



Planning & Development Services

Boise City Hall, 2nd Floor
150 N. Capitol Boulevard
P. O. Box 500
Boise, Idaho 83701-0500

Phone: 208/384-3830
Fax: 208/384-3753
TDD/TTY: 800/377-3529
Website: www.cityofboise.org/pds

MEMORANDUM

TO: Mayor and Boise City Council

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

DATE: June 1, 2011

RE: CVA11-00007 / 1790 S. Broadway Avenue

The following appeal has been scheduled for **July 12th**:

Mister Car Wash is appealing the Planning and Zoning Commission's denial of a variance to place vacuums within the front and side street setback on a ± 1.87 acre property located at 1790 S. Broadway Avenue in a C-2D (General Commercial with Design Review) zone.

TABLE OF CONTENTS

Page 2	Summary of P & Z Action, Appeal, & Staff's Response
Page 4	Zoning Ordinance on Appeals
Page 5	Aerial Map
Page 6	Vicinity Map
Page 7	Site Plan
Page 8	Site Photos
Page 10	Appeal Application
Page 11	Action Letter from May 2, 2011 P & Z Hearing
Page 13	Minutes from May 2, 2011 P & Z Hearing
Page 17	Staff Report (Including Attachments, Agency Comments & Public Correspondence)

ACTION BY THE BOISE CITY PLANNING AND ZONING COMMISSION

On May 2, 2011, in accordance with the recommendation of staff, the Planning and Zoning Commission denied a variance for vacuums to be placed within the front and side street setbacks on property located on the northeast corner of Broadway and Boise Avenues. The decision was unanimous.

The vacuums were installed in the setbacks without prior approvals and the application was submitted as the result of a Code Enforcement complaint. The original application included a request for banners and a canopy. However, the banners are specifically prohibited and the canopy has been removed. The Commission found the accessory use of the vacuums at the carwash within the setbacks did not meet the criteria for granting a variance. They agreed that granting of the variance would be in conflict with the spirit and intent of the Comprehensive Plan. *Goal 7.2* suggests services and amenities should be visually pleasing and properly integrated and designed to encourage walking and cycling. *Policy 8.0.15.7* recommends Broadway be treated as a gateway street with special design consideration for new development. The hoop-shaped metal structures comprising the vacuums appear industrial in nature and are in close proximity to the sidewalk, creating an incompatible pedestrian interface. The Commission also stated that there is no hardship with the property or unusual circumstance associated with the use. It is a relatively flat, regular shaped lot, developed with a mix of commercial uses, including a restaurant, martial arts studio, graphics studio and the carwash, all of which are allowed in the commercial zoning district. The installation of vacuums immediately adjacent to the street frontage is inconsistent with other development in the vicinity and detracts from the visual quality of this gateway street.

APPEAL

The appellant contends the Commission's decision was not based on the facts and circumstances presented. As required by *B.C.C. Section 11-03-07*, the appeal was submitted within ten days of the Commission's Decision. In accordance with *B.C.C. Section 11-03-07.05.F*, Staff's response was submitted to the Boise City Clerk by June 2, 2011, within 21 days of the appeal deadline. Four grounds were included in the appeal and supporting memoranda, each of which has been summarized below, along with staff's response.

- 1. The property is zoned commercial, which allows for the use of a carwash. The vacuums are an accessory to the allowed use.**

Response: The Planning and Zoning Commission did not deny that the carwash is an allowed use, or that the vacuums are an accessory to the business. They simply denied the placement of the accessory use within the setbacks on a gateway street based on the fact there is no hardship which was discussed during deliberation. Staff believes the decision was based upon the thoughtful consideration of the required findings of variance approval found in Section 11-06-11.04 of the Zoning Ordinance and does not represent an error in the decision.

2. The placement of the vacuums do not impede pedestrian or cycling on sidewalk.

Response: Staff is aware that the vacuums do not block the sidewalk. However, the noise is disruptive to the quiet enjoyment of the pedestrians utilizing the public way. The Commission discussed pedestrian activity during deliberation. Commissioner Barker remarked:

“I think my biggest concern is the location of these vacuums. There are nine of them. They are very close to the sidewalk and, as staff points out, this sidewalk is used quite heavily because of the school across the street, I know I would feel uncomfortable trying to walk along with a large vacuum and automobile pulled up next to me. I wouldn’t find it very comfortable to be in that situation. I would certainly like to see this machinery pulled back from the street.”

3. The hardship is no other location on the property to place the vacuums.

Response: The Commission did not believe a hardship nor a special circumstance relating to the intended use of the property, not generally applicable in the district, existed on the property. Commissioner Wilson indicated that developing property beyond the boundaries of the building envelope does not constitute a hardship. During deliberation she stated:

“The questions I asked were intended to flush out whether or not there was some other way to accommodate the use on the property and I think there are other ways to do that, or to just not have this use at this particular location of the accessory vacuums. Not the carwash as a whole, just the vacuums that are within the setback.”

It is important to note that the Commission’s decision was unanimous.

4. The new vacuums go with the theme of existing (conforming) vacuums.

Response: The Commission did not deny the variance because of an inconsistency with the site design. They based the decision of denial upon lack of hardship associated with the property and incompatibility with surrounding buildings. Public testimony from Brian McDevitt, the President of the Southeast Boise Neighborhood Association, included mention that Broadway Avenue is a gateway street, and that Boise Avenue is an historic route of the Oregon Trail. In addition, he indicated three corners of the intersection are occupied by historic structures; Garfield Elementary School, the original commercial site of south Boise, the Williams Fire Station and part of the intersection is the Oregon Trail Micro Park.

STAFF RECOMMENDATION / REQUIRED ACTION

The decision of the Commission does not exceed their statutory authority, and all hearings were lawfully conducted. Staff believes the decision is based upon the facts and evidence presented and the decision was not arbitrary, capricious or an abuse of discretion. The application did not meet the required findings to approve the variance request. Specifically, the Commission was unable to identify a hardship to justify approval, and that the vacuums are not compatible with surrounding structures on a gateway street.

ZONING ORDINANCE

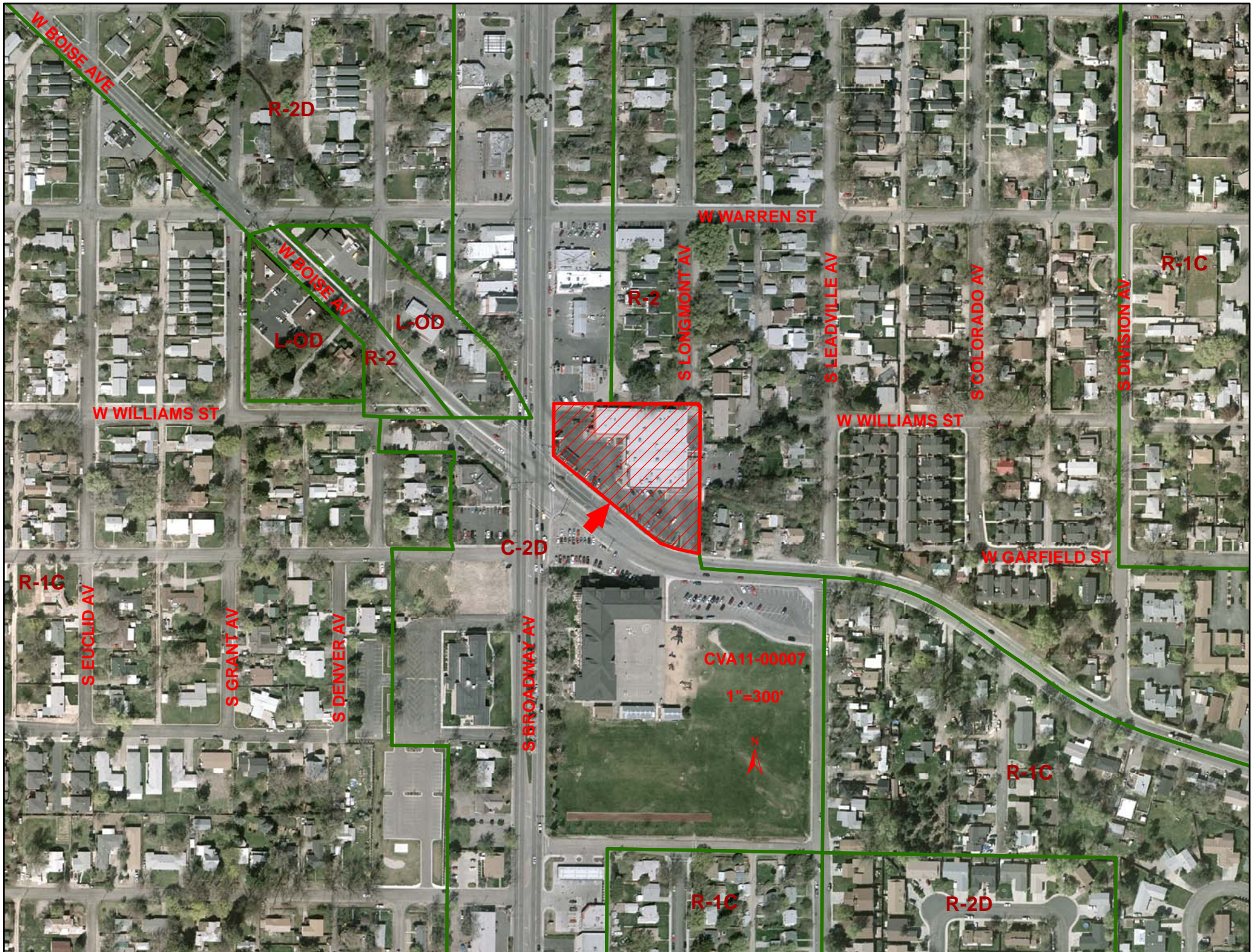
11-03-07 - Quasi-judicial Appeals; Form; Content:

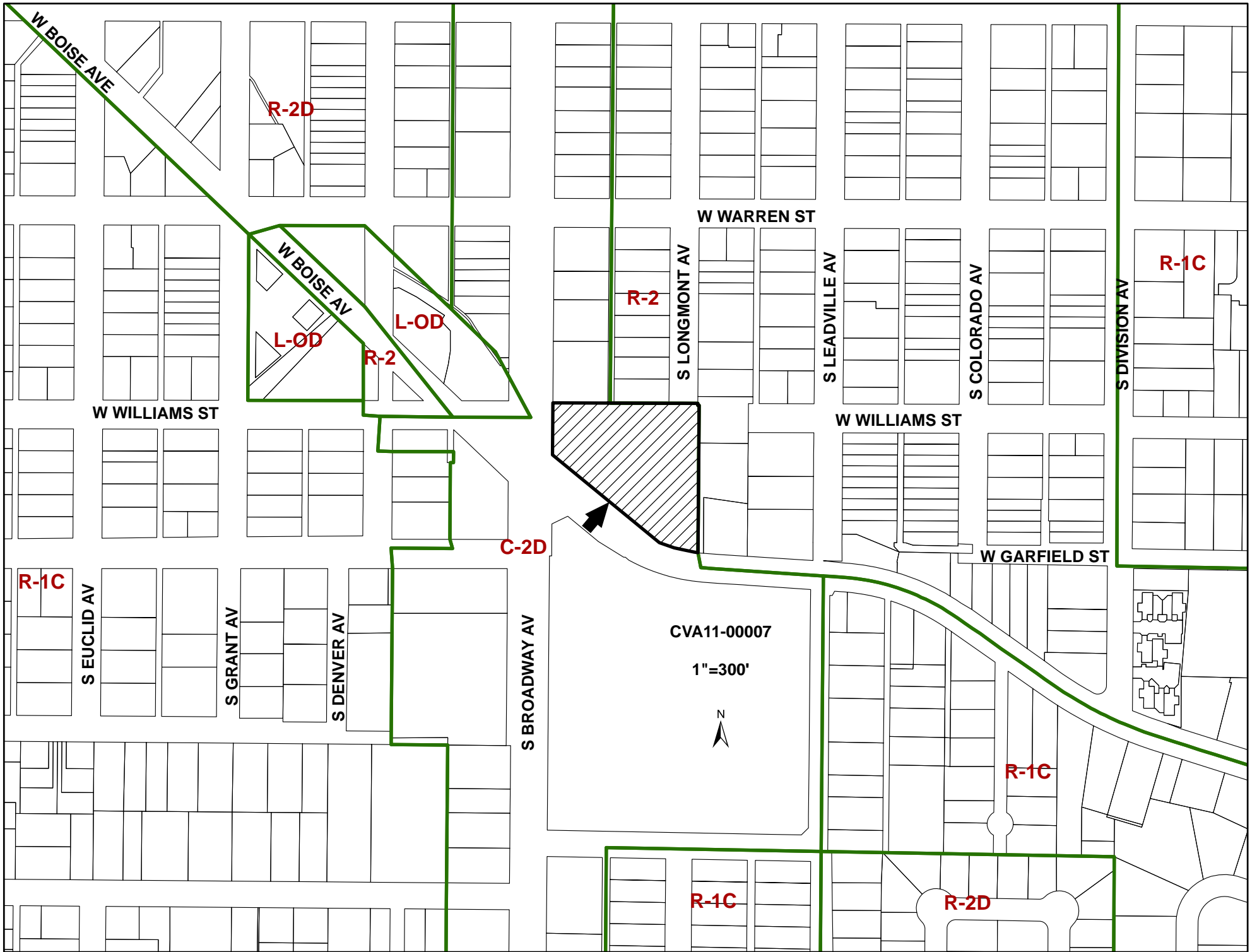
Any administrative, committee or Commission level decision may be appealed to the appropriate Commission, or Council in accordance with the procedures established herein. All such appeals must be written, accompanied by the appropriate fee and submitted to the Planning Director prior to the deadlines set forth herein. If the appeal deadline falls on a weekend or holiday the appeal period is automatically extended to the next workday. Each appeal must clearly state the name, address and phone number of the person or organization appealing and specify the issues, items or conditions that are being appealed.

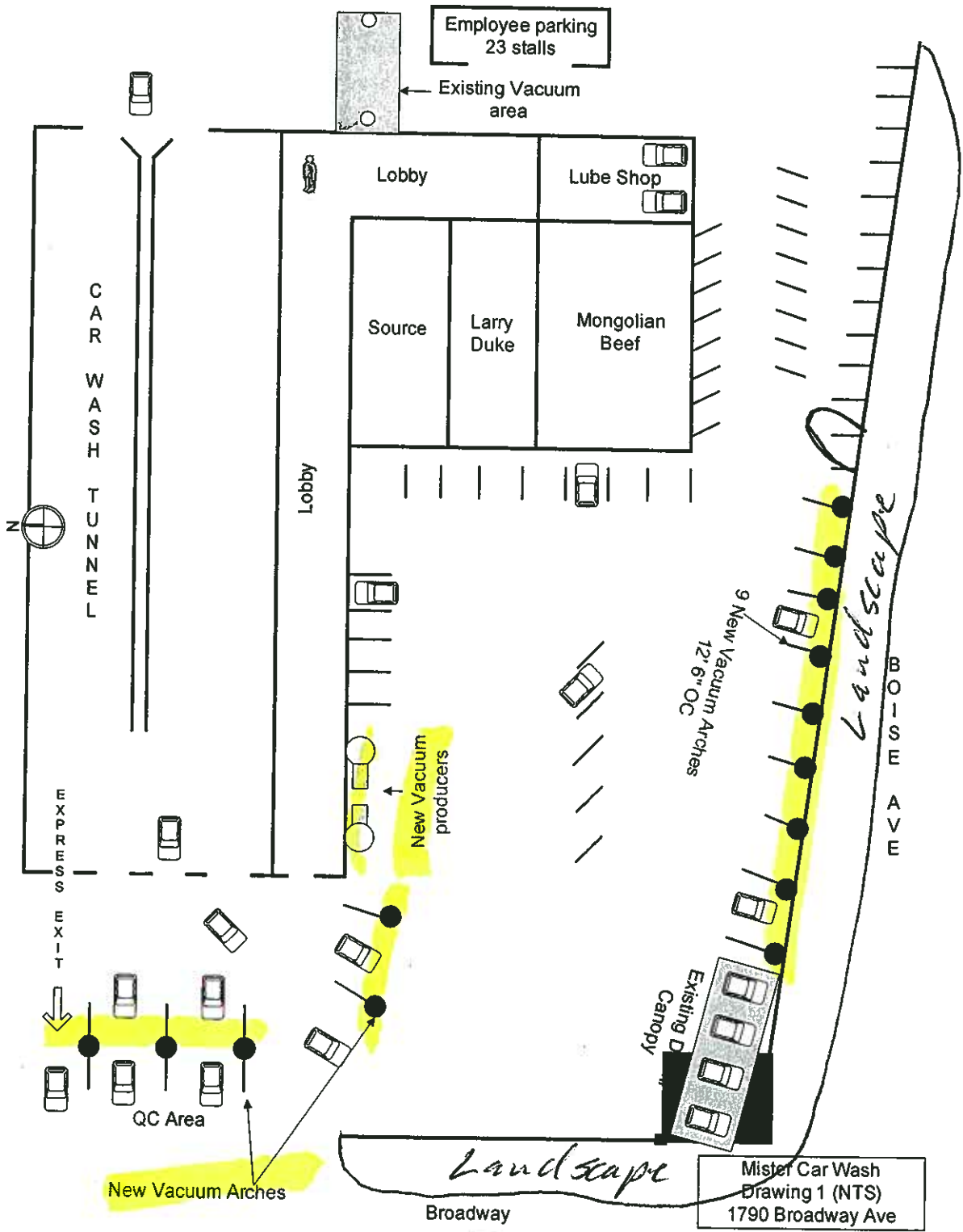
11-03-07.2: Quasi-judicial Appeals to City Council of Decisions of the Planning & Zoning Commission, Hearing Examiner and Historic Preservation Commission

7. The City Council may find error on the following grounds:

- (a) The decision below is in violation of constitutional, State or City provisions. An example would be that the review body's decision would be a taking or failed to comply with mandatory notice required under the local planning act.
- (b) The review body's decision exceeds its statutory authority. An example would be when there is no authority for the decision in federal or Idaho law, local ordinance or the Comprehensive Plan. Because the decision-makers below are experts in their substantive areas, the City Council shall give due consideration to a reasonable interpretation of a City Ordinance adopted by the review body.
- (c) The decision below is made upon unlawful procedure. An example would be if inadequate notice of the hearing was provided.
- (d) The decision below is arbitrary, capricious or an abuse of discretion. For the City Council's actions to be deemed arbitrary or capricious, it must be shown that that its actions were done without rational basis; or in disregard of the facts and circumstances presented; or without adequate determining principles. Where there is room for two opinions, action is not arbitrary and capricious when exercised honestly and upon due consideration, even though it may be believed that an erroneous conclusion has been reached.
- (e) The decision below is not supported by substantial evidence.







Mister Car Wash
 Drawing 1 (NTS)
 1790 Broadway Ave

RECEIVED

MAR 16 2011

DEVELOPMENT
 SERVICES

SRH 11 000 33

RECEIVED

FEB 17 2011

DEVELOPMENT
 SERVICES

CVA 11 000 07

OVA 11 00007

RECEIVED

MAR 16 2011

DEVELOPMENT
SERVICES







Planning & Development Services

Boise City Hall, 2nd Floor
150 N. Capitol Boulevard
P. O. Box 500
Boise, Idaho 83701-0500

Phone: 208/384-3830
Fax: 208/384-3753
TDD/TTY: 800/377-3529
Website: www.cityofboise.org/pds

Application for Appeal

Fee: \$ 182.00

I (we) Mister Car Wash hereby appeal the decision of the Boise City:
 Planning & Zoning Commission Hearing Examiner Design Review Committee
 Historic Preservation Commission Planning Director

File Number: CV11-00007 Address: 1790 S. Broadway Ave.

Specific Action Being Appealed: The installation of vacuum arches on Broadway ave.

Grounds for Appeal

- Commercially zoned as car wash. vacuums are part of business.
- Does not impede pedestrian or cycling on sidewalk.
- Hardship- no other location on property to place.
- New vacuums go with the theme of existing vacuums.

Appeal Contact Person: Phillip DeLaRosa
Address: 1615 W. Five Mile Rd. Spokane Wa. 99208
Home Phone: (509) 528-3008 Work Phone: _____

Appeals

- Appeal of an Administrative Decision to the Planning & Zoning Commission or Design Review Committee (non-refundable fee).
- Appeal of a Design Review Committee Decision to the Planning & Zoning Commission.*
- Appeal of a Planning & Zoning or Historic Preservation Commission decision to City Council.*
- Appeal of a Hearing Examiner decision to City Council.*

* Portion of fee is refundable if appeal is successful.

Notes

- If the reasons for the appeal are resolved prior to the appeal hearing, please contact the Planning Staff at 384-3830.
- The only topics which may be discussed during the appeal hearing are the specific reasons for the appeal as stated in the application.
- Neighborhood groups are encouraged to elect a spokesperson for appeals that are supported by numerous residents of the project to avoid a duplication of testimony.
- Section 11-3-7.2 of the Zoning Ordinance provides that an appeal to Council may not be withdrawn without the consent of Council.

Signature of Appellant/Representative: [Signature] Date: 5-6-11

For Staff Use Only:
 If the appellant is not the applicant, the applicant must be contacted immediately following the acceptance of this appeal.
 Applicant contacted on _____ by **RECEIVED** Appeal is by applicant

MAY 09 2011

PLANNING & DEVELOPMENT SERVICES



Bruce Chatterton
Director

Boise City Hall
150 N. Capitol Boulevard

Mailing Address
P. O. Box 500
Boise, Idaho 83701-0500

Phone
208/384-3830

Fax
208/384-3814

TDD/TTY
800/377-3529

Web
www.cityofboise.org/pds

Mayor
David H. Bieter

City Council
President
Maryanne Jordan

Council Pro Tem
Alan W. Shealy

Elaine Clegg
David Eberle
Lauren McLean
TJ Thomson

Planning & Development Services

May 3, 2011

Mister Car Wash
Phillip DeLaRosa
1615 W. Five Mile Road
Spokane, WA 99208

Re: **CVA11-00007 / 1790 S. Broadway Avenue**

Dear Mr. DeLaRosa:

This letter is to inform you of the action taken by the Boise City Planning and Zoning Commission on your request for a variance from the front and side street setbacks to accommodate vacuums at a carwash facility located at 1790 S. Broadway Avenue in a C-2D (General Commercial with Design Review) zone.

The Boise City Planning and Zoning Commission, at their meeting of May 2, 2011, **denied** your request based on the attached Reasons for the Decision.

This decision may be appealed to the Boise City Council. This appeal must be filed with the Boise City Planning and Development Services Department within ten (10) days of the date of this denial. The Appeal must be written, accompanied by the appropriate fee, and submitted to the Boise City Planning and Development Services Department prior to the deadline set forth herein. Appeal Application forms are available in the Planning Department. The appeal must be submitted by 5:00 P.M., May 12, 2011.

If you have any questions, please contact me at (208) 384-3841.

Sincerely,

Sue Cummings
Planning Analyst II
Boise City Planning and Development Services Department

SC/bjc

Attachment

cc: SENA / Fred Fritchman / 1321 Denver Ave. / Boise, ID 83706
SBV / Gary Allen / 1601 Garfield St. / Boise, ID 83706

Reason for the Decision

Granting of the variance would be in conflict with the spirit and intent of the Comprehensive Plan. *Goal 7.2* suggests services and amenities should be visually pleasing and properly integrated and designed to encourage walking and cycling. *Policy 8.0.15.7* recommends Broadway be treated as a gateway street with special design consideration for new development. The hoop shaped metal structures comprising the vacuums appear industrial in nature and are in close proximity to the sidewalk, creating an incompatible pedestrian interface. There is no hardship with the property or unusual circumstance associated with the use. It is a relatively flat, regular shaped lot, developed with a mix of commercial uses, including a restaurant, martial arts studio, graphics studio and the carwash, all of which are allowed in the commercial zoning district. The installation of vacuums immediately adjacent to the street frontage is inconsistent with other development in the vicinity and detracts from the visual quality of this gateway street.

CVA11-00007 / MISTER CAR WASH

Location: 1790 S. Broadway Avenue

VARIANCE FROM THE FRONT AND SIDE STREET SETBACKS TO ACCOMMODATE VACUUMS AND A CANOPY AT A CARWASH FACILITY LOCATED IN A C-2D ZONE.

Sue Cummings (Staff) – The applicant requests a variance for nine vacuums with associated structures within the setback area, along Boise Avenue at the intersection of Broadway. I would note the vacuums have been installed without approvals. Staff finds the request does not meet the criteria for approval of a variance. There is no hardship to identify. There are no topography issues with the lot and no special circumstances associated with the use of the property.

The vacuums are an accessory use that conflicts with the Comprehensive Plan. Broadway is a gateway street; as such there are special design considerations. The vacuums do not promote visual continuity. They are brightly colored machinery with attached trash receptacles encroaching into the setbacks without adequate screening or buffering provided.

While the City has examples of other structures built on or very close to property lines, they are primary structures which can promote a walk able community. The vacuums are accessory structures that appear to have the opposite effect. Noise from the vacuums negatively impacts the pedestrian interface, especially for the elementary school children traveling those sidewalks. In conclusion, staff recommends denial of this application.

Phil DeLaRosa (Applicant) – We put these vacuums in without understanding we needed a variance to do so. Ten years ago we moved into that location. Our business model has changed since then and it has gone more to the drive-through express customer. If you could drive around town there is a lot of express carwashes that have free vacuums, or pay vacuums out in their locations. We chose to put them in at this location to possibly bring our business back that we have lost to the people who offer the free vacuums. We looked at other places on the property to put them. There was no place that gave us enough room where we could spread out nine vacuums so people could open their doors and vacuum without banging each other's doors. We looked at putting them against the building initially, where we could only utilize five stalls. They were on a slope and over a waterway, so we decided to put them out on that location. Since then we have taken the canopy down that was out on the street. We are 50 feet back from the intersection at Broadway, but I understand that Boise Avenue, as well, is a gateway street. I don't know if every street all the way down Broadway is a gateway street, but evidently that one is. We're just trying to stay in Boise, basically. We have 66 carwashes around the country and our Boise market is failing the worst. We are having the toughest time in supporting these locations and what we thought we would try to do is offer the free vacuums to our drive-through customers, who are the majority of our business now. If you drive around town, all of the other carwashes in town offer free vacuums. Unfortunately, we didn't have any place else to put them, but where they are.

We are asking forgiveness at this point, but they are done, they are up and they are standing. We take a lot of pride in the way our property looks. I don't personally think they are a distraction to the street or to the drive-by traffic, but we spent a lot of time and effort in making sure our buildings look nice. They are all landscaped really nice and we just don't think they are the eyesore they are put out to be.

Commissioner Wilson – I have a question for staff. Did you have any discussions with the applicant about alternative places to put these on the site?

Sue Cummings – Since they are installed, no.

Commissioner Wilson – So, we didn't talk about any other places where they could go. The applicant is indicating there is no other place. Sometimes staff takes the initiative and looks at the property a little bit.

Sue Cummings – Oh yes, of course. If you think about the placement of the vacuums perhaps in the back, those are all up against residential uses. If you put them up against the buildings, they are going to interfere with the other tenants parking. There was an e-mail I made a copy for everyone tonight from one of the other tenants. Along Boise Avenue farther back, it would be inconvenient for the carwash and I believe he is right, there's not very many places to put the vacuums on the site.

Commissioner Barker – Along with these nine vacuums they have also installed five other vacuum arches and those are for the non drive-through customers, is that what the additional vacuums are for?

Phil DeLaRosa – Yes, they are for our production staff to use to vacuum the customer's cars that get the full service.

Commissioner Barker – So, we've added five vacuum stations with the new arch design for the full service and this is just for the drive-through?

Phil DeLaRosa – Yes, what we did is we moved the vacuums from the back. We used to have them at the back and in order to increase our ability to manage that property because of the shape of it, we have moved them up to the front so all of the production work is being done on the front side of the carwash.

Commissioner Wilson – Would it be possible for you to offer the free vacuums with the ones that are the production ones up front, and move your production back to the rear of building where it was?

Phil DeLaRosa – No. The reason we moved those up front is because our business has switched from a full service business, to an express business. Ninety percent of our customers used to be full service business and we had 10 percent that were express drive-through.

There are a couple of other carwashes that have opened in the Boise area that offer express carwashes and free vacuums. You have probably seen them; they have them lined all down the sides of their buildings. In order to stay competitive in the market we kept waiting and waiting and waiting to see if our full service business would come back when the economy started to pick up and it doesn't appear to be coming back. We don't own the property, we lease the property. We made the decision to offer free vacuums for the customer and move the few full service up front so we can control the labor better. It takes a lot less labor to do express cars than it does full service, so we can utilize them up front easier than utilizing them in the back. It reduces the number of people we have working.

PUBLIC TESTIMONY

Brian McDevitt – (President of the Southeast Neighborhood Association) – The intersection of Broadway and Boise Avenue is a prominent corner in the Southeast Neighborhood. Broadway is the gateway street, as mentioned before. Boise Avenue is an historic route of the Oregon Trail. Both of these are probably two of the large main connecting routes within our neighborhood. Three corners of this intersection are occupied by historic structures; Garfield School, the original commercial side of south Boise, the Williams Fire Station and on one part of the intersection is the Oregon Trail Micro Park. Mr. Carwash occupies the fourth corner.

The neighborhood association voted to oppose this application. We are in complete agreement with staff that the vacuums degrade the character in what may be our most visible intersection, and they illustrate why setbacks are necessary. While we want Mr. Carwash to be prosperous, we feel the City has standards and those standards should be maintained.

REBUTTAL

Phil DeLaRosa – I have some pictures of some of the facilities around us.

Commissioner Russell – Just so you know if you give those to us we will have to hold them for 10 days. For the record, we have received two stacks of photographs of the facility and some of the other facilities in town.

Phil DeLaRosa – I went out and took pictures today and this is from going south on Broadway Avenue, at the corner of Boise and Broadway, the opposite corner and directly across the street from our carwash. It was kind of overcast this morning, so you couldn't get a real good view of it. The landscaping hides a lot of this stuff, as you're driving into Boise on Broadway Avenue. I also took some other pictures of businesses down the street from us going in both directions that have junk, basically, out in front of their locations. I don't think that's what we look like. I think we add professionalism to that corner, granted it doesn't go with the historic value of it, but if you drive off in either direction on Boise Avenue there are a lot of things that don't go with the historic structure of it.

PUBLIC HEARING CLOSED

COMMISSIONER WILSON MOVED TO DENY CVA11-00007.

COMMISSIONER BRADBURY SECONDED THE MOTION.

Commissioner Wilson – I'm faced with the same thing I was faced with on the last application. I can't find a hardship on this property that would justify a variance. The questions I asked were intended to flush out whether or not there was some other way to accommodate the use on the property and I think there are other ways to do that, or to just not have this use at this particular location of the accessory vacuums. Not the carwash as a whole, just the vacuums that are within the setback. Again, when I'm faced with something where I can't find a good hardship on the property, I have a hard time granting the variance because it makes it that much more difficult the next time someone comes in and wants to establish justification for hardship on a property. That's my reasoning.

Commissioner Barker – I will support the motion. I think my biggest concern is the location of these vacuums. There are nine of them. They are very, very close to the sidewalk and as staff points out this sidewalk is used quite heavily because of the school across the street. I know I would feel uncomfortable trying to walk along with a large vacuum and automobile pulled up next to me. I wouldn't find it very comfortable to be in that situation. I would certainly like to see this machinery pulled back from the street.

ROLL CALL VOTE

COMMISSIONER WILSON	AYE
COMMISSIONER BRADBURY	AYE
COMMISSIONER STORY	AYE
COMMISSIONER BARKER	AYE
COMMISSIONER RUSSELL	AYE

ALL IN FAVOR, MOTION CARRIES.



Planning & Development Services

Boise City Hall, 2nd Floor
150 N. Capitol Boulevard
P. O. Box 500
Boise, Idaho 83701-0500

Phone: 208/384-3830
Fax: 208/384-3753
TDD/TTY: 800/377-3529
Website: www.cityofboise.org/pds

9

CVA11-00007 – Mister Car Wash / Phillip DeLaRosa

Summary

Mister Car Wash / Phillip DeLaRosa requests approval of a variance to reduce the required 20' front and side street setback to accommodate vacuums on a ± 1.87 acre parcel located at 1790 S. Broadway Avenue in a C-2D (General Commercial with Design Review) zone.

Prepared By

Sue Cummings, Planning Analyst

Recommendation

Staff recommends **denial** of CVA11-00007.

Reason for the Decision

Granting of the variance would be in conflict with the spirit and intent of the Comprehensive Plan. *Goal 7.2* suggests services and amenities should be visually pleasing and properly integrated and designed to encourage walking and cycling. *Policy 8.0.15.7* recommends Broadway be treated as a gateway street with special design consideration for new development. The hoop shaped metal structures comprising the vacuums appear industrial in nature and are in close proximity to the sidewalk, creating an incompatible pedestrian interface. There is no hardship with the property or unusual circumstance associated with the use. It is a relatively flat, regular shaped lot, developed with a mix of commercial uses, including a restaurant, martial arts studio, graphics studio and the carwash, all of which are allowed in the commercial zoning district. The installation of vacuums immediately adjacent to the street frontage is inconsistent with other development in the vicinity and detracts from the visual quality of this gateway street.

To: Planning and development services.
From: Mister Car Wash 1790 Broadway Ave.
Date: Feb. 17th 2011

RECEIVED

FEB 17 2011

DEVELOPMENT
SERVICES

This letter is to inform you of the reason for the site changes.

Moving the vacuum system to the west side of the property allows us better flexibility in maximizing the production of our car wash. Due to the size of the property it is difficult to maintain a quality service with management on one side of the property. We are also offering free vacuums with 9 stalls to the customer on the Boise ave. side of the property. Offering free vacuums will better serve our express customer and put us in line with other conveyor car washes in the Boise area.

The vacuum arches being visible from the street has increased the street appeal and made the property look more user friendly.

We will not be making any changes to the landscaping, we will also be adding a fence to hide the vacuum producer on the south side of the building.

Please see attached site plan and photo's.

Thank You,
Phil DeLaRosa
Area Manager
Mister Car Wash

RECEIVED

MAR 16 2011

DEVELOPMENT
SERVICES

CVA 11 00007

DRH 11 00033



Planning & Development Services

Boise City Hall, 2nd Floor
150 N. Capitol Boulevard
P. O. Box 500
Boise, Idaho 83701-0500

Phone: 208/384-3830
Fax: 208/384-3753
TDD/TTY: 800/377-3529
Website: www.cityofboise.org/pds

9

Planning Division Staff Report

File Number CVA11-00007
Applicant Phillip DeLaRosa
Property Address 1790 S. Broadway Avenue

Public Hearing Date May 2, 2011
Heard by Planning and Zoning Commission

Analyst Sue Cummings
Checked By Cody Riddle

It is important to submit all evidence to the Planning and Zoning Commission. City Council will not accept additional evidence if there is an appeal of this proposal.

Public Notification

Neighborhood meeting conducted: March 15, 2011
Newspaper notification published on: April 16, 2011
Radius notices mailed to properties within 300 feet on: April 15, 2011
Staff posted notice on site on: April 14, 2011

Table of Contents

1. Project Data and Facts	2
2. Land Use	2
3. Project Proposal	3
4. Zoning Ordinance	4
5. Comprehensive Plan	4
6. Analysis/Findings	4

Exhibits

Public Works Comments
Fire Department Comments
Nampa & Meridian Irrigation District

1. Project Data and Facts

Project Data	
Applicant/Status	Phillip DeLaRosa / Business Owner
Architect/Representative	N/A
Location of Property	1790 S. Broadway Avenue
Size of Property	± 1.87 acres
Zoning	C-2D (General Commercial with Design Review)
Comprehensive Plan Designation	Commercial
Planning Area	Southeast
Neighborhood Association/Contact	Southeast Neighborhood Association / Fred Fritchman 336-7627
Procedure	Planning and Zoning Commission decision that can be appealed to City Council.

Current Land Use
Mixed commercial consisting of a car wash, restaurant, logo graphics studio and martial arts studio

Description of Applicant's Request
Variance from front and side street setback for vacuums.

2. Land Use

Description and Character of Surrounding Area
The area surrounding the site is comprised of mixed uses including residential to the east, commercial and residential to the north, a school to the south, and offices to the west across Broadway Avenue.

Adjacent Land Uses and Zoning

North:	Auto repair and residential / C-2D and R-2
South:	Elementary school / C-2D
East:	Residential / R-2
West:	Offices / C-2D

Site Characteristics
The site is developed with a carwash, restaurant, martial arts studio and a logo graphics business and associated parking.

Special Considerations

Broadway is designated as a gateway street.

History of Previous Actions

COD11-00115 Code violation for the vacuums

DRH11-00033 Design Review pending action on the variance request

3. Project Proposal**Setbacks**

Yard	Required for Building / Parking	Proposed for Building / Parking
Front (Broadway)	20' / 5'	5'* / 5'
Rear (East)	10' / 5'	36' / 0' both existing
Side Street (South)	20' / 7'	5'* / 5'
Side (North)	0' / 5'	11' / 0' both existing

* - Subject of the variance request

Fencing

N/A

Outdoor Lighting

N/A

Structure(s) Design**Number and Proposed Use of Structures**

9 vacuums

Maximum Building Height

45'

Number of Stories

N/A

4. Zoning Ordinance

Section	Description
11-04-06.03	Purpose of the General commercial or C-2 District
11-06-11	VARIANCES TO THE ZONING ORDINANCE

5. Comprehensive Plan

CHAPTER	GOALS, OBJECTIVES & POLICIES
CHAPTER 7-COMMUNITY QUALITY	Objective 7.2.5 Policy 7.2.5.2 Policy 7.2.5.2 (c) Objective 7.2.7 7.2.7.4 Goal 7.2.7.11
CHAPTER 8-LAND USE	Policy 8.0.15.7

6. Analysis/Findings

Phillip DeLaRosa requests approval of a variance to reduce the 20' front and street side setback to approximately 5' to accommodate vacuums on a ± 1.79 acre parcel located at 1790 S. Broadway Avenue in a C-2D (General Commercial with Design Review) zone. The vacuums were installed in the setbacks without planning approval or the required construction permits. The variance would allow them to remain in the setbacks on the northeast corner of S. Broadway and E. Boise Avenues. The application also included a request for a variance for banners and an existing canopy. However the banners are specifically prohibited and therefore cannot be approved with a variance. Further, the applicant has decided to remove the canopy from the request. This application is the result of a complaint filed with Code Enforcement for structures built in the setbacks. The stated need for the variance is to expand the existing carwash.

FINDINGS

Section 11-06-11.04 Criteria and Findings

The Commission, following the procedures outlined below, may approve a variance when the evidence presented at the hearing is such as to establish:

- A. *That the granting of the variance will not be in conflict with the spirit and intent of the Comprehensive General Plan for the City, and will not effect a change in zoning;*

Granting of the variance would be in conflict with the spirit and intent of the Comprehensive Plan. *Goal 7.2* suggests services and amenities should be visually pleasing and properly integrated and designed to encourage walking and cycling. *Objective 7.2.1* encourages the development of form and character of its districts, the preservation of its neighborhoods and the conservation of its historical identity. The hoop shaped metal structures with attached trash receptacles appear industrial in nature and out of character with the surrounding neighborhood. Many of the buildings in the vicinity are brick, some are historic, specifically the elementary school to the south and the Odd Fellows building to the north and west across Broadway. *Policy 8.0.15.7* recommends Broadway be treated as a gateway street with special design consideration for new development. *Policy 7.2.7.4* recommends ensuring that streetscape standards for the City's major gateways provide each entry way with its own identity while promoting visual continuity throughout the City. The placement of the brightly colored red vacuums in front of the main structure has a negative visual impact and is inconsistent with the building design of the surrounding neighborhood. *Policy 7.2.7.11* recommends providing a requirement for electrical, telephone, mechanical equipment and other distribution lines to be underground. The placement of the vacuums in the setbacks exposes machinery and trash receptacles without adequate screening or buffering.

- B. *That there is either a hardship associated with the property itself or an exceptional circumstance relating to the intended use of the property which is not generally applicable to property or permitted uses in the district.*

There is no hardship or exceptional circumstance associated with the property. No issues with size, shape or topography can be identified. While there are other structures in the vicinity that have reduced setbacks, none of them are for accessory uses such as the vacuums and trash receptacles. They are for the primary structure which can provide a pedestrian friendly atmosphere, and their accessory uses are placed at the rear of the property.

-
- C. ***The granting of such relief will not be materially detrimental to the public health, safety or welfare, or injurious to the property or improvements of other property owners, or the quiet enjoyment of such property or improvement.***

While the variance will not impact health and safety, it will impact the quiet enjoyment of surrounding property. The noise, in close proximity to the sidewalk, creates an incompatible pedestrian interface. The brightly colored red structures are obtrusive and do not fit well with the surrounding area, creating a negative visual impact along the gateway street. The Southeast Boise Neighborhood Association has indicated the vacuums are having a negative impact on the surrounding area, including other tenants on the property. While there is adequate parking on the site, the vacuums have reduced the number of spaces available.

To obtain approval the applicant should seek a location for the vacuums that does not encroach into required setbacks.

Variance Application Form

PDS	Department Application
	# 122

Case #: CV11-00007

New! Type data directly into our forms.

Note: Be sure to print this form before closing it or you will lose your data. This form cannot be saved to your computer.

Property Information Fees 366.⁰⁰ X ref DRH 11-00033
Address: Street Number: 1790 Prefix: _____ Street Name: Broadway Avenue
Subdivision: _____ Block: _____ Lot: _____ Section: _____ Township: _____ Range: _____
*Primary Parcel Number:

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

 Additional Parcels: _____

Applicant Information

*First Name: Phillip *Last Name: DeLaRosa
Company: Mister Car Wash *Phone: (208) 344-1790
*Address: 1790 Broadway Avenue *City: Boise *State: Id. *Zip: 83706
E-mail: pdelarosa@mistercarwash.com Cell: 1-509-528-3008 Fax: (208) 344-2769

Agent/Representative Information

First Name: Phillip Last Name: DeLaRosa
Company: Mister Car Wash. Phone: (509) 528-3008
Address: 1615 W. Five Mile Rd. City: Spokane State: Wa. Zip: 99208
E-mail: pdelarosa@mistercarwash.com Cell: (509) 528-3008 Fax: 1-866-883-5257
Role Type: Architect Land Developer Engineer Contractor Other

Owner Information

Same as Applicant? Yes No (If yes, leave this section blank)
First Name: Marian ~~Z~~ Last Name: Zubizarreta
Company: _____ Phone: _____
Address: 5903 Hall Rd. City: Boise State: Id. Zip: _____
E-mail: _____ Cell: _____ Fax: _____

Date Received: _____
Revised 1/2010



www.cityofboise.org/pds

City of Boise Planning & Development Services
P.O. Box 500 • 150 N. Capitol Blvd • Boise, Idaho 83701-0500
Phone 208/384/3830 • Fax 208/433-5688 • TDD/TTY 800/377-3529

1. Neighborhood Meeting Held (Date): March 15th 2011 @ 6:00 to 8:00 PM
2. Neighborhood Association: Fred Fitchman present @ neighborhood meeting
3. Comprehensive Planning Area: _____

4. This application is a request to construct, add or change the use of the property as follows:

Move vacuums to the front of the property from the rear to better maximize the use of labor due to the lay-out of the property - install five vacuums 9 stalls total for customer use. Plus add ~~two~~ 3 double Flag banners.

5. Size of property: 1.87 Acres Square Feet

6. What Ordinance standards are you requesting a variance from:

Set-back / street side

7. What special circumstances or conditions apply to the land or use which do not generally apply to other lands or uses in the same zone or vicinity?

8. Why is a variance necessary for the enjoyment of your rights as a property owner?

- To maximize our ability to manage the property.
- To give the customers free vacuums to use, and to be able to offer what other car washes offer.

9. Explain why this variance will not adversely affect the health, safety, or general welfare of the persons residing or working in the vicinity of the property.

No hazards -

10. Explain any hardships associated with the property that were not the result of your own actions or were not known to you prior to the purchase or development of the property.

This is the only location to place the vacuums due to site layout.

11. Adjacent Property Information

	Building types and/or uses	Zone
North:	Commercial - Auto repair	
South:	Public school	
East:	Residential	
West:	Office - Dental - Hair care	

12. Additional comments:

[Handwritten Signature]

Applicant/Representative Signature

3-16-11

Date

BOISE FIRE DEPARTMENT

M E M O R A N D U M

TO: Sue Cummings, PDS
FROM: Ron Amandus
SUBJECT: Mister Car Wash; CVA11-00007
1790 S. Broadway Ave.
DATE: March 31, 2011

The Boise Fire Department has reviewed and can approve the application subject to compliance with all following code requirements and conditions of approval. Any deviation from this plan is subject to Fire Department approval. Please note that unless stated otherwise this memo represents requirements of the International Fire Code as adopted and amended by Ordinance 6308.

Condition of Approval:

Code Requirement:

Fire Department vehicular access shall be provided to within 150' of all portions of the non-sprinklered buildings. Dead end roads are prohibited from exceeding 750 feet. These distances can be increased somewhat for sprinklered buildings but exact distances are on a case-by-case basis. All Fire Department access roads, fire lanes, bridges, and gates are to be a minimum of 20' wide with 13' 6" overhead clearance, shall be capable of supporting 75,000 lbs GVW (25,000 lbs per axle), and shall be paved. Fire Department access roads and fire lanes shall have a minimum outside turning radius of 48' with an inside radius of 28'. Aerial fire apparatus roads shall have a minimum unobstructed width of 26 feet in the immediate vicinity of any building or portion of building more than 30 feet in height, and at least one of the required access routes meeting this condition shall be located within a minimum of 15 feet and a maximum of 30 feet from the building, and shall be positioned parallel to one entire side of the building. Any dead-end road in excess of 150' needs a Fire Department approved turnaround. No grade may exceed 10% (please note that fire apparatus are designed for a maximum 6% grade). Width and turning radius measurements specified by this paragraph can include those surfaces vehicles generally drive upon. Specifically, gutter and rolled curb are generally considered useable, while vertical curb or sidewalks are not.

Comments:

CVA11-00007 Move vacuums to the front of the property from the rear to better maximize the use of labor due to the layout of the property. X-ref DRH11-00033

Condition of Approval:

Code Requirement:

For streets having a width less than 36 feet back of curb to back of curb parking shall be restricted on (1) one side; for streets having a width less than 29 feet back of curb to back of curb parking shall be restricted on both sides; and for standard ACHD cul-de-sacs parking shall be restricted on both sides. A note on the face of the final plat is required noting the parking restriction prior to signing of the final plat by the Boise City Engineer. In addition, No Parking signs shall be installed in accordance with the requirements of the IFC.

Comments:

Fire access roadways shall be maintained.

Condition of Approval:

Code Requirement:

Fire hydrant location and distribution shall meet requirements of International Fire Code Appendix C.

Comments:

No fire hydrants have been noted. In the absence of information on existing hydrants it appears that no new hydrant may/will be needed. However, we reserve the right to modify requirements as more information comes to light. Variables affecting hydrant numbers and location include, but are not limited to, area, construction type, existing hydrants, accuracy of information provided in the application, strategic location for fire fighting forces, and required fire flow. New hydrants must be "non-private" installations.

Condition of Approval:

General Requirement:

Specific building construction requirements of the International Building Code, International Fire Code, and Boise City Code will apply. However, these provisions are best addressed by a licensed Architect at building permit application.

Please feel free to have the applicant contact Ron Amandus, 570-6574

cc: File

50

BOISE CITY PUBLIC WORKS DEPARTMENT

DEPARTMENT CORRESPONDENCE

Date: March 31, 2011

To: Boise City Planning & Zoning

Re: CVA 11-00007; 1790 W. Broadway Ave.

CONDITIONS OF APPROVAL

SEWER CONDITIONS – MIKE SHEPPARD (384-3920)

No comment.

DRAINAGE / STORM WATER CONDITIONS – BRIAN MURPHY (384-3752)

No comment.

STREET LIGHT CONDITIONS – MIKE HEDGE (388-4719)

No comment.

PERSON MAKING OTHER COMMENTS –

OTHER COMMENTS –

RECEIVED

APR 01 2011

DEVELOPMENT
SERVICES


PUBLIC WORKS REPRESENTATIVE


PUBLIC WORKS REPRESENTATIVE

cc: Applicant

27

Nampa & Meridian Irrigation District

1503 FIRST STREET SOUTH

NAMPA, IDAHO 83651-4395

FAX # 208-463-0092

22 February 2011

Boise City Planning & Development Services
150 North Capitol Blvd.
Boise, ID 83702

Phones: Area Code 208

OFFICE: Nampa 466-7861
SHOP: Nampa 466-0663



~~copy~~ copied from DR file
which is on hold

RE: DRH11-00033/1790 N Broadway Ave/Mister Car Wash

Dear Planning & Development Services:

Nampa & Meridian Irrigation District has no comment on the above-referenced application as it lies outside of our district boundaries.

All laterals and waste ways must be protected. All municipal surface drainage must be retained on-site. If any surface drainage leaves the site, Nampa & Meridian Irrigation District must review drainage plans. The Developer must comply with Idaho Code 31-3805.

It is recommended that irrigation water be made available to all developments within the Nampa & Meridian Irrigation District.

Sincerely,

Greg Curtis
Asst. Water Superintendent
Nampa & Meridian Irrigation District
GC/dbg

C: File - Office/Shop

MAR 16 2011

DEVELOPMENT
SERVICES

CVA 77 00007

APPROXIMATE IRRIGABLE ACRES
RIVER FLOW RIGHTS - 23,000
BOISE PROJECT RIGHTS - 40,000

Sue Cummings - CVA11-00007

From: <LDuke45534@aol.com>
To: <scummings@cityofboise.org>
Date: 5/2/2011 4:46 PM
Subject: CVA11-00007

9

Ms Cummings, My name is Larry Duke. I am the owner of the Idaho Taekwondo Training Center 1804 Broadway Ave. I am sending you this e-mail to voice my concern over the proposal by Mr. Car Wash to reduce existing parking on the premises. I feel that this has a direct and negative impact on the parking and accessibility to my business. The proposed banners will also restrict visibility of my store front.

Thank you,

Larry Duke