



Planning & Development Services

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MEMORANDUM

TO: Mayor and Boise City Council

FROM: Hal Simmons - Planning Director
Boise City Planning and Development Services

PREPARED BY: Leon Letson – Associate Planner
Boise City Planning and Development Services

HEARING DATE: March 21, 2017

RE: APPEAL of PUD16-00027 / CAR16-00030

Background

On March 14, 2017, City Council heard an appeal of a condition associated with the Planning and Zoning Commission's approval of a conditional use permit for a 91-unit planned residential development on ±7.39 acres located at 2350 W. Kootenai Street. Action was also taken on the associated rezone from an R-1C (Single Family Residential) to an R-2D (Medium Density Residential) zone.

After reviewing the record, and hearing public testimony, Council voted unanimously to remove the following condition placed on the project by the Planning and Zoning Commission.

- 2.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

As authorized by *B.C.C. 11-03-03.09.C(2)*, Council determined the Commission's decision was made in disregard of the facts and circumstances presented. More specifically, the following errors were found:

1. The Commission decision to include this condition inappropriately encumbered the appellant's property and was too vague to be effective, in terms of when and how the future full access onto Kootenai Street would be constructed.

In overturning the Commission's decision, Council adopts a modified reasoned statement included in the December 5, 2016 project report. Council also removes condition 2.d included in that report. The reasoned statement and conditions of approval are attached for review and final adoption.

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.

PUD16-00027 (Planned Unit Development)

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. Access is provided from both Robert Street and Kootenai Street; the opportunity for future cross-access also remains between a number of undeveloped parcels on Kootenai Street and the subject property.

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.

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.
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.

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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.