

SPINK BUTLER

ATTORNEYS AT LAW

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Via Email

March 10, 2017

City of Boise City
Mayor Bieter and City Council Members
150 N. Capitol Boulevard
Boise, ID 83702

**RE: CAR16-00030/PUD16-00027/Vista Village, LLC/Day Side, LP
SB Matter No. 23379.1**

Dear Mayor and Council Members,

Our office represents Day Side, LP ("**Day Side**"), the owner of Lots 9 and 10 in Whitehead Subdivision No. 1 (the "**Day Side Property**"). The Day Side Property is adjacent to property owned by Vista Village, LLC ("**Vista Village**"; the "**Vista Village Property**"). The maps attached to this letter will assist the Council in its review.

- Map 1: Identifies the location of both the Day Side Property and the Vista Village Property.
- Map 2: Identifies the location of an existing access easement on the Vista Village Property in favor of Union Pacific Railroad ("**Union Pacific**"). The location of this existing easement is generally in the same location as the proposed cross-access discussed below.
- Map 3: Depicts a portion of the Vista Village development, including an access to Kootenai in the same location as the existing Union Pacific easement and in the location as the cross-access easement discussed below.

MICHAEL T. SPINK JOANN C. BUTLER T. HETHE CLARK GEOFFREY M. WARDLE TARA MARTENS MILLER

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Day Side has appealed one Planning & Zoning Commission (the “**Commission**”) condition of approval in connection with Vista Village’s multi-family development referenced above. Day Side appreciates and supports Vista Village’s development. However, the offending condition is beyond the scope of Vista Village’s application, takes a portion of Day Side Property, and affects the future development of the Day Side Property. The offending condition appealed is:

2.d. Upon redevelopment of Parcels R9374000095 and R9374000090 [that is, the Day Side Property] cross-access shall be provided from Parcel S1015325410 [that is, the Vista Village Property] in support of the installation of a full access onto Kootenai Street that aligns with Columbus Street to the south. This single access shall be utilized by all parcels.

Although bland on its face, the condition imposes an obligation on an adjacent property owner and non-applicant (i.e., Day Side) to give up a portion of its property for Vista Village to obtain a full access onto Kootenai Street. Further, mandating access to the Day Side Property from the Vista Village private property may have the effect of taking from Day Side, Day Side’s right to directly access the public Kootenai Street from the Day Side Property when Day Side actually does make application for development.

The condition also imposes an obligation on Vista Village to provide Day Side with cross-access: no matter the manner in which Day Side “redevelops” its property; no matter that the details of how the cross-access is improved, maintained and paid for have not been established; no matter that there are underlying title issues on the Vista Village Property that likely make this cross-access impossible; and no matter that no cross-access should be proposed (let alone be made a condition of approval) without already having been well-designed to ensure safe travel and passage in this complicated area that is already encumbered with operating railroad tracks and railroad facilities.

Background

In September, 2016 Vista Village made application for annexation, rezone and a conditional use permit. The Commission approved the applications in December, 2016, and adopted conditions, some of which were recommended by staff in an addendum to the Staff Report. This addendum was not posted on the City’s website, and the specific conditions, including condition 2.d, were not discussed at the Commission’s hearing. Because condition 2.d: directly takes a portion of the Day Side Property; states that the single access from Kootenai Street will provide access to both Day Side parcels and the Vista Village parcel with no details; was adopted by the Commission without Day Side’s knowledge or consent; and places an access

restriction on future development of the Day Side Property, Day Side has appealed the adoption of the condition.¹

As explained further herein, condition 2.d misuses the public process by first, taking the private property of a non-applicant (that is, Day Side), and then, second, trying to, we guess, “soften” that blow, by forcing two private property owners to negotiate a cross-access agreement in connection with real property that is fraught with difficulties.

The notion of using a portion of the neighboring Day Side Property to promote the goals of the Vista Village application appears to have begun when Vista Village had its pre-application meeting with Ada County Highway District (“ACHD”). ACHD noted in its staff report:

In pre-application meetings, [ACHD] staff recommended that the [Vista Village] applicant work with the adjacent property owner [Day Side] to obtain additional property to locate a driveway in alignment with Columbus Street. The driveway should be constructed as a 24 to 30-foot wide curb return. If that option is not feasible, then the driveway will need to be restricted to right-in only or right in right-out; or be restricted just to allow for emergency vehicles.²

ACHD recognizes that it has no authority to require a neighboring property owner to provide additional property so that Vista Village could get a full access onto Kootenai. The ACHD requirements placed on Vista Village make this clear:³

4. Kootenai Street Driveway (**choose one option**)

a. To obtain a full access driveway the applicant should work with the adjacent property owner to locate a driveway in alignment with Columbus Street. The driveway should be constructed as a 24 to 30-foot wide curb return.

¹ Although it may be that the City did not deliberately omit the addendum to the Staff Report from the City’s website, the fact remains that the addendum to the Staff Report was not made publically known and Day Side had no opportunity to address the condition and the effect it has on the Day Side Property.

² ACHD Staff Approval, page 6.

³ The ACHD requirements are captured in the Planning & Zoning Commission’s adopted condition of approval number 3:

3. Comply with requirements of the Ada County Highway District (ACHD) as outlined in their approval dated October 17, 2016.

- b. The driveway can be located on-site as proposed and operate as a right-in only driveway. The driveway will need to be designed to restrict all other turning movements and will need to be signed accordingly.
- c. The driveway can be located on-site as proposed and operate as a right-in/right-out only driveway. The applicant will need to construct an on-site median to restrict left turning movements into and out of the site, and the driveway will need to be signed accordingly. Medians in the road or right-of-way cannot be constructed at this location to restrict left turning movements and therefore, there may not be adequate width to properly restrict the left turning movements, in which case this option is not feasible. Due to the narrow width of road, lane configurations, and turning movements in this area, if left turning movements cannot be fully restricted, then a right-in/right-out driveway cannot be constructed. This option is conditional upon a design that is approved by ACHD.
- d. The driveway can be constructed as an emergency access only driveway. Restrict with gates or bollards as determined by the Boise Fire Department.

At some point in the discussions with Boise staff, the ACHD concept of Vista Village possibly working with Day Side so Vista Village could obtain a full access onto Kootenai Street morphed and expanded to also establishing cross-access across the Vista Village Property for the Day Side Property. Personal communications with staff members indicates that the concept of cross-access was driven by staff, perhaps as a way to make use of the Day Side Property for full access onto Kootenai more palatable. Although we appreciate the willingness of staff to help the property owners discuss the possibility of cross-access, similar to the recognition of ACHD, all that can be legally done is to encourage neighboring property owners to work together as opposed to forcing the issue as is found with condition 2.d.

Before the Commission's hearing, Vista Village and Day Side did discuss the possibility using a portion of the Day Side Property in connection with access to Kootenai Street and also the possibility of cross-access. However, at the time of the Commission's hearing, title issues, design issues and any private agreement that would establish how the cross-access would be improved, maintained and paid for, were as yet unknown or unresolved. The underlying private real estate and contractual issues were so much up in the air that Day Side certainly did not expect the staff and Commission would unilaterally recommend and adopt a condition that both takes a portion of the Day Side Property and forces these two private landowners to attempt to achieve cross-access under difficult circumstances.

Once Day Side discovered that, in fact, this is exactly what happened at the Commission hearing, Day Side appealed the Commission's decision but also requested a meeting with Vista Village and City staff to let the City Staff and Vista Village know that it was willing to explore further the proposal for use of its property for a full access onto Kootenai Street as well as the possibility of cross-access. Day Side requested the City extend the date of the appeal hearing to allow Day Side and Vista Village additional time to determine whether use of the Day Side Property and cross-access could be accomplished.

Day Side then spent time exploring the impact of the existing, recorded access easement in favor of Union Pacific, which easement encumbers the Vista Village Property in generally the location that condition 2.d proposes that Vista Village provide cross-access to Day Side.

Union Pacific plays a large part in determining whether Vista Village is able to develop the Vista Village Property, as presently designed. Following the City's receipt of the November, 2016 letter from Union Pacific (attached), staff recommended, and the Commission approved, condition number 2.c:

c. This approval is conditioned upon the applicant showing satisfactory evidence, prior to construction, that access to and egress from the property over the existing railroad tracks meets Union Pacific's acceptable standards for grade crossings over track of this type.

Vista Village's design, shown on the attached Map 3, cannot occur unless Vista Village gets specific approval from Union Pacific to cross the tracks and use the area encumbered by the existing Union Pacific easement.

Approval from Union Pacific is imperative for Vista Village, as laid out in the Union Pacific November, 2016 letter to the City (and the resulting condition 2.c), and Union Pacific approval would be critical in connection with any cross-access across the Vista Village Property. The latter Union Pacific approval is critical since the proposed cross-access on the Vista Village Property would be located on top of an existing Union Pacific easement, the scope of which may not allow further use. As Vista Village continues its work with Union Pacific in connection with condition 2.c, if Vista Village wants to attempt, and is able, to obtain reasonable approval from Union Pacific that would allow cross-access to the Day Side Property, Day Side will be happy to resume discussions with its neighbor outside of the public process.

Conclusion

The tenuous possibility that cross-access might be available in the future in a manner to accommodate Day Side in the development of the Day Side Property is not reasonable, existing access for the Day Side Property. The Day Side Property must continue to stand on its own to obtain direct access from Kootenai Street. Condition 2.d effects a take of a portion of the Day Side Property for the "promise" of cross-access that, in all likelihood is unachievable. In any event, Day Side will not and cannot consider having a portion of its property taken by Boise for the benefit of its neighbor – especially without all the details of that cross-access having been established. The City should not want to consider putting itself in such a precarious position with condition 2.d. Condition 2.d. must be removed from the Commission's approval of Vista Village's application.

Sincerely,



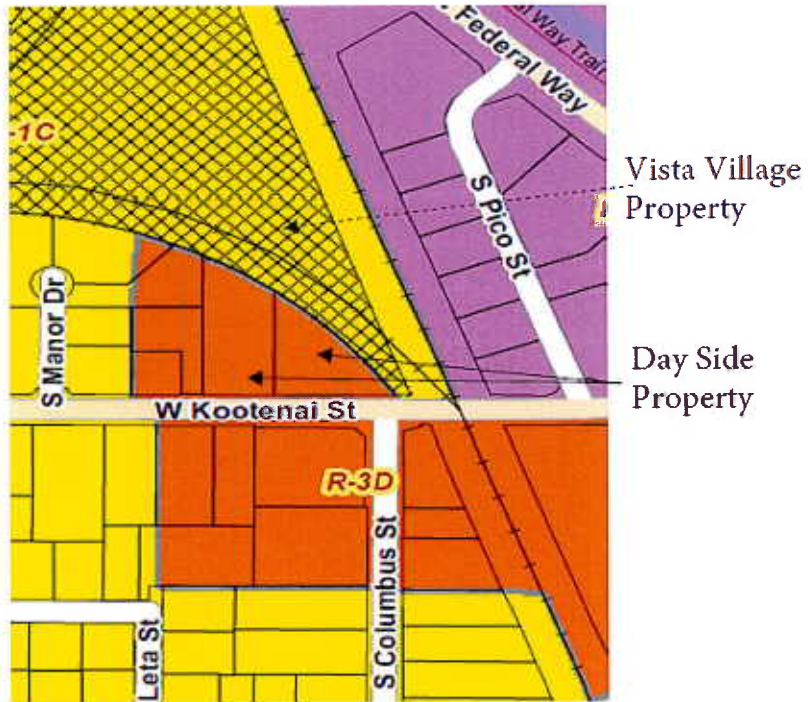
JoAnn C. Butler

JCB:g

c via email: Tim Day
Dick Pavelek
Donna Jacobs
Rick Smith
Andrea Carroll
Leon Letson
Hal Simmons

Enclosures: Planning & Zoning Commission Action Letter & Conditions
Union Pacific Railroad, November 2016 Letter

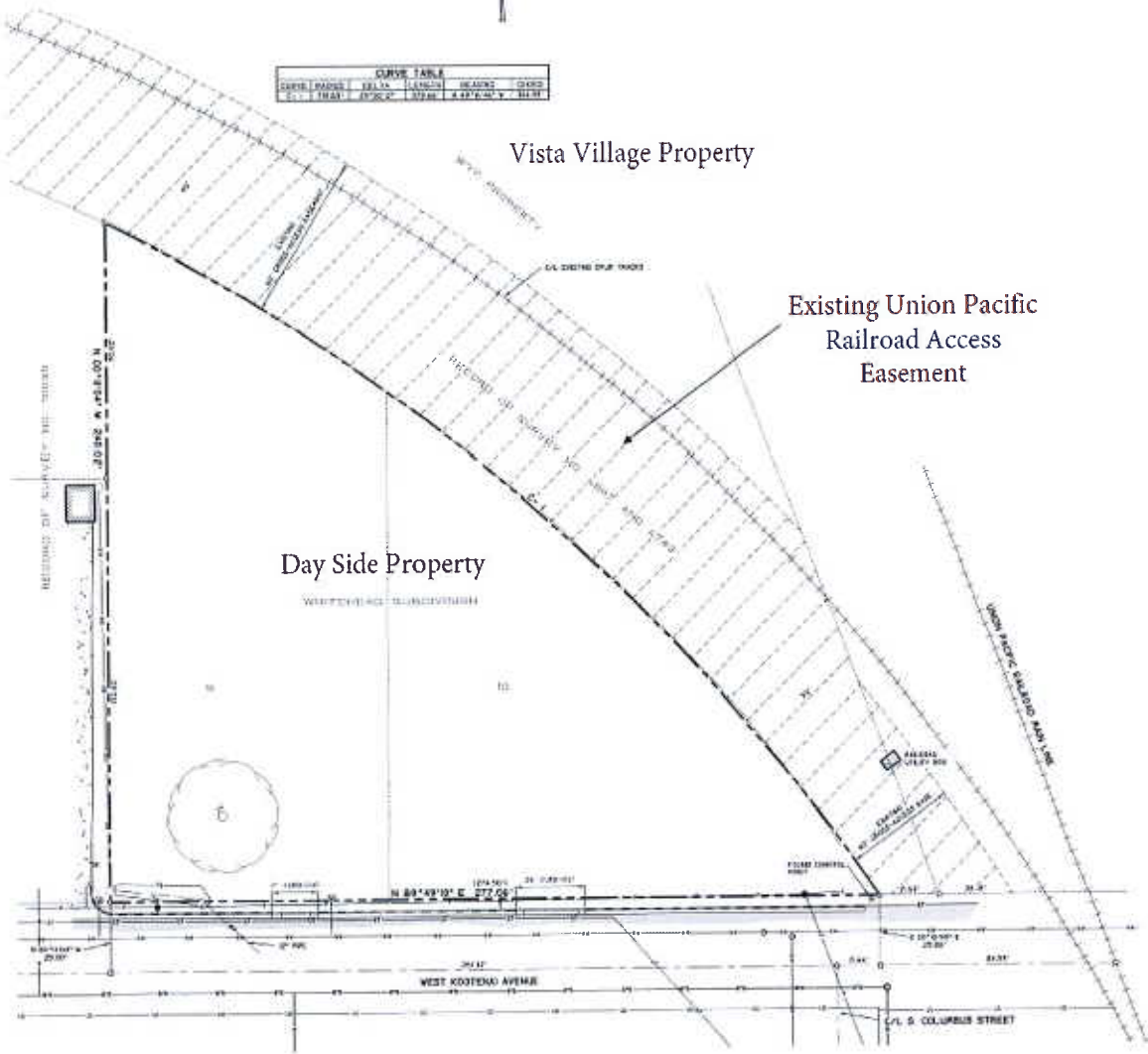
MAP 1



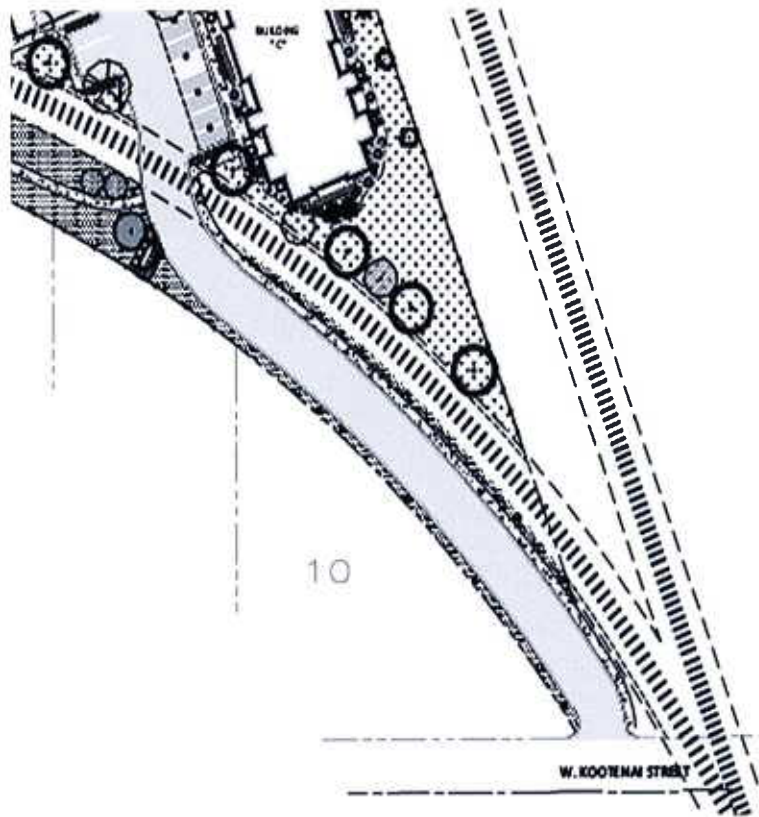
MAP 2



CURVE TABLE			
CURVE	RAVING	100.00	100.00
100.00	100.00	100.00	100.00
100.00	100.00	100.00	100.00



MAP 3





Derick O'Neill
Director

Boise City Hall
150 N. Capitol Boulevard

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Boise, Idaho 83701-0500

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Mayor
David H. Bieler

City Council
President
Elaine Clegg

Council Pro Tem
Lauren McLean

Maryanne Jordan
Scott Ludwig
Ben Quintana
TJ Thomson

Planning & Development Services

December 8, 2016

Donna Jacobs
Vista Village, LLC
P.O. Box 8286
Boise, ID 83707
donnadjacobs@gmail.com
(sent via email)

Re: CAR16-00030 & PUD16-00027 / 2350 W. Kootenai Street

Dear Ms. Jacobs:

This letter is to inform you of the action taken by the Boise City Planning and Zoning Commission on your request for a rezone of 7.39 acres from R-1C (Single Family Residential-8 Units/Acre) to R-2D (Medium Density Residential with Design Review) and a 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.

The Boise City Planning and Zoning Commission, at their hearing of **December 5, 2016, approved** your conditional use request, based on compliance with the attached Reasons for the Decision and Conditions of Approval.

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

1. This conditional use approval will not take effect until after the appeal period has lapsed.
2. The decision of the Boise City Planning and Zoning Commission may be appealed to City Council within ten (10) calendar days from the issuance of this decision. The appeal must be written, accompanied by the appropriate fee, and submitted to the Planning and Development Services Department prior to the deadline set forth herein. Appeal application forms are available in the Planning Department or online under Applications at:

<http://pds.cityofboise.org/> or <http://pds.cityofboise.org/home/documents/apps/100/>
3. All appeals of this conditional use permit must be filed by **5:00 P.M., on December 15, 2016.**
4. If this Conditional Use Permit is not acted upon within two (2) years, it will become null and void without further notification from this Department.

This letter constitutes your Conditional Use Permit.

On **December 5, 2016**, the Boise City Planning & Zoning Commission recommended **approval** of the rezone request (CAR16-00030).

These applications will be considered by the Boise City Council to establish a public hearing date. You will be notified of the established hearing date.

If you have any questions, please contact me at (208) 608-7085.

Sincerely,



Leon Letson
Manager, Current Planning
Boise City Planning and Development Services

LL/rl
cc:

Robert Powell / Dave Evans Construction / robert@daveevansconstruction.com (sent via email)
Depot Bench Neighborhood Association / Jim Picket / volleydude@gmail.com (sent via email)

Reason for the Decision**Rezone**

The rezone is consistent with the Comprehensive Plan. The property is designated "Compact" on the Land Use Map. R-2D is a permissible implementing zone in this designation. The rezone is also in the best interest of the public. The property is currently zoned R-1C (Single Family Residential), which has a maximum residential density of eight units per acre. The change in zoning will accommodate new residents that can make use of existing services, infrastructure, and amenities in the area. Finally, the rezone will maintain and preserve the compatibility of surrounding zoning and development. The subject property is adjacent to a number of more intense zones, including R-3D (Multi-Family Residential with Design Review) to the north, L-OD (Limited Office with Design Review) to the east, and C-2D (General Commercial with Design Review) to the west.

Conditional Use Permit

This multi-family development is compatible with the uses in the neighborhood and those reasonably expected to develop. To the west is the Vista Village Shopping Center and the commercial corridor of Vista Avenue. The remainder of the surrounding neighborhood is comprised of a mix of single-family and smaller multi-family uses. There are also a number of vacant parcels with more intense zoning that could support smaller infill projects. The project is also consistent with the *Depot Bench Neighborhood Plan* and *Blueprint Boise*. The *Depot Bench Neighborhood Plan* identifies the subject property as a target area for medium-density housing projects. Multiple principles within *Blueprint Boise* encourage a mix of housing in neighborhoods and infill development that does not require the costly extension of infrastructure. All necessary utilities and infrastructure are readily available to the site. The location of this project adjacent to existing railroad right-of-way also aligns with *Principle CC5.1(c)* which seeks to establish a future multi-modal transportation system that includes light rail in the Treasure Valley.

In line with the requirements of the *Citywide Design Standards and Guidelines*, parking will be located internal to the site with appropriate screening of service drives. The buildings themselves include modulation in façade and rooflines to reduce their perceived mass, as well as appropriate materials, openings and covered entries, consistent with the surrounding neighborhood. Both the *Depot Bench Neighborhood Plan* and *Principle IDP-N.1(a)* of *Blueprint Boise* encourages transitions in building heights and the use of variations in side yard setbacks to ensure infill development in established neighborhoods is compatible. The applicant has proposed a design that focuses taller, 3-story buildings at the center of the site, stepping down to 2-story buildings along the edges of the site adjacent to areas with single-family homes. All buildings within the development will be setback more than 70' from adjacent properties. Finally, comments from public agencies confirm the project will not place an undue burden on the transportation system or other infrastructure in the neighborhood.

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 **September 27, 2016**, except as expressly modified by Design Review or the following conditions:
2. **Planned Unit Development:**
 - a. All structures, parking, and service drives shall meet the setback requirements of the R-2D zone.
 - b. A minimum of 23 bicycle parking spaces shall be covered.
 - c. This approval is conditioned upon the applicant showing satisfactory evidence, prior to construction, that access to and egress from the property over the existing railroad tracks meets Union Pacific's acceptable standards for grade crossings over track of this type.
 - d. Upon redevelopment of Parcels R9374000095 and R9374000090, cross-access shall be provided from Parcel S1015325410 in support of the installation of a full access onto Kootenai Street that aligns with Columbus Street to the south. This single access shall be utilized by all three parcels.

Agency Requirements

3. Comply with requirements of the Ada County Highway District (ACHD) as outlined in their approval dated **October 17, 2016**.
4. Comply with the requirements of the Boise City Public Works Department (BCPW) for, Sewer, Solid Waste, Drainage, and Street Lights per memos dated **September 29-30, 2016**. Please contact BCPW at 384-3992.
5. Comply with the requirements of the Boise Fire Department as outlined in their approval dated **October 10, 2016**.
6. Comply with requirements of Central District Health Department.
7. Comply with the requirements of the Boise School District as outlined in comments dated **October 10, 2016**.

Standard Conditions of Approval

8. Building permit approval is contingent upon the determination that the site is in conformance with the Boise City Subdivision Ordinance. Contact Planning and Development Services at (208) 384-3830 regarding questions pertaining to this condition.

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9. 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.
 10. Swales/retention/detention areas shall not be located along the streets, unless it can be shown that landscaped berms/shrubs will screen the swales.
 11. 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.
 12. Deciduous trees shall be not less than 2" to 2 1/2" inch caliper size at the time of planting, evergreen trees 5' to 6' in height, and shrubs 1 to 5 gallons, as approved by staff. All plants are to conform to the American Association of Nurseryman Standards in terms of size and quality.
 13. Utility services shall be installed underground.
 14. 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.
 15. 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 Subdivision desk on the 2nd floor of City Hall. For additional information, please call (208) 384-3830.
 16. 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.
 17. 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.
 18. Failure to abide by any condition of this conditional use permit shall be grounds for revocation by the Boise City Planning and Zoning Commission.

19. This conditional use permit 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.
20. Prior to the expiration of this conditional use, the Commission may, upon written request by the holder, grant a two-year time extension. A maximum of two (2) extensions may be granted.
21. 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. After each floor of the structure or building is enclosed with exterior walls and windows, interior construction of the enclosed floors can be performed at any time.

UNION PACIFIC RAILROAD
1400 Douglas Street, Stop 1580
Omaha, Nebraska 68179

P 402 544 5761
F 402 597 3803
prmcgill@up.com

Patrick R. McGill/UPC Senior Counsel-Real Estate, Law Dept.

November 7, 2016

VIA EMAIL ONLY: lletson@cityofboise.org

City of Boise
Attn: Leon Letson
150 N. Capitol Blvd.
Boise, Idaho 83701

Re: Comments to application for rezoning and construction of multi-family development at 2350 W. Kootenai St. & 1110 S. Robert Street, Applicant: Donna Jacobs (the "Project")

Dear Mr. Letson:

Thank you for allowing Union Pacific Railroad Company ("UP") the opportunity to submit the following comments in response to the notice on the above-referenced Project. UP is a Delaware corporation that owns and operates a common carrier railroad network in the western half of the United States, including the State of Idaho. UP's rail network is vital to the economic health of Idaho and the nation as a whole and rail service to customers in the Boise Area is crucial to the future success and growth of those customers.

The proposed Project location is adjacent to UP's Boise Subdivision at the center of a wye (triangular shaped arrangement of rail tracks). UP's lessee, Boise Valley Railroad, is the short line railroad which currently conducts freight rail operation on the tracks around the Project location. Any land planning decisions should consider that train volumes near the Project area may increase in the future. UP also asks that the City and the Project developers keep in mind that this is a vital rail corridor and nearby land uses should be compatible with this continuing rail use.



City of Boise
November 7, 2016

At-Grade Rail Crossing Safety

The safety of UP's employees, customers, adjoining land owners, and the communities we operate through is our top priority. At-grade rail crossings are areas where railroad operations and the public come into close contact. The proposed Project anticipates two at-grade crossings. UP objects to approval of this Project unless the planned at-grade vehicle crossings are put in place under terms acceptable to UP, including terms establishing the crossings as public crossings. Please note that no agreements between the applicant and UP have yet been reached, and Boise Valley Railroad is not authorized to enter into crossing agreements over the railroad wye or main line. We recommend that the City and developer notify the Idaho Public Utilities Commission (PUC) to schedule a diagnostic meeting regarding the proposed Project. Appropriate modifications to the proposed at-grade crossings may need to be included as part of the Project. Should the Project be approved, UP suggests the City consider holding railroad and crossing safety presentations, such as Operation Lifesaver, for the public on an appropriate basis.

Increased Traffic Impact

Rail crossing safety is critical to the public and to UP. Any increase in traffic from the Project may render inadequate the current safety devices in place on any nearby at-grade crossings. Additionally, an increase of pedestrian and vehicular traffic may conflict with train operations causing trains to proceed more slowly through the City, and/or make more frequent emergency stops, which would make rail service less effective and efficient. Should this Project be approved, UP requests that the developer and the City examine any increase in vehicular and pedestrian traffic and the impacts on any nearby at-grade road crossings to see if any additional mitigation measures should be included in the Project.

Trespassing

Any increase in pedestrian traffic will increase the likelihood of trespassing onto the railroad right-of-way. UP requests that the developer and the City examine the Project impacts associated with the increased likelihood of trespassing and set forth appropriate mitigation measures. In particular, UP requests that the developer install a sound wall along the main line and fencing around the legs of the wye to prevent individuals from trespassing onto the railroad tracks. Buffers and setbacks should also be considered adjacent to the right-of-way.

Noise and Vibration Impact

A railroad's 24-hour rail operations generate the noise and vibration one would expect from an active railway. Any increase in pedestrian and vehicular traffic over and around at-grade crossings may result in additional horn use by railroad employees. As a mitigation measure, the developer should disclose to the general public, including residents of the proposed development, the daytime and nighttime noise levels naturally occurring with rail service, including sounding horns at vehicle crossings where required, as well as the pre-existing and predictably-occurring vibration. These disclosures should note that train volume may increase in

City of Boise
November 7, 2016

the future. The Project's development plans should also include appropriate mitigation measures, such as construction of sound barrier walls or landscape buffers, and/or use of sound-proofing materials and techniques.

Drainage and Project Construction

UP requests the City ensure that the drainage plan relating to the Project does not shift storm water drainage toward UP property and infrastructure. Any runoff onto UP's property may cause damage to its facilities resulting in a potential public safety issue. If the Project is approved, we ask that the City require the applicant to mitigate all safety risks and the impacts of the railroad's 24-hour operations during the construction of the Project, including contacting Boise Valley Railroad to arrange for flaggers for work performed within twenty-five feet (25') of the nearest track.

UP appreciates the developer and the City giving due consideration to the above concerns, as this proposed Project may result in impacts to land use and public safety. Please give notice to UP of all future hearings and other matters with respect to the Project as follows:

Paul Nahas, Manager - Real Estate
Union Pacific Railroad Company
1400 Douglas Street - STOP 1690 Omaha, NE 68179
(402) 544-8043
plnahas@up.com

Please do not hesitate to contact Paul Nahas if you have any questions or concerns.

Sincerely,



Patrick R. McGill
Senior Counsel – Real Estate
Union Pacific Railroad Company

cc: Paul Nahas