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Planning & Development Services

February 16, 2017

Bill Clark
Warm Springs Enterprises, LLC
420 W Main Street, Suite 204
Boise Idaho 83702
bill@clarkdevelopment.com
(sent via email)

Re: PUD16-00024 (Appeal) & SUB16-00052 / 2570 E. Warm Springs Ave

Dear Mr. Clark:

This letter is to inform you of the action taken by the Boise City Council on your appeal of the conditions associated with the Planning and Zoning Commission's approval of a residential planned development comprised of 60 detached single family homes on 14.45 acres in an R-1C (Single Family Residential) zone and an associated preliminary plat.

The Boise City Council, at their hearing of **January 31, 2017**, **approved** your appeal, and overturned the decision of the Planning & Zoning Commission. Council found the Commission's decision was not supported by the facts and evidence presented. Council also **approved** the preliminary plat of the Warm Springs Village Subdivision. Both decisions are based on the findings of the Planning and Zoning Commission and the revised condition 2f, formally adopted by Council on **February 14, 2017**. Attached are the revised Conditions of Approval.

This final decision by the Boise City Council includes the notice to the applicant of the applicant's rights to request a regulatory taking analysis pursuant to Idaho Code 67-8003.

If you have any questions, please contact Cody Riddle in this department at (208) 608-7082.

Sincerely,

Hal Simmons
Planning Director
Boise City Planning and Development Services

HS/wm
cc:

David Powell / RiveRidge Engineering Company / dpowell@rvrde.com (sent via email)
East End Neighborhood Association / Jane Suggs & Robert Bennett / jhsuggs@cableone.net &
boisecook@yahoo.com (sent via email)
All parties of record who submitted written testimony
All parties of record who spoke at the November 7, 2016 PZC Hearing

Conditions of Approval

Site Specific

1. Compliance with plans and specifications submitted to and on file in the Planning and Development Services Department dated received **August 30, 2016**, except as expressly modified by the following conditions:

2. **Planning:**

- a. A pedestrian pathway shall be provided that connects the upper street to Warm Springs Avenue, as generally illustrated in the October 10, 2016 Planning Report.
- b. The minimum setbacks are as follows:

Alley Loaded Lots

Front: 15'

Rear: 20' parking

Side: 3'

Front Loaded Lots

Front: 10' living space / 20' parking (measured from back of sidewalk)

Rear: 15'

Side: 5'

- c. All streets and sidewalks within the development shall remain accessible to the public. The use of gates is prohibited.
- d. The streetlight fixtures shall be of a design that focuses light downward to prevent light trespass from the subdivision. All lighting shall be approved by the Public Works Department.
- e. The project shall comply with the standards for the Wildland Urban Interface (WUI) Zone A, including those stated in the September 23, 2016 memo from the Boise Fire Department.
- f. **The project layout shall be revised as illustrated in the February 8, 2017 exhibit provided by the applicant and presented at the February 14, 2017 hearing.**

3. Subdivision:

- a. A note on the face of the final plat shall state: *"The development of this property shall be in compliance with the Boise Development Code or as specifically approved by PUD16-00024."*
- b. A note shall be placed on the face of the final plat stating, *"This subdivision is located in the Wildland Urban Interface Area A and compliance with Section 7-01-09 of the Boise City Fire Prevention Code is required."*
- c. A note on the face of the final plat shall designate that any common lots shall be owned and maintained by the Warm Springs Village Homeowner's Association. These lots cannot be developed for residential purposes in the future. The common lots shall be designated by lot and block.
- d. The final plat shall include a note granting public access to all streets and sidewalks within the development.
- e. No building permit for the construction of any new structure shall be accepted until the final plat has been recorded pursuant to the requirements of the B.C.C. 11-09-04.1. If a Non-Building Agreement is approved by Boise City Fire Department, no building permits shall be submitted until a "Satisfaction of Non-Building Agreement" is recorded.
- f. The name, **Warm Springs Village**, is reserved and shall not be changed unless there is a change in ownership, at which time, the new owner(s) shall submit their new name to the Ada County Engineer for review and reservation. Should a change in name occur, applicant shall submit, in writing, from the Ada County Engineer, the new name to the Department of Planning and Development Services and re-approval by the Council of the "revised" Final Plat shall be required. Developer and/or owner shall submit all items including fees, as required by the Planning and Development Services Department, prior to scheduling the "revised" Final Plat for hearing.
- g. Developer shall provide utility easements as required by the public utility providing service (B.C.C. 11-09-03.6).
- h. Prior to submitting the mylar of the final plat for the City Engineer's signature, all the conditions of approval must be satisfied. Approvals must be provided on agency letterhead.

- i. The Mylar shall include the following endorsements or certifications: signatures of owners or dedicators and acknowledgment, certificate of the surveyor, certificate of the Ada County Surveyor, certificate of the Central District Health Department, certificate of the Boise City Engineer, certificate of the Boise City Clerk, signature of the Commissioners of the Ada County Highway District and the Ada County Treasurer (I.C. Title 50-17). The signatures of the owners or dedicator, certificate of the surveyor, certificate of the Central District Health Department and acceptance of the Commissioners of the Ada County Highway District must be executed prior to submittal of the Mylar for the City Engineer's signature.
- j. Developer shall comply with B.C.C. 11-03-04.4 which specifies the limitation on time for filing and obtaining certification. Certification by the Boise City Engineer shall be made within two years from date of approval of the final plat by the Boise City Council.
- k. The developer may submit a request for a time extension, including the appropriate fee, to the Boise City Planning and Development Services Department for processing. Boise City Council may grant time extensions for a period not to exceed one year provided the request is filed, in writing, at least twenty working days prior to the expiration of the first two year period, or expiration date established thereafter.
 - 1. If a time extension is granted, the Boise City Council reserves the right to modify and/or add condition(s) to the original preliminary or final plat to conform with adopted policies and/or ordinance changes.
 - 2. The final plat shall be recorded with the Ada County Recorder within one year from the date of the Boise City Engineer's signature. If the Final Plat is not recorded within the one-year time frame it shall be deemed null and void.
- l. Covenants, homeowners' association by-laws or other similar deed restrictions which provide for the use, control and maintenance of all common areas, private streets, shared access and shared parking, and which shall be consistent with the Fair Housing Act of 1968, as amended from time to time, **shall be reviewed and approved by the Boise City Attorney.** After recordation of the final plat and CC&R's, no building permit shall be accepted until a copy of the recorded CC&R's have been submitted to the Boise City Attorney.

- m. Prior to the City Engineer's Certification of the Final Plat and/or prior to earth disturbing activities, an **Erosion and Sediment Control (ESC)** permit must be obtained. An ESC plan conforming to the requirements B.C.C. 8-17, is to be submitted to the ESC Program Manager for review and approval. No grading or earth disturbing activities may start until an approved ESC permit has been issued.
- n. An individual who has attended the Boise City Responsible Person (RP) certification class, or has obtained Interim Certification for the RP shall be identified for this project. A permit will not be issued until such time as the name and certification number of the RP has been provided to Boise City. This information can be faxed to 388-4735 or e-mailed to ejenkins@cityofboise.org.
- o. The developer shall make arrangements to comply with all requirements of the **Boise City Fire Department** and verify in one of the following ways:
 - 1. A letter from the Boise City Fire Department stating all conditions for water, access, and/or other requirements have been satisfied,

OR

- 2. A Non-Building Agreement has been executed and recorded with a note on the face of the Final Plat identifying the instrument number.

NOTE: "No Parking" signs and curb painting shall be required on streets having a width less than 36-feet, back of curb to back of curb. Contact the Boise City Fire Department for sign placement and spacing. Developer may either construct prior to final platting or post bond in the amount of 110% of the estimated costs with the Boise City Planning and Development Services Department.

- p. A letter from the appropriate **school district** is required stating, "The Developer has made arrangements to comply with all requirements of the School District."
- q. A letter of acceptance for **water service from the utility** is required (B.C.C. 11-09-04.3).
- r. Developer shall provide a letter from the **United States Postal Service** stating, "The Developer and/or Owner has received approval for location of mailboxes by the United States Postal Service."

Contact: Dan Frasier, Postmaster
770 S. 13th St.
Boise, ID 83708-0100
Phone No. (208) 433-4341
FAX No. (208) 433-4400

- s. Correct street names as approved by the **Ada County Street Name Committee** shall be placed on the plat (B.C.C 9-06-05.M).
- t. **The CC&R's for the subdivision shall include a comprehensive list of prohibited plant materials, including the Japanese, English, European, Chinese, and Canadian Yew, and any other species known to be toxic to Mule Deer or other wildlife. This list shall be approved in writing by the Idaho Department of Fish and Game and included in the CC&R's submitted for final approval by the Boise City Attorney.**

Agency Requirements

- 4. Comply with requirements of the Ada County Highway District (ACHD) as outlined in the **September 26, 2016** approval.
- 5. Comply with the requirements of the Central District Health Department as outlined in department comments dated **September 26, 2016**.
- 6. The applicant shall comply with all conditions of the Boise Fire Department as outlined in department comments dated **September 23, 2016**. For additional information, contact Ron Johnson at (208) 570-6500.
- 7. Comply with Boise City Public Works Department requirements as listed in the following dated memos:
 - a. Grading and Drainage (October 11, 2016)
 - b. Solid Waste (September 1, 2016)
 - c. Sewer (September 1, 2016)
 - d. Street Lights (September 1, 2016)

Contact BCPW at 208-384-3900 for specific comments or questions. All requirements of the BCPW shall be completed or bonded for prior to submittal of the Final Plat for the signature of the Boise City Engineer.

8. Comply with the requirements of the Idaho Department of Fish and Game as outlined in comments dated October 24, 2016. Final written approval of the layout, landscape and fencing plan, from the Department, is required prior to signature of the final plat.
9. Written approval from the Department of Environmental Quality is required prior to issuance of any construction permits. Contact Dean Ehlert at 208-373-0416 for additional information.

Standard Conditions of Approval

10. Building permit approval is contingent upon the determination that the site is in conformance with the Boise City Subdivision Ordinance. Contact the Planning and Development Services, Subdivision Section at (208) 384-3830 regarding questions pertaining to this condition.
11. All landscaping areas shall be provided with an underground irrigation system. Landscaping shall be maintained according to current accepted industry standards to promote good plant health, and any dead or diseased plants shall be replaced. All landscape areas with shrubs shall have approved mulch, such as bark or soil aid.
12. Swales/retention/detention areas shall not be located along the streets, unless it can be shown that landscaped berms/shrubs will screen the swales.
13. In compliance with Title 9, Chapter 16, Boise City Code, anyone planting, pruning, removing or trenching/excavating near any tree(s) on ACHD or State right-of-ways must obtain a permit from Boise City Community Forestry at least one (1) week in advance of such work by calling (208) 384-4083. Species shall be selected from the Boise City Tree Selection Guide.
14. Utility services shall be installed underground.
15. An occupancy permit will not be issued by the Planning and Development Services Department until all of these conditions have been met. In the event a condition(s) cannot be met by the desired date of occupancy, the Planning Director will determine whether the condition(s) is bondable or should be completed, and if determined to be bondable, a bond or other surety acceptable to Boise City will be required in the amount of 110% of the value of the condition(s) that is incomplete.
16. All amenities, landscaping, fencing, sidewalks and underground irrigation shall be installed or bonded for prior to the issuance of a building permit. For bonding, the applicant is required to provide a minimum of two bids for the amenities, landscaping materials and the installation. The bond shall be for 110% of the highest bid and submitted to the Building Department on the 2nd floor of City Hall. For additional information, please call (208) 384-3830.

17. No change in the terms and conditions of this approval shall be valid unless in writing and signed by the applicant or his authorized representative and an authorized representative of Boise City. The burden shall be upon the applicant to obtain the written confirmation of any change and not upon Boise City.
18. Any change by the applicant in the planned use of the property, which is the subject of this application, shall require the applicant to comply with all rules, regulations, ordinances, plans, or other regulatory and legal restrictions in force at the time the applicant, or successors of interest, advise Boise City of intent to change the planned use of the property described herein, unless a variance in said requirements or other legal relief is granted pursuant to the law in effect at the time the change in use is sought.
19. Failure to abide by any condition of this permit shall be grounds for revocation by the Boise City Planning and Zoning Commission.
20. This approval shall be valid for a period not to exceed twenty four (24) months from the date of approval by the Planning and Zoning Commission. Within this period, the holder of the permit must acquire construction permits and commence placement of permanent footings and structures on or in the ground. The definition of structures in this context shall include sewer lines, water lines, or building foundations.
21. Prior to the expiration of this approval, the Commission may, upon written request by the holder, grant a two-year time extension. A maximum of two (2) extensions may be granted.
22. To reduce the noise impact of construction on nearby residential properties, all exterior construction activities shall be limited to the hours between 7:00 a.m. and 7:00 p.m. Monday through Friday and 8:00 a.m. to 6:00 p.m. for Saturday and Sunday. Low noise impact activities such as surveying, layout and weather protection may be performed at any time.