



## PLANNING AND DEVELOPMENT SERVICES

MAYOR: Lauren McLean | DIRECTOR: Mark Lavin

March 3, 2020

Guy Deklotz  
Missy Cory  
Locus LLC  
1431 E Pineridge Dr  
Boise, ID 83716  
[locusboise@gmail.com](mailto:locusboise@gmail.com)

**Re: CUP20-00005 / 4222 W Emerald St**

Dear Applicant:

This letter is to inform you of the action taken by the Boise City Planning and Zoning Commission on your request for a conditional use permit for a special exception to operate a restaurant on 0.21 acres in a R-3D (Multi-Family Residential with Design Review) zone.

The Boise City Planning and Zoning Commission, at their hearing of **March 2, 2020**, **recommended** to the Mayor and Boise City Council **approval** of the request based on the attached Reason for the Decision and Conditions of Approval.

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

Questions can be directed to me at (208) 608-7089 or [krnelson@cityofboise.org](mailto:krnelson@cityofboise.org).

Sincerely,

Karla Nelson  
Associate Planner, Current Planning and Subdivisions  
Boise City Planning and Development Services

KN/mh

cc: Deborah Mullner / Central Rim Neighborhood Association / [deborahmullner@u.boisestate.edu](mailto:deborahmullner@u.boisestate.edu)  
Lynn Lockhart / Morris Hill Neighborhood Association / [MorrisHillNA@yahoo.com](mailto:MorrisHillNA@yahoo.com)

## Reason for the Decision

The restaurant complies with the approval criteria of *B.C.C. Section 11-03-04.13.C(7)(c)*(Special Exceptions). The Code does not anticipate the use in the zone, but special circumstances exist which supports the use in this location as the site is on a busy, multi-modal, arterial roadway near similar uses. The restaurant will not place an undue burden on the adjacent roadway or the existing residential neighborhood to the north. The use will produce an equal or reduced impact as an allowed use as the property could support a 9-unit residential development that could be 45' in height with traffic coming into the site potentially at all hours. The restaurant will be limited in hours and will be one-story in height. The location is compatible to other land uses in the neighborhood as a variety of office and commercial uses exist along Emerald Street within a ½ mile of the site. Comments received from public agencies confirm that the use will not place an undue burden on transportation or other services in the vicinity. The site is large enough to accommodate the use. There are no proposed changes to the building footprint of the existing structure. While proper zoning for the use is within 370', rezoning the property would result in a permanent change in zoning for the area while the special exception is specific to this use. The use is supported by policies within the Comprehensive Plan. *Principle ES9.5* calls for the adaptive reuse of buildings to promote conservation of embedded energy and reuse of building materials. The restaurant will be located within a residential home that was previously converted into an office, thereby continuing the adaptive reuse of this building. *Principle CB-CCN3.3* looks to accommodate housing adjacent to mixed-use activity centers and this proposal will offer a small-scale neighborhood gathering place within a high-density residential district near the Emerald and Orchard Neighborhood Activity Center.

## 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 **January 28, 2020**, except as expressly modified the following conditions:
2. Design Review approval for all exterior improvements is required prior to submitting a building permit.
3. Restaurant shall be limited to 30 seats.
4. Hours of operation shall be limited to Monday-Thursday, 7 a.m. to 9 p.m., Friday and Saturday 7 a.m. to 10 p.m. and Sunday 7 a.m. to 5 p.m.
5. The proposed deck shall be no higher than 1' or shall comply with setbacks of the zone or shall receive a variance approval.
6. A trash enclosure shall be provided to shield the trash carts from public view.



7. The applicant shall comply with the requirements of the Boise City Public Works Department (BCPW) in the memos from:
  - i. Sewer dated **January 30, 2020**; and
  - ii. Sewer Capacity dated **February 3, 2020**;
  - iii. Pre-treatment dated **January 30, 2020**; and
  - iv. Solid Waste dated **January 31, 2020**;

Contact BCPW at 208-384-3900 for specific comments or questions.

8. Compliance with the memo from the Nampa Meridian Irrigation District dated **February 4, 2020**.
9. Compliance with the memo from the Ada County Highway District dated **February 4, 2020**.

### **Standard Conditions of Approval**

10. This approval does not exempt the applicant from compliance with all local, state, and federal regulations where applicable by law or judicial decision.
11. Vision Triangles, as defined under Section 11-012-03 of the Boise City Code, shall remain clear of sight obstructions.
12. 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.
13. Swales/retention/detention areas shall not be located along the streets, unless it can be shown that landscaped berms/shrubs will screen the swales.
14. In compliance with 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 208-608-7700. Species shall be selected from the [Boise City Tree Selection Guide](#).
15. Any outside lighting shall be reflected away from adjacent property and streets. The illumination level of all light fixtures shall not exceed two (2) footcandles as measured one (1) foot above the ground at property lines shared with residentially zoned or used parcels.



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. 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.
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 approval shall be grounds for revocation by the Boise City Planning and Zoning Commission.
20. This permit shall be valid for a period not to exceed 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.
21. Prior to the expiration of this conditional use permit, 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. 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.

