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Planning & Development Services

March 6, 2012

Nick Zaferes
The Michaels Organization
3 East Stow Road, Suite 100
Marlton, NJ 08053

Re: CUP11-00090 & CFH11-00036 / 1004 W. Royal Boulevard

Dear Mr. Zaferes:

This letter is to inform you of the action taken by the Boise City Planning and Zoning Commission on your request for a height exception to construct a five story multi-family residential building on 3.42 acres at 1004 W. Royal Boulevard in an R-OD zone. A Boise River System Permit is included in the request.

The Boise City Planning and Zoning Commission, at their hearing of March 5, 2012, **approved** your request, based on compliance with the attached Reasons for the Decision and Conditions of Approval. A regulatory takings analysis may be requested by the landowner.

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

1. This 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 the Boise 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 Boise City 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:

www.cityofboise.org/pds/
or <http://www.cityofboise.org/pds/index.aspx?id=apps>

3. All appeals of this permit must be filed by **5:00 P.M., on March 15, 2012.**
4. If these Permits are not acted upon within two (2) years, they will become null and void without further notification from this Department.

This letter constitutes your Conditional Use, Variance and Boise River System Permit. If you have any questions, please contact this department at (208) 395-7857.

Sincerely,

A handwritten signature in black ink, appearing to be 'JJ' with a long horizontal stroke extending to the right.

Josh Johnson
Planning Analyst
Boise City Planning and Development Services Department

JJ/bjc

Attachment

cc: Becky McKay / Engineering Solutions, LLP / 1029 N. Rosario St., Ste. 100 /
Meridian, ID 83642
DBNA / Walt Sledzieski / 199 N. Capitol Blvd., #705 / Boise, ID 83701
DBA / Karen Sander / 720 W. Idaho St. / Boise, ID 83702
Gary Allen / 601 W. Bannock / Boise, ID 83702

Reason for the Decision

Variance

The variance is not in conflict with the Comprehensive Plan and does not effect a change in zoning. The additional height as requested by the applicant maintains compatibility with surrounding buildings. *Objective 7.2.1* encourages development to maintain and develop the character and form of its neighborhood. The R-O zone's height limit of 35 feet presents an unusual circumstance. The desire of this zone is for multi-story high density residential projects. Limiting buildings to 35 feet creates a situation where the type of desired projects for the R-O zone is difficult to develop without larger parcels. There is also a hardship present in that the project is located within the floodplain and the site must artificially be raised above base flood elevation. This was accomplished by constructing the building on top of required surface parking, significantly increasing the height of the building. The variance will not be materially detrimental to public health, safety or welfare and will not be injurious to surrounding property owners. The additional height does not increase the density of the project to the point where parking standards cannot be met. Views to the greenbelt from nearby public streets will be blocked, but a building that obeyed the height limit of 35 feet would also block views to the greenbelt. Pedestrian access to the greenbelt is provided to mitigate this impact. The proposed height is generally similar to other buildings in the vicinity including the Keynetics building which is 46 feet in height, the Morrison Center which is 63 feet in height, and the student dormitories on Capitol are 74 feet in height. Also adjacent uses consist of offices and parks land, indicating that the additional height will not cause any privacy concerns. Structured parking creates the need for additional height and will provide a dramatic improvement in terms of aesthetics when compared to numerous other projects in the vicinity.

Conditional Use Permit

The height exception is compatible as there are buildings of similar height in the immediate vicinity and ample separation is provided to shorter structures. The height exception will not place an undue burden on transportation and other public facilities. Most roads within the general vicinity operate at acceptable levels of service. The traffic generated by this development is mitigated by its intended use as student housing. The project is next to the greenbelt that allows a direct walking/biking path that is ¼ mile from BSU. The project meets all setback and open space requirements of the R-O zone. The height exception will not adversely affect surrounding property owners as the building's additional height does not allow for more units than the site's available parking. The proposed use is supported by the general goals, objectives and policies of the Comprehensive Plan. Currently, there is a lack of on campus housing for BSU. The height exception allows for the applicant to maximize the number of units, while providing adequate parking. *Objective 7.1.2* calls for opportunities for residents of Boise to find housing in the neighborhood of their choice. This project will allow for prospective students to find housing near the university.

River System

The subject property is classified as Class C lands and waters which states that all allowed and conditional uses of the base zone are permissible. No riparian habitat will be disturbed with this application as the project is located outside the 70 foot greenbelt setback. The project complies with the Boise Comprehensive Plan.

Objective 3.4.2 state that bald eagle habitat should be protected as a unique feature of the City. There are no bald eagle perch trees or heron rookeries in the general vicinity of the project. A condition of approval requires that the applicant obey all local, state and federal laws and regulations.

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 **November 29, 2011**, except as expressly modified by the Design Review Committee or staff and the following conditions:
2. Comply with the requirements of the Boise City Public Works Solid Waste Division as specified in the attached memo dated **December 1, 2011**.
3. Comply with Boise City Parks comments dated **November 21, 2011** and additional comments dated **February 17, 2012**.
4. Comply with the requirements of the Boise City Fire Department as specified in the attached memo dated **December 14, 2011**.
5. All utilities along Royal Blvd. shall be relocated underground.
6. A painted striped crosswalk shall be installed across the main service drive on the eastern portion of the site to provide greenbelt access.
7. Comply with the requirements of the Boise City Public Works Department (BCPW) for drainage, sewers, Solid Waste/Ground Water Manager, and street lights as specified in the attached comments dated **December 8, 2011**. Please contact BCPW at 384-3900. All items required by BCPW shall be included on the plans/specifications that are submitted for a Building Permit. Please note that any changes or modifications by the owner to the approved Storm Water Plan must be resubmitted to BCPW for approval.
8. Comply with the requirements of the Ada County Highway District as specified in the attached letter dated December 22, 2011.
9. The applicant shall comply with all local, state and federal laws and regulations.
10. The applicant shall combine the three parcels that make up the project area prior to issuance of a building permit.
11. The height of the building shall comply with elevations received January 23, 2012.
12. The site plan submitted to Design Review staff shall include the following:
 - a. Detached sidewalks along Royal Blvd.

- b. Trash pickup shall be moved to the south and slightly expanded. This will eliminate one parking space on the exterior of the building that will be replaced with a compact space on the building's interior. Public Works Solid Waste division will review these changes.
- c. Additional trees shall be added along the north façade to provide additional buffering to the fence wall associated with the open air parking.
- d. A stepped parapet should be added to break up the roof line.

Standard Conditions of Approval

- 13. A Building Permit approval is contingent upon the determination that the site is in conformance with the Boise City Subdivision Ordinance. Contact the Planning and Development Services Subdivision Section at 384-3998 regarding questions pertaining to this condition.
- 14. Vision Triangles as defined under Section 11-1-3 and Section 11-10-4.4G of the Boise City Code shall remain clear of sight obstructions.
- 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. Trash receptacles and on-grade and rooftop mechanical fixtures and equipment shall be concealed from public view by use of an approved sight-obscuring method. All screening materials shall be compatible with the building materials/design.
- 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. 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.
- 19. 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.
- 20. Failure to abide by any condition of this approval shall be grounds for revocation by the Boise City Planning and Zoning Commission.

21. This Permit shall be valid for a period not to exceed two (2) years from the date of approval by the Planning and Zoning Commission. Within this period, the holder of the permit must commence the use permitted by the permits in accordance with the conditions of approval.
22. Prior to the expiration of this 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.