CITY OF BOISE

PLANNING & ZONING COMMISSION MEETING

MINUTES ● June 1, 2015

City Hall – Council Chambers 6:00PM

FINAL

COMMISSION MEMBERS PRESENT

☒ Stephen Bradbury, Chair
☒ Rich Demarest, Vice-Chair
☒ Milt Gillespie
☐ Douglas Gibson
☐ Chris Danley
☐ Steve Miller
☒ Rick Just

PDS MEMBERS PRESENT

Scott Spjute, Cody Riddle, Dave Abo, Todd Tucker, Leon Letson, Brent Moore, Ted Vanegas, David Moser, Meagan Curtis, Whitney Montgomery and Amanda Schaus (Legal).

I. CONSENT AGENDA

SUB15-00022 / Dallas Harris Estates Subdivision No. 14
Location: 4450 E. Warm Springs Avenue
PRELIMINARY PLAT FOR A RESIDENTIAL SUBDIVISION COMPRISED OF 93 BUILDABLE AND 6 COMMON LOTS ON 20.6 ACRES IN AN SP-01 (HARRIS RANCH SPECIFIC PLAN) ZONE. *Dave Abo*

The applicant is present and in agreement with the terms and conditions of the project report. There is no opposition to this item.

CUP15-00027 / Companion Pet Clinics of Idaho
Location: 6801 S. Federal Way
CONDITIONAL USE PERMIT TO OPERATE A VETERINARY CLINIC IN AN EXISTING 5,585 SQUARE FOOT BUILDING LOCATED AT 6801 S. FEDERAL WAY IN A C-4D (PLANNED COMMERCIAL WITH DESIGN REVIEW) ZONE. *Brent Moore*

The applicant is present and in agreement with the terms and conditions of the project report. There is no opposition to this item.

FINAL

CAR15-00013 / NDC, LLC
Location: 7337 W. Northview Street
REZONE OF 0.53 ACRES LOCATED AT 7337 W. NORTHVIEW STREET FROM R-3D (MULTI-FAMILY RESIDENTIAL WITH DESIGN REVIEW) TO L-OD (LIMITED OFFICE WITH DESIGN REVIEW). *Ted Vanegas*

CUP15-00028 / NDC, LLC
Location: 7337 W. Northview Street
CONDITIONAL USE PERMIT FOR A SIGN WITH ELECTRONIC MESSAGE DISPLAY LOCATED AT 7337 W. NORTHVIEW STREET IN AN R-3D (MULTI-FAMILY RESIDENTIAL WITH DESIGN REVIEW) ZONE. *Ted Vanegas*

The applicant is present and in agreement with the terms and conditions of the project report. There is no opposition to this item.

CVA15-00017 / Allen Industries
Location: 2405 S. Janeen Street
VARIANCE TO EXCEED THE MAXIMUM ALLOWABLE HEIGHT AND BACKGROUND AREA FOR A FREE STANDING SIGN PROPOSED AT 2405 S. JANEEN STREET IN AN M-1D (LIGHT INDUSTRIAL WITH DESIGN REVIEW) ZONE. *Leon Letson*

The applicant is present and in agreement with the terms and conditions of the project report. There is no opposition to this item.

CAR15-00014 / Hale Development, Inc.
Location: 112 N. 17th Street
REZONE OF 0.84 ACRES LOCATED AT 112 N. 17TH STREET FROM C-2DD (GENERAL COMMERCIAL WITH DOWNTOWN DESIGN REVIEW) TO R-ODD (RESIDENTIAL-OFFICE WITH DOWNTOWN DESIGN REVIEW). *Todd Tucker*

PUD15-00007 / Hale Development, Inc.
Location: 112 N. 17th Street
CONDITIONAL USE PERMIT FOR A PLANNED RESIDENTIAL DEVELOPMENT COMPRISED OF 15 ATTACHED SINGLE-FAMILY DWELLINGS ON 0.84 ACRES LOCATED AT 112 N. 17TH STREET IN A PROPOSED R-ODD (RESIDENTIAL-OFFICE WITH DOWNTOWN DESIGN REVIEW) ZONE. *Todd Tucker*

FINAL

SUB15-00023 / Idaho Street Townhomes
Location: 112 N. 17th Street
PRELIMINARY AND FINAL PLAT FOR A RESIDENTIAL SUBDIVISION COMPRISED OF 15 BUILDABLE AND 1 COMMON LOT ON 0.84 ACRES LOCATED AT 112 N. 17TH STREET IN A PROPOSED R-ODD (RESIDENTIAL-OFFICE WITH DOWNTOWN DESIGN REVIEW) ZONE. *Todd Tucker*

The applicant is present and in agreement with the terms and conditions of the project report. There is no opposition to this item.

APRIL 13, 2015 MEETING MINUTES

MOTION: COMMISSIONER DEMAREST MOVED TO APPROVE THE CONSENT AGENDA WITH THE FOLLOWING ITEMS: SUB15-00022; CUP15-00027; CAR15-00013; CUP15-00028; CVA15-00017; CAR15-00014, PUD15-00007 & SUB15-00023 AND MEETING MINUTES FROM APRIL 13, 2015.

SECONDER: COMMISSIONER JUST

ALL IN FAVOR, NONE OPPOSED, MOTION CARRIES.

II. DEFERRAL AGENDA

CUP15-00026 / Retail West Properties
CONDITIONAL USE PERMIT FOR TWO OFF-PREMISE DIRECTIONAL SIGNS GENERALLY LOCATED AT THE INTERSECTION OF BOWN WAY AND RIVERWALK DRIVE IN A PCD PEDESTRIAN COMMERCIAL WITH DESIGN REVIEW) ZONE. *Brent Moore*

MOTION: COMMISSIONER GILLESPIE MOVED TO DEFER CUP15-00026 TO THE JUNE 8, 2015 HEARING.

SECONDER: COMMISSIONER JUST

ALL IN FAVOR, NONE OPPOSED, MOTION CARRIES.

FINAL

III. REGULAR AGENDA

PUD14-00025 / Envision Homes
Location: 7955 W. Preece Drive
CONDITIONAL USE PERMIT COMPRISED OF 24 MULTI-FAMILY DWELLING UNITS AND 1 DETACHED SINGLE-FAMILY HOME ON 1.765 ACRES IN AN R-2D (MEDIUM DENSITY RESIDENTIAL WITH DESIGN REVIEW) ZONE. *Todd Tucker*

APPLICANT TESTIMONY

Chad Olsen (12790 W. Telemark Street)

NO NEIGHBORHOOD ASSOCIATION TESTIMONY

PUBLIC TESTIMONY

Dan Griep (7899 W. Preece Dr.): Spoke in opposition to PUD14-00025. Provided Exhibit 1.

Marilyn Griep (7899 W. Preece Dr.): Spoke in opposition to PUD14-00025. Provided Exhibit 2.

Mike Turner (877 W. Front Street): Spoke in favor of PUD14-00025.

William Carson (7957 W. Preece Drive): Spoke in favor of PUD14-00025.

APPLICANT REBUTTAL

Chad Olsen (12790 W. Telemark Street)

PUBLIC TESTIMONY CLOSED

MOTION: **COMMISSIONER DEMAREST MOVED TO APPROVE PUD14-00025 IN ACCORDANCE WITH THE PROJECT REPORT AND CONDITIONS OF APPROVAL THEREIN**

SECONDER: **COMMISSIONER JUST**

ALL IN FAVOR, NONE OPPOSED, MOTION CARRIES.

FINAL

CAR14-00028 / ALC Architecture
Location: 1789 S. Broadway Avenue
REZONE OF 0.7 ACRES LOCATED AT 1789 S. BROADWAY AVENUE FROM L-OD (LIMITED OFFICE WITH DESIGN REVIEW) TO C-2D (GENERAL COMMERCIAL WITH DESIGN REVIEW).
Leon Letson

Leon Letson: Thank you Chairman, Commissioners. The application before you is a rezone request from L-OD (Limited Office with Design Review) to C-2D (General Commercial with Design Review). The applicant proposes to rezone a .7 acre site from L-OD to C-2D. The subject property is located at the northwest corner of Boise Avenue and Broadway Avenue and is currently developed with a 5,100 square foot building occupied by offices and a former financial institution with an associated drive-thru lane. The applicant has identified a future restaurant with a drive-thru as a potential tenant for this site. Multi-family residences exist to the north, retail and a car wash exist to the east, offices, a school and a small park exist to the south and more offices exist to the west. Boise Avenue is identified as an arterial in the ACHD system and Broadway Avenue is part of the state highway system under the jurisdiction of ITD. The subject property is located in the Southeast planning area of Blue Print Boise and has been designated as mixed use per the land use map. The intersection of Boise Avenue and Broadway Avenue is identified as a community activity center in Blue Print Boise. Although these designations support the applicant's rezone request to C-2D, the existing drive-thru, particularly if it is intended to be associated with a future restaurant use, is not supported. Many policies in Blue Print Boise seek to enhance the pedestrian oriented nature of development in the City, particularly within activity centers. This focus is also echoed in the original South Boise Neighborhood Plan, a sub-area plan for this area of the City. The applicant has argued that the City has been inconsistent in its approval of drive-thrus on Broadway as they relate to activity centers. In particular, the applicant questioned the recent Popeye's restaurant proposed north of this site. Per the characteristics listed in Blue Print Boise, community activity centers typically range in size from 20-40 acres. Measuring from the center of the Boise-Broadway Avenue intersection, a radius of 744 linear feet would be required for a 40 acre area. The proposed Popeye's to the north would be located approximately 777 linear feet from the center of this intersection, thus outside of the community activity center. ACHD provided information on the traffic impacts of different drive-thru uses. As you can see, there's a substantial difference between restaurant and non-restaurant drive-thru uses; a difference of almost 5 times. The planning team received two comments of opposition from the public; the restaurant drive-thru was not supported by Blue Print Boise and its focus on pedestrian friendly development centers; the restaurant drive-thru is not supported by the original South Boise Neighborhood Plan and the restaurant drive-thru would negatively impact the residents to the north as well as the Boise Broadway intersection. The planning team is in agreement with the concerns from the public. In conclusion, the planning team recommends denial of this application. The motion needed is a Planning & Zoning Commission recommendation to City Council. That's it.

Chairman Bradbury: Thank you, Leon. Is the applicant present?

APPLICANT TESTIMONY

Richard Wilmot (1119 E. State Street Suite 120 Eagle, ID): We're currently asking for rezone of this property, in particular as Leon had explained, there's currently an approximately 5,000 square foot building that has transitioned over the years. We believe the building is fairly old, 1940's or 1950's but in over that time it has transitioned to multiple uses and at one point during its existence the building had a drive-thru that is currently a part of the building but it was for a financial institution, being a bank. Currently, it is just an office space for an insurance company. Basically, the intent is that we remodel and renovate this existing 5,000 square foot building into a much smaller 3,000 or 3,300 square foot retail that would be compatible with this C-2D zone and we request that the C-2 be granted without restriction. So currently our property is, or really the intent I think of Broadway as it's currently zoned is that there's one parcel deep from Broadway along most of Broadway itself all the way up to about University that is zoned C-2. Our property is the only parcel on Broadway that does not have the C-2 designation. We think simply for that reason that it is important that we continue the intent and historical zoning of Broadway itself. We prepared a little exhibit here that shows all of the drive-thru conditions along Broadway, starting from the north side of Broadway, University, all the way down to the south part as far down as Howard. The list here shows those conditions, they vary in range from a Starbucks to a financial institution to drive-thru, drive-ins and the condition that Leon is talking about in terms of the 40 acres, I think that we were showing that 40 acres is actually within where the Popeye's has been recently approved, that that 40 acres actually includes that from the north part of our property. There's an intersection there and it's right about, not right in the middle of the intersection but right about here it does include that so it is close and depending on where you put the circle, the 40 acre circle, then it could be in or it could be out, so that's really what this triangle is intended to show here. Beyond that, currently there are four other drive-thru conditions immediately adjacent to this property that are within the 40 acres most definitely, but they're not food related. One of which is number 11 here which is the Mr. Carwash drive-thru, the number 10 here is an auto repair shop, and number 9 is another car wash and then 20 is just another gas station, so there still is the intensity of vehicle traffic that goes along with these uses but given the current nature of the existing conditions with the park that is actually already on this corridor of west Boise and Broadway Avenue and the new patio area that we're planning to provide which is shown there, and I think you have seen this little exhibit, we fully intend to continue to encourage the pedestrian aspects of this property though it is necessary that vehicles continue to use it as well. So we just hope that the drive-thru not be a restriction to this particular use and intended zone. I think that's about all that I have; so existing Oregon Trail Park through here, new plaza, and the real intent is that we reuse the existing building. We don't foresee or intend to change or build a new building, take this one down completely, but we would like to reutilize and repurpose this building and all of its existing parking as well. With that, I will take any questions.

Chairman Bradbury: Alright, thank you. Are there any questions of the applicant or staff?

Commissioner Gillespie: Mr. Chairman?

Chairman Bradbury: Commissioner Gillespie.

Commissioner Gillespie: This is kind of a question for Amanda and for staff. It's a rezone application; it's not a permit application, as under the current rubric of how we think about these things, is that correct?

Chairman Bradbury: This is an application for a rezone.

Commissioner Gillespie: So, because it's not a permit application, it's a rezone, is it fair to say that it allows us to consider the Comprehensive Plan more carefully? In other words, the applicant doesn't have an entitlement to a rezone, right? He's coming before us, in a sense to asking, it's not like he's asking for a subdivision or a PUD or a building permit, right? He's coming and asking us essentially for a rezone which is closer to a Comprehensive Plan amendment in some sense.

Chairman Bradbury: Was that to Amanda?

Commissioner Gillespie: Yes.

Amanda Schaus: Chairman, Commissioners, that's correct. The Comprehensive Plan is a factor in your criteria and it is not a permit application.

Commissioner Gillespie: Thank you. Mr. Chairman?

Chairman Bradbury: Commissioner Gillespie.

Commissioner Gillespie: So I have another question for staff and also for Amanda. So the issue of consistency has come up. My understanding, and I just ask you to comment or tell me if I'm on the right track, is that neither the code or the plan talks about consistency as a criteria in decision making and so the simple fact that a Popeye's was put in 780 feet to the north doesn't necessarily have really any bearing on what this Commission can do with this issue, is that fair to say?

Chairman Bradbury: Is that to Amanda as well?

Commissioner Gillespie: Amanda or staff.

Amanda Schaus: Chairman, Commissioner, I will let Leon have his word on that.

Leon Letson: Thank you, Chairman, Commissioners. I guess in understanding your question Commissioner Gillespie, I guess in this situation a rezone needs to be a case by case review of the surrounding uses and the associated transportation system and all of that. Maybe rephrase your question; I think I may be missing your intent.

Commissioner Gillespie: I think we talked about what a rezone is and why it's not a permit and what that might mean. My second question is the general issue of consistency and my general understanding that this Commission, the City, the Council, that consistency by itself is not a binding factor for us, otherwise we couldn't ever change. We couldn't make change happen if we had to always be consistent with prior decisions, so my question here is, what's your opinion on how important it is to carefully consider exactly where the Popeye's was with respect to this decision.

Leon Letson: Mr. Chairman, Commissioners, I think that they need to be reviewed independently. Again, a case by case evaluation, to your point, just because we've approved one drive-thru on Broadway doesn't mean that every future drive-thru should probably be approved. Again, I think we need to allow ourselves to see the details of the site, the details of the situation and make a decision based on that.

Commissioner Gillespie: Mr. Chairman?

Chairman Bradbury: Commissioner Gillespie.

Commissioner Gillespie: Last question is, what could they do in an L-OD, could they put in a restaurant? I don't have the zoning in front of me for what it allows and doesn't allow.

Leon Letson: Chairman, Commissioners, in the L-OD zone a restaurant or retail related to drive-thru, would not be a use that would be permitted or allowed or conditional, it's just simply prohibited.

Commissioner Gillespie: Mr. Chairman?

Chairman Bradbury: Go ahead.

Commissioner Gillespie: What can you do in an L-OD? What is it? Is it light office building, is that what it stands for?

Leon Letson: Chairman, Commissioners, limited office is intended to, in general, accommodate office uses and with a nod to adjacent residential neighborhoods, so essentially less intensive uses than you would find in commercial zones, specifically more office related uses.

Chairman Bradbury: Alright, are there any other questions of the applicant or staff?

Commissioner Demarest: Mr. Chair?

Chairman Bradbury: Commissioner Demarest.

Commissioner Demarest: This is for Mr. Letson. My question is, and I'm sorry if you already said this, can you just share with us the purpose of a community activity center which this application is right in the middle of, what is the reason for it?

Leon Letson: Chairman, Commissioners. An activity center, is a defined concept in Blue Print Boise and essentially it's a way to identify an area that needs to be considered with an additional lens with the focus on enhancing pedestrian activity, insuring uses that go in there are going to do that and that there's a high consideration of compatibility. It's an area that the City sees focused energy occurring both in redevelopment or new development, and really, it's kind of a focal point where we can pour a lot of the concerns of Blue Print Boise into that area to essentially achieve the long range plan of Blue Print Boise. Those are targeted areas that we start with first, not first but when we have an opportunity there, I think we need to take real special consideration if I'm boiling that down effectively.

Commissioner Demarest: Thank you, I've got one more question too.

Chairman Bradbury: Go ahead.

Commissioner Demarest: Can you just clarify; I thought I heard you say that the Popeye's, which was approved with a drive-up, was not in that community activity center, is that the case?

Leon Letson: Chairman, Commissioners. Measuring from the center of the Boise Ave/Broadway Ave intersection, yes that would be outside of the 40 acre boundary of that community activity center.

Commissioner Demarest: Mr. Chair, one more question.

Chairman Bradbury: Go ahead.

Commissioner Demarest: In measuring from the center, that's the way you measure right?

Leon Letson: Chairman, Commissioners. There is not specific guidance on that, but thinking in terms of centers, we think of circles, we think of a point in the middle and a radius, so that seems to me to be a logical way to measure this.

Commissioner Demarest: That's great, thank you.

Commissioner Gillespie: Mr. Chairman?

Chairman Bradbury: Commissioner Gillespie.

Commissioner Gillespie: One quick question, trying to locate this Popeye's. So as you go up Broadway, north on Broadway, is the Popeye's north or south of Warren Street as you cross Warren?

Richard Wilmot: Its north of Warren.

Commissioner Gillespie: So it's on the other side of the next street that crosses Broadway?

Richard Wilmot: Its in-between Warren and Howe.

Commissioner Gillespie: Thank you.

Chairman Bradbury: Any other questions of the applicant or staff? Thank you. We will move to public testimony. I've got a neighborhood representative. Is Mr. Fritchman here? There he is. We allowed the applicant 20 minutes, so you are allowed the same.

NEIGHBORHOOD ASSOCIATION TESTIMONY

Fred Fritchman (1321 Denver Ave.): You have seen this letter of opposition to this proposal but I would like to also add a couple of details to what we said in the letter. I live behind the Broadway McDonalds and it can be very difficult to make a fast food operation compatible with adjacent residential. This parcel is adjacent to residential on the north, both in the dog parlor building immediately to the north to the small five-unit development across the ditch that's further west, and there are also four apartments in the odd fellows hall just north of the dog parlor; so there is proximal residential to this parcel. The current L-OD zoning provides for uses that are compatible with the existing residential uses there. The rezone would allow for more intense uses that are not compatible. I want to reiterate our point in the letter about the potential for auto/pedestrian conflicts. The sidewalk adjacent to the drive-thru exit currently sitting there associated with the bank building that the applicant is talking about redeveloping is used by many pedestrians on a daily basis and is a natural route for neighborhood children on their way to and from Garfield School; the drive-thru exit crosses that sidewalk. A drive-thru restaurant at

this location sets up a scenario where a vehicle sits blocking the sidewalk forcing school children to either wait for the car to turn right onto Boise Ave, or to walk behind the vehicle to continue on. Approval of this application would create some very real safety problems for pedestrians for using Boise Ave. Thank you.

Chairman Bradbury: Thank you, I appreciate it. Alright, any questions for Mr. Fritchman? Okay, thank you. First name on the list is Brian Frechette.

PUBLIC TESTIMONY

Brian Frechette (1789 Broadway Ave): I'm Brian Frechette, I am the property owner, small business owner that is located within the building and I have been there for like 30 years. Everything that's going on on Broadway is developing more traffic, so when you consider a state highway to be pedestrian friendly, that's kind of a conflict and you look at the overpass that's being completely re-done because we're trying to make it easy to get downtown because you really only have three avenues. You've got the connector, Vista and Broadway. Well, the City or the State, whoever is in charge of the overpass and Broadway, is doing something in conflict of making that corner pedestrian friendly by making it a desirable corridor to go downtown. I don't think the University is wanting to shrink, they're probably wanting to grow and create more traffic as well, along with the hospital in the downtown area which is becoming very vibrant. This property literally stands out like a glowing light, that it was an over sight as not being zoned as the rest of Broadway and there is only one residential property that comes into proximity to the property and it is a multi-family with a couple of duplexes that are adjacent to the street behind it. Everything else is zoned for this type of use. The current properties that are adjacent on all of the corners of Broadway in Boise where Mr. Carwash is, where the school is and the commercial building directly across the street have this zoning and have no restrictions. So, if they wanted to tear down any of those buildings and put in whatever use it might be, they could do that. So it doesn't make sense that my property stands out from all of this and by limiting its use, it's going to diminish the value of the property and very much limit the use of the property on one of the busiest corners on Broadway, so I'm limited to financial institutions or straight office use on one of the most desirable corners of the street. So I am in strong support of this rezone.

Chairman Bradbury: Thank you, Mr. Frechette. Next name on the list is Jeff Likes.

Jeff Likes: PASS

Chairman Bradbury: That's all that is on the sign-up sheet, is there anybody else here tonight who would like to testify on this item? This is item number 2: CAR14-00028? With that, Mr. Wilmot you've got the last word, you've got 5 minutes.

APPLICANT REBUTTAL

Richard Wilmot (1119 E. State Street Suite 120 Eagle, ID**):** Thank you. When we consider this property, we're not necessarily asking or saying that we're going to put a restaurant with a drive-thru on it, we just don't want to be limited with what the C-2 zone offers and that doesn't exclude the concept or the idea that we wouldn't absolutely work with staff to develop a plan that is comprehensive to this particular corner, both in terms of the relationship of the existing park, and our planned plaza area that we fully intend to provide with whatever the development ends up being to possibly connect somehow to the existing park and coordinate in a very compatible way. I don't want to give the illusion that we're at all looking to slide something by the Design Review team or the Commission or Planning & Zoning by stretch of the imagination. We just don't want to be limited with what the C-2 zone offers. So with that we have every intention of providing pedestrian friending access, there's plenty of bus stops along Broadway that are well within and we recognize that and we want to be compatible to that and as the owner has indicated, we just don't want to be limited. With that, I will take any other questions.

Chairman Bradbury: Any other questions for Mr. Wilmot? Thank you, sir. With that we will close the public hearing. This is a rezone which is a recommendation to the City Council.

PUBLIC TESTIMONY CLOSED

MOTION: COMMISSIONER GILLESPIE MOVED TO RECOMMEND DENIAL CAR14-00028 FOR THE REASONS STATED WITHIN THE STAFF REPORT.

SECONDER: COMMISSIONER DEMAREST

Chairman Bradbury: Discussion on the motion?

Commissioner Gillespie: Mr. Chairman?

Chairman Bradbury: Commissioner Gillespie.

Commissioner Gillespie: Let me start by saying I think that this is a hard one in a lot of ways, but as I was trying to get at in some questions, when we have a rezone before us I think we have a little broader latitude in considering the Comprehensive Plan and the intent of the Comprehensive Plan because the applicant doesn't have any permit driven rights to do or receive anything, he's asking for a rezone. If it's in the City's interest we can do it, and if it's not in the City's interest we can recommend denial and then the Council has the same latitude. I think in

this case the City in the Comprehensive Plan has made it clear that these community activity centers, we want to encourage pedestrian oriented development. Chris uses the word transit friendly which basically means not drive-thrus, not heavy auto intensive uses. The fact that there are other parts of this intersection that don't fit that criteria is to me not a reason to throw in the towel on this part of the intersection, especially given that it is a community activity center and we have pretty clear guidance in the plan about this. So, for that reason I think that the Comprehensive Plan analysis in the staff report is a good one and that is the source of my denial.

Chairman Bradbury: Any other discussion on the motion?

Commissioner Demarest: Mr. Chair?

Chairman Bradbury: Commissioner Demarest.

Commissioner Demarest: Let me weigh in on why I support the motion and seconded it. Is that really the sticky point here is the drive-thru and I want to just underscore for the staff report that was presented already that we're talking about a use that would generate 5 times more, that's a lot of vehicle trips per day, based on what a bank, for example, would use. I would also note the note that's in the staff report on the first page and I will read that. That there is a way for this property to be developed, again without the sticking point which is the drive-up, which is to establish a development agreement. So there is a way to move forward, I just think that it is not wise and prudent for the reasons stated by Commissioner Gillespie to approve this for that particular usage.

Chairman Bradbury: Any further discussion on the motion?

Commissioner Just: Mr. Chairman?

Chairman Bradbury: Commissioner Just.

Commissioner Just: I agree, particularly with the staff note. I have really nothing against the rezone at all but the drive-up is certainly a sticky point for me. If they could come back with that out of the question, I would certainly be happy.

Chairman Bradbury: Any other discussion on the motion? I have a motion for recommendation of denial of CAR14-00028.

ALL IN FAVOR, NONE OPPOSED, MOTION CARRIES.

Chairman Bradbury: You will be able to make your argument to the City Council, gentlemen.

FINAL

CVA15-00014 / D & B Supply
Location: 6945 W. Overland Road
VARIANCE TO EXCEED THE MAXIMUM NUMBER OF ELECTRONIC MESSAGE DISPLAYS ALLOWED IN A SHOPPING CENTER LOCATED AT 6945 W. OVERLAND ROAD IN A C-2D (GENERAL COMMERCIAL WITH DESIGN REVIEW) ZONE. *Brent Moore*

Brent Moore: Mr. Chair, Commissioners, before you is an application for a variance to allow two electronic message displays within one business center. The property is located at 6945 W. Overland Road just east of the I-84 freeway within the C-2D zone. The Boise City code limits the number of electronic message displays to one per business or business center. There is currently one electronic message display located in the business center approximately 850 feet to the west of the proposed site, so this yellow circle represents the existing electronic message display and here is the proposed site over here. The applicant is requesting a variance to the City's EMD standards due to the large distance separating the existing and proposed signs. Here's an image of the existing electronic message display on the western portion of the property and here's an image of the existing sign on which the electronic display is proposed. Here's the elevation submitted by the applicant. The applicant is proposing to add a two sided 33 square foot electronic message display to an existing free standing sign within the business center. The display would be 12 feet wide and 2 feet 9 inches tall. In this image, the black rectangle represents the portion that would have the electronic display. The planning team is recommending denial of the variance as we were unable to identify a hardship or exceptional circumstances associated with the property as is required for a variance. While there is a large distance separating the existing and proposed displays, business centers of this size are not uncommon within the City and this concludes my staff report.

Chairman Bradbury: Thank you, is the applicant present? Please come forward. How much time do you need is ten minutes enough for you?

APPLICANT TESTIMONY

Brandt Ruzicka (6945 Overland Rd.): I am Brandt Ruzicka with D&B Supply. I would like to start by talking about the distance between the two signs. The distance is over 850 feet apart, like Brent mentioned. To put that in perspective, that's almost three football fields apart. You can go to many places within Boise and see electronic signs with a much closer perimeter than 850 feet that would be between these two signs. Due to the distance between these signs, I don't believe driver distraction is a valid argument in denying the sign request. The sign is also located on the very west end of the complex, it is not centrally located. I would like to show some examples that I found of multiple electronic signs in the same complex that goes against the City Code. The first example is Mr. Carwash in downtown Boise, they have two large electronic signs on the same building and you can see from the corner, both the signs facing different directions. The

second example I have is the Winco in downtown Boise, they have the same electronic sign on Front Street and opposite on Myrtle Street. The next few slides will show pictures of electronic signs on different parcels, but are well within the 850 feet. The first example is The Tilted Kilt and the Mullinars on Broadway, these signs are on the same side of the road only 133 feet apart. The second example I have is the Bodo and Century Link Arena, they are directly across the street on a one-way road. You can drive all through Boise and find electronic signs within a few hundred feet of each other, all because they sit on different parcels. Adding another electronic sign to our shopping center would be less likely to distract drivers than these signs would due to the distance. In my application I did gather signatures from, at the time, all the 20 existing tenants in the complex that had no objection to our plan to exchange our 3 letter lines with an electronic sign on both sides. I believe the tenants see the value of having a centrally located electronic sign right at the stop light. It will be a traffic driver that the entire complex would benefit from; something that is not easily done with our current sign. The current electronic sign, all it does, is it is shared between all of the tenants, and all it does is flash the names one at a time of all the existing tenants. The only colors the board flashes are just a black backdrop with orange lettering; it has very minimal impact on drivers. The sign is small when you consider the amount of tenants that it serves. It is approximately 3 feet by 8 feet. There are single tenants throughout Boise that have the same size of electronic signs that only service and advertise for them. We sit on a 15 acre shopping center with an outdated electronic sign that was built in 1993. D&B needs the sign because our current letter sign displays only one message per side; it's time consuming to change out the letters. It would allow us to market more goods and increase our chances to capture more customers. Having an electronic sign would generate more revenue for our business and others in the complex by driving in more traffic. D&B Supply is the anchor of the shopping center and it is proven electronic signs drive more business, which is good for both D&B and the City. That's all I have, thank you.

Chairman Bradbury: Thank you, sir.

Amanda Schaus: Chairman Bradbury? I have a point of order. I just wanted to clarify that the code does not permit the argument of non-conforming signs in the vicinity. That should not be used as a justification for permitting a special circumstance in this case.

Chairman Bradbury: Thank you. Are there any questions of the applicant or staff?

Commissioner Just: Mr. Chairman?

Chairman Bradbury: Commissioner Just.

Commissioner Just: For the applicant please, will the sign be a static sign or essentially will it flash.

Brandt Ruzicka (6945 Overland Rd.): It will be a flashing sign.

Commissioner Just: My question had to do with intent. In effect, this could be a little more than a reader board that's just easier to change, but if it's flashing that would seem to me to bring it into a different arena. Is there an expert here on staff that knows about the signs and electronics and what that means and what the intent was?

Brent Moore: Just any electronic message display, so even if it would just have scrolling letters I would still require this variance.

Commissioner Just: But movement is a part of the issue?

Brent Moore: Just any electronic display. So, whether it would be moving or flashing or not the electric letters would require the variance.

Scott Spjute: If you don't mind me popping in, I don't purport myself to be an expert but I did write the ordinance, but it's been a while and so I've forgotten a lot too. Perhaps your question is if the variance is granted and they get the additional sign there would still be no flashing or animation because regardless, for any electronic message display the code prohibits animation, so its static in that in what the code prescribes is any change in the message more frequently than 8 seconds. So for 8 seconds, you have a static message, no animation, no flashing, no whatever else. 8 seconds later, the entire message can change but still no animation or anything within that 8 seconds. Does that help?

Commissioner Just: It does, thank you.

Chairman Bradbury: Any other questions of the applicant or staff?

Commissioner Gillespie: Mr. Chairman.

Chairman Bradbury: Commissioner Gillespie.

Commissioner Gillespie: A question for staff and the applicant. Some electronic signs are much larger than the one they already have, with what they have they could replace their existing sign with a much larger electronic sign I assume; the car dealers have enormous signs.

Brent Moore: You're asking if they could replace the existing electronic sign with a newer larger one?

Commissioner Gillespie: Yes, newer, bigger, brighter one.

Brent Moore: Yes, the requirement on the electronic sign is it can only take less than half of the size of the overall sign so it would be however large the sign were allowed in this zone in this location, it could be just under half of that, it could be an electronic message so the shopping center could replace the existing one.

Commissioner Gillespie: Do you have any comment on that?

Brandt Ruzicka (6945 Overland Rd.): Yes. The challenge with that is within the shopping center there are a lot of smaller tenants that don't have the financial resources that would want to put up what it costs to do one of these signs. That was part of the reason why I went through the process of getting signatures from all of them okaying that we would do it as an anchor within the shopping center. It's always going to be a challenge if you have an electronic sign and over 20 tenants to try and share an electronic sign.

Chairman Bradbury: Any other questions of the applicant or staff?

Commissioner Demarest: Mr. Chair?

Chairman Bradbury: Commissioner Demarest.

Commissioner Demarest: I have a question for staff and this is on the cover page of the staff report and it's a little confusing to me. Let me quote it to you and maybe you can clarify for me. "The variance would not be detrimental to public health, sick health, safety or welfare but Boise City Code has set restrictions on the number of electronic message displays due to their potential to distract drivers." Well, it would be detrimental wouldn't it? I mean, distracting drivers is detrimental to public health safety issues I would think.

Brent Moore: Commissioner Demarest. In the wording, kind of the way it was meant is the electronic message display maybe not necessarily would have impacts on the health of surrounding people or safety but just the City has set restrictions on them to one per business or business center and the reason they have done that is to prevent too much distractions of people, motorist and pedestrians. So it won't necessarily directly impact health. Safety would be hard to say, but it could be a distraction to drivers.

Commissioner Demarest: Maybe it's the verbiage I'm not getting. Anyway, I've got one other question and we've already been informed by our Council that we can't make a decision based on this but I still would like to know. How did all of these non-conforming signs get out there?

Brent Moore: This is the current code where the current code states that only one sign per business or business center. So some of those were businesses located right next to each other so the code does allow businesses with different property owners located next to each other to have electronic message displays. The code just restricts it to one per shopping center.

Commissioner Demarest: Thank you.

Chairman Bradbury: Any other questions of the applicant or staff? Alright, so we will go to public testimony. Thank you, sir. Is there anyone here, we don't have anybody on the sign-up sheet, is there anyone here who wanted to testify on item number 3: CVA15-00014? There isn't any, but the applicant, you sir have the last word if you would like to add anything.

NO NEIGHBORHOOD ASSOCIATION TESTIMONY

NO PUBLIC TESTIMONY

APPLICANT REBUTTAL

Brandt Ruzicka (6945 Overland Rd.): So I guess the point that I would like to make is it's crazy to me to see that it could be 850 feet apart, but just because we're on a single legal parcel we're limited by what we can do, but you can drive all around up Fairview, downtown and within 133 feet you can have large signs, that to me would be more distracting to drivers than the small 3 x 8 sign that's at the west end of our complex and where we would put it in perspective to the rest of the signs that are out there. That's all I have.

Chairman Bradbury: Thank you, sir. With that we will close the public hearing; this is a variance so it's an item Commission level decision.

Commissioner Demarest: Mr. Chair?

Chairman Bradbury: Commissioner Demarest.

Commissioner Demarest: I have a question for my fellow Commissioners. So, if I'm getting this correctly, if in the same size parcel there were two separate shopping centers we could have two separate signs, is that correct?

Chairman Bradbury: I think that's right.

Commissioner Demarest: Okay, thank you.

Chairman Bradbury: Anybody care to make a motion? Anybody care to make a speech?

Commissioner Gillespie: I will; I'm waiting for Rich.

Commissioner Demarest: Go ahead.

Commissioner Gillespie: Mr. Chairman, we're on CVA15-00014, correct?
Chairman Bradbury: CVA15-00014.

PUBLIC TESTIMONY CLOSED

MOTION: COMMISSIONER GILLESPIE MOVED TO DENY CVA15-00014 FOR THE REASONS STATED WITHIN THE STAFF REPORT

SECONDER: COMMISSIONER BRADBURY

Commissioner Gillespie: Mr. Chairman?

Chairman Bradbury: Commissioner Gillespie.

Commissioner Gillespie: Basically the applicant has come before us with a very reasonable argument and it was said that the hardship of my property is it's 850 feet long and I own all of it and the rest of the tenants are not in an economic position to help us build a bigger, brighter, better sign board, which they could do, I understand that. However, I don't think that meets the legal or code or statutory definition of a hardship on the property. Basically, they are saying that we economically can't afford to put up a single sign that's good enough so we would like to put up two smaller signs. The code is very clear of what constitutes a parcel and how many signs go on parcels so there's no ambiguity here. I would encourage future City Councils to perhaps consider changing their code language so that distance between signs was criteria. However, it is not and for that reason I think it has been a long standing policy of this Commission faced with these kinds of considerations to deny these variances and look for approving only variances that have a very specific hardship, specific to the property.

Chairman Bradbury: Any other discussion on the motion?

Commissioner Just; Mr. Chairman?

Chairman Bradbury: Commissioner Just.

Commissioner Just: I think there may be a failure in the code here as well, but the code is what it is. I think that this is a very reasonable and fairly conservative request but I don't see that just because we think that, that we can go against that code, so I will be voting in favor of the motion.

Chairman Bradbury: Any other discussion on the motion? I'm just going to weigh in very briefly. I think you made a great argument. Frankly, in many ways, I think you're right. Unfortunately, the code simply doesn't, our code, the City's codes, simply doesn't support the applicant. I would like to grant it because to me it makes a great deal of sense. Unfortunately, you made a great argument for why the code probably needs a little work, unfortunately you didn't make a very good argument for why we could grant you a variance under our code; I wish you had, I wish you were able to. With that, any other discussion the motion? Then this is CVA15-00014, there's a motion for denial.

THREE IN FAVOR, ONE OPPOSED, MOTION CARRIES.

Chairman Bradbury: Good luck to you, I hope you can find a way around that.

CAR15-00012 / Maverik
Location: 7415 W. Fairview Avenue
REZONE OF APPROXIMATELY 6.59 ACRES LOCATED AT 7415 W. FAIRVIEW AVENUE FROM A-1 (OPEN LAND) TO C-2D (GENERAL COMMERCIAL WITH DESIGN REVIEW). *David Moser*

David Moser: Mr. Chair, members of the Commissioner. The applicant is requesting to rezone of the subject property located at 7415 W. Fairview. The property is a 6.5 acre site situated at the southwest corner of Fairview and Cole Rd. It is located at a busy commercial intersection and surrounded by shopping centers and retail stores, as you can see from the slide in front of you. The applicant is requesting to rezone the subject property from A-1 to C-2D (General Commercial with Design Review). Just as a reminder, this is the site of the old Cole Elementary School which was demolished back in 2008. As you can see from the aerial photograph the site is currently vacant. The intent of the rezone application is to facilitate the site's future commercial development. In general, the applicant has no specific development plans for the overall site at this time, with the exception of the Maverik gasoline station and convenient store at the corner. However, this conceptual site plan shows how the site could be potentially developed. Please note, that the site plan here shows the purposed preliminary plat layout and includes an approximate 1 acre area along South Cole Road that is not a part of the rezone application but it will be a part of the overall development. Just a brief discussion of the conceptual plan, the applicant is purposing or at least showing on this conceptual plan, three drive-through windows, two of which area restaurants and one is a bank. Drive-through widows

in the proposed C-2D zone would require conditional use approval and would have to be heard back before this Commission. In addition, the applicant is proposing two curb-cuts onto Fairview and then one onto Cole as part of this preliminary plat. The access points being purposed include full access onto Fairview at this point; right in, right out at this one down here, and right in, right out at this one along Cole. As noted, within the ACHD report the west access point onto Fairview is specified this as right in, left in, right out only. The second access point onto Fairview is not a part of ACHD plans and the one onto Cole is a right in, right out. As such, I would just recommend that the applicant continue to work with the highway district and the staff on this issue. In particular, with the upcoming preliminary plat and it is schedule to be heard next month before this Commission. The land use map within the Comprehensive Plan designates the subject property as commercial which anticipates a wide range of commercial development. This slide shows the land use map from the Comprehensive Plan and as you can see the area along Fairview is specified as commercial in the land use designation. The C-2 zone is appropriate within this land use category and consistent with the surrounding commercial zoning along Fairview. This is the zoning map. As you can see all the area surrounding Fairview is zoned C-2D. So the zone they are proposing is consistent with that. However, I will note that area abutting the south property line is a residential neighborhood which is zoned R-3D. Due to the adjacent commercial development and the overall development patterned along Fairview, the planning team is not recommending a development agreement with this rezone request. The overall site design will be addressed with the Design Review planning process which includes adherence within the policy stated within the Boise Citywide Design Standards and Guidelines. And then, as previously mentioned, the C-2 zone would require a conditional use approval for more intensive uses such as drive-through windows. In addition, ACHD plans to improve the Fairview/Cole intersection in the near future, 2017, with significant improvements traffic capacity of these two roadways. However, the planning team has received a letter of opposition from a neighbor expressing concerns with the proposed C-2 zone. In particular, their concerns are focused on the traffic impacts, light and noise impacts from the potential commercial uses and other environmental concerns. As for the traffic concerns, ACHD stated in their staff report that the Cole and Fairview intersection would be improved as noted in 2017. These improvements include expanding the north and south legs of Cole Road at the intersection up to 7 lanes. Fairview, east/west legs up to 8 or 9, along with medians, extra turn lanes, sidewalks, curb, gutter, bike lanes, U-turn capacity. So there are a lot of improvements that are going to be made to this intersection. In addition, Fairview itself is scheduled to be widened to 7 lanes from Maple Grove to Cole Road between 2022 and 2026. These intersections and roadway improvements will increase the traffic capacity on these adjacent streets and alleviate the traffic concerns expressed by the neighbor. As for light and noise impacts from the future commercial uses on the adjacent residential neighborhood, these issues would be best addressed through the Design Review and/or Conditional Use application process. As such, the planning recommends that P&Z recommend approval of this rezone to City Council. Thank you.

Chairman Bradbury: Thank you. Is the applicant present?

APPLICANT TESTIMONY

Tamara Thompson (462 E. Shore Dr. Eagle, ID): Good evening, Mr. Chairman.

Chairman Bradbury: Will you need any more than 10 minutes?

Tamara Thompson: Not even that.

Chairman Bradbury: Thank you. Go ahead.

Tamara Thompson: I represent Maverik. Maverik owns the corner currently. They've closed on the property with the school district and as shown in the zoning map there, the south/east corner of that is already C-2D, so we're asking for the remainder of the property to be brought into the same zoning designation. We have reviewed the staff report and we agree with recommendation and findings that staff have come up with. I do just want to mention that we are talking with ACHD on the access right now. We submitted a preliminary plat last week and unfortunately the two got separated, but we will be looking at the City Code on the buffers to transition to the residential. City Code requires photometric plans for the lighting, residential shields can be put on those, so we will be very sensitive to those issues. With that, we comply with the Comprehensive Plan and the zoning designation that we're requesting and we respectfully request your approval tonight, and I will stand for questions.

Chairman Bradbury: Thank you very much. Are there any questions of the applicant or staff?

Commissioner Gillespie: Mr. Chairman?

Chairman Bradbury: Commissioner Gillespie.

Commissioner Gillespie: Just a question for staff and I'm sorry I didn't do my homework completely on this but this corner is not a part of an activity center or any kind of a special land use in the Comp Plan, is that right?

David Moser: Mr. Chair, members of the Commission. No it is not.

Commissioner Gillespie: Thank you.

David Moser: In fact, this is the Comp Plan Land Use Map shown on the slide.

Commissioner Gillespie: Mr. Chairman, one more question.

Chairman Bradbury: Go ahead.

Commissioner Gillespie: So, this is a pretty big parcel, has the City considered adding to the Comp Plan anything concerning this corner given that we have a pretty large parcel completely open at this point or where's the City's thinking on what we'd like to have happen here.

David Moser: Mr. Chair, members of the Commission. There is nothing going to be added from the Comp Plan perspective to address this particular parcel. There was a lot of discussion within the department about whether to add a development agreement to this site to nail down the design of the site but we figure that given the commercial nature of the Fairview corridor and the surrounding uses, that that would not be necessary.

Chairman Bradbury: Any other questions of the applicant or staff? No? Okay. Is there a representative from a registered neighborhood association for this area here tonight who wanted to testify? Doesn't look like anybody. There's nobody who signed up on the sign-up sheet to testify, but we will take testimony from anybody who would like to testify on item number 10: CAR15-00012.

NO NEIGHBORHOOD ASSOCIATION TESTIMONY

Commissioner Demarest: Mr. Chair? Could we get the sound system turned up a little bit?

Commissioner Gillespie: We could take a break, because I can't hear a thing.

Chairman Bradbury: Why don't we take a five minute break and maybe this will blow over and everybody will be able to hear us again.

---------- Break----------

Chairman Bradbury: We will try to get started again, can you all hear us ok out there? So I think where I was, was asking if anybody wanted to testify, any member of the public wanted to testify on this item number 10: CAR15-00012? Since we still have a couple of people making their way into the room let me just repeat the question. Is there anybody out here tonight who would like to testify on item number 10: CAR15-00012? Hearing none, then the applicant, you have the last word if you would like to add anything.

NO PUBLIC TESTIMONY

NO APPLICANT REBUTTAL

PUBLIC TESTIMONY CLOSED

Chairman Bradbury: No? Okay. With that we will close the public hearing and the matter is before the Commission. This is a rezone so it's a recommendation to the City Council.

MOTION: **COMMISSIONER JUST MOVED TO RECOMMEND APPROVAL OF CAR15-00012 IN ACCORDANCE WITH THE PROJECT REPORT AND CONDITIONS OF APPROVAL THEREIN.**

SECONDER: **COMMISSIONER DEMAREST**

ALL IN FAVOR, NONE OPPOSED, MOTION CARRIES.

CVA15-00013 / Ryan Doyle
Location: 818 W. Eastman Street
VARIANCE TO REDUCE THE REAR YARD SETBACK FOR A NEW TWO-STORY GARAGE PROPOSED AT 818 W. EASTMAN STREET IN AN R-1CH (SINGLE FAMILY RESIDENTIAL WITH HISTORIC OVERLAY) ZONE. *Ted Vanegas*

CHAIRMAN BRADBURY RECUSED HIMSELF

APPLICANT TESTIMONY

Ryan Doyle (818 W. Eastman St.)

NO NEIGHBORHOOD ASSOCIATION TESTIMONY

PUBLIC TESTIMONY

Albert Sonnenberg (1811 N. 8th Street): Spoke in opposition to CVA15-00013.

APPLICANT REBUTTAL

Ryan Doyle (818 W. Eastman St.): Addressed Albert Sonnenberg's concerns regarding direct visual access and how it would not be an issue due to a large pine tree.

PUBLIC TESTIMONY CLOSED

FINAL

MOTION: **COMMISSIONER JUST MOVED TO APPROVE CVA15-00013 DUE TO THE PRESENTED HARDSHIPS FROM THE APPLICANT INCLUDING THE UTLITIY POLE AND LARGE TREE**

SECONDER: **COMMISSIONER DEMAREST**

ONE IN FAVOR, TWO OPPOSED, MOTION FAILS.

IV. MEETING ADJOURNED

(08:08 PM)