think that's really important. It's an important thing for us as the Commission to weigh. And there are a lot of really good reasons for this development in this particular place. It's not perfect. Unfortunately, I think that the mule deer, we're going to see, we'll probably see some changes in their migration patterns and when, I know it's a far, distance wise, it's a long way away to talk about how the Harris Ranch Underpass is going to effect this. But I think what we're going to see over the next 20 years or so is a really major change in their migration patterns. However, if we balance where we're going to put our people as our town grows, this is the place to put them as opposed to put them out west and sprawling and continuing to build infrastructure and infrastructure and infrastructure out where it really shouldn't go. So, I'm hoping that with the wisdom of Fish and Game and with the people who are working on this from various different agencies and a very responsible developer who has a proven track record in this town that we can make the right decision here and continue to track what's going on with those deer. So I just wanted to put those comments on the record and I will be supporting the motion.

**Chairman Demarest:** Thank you Commissioner. Any further discussion?

**Commissioner Bradbury:** Mr. Chairman?

**Chairman Demarest:** Commissioner Bradbury.

**Commissioner Bradbury:** So, the only thing I wanted to add, I agree Commissioners Gillespie and Stevens in the comments that they've made and I'm not going to repeat all that but I do want to talk a little bit about the lot. I think we're referring to it as lot 40. I'm not entirely convinced that lot 40 necessarily needs to be eliminated unless Fish and Game really intended for it to be eliminated. My thinking about that is that by adopting a condition of approval that requires the applicant to comply with the requirements of the Department of Fish and Game, that the applicant would comply with the requirements of the Department of Fish and Game. And if that means elimination of a lot, then it would include an elimination of a lot. If it means, as the applicant has suggested, redrawing the lots so as to make Fish and Game happy about what's happening in that particular location, then that's what it would mean. That's the approach I

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would take rather than having an outright requirement that any particular lot be eliminated because perhaps there's other ways to solve the problem. That's my thinking about what I would mean when the time comes to vote and I say aye.

**Cody Riddle (City of Boise):** Mr. Chairman if I may? I apologize to interrupt.

**Chairman Demarest:** Sure. It's okay.

**Cody Riddle (City of Boise):** In originally looking at this project, that was our thought exactly. We had, before meeting with the Fish and Game, suggested that the area identified as lot, I think was 38 at the time, 40 now, be removed and that that dimension, that space be accommodated as a wildlife corridor because we weren't recommending that it be removed for density purposes or traffic, but that that space, basically that that lot could be relocated elsewhere whether it be down Warm Springs or interior to the development. So I guess I just ask the Commission to clarify if it's to be removed entirely and you're suggesting a 59-unit project or otherwise.

**Commissioner Gillespie:** Yes. 59 Units.

**Chairman Demarest:** The City is asking for our help.

**Commissioner Gillespie:** 59 units.

**Chairman Demarest:** Okay. Removal of lot 40 which then means 59 units. Okay. Further Discussion?

**Commissioner Gibson:** Mr. Chairman?

**Chairman Demarest:** Commissioner Gibson.

**Commissioner Gibson:** One of the comments that came up from the public had specifically been related to the loose informal parking that occurs along Warm Springs and as a resident of that area, every summer you see the cars out there. I had a question and it's just more for an open thought. The Warm Springs Avenue Buffer exhibit, that's included in our package, indicates a shoulder and swale and it was also additional public testimony about questioning whether or not there would be the introduction of curb and gutter along that area. I'm bring this up as, what I would consider to be a fairly significant conflict if you have curb and gutter and it's striped accordingly, you're not going to have people informally park because they'll be parking in a roadway and can be ticketed. But the way the projects designed right now, there's the opportunity for individuals to bootleg park over the swale and up on to the landscape area. I'm bringing it up as a concern because it is provided as an exhibit. Whether or not that would have



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any material impact upon how the developer proceeds with the project, I'm just making that as an observation. I will be voting for the motion with the conditions.

**Chairman Gillespie:** Mr. Chairman?

**Chairman Demarest:** Commissioner Gillespie.

**Commissioner Gillespie:** I did think about this informal parking problem. First of all, we use the work informal. In some sense, it means parking on other people's property without their permission. Another word for it is illegal. I've always had kind of a hard time with that, making allowances for that concept. That said, greenbelt access is important and there's a big parking lot at Warm Springs Golf Course, which I've parked in to go bike riding a whole bunch of times and I've never seen it remotely full and it's just right there and there's a whole bunch of ways to get, you know, it's built into the greenbelt. So, I didn't see the need to try and handle the informal parking question.

**Chairman Demarest:** Commissioner Gibson.

**Commissioner Gibson:** Just to address that, it's usually the guys who are kayaking at the diversion dam. It wouldn't necessarily be pedestrians or hikers who would park at the golf course. Though I know in the summer time the golf course has to put a sign up stipulating that no non-golf related parking activities are allowed for parking at the golf course. So, with the addition of the new parking areas provided in this plan, that will address some of those issues. I accept that as a counter.

**Chairman Demarest:** Okay. But we're not changing the original motion?

**Commissioner Gibson:** No.

**Chairman Demarest:** Okay. Any further discussion? All those in favor of the motion with one additional condition please signify by saying aye. Any opposed? It is so ordered. Folks, thank you. Okay. We're going to on now to item number two.

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

**Commissioner Bradbury:** Mr. Chairman?

**Chairman Demarest:** Commissioner.

**Commissioner Bradbury:** I don't think the motion included the subdivision.

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**Chairman Demarest:** Hold it. Come back. We haven't done the subdivision. Let's do the Sub. They may want to hear this so come back.

**Commissioner Gillespie:** The shows over. Mr. Chairman I move that we recommend approval to the City Council of SUB16-00052 for the reasons stated in the Staff report and with all the terms and conditions of the Staff report and with the additional term and condition we put on the planned unit development with respect to lot 40.

Chairman Demarest: Thank you. Do we have a second?

**Commissioner Bradbury:** Second.

**MOTION: COMMISSIONER GILLESPIE MOVED TO RECOMMEND APPROVAL OF SUB16-00052 FOR THE REASONS STATED IN THE STAFF REPORT AND WITH ALL THE TERMS AND CONDITIONS OF THE STAFF REPORT AND WITH THE ADDITIONAL TERM AND CONDITION WE PUT ON THE PLANNED UNIT DEVELOPMENT WITH RESPECT TO LOT 40.**

**SECONDER: COMMISSIONER BRADBURY**

**Chairman Demarest:** Second from Commissioner Bradbury. Further discussion? Recommendation to the City Council.

**Commissioner Bradbury:** Mr. Chairman?

**Chairman Demarest:** Commissioner Bradbury.

**Commissioner Bradbury:** I just to state for the record that I, as I said with respect to the PUD approval we just made, I don't necessarily believe that elimination of a lot is required in order to conform to the requirements of the Fish and Game Department and although I'm going to vote in favor of the motion, I kind of just want that on the record so that maybe when this thing is seen by the City Council they can consider that thinking as well.

**Chairman Demarest:** Any further discussion? All those in favor signify by saying aye. Any opposed? It is so ordered. Folks, now you may depart if you want to. You're welcome to stay as well.

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

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**CUP16-00078 & CVA16-00059 / Benjamin Victor**

**Deferred from October 3, 2016**

Location: 2227 S. Broadway Avenue

A conditional use permit for a parking reduction and a variance to reduce the front, rear and side setbacks for parking and a new office building located on 0.19 acres at 2227 S. Broadway Avenue in an L-OD (Limited Office with Design Review) zone.

Céline Acord

**APPLICANT TESTIMONY**

**Cathy Sewell (Platform Architecture & Design | 280 N 8<sup>th</sup> Suite 118)**

**NEIGHBORHOOD ASSOCIATION TESTIMONY**

**Fred Fritchman | South East Neighborhood Association (1321 Denver Avenue)**

**PUBLIC TESTIMONY**

**Robert Hobson (1005 Howard Street)**

**APPLICANT REBUTTAL**

**Cathy Sewell (Platform Architecture & Design | 280 N 8<sup>th</sup> Suite 118)**

**PUBLIC TESTIMONY CLOSED**

**MOTION: COMMISSIONER GILLESPIE MOVED TO APPROVE CVA16-00078 & CVA16-00078 IN ACCORDANCE WITH THE TERMS AND CONDITIONS IN THE STAFF REPORT EXCEPT THAT WE MAINTAIN THE WEST SIDE SET BACK PER THE ZONING CODE.**

**SECONDER: COMMISSIONER BRADBURY**

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

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**CAR16-00031 / Wild Shamrock Center, LLC**

Location: [11211 W. Fairview Avenue](#)

Rezone of 4.1 acres from R-1C (Single Family Residential) to C-2D (General Commercial with Design Review). A Development Agreement is included. [Brent Moore](#)

**SUB16-00058 / Wild Shamrock Center**

Location: [11211 W. Fairview Avenue](#)

Preliminary and final plat for a commercial subdivision comprised of 8 buildable lots on 8.4 acres in a proposed C-2D (General Commercial with Design Review) zone. [Brent Moore](#)

**Brent Moore (City of Boise):** Mr. Chair, Commissioners, before you is an application for a rezone of 4.1 acres located at 11211 W. Fairview Avenue from R-C to C-2D as well as a preliminary and final plat for an eight lot subdivision. The property is located at the southeast corner of Fairview Avenue and Shamrock Street and is bordered primarily by commercial and office uses to the north and residential uses to the south, including single-family homes to the southwest, manufactured home park directly to the south and multi-family residential to the southeast. Here's the zoning map of the area. The application includes both of these parcels. The rezone is only for the eastern parcel that's currently zoned R-1C residential zone and the applicant is proposing a C-2D zone to match the properties to the east and the west.

The Planning team finds that the proposed C-2D zone would be appropriate, as this is the predominant zone along this portion of Fairview Avenue and other properties zoned C-2D are located to the north, east and west. Additionally, the Comprehensive Plan designates this property as commercial.

Here is the proposed final plat. It will include eight buildable lots. As part of the plat, Gabrielle Drive will be continued west across the street to connect with Shamrock Avenue and Stillwood Avenue, which is located north of Fairview, will extend south to the new extension of Gabrielle Drive. So it will provide good connectivity to the area. Also, per ACHD, a new traffic signal would be located here at the Stillwood/Fairview Avenue intersection when these streets were constructed.

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While supportive of the proposed lot layout and zoning, the Planning team finds that a development agreement would be necessary to ensure the future use of the property would be compatible with the surrounding development and in compliance with the Comprehensive Plan while the applicant is asking that the rezone be approved without a development agreement. Specifically, the Planning Team recommends that the new lot south of Gabrielle Drive, shown in yellow here, be limited to residential development to ensure compatibility with the residential uses that would surround it on three sides. As you can see, residential properties and uses surround this southern-most lot. The Planning Team also recommends that auto oriented uses, such as drive-thru's and auto dealerships be limited on the remainder of the site, as this would ensure future development complies with the Comprehensive Plan, as it encourages a more pedestrian and transit friendly development pattern along the City's major travel corridors.

In conclusion, the Planning Team is recommending denial of the proposed rezone and subdivision as the application does not include a development agreement. Just a note regarding procedure, whatever the Commission decides tonight, the applicant does have the option to move forward to City Council without a development agreement. However, if City Council does ultimately require a development agreement, it would need to come back to the Planning and Zoning Commission to have the development agreement noticed and added to the application. This concludes my presentation.

**Chairman Demarest:** Thank you Brent. Okay, time to hear from the applicant. Come on up.

**APPLICANT TESTIMONY**

**Penelope Riley (P.O Box 405 Boise, ID):** Mr. Chairman? I have some handouts. Can I give them out first?

**Chairman Demarest:** Let me ask the question. So, are we, is it something we can take? No. Same as last minute information. So, we really can't do that per the code. So here's the requirement. Let me explain it to you so you don't think we're just being fussy with you. If it was not in by the deadline, which was last Thursday, what we needed then was a written reason why you couldn't get it in by that time. Sounds like we don't have that. You do, however, have the time, up to twenty minutes, to present whatever you'd like to present to us. Okay, let's start with 10 minutes just because we're going on three hours now.

**Penelope Riley (P.O Box 405 Boise, ID):** Also, the applicant wants to provide a little bit of testimony. We'll try to keep inside 10 minutes. Mr. Chairman, Penelope Riley Post Office Box 405 Boise Idaho 83701. As I stated, I'll be sharing my presentation time with Mr. Chambers this

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evening. As the applicant, he represents the property owners for the project and has some detailed history information for your consideration this evening.

Wild Shamrock Center Subdivision is an eight lot commercial subdivision at the southeast corner of Shamrock and Fairview Avenue and is the result of a cooperative effort between the property owners and ACHD. As shown in the Staff report, the project site is composed of two distinct parcels. The western parcel is currently zoned C-2 and no change is proposed. The eastern parcel is currently zoned R-1 due to the presence of residential structures on the parcel. These structures would be removed with the approval of the subdivision applications. There's been considerable interest in the traffic signal at this location. I have here, which I can't give to you, two road wizard letters that were submitted to ACHD and their responses. Anyhow, there's a lot of people in the area that are very interested in a traffic signal being placed in that location. Also, I wanted to mention that this is not a new traffic signal. This traffic signal was installed a number of years ago and removed. So the project would involve reinstalling a traffic signal.

The proposed commercial development is unusual for Fairview Avenue. When developed, there will be four street frontages. The extension of Gabrielle through the site to Shamrock will facilitate safe access to Fairview Avenue for commercial and residential development to the east and to the west with the connection of Shamrock to Stillwood via Gabrielle. Access to Fairview Avenue for the residential development to the south will be much safer. Especially for a left out onto Fairview. In addition to greatly improved vehicle access in the vicinity of this site, pedestrian and bicycle access across Fairview Avenue, as a part of the Shamrock Avenue corridor, will also be enhanced. With frontage on Fairview, Stillwood, Gabrielle and Shamrock, the subdivision design maximizes the potential of the site and provides safe access to Fairview Avenue, which is a principal arterial.

The Staff report states that ACHD is not allowing direct access to Fairview Avenue. Based on our discussions with ACHD and the email correspondence from Kristie Little, which is included in your packet, access to Fairview avenue will be considered with specific users. ACHD has not indicated that they are opposed to direct access to Fairview, but are reserving the right to review requests based on specific development.

With regard to the rezone application, as presented previously, the R-1 zone was retained due to the residential nature of the parcel. These structures have exceeded their useful life and should be removed.

The ACHD Shamrock Avenue Corridor currently crosses Fairview Avenue just west of Shamrock. This corridor links DeMeyer Park near HP, to Fairview Avenue via a ped signal. With the re-installation of a traffic signal at Steelwood, it would be safer to cross Fairview Avenue at the signal and the less safe crossing location will be removed.

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Development of the proposed project is so important to ACHD that the district will be paying for the cost of paving Gabrielle and Steelwood. In a May 2015 letter to the ACHD road wizard it sums it up, the traffic signal well. The writer states that trying to make a left on to Fairview Avenue is almost impossible depending on the time of day. The benefits of a traffic signal at Steelwood will be felt by all development surrounding this site. But the reinstallation of the signal is dependent upon the approval of Wild Shamrock Center.

Staff has recommended a development agreement as part of the rezone application approval. While higher density residential is anticipated for the southern portion of the site, that use is not confirmed and the lot may be developed for some other use. The applicant believes that a development agreement is not warranted and unnecessarily restricts the development of the site. With roads being mandated by ACHD, the applicant believes the site has already been handicapped substantially.

The requested zoning designation is consistent with surrounding zoning. According to Boise City Code, the general commercial zone is to provide a district for community and regional commercial and retail uses. The commercial land use category in Blue Print Boise indicates that primary uses are: convenience, neighborhood, community and regional shopping center. Only outpatient medical uses are restricted.

As you're aware, a rezone recommendation must be based on the following criteria listed in the Boise City Code. Is the rezone in compliance with the Comprehensive Plan? Yes. The site is designated as commercial in Blue Print Boise. Is it in the best interest of the public convenience and general welfare? Yes. The rezone will allow appropriate development at this site and facilitate the reinstallation of the traffic signal at Steelwood. More than anything, the rezone enhances public safety. Does it maintain and preserve compatibility of surrounding zoning and development? Yes. The proposed development is compatible with the surrounding zoning and development.

In conclusion, Wild Shamrock Center Subdivision will use a vacant parcel within a well-developed area and not add to city sprawl. The proposed subdivision has a mixture of lot sizes to accommodate a variety of users. With multiple street frontages, the site can develop in a more attractive way than the customary linear development pattern often found along primary transportation corridors. A development agreement is not needed because the existing commercial context within which the development sits. Any commercial use that would locate at the project site would of necessity be an allowed use or a conditional use. With a design review overlay the aesthetics of the site as it compares to the surrounding uses would be protected. And most importantly, the development of the site will facilitate an important safety improvement for Fairview Avenue and the surrounding residential and commercial uses.

I'd be happy to answer any questions.

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**Chairman Demarest:** Okay, let's put Mr. Chambers I think you wanted to have part of the Applicant's time. Is that correct? Okay. You're welcome to stay up here with him, by the way, if you want.

**Jim Chambers (5356 N Troon Place):** My name is Jim Chambers. 5356 N Troon Place. I am representing the managing members of the LLC's that have asked to join together to do this development. Just some history on this, the two parcels were purchased about two years apart 25 years ago. 20 to 25 years ago. The members that own in the eastern part don't necessarily own in the western parcel so we've been asked to join them together and to equalize them, so to speak, to have this development come before you.

Our concern with, I appreciate all the positiveness towards this development, our concern with the development agreement, and limiting the uses, is that not everybody owns in one and the other and if there's limitations on this one parcel, it is going to directly, adversely, effect the members in the other parcel. Other concerns are that we created a development here that is hands down better than the rest of Fairview Avenue when it comes to getting in and out and we're actually doing this so that we can connect our parcels that were approved 15 to 20 years ago, so that they can access Fairview Avenue more safely. So to further limit this development when others were not limited with those types of uses just seems a little restrictive. That's all I have to say.

**Chairman Demarest:** Mr. Chambers, thank you. Stay here and Ms. Riley come back up. Alright? I want to commend you for keeping it to eight minutes. That's very good. Thank you. As you know, the night is still young. Right? So let's see if we have any questions from the Commissioners for either Mr. Moore or Mr. Chambers or Ms. Riley.

**Commissioner Gillespie:** Mr. Chairman?

**Chairman Demarest:** Commissioner.

**Commissioner Gillespie:** Question for the City. The code doesn't really allow us to consider the nature of the ownership structure of a parcel with respect to considerations of the code. Is that correct?

**Brent Moore (City of Boise):** Mr. Chair, Commissioner Gillespie, that's correct. It doesn't get into that.

**Commissioner Stevens:** Mr. Chair?

**Chairman Demarest:** Commissioner.



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**Commissioner Stevens:** I wanted to ask Mr. Moore a question if I could? So the idea behind the development agreement, and I'm just going to put it out there what I think the idea is and have you respond if you could, but my sense is that with a development agreement, we're going to prevent any sort of future conflict with the neighborhood to the south. Is that correct?

**Brent Moore (City of Boise):** Mr. Chair, Commissioner Stevens, that's correct. The development agreement, the code states that development agreements can be used after determination has been made that a rezone does not meet required findings without additional restrictions to those imposed by the zoning district. A development agreement is just to help it comply with the rezone findings, that it will be compatible with surrounding properties and in compliance with the Comprehensive Plan.

**Commissioner Stevens:** Okay. So really it's intended to be a preventative measure, if I'm not mistaken in this particular case especially because of the fact that that particular part of this parcel, the south half, the south third, whatever it might be, is surrounded on all sides by residential. Correct?

**Brent Moore (City of Boise):** That's correct.

**Commissioner Stevens:** Okay, thank you.

**Chairman Demarest:** I've got a question for Brent actually. Could you give us an example, this is a little hard, I don't mean to put you on the spot, a little example of let's say we approve this without the development agreement, what's a bad thing that can happen here? Can you give us a negative scenario just so we kind of get how this works?

**Brent Moore (City of Boise):** Mr. Chair, Commissioner Demarest, so just a worst case scenario you could say in the C-2 zone, things such as gas stations are allowed uses, auto sales, car wash, minor vehicle repair, laundry mat, retail. These are some things that would be allowed uses in that zone.

**Chairman Demarest:** A development agreement would then clarify what could come in there, what could not come in there. We could leave out the gas stations and all that stuff. Right? It would be an agreement between the developer and the City?

**Brent Moore (City of Boise):** That's correct.

**Chairman Demarest:** That's helpful. Thank you so much. Further Discussion?

**Commissioner Bradbury:** Mr. Chairman?

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**Chairman Demarest:** Commissioner Bradbury.

**Commissioner Bradbury:** So I've got a question for both Staff and the Applicant. I'm just going to toss out an idea. The Staff has suggested that the southerly parcel in your proposed development be limited to residential uses. What if we threw in like limited office uses? Would that help? Would it be more comfortable for you?

**Jim Chambers (5356 N Troon Place):** Absolutely.

**Commissioner Bradbury:** Can you give us some reasons why you wanted it to be limited to just to residential as opposed to including some light offices?

**Brent Moore (City of Boise):** Mr. Chair, Commissioner Bradbury, other types of uses may be appropriate there. Staff just felt residential would be good fit there, a good solid fit, but there may be other uses that could work there.

**Commissioner Stevens:** Mr. Chair.

**Chairman Demarest:** Commissioner Stevens.

**Commissioner Stevens:** I'm going to follow up on that, thank you Mr. Bradbury, and ask if it's within the Commissions purview to also put a design review overlay on one particular parcel in that development agreement.

**Brent Moore (City of Boise):** Mr. Chair, Commissioner Stevens, the whole property would be in the design review overlay. The western parcel already is and the proposed zone for the east would be in that. It's in the C-2D zone.

**Commissioner Stevens:** Thank you.

**Commissioner Gillespie:** Mr. Chairman?

**Chairman Demarest:** Commissioner Gillespie.

**Commissioner Gillespie:** Question really to the Commission and the City. The use tables are long in the code. Right? I don't think tonight, we kind of ran into this before, my suggestion to the Commission is that we not now start going through the use table and saying in out. I think the sense, well public hearing isn't closed yet, I would just throw that out there. I think we're on the right track, but we have to be careful we don't really get into the weeds on writing the development agreement tonight.

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**Chairman Demarest:** Thank you, Commissioner.

**Commissioner Faucher:** Mr. Chairman?

**Chairman Demarest:** Who's that? Commissioner Faucher.

**Commissioner Faucher:** So an email from ACHD to the applicant says that ACHD will be paying for a portion of the local streets through this site if approved by the Commission and incorporated into the development agreement. Have you come to, it says DA I'll assume that means development agreement, have you come to like an alternative agreement with ACHD that they're going to pay for the building of those roads that does not require a development agreement?

**Jim Chambers (5356 N Troon Place):** Yeah. Let me give you a little more history along those lines. A development agreement was reached with ACHD over ten years ago when the parcel across the street to the north developed. The developers came to the owners and said would you cooperate in allowing the stop light to be moved to the center of our property. Meaning theirs. At that time, they were a little uneasy about it because they were more comfortable with it on Shamrock. But when they said that it would actually be in the middle of our two parcels, we supported it. Well, a long story short, it ended up being moved, as you can see, to the middle of their parcels and not in the middle of our parcels and so we supported something that didn't quite turn out the way we had planned. There's been a development agreement with ACHD for over ten years. And each time a new event takes place, they want to keep enforcing that. They're at the point now, really because of safety, want to get that moving. And so we're finally at a point where we can actually move with them and develop alongside them. So, yes. They agreed to pave, whereas we will do the utilities and the sidewalk curb and gutter etc.

**Commissioner Faucher:** Thank you.

**Chairman Demarest:** Further questions for either City of Applicant/Applicants? I wanted to just ask to, just to follow up, just so we don't go down the rabbit hole that we went down last month or so. So if, hypothetically, I think this is actually for Commissioner Bradbury, so if we were to impose a condition, like you suggested, would that not be tantamount to us doing the development agreement?

**Commissioner Bradbury:** Yes. I think that we have a choice. We can either recommend approval to the City Council or the application, recommend denial of the application to City Council, or with the applicant's permission, defer and permit the Applicant and Staff to put a development agreement together and bring it back to us some time in future after further notice and additional public hearing.

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**Chairman Demarest:** Right. That was my next question. We'd have to do it in agreement with the applicants. Okay. Just so we're clear about that. Alright? Any other questions? Folks, thank you. Thank you very much. So we don't have anybody from the public signed up for item number 4. And it's not in a neighborhood association. Let's see if anybody didn't have a chance to sign up. So, we're on item number 4, CAR16-31 and SUB16-58. Is there anybody here who wanted to testify on this application? Alright. Seeing none, I suppose the applicant could rebut, but there's really nothing to rebut. Nothing's come up. Okay, so you're okay with that? Alright good. So it is now before the Commissioners to make one of those three possible decisions that Commissioner Bradbury just laid out for us.

**NO NEIGHBORHOOD ASSOCIATION TESTIMONY**

**NO PUBLIC TESTIMONY**

**NO APPLICANT REBUTTAL**

**Commissioner Gillespie:** Mr. Chairman?

**Chairman Demarest:** Commissioner Gillespie.

**Commissioner Gillespie:** While we're back where we were, the last time we did this, which is, well right. So, I think we're in a little different. This Commissioner is not going; I'm not going to vote to approve this without a development agreement. I don't know where everyone else is, so I guess my question to the rest of the Commissioners is, are we at the stage now of asking the Applicant and the City as to whether they would accept a deferral to negotiate a mutually acceptable development agreement? So, that would be in Scott's email that laid out your three choices. I think number 3?

**Chairman Demarest:** Let's weigh in on that one.

**Commissioner Bradbury:** Mr. Chairman?

**Chairman Demarest:** Commissioner.

**Commissioner Bradbury:** I agree with Commissioner Gillespie. I think that we, I think that, I agree with Staff. I think that we need a development agreement and although I might, the uses under the development agreement, in my mind, might be a little broader, a little more expanded than what Staff has suggested, I still think we need one. And we can't require it unless the applicant agrees.

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**Chairman Demarest:** Just so we're clear, there's this little bit of consensus emerging here that probably the other option would be then a denial. Right?

**Commissioner Bradbury:** Right.

**Chairman Demarest:** So, Applicants, you need to come on back up, talk with us here. We can't impose this on you. It's something that needs to happen with you. So, why don't you talk to us. It sounds like, at least I'll add myself to the list, three people up here don't feel comfortable approving this without a development agreement.

**Commissioner Thornburgh:** Four.

**Commissioner Stevens:** Five.

**Chairman Demarest:** So now we're up to five. So really now, we've got a majority here. So, talk to us.

**Commissioner Gillespie:** Mr. Chairman, just to be clear what we're asking. So, with your permission, and that's what you're really deciding is, we would vote to defer this to a future date and you could use that time in the deferral to see if you and the City could reach an acceptable development agreement. The City has now heard from the Commission that we would accept a slightly, a broader set of uses than strictly residential. Some of us would. So the question is, do you want that deferral, do you consent to that deferral? Basically, yes or no. So that's what you're consenting to, simply the deferral.

**Commissioner Stevens:** Or do you prefer that we deny and let you take it to City Council and take your chances there?

**Jim Chambers (5356 N Troon Place):** Can I just add some more input?

**Chairman Demarest:** Sure.

**Jim Chambers (5356 N Troon Place):** Our two concerns were taking ground that was purchased 20-some years ago and turning it from, purchased as commercial, and turning it into residential by mandate. That was a big, that was a concern. So, being able to offset that with another type of use, I think we're okay with that. That was one concern. Our biggest concern, because we're already moving down that path to putting a residential development there anyway, our biggest concern is the limitation of drive-thru's on Fairview when we're at a stop light and we're allowing, we're already at a center piece of our development is a relocation of a user who is trying to get off of Fairview and get into a development where there's better access. Our guess is, that's going to happen with other locations on Fairview, where they move and relocate into

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our development with better access. So, to limit to what they suggest to one drive thru restaurant, seems to way limit the development of this.

**Commissioner Gillespie:** Mr. Chairman?

**Chairman Demarest:** Commissioner Gillespie.

**Commissioner Gillespie:** Just a quick question. So that restriction is part of the development agreement that's been suggested? Is that correct?

**Jim Chambers (5356 N Troon Place):** Correct.

**Commissioner Gillespie:** So, I guess what we're saying is, yeah, we'll defer it. What we would like to do frankly is defer this and give you and the City a chance to work out a mutually acceptable development agreement that can possibly address that issue or not. Then come back before us because right now we're in a bad position to, what's the word, to frame a development agreement right now tonight. We're the wrong people. You need to do that with the City.

**Chairman Demarest:** It's not a place for us to be doing that kind of work. Right? We don't have enough time for that.

**Commissioner Bradbury:** Mr. Chairman?

**Chairman Demarest:** Commissioner Bradbury.

**Commissioner Bradbury:** Just to be clear. I want to make sure the applicant understands that if you want to go and make your pitch to the City Council, you can. You can do it. It's just that I think Staff has probably given you a pretty good indication of where they think the City Council is going to land and maybe it's better to work that out before you get there. But that's entirely up to you.

**Jim Chambers (5356 N Troon Place):** Are we talking 30 more days?

**Chairman Demarest:** Yes, we have a maximum that I think we've got to stick within. Brent can you help us with that? Before Christmas.

**Brent Moore (City of Boise):** We have two hearings. One December 5<sup>th</sup>, one December 12<sup>th</sup>. Either of those would work.

**Chairman Demarest:** Okay, so either first or second week, Monday in December.

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**Commissioner Gillespie:** Staff is okay with either.

**Commissioner Bradbury:** Does that give enough time, Mr. Chairman, to re-notice?

**Chairman Demarest:** It does. Commissioner?

**Commissioner Gillespie:** Mr. Chairman, I note for the record that the applicant has agreed to a deferral to December 12<sup>th</sup>. I therefore move that we defer this matter to our meeting.

**Commissioner Stevens:** I think that the applicant is still in discussions.

**Chairman Demarest:** I don't think they've indicated that to us quite as clearly as you're suggesting.

*Asides*

**Jim Chambers (5356 N Troon Place):** I think we would rather take our chances with City Council.

**Chairman Demarest:** Okay. Alright, so that motion limits our options. Commissioner Gillespie.

**Commissioner Gillespie:** I move that we recommend denial of CAR16-31 and SUB16-58 for the reasons stated in the Staff report.

**MOTION:            COMMISSIONER GILLESPIE MOVED TO RECOMMEND DENIAL OF CAR16-00031 & SUB16-00058 FOR THE REASONS STATED IN THE STAFF REPORT.**

**SECONDER:        COMMISSIONER STEVENS**

**Chairman Demarest:** Is there a second?

**Commissioner Stevens:** Second.

**Chairman Demarest:** Two seconds. Okay, really seconded. Discussion?

**Commissioner Stevens:** Mr. Chair?

**Chairman Demarest:** Commissioner.

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**Commissioner Stevens:** Do you want to start Mr. Gillespie?

**Commissioner Gillespie:** No. You go ahead. I'm fine.

**Commissioner Stevens:** I just want to just thank Staff. I think that in this situation, I think what we would see if we were to not have a development agreement is any one of the number of uses that Staff laid out for us that's listed as an approved use in a C-2D zone. I think by giving us a Staff report and recommending that a development agreement be part of this application, they're really being very forward thinking and I appreciate that from Staff very much. I think that it's foolish for us to look at that piece of land and see what's it's surrounded by and not recognize that we would be facing some serious opposition down the road. So, I thank Staff for the recommendation and I will be supporting the denial.

**Commissioner Gillespie:** Mr. Chairman?

**Chairman Demarest:** Commissioner.

**Commissioner Gillespie:** So, I'd just like to say for the record that I believe that the development agreement in that spot is in the best interest of public convenience, general welfare. I believe there are 14, maybe 12 or 14 surrounding residences that are immediately adjacent so for those reasons I made the motion.

**Chairman Demarest:** Just for clarity, the motion is a denial of both the CAR and the SUB? Okay, Alright. One is a recommendation we know that. Okay, further discussion?

**Commissioner Gibson:** Mr. Chairman?

**Chairman Demarest:** Commissioner Gibson.

**Commissioner Gibson:** I'm also going to be voting for the motion but I did want to acknowledge that the developer, in working with ACHD to attempt to put, or reinstall the traffic light at that intersection is providing for public good. Having a senior parent that lives off of Wildwood that used to use that light before it was removed, the installation of the Dutch Brothers at that intersection of Wildwood is nothing but a calamity in the making. So any opportunity to extend some infrastructure off of Fairview that could be used as a by-pass, I want to acknowledge that that is part of their application regardless of the outcome of the vote.

**Chairman Demarest:** Clarification or correction, excuse me, both of these are recommendations to Council. Correct?

**Commissioner Gillespie:** Yes.



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**Chairman Demarest:** So noted. Further discussion?

**Commissioner Faucher:** Mr. Chairman?

**Chairman Demarest:** Who was that? Commissioner Faucher. Down at the end.

**Commissioner Faucher:** Thank you. Considering my vote, or I cannot vote on this matter, I just wanted to make it noticed for the record that I support this motion even though I can't vote for it.

**Chairman Demarest:** Let's just clarify for the folks why you can't vote. Commissioner Paul Faucher is a Student Commissioner. Alright? And he's entitled to seat, voice and can actually make a motion I think but you can't vote on the motion. Right? So one qualification. We're really glad you're here. Thanks for weighing in. Alright. So any further discussion? Okay we've got a motion to deny both items on number four. All those in favor of the denial please signify by saying aye. Any opposed? It is denied. Thank you.

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

**[CUP16-00077](#) / BRS Architects**

Location: [10983 W. Overland Road](#)

Conditional use permit for an indoor recreation center on 2.4 acres in an L-OD (Limited Office with Design Review) zone. A parking reduction is also requested. [Brent Moore](#)

**APPLICANT TESTIMONY**

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

**NEIGHBORHOOD ASSOCIATION TESTIMONY**

**Roger Wood | Ada County Southwest Alliance (11027 W Inglin Drive)**

**PUBLIC TESTIMONY**

**Doranna Peterson (11046 W Inglin)**

**Anna Martinez (1728 S Whisper Cove Avenue)**

**APPLICANT REBUTTAL**

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

**PUBLIC TESTIMONY CLOSED**

**MOTION:           COMMISSIONER BRADBURY MOVED TO APPROVE CUP16-00077 WITH A MODIFIED CONDITION OF APPROVAL WHICH WOULD REQUIRE THAT THE OUTDOOR SPEAKER BE ORIENTED TO THE NORTH AND AWAY FROM THE RESIDENTIAL AREA TO THE SOUTH AND THAT THEY NOT BE USED AFTER 9 PM.**

**SECONDER:       COMMISSIONER GILLESPIE**

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

**CUP16-00075 / ALC Architecture**

Location: 7901 W. Fairview Avenue

Conditional use permit for an approximately 450 square foot coffee shop with drive-up window on 0.4 acres in a C-2D (General Commercial with Design Review) zone. A wavier to exceed the parking maximum is included. David Moser

**APPLICANT TESTIMONY**

**Hethe Clark | Spink Butler LLP (251 E Front Street)**

**NO NEIGHBORHOOD ASSOCIATION TESTIMONY**

**PUBLIC TESTIMONY**

**Jody Hull (7916 W Queen Court)**

**James Hull (7916 W Queen Court)**

**APPLICANT REBUTTAL**

**Hethe Clark | Spink Butler LLP (251 E Front Street)**

**PUBLIC TESTIMONY CLOSED**

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FINAL

**MOTION: COMMISSIONER GILLESPIE MOVED TO DENY CUP16-00075 IN LINE WITH THE STAFF REPORT FOR THE REASONS IN THE STAFF REPORT.**

**SECONDER: COMMISSIONER STEVENS**

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

**[CVA16-00061](#) / IAMT**

Location: [1213 S. Lincoln Avenue](#)

Variance to reduce the side yard setbacks for the construction of a duplex on 0.14 acres in a C-1D (Neighborhood Commercial with Design Review) zone. [Leon Letson](#)

**APPLICANT TESTIMONY**

**John Hale | IMT (1805 N 10<sup>th</sup>)**

**NEIGHBORHOOD ASSOCIATION TESTIMONY**

**Fred Fritchman | Southeast Neighborhood Association (1321 Denver Avenue)**

**NO PUBLIC TESTIMONY**

**APPLICANT REBUTTAL**

**John Hale | IMT (1805 N 10<sup>th</sup>)**

**PUBLIC TESTIMONY CLOSED**

**MOTION: COMMISSIONER GILLESPIE MOVED TO APPROVE CVA16-00061 FOR THE REASONS STATED IN THE STAFF REPORT AND WITH ANY TERMS AND CONDITIONS IN IT.**

**SECONDER: COMMISSIONER FAUCHER**

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

**IV. MEETING ADJOURNED**

**(09:49 PM)**